



Florida Department of TRANSPORTATION

Office of Inspector General
Kristofer B. Sullivan, Inspector General

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Kristofer B. Sullivan

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April 27, 2021

Audit Report No. 211-003
Florida East Coast Railway 2019 Indirect Rates

What We Did

The Florida Department of Transportation's Office of Inspector General reviewed the Florida East Coast Railway's (FEC) labor additive, material handling and supplies, and equipment (indirect) rates for calendar year 2019, to determine whether they are reasonable, based on allocable and allowable costs, and supported by transparent and understandable records.

What We Found

We **determined** that the indirect rates submitted by FEC for use in billing railroad-highway projects for all Groups, 2, 3, and 4, are reasonable, allowable, and adequately supported, and supporting records and procedures are transparent and readily understandable.

What We Recommend

We **recommend** the Freight and Multimodal Operations (FMO) Office review and consider FEC's 2019 rate packet for approval.

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BACKGROUND AND INTRODUCTION

The Florida East Coast Railway (FEC) is a Class II regional railroad that owns the 351-mile mainline track in Florida from Jacksonville to Miami. It is the exclusive rail provider for Port Miami, Port Everglades, and Port of Palm Beach.

FEC connects to the national railway system in Jacksonville, allowing it to provide rail service in and out of Georgia, Tennessee, South Carolina, and North Carolina, into and out of Florida's east coast. Based in Jacksonville, FEC provides end-to-end intermodal and carload solutions to customers.

On June 30, 2017, Fortress Investment Group finalized its sale of FEC, a privately-held company, to Grupo Mexico, a publicly traded company listed on the Mexican Stock Exchange. Since FEC uses the calendar year as its fiscal year, this means the 2017 calendar year was evenly split between the old ownership and the new.

Criteria

The following regulations authorize the Florida Department of Transportation (Department) to pay labor surcharge and indirect cost rates, define allowable costs for purposes of inclusion in the rates, and set minimum standards for calculation methods and supporting records:

- Title 23, Part 140, Code of Federal Regulations (C.F.R.), Subpart I- Reimbursement for Railroad Work, Subsection .908(e)-Materials and Supplies;
- 23 C.F.R.140.910(a)-Equipment; and
- 23 C.F.R.140.906(b)(2)(ii)-Labor Costs.

Rate Utilization

FEC uses its indirect rates to bill for certain overhead costs related to rail/highway safety projects. Indirect rates are approved by the Department's Freight and Multimodal Operations (FMO) Office and the Federal Highway Administration (FHWA), and applied as follows:

- For its hourly in-house labor charges, to recover costs associated with:
 - Workman's compensation, public liability, and property damage charged at the flat fee of 8 percent of direct labor costs in lieu of actual costs, per 23 C.F.R. 140.906(b)(2)(ii); and
 - Employee benefits and the employer-paid portion of payroll taxes. These components make up the balance of the total rate, which ranges between 56 and 82 percent, during the years 2016 to 2019;
- As an additional material 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 23 C.F.R. 140.908(e); and
- As the industry rate for equipment costs based on the "Blue Book for Railroad Equipment," per 23 C.F.R. 140.910(a).

