

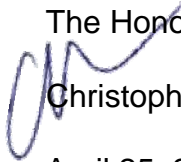


# Memorandum



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To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County

From:  Christopher Mazzella, Inspector General

Date: April 25, 2012

Subject: OIG Final Report Re: *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*, Ref. IG12-07

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Attached please find the Office of the Inspector General's (OIG) final report regarding the above-captioned matter. TCB Systems, Inc. (TCB) provides janitorial service to the County, specifically servicing the Government Center Complex. The report, as a draft, was provided to Robert and Zoila Orue, officers/owners of TCB for their review and the opportunity to provide a written response. No response was received.

The OIG is providing a copy of this final report to all relevant parties, including the Florida Department of Financial Services, Division of Insurance Fraud; the surety [Guarantee Company of North America (GCNA)] and its insurance agent (Brown & Brown); as well as Robert and Zoila Orue of TCB.

We would also like to take this opportunity to thank the Procurement Management Division of Internal Services Department (PMD/ISD) for their assistance in this matter.

Kindly note that the OIG requests receiving a status report in 30 days, on or before May 28, 2012, regarding the administration's implementation of the OIG's recommendations.

## Attachment

cc: Ed Marquez, Deputy Mayor  
Lester Sola, Director, ISD  
Miriam Singer, Assistant Director, ISD Procurement Management  
Florida Dept. of Financial Services, Div. of Insurance Fraud (under separate cover)  
GCNA (under separate cover)  
Brown & Brown, Inc. (under separate cover)  
Robert Orue, TCB (under separate cover)  
Zoila Orue, TCB (under separate cover)

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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## **INTRODUCTION & SYNOPSIS**

On January 31, 2012, the Miami-Dade County Office of the Inspector General (OIG) received information that a vendor participating in a Miami-Dade County (County) contract had submitted fraudulent Performance Bonds to the County. The vendor, TCB Systems, Inc. (TCB), was awarded Contract Bid No. 8026-3/11-OTR, *Janitorial Services for Downtown Government Complex*, starting January 1, 2007. This contract replaced Bid No. EM4648-1/05, *Janitorial Services for Downtown Government Complex*, which ran from December 1, 2004 to December 31, 2006. TCB has been the sole vendor awarded these two contracts, and has been paid over \$25 million for work performed under these two contracts.

Both contracts included two specific requirements:

- The Invitation to Bid (ITB) required that all offers be accompanied by an offer guaranty/bid bond in the form of a Certified Check, Cashier's Check or Bid/Proposal Bond in the amount of 5% of the total annual contract price.
- The contract required that the vendor, to whom a contingent contract award is made, execute and deliver to the County a Performance and Payment Bond in an amount that represents 20% of the vendor's total annual price.

The current contract with TCB has been renewed three times and extended once since the initial contract period. Each time the contract was renewed or extended, TCB was required to submit a new Performance Bond to the County's Procurement Management Division of Internal Services Department (PMD/ISD).<sup>1</sup> For the last six-month extension granted for 2012, TCB delivered to the County a Performance Bond issued by the Guarantee Company of North America (GCNA). PMD/ISD staff discovered that this Performance Bond and the one presented for the prior year's contract renewal were fraudulent.

An OIG Special Agent contacted Mr. Jeffrey Jubera, Vice President/General Counsel for GCNA. Mr. Jubera reviewed ten different Bid Bonds and Performance Bonds that had been submitted to the County by TCB. It was learned that only three of the surety bonds were legitimate; the other seven surety bonds that TCB had submitted to the County were fraudulent. Bid Bonds guarantee the vendor's intention to enter into a contract with the County. Performance Bonds guarantee the County satisfactory performance or completion of the contract terms. If the

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<sup>1</sup> The Procurement Management Division was formerly the Procurement Management Department, and was recently merged with other departments into the newly created Internal Services Department (ISD). Even though the majority of the activities reported herein relate to the former Procurement Management Department, the name of the successor department (ISD) is used in this report.

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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vendor fails to perform on the contract for any reason, including insolvency, the bonding company will either pay for the completion of the contract or hire another company to complete the project. Mr. Jubera provided the OIG with a sworn affidavit attesting to the fact that one Bid Bond and six Performance Bonds submitted by TCB were fraudulent. **(EXHIBIT 1)**

The OIG investigation substantiated the allegation that TCB submitted fraudulent Bid and Performance Bonds to the County.

