



Florida Department of TRANSPORTATION

Office of Inspector General Kristofer B. Sullivan, Inspector General

Audit Report No. 22I-007
City of Lake Worth Beach Local Agency Program (LAP)

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Kristofer B. Sullivan
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March 13, 2023

What We Did

The Florida Department of Transportation's (Department) Office of Inspector General conducted an audit of the City of Lake Worth Beach Local Agency Program (Lake Worth Beach) accounting and financial management policies, and processes, and evaluated the financial management controls of the Department funds under federal regulations, state statutes, Department guidelines, and Grant Agreement G1J19. This audit was conducted as a part of the fiscal year (FY) 2021-2022 audit plan. The scope of this audit consisted of Agreement G1J19 for FY 2019-22.

What We Found

We determined that Lake Worth Beach's written accounting policies, financial management procedures, and processes are in accordance with federal regulations, state statutes, and Department guidelines and agreements. Additionally, the policies and procedures are sufficient to support its internal controls of accounting and financial management processes following the federal regulations, state statutes, Florida Administrative Codes, Department policies, and agreements.

We determined the Lake Worth Beach project is compliant with the use of the funds allocated and expended for allowable activities for Agreement G1J19.

What We Recommend

We do not have any recommendations for the findings.

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BACKGROUND AND INTRODUCTION

Local Agency Program (LAP)

LAP projects serve and strengthen the Florida Department of Transportation's (Department) mission through the delivery of transportation improvements in partnerships with local public agencies across the state. They represent a vast array of transportation modes and are the primary delivery mechanism for local agency projects to develop, design, and construct transportation facilities with federal aid funds.

LAP requirements are outlined through a combination of federal and state laws (see additional criteria in Attachment 1). The LAP Manual, Topic No. 525-010-300, Sections 1.2, Authority references subsections 20.23(4)(a) and 334.048(3), Florida Statutes, (F.S.) (2021), which provides directives for the policies, rules, procedures, and standards necessary for the Department to function properly with accountability for all aspects of operations.

The Department's LAP reimburses local agencies for the planning, design, and construction of transportation facilities with Federal Aid Highway Program Funds (FAHP). FAHPs are only available to local agencies that perform the required certification process, which evaluates whether the Local Agency has sufficient qualifications and ability to undertake and satisfactorily complete the work. The certification provides proof that the Local Agency can comply with federal requirements in a project and offers perspective on the level of oversight required by District offices over Local Agencies throughout the life of a project. Local Agencies may use consultant services for a variety of tasks in the LAP including, but not limited to planning, project development, preparation of design plans, specifications, estimates, and construction engineering and inspection.

LAP is administered in each transportation district by a Local Programs Administrator who provides project level support and oversight for the participating agencies. The Central Office Statewide Local Program Administrator, in turn, provides statewide program oversight, policy implementation, and guidance through the adaptation of program standards based on federal and state requirements, rules, laws, and statutes.

The Department is the steward of federal aid funds and is responsible for oversight of federally funded projects on behalf of the Federal Highway Administration (FHWA). Local Agencies may also be awarded federal funding through the FHWA, but the type of work or grant funding does not conform to the Department's standard federal aid delivery mechanism of LAP. Certification is not applicable for subrecipients of these grant funds. Conditions, where LAP Certification may not be applicable, are provided in Chapter 2 of the Local Programs Manual.

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City of Lake Worth Beach

The City of Lake Worth was incorporated as a municipality under the laws of the State of Florida in 1913. In 2019, the City of Lake Worth was renamed “Lake Worth Beach”. The City of Lake Worth Beach (Lake Worth Beach) is in Palm Beach County, Florida with a radius of seven square miles with a population of approximately 43,000. It consists of seven zones and four districts within the city. The City operates under a Commission-Manager form of government comprised of five members who serve overlapping two-year terms and are elected on a nonpartisan basis by residents of the City. The mayor is elected by a city-wide vote to serve a two-year term as the presiding officer at City Commission meetings and as the official head of Lake Worth Beach for legislative and ceremonial purposes. Lake Worth Beach adopted a budget for the fiscal year 2021 of \$191.1 million for operating activities of the General Fund, Special Revenue Funds, Debt Service Fund, and Capital Project Funds. The City Commission is responsible for passing ordinances and other policy directives necessary for the operation of the City.

