



Memorandum



Miami-Dade County Office of the Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency
601 NW 1st Court ♦ South Tower, 22nd Floor ♦ Miami, Florida 33136
Phone: (305) 375-1946 ♦ Fax: (305) 579-2656
Visit our website at: www.miamidadeig.org

To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County
The Honorable Esteban L. Bovo, Jr., Chairman
and Members, Board of County Commissioners, Miami-Dade County

From: Mary T. Cagle, Inspector General

Date: July 5, 2018

Subject: OIG Assurance Review of the Incident Involving the Disclosure of the Unsolicited Proposal for a New Civil and Probate Courthouse, Ref. IG-18-0013-O

Attached please find the Office of the Inspector General's (OIG) case closure report concerning the incident that took place on April 5, 2018, where the County's P3 Financial Advisor inadvertently transmitted confidential information to an unauthorized party. The OIG undertook this review to obtain sufficient assurances that this was an accidental, inadvertent disclosure, as reported by County officials, and to verify—to the extent possible—that the confidential material contained in the email's attachments were not read or disseminated, and that any and all unauthorized copies of the email have been permanently deleted.

Based on our independent review, which included taking sworn interviews of those involved, reviewing all available information, and obtaining third-party assurances from information technology specialists, the OIG is sufficiently assured that this incident was indeed a non-intentional, inadvertent disclosure. Based on the information available, there is no evidence to support that the unintended recipient, or any other individual associated with the recipient, accessed, shared, or inappropriately handled the email message and attachments in question once notified of the error.

While this report concludes our specific review of this incident, the OIG will continue to monitor and provide contract oversight to the Request for Proposal P3 procurement process for a new Civil and Probate Courthouse.

Attachment

cc: Abigail Price-Williams, County Attorney
Edward Marquez, Deputy Mayor
Tara C. Smith, Director, Internal Services Department
Alex Ferro, Chief of Staff, Office of the Mayor
Cathy Jackson, Interim Commission Auditor and
Director, Audit and Management Services Department
Guy Wilkinson, Principal, KPMG LLP (under separate cover)
Michael Marasco, Chief Executive Officer, Plenary Concessions (under separate cover)



ADMINISTRATIVE CASE CLOSURE REPORT

Case Number: 18-0013-O

Case Title: Courthouse Disclosure Incident Assurance Review

Date: July 3, 2018

SYNOPSIS

On April 13, 2018, the Office of the Inspector General (OIG) learned through the distribution of a memorandum from the Mayor that a Director of KPMG LLP (KPMG) the County's Public-Private Partnership (P3) Financial Advisor,¹ transmitted confidential information to an unauthorized party, in the form of attachments via email, contained in an unsolicited proposal submitted to the County for the new Civil and Probate Courthouse project (Courthouse Project).

At that time, in accordance with the County's P3 Ordinance, the County had issued a Request for Qualifications (RFQ-00820) to design, build, finance, operate, and maintain a new county civil courthouse in accordance with the requirements of the Court Master Plan. The proposals in response to the RFQ were due on May 2, 2018. The RFQ was step one of a two-step solicitation process whereby a shortlist of proposers would then be invited to participate in a Request For Proposal (RFP) for the Courthouse Project. Shortly before the issuance of the RFQ, the County received an unsolicited proposal, pursuant to Section 2-8.2.6 of the County Code, from New Flagler Courthouse Development Partners (NFCDP), proposing to design, build, finance, operate, and maintain a new county civil courthouse. On February 21, 2018, through Resolution No. R-189-18, the Board of County Commissioners (BCC) directed the County Mayor or his designee to complete an evaluation of the unsolicited proposal and to report back to the BCC on April 10, 2018. The County's Internal Services Department (ISD) issued a work order to KPMG, its P3 Financial Advisor, to assist ISD in its evaluation of the unsolicited proposal.

The April 13th Mayor's memo stated that the KPMG employee inadvertently transmitted confidential information from the unsolicited proposal, submitted by NFCDP, to a potential

¹ On July 19, 2016, KPMG had been awarded *Contract No. 00199, Financial and P3 Advisory Services for Implementation of Public Private Partnerships*.

RFQ proposer, the Plenary Group (Plenary).² The email disclosure, which took place on April 5, 2018, is commonly referred to by County and KPMG members as “the incident.” As such, we use that term in this report as well.

