



Florida Department of TRANSPORTATION

Office of Inspector General
Robert E. Clift, Inspector General

A handwritten signature in blue ink, reading "Robert E. Clift".

Audit Report No. 15I-3001

Port Everglades – Joint Participation Agreement AR858

January 24, 2017

What We Did

The Florida Department of Transportation's (department) Office of Inspector General (OIG) conducted an audit of Joint Participation Agreement AR858 (JPA, agreement) between the department's District Four (district) and Broward County's Port Everglades Department (port). We conducted this audit as part of the OIG's annual audit plan.

The purpose of this audit was to determine compliance with the terms of the JPA and applicable rules, regulations, and procedures.

What We Found

We determined District Four conducted adequate monitoring and oversight of JPA AR858. The district ensured the port submitted documentation required by the agreement such as:

- project plans and specifications;
- detailed quarterly progress reports;
- single audits;
- current budget summaries; and
- invoices containing information sufficient for the district to process expenditure reimbursement requests.

The district also reviewed bid documents and qualifications submitted by the port's prospective third-party consultants, and issued Authorizations to Award / Notices to Proceed upon approval. In addition, the district monitored reports issued by Broward County's Office of County Auditor (Broward County Auditor), which also plays a key role in project oversight.¹

We noted the department received a reimbursement of \$139,307.75 as a result of a Broward County Auditor desk review disseminated May 12, 2016, regarding overhead and fringe rates invoiced by the project's third-party consultant.²

¹ See Attachment 1 for summary of recent reports.

² Consultants used an incorrect multiplier of 2.87 versus the agreed upon multiplier of 2.62. See Attachment 1.

What We Recommend

We have no recommendations; however, we commend the district for demonstrating efficient and effective project management through comprehensive use of the department's Seaport Grant Information System (SeaCIP).

**Office of Inspector General
Florida Department of Transportation**

TABLE OF CONTENTS

BACKGROUND AND INTRODUCTION	4
RESULTS OF REVIEW	4
APPENDIX A – Purpose, Scope, and Methodology	6
APPENDIX B – Affected Entity Response	7
APPENDIX C – Management Response	8
DISTRIBUTION	9
PROJECT TEAM	10
STATEMENT OF ACCORDANCE	10
ATTACHMENT 1 – Summary of Recent Reports Issued by Broward County Auditor	11

BACKGROUND AND INTRODUCTION

Located on the southeast coast of the Florida peninsula, Port Everglades (port) was officially established as a deep-water harbor in 1927 by the Florida State Legislature. The port is a department of Broward County, and governed by the Broward County Board of County Commissioners. One of the top three cruise ports in the world, Port Everglades is among the most active containerized cargo ports in the United States, and South Florida's main seaport for petroleum products such as gasoline and jet fuel.³

To further its mission to aid in the growth and continued success of Florida's ports, the Florida Department of Transportation (department) entered into Joint Participation Agreement AR858 (JPA, agreement) with Port Everglades on December 12, 2013, with a projected completion/expiration date of December 12, 2016. The port's Southport Turning Notch Expansion Project (project) is a bond-funded 46 million dollar project that receives 75 percent (34.5 million dollars) of its funding through the department's Seaport Investment Program with local funds contributing the remaining 25 percent.

The Port Everglades Southport Turning Notch Expansion Project consists of the following endeavors:

- constructing the Upland Enhancement (Wetland Creation) component;
- programming, planning, engineering/designing, and constructing the West Lake Park Mitigation and Bulkhead/Dredging components; and
- constructing the Phase IX-B Container Yard (approximately 18.4 acres).

These activities will lengthen the existing deep-water turn-around area for cargo ships, which will allow for up to five new cargo berths. Project results will also include approximately 70,000 new mangroves, and numerous environmental improvements in nearby West Lake Park.

RESULTS OF REVIEW

We judgmentally selected to audit Invoice Summary One, which represents \$388,576.71, or three percent, of the total expenditures during the test period. We determined invoice backup documentation was sufficient and substantiated invoiced costs. Project expenses submitted for reimbursement were reasonable, allowable, and adequately supported.

No findings or observations were identified through our review of invoices and related documentation pertaining to JPA AR858. Testing concluded the district complied with the administrative terms of JPA AR858, oversight and monitoring guidelines, and applicable rules, regulations, and procedures. The district:

- reviewed consultants' qualifications;
- reviewed proposed plans and specifications;

³ Port Everglades Commerce Report, Fiscal Year 2015.

**Office of Inspector General
Florida Department of Transportation**

- reviewed invoices and supporting documentation submitted with reimbursement requests to ensure allowability of costs;
- reviewed and maintained drawdown and construction schedules;
- conducted and maintained documentation of quarterly site visits;
- verified receipt of deliverables prior to authorizing reimbursement;
- verified the accuracy of activity reports submitted by the port; and
- effectively communicated with the OIG throughout the audit process.

The Broward County Auditor conducted a series of audits pertaining to the consultants contracting with Broward County. During the County Auditor's desk audit review of overhead and fringe rates, it was determined the multiplier used to calculate overhead rates exceeded the agreed-upon amount; therefore, the department was reimbursed \$139,307.75. Attachment 1 contains information on the additional Broward County audits relevant to the department and Port Everglades.

APPENDIX A – Purpose, Scope, and Methodology

Section 20.055, Florida Statutes, requires the Office of Inspector General (OIG) to conduct audits, examinations, investigations, and management reviews related to programs and operations of the department. We performed this audit as part of our annual audit plan.