Lake Worth Beach is led by Mayor Betty Resch and four district city commissioners:

- Sarah Malega, District One
- Christopher McVoy, District Two
- Kim Stokes, District Three
- Reinaldo Diaz, District Four

The Office of the City Clerk functions as the custodian of the official records, the official custodian of the seal of the City, and the City’s records management and records disposition program administrator. The City Clerk is statutorily required to maintain and produce all public records. The City Clerk is responsible for attending all City Commission meetings, keeping the official minutes of all commission meetings, and assisting in the preparation of official documents. The City Clerk is also responsible for all municipal legislative processes, including the preparation of ordinances, and resolutions as well as the maintenance of contracts and agreements.

Department’s relationship with Lake Worth Beach

Lake Worth Beach receives federal aid funds provided through the Department for Local Agency Program Agreement G1J19 (Agreement) for construction to Boutwell Rd from SR-802/Lake Worth Rd to 7th Avenue North to add turning lanes, sidewalks, shoulder stabilization, drainage, pedestrian lighting, and signing and pavement marking throughout the project area.

The Department assigns a grant manager, who is responsible for oversight and provides technical support and financial guidance to ensure compliance with federal regulations, state statutes, Department guidelines, and Agreement. The Agreement states the terms and conditions upon which Department funds will be provided and sets forth the way work deliverables will be undertaken and completed.

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RESULTS OF REVIEW

We conducted an audit of Lake Worth Beach with the following objectives:

1. Determine if Lake Worth Beach's written accounting policies, financial management procedures, and processes are in accordance with federal regulations, state statutes, and Department guidelines and agreements.
2. Determine if the Department funds for the G1J19 Agreement (Agreement) are used and expended only for allowable activities, are supported by the required documentation, and are submitted for reimbursement payment in accordance with federal regulations, state statutes, Florida Administrative Codes, Department guidelines, and Agreement.

Finding 1 – Financial Policies and Procedures

We determined that Lake Worth Beach's written accounting policies, financial management procedures, and processes are in accordance with federal regulations, state statutes, and Department guidelines and agreements. Additionally, the policies and procedures are sufficient to support its internal controls of accounting and financial management processes following the federal regulations, state statutes, Florida Administrative Codes, Department policies, and agreements.

Internal control policies and procedures provided reasonable assurance regarding the reliability of the financial reporting processes. Consultants and vendors are required by their agreements or Memorandum of Understanding to comply with laws, regulations, and Department guidelines to include Title 2, Code of Federal Regulation (C.F.R.), Part 200 and Title 49 C.F.R., Part 450.206, subsection 215.97, F.S. (2021), Department guidelines, and Agreement. The complete criteria used for this finding are in Attachment 1. The following policies and procedures and consultant vendor agreements below were reviewed for statutory criteria requirements, procedures to guide processes, and language to address internal controls following general accounting principles:

- Lake Worth Beach Procurement Policy
- Lake Worth Beach Grant Administration Policy and Procedure
- Lake Worth Beach Comprehensive Financial Policies
- Lake Worth Beach Capitalization Policy
- Lake Worth Beach Reso 28-2010 Investment Policy
- Department and Lake Worth Beach Executed Supplemental Agreement No.1- This agreement reconciles the LAP Agreement total project cost with the Departments' bid concurrence and Local Agency construction bid award.
- Lake Worth Beach and R&D Paving, LLC Agreement 00500 (Construction) – This Agreement is to provide general roadway and infrastructure improvements in the Lake Worth Beach Park of Commerce.

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- Professional Services Agreement - A&E Engineering, Inc. Construction Engineering and Inspection (CEI) manage the oversight of the construction phase of the project. The specific CEI services consist of:
 - Construction Inspection Services – Site Inspections
 - Daily and Weekly Inspection Reports
 - Scheduling / Progress Tracking
 - Bid Documents Evaluation
 - Quality Control & Quality Assurance
 - Project Certifications
 - Cost Estimating
 - Resident Compliance Specialist Services (Payrolls/EEO)

Review of policies and consultant, contractor, and vendor agreements contained compliance language specific to the terms and conditions of the Agreement G1J19 as stipulated in Section 12 - Compliance with Conditions and Laws, and federal, state, and local laws and regulations applicable to the project. There were no recommendations for this finding.