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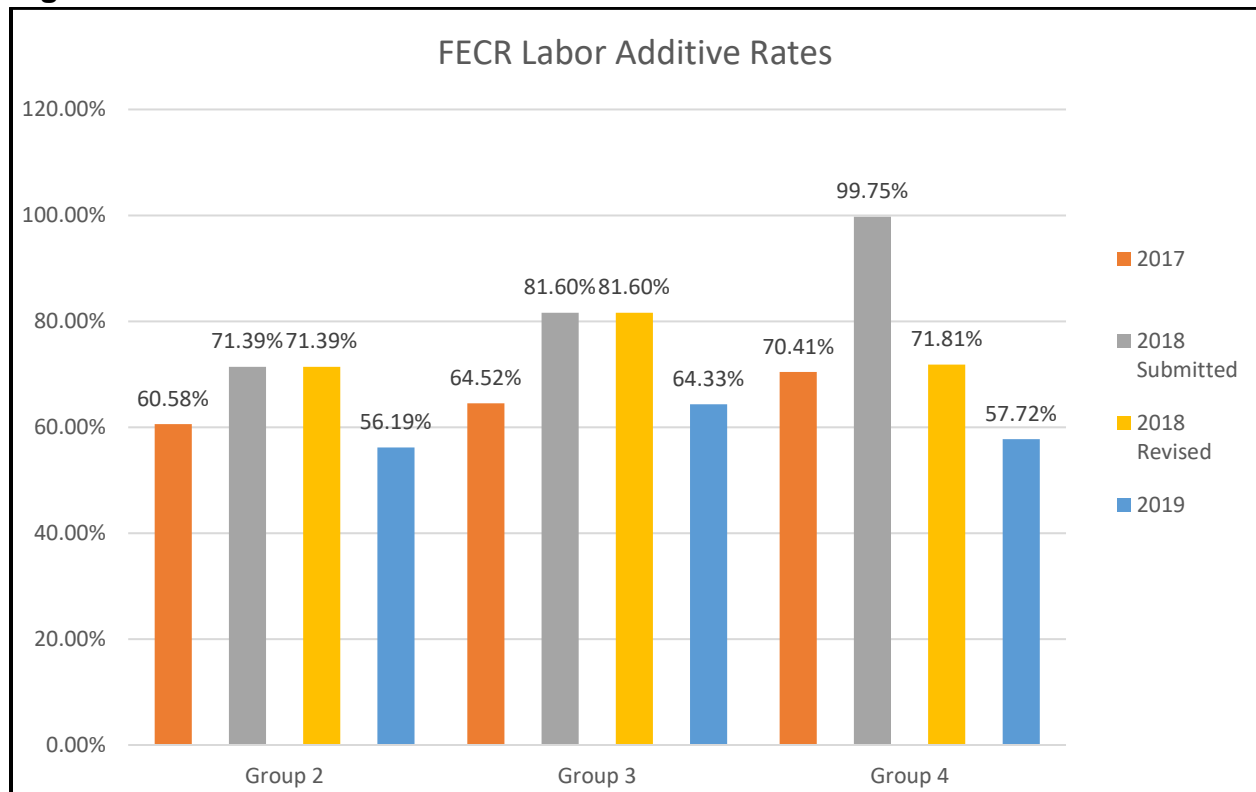
RESULTS OF REVIEW

To assess reasonableness, allocability, allowability, transparency, and understandability of the indirect rates submission packet, we evaluated the costs associated with the rates (Appendix B) and compared current to prior year's submission (Appendix C).

We **determined** that the indirect rates submitted by FEC for use in billing railroad-highway projects for all Groups, 2, 3, and 4, are reasonable, allowable, and adequately supported, and supporting records and procedures are transparent and readily understandable, based on the supporting documentation provided by FEC and the applicable criteria (reviewed in the Background).

Indirect rates for 2019 are lower than 2018's rates, for all three Groups. See Figure 1.

Figure 1: FEC Historical Rate Trend¹



Source: Data from the OIG created this table from data submitted by FEC.

¹ FEC requested a revision of their 2018 submitted rates, which the FMO Office approved on February 1, 2021. The revision decreased Group 4. Groups 2 and 3 remained the same.

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As shown in Figure 2, from the 2018 revised to the 2019 submitted rates, the greatest decreases in all three Groups occurred in health and welfare costs: -14.51% in Group 2, -13.56% in Group 3, and -6.60% in Group 4.

Figure 2: 2018²-2019 Rates Comparison

Comparison of 2018 and 2019 Rates	Group 2			Group 3			Group 4		
	2018	2019	Change	2018	2019	Change	2018	2019	Change
Sick Pay	0.19%	0.13%	-0.07%	0.23%	0.16%	-0.06%	1.33%	1.27%	-0.06%
Holiday & Vacation Pay	9.10%	10.25%	1.15%	9.94%	10.51%	0.57%	5.66%	4.56%	-1.10%
Other Paid Absences	1.54%	1.54%	0.00%	10.88%	8.78%	-2.10%	5.91%	0.91%	-5.00%
Bonus	3.58%	0.99%	-2.59%	3.41%	0.93%	-2.48%	9.73%	8.69%	-1.04%
Payroll Taxes	22.49%	23.30%	0.81%	24.47%	24.84%	0.37%	24.11%	23.81%	-0.30%
Health and Welfare	26.49%	11.98%	-14.51%	24.68%	11.12%	-13.56%	17.08%	10.48%	-6.60%
Workman's Compensation	8.00%	8.00%	0.00%	8.00%	8.00%	0.00%	8.00%	8.00%	0.00%

Source: The OIG created this table from data submitted by FEC.

We **recommend** the FMO Office review and consider FEC's 2019 rate packet for approval.

² 2018 Revised Rates.

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APPENDIX A – Purpose, Scope, and Methodology

The **purpose** of this engagement was to determine whether FEC's:

- calendar year 2019 indirect rates are reasonable, allocable, and based on allowable costs; and
- supported by transparent and understandable records.

The **scope** of this audit consisted of the proposed 2019 indirect rates submitted by FEC and associated records and supporting documentation.

