

**Review of State Revolving Fund
Loan and Grant Agreements
with the City of Opa-Locka**

Division of Water Restoration Assistance

Report: A-1617DEP-005

Office of Inspector General

Florida Department of Environmental Protection

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Report: A-1617DEP-005

Table of Contents

Executive Summary1

Scope and Objectives.....5

Methodology.....5

Part 1: Review of State Revolving Fund Program Disbursements and Project Oversight

Background.....7

Results.....12

Conclusion.....27

Findings and Recommendations (1-3).....28

***Part 2: Review of State Revolving Fund Loan Agreement Requirements for City Water
and Sewer Accounts and Financial Records***

Background.....34

Results.....34

Finding and Recommendation (4).....44

Executive Summary

The Office of Inspector General (OIG) conducted a review of State Revolving Fund (SRF) loan and grant agreements between the Department of Environmental Protection (Department) Division of Water Restoration Assistance (Division), and the City of Opa-Locka (City).

State Revolving Fund Program Disbursement and Project Oversight

Between January 2015 and August 2016, the Department disbursed \$3,469,753 to the City under four loan agreements and four grant agreements. Disbursements were made for the City's Wastewater, Stormwater, and Potable Water Infrastructure planning, as well as design and construction of the Lift Station 7 Rebuild, Burlington Street Canal, Cairo Lane and Northwest 127th Street projects. Based on project documentation and discussions with SRF and City staff, portions of the projects funded under these agreements were not completed. Of the total funding provided under the loan and grant agreements, only a portion was disbursed, leaving the remainder of funding as follows:

	Total Awarded	Total Disbursed	Remaining Funding
Grant Agreements ¹	\$2,090,000	\$815,713	\$1,274,287
Loan Agreements ²	\$20,543,707	\$2,654,039	\$17,889,668

¹ Amounts reflected in this calculation represented agreements LP13034, LP13035, LP13036, and LP13037.

² Amounts reflecting in this calculation represented agreements WW130300, SW130320, DW130330, WW130301, and DW130331.

Report: A-1516DEP-025

All four grant agreements have expired. In August 2016, the SRF Program advised the City that obligated funds for the City's water piping projects were being removed from the priority listing. However, the loan agreements are still in effect.

State Revolving Fund Loan Agreement Requirements

Based on review of SRF loan agreements, SRF Program documents, and City Water and Sewer records and financial information, loan agreement requirements were not met as specified under Article 2.01(8) Warranties, Representations and Covenants regarding accurate records and separate accounts; Article 2.01(10) Warranties, Representations, and Covenants regarding annual Certifications; Article 2.03 Audit and Monitoring Requirements, Article 3.01 Loan Debt Service Account; Article 5.02 No Free Service; and Article 5.07 Collection of Revenues.

As of this review, all required semi-annual loan repayments had been made. However, payment of the semi-annual repayment due in October 2016 was made over 30 days late. In addition, Miami Dade County Water and Sewer Department (County) staff were assisting the City with its Water and Sewer billing and collection functions.

Summary of Findings

The following is a summary of findings and recommendations detailed in the report.

Finding 1: Contracts awarded for preconstruction activities under SRF loans lacked documented compliance with Section 287.055 Florida Statutes (F.S.), and exceeded prior estimated cost.

We recommend the SRF Program obtain verification of required competitive procurement processes by the City prior to authorization of future disbursements. All contract awards going forward should be independently reviewed and approved by either the Financial

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

Emergency Board or an established independent oversight entity to ensure statutory compliance, project accountability, and transparency.

Finding 2: Projects funded under SRF loan and grant agreements were not managed effectively. Payments for contract services were not made timely, resulting in contractor demobilization and incomplete projects.

We recommend the SRF Program work in coordination with the City and the Financial Emergency Board to determine the current status of amounts outstanding to contractors for project expenses. Through the development of a conservative fiscal management process, outstanding payments due to contractors for costs of allowable project activities should be a financial priority.

Finding 3: Project scopes included in contracts managed by the City were not consistent with SRF Grant Work Plan project scopes and descriptions.

We recommend the SRF Program work in coordination with the City and the Financial Emergency Board to ensure contracts awarded through the City under SRF grant agreements are consistent with agreement Grant Work Plans. City contracts provided to the Department should include the Request for Proposal (RFP) and contractor proposals. These scopes should be reviewed prior to disbursements to ensure grant funds are used only activities consistent with SRF Program approved projects and as specified under the Grant Work Plan.

Finding 4: Based on review of activities related to City Water and Sewer accounts and financial records, SRF loan agreement requirements specified under Article 2, Article 3, and Article 5 were not met and considered Events of Default under SRF loan agreements Article 6.01. Upon Event of Default, Remedies are provided under SRF loan agreement Article 6.02.

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

We recommend the SRF Program work closely with the Financial Emergency Board as well as any established formal authority overseeing the City's finances to determine appropriate courses of action for remedies and monitoring of corrective actions.

Scope and Objectives

The scope of this review included SRF loan and grant agreement requirements and disbursements made between January 2015 and September 2016 regarding the following agreements:

- Clean Water SRF Preconstruction Loan Agreement (WW130300)
- Clean Water SRF Preconstruction Loan Agreement (SW130320)
- Drinking Water SRF Preconstruction Loan Agreement (DW130330)
- Clean Water SRF Design and Construction Loan Agreement (WW130301)
- Drinking Water SRF Design and Construction Loan Agreement (DW130331)
- State Financial Assistance Agreement (LP13034)
- State Financial Assistance Agreement (LP13035)
- State Financial Assistance Agreement (LP13036)
- State Financial Assistance Agreement (LP13037)

The objectives of this review were to:

- determine whether disbursements were made for cost as specified in project agreements
- evaluate SRF Program and City management oversight of agreement projects and required terms
- determine the City's compliance with provisions of SRF loan agreements

This review was conducted under the authority of Section 20.055, F.S.

Methodology

Our procedures included review of agreements, work plans, disbursements, and deliverables. We reviewed City Water and Sewer related records, agreement project documents, and documentation related to loan agreement requirements. We also interviewed Department

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

SRF Program management and City staff. The results of our review are organized in this report in two parts:

1. Review of SRF Program Disbursements and Project Oversight
2. Review of SRF Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Report: A-1617DEP-005

Review of State Revolving Fund Program Disbursements and Project Oversight

Background

The SRF Program is administered by the United States Environmental Protection Agency (EPA) in partnership with States to provide Federal and State funding for investments in water and sanitation infrastructure projects. This funding is provided to local governments through low-interest loans and grants administered through the Department. The Clean Water State Revolving Fund (CWSRF) was created in 1987 through amendments to the Federal Clean Water Act. The Drinking Water State Revolving Fund (DWSRF) was created in 1996 through the Safe Drinking Water Act. In Fiscal Year (FY) 2015-2016, the Department SRF Program received over \$77 million in Federal funding and over \$16 million in State funding. Each year, the Department receives project funding requests from local governments. These requests are used to establish project priorities and plans for the annual funding cycle.

SRF Funding to the City

According to SRF Program records, the City has received SRF loans and grants through the Department for Water and Sewer infrastructure projects since 1992. Total disbursements since this time have been \$9,391,373.