Finding 2 – Financial Management Controls

We determined that Lake Worth Beach is compliant with the use of the funds allocated and expended for allowable activities for Agreement G1J19.

Subrecipients, consultants, and vendors are required to complete work following the project schedule and Department production schedules as stipulated in the Local Agency Program Manual, Agreement, and submit invoices and progress reports at a minimum quarterly (90 days), unless otherwise specified by the Agreement. Variations from the quarterly requirements must be identified in the Agreement and the project monitoring plan. Florida Department of Financial Services sets forth the requirements for invoices and necessary documentation for Local Agencies to follow. The Agreement is a cost reimbursement agreement and contains a retainage component. Therefore, any adjustments to the budget require an executed supplemental agreement and a written request for reimbursement of retainage funds as stipulated in the Agreement and subsection 255.078, F.S., (2019).

The Department's LAP Manual, Section 6.5 - Progress Invoicing Procedures, specifies that within the grant agreements are the periodic and final invoicing requirements for the projects. The local agency requirement(s) is to maintain activity through the timely submission of invoices. After the Department has fully executed the Agreement and any required Notice to Proceed has been issued, the Local Agency may begin work on the first phase of the project. The complete criteria used for this finding are in Attachment 1.

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The six invoices' salary and expenses billed were reviewed to ensure allowable cost, backup documentation, payment submission, reimbursement compensation, and amounts are properly reconciled to submitted invoice packages and the Florida Accountability Contract Tracking System (FACTS).

We conducted a review of Agreement invoices, including a walkthrough with District Four and Lake Worth Beach staff of the cost allocation and invoice reimbursement processes. We reviewed six invoices, the checklist, itemized detail reports, payroll records, CEI daily reports, and Lake Worth Beach progress reports against the criteria listed in the Agreement, LAP Manual, and budget. The six invoices' quarters were submitted outside of the Agreement quarter periods; however, provisions were approved by District Four.

Invoice Submittal Compliance

The Agreement required that Lake Worth Beach submit cost reimbursement invoice packages following the Department's LAP Manual, Section 6.4 - Eligible and Ineligible Cost and 6.5 - Progress Invoicing Procedures. The Department's reporting fiscal year is July 1 - June 30. A quarter was deemed to be not applicable if it was the first quarter of the Agreement or if the quarter did not have deliverables.

Additionally, invoice compliance with Agreement Requirements was determined through a review of the following: dates for services rendered in the previous quarter, date invoice received by District Four, invoice service period, and subcontractor invoice date and service dates.

Table 1 shows Lake Worth Beach submitted six out of six invoices outside of the Agreement quarter periods; however, provisions were approved by District Four. Financial management and reporting of funds were used following the general accounting practices, federal regulations, state statutes, and Department guidelines. The Agreement was executed on February 6, 2020. Quarter 1 of 2020 was the first quarter of the Agreement and only billed for advertisement deliverables.

We found that Lake Worth Beach incurred some delays in the submittal of the invoices for the following reasons:

- Invoice #1 was for the advertisement period only. The construction phase begins after the contract is awarded and a pre-construction meeting has occurred. The LAP Notice to Proceed for Lake Worth Beach is dated February 12, 2020. R&D Paving, LLC Professional Agreement 00500-3 was executed on June 23, 2020. There was a gap in the billing period for the second quarter May 1, 2020-July 31, 2020, due to the procurement of construction services.

