



OFFICE OF INTERNAL AUDIT

REPORT TO THE BOARD OF SUPERVISORS

Landfills and Other Disposal Facilities

Lori Stripling, Internal Audit Officer
Bill D'Elia, Senior Internal Auditor

November 2010

TABLE OF CONTENTS

Executive Summary	3
Background, Scope and Methodology	5
Overall Evaluation and Results	6
Finding A: Assignment of Responsibilities	6
Finding B: Lease/Sale of Ironwood and Dudleyville Landfills	7
Finding C: Lease Administration	8
Finding D: Cactus Waste Landfill	9
Finding E: Other Facilities	10

Attachment: Management Response and Action Plan

Executive Summary

The Office of Internal Audit has completed an audit of landfills and other disposal services. This audit was requested by the Director of Public Works and included in the Office of Internal Audit's Fiscal Year 2010-2011 Annual Audit Plan, approved by the Board of Supervisors. Our audit was planned and conducted in accordance with Generally Accepted Government Auditing Standards. The purpose of our audit was to determine if internal controls over landfills and other disposal facilities, operated on County land or within unincorporated Pinal County, were adequate.

Within Pinal County, there are two large County owned landfills operated by an independent contractor. Another landfill is operated on private land within unincorporated Pinal County. There are also several landfills operated within city limits, and several other smaller types of facilities, such as transfer stations, operated throughout Pinal County. Our audit focused on landfills and other facilities either operated on County owned property or on private property in unincorporated Pinal County.

Our overall conclusion is that internal controls over administration of landfills and disposal facilities could be improved. We specifically noted:

- The County Manager had not clearly delegated responsibility for overall landfill management to a specific department
- The current lease awarded in 1995 to operate two landfills on County owned land may not have been awarded on most favorable terms to the County or in compliance with state law
- Planning for the sale of one of the two leased landfills in 2000 did not address or provide for continuation of the lease on the other landfill, and we found no documentation of the basis for the sales price
- The landfill lease was not properly administered. Lease payments were not monitored and insurance was not verified
- Tipping fees due from a privately owned landfill were not properly monitored or reviewed
- Contractors operated one disposal facility, partially on County owned land, without a lease or other agreement

Our specific recommendations for improvements include:

- Assigning responsibility for overall landfill management
- Ensuring a properly awarded lease agreement is in effect for the remaining leased landfill
- Obtaining an independent valuation of the Dudleyville landfill prior to entering into any sales agreement
- Monitoring lease payments to ensure they are collected timely and that late fees are imposed if warranted
- Monitoring tipping fees to ensure they are received timely; reviewing financial records to ensure tipping fees are properly paid; and periodically reviewing fees to determine if they reflect current market conditions

- Ensuring all private operations on county land are supported by proper lease agreements

We would like to thank the management and staff of Development Services, Public Works, Finance and the Budget Office for their assistance and cooperation during the course of this audit.

The following report provides additional details of our audit observations and recommendations.

Lori Stripling
Pinal County Internal Audit Officer

Background

The Office of Internal Audit has completed an audit of landfills and other disposal facilities. The audit was conducted in accordance with Generally Accepted Government Auditing Standards and included such tests of internal controls as deemed necessary.

Within Pinal County, there are two large County owned landfills operated by an independent contractor, under a lease awarded in 1995. Another landfill is operated on private land within unincorporated Pinal County. There are also several landfills operated within city limits, and several other smaller types of facilities, such as transfer stations, operated throughout Pinal County. Our audit focused on landfills and other facilities either operated on County owned property or on private property in unincorporated Pinal County. Specifically, Waste Management, Inc. leases landfills on County owned land in Florence (Ironwood Landfill) and Dudleyville, and operates a waste transfer station in Oracle. Cactus Waste LLC operates a privately owned landfill located south of Florence under permit from the County.

Scope and Methodology

The purpose of our audit was to determine if internal controls over landfills, and other disposal facilities operated on County land or within unincorporated Pinal County, were adequate. Our specific objectives were to determine if:

- Lease(s) to operate landfills on County owned land were properly awarded and administered
- Permit(s) to operate privately owned landfills were properly administered
- Leases or other agreements to operate disposal operations on County property were properly awarded

To accomplish our objectives, we:

- Interviewed appropriate Development Services, Public Works, Finance and Budget Office management and staff
- Reviewed policies, procedures and other documents related to landfills and other disposal facilities
- Reviewed the lease to operate landfills at Florence (Ironwood) and Dudleyville
- Conducted on-site visits to landfills and other disposal facilities
- Analyzed financial information from the County Budget Book and Financial Management System
- Researched information about landfill operations at other municipalities throughout the U.S.
- Analyzed permits and agreements to operate the privately owned landfill south of Florence
- Reviewed County property records to determine land ownership of various disposal operations