The **methodology** included:

- reviewing relevant regulations:
 - 23 C.F.R. 140.908(e)-Materials and Supplies
 - 23 C.F.R. 140.910(a)-Equipment
 - 23 C.F.R. 140.906(b)(2)(ii)-Labor Costs
- reviewing FEC's rate preparation procedures;
- identifying and reviewing account classification differences between 2018 and 2019;
- re-performing rate calculations;
- performing comparative analysis on 2018 and 2019 rate data; and
- interviewing key management staff and reviewing selected workpapers prepared internally by FEC.

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APPENDIX B – 2019 Labor Additive Surcharge Rates

Group II - Maintenance of Roadway, Equipment, and Signal Employees

Sick Pay	0.13%
Holiday & Vacation Pay	10.25%
Other Paid Absences	1.54%
Bonus	0.99%
Payroll Taxes	23.30%
Health and Welfare	11.98%
Workman's Compensation (W/C), Public Liability and Property Damage Insurance	8.00%
Total	<u><u>56.19%</u></u>

Group III - Transportation Employees

Sick Pay	0.16%
Holiday & Vacation Pay	10.51%
Other Paid Absences	8.78%
Bonus	0.93%
Payroll Taxes	24.84%
Health and Welfare	11.12%
Workman's Compensation (W/C), Public Liability and Property Damage Insurance	8.00%
Total	<u><u>64.33%</u></u>

Group IV - General and Administrative Employees

Sick Pay	1.27%
Holiday & Vacation Pay	4.56%
Other Paid Absences	0.91%
Bonus	8.69%
Payroll Taxes	23.81%
Health and Welfare	10.48%
Workman's Compensation (W/C), Public Liability and Property Damage Insurance	8.00%
Total	<u><u>57.72%</u></u>

Source: OIG compiled this table utilizing data provided by FEC.

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APPENDIX C – Comparison of 2018, 2018 Revised, and 2019 Rates

Group II - Maintenance of Roadway, Equipment, and Signal Employees	2018 Submitted	2018 Revised	2019 Submitted
Sick Pay	0.001930	0.001930	0.001278
Holiday & Vacation Pay	0.0910	0.0910	0.1025
Other Paid Absences	0.015403	0.015403	0.015424
Bonus	0.035802	0.035802	0.009872
Payroll Taxes	0.2249	0.2249	0.2330
Health and Welfare	0.2649	0.2649	0.1198
W/C, Public Liability & Property Damage Insurance	0.0800	0.0800	0.0800
Total	71.39%	71.39%	56.19%

Group III - Transportation Employees	2018 Submitted	2018 Revised	2019 Submitted
Sick Pay	0.002258	0.002258	0.001623
Holiday & Vacation Pay	0.0994	0.0994	0.1051
Other Paid Absences	0.108754	0.108754	0.087760
Bonus	0.034073	0.034073	0.009253
Payroll Taxes	0.2447	0.2447	0.2484
Health and Welfare	0.2468	0.2468	0.1112
W/C, Public Liability & Property Damage Insurance	0.08	0.0800	0.0800
Total	81.60%	81.60%	64.33%

Group IV - General and Administrative Employees	2018 Submitted	2018 Revised	2019 Submitted
Sick Pay	0.01459	0.013263	0.012698
Holiday & Vacation Pay	0.0604	0.0566	0.0456
Other Paid Absences	0.065003	0.059087	0.009076
Bonus	0.305395	0.097271	0.086883
Payroll Taxes	0.2842	0.2411	0.2381
Health and Welfare	0.1879	0.1708	0.1048
W/C, Public Liability & Property Damage Insurance	0.0800	0.0800	0.0800
Total	99.75%	71.81%	57.72%

Source: OIG compiled this table utilizing data provided by FEC.

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APPENDIX D – Affected Entity Response

On April 13, 2021, the OIG received the following response via email from Daniela Brandenburg, Assistant Vice President of Florida East Coast Railway:

“Thank you so much for getting back to us so quickly! We are in agreement.”

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APPENDIX E – Management Response

On April 22, 2021, the OIG received the response from Rickey Fitzgerald, Manager of the Department's Freight and Multimodal Operations Office:

Finding 1 – Reasonable, Allowable, and Adequately Supported Indirect Rates

Finding: We determined that the indirect rates submitted by FEC for use in billing railroad-highway projects for all Groups, 2, 3, and 4, are reasonable, allowable, and adequately supported, and supporting records and procedures are transparent and readily understandable, based on the supporting documentation provided by FEC and the applicable criteria.

Recommendation: We recommend the Freight and Multimodal Operations (FMO) Office review and consider FEC's 2019 rate packet for approval.

Response to Finding: We concur with the finding and recommendation.

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DISTRIBUTION

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Rickey Fitzgerald, Manager, Freight and Multimodal Operations
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PROJECT TEAM

Engagement was conducted by:
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Under the supervision of:
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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*.

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