In June 2016, Governor Rick Scott issued Executive Order Number 16-135 declaring a financial state of emergency for the City as defined in Section 218.503(1), F.S. A Financial Emergency Board was appointed by the Governor to oversee the financial activities of the City and to assist the City in overcoming the financial emergency. Given these conditions, this review was initiated to assess impacts of Department SRF funding provided to the City. During the

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

review period January 2015 through August 2016, \$3,469,753 was disbursed under four loan agreements and four grant agreements. These loan and grant agreements, funding awards, disbursements, and associated projects were as follows.

Loan Agreements		Description/Agreement Amount
WW130300	Clean Water SRF Loan Agreement	Wastewater Infrastructure Improvements. Preconstruction Activities
Award \$512,806		Disbursed \$484,094
WW130301	Clean Water SRF Design and Construction Loan Agreement	Wastewater and Stormwater Facilities and Infrastructure Construction
Award \$16,895,885		Disbursed \$1,907,641
SW130320	Clean Water SRF Loan Agreement	Stormwater Infrastructure Facilities and Improvements. Preconstruction Activities
Award \$197,035		Disbursed \$172,304
DW130330	Drinking Water SRF Loan Agreement	Potable Water Infrastructure Improvements. Preconstruction Activities
Award \$240,000		Disbursed \$90,000
DW130331	Drinking Water SRF Construction Loan Agreement	Design and Construction of a Public Water System
Award \$2,697,981		Disbursed \$0
Total Awarded \$20,543,707		Total Disbursed \$2,654,039

Grant Agreements		Description/Agreement Amount
LP13034	State Financial Assistance Agreement	Sewer Lift Station Rehabilitation. Station 7 and Construction of Pump Station 7a
Award \$390,000		Disbursed \$390,000
LP13035	State Financial Assistance Agreement	Burlington Canal Dredging and Side Slope Restoration
Award \$700,000		Disbursed \$340,699
LP13036	State Financial Assistance Agreement	Cairo Lane. Design build project for construction roadway, Stormwater drainage, sidewalks, and traffic signs
Award \$600,000		Disbursed \$43,834
LP13037	State Financial Assistance Agreement	Northwest 127 th Street. Design build project for construction of a drainage system to alleviate flooding problems
Award \$400,000		Disbursed \$41,180
Total Awarded \$2,090,000		Total Disbursed \$815,713

Review of State Revolving Fund Program Disbursements and Project Oversight

SRF Requirements for Loan Disbursements

According to SRF design and construction loan agreements³, disbursements for materials, labor, or services are made upon receipt of the following:

- completed disbursement request form accompanied by itemized summaries of work performed, as well as the cost and provider of the work
- signed certification by the City representative for the current estimated costs of the project, as well as certification that work represented in the invoice has been satisfactorily performed and applied to the project
- signed certification by the engineer responsible for overseeing the project. This certification provides that all work represented in the invoices has been satisfactorily performed in accordance with project design and construction contract provisions.

Under loan agreements, proof of contractor payment is typically not required for disbursement. Article 9.01 of design and construction loan agreements requires specific documentation regarding the competitive award of construction contracts. This requirement was not included in the preconstruction loan agreements. However, all loan agreements require compliance with Chapter 62-503 Florida Administrative Code (F.A.C.), which requires conformance to applicable Federal, State and local laws and regulations.

³ The requirements described in this section were outlined in WW130301.

Review of State Revolving Fund Program Disbursements and Project Oversight

SRF Requirements for Grant Disbursements

According to SRF grant agreements⁴, disbursements are made on a cost reimbursement basis. Each grant includes a project work plan with required deliverables. Grant disbursements for eligible project costs are made upon the receipt of the following:

- completed disbursement request form from the City grant representative including itemized summaries of the work, the amount expended, the provider, and proof of payment of provider invoices
- signed certification from the City grant representative verifying the work and amounts represented were satisfactorily performed, and all funds expended have been applied towards the project
- signed certification from the engineer responsible for overseeing the project. This certification provides that work presented in the invoices has been satisfactorily invoiced, purchased, received, approved, and applied to the Project, as described in the agreement's project work plan, construction contract documents, and contract provisions

Although the use of grant funds is the optimal choice for project costs, authorization for grant disbursements are made when project deliverables are received and cost requirements are met in conformance with the Department of Financial Services Reference Guide for State Expenditures.

⁴ The requirements described in this section were outlined in LP13036 and LP13037.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

SRF Requirements for Procurement and Section 218 F.S. Local Government Prompt Payment Act

Chapter 62-503 F.A.C. outlines requirements of the SRF Program. According to 62-503.700(6) F.A.C., *Planning, Design, Construction and Procurement Requirements*, *procurement must be in conformance with 40 Code of Federal Regulation 31.36. All procurement transactions shall be conducted in a manner providing full and open competition.* Procurement for services must conform to applicable Federal, State, and local laws and regulations. Section 287.055, F.S., *Consultants' Competitive Negotiation Act (CCNA)*, outlines competitive selection requirements for acquisition of professional services and design build contracts.

Section 218, F.S., *Local Government Prompt Payment Act*, outlines requirements for timely payment of purchases of construction and non-construction services by local governments. According to Section 218.735, F.S., *Timely Payment for Construction Services*, if an agent⁵ must approve a payment request or invoice before it is submitted to the local government entity, payment is due 25 business days after the request is received. According to Section 218.74, F.S., *Procedures for calculation of payment due dates*, the payment due date for a local government entity for the purchase of goods or services other than construction services is 45 days after the invoice is received as defined in Section 218.73, F.S.

⁵ Section 218.72 F.S. defines agent as *the project architect, project engineer, or other agency or person acting on behalf of the local governmental entity.*

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Results

Loan Agreements for Preconstruction Activities

The following table represents the three loan agreements, along with project description, award amounts, and disbursements awarded to the City for preconstruction activities.

Loan Agreements	Agreement Description/Amount	Contractor Disbursement Description/ Total Disbursed
Clean Water SRF Loan Agreement WW130300	Wastewater Infrastructure Improvements. Preconstruction Activities	Contractor: EAC Consulting, Inc. Sanitary Sewer Evaluation Survey (SSES), Infiltration and Inflow (I/I) Study, Capital Improvement Project (CIP) Master Plan.
WW130300	Award \$512,806	Total Disbursed \$484,094
Clean Water SRF Loan Agreement SW130320	Stormwater Infrastructure Facilities and Improvements. Preconstruction Activities	Contractor: EAC Consulting, Inc. CIP Master Plan, Stormwater Project Planning Documents
SW130320	Award \$197,035	Disbursed \$172,304
Drinking Water SRF Loan Agreement DW130330	Potable Water Infrastructure Improvements. Preconstruction Activities	City: Administrative and Planning Allowance
DW130330	Award \$240,000	Disbursed \$90,000

WW130300, SW130320, and DW130330, awarded to the City in April and May 2014, provided for preconstruction activities related to the City’s Wastewater, Stormwater, and Potable Water infrastructure improvements. In July 2013, the City contracted with EAC Consulting, Inc. for development of the City’s Capital Improvement Projects (CIP) Master Plan. For preconstruction activities, the contractor’s proposal included development of Stormwater, Water Distribution System, and Wastewater System Master Plans as follows.

Stormwater System CIP Master Plan	\$197,035
Water Distribution System CIP Master Plan	\$193,003
Wastewater Collection System CIP Master Plan	\$512,806
Total	\$902,844

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Upon request, documentation of compliance with Section 287.055, F.S. regarding competitive procurement for this contract was not available. We verified the City received Stormwater and Wastewater Infrastructure Improvement Planning Document Reports in June 2014, and received a Potable Water Infrastructure Improvement Planning Document Report in August 2014. These reports provided analysis of the infrastructure in the City's six zones as well as alternative solutions for improvement. We verified City contractor invoice and payment documents supporting amounts disbursed to the City for WW130300 and SW130320.