The OIG conducted a review of the incident to obtain sufficient assurances that this was an accidental, inadvertent disclosure as reported by County officials. We sought to independently establish a timeline of events surrounding the disclosure incident and, to the extent possible, verify that the email attachments were not read or disseminated, and that any and all unauthorized copies of the email have been permanently deleted.

As part of the review, the OIG interviewed senior members of the Internal Services Department (ISD), including Director Tara Smith and Assistant Director Jose Galan. The OIG examined the available documentation regarding their interactions with KPMG and Plenary to determine an accurate timeline of their notification and response to the incident. KPMG’s Principal, Guy Wilkinson; Director, Catherine Singer; and Manager, Ran Shesi Xie, were interviewed under oath regarding the incident, as was Plenary Concessions CEO, Michael Marasco (the unauthorized recipient of the email). Plenary Concessions is the delivery and asset management component of the Plenary Group.

During the review, the OIG was provided access to all available KPMG communications regarding the Courthouse Project and provided the result of an internal KPMG investigation regarding the incident. In addition, specific document requests were made to KPMG in order for the OIG to independently review the incident timeline and document the circumstances surrounding how the disclosure occurred. KPMG made five (5) separate document productions to the OIG between May 8, 2018 and June 15, 2018. Included in the documents reviewed were server logs for Guy Wilkinson and Catherine Singer; Outlook meeting invitations; emails between Guy Wilkinson and Mike Marasco; email communications, including attachments related to the Courthouse Project from Catherine Singer, Guy Wilkinson, Michael J. Johnson, and Ran Shesi Xie; and text messages for the relevant timeframe between April 5 and April 10, 2018. Also reviewed by the OIG, was an email calendar invitation relating to a prior interaction between Singer and Marasco. The calendar invitation was identified as the communication that caused Marasco’s contact information to be part of Singer’s Auto-Complete list.

The OIG also contacted Plenary’s Information Technology (IT) Director, who engaged the services of Plenary’s IT Service Provider, Microserve, to assist in determining – to the extent possible – if the email or its attachments still resided on the company’s server and/or Marasco’s corporate laptop. A detailed summary of the IT investigation was provided to the OIG along with system logs, file listings, and internal correspondence regarding the incident.

The OIG’s review of the incident has determined that the message was sent inadvertently, and the incident was handled appropriately by KPMG. The review also found that the Plenary recipient of the email (Mike Marasco) responded to the KPMG request and

² On April 2, 2018, Mike Schutt, Vice President of the Plenary Group, sent a memo to Miami-Dade County indicating interest in the Courthouse Project. Miami-Dade County’s Internal Services Department Assistant Director Jose Galan forwarded a copy, via email, to KPMG, as the P3 Financial Advisor, on April 3, 2018.

deleted the email in a timely fashion. In addition, Plenary has provided a comprehensive account of steps taken to assure the OIG that no attachments to the email were opened, no files are contained on Marasco's computer, nor stored on Plenary corporate servers.

OIG VERIFIED TIMELINE

Based on the interviews and the review of documents from all parties, the OIG was able to establish the following chronology of events:

Thursday, April 5, 2018

At approximately 3:17pm, EDT,³ Catherine Singer, a KPMG Director in the Infrastructure Advisory Practice involved in the consulting contract with the County, sent an email to colleagues within KPMG. The email was in preparation for a BCC meeting scheduled for April 10, 2018, at which time the Courthouse Project was scheduled to be discussed. The email in question contained several attachments, including the confidential unsolicited proposal submitted by NFCDP and KPMG's un-redacted analysis of the unsolicited proposal.

The email was addressed to Guy Wilkinson, a KPMG Principal overseeing the consulting contract with the County, and copied Ran Shesi Xie, the KPMG Project Manager assigned to the project. In addition to those listed above, Singer intended to copy Michael "Mike" Johnson, a senior associate on the KPMG engagement team that had been working on the project for several months. Instead of copying Mike Johnson, Singer copied Mike Marasco, the Chief Executive Officer (CEO) of Plenary Concessions. Plenary Concessions is the delivery and asset management component of Plenary Group.

As Singer was composing the message, Marasco's name was listed, along with Mike Johnson, as part of Outlook's Auto-Complete list. The Auto-Complete list, an automatic completion feature in Outlook, is designed to display suggestions for names and email addresses. As the user starts to type a name or address, the suggestions are populated from names and addresses to whom the user has previously sent emails. Because Marasco's name was displayed, Singer inadvertently copied Marasco on the email intended for internal KPMG personnel only.