The **purpose** of the audit was to assess compliance with the following:

- rules, regulations, and procedures;
- requirements of the JPA;
- procedures for monitoring and oversight; and
- guidelines for invoicing, procurement, and allowable/reimbursable costs.

The **scope** of the audit included project expenses totaling \$13,971,367.79, incurred by the port from March 3, 2014, through February 25, 2015.

The **methodology** included, but was not limited to, reviewing:

- Joint Participation Agreement AR858;
- agreements between the port and their consultants;
- prior reports conducted on or by Port Everglades, including the Florida Single Audit;
- Internal Control and Consideration of Fraud Questionnaires;
- the Florida Seaport Program Handbook;
- the 2011-2015 Port Everglades Five Year Master Plan;
- Broward County Board of County Commissioners meeting minutes;
- the Port Everglades 2014 Facilities Guide and Directory;
- the Catalog of State Financial Assistance compliance supplement;
- applicable Florida Statutes;
- data obtained from the Florida Accounting Information Resource (FLAIR) system and the SeaCIP system; and
- invoices submitted for reimbursement by the port.

APPENDIX B – Affected Entity Response

Port Everglades' Finance Division Director, Leah Brasso, responded to the draft report on December 19, 2016, stating that as the report contained no findings, the Port would not be submitting a formal response.

APPENDIX C – Management Response

District Four's Freight and Logistics Manager, Arlene Davis, responded to the Preliminary and Tentative report on January 11, 2017, stating that as the report contained no findings, the district would not be submitting a formal response.

**Office of Inspector General
Florida Department of Transportation**

DISTRIBUTION

Responsible Manager:

Stacy Miller-Novello, P.E., District Four Director of Transportation Development
Amie Goddeau, P.E., District Four Modal Development Administrator
Arlene Davis, AICP, District Four Freight and Logistics Manager

Internal Distribution:

Jim Boxold, Secretary, Department of Transportation
Mike Dew, Chief of Staff and Legislative Programs
Brian Blanchard, P.E., Assistant Secretary of Engineering and Operations
Rachel Cone, Assistant Secretary of Finance and Administration
Tom Byron, P.E., Assistant Secretary of Intermodal Systems Development
Gerard O'Rourke, State Freight and Logistics Administrator
Robert Emerson, Seaport Office Manager
Gerry O'Reilly, P.E., District Four Secretary

External Distribution:

Melinda Miguel, Chief Inspector General, Executive Office of the Governor
Sherrill Norman, Auditor General, State of Florida
Steven M. Cernak, P.E., PPM, Chief Executive & Port Director, Port Everglades
Leah Brasso, Finance Division Director, Port Everglades

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Florida Department of Transportation**

PROJECT TEAM

Engagement was conducted by:
Melynda Childree, Senior Audit Supervisor

Under the supervision of:
Nancy Shepherd, Audit Manager
Kristofer B. Sullivan, Director of Audit

Approved by:
Robert E. Clift, 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 promote integrity, accountability, and process improvement in the Department of Transportation by providing objective, fact-based assessments to the DOT team.

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.

**Office of Inspector General
Florida Department of Transportation**

ATTACHMENT 1 – Summary of Recent Reports Issued by Broward County Auditor

Report No.	Date	Title	Comments
Unnumbered Memorandum	5/12/16	Review of Overhead and Fringe Benefit Factors – Consultant Services for Port Everglades Wetland Enhancement/Southport Turning Notch Expansion – Engineering Design	Desk review of invoices submitted between April 2012 and December 2014 based on disclosure by DeRose Design Consultants, Inc. (DeRose) of an error in its overhead rate discovered by its independent auditor. Broward County (County) reached a final settlement with DeRose of \$180,901, of which \$139,308 was paid back to the Florida Department of Transportation. ⁴
15-7	7/23/15	Review of Hourly Labor Rates – DeRose Design Consultants Inc. (DeRose) Consultant Services Agreement for Port Everglades Wetland Enhancement/Southport Turning Notch Expansion – Engineering Design Project	Concerned payment to DeRose and its subconsultants under the Consultant Services Agreement between the County and DeRose for the Port Everglades Wetlands Enhancement/Southport Turning Notch Expansion Project (Agreement) for hourly rates in excess of hourly rates actually paid to employees. This report exposed a misunderstanding between the County, DeRose, and its subconsultants, regarding whether the pay rate schedule attached to the Agreement represented average or maximum allowable rates. The disagreement escalated when the County began withholding payment of invoices in 2015. The matter was ultimately resolved at a County board meeting on November 10, 2015. The County agreed not to require retroactive adjustment for prior year invoices. All 2015 invoices were recalculated prior to payment.
15-8	3/5/15	Architect and Engineering Consultant Negotiations and Contracting Recommendations	Report offered various recommendations to the County for improving its process for negotiating hourly rates of architect and engineering consultants, such as adopting the Florida Department of Transportation's model for negotiating operating margins.
15-9	3/24/15	Consultant and Managing General Contractor Standard Agreement Form Updates	Report presents the results of the joint efforts of the Office of County Auditor and the Office of the County Attorney to update and clarify various standard contract forms, including the Standard Consultant Agreement Form.

⁴ In an email dated October 11, 2016, from Leah Brasso, Port Everglades Finance Division Director, to Lauren Rand, District Four Seaport Coordinator, Ms. Brasso stated:

The County has reached a final settlement with the vendor in the amount of \$180,910 for services provided from April of 2012 to December 2014. The payments made to the vendor during this timeframe were reimbursed by FDOT through contract nos. AR858, and AQV62, as well as some that were paid by the County prior to the effective date of either grant. After taking these factors into account, the final amount due back to FDOT is \$139,307.75.