### **OIG JURISDICTIONAL AUTHORITY**

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts, and transactions. The Inspector General is authorized to conduct any reviews, audits, inspections, investigations, or analyses relating to departments, offices, boards, activities, programs, and agencies of the County and the Public Health Trust. The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts, or transactions. The Inspector General may also investigate alleged violations of the Conflict of Interest and Code of Ethics Ordinance, and may either file a complaint directly with or refer the matter to the Ethics Commission. The Inspector General may exercise any of the powers contained in Section 2-1076, upon his or her own initiative.

The Inspector General shall have the power to require reports from the Mayor, County Commissioners, County Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

### **ENTITIES AND INDIVIDUALS COVERED IN THIS REPORT**

#### ***TCB Systems, Inc.***

TCB is a janitorial services company located at 11861 SW 144<sup>th</sup> Court #3, Miami, FL 33186. TCB was incorporated as a for-profit corporation in the State of Florida in 1994 under FEI/EIN Number 650472355. The registered Officers/Directors of TCB are Robert and Zoila Orue. Mr. Orue serves as President of TCB and Ms. Orue is the Secretary and Treasurer. Mr. Orue and Ms. Orue are

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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each 50% owners of the company.<sup>2</sup> TCB has been a Miami-Dade County registered vendor since 1994/1995.

TCB has been awarded several County contracts, not all of which have required Bid Bonds and/or Performance Bonds. The two contracts at issue here (Bid No. EM4648-1/05 and Bid No. 8026-03/11-OTR) both for janitorial services for the downtown government complex required Bid and Performance Bonds.

To date, TCB has received over \$27 million in payments from the County for work done under several contracts. Contracts, Bid No. EM4648-1/05 and Bid No. 8026-03/11-OTR, account for over \$25 million of that amount.

#### ***Guarantee Company of North America (GCNA)***

GCNA is national surety company headquartered in Southfield, Michigan. GCNA issued or was purported to issue the bonds that are the subject matter of this report. Jeffrey Jubera, Vice President/General Counsel for GCNA, provided the OIG with a sworn, notarized affidavit relating to the purported GCNA bonds at issue.

### **INVESTIGATION**

This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General, Quality Standards for Investigation* as promulgated by the Association of Inspectors General.

This investigation was predicated on information received by the OIG that a vendor doing business under County Contract Bid No.: EM8026-03/11 had submitted fraudulent Performance Bonds to the County. The investigation substantiated the allegation and determined that TCB had submitted one fraudulent Bid Bond and six fraudulent Performance Bonds to the County over the course of the past six years.

During the course of the investigation, OIG Special Agents reviewed documents including, but not limited to, Bid Bonds, Performance Bonds, Invitation to Bid Proposals, award recommendations, award sheets and other records and materials obtained as part of this investigation. In addition, OIG Special Agents interviewed a PMD/ISD employee and Jeffery Jubera, Vice President/General Counsel for GCNA.

Surety bonds, known as Bid Bonds and Performance Bonds, are required by the County under the terms of certain contracts. Bid Bonds guarantee the vendor's

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<sup>2</sup> Source: County's Vendor Registration Application

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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intention to enter into a contract with the County. Performance Bonds guarantee the County satisfactory performance or completion of the contract terms. If the vendor fails to perform on the contract for any reason, including insolvency, the bonding company will either pay for the completion of the contract or hire another company to complete the project.

TCB was awarded County Contract Bid No. EM4648-1/05, which ran from 12/1/04 to 12/31/06, which included one six-month extension, and another one-month extension. At the end of this extension, the successor contract Bid No. 8026-03/11 was awarded—also to TCB as the sole vendor. The successor contract, which is the current contract, began on 1/1/07 with an initial two-year contract period. It has since had three one-year renewals and, recently, on January 1<sup>st</sup> of this year, a six-month extension was granted. The contract is scheduled to expire on June 30, 2012.

Both contracts were for janitorial services for the Downtown Government Center Complex, which includes the Stephen P. Clark Center, the Courthouse, the Cultural Plaza, the Museums, the Library, parking garages and other government buildings in the downtown Miami area. TCB has been the sole vendor awarded both of these contracts.