Almost immediately after sending the email, Singer had a discussion with Xie about printing some of the attachments on the email. In the process of that discussion, Singer opened the sent email and noticed the email was addressed to Marasco instead of Johnson. Within three minutes of the initial email, Singer sent a recall message at 3:20 pm, EDT. The recall message effectively cancelled the email to all the KPMG recipients. Because Marasco's was not an internal KPMG email address, the recall message sent a separate email to Marasco requesting he delete the message. Singer immediately

³ On April 5, 2018, Catherine Singer was in New York, NY on Eastern Daylight Time (EDT). Guy Wilkinson was in Austin, TX on Central Daylight Time (CDT). Mike Marasco was in Phoenix, AZ on Mountain Standard Time (MST). All times have been converted to EDT for consistency. The time conversion has taken into account that Phoenix, Arizona does not apply Daylight Savings Time.

reported the incident to Wilkinson and self-reported the incident to KPMG internal counsel and technology representatives.

Xie corroborated the events of April 5, 2018. Leading up to the email transmission, Singer and Xie were preparing a briefing package for Wilkinson in advance of the April 10th BCC meeting. As part of the preparation, Singer volunteered to send out an email with the necessary attachments for Wilkinson to review. After Singer sent the email and as she and Xie were talking about printing the attachments, Xie, who sits adjacent to Singer, heard Singer shriek; she asked Singer what happened. Singer told her to check her inbox and stated she had accidentally sent the email to the wrong person. Xie told Singer to try and recall the message in Outlook. Singer tried to recall the message and then called Wilkinson.

Wilkinson reported receiving a call from Singer between 3:20 and 3:30 pm, EDT while in the KPMG office in Austin, Texas. Singer explained the error to Wilkinson, who immediately sought the advice of KPMG legal counsel on how to proceed. In accordance with KPMG's legal guidance, Wilkinson subsequently phoned Marasco and left a voice-message asking Marasco to call back. At 6:57 pm, EDT, Wilkinson followed-up with an email to Marasco advising him that Singer had inadvertently sent him an email and requesting he delete and not read or forward the message.

According to Wilkinson, Marasco called back approximately 30 to 40 minutes after he left the phone message and agreed to delete the email. Marasco recalled looking up the message when speaking with Wilkinson and opening the email, to ensure it was the correct message before deleting it, without reading the full contents of the message or opening the attachments. Marasco subsequently responded to Wilkinson via email at 7:04 pm, EDT, indicating he had deleted the email and had not forwarded it to anyone. In a follow-up email to Marasco at 7:15 pm, EDT, Wilkinson asked whether Marasco had read the email and requested confirmation he would not use the information in any way. At 7:16 pm, EDT, Marasco responded, explaining that he had only opened the email in order to identify it as they were speaking. He then deleted the email without having read the contents.

Friday, April 6, 2018

On the morning of April 6, 2018, Wilkinson called Jose Galan, ISD Assistant Director, and reported the incident. At the time, ISD Director Smith was out of the country. Galan contacted Deputy Mayor Marquez and notified the County Attorney's Office. During follow-up calls with Wilkinson, Galan asked Wilkinson not to provide a written disclosure until KPMG had an opportunity to meet with the County Attorney's Office (CAO).

On the evening of April 9, 2018, Wilkinson emailed a formal notification letter to ISD, and copied the CAO. The notification letter detailed the email incident. Also attached to Wilkinson's email were: the erroneous email to Marasco from Singer, and the post-incident email correspondence between Wilkinson and Marasco on April 5, 2018.

Monday, April 9, 2018

Wilkinson met with members of the CAO and Daniel Chatlos, Intergovernmental Affairs Coordinator for ISD, in Miami, and explained the details of the disclosure incident. Neither Assistant Director Galan nor Director Smith, who was traveling back from her trip out of the country, were present at this meeting.

There was a second meeting that day between KPMG members and ISD personnel, including Chatlos; however, this meeting involved issues relating to the BCC meeting and the Courthouse Project scheduled to be heard on Tuesday, April 10th (the next day).

