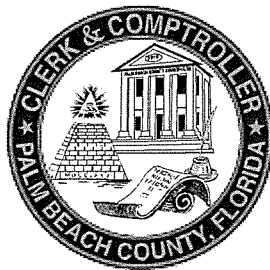


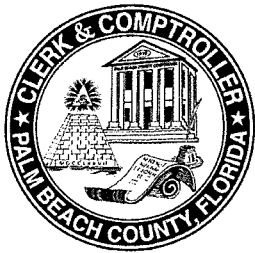
**CLERK & COMPTROLLER
PALM BEACH COUNTY
REVENUE & CASH MANAGEMENT
DEPARTMENT
PROPANE & NATURAL GAS PUBLIC
SERVICE TAX COLLECTION PROCESS
REVIEW**



SHARON R. BOCK
Clerk & Comptroller
Palm Beach County

**Division of Inspector General
Audit Services Unit**

August 11, 2010



SHARON R. BOCK
Clerk & Comptroller
Palm Beach County

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The Honorable Sharon R. Bock, Esq.
Clerk & Comptroller

We conducted a review of the Revenue Department propane and natural gas public service tax collection process.

Our objectives were to determine if the department was properly executing their public service tax collection responsibilities to, 1) identify and contact vendors subject to the public service tax, 2) collect, deposit, record and monitor the propane and natural gas taxes received, 3) notify vendors of late or missed payments and amounts owed, and 4) initiate the interest and penalty assessment process and compute these assessments.

Our review was neither designed nor intended to be a detailed study of every process, procedure, transaction or system in each area. Accordingly, the observations and recommendations included in this report are not all-inclusive.

The review disclosed that Revenue Department was not effectively executing their responsibilities in the public service tax collection process. The department has focused their activities on collecting and reporting taxes when received but has generally not taken adequate steps to identify, monitor, document and follow up with new and existing vendors that have failed to pay the required taxes. These practices have resulted in lost opportunities to collect all public service taxes and related interest and potential penalties that are owed by vendors based on Florida Statute and county ordinance.

We appreciate the cooperation of management and staff during the course of this review.

Respectfully submitted,

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Introduction

Background

Palm Beach County Ordinance 89-13, codified in Chapter 17, Article VI of the Palm Beach County Code, authorizes Palm Beach County to levy a public service tax on the purchase of telecommunications service, electricity and metered or bottled gas in unincorporated areas. The ordinance is based upon Florida Statute Chapter 166.231-234. Sellers of metered or bottled gas (propane and natural gas) must collect and remit the tax to the Clerk's Revenue Department. County Policy & Procedure Manual (PPM) CW-F-035 was established by the Office of Financial Management & Budget (OFMB) to address collection of the public service tax, with responsibilities shared by various county departments and the Clerk's Revenue Department.

OFMB received a complaint from a propane gas vendor that alleged several companies were failing to charge the county tax on the propane sold in canisters for forklifts. The complainant believed this created an unfair advantage because the other companies were effectively charging less and thus drawing customers away. The Director of OFMB requested the Clerk's Division of Inspector General to research the issue.

A review of the Clerk's Revenue Department was planned in the current year. A decision was made to conduct a separate and more detailed review of the department's processes for propane and natural gas tax collections, which is the subject of this report. A broader review of the Clerk's Revenue Department, as well as an investigation of propane and natural gas vendors are in progress and will be reported upon separately.

The Clerk's Revenue Department is responsible for identifying and contacting vendors subject to the public service tax; collecting, depositing and recording remittances; monitoring receipts; notifying vendors of late or missed payments and amounts owed; and, initiating and computing interest and penalty assessments. The ordinance prescribes the interest that shall be assessed for late or non-payment as well as penalties for willful negligence or fraud in failing to pay taxes or file required returns. Vendors are required to submit an affidavit if they are not subject

to the tax. These responsibilities are handled by the Revenue Department, under the direction of one supervisor.

Propane sales are taxed, based on a monthly billing cycle, at 10% for the first \$4,000 of sales, 2% of the next \$2,000 in sales and 1% for all sales exceeding \$6,000. Sellers billing in any manner other than a monthly cycle shall apply a flat 10% tax rate. Certain governmental and public entities, churches, and public and private utilities (for resale or use in generating electricity) are exempt from the tax. Over the last five fiscal years (FY 2005 through FY 2009), propane and natural gas tax remittances within the Revenue Department totaled \$5.6 million. In 2009, an average of 25 vendor locations paid public service taxes monthly.

During the review, a legal interpretation was requested to clarify which vendors were subject to the public service tax. The interpretation disclosed the following:

- The purchaser's location should control the determination of whether the county or municipality is entitled to the tax on a particular transaction. The purchaser's location is the place at which possession, utilization of, control over or title to the gas becomes vested in the purchaser.
- Both wholesale and retail transactions are subject to the tax, with limited exceptions.