The County's ITB requires that the vendor, as part of its bid proposal, submit an Offer Guaranty/Bid Bond in the form of a Certified Check, Cashier's Check or a Bid/Proposal Bond in the amount of 5% of the total annual contract price.<sup>3</sup> The ITB also requires that the bidder, to whom a contingent award is made, execute and deliver to the County a Performance and Payment Bond in an amount that represents 20% of the vendor's total annual price.<sup>4</sup> Each time the performance period is extended, either through an option to renew or a contract extension, the vendor is required to submit a new Performance Bond to the County.

Over the course of these two contracts, TCB submitted a total of 10 surety bonds to the County, consisting of two Bid Bonds and eight Performance Bonds. The County only accepts original, notarized Bid Bonds and Performance Bonds; photocopied or faxed copies are not accepted. Bid Bonds are submitted to the County at the time of bid submission. The Performance Bonds submitted to the County from TCB were either hand-delivered or mailed to the PMD/ISD.

The OIG investigation substantiated that seven documents, consisting of one Bid Bond and six Performance Bonds, TCB submitted to the County, were fraudulent documents and had not been issued by GCNA. The two tables, on the following page, list all the bonds at issue in the investigation.

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<sup>3</sup> See Section 2.12 of ITB, Bid No.: EM4648-1/05 and Bid No.: 8026-03/11-OTR.

<sup>4</sup> See Section 2.13 of ITB, Bid No.: EM4648-1/05 and Bid No.: 8026-03/11-OTR.

**MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL  
FINAL REPORT**

***Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.***

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**Table 1 – Bonds Submitted by TCB on Contract No. EM4648-1/05  
*Janitorial Services for Downtown Government Complex***

<b>Bond Type</b>	<b>Bond Date</b>	<b>Bond Amount</b>	<b>Period Covered</b>	<b>Bond Number</b>	<b>Comments</b>
Bid	Nov. 19, 2004	5% of Contract Amount	Invitation to Bid Submission	Bid Bond	Legitimate
Performance	Feb. 4, 2005	\$514,048	Initial Contract Period (1 Year) 12/1/04 - 11/30/05	80011556	Legitimate
Performance	Jan. 11, 2006	\$267,024	6 Month Option to Renew 12/1/05 – 5/31/06	80011561	Legitimate
Performance	June 1, 2006	\$267,023	6 Month Extension <sup>5</sup> 6/1/06 – 11/30/06	80018758	Fraudulent
N/A	N/A	N/A	1 Month Extension 12/1/06-12/31/06	N/A	N/A

**Table 2 – Bonds Submitted by TCB on Contract No. 8026-03/11-OTR  
*Janitorial Services for Downtown Government Complex***

<b>Bond Type</b>	<b>Bond Date</b>	<b>Bond Amount</b>	<b>Period Covered</b>	<b>Bond Number</b>	<b>Comments</b>
Bid	April 24, 2006	5% of Contract Amount	Invitation to Bid Submission	Bid Bond	Fraudulent
Performance	Jan. 26, 2007	\$640,834.73	Initial Contract Period (2 Years) 1/1/07 – 12/31/08	80011896	Fraudulent
Performance	Jan. 21, 2009	\$888,059.76	First 1 Year Option to Renew 1/1/09 – 12/31/09	80032878	Fraudulent
Performance	Dec. 29, 2009	\$960,580.22	Second 1 Year Option to Renew 1/1/10 – 12/31/10	90001586	Fraudulent
Performance	Dec. 28, 2010	\$960,580.22	Third 1 Year Option to Renew 1/1/11 to 12/31/11	90014488	Fraudulent
Performance	Dec. 30, 2011	\$480,000.00	6 Month Extension 1/1/12 – 6/30/12	90076546	Fraudulent

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<sup>5</sup> TCB was granted a waiver of the Performance Bond requirement for this extension. It was noted that TCB was the apparent low bidder on the new contract (Contract No. Bid 8026-3/11-OTR). In spite of this waiver, TCB submitted a fraudulent Performance Bond for that extension.