The amount disbursed to the City for DW130330 was not supported by invoices from EAC Consulting, Inc. for costs associated with the Potable Water Infrastructure Plan. Under the DWSRF Program, payment for preconstruction planning is provided as allowance, which did not require contract documentation of activities or services associated with these costs. Two disbursements of \$45,000 each were made to the City for administrative and planning allowances. Upon request, City grant staff provided invoice and payment documents supporting amounts paid to the contractor for the Potable Water Infrastructure Improvement Planning Document under DW130330 totaling \$78,000.

Based on our review of contractor invoice and City payment documents for WW130300 and SW130320, nine out of 13 checks for contractor payments exceeded timely payment requirement for non-construction services specified in Chapter 218, F.S.

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Loan Agreements for Design and Construction

Following the award of loans for preconstruction activities, the SRF Program awarded the City design and construction loans for Wastewater and Stormwater facilities infrastructure and public water system. The following table represents these loans, along with project descriptions, award amounts, and disbursements for design and construction activities.

Loan Agreement	Agreement Description/Amount	Contractor Disbursement Description/ Total Disbursed
Clean Water SRF Design and Construction Loan Agreement WW130301	Wastewater and Stormwater Facilities and Infrastructure Construction	Contractor: EAC Consulting, Inc. Zone 1-6 CIP
		\$882,461
		Contractor: Intercounty Engineering, Inc. Cairo Lane and Northwest 127 th Street Improvements Design Build Contract: Mobilization, General Requirements, Bonds, Insurance, Engineering Services
		\$1,025,180
WW130301	Total Award \$16,895,885	Total Disbursed \$1,907,641
Drinking Water SRF Construction Loan Agreement DW130331	Design and Construction of a Public Water System	
DW130331	Total Award \$2,697,981	Total Disbursed \$0

WW130301 was awarded to the City in January 2015 for Wastewater and Stormwater facilities and infrastructure construction. The total project cost included in the agreement was \$32,152,022, with authorized funding of \$16,895,885. DW130331 was awarded to the City in February 2015 for design and construction of a public water system. The total project cost included in the agreement was \$7,148,000 with authorized funding of \$2,697,981.

Following the contract for development of the City’s CIP Master Plan, the City entered into a second contract with EAC Consulting, Inc., in January 2015 for the Preparation of Design Criteria Plans and Specifications Packages for design build contract RFP. Documentation of

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

compliance with Section 287.055, F.S. regarding competitive procurement for this contract was not available. The lump sum amount of the contract was \$1,369,000. Section 287.055(2)(j), F.S. defines Design Criteria Package as, *concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency’s request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.*

The three capital improvement master plans obtained through the preconstruction loans above included improvement alternatives and associated cost estimates for addressing identified infrastructure needs. The alternatives provided an itemized listing of costs, including estimated costs for the design criteria packages. The following table represents the estimated design criteria package cost under the master plan recommended alternatives.

Capital Improvement Master Plan	Estimated Design Criteria Package Cost
Wastewater Infrastructure Improvement Planning Document Report	\$220,218
Stormwater Infrastructure Improvement Planning Document Report	\$257,711
Potable Water Infrastructure Improvement Planning Document Report	\$215,380
Total	\$693,309

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Although the estimated costs for Design Criteria Packages in the three planning documents totaled \$693,309, the contract award lump sum amount was \$1,369,000. This amount was included in WW130301 itemized project cost as *Design*. For the award lump sum amount, the contract referenced the contractor's proposal as Exhibit A. This proposal outlined the tasks and deliverables to be completed for the Design Criteria Package consistent with Section 287.055(2)(j), F.S.

Disbursements for Design Criteria Package costs totaled \$882,461 and included contractor invoices documenting percent of project completion billing for all six zones.

Based on our review of contractor invoice and City payment documents for the non-construction portion of WW130301 disbursements, four out of 10 checks for contractor payments exceeded timely payment requirements for non-construction services specified in Chapter 218, F.S. The last payment, made in December 2015, included invoices documenting completion of billing for zones one, two, and six. According to City staff, work on the remaining zones was stopped due to the City's financial challenges. According to the City project coordinator, Design Criteria Packages were received for zones one, two, and six. The City project coordinator provided Design Criteria Package documents for zone six, which included documents and forms to be used by the City in development of the Request for Design Build Proposal.

In May 2015, the City entered into a design build contract with Intercounty Engineering, Inc., for the Cairo Lane and Northwest 127th Street Improvement projects located in zone two. The lump sum contract amount for this project was \$5,110,452. According to SRF staff, the initial bid process required correction by the City, resulting in a rebid and submission of

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

corrective documentation for the selected contractor. Based on the rebid process, the selected contractor met the highest ranked score. The SRF Program approved the award by the City after corrections were made.

The RFP and proposal included in the project included the design build services for a new gravity sewer collection system and pump station 7A. This portion of the project was also included in the Grant Work Plan project scope under previous grant LP10134 awarded in February 2014. However, work on pump station 7A was not included in the City's RFP associated with LP13034. Subsequently, the activities related to pump station 7A were included in the scope of the Cairo Lane and Northwest 127th Street Improvement project.

Under WW130301, the Department paid a total of \$1,025,180 for disbursement requests from the City for Intercounty Engineering, Inc., representing contractor payment requests one through four. The last disbursement request under WW130301 represented work through September 2015. Invoice support for this work documented activities including Mobilization, Bonds and Insurance, General Requirements, Survey Services, and Engineering Services.

Based on our review of contractor invoice and the City's payment documents for the construction portion of WW130301 disbursements, the four checks made for contractor payments exceeded timely payment for construction services specified in Chapter 218, F.S.

LP13036 and LP13037 Grant Agreements

The following table represents grant awards, project descriptions, and disbursements to the City for the Cairo Lane and Northwest 127th Street Improvement design build construction projects.

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Grant Agreements	Description/Agreement Amount	Contractor Disbursement Description/Total Disbursed
State Financial Assistance Agreement LP13036	Opa-Locka Cairo Lane. Design build project for construction roadway, stormwater drainage, sidewalks, and traffic signs	Contractor: Premiere Design Solutions, Inc. Underground Utility Investigation and Survey Contractor: EBS Engineering, Inc. Environmental Site Assessment
		\$5,500
		Contractor: Intercounty Engineering, Inc. Design Build Contract for Cairo Lane and Northwest 127 th Street Improvements. General Requirements
		\$38,334
LP13036	Total Award \$600,000	Total Disbursed \$43,834
State Financial Assistance Agreement LP13037	Opa-Locka Northwest 127 th Street. Design build project for construction of a drainage system to alleviate flooding problems	Contractor: Premiere Design Solutions, Inc. Underground Utility Investigation, Surveys
		\$6,450
		Contractor: Intercounty Engineering, Inc. Design Build Contract for Cairo Lane and Northwest 127 th Street Improvements. General Requirements
		\$34,730
LP13037	Total Award \$400,000	Total Disbursed \$41,180

In January 2015, the Department awarded the City agreements LP13036, which provided \$600,000 in grant funding for the Cairo Lane project and LP13037, which provided \$400,000 in grant funding for the Northwest 127th Street project. These grants provided the City with additional funding for the Stormwater portion of the projects also funded under WW130301. From these grants, disbursement requests were initially received by the Department in December 2015. These requests were for surveys and site assessments totaling \$5,500 and \$6,450 respectively.