Scope and Methodology

The Clerk's Audit Services Unit of the Division of Inspector General conducted a review of the processes for identifying new vendors subject to the public service tax and collecting and monitoring remittances to ensure compliance with Florida statute and county ordinance. Vendor remittances were sampled for FY 2009 and FY 2010.

The objectives of the review were to determine if the Revenue Department was executing their responsibilities to:

- Identify and contact vendors subject to the public service tax;
- Collect, deposit, record and monitor the propane and natural gas taxes received;
- Notify vendors of late or missed payments and amounts owed; and
- Initiate the interest and penalty assessment process and compute these assessments.

In order to meet these objectives, we conducted interviews, reviewed propane and natural gas-related processes, performed testing and evaluated the internal control environment. We performed other procedures that were deemed necessary under the circumstances.

We are in the process of performing a separate review of all other Revenue Department operations apart from those included in the scope of this report. In addition, an investigation of propane gas vendors is in progress to determine if public service taxes are accurately remitted.

Conclusion

The Revenue Department is not effectively executing their responsibilities in the public service tax collection process. The department has focused their activities on collecting and reporting taxes when received but has generally not taken adequate steps to identify, monitor, document and follow up with new and existing vendors that have failed to pay the required taxes. These practices have resulted in lost opportunities to collect all public service taxes and related interest and potential penalties that are owed by vendors based on Florida Statute and county ordinance.

Specifically, the review disclosed opportunities to strengthen processes for identifying new propane and natural gas vendors to initiate tax collection, maintaining an accurate master vendor list, following up with vendors for late or non-payment, and taking actions to initiate interest and penalties when appropriate. Key management reports in place to monitor these functions did not meet the needs of the department as information was incomplete, dated, and inaccurate. In addition, controls over safeguarding checks received required improvement and various written procedures for the public service tax collection process required development and update.

Review Team:

Alan Bray, Deputy Inspector General & Audit Manager

Michael Bodle, Senior Auditor

Stuart Grifel, Senior Auditor

Observations & Recommendations

The review identified certain policies, procedures and practices that could be improved. The review was neither designed nor intended to be a detailed study of every relevant system, procedure or transaction. Accordingly, the observations and recommendations presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Processes for identifying new vendors require improvement

Processes for identifying new propane and natural gas vendors require improvement to maximize public service tax collections.

The county PPM states the Revenue Department will obtain the Palm Beach County Tax Collector's occupational license listing for propane gas providers semi-annually (January and July) to identify any new suppliers who have obtained a license. In addition, the PPM states that the Revenue Department shall annually review the propane gas suppliers in the Bell South yellow pages to identify any new vendors or vendors who may have changed their name or place of business.

The review disclosed the following.

- The Tax Collector's listing dated November 12, 2009 was obtained by the Revenue Department. The listing reported 90 different business locations with occupational licenses to sell propane gas throughout Palm Beach County.
 - Our review identified six vendors in unincorporated areas that were included on the Tax Collector's listing but were not recorded on the Revenue Department's Propane Utility Vendor List. These vendors included: Ambia, Jupiter Farms Citgo, Lantana Chevron, Shell First Coast Energy, Acme Gas and Propane ForYou. None of these vendors are currently paying public service taxes, though vendor follow up is required to determine if taxes are owed.

- In addition, there were seven other vendors located in unincorporated areas that were included on the Tax Collector's listing and added to the Revenue Department's vendor master list, but there was no indication that the Revenue Department contacted the vendors. Of these seven, the vendor list indicates three vendors (10th Avenue Oil, Circle K Stores #8538 and #4948) are paying taxes. Our review disclosed that none of the seven vendors are actually paying public service taxes, though vendor follow up is required to determine if taxes are owed.
- A legal interpretation requested by our office during the review stated that "the purchaser's location should determine whether the county or a municipality is entitled to the tax on a particular transaction." The Revenue Department supervisor has interpreted the county ordinance to state that only vendors located in unincorporated Palm Beach County must pay the public service tax on propane and natural gas. However, propane and natural gas wholesalers may be located in a municipality but deliver the product to a purchaser located in unincorporated areas. In such cases, the vendor would be liable for payment of the public service tax to the county.
 - The Revenue Department supervisor stated that he requests the Tax Collector's occupational license listing twice per year, which provides all businesses that are in the propane and natural gas categories. The supervisor only maintains the latest listing, which was dated November 12, 2009. We could not verify if prior requests were made or actions taken to identify new vendors semi-annually.
 - The Revenue Department supervisor stated that he attempts to search the Bell South on-line yellow pages monthly or as time allows. The latest on-line yellow pages search was conducted in November 2009. We could not verify if prior searches were made.