Tuesday, April 10, 2018

The KPMG team, which included Wilkinson, Singer, and Xie, met with ISD officials on the morning of April 10, 2018, to prepare for the BCC meeting later that morning. ISD Director Smith and Assistant Director Galan, were both present. Both Smith and Galan stated to the OIG, that they were occupied most of the morning preparing for the BCC meeting, which included several ISD items on the agenda. Their interactions with the KPMG team, prior to the BCC meeting, were brief and pertained to the presentation before the BCC and not the email incident. Wilkinson, Singer, and Xie confirmed that the email incident was not discussed prior to the BCC meeting, and that the interaction with ISD staff prior to the BCC meeting was brief. The incident was also not mentioned during the BCC meeting. Following the BCC meeting, the KPMG team met with ISD officials to discuss what transpired during the BCC meeting. After those discussions, Singer and Wilkinson met with Smith and explained the incident to the ISD Director. According to Smith, Singer was visibly upset as she described how she inadvertently selected Mike Marasco instead of Mike Johnson from the Auto-Complete list while drafting the email in Outlook.

Wednesday, April 11, 2018

ISD and CAO staff met to discuss the incident. ISD also had internal meetings to discuss the notifications to the BCC and NFCDP. Attorneys from the CAO recommended that ISD obtain a sworn declaration from Marasco and prepared a document based on their knowledge of the incident.

Thursday, April 12, 2018

After consultation with the Miami-Dade Commission on Ethics & Public Trust (COE), to guard against a Cone of Silence violation, Smith spoke with Marasco on April 12, 2018, for the limited purpose of requesting a sworn declaration regarding his handling of the email from Singer. Smith provided Marasco the written declaration prepared by the CAO.

During his conversation with Smith, Marasco corroborated the details of the interaction with Wilkinson and again denied reading the contents of the email from Singer or its attachments. Marasco explained to the OIG, that until he spoke with Smith he had not advised anyone from his company about the incident. He stated he realized it would be inappropriate to do anything other than delete the email. However, after Marasco spoke

with Smith he sent an email to Plenary executives detailing the incident and alerting them to the request by ISD that he sign a prepared declaration. The OIG reviewed the email along with a recording of the message left by Smith and have found everything to be consistent with the statements made by all relevant parties. Marasco also explained that although he had deleted the email when contacted by Wilkinson, it was Smith's subsequent contact with him and her request that he attest to the fact that he had not retained any version of the email, that prompted him to further delete the message from his deleted items folder.

Friday, April 13, 2018

Marasco returned the signed declaration to ISD on the morning of April 13, 2018, after making minor changes indicating that he had opened the message to confirm it was the message in question before deleting it. Marasco explained to the OIG, that while he was on the phone with Wilkinson he opened the email to confirm it was the KPMG email; his primary concern was that he not delete the wrong email. The signed declaration also stated that he had not read any of the attachments and did not retain any of the documents. He confirmed to the OIG that he did not read the email, nor open any of the attachments.

The Mayor's office notified the BCC of the potential data breach on April 13, 2018, in a written memorandum, which referenced Marasco's declaration. A separate letter was also sent to members of the NFCDP, advising them of the potential data breach.

DETERMINATIONS RESULTING FROM THE OIG'S ASSURANCE REVIEW

In addition to the documents reviewed and the interviews conducted to establish the above timeline, the OIG's review focused on determining to the extent possible, how the disclosure incident occurred, the extent of the breach, and the steps taken in remediation.

In order to determine how the error occurred, the OIG examined all KPMG emails related to the Courthouse Project. The review found that Michael J. Johnson, the intended recipient of the email, has been involved in email correspondence related to the project dating back to at least December 17, 2017, and up until April 5, 2018 (the date of the email incident) and beyond. In fact, Johnson was copied on a Singer email on April 5, 2018, at 3:05 pm, EDT, 12 minutes before the email incident, seeking documents from ISD personnel in preparation for the April 10th BCC meeting. The OIG found that Johnson was an addressee on numerous email strings sent and received by ISD personnel.

The first step Singer took to understand how Marasco's name appeared in the email was to type in the letters "M" and "I" into her Outlook's email address line. When she did that, Mike Marasco's name was the second one in the Auto-Complete list. When Singer returned to her office in New York after the trip to Miami, she searched her 2018 Outlook sent items for Marasco, but there were no communications. She then searched calendar year 2017 and found a series of calendar invitations and correspondence related to a market sounding exercise performed on behalf of another KPMG client in November 2017. Singer could not recall any direct interaction with Marasco, and stressed that she had never had any communications with Marasco related to the County. The text

messages provided to the OIG between Xie and Singer support that Singer was unaware of Marasco's position at Plenary.