We received contractor invoice and City payment documents for non-construction work under LP13036 and LP13037. Of the four checks documenting payment, the associated deposit

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

dates were not provided. As a result, we could not verify whether timely payments were made in accordance with Chapter 218, F.S.

Using the contract award to Intercounty Engineering, Inc., under WW130301, the City submitted disbursement requests split between LP13036 and LP13037. These requests included payment applications five through seven for Intercounty Engineering, Inc., for work during the period October through December 2015. The invoice description of work performed was General Requirements. Prior to the SRF Program authorization for disbursement, the City provided proof of invoice payment, as well as Progress Reports and photos for work performed mainly on the Northwest 127th Street project during the months January through May 2016. We requested Progress Reports along with photos or other documentation of work completed during the invoiced months from October through December 2015; however, no other support was available.

SRF Program staff advised that they had questioned City staff regarding their disbursement requests for loan funds rather than grant funds for the two projects. City staff indicated that this was because cost reimbursement for grant disbursements required proof of payment, whereas loan disbursements did not. Based on this indication of risk, in December 2015, the SRF Program advised the City that all loan disbursement requests going forward would require proof of payment prior to disbursement authorization. SRF Program staff also requested and obtained documentation regarding invoice payment for all prior disbursements made under WW130301. Based on our review of contractor invoice and City payment documents for the construction portion of LP13036 and LP13037, the three checks for contractor payments exceeded timely payment requirements for construction services specified in Chapter 218, F.S.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

In March 2016, Intercounty Engineering Inc. demobilized and issued a notice to stop work due to outstanding payments for payment applications five through seven. A second notice was issued April 2016 for payment applications five and eight through ten, and a third notice was issued June 2016 for payment applications ten through twelve. According to the third notice, the total due as of June 2016 was \$378,542.

LP13036 and LP13037 expired July 2016. As of this review, work for these projects had ceased. Necessary property access for portions of the Cairo Lane project were on hold due to property owner access objections and requests for compensation. The City was working on negotiations with the property owners as well as possible eminent domain actions. According to progress reports through May 2016, construction efforts on Cairo Lane consisted of road maintenance, engineering design, and staging area set up for underground location assessment. Construction efforts on the Northwest 127th Street project included water main, draining structures, and pipe installation. However, the SRF Program determined that this work was not compliant with the American Iron and Steel Requirement under WW130301. As a result, the SRF Program advised the City that non-compliant materials would need to be replaced in conformance with the requirement. This replacement had not been completed at the time of this review.

LP13034 Grant Agreement

The following table represents the grant award, project description, and disbursements to the City for Pump Station 7 Sewer Lift Station Rehabilitation design build construction project.

Review of State Revolving Fund Loan and Grant Agreements
 With the City of Opa-Locka
 Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Grant Agreements	Description/Agreement Amount	Contractor Disbursement Description/Total Disbursed
State Financial Assistance Agreement LP13034	Sewer Lift Station Rehabilitation Station 7 and Construction of Pump Station 7a	Contractor: Central Florida Equipment Rentals, Inc. Design Build Contract for Lift Station 7 Rehabilitation Engineering, Plans, General Conditions, Demolition, Sanitary Sewer, Drainage, Earthwork, and Paving Contractor: Marlin Engineering, Inc.
		\$377,000
		Contractor: EcoTech Consulting, LLC. Consulting for Project Compliance Management
		\$13,000
LP13034	Total Award \$390,000	Total Disbursed \$390,000

In February 2014, the Department awarded the City agreement LP13034, which provided \$390,000 in grant funding for the Sewer Lift Station Rehabilitation project. According to LP13034, the total estimated project cost was \$2,200,000.

In August 2014, the City awarded a design build contract for the project to Central Florida Equipment Rentals, Inc., for a lump sum of \$740,345. The City documented that five proposals were received through a competitive bid process, and the contract was awarded to the most responsible and responsive bidder.

The Grant Work Plan for LP13034 listed the required activities for the scope of the project. According to the City project manager, only a portion of those activities were completed per the table below.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

LP13034 Grant Work Plan Activity	Completed⁶
Design and permit lift stations 7 and 7a and related gravity mains and force mains	Yes
Rehabilitate the existing wet well for station 7	Yes
Install a new wet well for station 7a	No
Install modern submersible pumps to meet existing and future peak flows	Yes
Install new control panels and telemetry systems	Yes
Install new valve box, valves, and gages	Yes
Line or replace existing manholes	No
Line or replace existing sanitary sewer lines	Yes ⁷
Install new gravity sewer mains for station 7a	No
Install new force main for station 7a	No

According to the City’s final progress report dated June 2015, the project was completed. Based on discussions with the City project manager, the pump station force main currently does not work properly and is overwhelmed, causing it to run continuously.

In addition to the pump station rehabilitation work, the City’s contract project scope included additional work outside Grant Work Plan activities listed in LP13034. According to the City’s RFP Scope of Services, the City required *design build services for the rehabilitation of City sanitary sewer pump station 7 including service area gravity mains and manhole lining and repair/replacement, Alexandria Drive improvements from the NW 135th intersection to the wall on south end as shown in the survey. The design build scope will include Alexandria Drive milling and resurfacing, reconstruction, to ensure 20’ roadway width, sidewalk and curb and gutter/valley gutter, drainage, driveway apron, and landscape.* The City’s design build contract referenced the contractor’s attached proposal as the scope of work to be done. However, the proposal was not included with the contract provided to the Department. Upon request, City

⁶ Items completed according to discussions with the City project manager.

⁷ Lining was completed only for identified leaks.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

grant staff provided the contractors lump sum proposal with the project narrative consistent with the City’s RFP Scope of Services noted above.

The Schedule of Values included in the contractor’s application for payment submitted to the Department included the following categories for total costs associated with both projects.

Contractor Schedule of Values	Amount
Engineering	\$60,000
General Conditions	\$89,571
Demo	\$22,697
Sanitary Sewer	\$256,118
Drainage	\$154,448
Earthwork	\$40,000
Paving	\$107,500
TV Existing Gravity Sewer	\$10,000
Lining Existing Sewer Lateral	\$71,300
Total	\$811,634⁸

The contractor’s proposal separated descriptions of activities related to both projects, but did not provide detail of the amount associated with each project in the lump sum amount.

According to the contractor’s proposal section titled, *Drainage Calculations for Alexandria Drive*, design analysis activities included milling and resurfacing, addition of sidewalk, and development of a drainage system.

Department disbursements for the project included two contractor payment applications. Within the payment applications’ Schedule of Values, costs were listed in the categories of Engineering, General Conditions, Demo, Drainage, Earthwork, and Paving. Engineering and General Conditions costs were included in the schedule of values for both projects as a whole. While it is unclear which portions of these costs were attributed to the sewer lift station work, it

⁸ During the course of construction, the contractor reported the discovery and needed repair for twenty-five major leaks. The City approved additional scope of work, increasing the final cost.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

is likely the Department paid for costs outside the LP13034 Grant Work Plan scope, based on the City's contract for the combined projects.

In total, the contractor submitted seven payment applications totaling \$836,634 to the City for both portions of the project. Based on discussions with City grant staff, the City did not pay the contractor for all project costs billed, and legal actions have been taken against the City.