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- Invoice #2 construction services started on August 17, 2020. The compilation and corrections of the invoice package caused a delay in the submittal time. Correspondence between the Department and Lake Worth Beach dated January 11, 2021, through February 12, 2021, supports the corrections and submitted times.
- Invoice #3 services were delayed as utility conflicts were being addressed by the Department, Lake Worth Beach, and the CEI. R&D Paving, LLC submitted a Request for Information seeking the clarification of plans, drawings, specifications, agreements, and gaps in construction documents.
- Invoice #4 included R&D Paving, LLC payment applications 1-6 with 10% retainage following subsection 255.078(1)(2)(4), F.S., (2019). Per statute “After 50 percent completion of the construction services purchased according to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public entity”. Application for payment #7 was the 50 percent completion mark of the contract and the retainage amount was reduced to 5 percent with a payout adjustment to R&D Paving, LLC.
- Invoice #5 reported a structural issue; the delay in the invoice submission is documented in the progress report.
- Invoice #6 is the final invoice to sunset the Agreement on June 8, 2022. It includes all change orders for the agreement and R&D Paving, LLC’s application for payment #13 with a final expense excel spreadsheet. The spreadsheet captures participating¹ and nonparticipating² amounts and retainage. The overall amount of payment exceeded the Agreement amount. The remaining amount of \$165,569.05 was paid to R&D Paving LLC from local funds.³

¹ Participating - FHWA Participating items Eligible for grant reimbursement.

² Nonparticipating - FHWA Non-Participating item; Not eligible for grant reimbursement.

³ Local contribution to FHWA Participating items not Eligible for grant reimbursement due to the availability of funding.

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Table 1: Grant G1J19 Number of days invoice submitted after the quarter.

Quarter Period (FY)	Quarter End Month Due	Invoice Period	Date Invoice Received by District Four	Days Past Quarter Period Due	Invoice Submittal Compliance
Quarter 1 (FY 20/21)	April 30, 2020	03/01/2020-04/09/2020	05/27/2020 Invoice #1	27	N/A
Quarter 2 (FY 20/21)	July 31, 2020	07/31/2020	N/A	N/A	N/A
Quarter 3 (FY 20/21)	October 31, 2020	08/17/2020-11/10/2020	02/12/2021 Invoice #2	104	N/A
Quarter 4 (FY 20/21)	January 31, 2021	11/11/2020-01/10/2021	04/22/2021 Invoice #3	81	N/A
Quarter 1 (FY 21/22)	April 30, 2021	01/11/2021-04/10/2021	07/21/2021 Invoice #4	82	N/A
Quarter 2 (FY 21/22)	July 31, 2021	04/11/2021-07/10/2021	04/29/2022 Invoice #5	272	N/A
Quarter 3 (FY 21/22)	October 31, 2021	07/11/2021-09/17/2021	06/08/2022 Invoice #6	220	N/A

Source: City of Lake Worth Beach Invoice Packages submitted to District Four

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APPENDIX A – Purpose, Scope, and Methodology

The **purpose** of this engagement was to determine if the City of Lake Worth Beach's financial management procedures, processes, and documentation are in adherence and maintained in accordance with the Federal Regulations, State Statutes, and Department guidelines and Agreements.

The **scope** of this audit consisted of the Department Agreement G1J19 with the City of Lake Worth Beach for fiscal years 2019-22.

The **methodology** included:

- Reviews of relevant laws, rules, regulations, policies, and procedures.
- Documentation reviews:
 - Grant Agreement G1J19, invoice packages, and supporting documentation.
 - Single Audit Reports for 2019, 2020, and 2021.
- Interviews with the District Four and City of Lake Worth Beach staff.

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APPENDIX B – Affected Entity Response

On February 20, 2023, the OIG received an email response from Julie Parham, Assistant Director of Water Utilities, City of Lake Worth Beach, and Jamie Brown, Director of Public Works Department, City of Lake Worth Beach stating that they both reviewed the draft report, and the City does not have any additional comments on the report.

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APPENDIX C – Management Response

On February 24, 2023, the OIG received an email response from Lorraine Moyle, State Local Program Coordinator, stating that she had no comments on the report.

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DISTRIBUTION

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Lorraine Moyle, Program Management Office, Department State Local Program Administrator

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 Julie Parham, Assistant Director of Water Utilities, City of Lake Worth Beach
 Jamie Brown, Director of Public Works Department, City of Lake Worth Beach

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PROJECT TEAM

Engagement was conducted by:
Barbara Brown-Walton, Auditor

Under the supervision of:
Andrea Sistrunk, Senior Audit Supervisor
Jessica Mobley, Deputy Audit Director for Intermodal
Joseph W. Gilboy, Director of Audit

Approved by:
Kristofer B. Sullivan, Inspector General

STATEMENT OF ACCORDANCE

The Department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.