Recommendations:

- A. Ensure that the Tax Collector's occupational license listing is obtained semi-annually, new propane and natural gas vendors are identified, follow-up actions are taken, and results are documented and retained for a reasonable period (e.g., three years).
- B. Ensure that the Yellow Pages (both on-line and hard copy) are reviewed

annually, new propane and natural gas vendors are identified, follow-up actions are taken, and results are documented and retained for a reasonable period (e.g., three years).

- C. Follow up on the six vendors not reported on the Propane Utility Vendor List and the seven vendors reported on the vendor list which show no evidence of being contacted. Send the new vendor letter and related package to these vendors to initiate the tax collection process.
- D. Evaluate the impact of the legal interpretation received which establishes the public service tax liability based on the purchaser's location. Determine the appropriate steps to identify and follow up with any vendors located in incorporated areas that have propane and natural gas sales in unincorporated areas for which taxes are due. These steps will likely involve awareness communication to vendors and coordination with county departments.

Management Responses:

- A. Management concurs with this recommendation and will continue to request the Tax Collector's listing semi-annually. It should be noted that the Revenue Department has regularly requested this data in the past, but has not kept a copy in the file. It should be noted that the supervisor who was directly responsible for the oversight of the public service tax collection process is no longer with the organization. The Revenue Department manager will now be directly responsible for oversight of this process. Going forward, a copy of this list will be kept for three years.

Target Completion Date: 8/31/10

- B. Management concurs with this recommendation and will continue to review the yellow page listing for any new vendors not reported on the Tax Collector List. It should be noted that the Revenue Department has regularly obtained this data in the past, but has not kept a copy in the file. Going forward, a copy of this list will be kept for three years.

Target Completion Date: 8/31/10

C. Management concurs with the recommendation that the Revenue Department should follow up on the 6 vendors listed in the review findings that were not on the Revenue Department list and the 7 vendors currently on the list, but not paying taxes to initiate the tax collection process.

Target Completion Date: 9/30/10

D. Management concurs with this recommendation. The Revenue Department will work to identify those firms not in compliance with the ordinance and will transmit the relevant information to OFMB and the County's Internal Audit Department for further action as the investigation and enforcement of the ordinance is beyond the scope of the Revenue Department. The County PPM stipulates that the Office of Financial Management and Budget will be responsible for review of actual collections as they compare to the approved budget, recommending actions to be taken in penalty situations, collection of delinquent taxes, and settlement or compromise of any interest or penalty amounts. The County PPM also stipulates that the County's Internal Auditor's Office will be responsible for audits of vendor compliance.

Target Completion Date: 9/30/10

2. The maintenance of the vendor master list requires improvement.

The Revenue Department maintains the Propane Utility Vendor List, which serves as the master list of all newly identified and existing vendors selling propane and natural gas. Various exceptions and improvement opportunities were noted that require resolution to ensure the accuracy and completeness of the list.

County PPM states that the Revenue Department shall provide an updated vendor list of providers to OFMB on a semi-annual basis and as requested. The vendor list shall contain each vendor's name, address, phone number, and electronic mail address. A review of the list, which included approximately 150 vendor locations in incorporated and unincorporated areas, identified the following:

- Vendor phone numbers (13) and electronic mail addresses (36) were not recorded on the vendor list for vendors designated as currently paying taxes.

- Vendors (65) are recorded as paying taxes on the list but only 26 are actually paying taxes.
- Duplicate entries (11) were noted for the same vendor.
- Unique vendor numbers are not assigned to each vendor required to pay the public service tax. Unique numbers would enable easier identification of businesses with multiple locations.
- Contact persons were not listed for six vendors currently paying taxes.
- The list indicated that 79 vendors were “new” though it was not clear when the vendor was added as no dates were recorded on the list.
- The list reported that one vendor was required to pay taxes and was exempt, indicating the list was incorrect.
- The list does not indicate when it was last updated.

Recommendations:

- A. Update the Propane Utility Vendor List with phone numbers, electronic mail addresses, contact names, dates vendors are added, and any other missing or incorrect information. Ensure all vendor locations are recorded on the vendor list using unique numbers. Eliminate duplicate entries on the list.
- B. Maintain a separate electronic file or spreadsheet and supporting documentation for each vendor from initial identification through current status. Each vendor’s file should include documentation such as: initial and ongoing correspondence, and when a vendor goes out of business, no longer sells propane gas, or merges with another vendor.
- C. Ensure the Revenue Department manager conducts periodic reviews of the vendor list and supporting documentation to ensure compliance with the county PPM.
- D. Consider establishing a mechanism to conduct annual surveys of currently paying vendors to identify any relevant changes in their status (e.g., stopped selling propane, merger) or contact information.