Deposit dates were not included in the City's payment documents of five checks for contractor payment under LP13034. Therefore, we were unable to determine whether these payments were made in accordance with Chapter 218, F.S.

Grant Work Plan Task 1, *Engineering Services*, provided \$75,000 in Department funding for the design engineering portions of the project. Task 3, *Construction*, provided \$315,000 for construction of the project. Rather than award engineering and construction separately, the City awarded one design build contract for the project. Based on the two payment application requests included with the City's request for reimbursement, documented contractor engineering costs totaled \$62,000, leaving a balance of \$13,000 in Task 1. For the remaining \$13,000, the City submitted a final payment request, supported by an invoice from a separate engineering consultant. According to City grant staff, the consultant provides project technical assistance to City grant and project staff. The contract expired December 2015.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

LP13035 Grant Agreement

The following table represents the grant award, project description, and disbursements to the City for the Burlington Canal Dredging project.

Grant Agreement	Description/Agreement Amount	Contractor Disbursement Description/Total Disbursed
State Financial Assistance Agreement LP13035	Burlington Canal Dredging and Side Slope Restoration	Contractor: Landshore Enterprise, LLC Design Build Contract for Burlington Street Canal Slope Restoration. Administration, Engineering, Preparation of Slope, Materials, and Installation
LP13035	Total Award \$700,000	Total Disbursed \$340,699

In February 2014, the Department awarded the City agreement LP13035, which provided \$700,000 in grant funding for the Burlington Canal Dredging Project. According to LP13035, the total estimated project cost was \$2,200,000. In the RFP, the City indicated the project included three canal areas, with canal area one being of most critical need. The RFP required proposals to include a lump sum cost for the project as a whole, and the inclusion of lump sum costs for canal areas one, two and three. In its proposal, Landshore Enterprises, LLC, included a separate lump sum price for each area, with the price for canal area one being \$696,998 and the total for all areas being \$1,636,167. In October 2014, the City awarded a design build contract for the project to Landshore Enterprises, LLC. for a lump sum of \$700,000 for the proposal of canal area one.

In the LP13035 Grant Work Plan, Task 1 provided Department funding of \$75,000 for engineering costs. According to the contractor’s payment application schedule of values, this included \$41,805 in payments for engineering services for canal areas⁹ two and three. LP13035 Grant Work Plan Task 3 provided Department funding of \$625,000 for construction costs. The

⁹ Payment application schedule of values referred to each of the canal areas as phases.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

remaining disbursements of \$265,699 were for documented construction costs related to canal area one.

The Department disbursed a total of \$340,699 for seven payment applications from the contractor, representing work from September 2014 through October 2015. Based on our review of contractor invoice and City payment documents, six out of seven checks for contractor payments exceeded timely payment requirements for construction services specified in Chapter 218, F.S. The deposit date of the remaining check was not included in the documents provided.

According to City grant staff, the contractor demobilized due to late payments and concerns regarding the City's finances. The last project progress reports dated January and June 2016 indicated design engineering for the three areas of the project was completed, construction activities for canal area one were approximately 45% complete, and 39% of materials were installed prior to the contractor demobilizing.

The LP13035 Project Work Plan described the project as the Burlington Canal Dredging and Side Slope Restoration. According to discussions with the City project staff, the results of sonar depth detection tests conducted during preliminary assessments indicated that canal dredging was not needed. Construction work on the project included slope stabilization and bank restoration activities in canal area one. According to the City project staff, this work was done on approximately 33% of one side of canal area one, and none on the opposite side. LP13035 expired in June 2016.

Review of State Revolving Fund Program Disbursements and Project Oversight

Conclusion

During the review period January 2015 through August 2016, a total of \$3,469,753 was disbursed under the four loan agreements and four grant agreements. Disbursements were made for the City's Wastewater, Stormwater, and Potable Water Infrastructure planning, as well as design and construction of the Lift Station 7 Rebuild, Burlington Street Canal, Cairo Lane and Northwest 127th Street projects. Based on project documentation and discussions with SRF and City staff, portions of the projects funded under these agreements, were not completed. Of the total funding provided under the loan and grant agreements, only a portion was disbursed, leaving available funding as follows.

	Total Awarded	Total Disbursed	Remaining Funding
Grant Agreements ¹⁰	\$2,090,000	\$815,713	\$1,274,287
Loan Agreements ¹¹	\$20,543,707	\$2,654,039	\$17,889,668

All four grant agreements have expired. In August 2016, the SRF Program advised the City that obligated funds for the City's water piping projects were being removed from the priority listing. However, the loan agreements are still in effect. The findings and recommendations below should be addressed in order to reestablish the Department's partnership with the City for Water and Sewer infrastructure projects under the SRF Program.

¹⁰ Amounts reflected in this calculation represented agreements LP13034, LP13035, LP13036, and LP13037.

¹¹ Amounts reflecting in this calculation represented agreements WW130300, SW130320, DW130300, WW130301, and DW130331.

Review of State Revolving Fund Program Disbursements and Project Oversight

Findings and Recommendations:

Finding 1 – Contracts Awarded Without Compliance with Section 287.055 F.S. and in Excess of Estimated Costs

During our review of the preconstruction contract, we were unable to verify documentation of competitive selection processes required in accordance with Chapter 62-503 F.A.C., and Section 287.055, F.S. In addition, the lump sum amount awarded for the Design Criteria Package contract exceeded former estimated costs provided in the Stormwater, Water Distribution System, and Wastewater and System Master Plans. The SRF Program preconstruction loan agreements did not require verification that the City followed competitive procurement requirements under Section 287.055, F.S. City grant staff were unable to provide a methodology, explanation, or justification for the agreed amount in excess of estimated costs for Design Criteria Package as listed in the Master Plan reports. Upon request, we were provided the contractor's proposal, which provided a budget summary consistent with the contract amount. This summary listed activities consistent with Design Criteria Package services defined under Section 287.055(2)(j), F.S. Since this contract was awarded, the SRF Program now requires all project sponsors to provide certification of compliance with Section 287.055, F.S.

For design build contracts, Section 287.055(9)(c)3, F.S. requires that procedures for the use of a competitive proposal selection process include *the criteria, procedures, and standards for the evaluation of design build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.* The RFP used in the solicitation of design build contracts included Local Work Force Participation in the evaluation

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

criteria. Chapter 62-503 F.A.C was revised after the award of these contracts to specifically prohibit *statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals.*

Recommendation

We recommend the SRF Program obtain verification of required competitive procurement processes by the City prior to authorization of future disbursements. All contract awards going forward should be independently reviewed and approved by either the Financial Emergency Board or an established independent oversight entity to ensure project accountability and transparency. Evaluation methodology and criteria used should demonstrate conformance with Chapter 62-503 F.A.C. Approved contract award amounts should include detailed schedules of costs and demonstration of constructive scrutiny to encourage efficient use of project funds.

Finding 2 - Financial Management of Project Funds

Based on our review, projects funded through SRF loan and grant agreements with the City were not managed effectively. Contractors were not paid timely as required under Section 218.70, F.S., *Local Government Prompt Payment Act*. Based on discussions with City grant staff and review of contractor invoices, many invoices were not submitted for reimbursement to the Department and were never paid. This caused contractors to demobilize, resulting in unfinished projects. SRF Program staff cited an on-going difficulty in working to obtain complete and timely project reimbursement requests from the City. Upon the receipt of contractor notifications to stop work, the SRF Program has increased communication and correspondence efforts with

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

the City to address concerns with project progress, and the necessity of timely and accurate submittal of reimbursement requests.