Marasco confirmed that the November KPMG invitation for a market sounding related to a project outside of Florida. As a result of the previous interaction, Marasco's email would appear in the Auto-Complete list in Singer's Outlook when typing Mike (Mike Marasco vs Mike Johnson).

The review also found that on July 19, 2017, another member of the KPMG team, Xie, sought guidance from Wilkinson about potential invitees for a market sounding on the Courthouse Project. Xie was instructed to invite Mike Schutt from Plenary instead of Marasco, who had previously been the designated contact. This confirms Marasco's statement to the OIG that he was not involved in the market sounding for the Courthouse Project. Marasco advised that Mike Schutt was the Plenary project director responsible for the Courthouse Project proposal. Furthermore, Marasco stated that he was not involved in the Courthouse Project RFQ proposal and had not even seen Plenary's response to the RFQ.

In order to determine what happened to the email once it was erroneously sent to Marasco, the OIG spoke with Plenary Group's IT Executive Director, Gordon Kelly. Per the OIG's request, Kelly verified the actions taken by Marasco to delete the email. Kelly provided the OIG with a summary of his investigation and stated that all deleted items were cleared and purged from Marasco's mailbox and Plenary's system.

At Kelly's request, the Plenary IT Service Provider, Microserve, conducted various searches of both the Plenary Server and Marasco's laptop. According to Kelly, Plenary converted to Office 365 approximately six months ago and currently their emails are not automatically archived. Kelly also indicated that the deleted email folder is purged automatically 14 days after the items are deleted. Microserve also confirmed that there had been no physical backup executed and the email in question and its attachments could not be restored.

The Microserve documentation included a text listing of all PowerPoint, PDF, and Word documents located on Marasco's laptop. None of the file names attached to the email in question were located within these lists. It should be noted that the examination was conducted remotely, without Marasco's knowledge.

According to Microserve, Marasco's laptop was offline on April 5, 2018, from 7:44 am, EDT until close to 7:00 pm, EDT. Microserve's examination found that Marasco's Outlook began generating event logs at 6:58 pm, EDT, which is consistent with Marasco's statement that he had not checked his email the afternoon of April 5th until he spoke with Wilkinson. Marasco, in his sworn statement to the OIG, explained that he receives about 100 emails a day and usually reserves a time, towards the end of the day, to review his email correspondence. He also stated that he does not receive email notifications on his phone for every email because he would be receiving notifications every couple of minutes.

A review of the email interaction between Wilkinson and Marasco on April 5, 2018, revealed that Marasco's messages originated from a static Internet Protocol Address (IP address) attributed to a Broadband signal near Fountain Hills, Arizona, a community approximately 30 miles from Phoenix. The OIG was provided and reviewed Plenary's system logs, file listings, and internal correspondence regarding the incident.


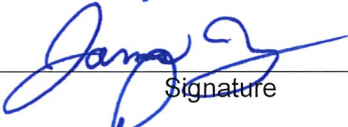

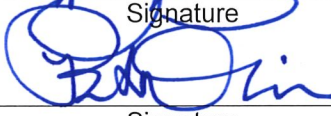

CONCLUSION & CASE CLOSURE RECOMMENDATION

After a review of all available information, including the third-party review of Plenary's email server and the laptop involved in the incident, as well as the sworn interviews of those involved, the OIG is sufficiently assured that this incident was a non-intentional, inadvertent disclosure by KPMG of confidential information. Based on the information available, there is no evidence to support that the recipient, Marasco, or his employer Plenary, accessed, shared, or inappropriately handled the email message and attachments in question once notified of the error.

The OIG review of the April 5, 2018, email disclosure incident is therefore recommended for closure.

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

REPORT SIGNATURES:

| | | |
|---|---|------------------|
| Oswaldo Romero Jr Special Agent |  Signature | 7/3/18 Date |
| James Mazer Supervisor |  Signature | 7/3/18 Date |
| Felix Jimenez Deputy Inspector General |  Signature | 7/5/18 Date |
| Patra Liu General Counsel |  Signature | 7/3/2018 Date |
| Mary T. Cagle Inspector General |  Signature | 7.3.18 Date |