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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At the end of the third and final renewal for Contract Bid No. 8026-03/11-3, the County granted TCB a six-month extension, bringing the contract expiration to June 30<sup>th</sup> of this year.<sup>6</sup> As part of granting the extension, TCB was required to provide another Performance Bond covering the new period. A representative from TCB hand-delivered a Performance Bond to PMD/ISD. The Performance Bond (Bond No. 90076546), dated December 30, 2011, read that it was issued by GCNA USA, 9180 Galleria Court, Suite 300, Naples, FL 34109, phone 239-513-2143.

Ms. Rita Guerra, a Procurement Contracting Technician with PMD/ISD, was interviewed by the OIG in connection with this investigation. Ms. Guerra's duties include receiving and reviewing vendor supplied documents to ensure that they are in compliance with the County procurement requirements. Ms. Guerra was responsible for the initial review of the Bid Bonds and the Performance Bonds TCB submitted to the County.

While reviewing the Performance Bond that TCB provided to PMD/ISD for the most recent contract extension, Ms. Guerra noted the following discrepancies:

- The bond number on the recently supplied Performance Bond (Bond No. 90076546) was not the same issued number as the number on the previously supplied Performance Bond (Bond No. 90014488). Because this was only a six-month contract extension, she considered this fact to be unusual.
- The signatures on pages 2 and 3 of the Performance Bond did not look right to her. She stated that the signatures looked very choppy and unnatural.
- The address for the surety company, 9180 Galleria Court, was misspelled on different pages of the Performance Bond.

Ms. Guerra attempted to contact the surety company, GCNA to verify the authenticity of the Performance Bonds. She called the phone number (239-513-2143) listed on the Performance Bond for GCNA and was informed that the number was that of a private residence, which had no connection to any surety company. Ms. Guerra learned that GCNA no longer had an office in Naples, Florida, and the office had been closed for quite some time.

Ms. Guerra contacted an office of GCNA in Tampa, Florida. Ms. Guerra sent GCNA copies of the two most recent Performance Bonds submitted by TCB. Ms. Guerra was informed by a GCNA representative that the two purported Performance

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<sup>6</sup> The number "3" at the end of Bid No. 8026-03/11-3 refers to the third renewal under the Option to Renew (OTR).

# MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

## FINAL REPORT

### *Submission of Fraudulent Bid Bonds and Performance Bonds by TCB Systems, Inc.*

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Bonds had not been issued by them. Additionally, Ms. Guerra was informed that GCNA had not issued a Performance Bond to TCB since 2006.

An OIG Special Agent contacted Mr. Jeffrey Jubera, Vice President/General Counsel for GCNA. Mr. Jubera was provided with copies of ten surety bonds, consisting of two Bid Bonds and eight Performance Bonds, which had been submitted to the County by TCB bearing the name GCNA as the issuing company. Mr. Jubera was asked to review the ten surety bonds and to provide the OIG with a sworn affidavit as to their authenticity.

On February 13, 2012, Mr. Jubera provided the OIG with a sworn affidavit attesting to the fact that of the ten surety bonds, which TCB presented to the County bearing the surety company name of GCNA, seven were fraudulent documents and had not been issued by GCNA. Only three of the ten bonds were actually issued by GCNA and were legitimate. The affidavit Mr. Jubera provided to the OIG included specific details as to why the seven surety bonds were fraudulent. **(EXHIBIT 1)**

### **RESPONSES TO THE DRAFT REPORT**

This report, as a draft, was provided to Robert and Zoila Orue, officers/owners of TCB, for their discretionary written responses. The OIG received no responses to the draft version of this report. The draft report was also provided to PMD/ISD for informational purposes only.

### **CONCLUSIONS/RECOMMENDATIONS**

The OIG investigation concluded that TCB submitted a total of seven fraudulent surety bonds to the County, consisting of one fraudulent Bid Bond and six Performance Bonds. This action placed the County at risk for years while TCB enjoyed a lucrative County contract earning over \$25 million. Accordingly, the OIG recommends that PMD/ISD terminate its contractual relationship with TCB and take whatever other action it deems appropriate, including initiating debarment proceedings against TCB.

In accordance with Section 2-1076(d)(2) of the Code of Miami-Dade County, we request a status report addressing the OIG's recommendation and any other actions taken. The OIG requests that we receive this report in 30 days, on or before May 28, 2012.