




Florida Department of TRANSPORTATION

Office of Inspector General Memorandum

TO: Rickey Fitzgerald, Rail and Motor Carrier Manager

FROM: Robert E. Clift, Inspector General 

DATE: June 23, 2017

SUBJECT: Florida East Coast Railway 2016 Labor Additive Rate

COPY: Heather Braddock, Accounts Payable and Payroll Manager

What We Did

The Florida Department of Transportation's (department) Office of Inspector General (OIG) conducted an initial review of Florida East Coast Railway Company's (FEC) labor additive, material handling and supplies, and equipment rates for year-end 2016.

What We Found

FEC uses its indirect rates to bill costs related to the rail/highway safety program. The rates are effective upon approval by the department Rail Office and the Federal Highway Administration (FHWA), and are applied under the following circumstances:

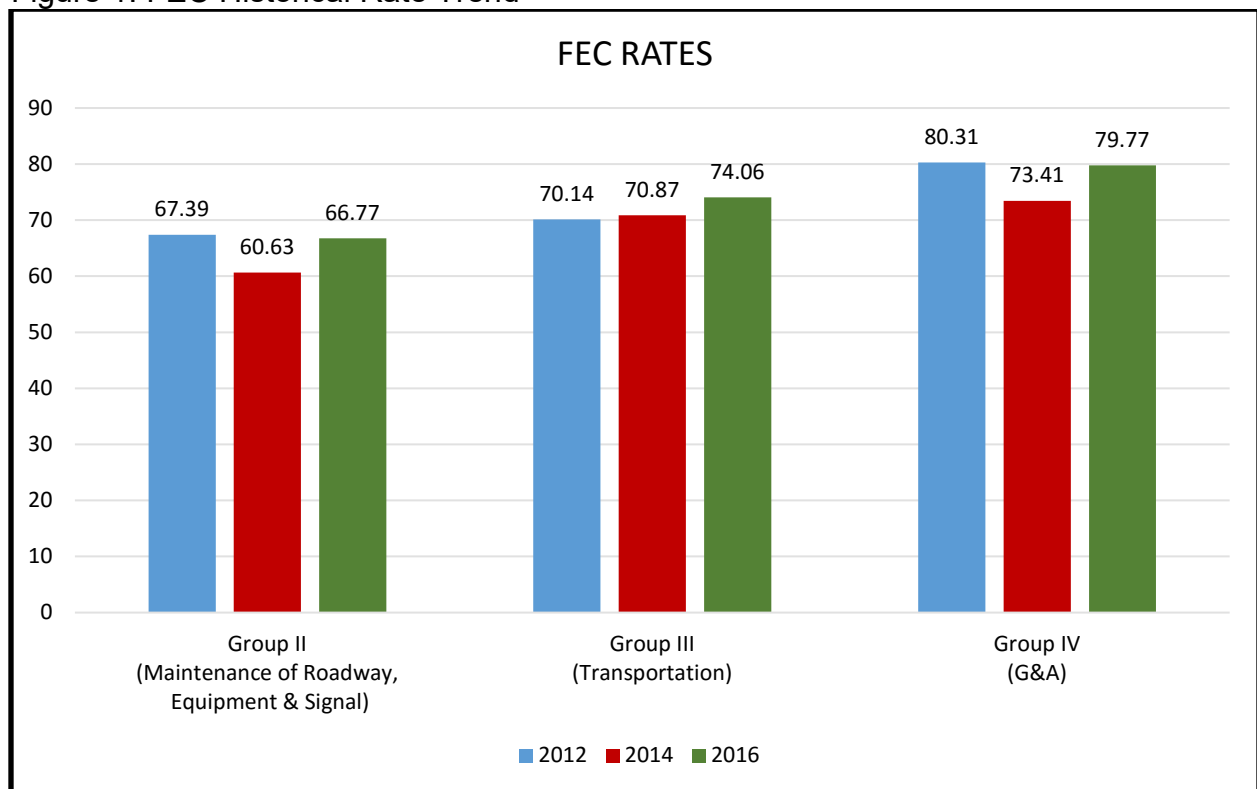
- By applying the indirect rate to its hourly in-house labor charges in order to recover the associated costs of:
 - Workers compensation, public liability, and property damage, charged at a flat fee of 8 percent of the direct labor costs in lieu of actual costs, per Title 23 C.F.R., Part 140.906(b)(2)(ii);
 - Employee benefits and the employer-paid portion of payroll taxes, consisting of the following components: Holiday and Vacation, Sick, Other Paid Absences, Bonuses, Payroll Taxes, Health and Welfare. These components make up the balance of the total rate, which has ranged between 60 percent and 80 percent, depending on group and year.
- By applying an additional materials handling charge of 5 percent of the amounts billed for material and supplies issued from company stores and material yards in lieu of actual costs, per Title 23 C.F.R., Part 140.908(e); and
- By applying the industry rate for equipment costs based on the "Blue Book for Railroad Equipment", per Title 23 C.F.R., Part 140.910(a).