Management Responses:

- A. Management concurs with this recommendation and will continue to update our vendor listing as new vendors are added and information changes to assure that

contact information, such as phone numbers and addresses, are complete and up-to-date. Unique identification numbers will be added on the listing.

Target Completion Date: 9/30/10

- B. Management concurs with this recommendation and will set up and maintain a separate file for each vendor to include all vendor, correspondence and payment information.

Target Completion Date: 9/30/10

- C. Management concurs with this recommendation. In the past, the Revenue Department Manager has conducted periodic reviews of the process, but these reviews were not recorded. Going forward, the Revenue Department Manager will conduct semi-annual reviews of the vendor list and files and will produce a formal report of the findings to be retained for audit purposes.

Target Completion Date: 1/31/11

- D. Management concurs with this recommendation. Annual letters will be sent to all vendors to update contact and account information. It should be noted that this recommendation creates additional work process that is not currently required by the existing ordinance or PPM.

Target Completion Date: 1/31/11

3. Vendor contact and follow up requires improvement.

The Revenue Department is responsible for following up with new vendors, sending and receiving correspondence, and maintaining accurate records for each vendor. Various exceptions and improvement opportunities were noted that require resolution to ensure compliance with the county ordinance and PPM and maximize public service tax collections.

Key elements of the county ordinance and PPM are italicized below, followed by observations noted during the review.

The county PPM states that the Revenue Department will send a letter to all newly identified vendors, along with a copy of the county code, advising them that they must comply with the code or send an affidavit stating that their business activity is exempt. (PPM CW-F-035, II.A)

- Copies of letters sent to each vendor with the packet are not retained nor are the packets sent so as to ensure receipt. Thus, we could not verify that all new vendors are contacted. There were approximately 35 vendors listed on the Propane Utility Vendor List that are marked as “new” and no follow up was evident on the list.
- The Revenue Department revised the vendor letter in November 2009. The prior letter incorrectly stated that the seller could keep 1% of the public service tax as compensation for collecting and remitting the tax. We clarified that the 1% only applies to telecommunications but not propane and natural gas sellers. This 1% reference was removed from the updated letter; however the updated letter has not been sent out to all vendors currently paying taxes.

The county PPM states that a second file list should be kept for each supplier returning an affidavit. (PPM CW-F-035, II.B) If a newly identified vendor’s business activity does not fall under the requirements of the code for the public service tax, the PPM states that the vendor is required to send a signed affidavit from the principals of the company attesting to that fact.

- A separate file list of signed affidavits received from vendors who claim exemption from the public service tax code is not maintained. The Revenue Department supervisor stated that he has only received a few affidavits through the years. Documentation is not kept to indicate any follow up with vendors when affidavits are not received.
- A review of the Propane Utility Vendor List indicated that 34 vendors are recorded as exempt from paying taxes. In 10 instances, there is no reason given on the list (e.g., no sales in unincorporated areas). Without an affidavit, it is impossible to verify that the vendor is exempt from collecting and remitting the public service tax.

The county PPM states that a file list of all returned mail and the reason for non-delivery will be kept. (PPM CW-F-035, II.B)

- A file list of undelivered mail is not maintained nor is there any documentation or written explanation when mail is returned undeliverable.
- A time frame has not been established to follow-up with those vendors that do not begin paying or fail to respond to the new vendor letter.
- We could not determine if follow-up actions are taken when mail is returned undelivered or when a newly identified vendor does not respond. Such actions are a logical extension of the PPM requirements. The Propane Utility Vendor list shows seven instances where mail was returned undeliverable but there is no indication of actions taken.

Recommendations:

- A. Revise the new vendor letter. Ensure letters are sent to all current vendors either by traceable mail or following up within a reasonable time period. Retain copies of letters and related correspondence with vendors.
- B. Establish and maintain a file list of undelivered mail and document the reason for non-delivery. Establish a follow-up and tracking mechanism beyond the PPM requirements for contacting vendors that: do not respond to the new vendor letter and package, do not begin paying public service tax, report exempt sales, and do not submit accurately completed and signed remittance forms.
- C. Establish and maintain a file list of signed vendor exemption affidavits.

Management Responses:

- A. Management concurs with this recommendation. Since the current ordinance and PPM does not provide specific direction, the Department has traditionally sent the new vendor letters via regular first class mail as a cost savings measure. Going forward, letters to new vendors will be updated and sent via certified first class mail. The department has no estimates as to the cost for this activity. All letters and related correspondence will be maintained in the vendor files.