Project contracts included lump sum awards for design build construction projects. Under design build projects, contractor payment requests generally include a billing summary based on schedule of values and percent of project completion. Payment requests for items such as Engineering, General Requirements, and Administration are typically requested first. Disbursements made prior to contractor demobilization included brief descriptions of items billed to date, such as General Requirements, Engineering Services, and Mobilization. As a result, projects under LP13035, LP13036, and LP13037 were discontinued prior to completion of much of the needed construction work. Payments for the project under LP13034 included the billing summary schedule of values where costs for a separate City project were included.

While grant funds were available for project expenses, the City requested project payments under loan agreements where contractor payment verification was not required. This added to the City's debt obligation and left unused grant funds under agreements that have since expired. Upon discovery of the City's financial emergency, the SRF Program began requiring verification of all contract payments prior to disbursement, and requested payment documentation of prior loan disbursements. Many of the checks provided to the Department for this verification did not include deposit information verifying payment. During our site visit, City staff indicated that many checks were held due to lack of available funds. Therefore, check copies that did not include bank deposit or cleared dates did not provide assurance of payment.

Review of State Revolving Fund Program Disbursements and Project Oversight

Recommendation

We recommend the SRF Program work in coordination with the City and the Financial Emergency Board to determine the current status of amounts outstanding to contractors for project expenses. Through the development of a conservative fiscal management process, outstanding payments due to contractors demonstrating costs for allowable project activities should be a financial priority.

With independent oversight review and approval, funding should be planned for current project completion and for projects which demonstrate the highest critical need. Going forward, the SRF Program should work with the City and the Financial Emergency Board to prioritize infrastructure needs.

Finding 3 – Oversight of Project Scopes and Activities Billed

Under LP13034, the Grant Work Plan project scope included the rehabilitation of Lift Station 7 on Alexandria Drive and development of Pump Station 7a on Cairo Lane. The scope listed ten specific activities related to the project. The project scope included in the City's RFP was not consistent with the LP13034 Grant Work Plan. The City's RFP described the project as rehabilitation of Pump Station 7, including service area gravity mains, manholes, and lining and repair or replacement. Work on Pump Station 7a was not included.

The City's RFP project scope also included Alexandria Drive improvements for roadway milling, resurfacing, and reconstruction, as well as sidewalk, curbs, gutters, drainages, and landscaping. Documentation provided to the Department included the City's resolution to award the contract based on the RFP for rehabilitation of sanitary sewer pump station 7. This resolution documented the proposals received through the RFP and the contractor selected. A

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

copy of the design build contract agreement was also provided. The contract documented the lump sum award amount of \$740,345 for work to be completed in accordance with the proposal submitted by the contractor. However, neither the City's RFP document that outlined the requested project scope, nor the contractor's proposal was provided to the Department. As a result, disbursements made were based on a schedule of values that included Engineering and General Condition costs for work on both projects.

Under LP13035, the Grant Work Plan project scope included Burlington Canal dredging and side slope restoration for compliance with South Florida Water Management District regulation and improved environmental conditions. Funding of \$700,000 was provided for the project. The City's RFP required proposals to include separate amounts for three canal areas as well as total proposed amount for the project.

The contract awarded by the City included a lump sum award amount of \$700,000 for construction of canal area one. The proposal included as part of the contract separated costs for the projects between canal areas one, two, and three. The proposed amount for canal area one was \$696,998. However, disbursements were made based on a schedule of values that included engineering costs for canal areas two and three. According to the City project staff, dredging work was removed from the project. Neither the project scope nor the project budget was amended to reflect the change. Whereas the agreement provided funding assistance for the Burlington Canal dredging and side slope restoration project as a whole, a contract was awarded only for canal area one, and dredging activities were determined unnecessary. The lump sum schedule of values on disbursement requests included engineering costs related to the other two canal areas that were not within the scope of the City's contract for work on canal area one.

Report: A-1516DEP-025

Review of State Revolving Fund Program Disbursements and Project Oversight

Recommendation:

We recommend the SRF Program work in coordination with the City and the Financial Emergency Board to ensure contracts awarded through the City under SRF grant agreements are consistent with agreement Grant Work Plans. City contracts provided to the Department should include the RFP and contractor proposals. These scopes should be reviewed prior to disbursements to ensure grant funds are used only for agreement project activities consistent with SRF Program approved projects and as specified under the Grant Work Plan.

Report: A-1617DEP-005

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

We reviewed the City's Water and Sewer accounts and financial records in order to determine the City's compliance with provisions of the SRF loan agreements and to evaluate fiscal integrity of the City's Water and Sewer utility finances.

Background

Section 403.1835, F.S., *Water Pollution Control Financial Assistance*, provides authorization for the Department to make loans to local governments to finance water pollution control projects under the Federal Clean Water Act. Section 403.8532, F.S., *Drinking Water State Revolving Loan fund*, provides authorization for the Department to make loans to finance projects related to public drinking water systems under the Florida and Federal Safe Drinking Water Acts. Loan agreements established for these purposes contain specific requirements for local government financial and operating responsibilities regarding its Water and Sewer infrastructure debt service obligations.

Results and Conclusions

The following is a summary of WW130301 loan agreement requirements¹² and our review of Water and Sewer related documentation provided by the City.

¹² The requirements reviewed were consistent with requirements under loan agreements WW130300, SW130320, DW130320, and DW130331.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Article 2.01(8) Warranties, Representations and Covenants: Accurate Records and Separate Accounts

According to Article 2.01(8), *as part of its bookkeeping system, the [City] shall keep accounts of the Water and Sewer Systems separate from all other accounts and it shall keep accurate records of all revenues, expenses, and expenditures relating to the Water and Sewer Systems, and of the Pledged Revenues, Loan disbursement receipts, and Loan Debt Service Account.*

The City maintains a general ledger by fund, which includes Water and Sewer Fund listing of revenues and expenses. Ledger accounts are also kept for Stormwater and Solid Waste Funds. For FY 2015-2016, the Water and Sewer Fund general ledger trial balance recorded \$9,531,941 in revenues and \$5,939,938 in expenses.

Separate bank accounts have been established for Water and Sewer operating, reserve, and debt service. For FY 2015-2016, Water and Sewer operating bank account included total receipts of \$10,686,434 and disbursements of \$7,738,957¹³. Based on review and comparison of these records, we noted the following.

1. SRF Receipts Disbursements from the Department for SRF loans and grants totaled \$1,629,116. The Water and Sewer fund general ledger recorded SRF revenue of \$1,086,117, which included three of the 11 disbursements made during FY 2015-2016.

¹³ Information for Water and Sewer operating bank account receipts and disbursements was obtained from the State of Florida Department of Financial Services City of Opa-Locka Cash Analysis Report Issued November 2016.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

SRF receipts totaling \$1,054,217 were deposited in the Water and Sewer operating bank account.

The Department made no disbursements for Stormwater projects during FY 2015-2016 under SW130320; however, \$110,000 of the Department's total SRF disbursement was transferred to the Stormwater bank account. The Stormwater fund general ledger recorded no SRF revenue.