The Office of Inspector General's mission is to provide independent and objective investigative and audit services that promote accountability, integrity, and efficiency within the Florida Department of Transportation and its partners.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

Please address inquiries regarding this report to the Department's Office of Inspector General at (850) 410-5800.

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ATTACHMENT 1 – Criteria: Additional Details for Findings 1 and 2

Uniform Grant Guidance (UGG), Title 2 CFR, Part 200 - 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements is a government-wide framework for federal grants management. UGG is a common baseline (reference for compliance) for all Federal awards. The objectives of UGG are to: strengthen oversight and requirements of internal controls over Federal funds; eliminate duplicative and conflicting guidance; and reduce the administrative burden for non-Federal entities receiving awards. Subpart E (Cost Principles) of the guidance includes procedures and considerations for cost allocation, classification of direct and indirect costs, as well as the allowability of costs. Moreover, Appendix IV of Part 200 provides procedures for indirect facilities and administration (F&A) cost identification and assignment, and rate determination for nonprofit organizations.

Subsection 215.86, Florida Statutes (F.S.) (2021) - Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and internal controls designed to: (1) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1). (2) Promote and encourage compliance with applicable laws, rules, contracts, and grant agreements. (3) Support economical and efficient operations. (4) Ensure reliability of financial records and reports. (5) Safeguard assets.

Florida Single Audit Act, Part Three, Compliance Requirements (A-J) - While the criteria for determining eligibility vary by project, the objective of the compliance requirement that only eligible individuals or organizations participate is consistent across all state projects. Other specific requirements for allowable costs are unique to each state project and are found in the laws, rules, and provisions of contracts or grant agreements pertaining to the project.

Florida Single Audit Act, Part Five (Internal Controls), I -Subrecipient Monitoring - To provide reasonable assurance that state financial assistance information and compliance requirements are identified to subrecipients, subrecipient activities are monitored, subrecipient audit findings are resolved, and the impact of any subrecipient noncompliance on the project is evaluated. Also, the recipient should perform procedures to provide reasonable assurance that the subrecipient obtained required audits and takes appropriate corrective action on audit findings.

Florida Single Audit Act, Part Five (Internal Controls), Control Activities - Operating policies and procedures are clearly written and communicated. Adequate segregation of duties provided between performance, review, and record keeping.

Subsection 215.971(1)(d), F.S. (2020) - Subrecipient or recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period.

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Subsection 255.078, F.S. (2019) Public construction retainage - (1) With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage until 50 percent completion of such services.

(2) After 50 percent completion of the construction services purchased pursuant to the contract, the public entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this section, the term “50-percent completion” has the meaning set forth in the contract between the public entity and the contractor or, if not defined in the contract, the point at which the public entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract.

(4) After 50 percent completion of the construction services purchased pursuant to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public entity. The public entity shall promptly make payment to the contractor, unless the public entity has grounds, pursuant to subsection (6), for withholding the payment of retainage. If the public entity makes payment of retainage to the contractor under this subsection which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

State of Florida Department of Transportation Local Agency Program Manual and LAP Professional Services Terms - Establish consistent and uniform practices for authorizing other Local Agencies to use federal aid funds provided through the Florida Department of Transportation (Department) for project planning, project development, design, right of way relocation, acquisition, and construction.

Reference Guide for State Expenditures - The purpose of this manual is to provide state agencies guidance regarding the requirements applicable to the disbursement of funds from the State Treasury, regardless of the payment methods (warrants, EFT, PCard). This reference guide does not cover all possible situations; some will need to be addressed on a case-by-case basis through consultation with the Bureau of Auditing.

State of Florida Department of Transportation Local Agency Program Agreement G1J19 -This Agreement is to provide for the Department’s participation in Boutwell Rd from SR-802/Lake Worth Rd to 7th Avenue North construction to add tuning lanes, sidewalks, shoulder stabilization, drainage, pedestrian lighting, and signing and pavement marking throughout the project area.

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Financial Provisions for All Department Funded Agreements, Topic No. 350-020-301-I. Attachment F - Contract Payment Requirements. Florida Department of Financial Services, Reference Guide for State Expenditures Cost Reimbursement Contracts - Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed and must indicate that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.