Target Completion Date: 9/30/10

- B. Management concurs with this recommendation. Management will continue, as it has done in the past, to follow-up and track vendors that do not respond to the vendor letters or send in inaccurate/incomplete remittance forms and will maintain proof of follow-up in the separate vendor files in addition to including this information on the master vendor list.

Target Completion Date: 11/30/10

- C. Management concurs with this recommendation. Management will maintain supporting documents received from vendors in the separate vendor files created in recommendation 2.B above in addition to including this information on the master vendor list.

Target Completion Date: 9/30/10

4. The vendor payment oversight process requires strengthening.

The Revenue Department is responsible for monitoring and recording public service tax payments and following up with vendors as appropriate. Various exceptions and improvement opportunities were noted that require resolution to ensure compliance with the county ordinance and PPM and maximize public service tax collections.

Key elements of the county ordinance and PPM are italicized below, followed by observations noted during the review.

The county PPM states that each month the Revenue Department will update the master list by adding vendor collections for the current month, including the date the collection was received. The updated list will be reviewed monthly to monitor timeliness of remittances from vendors. The Code requires that remittances of taxes collected during the preceding month be received by the 15th of the following month. (PPM CW-F-035, III.A)

If remittances are not received timely, a reminder letter will be sent to the vendor. If collections stop or are significantly reduced for any vendor, an inquiry will be made and the

reason for the departure should be noted in the file. If a new vendor appears for the first time on the remittance list, inquiry will be made as to why compliance with the Code was not adhered to earlier and the reason should be noted for future review. (PPM CW-F-035, III.B)

- Reminder letters are not sent out when vendor payments are late.
- Documentation is not maintained in files to document any inquiries made to vendors who have stopped, skipped or significantly reduced their payments.
- Vendors are not asked to explain the reasons for prior non-payment when first appearing on the list.
- One vendor (Sunoco) remits the public service tax quarterly rather than monthly as required by ordinance, which the Revenue Department supervisor approved as an exception.
- Some vendors do not sign the remittance forms, which are required to certify the correctness of monthly billings.
- The process of identifying vendors who delay, skip, cease or significantly reduce payments could be improved as the Revenue Department only records vendor payments in one-month increments in the Utilities Taxes Penalty Calculations worksheet. Vendor payments are not scheduled out or tracked over multiple months.
- Copies of the Utility Taxes Penalty Calculations spreadsheet for years prior to FY 2009 were not available, as the documents were not retained by the Revenue Department.
- Opportunities exist to encourage vendors to pay the taxes owed via wire transfer.

The county PPM states that the Revenue Department will check the monthly remittance reports sent by vendors for accuracy to determine that the calculations of the tax remitted is correct based on the monthly sales volume reported. (PPM CW-F-035, IV.A)

- Remittance forms are reviewed for accuracy by the Revenue Department accounting clerk and Revenue Department supervisor according to interviews conducted. Our review identified 5 of 16 vendor remittance forms with incorrect calculations of sales tax owed. There was no evidence of review or sign off by the Revenue Department on the form or any follow up with the vendor to address the tax shortages. For example:
 - The March 2009 remittance form for Lee's Barbeque reported sales of \$9,468 and taxes owed of \$474.69. It appears that the vendor mistakenly calculated the taxes by using the declining tax rates (i.e., 2% and 1%) rather than 10%

rate applicable for individual customers. With the 10% tax rate, taxes owed the county totaled \$946.80 in March 2009, representing a shortage of \$472.11. Tax receipts from Lee's Barbeque for 2007 through 2009 totaled \$15,771. We sampled monthly remittance forms from each of the three years and noted that the same tax calculation errors were present. Therefore, tax underpayments totaled approximately \$15,500 for the three-year period.

- Sales reported for Glades Gas & Electric in February 2009 and October 2008 totaled \$115,043 and \$129,371, respectively, with taxes reported and paid of \$178.86 and \$76.01. With a 10% tax rate, which assumes no sales to individual customers over \$4,000 in that month, the taxes due the county totaled \$11,504 and \$12,937, respectively, representing a combined shortage of \$24,186.
- County ordinance does not dictate usage of a specific form but requires the remittance form to include the name and address of the seller, period of the return, and the name and phone number of the individual authorized by the seller to respond to county inquiries. The Revenue Department revised the sample remittance form in November 2009. However, the revised sample remittance form does not include fields to capture the vendor's address or the phone number of the individual authorized by the vendor to respond to inquiries.
- The Revenue Department enters the month of the remittance and vendor name in the line description field in Advantage. The information is entered "free style" and not always in the same format. In some cases, the vendor name or date may be entered first. Also, the name may be entered in different ways or abbreviations. Further, the date may be entered as numeric (e.g., 1/09) or alpha-numeric (e.g, January 2009). These inconsistencies make it difficult to generate a report with monthly payments by vendor over a particular time period.