SUMMARY OF AUDIT FINDINGS AND RECOMMENDATIONS

Overall Evaluation

Our overall conclusion is that internal controls over administration of landfills and disposal facilities could be improved. We specifically noted:

- The County Manager had not clearly delegated responsibility for overall landfill management to a specific Department
- The current lease awarded in 1995 to operate two landfills on County owned land may not have been awarded on most favorable terms to the County or in compliance with state law
- Planning for the sale of one of the two leased landfills in 2000 did not address or provide for continuation of the lease on the other landfill, and we found no documentation of the basis for the sales price
- The landfill lease was not properly administered. Lease payments were not monitored and insurance was not verified
- Tipping fees due from a privately owned landfill were not properly monitored or reviewed
- Contractors operated one disposal facility, partially on County owned land, without a lease or other agreement

Details of our findings are discussed in the audit results section below.

Audit Results

A. Assignment of Responsibilities

Comprehensive administration of leases, property sales, and private landfill agreements has not been formally assigned to the Assistant County Manager (ACM) for Development Services or other County Department/Office. Certain files relating to County disposal activities have been maintained in the County Manager's office and had not been transferred to the ACM for Development Services. Because overview of the landfills has generally been the responsibility of Development Services, our report recommendations are addressed to the ACM for Development Services and the Public Works Director; however, we acknowledge the County Manager should make a final determination regarding responsibility for each area addressed in Findings B through E.

Recommendations:

1. *The County Manager should assign responsibility to the Assistant County Manager for Development Services, and/or other member of County management for administration of landfill and transfer station leases, property sales, and private landfill agreements.*

2. *The County Manager should ensure recommendations #3 through #12 are directed to the appropriate County office, based on assignments resulting from recommendation #1.*

B. Lease/Sale of Ironwood and Dudleyville Landfills

The 1995 lease to operate landfills in Florence (Ironwood) and Dudleyville may not have been awarded on most favorable terms to the County or in compliance with state law. Further, plans to sell these landfills to the lessee were inadequate. Specifically:

- ARS 11-256 requires an appraisal be performed prior to leasing County land. We found no records indicating an appraisal was ever performed; although, we noted both landfills were leased for \$852.08 per month or \$8.04 per acre (106 acres). Further, as provisions of the lease allow for the contractor to accrue credits for improvements made, frequently even these low lease payments are waived due to provisions in the lease that allow for contractor improvements to be used as credits towards lease payments.
- We noted the contractor charges more per **cubic yard** of waste disposed than they pay the county monthly for an entire acre of land.



Pictured: Disposal rates posted at the Dudleyville Landfill

Further, we noted other government organizations have negotiated much more favorable terms for the operation of their landfills:

- Arlington, Texas performed a comprehensive analysis of landfill operations, to include selling, leasing, or self operating its landfill. The City received multiple bids and ultimately awarded a contract that included an initial payment by the contractor of more than \$20 million and annual revenues to the City of over \$3 million.
- Gallatin County, Montana nets about \$2 million annually from its landfill operations.
- Carson City, Nevada previously contracted with the same company Pinal County currently contracts with and, when they later re-bid the scope of work, determined in-house operations could provide more efficient and economical services to the City.

In addition to the identified issues with the current landfill lease, Internal Audit learned the County is in the process of closing escrow to complete a sale of the Ironwood landfill to the current lessee. Internal Audit, however, found no evidence of an independent appraisal or other support for the negotiated price. The sale has been in escrow for ten years and a date for closing is still undetermined; however, recent rezoning action for the property may indicate the sale will close in the near future. Additionally, we determined the County has made no plans for continuing lease operations at the Dudleyville landfill, which is also included in the current lease. Because both landfills are included in one lease, the sale of one may breach the current negotiated lease. Further, management indicated the Dudleyville landfill may also be sold to the lessee at some future date.

Recommendations:

- 3. The Assistant County Manager for Development Services should ensure a properly awarded lease is in effect for the Dudleyville landfill to ensure continuity of that operation after the sale of the Ironwood landfill. Any new lease negotiated should fully comply with Arizona Revised Statute 11-256 regarding appraisals and other requirements for awarding a lease.*
- 4. The Assistant County Manager for Development Services should require an independent documented appraisal/valuation of the Dudleyville landfill, and a legal review, prior to sale of the landfill.*

C. Lease Administration

The Dudleyville and Ironwood landfill leases have not been administered appropriately.

- Neither Public Works nor any other department properly monitored lease payments to ensure actual collection, timely payment, or assessment of late fees when applicable. For example, as of July 28, 2010, the July 1st payment had not been collected. Neither Public Works personnel nor any other County Department had

sent notice to the contractor nor assessed any late charges. Public works personnel stated they did not have access in the County's financial system to the account codes to monitor payments. Further, we noted in 2007, the contractor actually notified the County to acknowledge they were not current with lease payments, although the County had not identified or proceeded to collect the late payments. Public Works noted if their department assumed responsibility for lease administration, it would be necessary to ensure assigned personnel are not paid with HURF funding.