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We determined the underlying risk of miscalculated rates resulting in unallowable charges does not warrant a full examination of FEC's submitted rates¹ for the following reasons:

- FEC's rate calculation methodology has not changed since the Audit of the 2014 rate;²
- FEC staff who performed the 2014 rate calculation also performed the 2016 rate calculation;
- FEC's rate is inherently conservative since it only charges for the portion of allowable indirect costs directly attributable to the fringe costs of labor, and not for general administrative costs;
- Because FEC's 2014 rates represented a decrease from FEC's 2012 rates, the overall impact of the 2016 rate increases has an averaging effect.³ Reference the historical rate trend in Figure 1 below.

Figure 1: FEC Historical Rate Trend



Source: Data from Attachment 2 and OIG Report 16I-1001.

Additionally, during our previous audit of FEC's 2014 rate submission, we determined indirect costs represent a small percentage of FEC's overall billings. During the audit, we reviewed FEC's 2015 invoices⁴ to gain an understanding of its billing process. That

¹ Reference: Attachment 1: 2016 Labor Additive Surcharge Rates.

² OIG Report 16I-1001 was issued to the department's Rail Office on October 20, 2016.

³ Reference: Attachment 2: Comparison of 2014 and 2016 Rates.

⁴ We reviewed a total of 16 invoices that accounted for 63% of total billings for 2015.

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review revealed FEC relied heavily upon third-party contractors to complete its projects, and passed the cost of hiring contractors on to the department without the markup. Because in-house labor (direct costs) represented a small percentage of total costs⁵, indirect costs represented an even smaller percentage.⁶

What We Recommend

We recommend the department Rail Office consider the information included in this memorandum as a part of their review of FEC's proposed 2016 labor additive surcharge rates, as outlined in Title 23, Chapter I, Part 140, Subpart I., Reimbursement for Railroad Work and Title 48, Chapter 1, Part 31, Subpart 31.2, Contracts with Commercial Organizations. The results should be communicated with the Federal Highway Administration.

⁵ Between zero and 17 percent per invoice, averaging three percent overall.

⁶ Between zero and five percent per invoice; averaging one percent overall.

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ATTACHMENT 1 – 2016 LABOR ADDITIVE SURCHARGE RATES

Group II – Maintenance of Roadway, Equipment and Signal Employees

Holiday and Vacation	10.31%
Sick	0.04%
Other Paid Absences	1.95%
Bonuses	3.85%
Payroll Taxes	21.55%
Health and Welfare	21.07%
Workman's Compensation (W/C), Public Liability & Property Damage Insurance	8.00%
Total	66.77%

Group III – Transportation Employees

Holiday and Vacation	10.71%
Sick	0.30%
Other Paid Absences	10.25%
Bonuses	3.68%
Payroll Taxes	23.17%
Health and Welfare	17.95%
W/C, Public Liability & Property Damage Insurance	8.00%
Total	74.06%

Group IV – General and Administrative Employees

Holiday and Vacation	8.26%
Sick	1.11%
Other Paid Absences	1.47%
Bonuses	21.86%
Payroll Taxes	24.61%
Health and Welfare	14.46%
W/C, Public Liability & Property Damage Insurance	8.00%
Total	79.77%

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ATTACHMENT 2 – COMPARISON OF 2014 AND 2016 RATES

Group II - Maintenance of Roadway, Equipment and Signal Employees	2014 Audited	2016 Submitted	Change
Holiday & Vacation	9.69%	10.31%	0.62%
Sick	0.08%	0.04%	-0.04%
Other Paid Absences	2.19%	1.95%	-0.24%
Bonuses	2.12%	3.85%	1.73%
Payroll Taxes	20.36%	21.55%	1.19%
Health and Welfare	18.19%	21.07%	2.88%
W/C, Public Liability & Property Damage Insurance	8.00%	8.00%	0.00%
Total	60.63%	66.77%	6.14%
Group III – Transportation Employees			
Holiday & Vacation	10.63%	10.71%	0.08%
Sick	0.11%	0.30%	0.19%
Other Paid Absences	10.76%	10.25%	-0.51%
Bonuses	3.19%	3.68%	0.49%
Payroll Taxes	22.26%	23.17%	0.91%
Health and Welfare	15.92%	17.95%	2.03%
W/C, Public Liability & Property Damage Insurance	8.00%	8.00%	0.00%
Total	70.87%	74.06%	3.19%
Group IV – General and Administrative Employees			
Holiday & Vacation	7.65%	8.26%	0.61%
Sick	1.17%	1.11%	-0.06%
Other Paid Absences	1.75%	1.47%	-0.28%
Bonuses	16.74%	21.86%	5.12%
Payroll Taxes	22.72%	24.61%	1.89%
Health and Welfare	15.38%	14.46%	-0.92%
W/C, Public Liability & Property Damage Insurance	8.00%	8.00%	0.00%
Total	73.41%	79.77%	6.36%