Recommendations:

- A. Strengthen the review and monitoring process by ensuring vendor remittance forms are completed fully and accurately and are properly signed by vendors. Establish a follow-up and tracking mechanism for contacting vendors when forms are not in compliance.
- B. Revise the sample remittance form to include all information required by the

county ordinance currently absent from the form (vendor address and phone number of authorized contact person). The form should clearly define the tax rates to be used for sales billed on a monthly cycle as well as individual customer sales. Send the revised remittance form to all vendors for their usage. Ensure vendors submit fully completed forms and follow up if not in compliance.

- C. Ensure accuracy of tax calculations, initial each vendor remittance form and follow up with vendors when errors are identified. In instances where vendors calculate the tax owed at the lesser 2% or 1% rates, follow up with the vendor or inform the County to verify that an individual buyer's monthly sales have exceeded \$4,000, which is the only circumstance when the lesser tax rates are allowed by the county ordinance.
- D. Enhance recordkeeping of the Utility Taxes Penalty Calculations spreadsheet by the following: notating the months for which payments should be applied and amount still owed, recording date of remittance received to enable accurate interest charge assessment, obtaining explanations for lack of prior payment when vendors first appear on the vendor list, notating when vendors submit zero remittance forms with no sales and retaining the forms (to avoid confusion when no payment or form is received), tracking vendor payments over a year (rather than only by month) to more clearly identify payment trends and missed payments, documenting when vendors have merged or stopped selling propane and natural gas, using the remittance receipt date rather than post-marked date on envelopes, ensuring that vendors with multiple locations submit a separate remittance form for each location, and retaining copies for more than two years.
- E. Pursue reporting capabilities in Advantage by determining if vendor name and month of remittance can be captured in separate fields. If this is not feasible, the vendor name should be entered consistently into the Advantage line description, followed by the remittance date. If entered in this manner, the information could be downloaded into a spreadsheet with separate fields set up for vendor name, month due, and remittance amount. In addition, consider establishing unique vendor identifiers (e.g., use vendor numbers instead of names).
- F. Consider initiating a payment by wire process for vendors to remit the public service taxes.

Management Responses:

A. Management concurs with this recommendation and will continue to review and audit remittance forms and payments and agrees to institute a follow-up mechanism for contacting vendors when forms are not in compliance. It should be noted that remittance forms have been audited in the past for accuracy but the current remittance form does not include a sign-off for the review clerk. Going forward, the new remittance form will include a sign-off to verify that the review clerk has audited the remittance form.

Target Completion Date: 11/30/10

B. Management concurs with this recommendation and will update the current remittance form to include vendor contact information, a 'no sales' certification section. Updated form will be sent to all vendors.

Target Completion Date: 9/30/10

C. Management concurs with this recommendation and will continue to review remittance forms for accuracy. Also, staff will follow up with vendors when potential tax calculation errors appear to exist.

Target Completion Date: 11/30/10

D. Management concurs with the recommendation to strengthen the existing record keeping and notification process to ensure that late payments are reported timely to the County Collections Office in accordance with the County PPM. Once it is determined by Revenue Department that a filing is delinquent, the County's collections coordinator will be notified and provided a detailed payment breakdown, a copy of which will be maintained in the individual vendor files.

Target Completion Date: 9/30/10

E. Management concurs with the recommendation and established a standardized naming convention to ensure that the Advantage line description information is consistent and contains a unique vendor identifier.

Target Completion Date: Completed

F. Management concurs with this recommendation. The annual vendor letters, created in section 2.D above, will contain information on how vendors can take advantage of wire payment options.

Target Completion Date: 1/31/11

5. Interest and penalties for late payment and non-payment are not calculated and reported to the County.

Interest and penalties are not calculated and reported to the County when vendors fail to pay as allowed by county ordinance and the related PPM. This results in lost revenue collection opportunities.

According to the county PPM, the Revenue Department is to inquire and take action when necessary if it identifies vendors that: delay payments (due by the 15th day of the following month), significantly reduce payments, or completely stop paying. In such cases, the Revenue Department is to send out a reminder letter. If the Revenue Department determines that a legitimate reason does not exist for late or non-payment, the department is to notify OFMB of a potential penalty situation. OFMB will evaluate the situation and, if warranted, make a recommendation to the County Attorney's Office to proceed with appointing a hearing officer for review.

The county ordinance states that interest shall be assessed for failure to pay any tax when due or to file any required return, at a rate of 1% per month of the delinquent tax from the date the tax was due until paid. If the hearing officer determines willful neglect is involved, penalties shall be assessed at 5% per month of the delinquent tax, not to exceed a total of 25%. If the hearing officer determines that a fraudulent return has been filed or the vendor has willfully attempted to evade payment, the penalty shall be 100% of the tax.