2. SRF Project Payments During FY 2015-2016, the City documented SRF project payments to contractors totaling \$1,592,420. Of these payments, \$571,811 was recorded in the Water and Sewer fund general ledger, and \$14,390 was recorded in the Stormwater fund general ledger.
3. Water and Sewer Operating Bank Account Checks We reviewed checks from the Water and Sewer operating bank account during the review period. These checks included payments for water and sewer expenses that were not included in the Water and Sewer fund general ledger. Many of the checks to SRF project contractors from this account were not included in the Water and Sewer fund general ledger. Checks from this account were also used for payment of solid waste services.
4. Water and Sewer Reserve Account The City maintains a Water and Sewer Reserve account for contingencies such as unexpected major repairs, replacements, and emergencies. As of August 31, 2016, the balance of this account was \$1,241,985.

However, in recent months, the City passed a series of resolutions to allow the use of the

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Water and Sewer Reserve fund to pay employee salaries, salary related expenses, and necessary operating expenses due to the City's financial challenges.

Due to incomplete information and inconsistencies between Water and Sewer fund general ledger and bank accounts, we could not verify the City kept accurate and separate records of all revenues, expenses, and expenditures relating to the Water and Sewer Systems, and Pledged Revenues.

Article 2.01(10) Warranties, Representations, and Covenants Certification

Article 2.01(10) states, *each year, beginning three months before the first Semiannual Loan Payment and ending with the year during which the final Loan repayment is made, the [City's] Authorized Representative or its chief financial officer shall submit, pursuant to the schedule established in Section 10.07, a certification that: (a) Pledged Revenue collections satisfy, on a pro rata basis, the rate coverage requirement; (b) the Loan Debt Service Account contains the funds required; and (c) insurance, including that issued through the National Flood Insurance Program authorized under 42 U.S.C. secs. 4001-4128 when applicable, in effect for the facilities generating the Pledged Revenues, adequately covers the customary risks to the extent that such insurance is available; and (d) any given year in which Loan funds are received, the [City] shall submit certification that the revenue generation system is in conformance with 2.01(14) and Chapter 62-503.700(2)(h)3, Florida Administrative Code.* The last Annual Certification for State Revolving Fund Loan(s) certificate received by the Department was in November 2014.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Article 2.03 Audit and Monitoring Requirements

Article 2.03(2)(a) states, *in the event that the [City] expends \$750,000 or more in Federal awards in its fiscal year, the [City] must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised.*¹⁴ Based on SRF Program records, total grant and loan disbursements to the City during the period October 1, 2014 through September 30, 2015 was \$1,790,637. The required single audit was not conducted for the City. However, at the time of this review, corrective steps were being taken by the City to have the audit conducted.

Article 3.01 Loan Debt Service Account

Article 3.01 states, *the [City] shall establish a Loan Debt Service Account with a Depository and begin making Monthly Loan Deposits no later than the date set forth for such action in Section 10.07 of this Agreement. Beginning six months prior to each Semiannual Loan Payment, the [City] shall make six Monthly Loan Deposits. The first five deposits each shall be at least equal to one sixth of the Semiannual Loan Payment. The sixth Monthly Loan Deposit shall be at least equal to the amount required to make the total on deposit in the Loan Debt Service Account equal to the Semiannual Loan Payment amount, taking into consideration investment earnings credited to the account pursuant to Section 3.02. Any month in which the [City] fails to make a required Monthly Loan Deposit, the [City's] chief financial officer shall*

¹⁴ Audit requirements for non-Federal entities that expend Federal funds are specifically outlined in 2 Code of Federal Regulation (CFR) 200.501 *Audit Requirements*. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200.

Review of State Revolving Fund Loan and Grant Agreements
With the City of Opa-Locka
Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

notify the Department of such failure. According to SRF Program records, the following payments were made on outstanding loan debt service during FY 2015-2016.

SRF Agreement ¹⁵	Semi-Annual Payment	Due Date	Date Paid
80003P	\$53,239.77	12/15/2015	12/22/2015
800050	\$69,620.18	12/15/2015	12/22/2015
80003P	\$53,239.77	6/15/2016	6/17/2016
800050	\$69,620.18	6/15/2016	6/17/2016

We verified the City established a Debt Service Account for this purpose. Debt Service Account monthly deposits required as of September 30, 2016 were as follows.

2016	80003P Semi Annual Payment of \$53,239.00 Due 12/15/2016	80050 Semi-Annual Payment of \$69,620.18 Due 12/15/2016	DW130330 Semi-Annual Payment of \$8,046.00 Due 10/15/16	WW130300 Semi-Annual Payment of \$15,644.00 Due 1/15/17	WW130320 Semi-Annual Payment of \$6,011 Due 1/15/2017
May			\$1,341.00		
June			\$1,341.00		
July	\$8,873.29	\$11,603.00	\$1,341.00		
August	\$8,873.29	\$11,603.00	\$1,341.00	\$2,607.33	\$1,001.83
September	\$8,873.29	\$11,603.00	\$1,341.00	\$2,607.33	\$1,001.83
Total	\$26,619.87	\$34,809.00	\$6,705.00	\$5,214.66	\$2,003.66

In accordance with current loan agreement debt requirements, monthly deposits totaling \$72,352.19 should have been made as of September 30, 2016. However, the balance in the account was \$61,430.79. This amount represented required deposits for upcoming semi-loan

¹⁵ The Semi-Annual payments included in this table represent repayment obligations under previous SRF loan agreements 80003P and 800050.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

payments for agreements 80003P and 800050 above. This year is the first required semi-annual payment requirement for amounts due under agreements DW130330, WW130300, and WW130320. We discussed these required loan repayments as well as the need for monthly deposits with the City Finance Director at the time of our review. The semi-annual repayment of \$8,046.00 for DW130330 due October 15, 2016 was made on November 18, 2016.

Article 5.01 Rate Coverage

Article 5.01 states, *the [City] shall maintain rates and charges for the services furnished by the Water and Sewer Systems which will be sufficient to provide, in each Fiscal Year, Pledged Revenues equal to or exceeding 1.15 times the sum of the Semiannual Loan Payments due in such Fiscal Year. In addition, the [City] shall satisfy the coverage requirements of all senior and parity debt obligations.* The current year required annual principal and interest payments are \$305,122. Based on this annual obligation, required Pledged Revenues are \$350,890.

As previously noted, the FY 2015-2016 Water and Sewer Fund general ledger trial balance recorded \$9,531,941 in revenues and \$5,939,938 in expenses. The Water and Sewer Reserve bank account balance was \$1,241,985 as of August 31, 2016. However, in recent months, the City passed a series of resolutions to allow the use of the Water and Sewer Reserve fund to pay employee salaries, salary related expenses, and necessary operating expenses due to the City's financial challenges.

Based on our Review of SRF Program Disbursements for the City and Project Oversight, City Water and Sewer funds are subject to unpaid contractual obligations. In addition, the City's proposed budget for FY 2016-2017 noted increased costs for Water and Sewer services from the

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

County. The City is also receiving assistance from the County in the operation of the Water and Sewer billing function.

While information included in the Water and Sewer Reserve Account, Operating Account, and general ledger could provide a reasonable expectation of rate coverage sufficiency, the discrepancies and inconsistencies noted during our review, as well as current financial management challenges and operating uncertainties hinder this assurance.

Article 5.02 No Free Service

Article 5.02 states, *the [City] shall not permit connections to, or furnish any services afforded by, the Water or Sewer System without making a charge therefore based on the [City's] uniform schedule of rates, fees, and charges.* We compared a listing of all Water Service Account connections from the public works section to a listing of customer accounts from the Standard Billing Journal¹⁶. The listing of Water Service Accounts included 5,860 connections and the Standard Billing Journal included 5,183 customer accounts. Numerous discrepancies, errors, and inconsistencies between these records demonstrated control weaknesses and inconsistent billing. Based on analysis of these records, services provided by the City's Water and Sewer system were not consistently billed to recipients of these services on a uniform basis.