- The terms of the lease required the contractor to maintain liability insurance, which names Pinal County as an additional insured. Neither Public Works nor any other County personnel verified current insurance was maintained as required.

The resulting conclusion is there is no assurance that all revenues have been properly collected or the financial interests of Pinal County have been appropriately protected.

Recommendations:

5. *The Assistant County Manager for Development Services should require regular monitoring of lease payments and assessment of late fees when payments are not submitted timely.*
6. *The Assistant County Manager for Development Services should require the contractor to maintain and provide documentation of required insurance.*

D. Cactus Waste Landfill

Cactus Waste LLC operates a landfill on privately owned land located south of Florence, AZ under a 10 year agreement/permit from the County. Because neither Public Works nor any other County Department has been directed to administer the agreement, tipping fees due to the County for operation of this landfill have not been effectively administered.

- Neither Public Works nor any other County department has properly monitored tipping fee payments to ensure they are accurate and paid timely. Public Works personnel stated they do not have access in the County's financial system to the account codes necessary to monitor payments. Fees, due quarterly, are based on contributed waste tonnage. We noted the contractor has been diligent in making payments; however, relying on the operator to submit payments without proper monitoring does not ensure accurate and timely receipt of revenues due to the County. Currently, expected revenue from these fees is \$35,000 annually.
- Although the agreement includes the right to audit financial records of the contractor to ensure the County receives all revenue to which it is entitled, neither Public Works nor any other County personnel have completed any reviews since the commencement of the agreement six years ago.

- The agreement also allows for periodic review and renegotiation of tipping fees. Neither Public Works nor any other County personnel have completed such a review during the past six years since the agreement was initiated.

Public Works noted if their department assumed responsibility for lease administration, it would be necessary to ensure assigned personnel are not paid with HURF funding. Further, other pending agreements, such as the Silver Bar and Durham Landfills, will require administration, should they be finalized. Proper administration of landfill agreements ensures all revenue due to the County is received.

Recommendations:

7. *The Assistant County Manager for Development Services should require careful monitoring of quarterly tipping fee payments to ensure they are accurate and received timely.*
8. *The Assistant County Manager for Development Services should require annual review of the contractor's records to ensure tipping fees collected by the County are accurate.*
9. *The Assistant County Manager for Development Services should periodically review tipping fee rates to determine if they should be renegotiated and adjusted. We suggest Public Works consider any changes in fees charged by the contractor to the public, when performing this analysis.*

E. Other Facilities

Private contractors operate disposal activities on County property, either at no charge without a lease or, with a lease that was not properly administered.

- Waste Management operates the Oracle Transfer Station. Although the County sold the 'station' to Waste Management, part of Waste Management's operations occur on County land surrounding the station, without benefit of a lease or any other agreement. As such, it may be in violation of ARS 11-256. We did note the County has granted the contractor a license for access over the County land to their station, but in our opinion, access over the land may not constitute the right to actually conduct operations on the County land without benefit of a lease with applicable rent.



Pictured: Oracle Transfer Station



Lack of a properly executed lease agreement is a violation of state statute and denies the County of revenue to which it is entitled.

- The Environmental Concerns Organization operates a recycle facility (trash also accepted for a fee) on County property in the City of Maricopa. Because this is a nonprofit organization the County is allowed to lease this property for a token fee. To protect the County's interests, however, the contractor is required to maintain proper insurance. Neither Public Works nor any other County Department verified

the organization maintains insurance required to meet the lease conditions. As a result there is no assurance the County's interests have been protected.



Pictured: Recycle facility operated by Environmental Concerns Organization in Maricopa, AZ

Recommendations:

- 10. The Assistant County Manager for Development Services should, after obtaining a legal opinion, establish a proper lease for County land in use at the Oracle Transfer Station.*
- 11. The Assistant County Manager for Development Services should review all disposal facilities within the County to determine if there are other operations on County property without benefit of a lease, and take appropriate action (lease or sale) to correct any similar circumstances.*
- 12. The Director of Public Works should verify insurance maintained by the Environmental Concerns Organization in Maricopa, AZ meets all requirements of the lease.*

Attachment:

Management Response and Action Plan

Audit Recommendation	Concur (Yes or No)	Management's Response and Action Plan	Target Date	Individual(s) Responsible
<p>1. <i>The County Manager should assign responsibility to the Assistant County Manager for Development Services, and/or other member of County management for administration of landfill and transfer station leases, property sales, and private landfill agreements.</i></p>	Yes	<p>The County Manager should provide clear direction to the ADM/DS for the responsibility of administration of landfill and transfer station leases and private landfill Development Agreements. Public Works Solid Waste Department dismantled 10 years ago. Property sales should be the responsibility of the ACM/AS for disposition of properties.</p>	June 2011	<p>CM; ACM/DS; Public Works Director</p> <p>ACM/AS</p>
<p>2. <i>The County Manager should ensure recommendations #3 through #12 are directed to the appropriate County office, based on assignments resulting from recommendation #1.</i></p>	Yes	<p>Clear direction as to the assignment of responsibilities for #3 thru #13 to the appropriate department is necessary.</p>	June 2011	<p>County Manager; ACM/DS; Public Works Director; Finance; Budget</p>
<p>3. <i>The Assistant County Manager for Development Services should ensure a properly awarded lease is in effect for the Dudleyville landfill to ensure continuity of that operation after the sale of the Ironwood landfill. Any new lease negotiated should fully comply with Arizona Revised Statute 11-256 regarding appraisals and other requirements for awarding a lease.</i></p>	Yes	<p>Concur with Action plan with assistance from the County Attorney for legal review of the current lease(s).</p>	June 2011	<p>ACM/DS; County Attorneys Office</p>

Audit Recommendation	Concur (Yes or No)	Management's Response and Action Plan	Target Date	Individual(s) Responsible
4. <i>The Assistant County Manager for Development Services should require an independent documented appraisal/valuation of the Dudleyville landfill, and a legal review, prior to sale of the landfill.</i>	Yes	ACM/AS review of county owned land lease administration, BOS policy determination to sell property with an appropriate buyer and land disposal with assistance from the County Attorneys office for legal opinion.	December 2011	ACM/AS; ACM/DS County Attorneys Office
5. <i>The Assistant County Manager for Development Services should require regular monitoring of lease payments and assessment of late fees when payments are not submitted timely.</i>	Yes	Director of Public Works will identify specific individuals to monitor lease payments and assess late fees when required.	January 2011	ACM/DS; Public Works Director/Department
6. <i>The Assistant County Manager for Development Services should require the contractor to maintain and provide documentation of required insurance.</i>	Yes	Assuming Public Works is the appointed Department to address insurance compliance, and a budget is established to perform the duties, the Public Works Director will establish procedures and specific individuals to monitor the lease holder insurance requirements.	July 2011	ACM/DS; Public Works Director
7. <i>The Assistant County Manager for Development Services should require careful monitoring of quarterly tipping fee payments to ensure they are accurate and received timely.</i>	Yes	The Public Works Department is predominantly funded by restricted HURF Funding that constrains use of staff/material. Will request Budget Consideration for General Fund to assist Public Works in administering and monitoring tipping fee payments.	July 2011	ACM/DS; ACM/AS; Public Works Department; Budget Department

Audit Recommendation	Concur (Yes or No)	Management's Response and Action Plan	Target Date	Individual(s) Responsible
8. <i>The Assistant County Manager for Development Services should require annual review of the contractor's records to ensure tipping fees collected by the County are accurate.</i>	Yes	ACM/DS and Public Works Director will establish budget requirements to use a combination of in-house and contract personnel to assist in establishing a program for annual review.	July 2011	ACM/DS; ACM/AS; Public Works Department; External Consultant
9. <i>The Assistant County Manager for Development Services should periodically review tipping fee rates to determine if they should be renegotiated and adjusted. We suggest Public Works consider any changes in fees charged by the contractor to the public, when performing this analysis.</i>	Yes	Same as above	July 2011	ACM/AS; ACM/DS; Public Works Director;
10. <i>The Assistant County Manager for Development Services should, after obtaining a legal opinion, establish a proper lease for County land in use at the Oracle Transfer Station.</i>	Yes	ACM/DS working in conjunction with County Attorney's Office and ACM/AS	July 2011	ACM/DS; Public Works Director; County Attorneys Office

Audit Recommendation	Concur (Yes or No)	Management's Response and Action Plan	Target Date	Individual(s) Responsible
<p><i>11. The Assistant County Manager for Development Services should review all disposal facilities within the County to determine if there are other operations on County property without benefit of a lease, and take appropriate action (lease or sale) to correct any similar circumstances.</i></p>	Yes	<p>Public Work Director will establish budget requirements to use a combination of in-house and contract personnel to assist in establishing a program for review of all county leased property.</p>	December 2011	<p>Public Works Director; ACM/DS; ACM/AS</p>
<p><i>12. The Director of Public Works should verify insurance maintained by the Environmental Concerns Organization in Maricopa, AZ meets all requirements of the lease.</i></p>	Yes	<p>Assistance from ACM/DS, Public Works Director will verify necessary insurance per current lease agreement.</p>	December 2011	<p>ACM/DS; Public Works Director</p>