The Revenue Department prepares a Utility Taxes Penalty Calculations spreadsheet (hereafter referred to as tax penalty spreadsheet). A review of the available tax penalty spreadsheets for FY 2009 and FY 2010 and related processes revealed the following:

- The Revenue Department decided not to assess interest for late payment or non-payment nor initiate the penalty process by notifying OFMB, which are contrary to county ordinance and PPM. Numerous late payments were noted during FY 2009 and 2010 and potential penalty situations were identified.
- The receipt date on the tax penalty spreadsheets was changed frequently by the Revenue Department to the postmark date taken from the remittance envelope. As a result, the number of days late is erroneously reduced on the tax penalty worksheet and any interest that should be assessed would be understated. The Revenue Department supervisor indicated that this is his manner in dealing with occasional instances of mail held in the Courthouse. Our review did not identify any delays.
- When vendors miss one or more monthly payments, payments received in a subsequent month were reported incorrectly in some cases on the tax penalty worksheet. For example, January 2009 sales from Chesapeake Utilities required a \$2,954.48 tax payment by February 15th. The payment was received on March 4th (17 days late) but was recorded on the March worksheet as payment for March received 11 days early, with no assessment of interest charges.
- The tax penalty spreadsheets did not record when vendors went out of business or merged with other companies. This makes it difficult to ascertain if vendors neglected to pay any taxes owed or determine the reason for non-payment.
- The February 2009 tax penalty spreadsheet remittance information was completely copied into the March 2009 spreadsheet without being detected. Information captured in Advantage was accurate but the receipts data on the March 2009 spreadsheet was incorrect.

Recommendations:

- A. Adhere to county ordinance and PPM in instances where public service tax payments are not received timely. If the Revenue Department believes enforcement is not cost effective or otherwise not efficient, discussions should be held with county management and a determination made as to whether changes to the county ordinance should be recommended and initiated. Adherence to county ordinance and PPM requires sending reminder letters, requiring monthly payments, making and documenting inquiries with vendors, determining that a

legitimate reason does not exist for late or non-payment, calculating interest charges, and notifying OFMB of potential penalty situations.

- B. Maintain a log of reminder letters, notices of inquiry and other documentation sent to and received from vendors for payments that are late, zero, skipped, stopped or significantly reduced. Retain copies of key documents as deemed appropriate.
- C. Enhance recordkeeping of the Utility Taxes Penalty Calculations spreadsheet. Refer to the Recommendation 4.D.

Management Responses:

- A. Management concurs with this recommendation. It should be noted that the Revenue Department has, in the past, contacted late paying vendors, but those contacts were not kept in the file. Going forward, the Revenue Department will maintain a record of the follow-up with late paying vendors and send a monthly report to the County's Collection Office for late and non-paying vendors. A record of the report to the Collections Office will also be made part of the vendor file. The County Collections office should then follow the stipulations of the County PPM and undertake the appropriate review and notify the Revenue Department of its decision.

Target Completion Date: 9/30/10

- B. This recommendation was addressed previously in 2.B
- C. This recommendation was addressed previously in 4.D

6. Controls over safeguarding of checks require strengthening.

Security measures for the safekeeping of checks received via mail require improvement.

- Mail with checks is delivered by one individual from the Courthouse mailroom to the Finance reception area on the second floor of the Government Center.
- Mail is opened and checks are removed from envelopes by one individual (receipting clerk) in the reception area. This same individual is responsible for entering the check information into the receipting system.
- Checks were not restrictively endorsed upon opening the mail; rather, checks were endorsed in the Revenue Department later in the receipting process. During the review, the process was changed and checks are now restrictively endorsed immediately upon opening at the reception desk.

Recommendation:

- A. Implement enhanced safeguard controls over checks received by mail. While recognizing the organization must balance the risk-reward and cost-effectiveness of added controls, consideration should be given to deploying a second person during the mail delivery, opening and initial check receipting process.

Management Response:

- A. Management concurs with this recommendation and understands the possible risks of the current staffing situation. However, current budget constraints make the deployment of additional staff to the mail delivery, opening and receipting process cost prohibitive. Management currently has a staff member designated to opening, stamping, and receipting all checks that come into the office. A separate staff member processes deposits and a third staff member records deposits into the Advantage Financial System.

Target Completion Date: N/A

7. Procedures for the collection of public service taxes require development.

The Revenue Department relies upon the Florida statute, Palm Beach County ordinance, and county PPM (PPM CW-F-035) to guide their responsibilities in

collecting the public service tax. The lack of internal procedures likely has contributed to some of the exceptions noted in this review.

