



Memorandum



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To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County
The Honorable Audrey M. Edmonson, Chairwoman
and Members, Board of County Commissioners, Miami-Dade County

From: Mary T. Cagle, Inspector General

Date: November 13, 2019

Subject: *OIG Final Report Re: Review of Safety Concerns and the County's Procurement of CNG Buses for the Department of Transportation and Public Works; IG19-0015-O*

Attached please find the above-captioned Final Report issued by the Office of the Inspector General (OIG) addressing publicly-expressed concerns regarding the safety of compressed natural gas (CNG) buses. In July 2019, when some of these allegations were first publicly raised, the Mayor requested the OIG examine the veracity of these claims. The attached report also provides historical context to the current procurements for additional CNG 40-foot buses. On September 4, 2019, when controversies involving both the safety allegations and the Administration's procurement efforts re-surfaced, the Board of County Commissioners (BCC) expressed concern for how this was playing out in the public. The BCC asked the OIG to provide it with a report prior to making prospective contract-award decisions for additional CNG buses.

The OIG's review resulted in four specific safety-related recommendations, all of which have been accepted by the Department of Transportation and Public Works (DTPW). As it relates to the procurement of additional CNG buses and the County's overall CNG program, our report poses several policy questions for consideration by the BCC. DTPW, in its response to the OIG's draft report, provides some context and explanations to our policy questions, however, we believe that further discussion by the BCC is warranted. To that end, the OIG suggests that current procurement initiatives be postponed until the BCC is able to more fully consider the policy questions posited by the OIG.

The OIG requests that DTPW provide the OIG with a status report in 90 days, on or about, February 11, 2020, advising of the implementation status of the safety recommendations. The OIG would like to thank the staffs of DTPW and the Internal Services Department, as well as representatives from bus manufacturers New Flyer and Gillig, and representatives from the Transport Workers Union Local 291, for their cooperation and courtesies extended to the OIG during this review.

For your reading convenience, an Executive Summary follows.

Attachment

Cc: Abigail Price-Williams, County Attorney
Edward Marquez, Deputy Mayor
Jennifer Moon, Deputy Mayor
Alice Bravo, Director, Department of Transportation and Public Works
Tara C. Smith, Director, Internal Services Department
Yinka Majekodunmi, Commission Auditor

OIG EXECUTIVE SUMMARY

Review of Safety Concerns and the County's Procurement of Compressed Natural Gas Buses for the Department of Transportation and Public Works

This Final Report of the Office of the Inspector General (OIG) addresses the safety concerns and procurement history of CNG buses. It is being presented in order to facilitate pending and future policy decisions by the Mayor and Board of County Commissioners (BCC). As illustrated in the Table of Contents, the report is organized by Sections (I through VII). Following the Introduction (**Section I**), we have included the response to the draft report from the Department of Transportation and Public Works (DTPW) in **Section II**. The objectives, scope and methodology of our review process is presented in **Section III**. In **Section IV**, the background of the CNG bus program and the current status of the fleet and facilities are detailed.

The OIG addresses each and every one of the safety-related allegations raised by representatives of the Transport Workers Union Local 291 in **Section V** of the report. The most alarming statement – suggesting that CNG buses are flammable hazards – is found to be without merit. As Section V makes clear, the conditions for CNG to burn require a very controlled environment to contain a specific range of concentrated gas. These conditions are nearly impossible to establish on the open road, which is why no such incidents have ever been reported anywhere in the country. A second allegation suggesting that the brand new CNG buses were arriving with leaks was also determined to be unfounded.

Notwithstanding the spurious nature of most of the allegations, the OIG makes multiple recommendations to clarify the testing standards and operating procedures pertaining to CNG leak detection. These suggestions have been embraced by DTPW. The OIG will continue to monitor the policies and procedures of the department to ensure best practices are adopted.