At the time of this review, County staff were assisting the City with its Water and Sewer billing and collection functions. County staff were working to correct meter reading and usage

¹⁶ Standard Billing Journals in this analysis were as of the August 2016 billing cycles.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

calculations in an effort to improve the accuracy of billing. According to County staff, an assessment of the City's meter function was being conducted.

Article 5.07 Collection of Revenues

Article 5.07 states, *the [City] shall use its best efforts to collect all rates, fees and other charges due to it. The [City] shall establish liens on premises served by the Water or Sewer System for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The [City] shall, to the full extent permitted by law, cause to discontinue the services of the Water and Sewer Systems and use its best efforts to shut off water service furnished to persons who are delinquent beyond customary grace periods in the payment of Water and Sewer System rates, fees and other charges.* According to Section 21-83 of City Municipal Code *Billing procedure; penalty for late payment; lien*, a lien will be filed with the Clerk of the Miami-Dade Clerk of the Court for service charges that are not paid within 60 days.

We compared the Water Service Accounts to the City's Aging Report as of September 2016. This report included 3,783 customer accounts with a positive balance. The total amount due from these accounts was \$2,461,750. The following table represents the number of accounts aged from less than 30 days to more than 360 days of last payment.

Review of State Revolving Fund Loan and Grant Agreements
 With the City of Opa-Locka
 Division of Water Restoration Assistance

Report: A-1516DEP-025

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Number of Days Between Last Payment Date Aged Accounts Report Date	Number of Accounts	Total Amount Due	Percent of Accounts	Average Total Amount Due
0 to 30 Days	1,016	\$1,062,395.88	27%	\$1,045.67
31 to 60 Days	1,181	\$286,502.86	31%	\$242.59
61 to 90 Days	297	\$123,722.79	8%	\$416.58
91 to 120 Days	165	\$66,134.13	4%	\$400.81
121 to 360 Days	305	\$136,930.20	8%	\$448.95
More than 360 Days	566	\$557,145.61	15%	\$984.36
Insufficient Information ¹⁷	253	\$228,918.32	7%	\$904.82
Grand Total	3,783	\$2,461,749.79	100%	\$650.74

Of the total accounts, a payment had not been made on 566 in the last year. Of these, we chose a sample of 50 accounts to verify whether liens had been filed. Of the 50 tested, we verified lien documents for three.

Section 21-85 of the City Municipal Code states that *bills are due when rendered, and if not paid within thirty (30) days thereafter, they shall become delinquent, and service may be discontinued and the prepayment, deposit or guarantee applied toward settlement of the bill.*

The aging report account detail and payment records provided indication that services may not be consistently discontinued for outstanding account balances.

¹⁷ For these accounts, either last payment or last billing dates were missing.

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

Finding and Recommendation

Finding 4 - Events of Default

Article 6 of SRF loan agreements outline loan defaults and remedies. The following City practices noted within the scope of this review were considered Events of Default under SRF loan agreements Article 6.01.

1. *Failure to make any Monthly Loan Deposit or to make any installment of the Semiannual Loan Payment when it is due and such failure shall continue for a period of 30 days. As of the time of this review, all required semi-annual loan repayments had been made. However, the semi-annual repayment of \$8,046.00 for DW130330 due October 15, 2016 was not made. On November 15, 2016, the SRF Program sent the City a letter regarding the payment being past due 30 days. The payment was made on November 18, 2016.*
2. *Failure to comply with the provisions of this Agreement or failure in the performance or observance of any of the covenants or actions required by this Agreement and such failure shall continue for a period of 60 days after written notice thereof to the [City] by the Department. Based on this review, the City did not meet requirements under the agreement in the areas of Article 2.01(8) Warranties, Representations and Covenants regarding accurate records and separate accounts; Article 2.01(10) Warranties, Representations, and Covenants regarding annual Certifications; Article*

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

2.03 Audit and Monitoring Requirements; Article 3.01 Loan Debt Service Account; Article 5.02 No Free Service; and Article 5.07 Collection of Revenues.

Upon any event of default, the Department may enforce its rights under the agreement through remedies as outlined under the agreement. These include the following.

1. *By mandamus or other proceeding at law or in equity, cause to establish rates and collect fees and charges for use of the Water and Sewer Systems, and to require the Local Government to fulfill this Agreement.*
2. *By action or suit in equity, require the Local Government to account for all moneys received from the Department or from the ownership of the Water and Sewer Systems and to account for the receipt, use, application, or disposition of the Pledged Revenues.*
3. *By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.*
4. *By applying to a court of competent jurisdiction, cause to appoint a receiver to manage the Water, Sewer, and Stormwater Systems, establish and collect fees and charges, and apply the revenues to the reduction of the obligations under this Agreement.*
5. *By certifying to the Auditor General and the Chief Financial Officer delinquency on loan repayments, the Department may intercept the delinquent amount plus a penalty from any unobligated funds due to the Local Government under any revenue or tax sharing fund established by the State, except as otherwise provided by the State Constitution. The Department may impose a penalty in an amount not to exceed an interest rate of 18 percent per annum on the amount due in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.*
6. *By notifying financial market credit rating agencies and potential creditors.*
7. *By suing for payment of amounts due, or becoming due, with interest on overdue payments together with all costs of collection, including attorneys' fees*

Review of State Revolving Fund Loan Agreement Requirements for City Water and Sewer Accounts and Financial Records

8. *By accelerating the repayment schedule or increasing the Financing Rate on the unpaid principal of the Loan to as much as 1.667 times the Financing Rate for a default under Subsection 6.01(1).*

Recommendation

Given the current informal involvement of the County in the City's Water and Sewer billing processes, the status of the City's Water and Sewer billing and collections, as well as Pledged Revenues is uncertain. The Department should work closely with the Financial Emergency Board as well as any established formal authority overseeing the City's finances to determine appropriate courses of actions for remedies and monitoring of corrective actions. We also recommend the Department take appropriate steps for notification of the Events of Default in accordance with Article 6.01.

To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our review was conducted under the authority of section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The review was conducted by Valerie J. Peacock, with assistance from Adam Crump, Tyler Bradford, Cassandra Ray, and Christine Cullen.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <http://www.dep.state.fl.us/ig/reports.htm>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

*Valerie J. Peacock,
Director of Auditing*

*Candie M. Fuller,
Inspector General*

Report: A-1617DEP-005

Division of Water Restoration Assistance Response

Finding 1: The Division concurs. All project sponsors are now required to submit a certification of compliance with Section 287.055 Florida Statutes. In addition, if additional construction is authorized under this loan agreement, the awards must be approved by the Financial Emergency Board.

Finding 2: The Division concurs. The SRF Program will continue to monitor the progress of payments with the assistance of the Financial Emergency Board. As of March 7, invoices that have been submitted to the City for payment to Intercounty Engineering for work on Cairo Lane/127th Street, have been paid or have been approved for payment for work completed through December 2016.

Finding 3: The Division concurs. The SRF Program will coordinate with the Financial Emergency Board to ensure contracts awarded by the City are consistent with the SRF Program's grant work plans.

Finding 4: The Division concurs. The SRF Program will notify the City and will work with the Financial Emergency Board on remedies and monitoring corrective actions.