The Revenue Department is responsible for collecting and recording the public service tax. These steps include: vendor identification, vendor contact, review of monthly activity, collection verification, and initiation of any interest and penalty assessments.

Current and complete written procedures would help ensure staff is aware of the detailed responsibilities and consistent adherence to legislative and policy requirements.

Recommendation:

- A. Develop procedures that incorporate public service tax requirements defined by Florida statute, county ordinance and PPM, and any additional internal requirements. Ensure procedures are communicated and easily accessible, and staff is appropriately trained.

Management Response:

- A. Management concurs with this recommendation and will develop a formal internal procedure after the conclusion of this review and after any County PPM revisions.

Target Completion Date: 1/31/11

8. Opportunities exist to expand performance measures and activity reporting.

The Revenue Department has a performance dashboard that includes receipts processed, checks deposited, and cash receipts posted to financial system. Propane remittances are included in the data for these measures but are not broken out separately. Opportunities exist to develop additional performance measures and activity reports to assess and monitor the efficiency and effectiveness of the process.

Expanding performance measures related to identifying new vendors and sales tax remittance timeliness and accuracy will assist the department. Examples of these measures may include:

- number and percentage of vendors that pay within the required time period,
- number and percentage of vendors that are contacted for late or non-payment and assessed interest/late payment fees, and
- number and percentage of vendors reported to OFMB where a penalty situation may exist.

Recommendation:

- A. Develop and implement additional performance measures and activity reporting with related targets for the key activities within the public service tax remittance process.

Management Response:

- A. Management concurs with this recommendation. Management will develop performance measures to capture key activities within the public service tax remittance process.

Target Completion Date: 12/31/10

9. Opportunities exist to coordinate efforts with the County to enhance the PPM and maximize tax collections

Opportunities were noted during the review in which the Revenue Department could coordinate efforts with the County to enhance the existing PPM and develop and implement more proactive strategies in assessing and collecting public service tax revenues.

- The County PPM states the Revenue Department will seek to identify new propane gas providers by reviewing the Tax Collector's occupational license

listing semi-annually and the Bell South yellow pages annually. Our review disclosed that one vendor (Lowe's) had two known locations in unincorporated Palm Beach County which did not have occupational licenses listed in the Tax Collector's database. No public service tax was collected from these two stores. Upon questioning, Lowe's corporate headquarters confirmed the two stores had propane sales. As a result, Lowe's began paying public service taxes of approximately \$2,100 monthly. Opportunities may exist to utilize other sources in identifying propane vendors that may not currently be paying public service taxes as required by ordinance.

- The County PPM directs the Clerk's Revenue Department to check the accuracy of monthly remittance reports received from vendors to determine that tax calculations are correct based on the monthly sales reported. However, the department does not believe it possesses a compliance role. Thus, follow up with vendors for any underpayments or questionable payments as well as assessments of interest and penalties must first be reviewed and approved by OFMB in their view. Roles and responsibilities as well authorities granted to the Clerk's Revenue Department require clarification with OFMB.
 - For example, the Revenue Department does not follow up with vendors that report large exempt sales. The September 2008 remittances from two related vendors (Florida Public Utilities and Flo-Gas) included combined exempt sales of \$422,888, representing about 60% of their gross sales. No follow up was performed to verify the exempt status and ensure the related taxes (\$42,288) were not owed to the County.
- The County ordinance does not require vendors to report instances of no monthly sales. As a result, County staff are not able to determine that no taxes are owed and the vendor did not simply fail to report the sales and related taxes due. Also, vendors are not required to provide documentation to support reported sales.
- The County PPM does not direct the Revenue Department to follow up when mail is returned undelivered or when a newly identified vendor does not respond though such actions are a logical extension of the PPM.

Recommendations:

- A. Consider working with the County to expand the activities for identifying new

propane and natural gas vendors beyond the actions required in the County PPM.

- B. Coordinate with County staff to clarify roles and responsibilities, particularly those related to ensuring compliance with the County ordinance.
- C. Consider working with the County to strengthen the ordinance to enable more effective compliance. Examples include requiring vendors to provide summary sales support and remittance forms even when no sales exist in a month.

Management Responses:

- A. Management concurs with this recommendation and will consider expanding the activities to identify new propane and natural gas vendors beyond the actions required in the County PPM.

Target Completion Date: 1/31/11

- B. Management concurs with this recommendation and will coordinate with County staff to clearly define roles and responsibilities, particularly those related to ensuring compliance with the County ordinance.

Target Completion Date: 1/31/11

- C. Management concurs with this recommendation and will consider strengthening the ordinance to enable more effective compliance.

Target Completion Date: 1/31/11