In **Section VI**, the OIG examines the history of CNG bus procurement, beginning with the outsourced process that was embedded in the award of the Master Developer Agreement (MDA) for CNG transit fueling facilities. During negotiations, and incorporated in the final award to Trillium, the number of CNG buses to be acquired through the MDA was capped at 300. New Flyer prevailed over Gillig in that outsourced competition when Trillium requested both vendors submit best and final offers.

After the award of the Trillium MDA, DTPW staff worked throughout 2017 to purchase 181 additional CNG buses. The Trillium award recommendation from the Mayor explicitly noted that other methods of acquiring additional CNG buses would be employed. It was well known that LYNX, the Central Florida Regional Transportation Authority, had a bus contract that DTPW was a party to and could access for the acquisition of additional CNG buses. Gillig was the awarded vendor to provide CNG buses under the LYNX contract. In October 2017, after months of procurement discussions between the County and Gillig, a Letter of Agreement to purchase 181 CNG buses was transmitted to Gillig for its execution, which it returned signed a few days later. Upon return to the County, no further action was taken to advance the procurement item. In other words, the proposed purchase was never presented to the BCC.

The Director of DTPW candidly acknowledged stopping the 2017 executed agreement with Gillig from moving forward. At the time, the Director believed additional buses could be procured from New Flyer through the Trillium MDA. Upon realizing the MDA had specifically

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precluded any additional purchases beyond the commitment to acquire 300 CNG buses from New Flyer, staff was directed to explore amending the Trillium contract to buy more buses from New Flyer. Following input from the County Attorney's Office, amending the Trillium MDA was not deemed a viable alternative.

Gillig representatives were not directly informed of the decision to withhold the executed agreement from consideration by the BCC. For several months the company unsuccessfully sought meetings with the Director to gather insight and remedy any concerns. Out of frustration, in 2018, Gillig hired a local lobbyist.

Late in 2018, DTPW's Deputy Director assembled staff to discuss another effort to replace aging diesel buses with CNG buses. Again, staff noted the availability of the LYNX contract. The Deputy Director informed departmental procurement personnel that developing a competitive bid, based on the experience with the CNG buses in use, would be in the best interest of DTPW. Before the department's intentions to seek competitive bids was publicized, the BCC approved a resolution, sponsored by Commissioner Edmonson with input from the Mayor, that 1) directed staff to utilize the LYNX contract to acquire additional buses, and 2) look to other jurisdictions for contracts that could be accessed to buy more CNG buses.

The multi-pronged procurement directive to access and "piggy-back" competitively awarded contracts from other jurisdictions, including a contract expiring within days of the BCC action, introduced a level of expediency that is atypical of multi-million-dollar procurements. This accelerated process to access existing contracts, uninhibited by the rules of the County's highly regulated competitive bidding process, resulted in a highly charged public contest among CNG bus manufacturers. Not having a "Cone of Silence" in place allowed for unbridled communications between and among a host of parties with vested interest in the outcome of the selection process.

The OIG fully appreciates the opportunity to review these concerns of safety and procurement, to offer factual findings, and to provide input. To assist the BCC in its efforts to elevate the discussion to public transit policy, above and beyond the selection of a particular CNG bus manufacturer, the OIG posits eight policy questions in **Section VII**.

While the DTPW provided answers to these questions, which are incorporated in the Final Report, the OIG feels compelled to present these same questions for the BCC to consider as policy matters that warrant further deliberation. To further these inquiries the OIG has added comments and observations to the DTPW responses. It is respectfully requested that attention be directed towards the questions enumerated in **Section VII** of the report.

The OIG does not view the replacement of the aging bus fleet as an isolated matter of simply buying new buses, but rather a policy issue that requires complex analysis that weighs infrastructure needs, environmental impacts, ridership experience, economic trade-offs, and social equities. It is suggested that the BCC and Administration take a brief pause, fully consider the ramifications of maintaining a fleet composition that relies on a variety of energy sources, and develop a clear way forward to achieve an ideal fleet composition before investing additional resources.