



# Florida Department of TRANSPORTATION

## Office of Inspector General Kristofer B. Sullivan, Inspector General

DocuSigned by:

*Joseph W. Gilboy*

For Kristofer B. Sullivan

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Audit Report No. 22C-006  
Section 129 Financial Review

September 27, 2022

### What We Did

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At the request of the Florida Department of Transportation's (Department) Office of the Comptroller, the Office of Inspector General conducted an independent audit of Department owned toll facility records to verify financial compliance with requirements concerning the limitation on use of revenues as outlined in Title 23 United States Code (U.S.C.), Highways, Chapter 1, Federal-Aid Highways, Section 129, Toll Roads, Bridges, Tunnels, and Ferries, specifically subsection 129(a)(3)(A).<sup>1</sup> The scope of the audit was the seven toll facilities owned by the Department for the period July 1, 2021, to June 30, 2022. The Section 129 requirement to verify adequate maintenance of the toll facilities is being conducted by the Department's Office of Maintenance for Fiscal Year 2022 and is outside the scope of this audit.

### What We Found

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**We determined** the Department's use of toll revenues complied in all material respects with limitations set forth in Title 23 U.S.C., Section 129(a)(3)(A). Of the 87,998 transactions reported for seven toll facilities, we reviewed all 44 transactions greater than \$250,000 and their accounting system object code, description, vendor, and associated toll facility. These transactions represented \$60,209,364 of the total \$75,209,608, or 80 percent. Of the 44 transactions, we also tested the supporting documentation for a judgmental sample of four transactions totaling \$10,480,943 of the \$60,209,364, or 17 percent.

We also tested the supporting documentation for a statistical sample of 148 transactions totaling \$4,113,754 whose amounts were between \$500 and \$250,000. The sampling of transactions to support the determination followed acceptable auditing practices associated with the scope.

### What We Recommend

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This report does not contain any recommendations as the results of the audit found the transactions were compliant with the applicable Section 129 requirements.

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<sup>1</sup> This is commonly referred to as Section 129.

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**TABLE OF CONTENTS**

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<b>BACKGROUND AND INTRODUCTION</b>	<b>3</b>
<b>RESULTS OF REVIEW</b>	<b>5</b>
<b>APPENDIX A – Purpose, Scope, and Methodology</b>	<b>7</b>
<b>APPENDIX B – Management Response</b>	<b>8</b>
<b>DISTRIBUTION</b>	<b>9</b>
<b>PROJECT TEAM</b>	<b>10</b>
<b>STATEMENT OF ACCORDANCE</b>	<b>10</b>

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**BACKGROUND AND INTRODUCTION**

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At the request of Florida Department of Transportation's (Department) Office of the Comptroller, the Office of Inspector General (OIG) conducted an independent audit of Department owned toll facility records to verify financial compliance with requirements concerning the limitations on use of revenues as outlined in Title 23 United States Code (U.S.C.), Highways, Chapter 1, Federal-Aid Highways, Section 129, Toll Roads, Bridges, Tunnels, and Ferries, specifically subsection 129(a)(3)(A).

The scope of the audit was the seven toll facilities owned by the Department for the period July 1, 2021, to June 30, 2022. The Section 129 requirement to verify adequate maintenance of the toll facilities is being conducted by the Department's Office of Maintenance for Fiscal Year 2022 and is outside the scope of this audit.

The compliance requirements for Department owned toll facilities are outlined in Section 129 (a)(3)(A), Limitations on Use of Revenues, and state:

A public authority with jurisdiction over a toll facility shall ensure that all toll revenues received from operation of the toll facility are used only for:

- (i) debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing.
- (ii) a reasonable return on investment of any private person financing the project, as determined by the State or interstate compact of States concerned.
- (iii) any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.
- (iv) if the toll facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and
- (v) if the public authority certifies annually that the tolled facility is being adequately maintained, any other purpose for which Federal funds may be obligated by a State under this title.

Additionally, Section 129 (a)(3)(B)(i), Annual Audit, states:

A public authority with jurisdiction over a toll facility shall conduct, or have an independent auditor conduct, an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A) and report the results of the audits to the Secretary.

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The following Department owned toll facilities<sup>2</sup> and associated records are subject to the audit and maintenance requirements in Section 129:

1. I-275 Sunshine Skyway Bridge
2. I-295 Express East
3. I-595 Express
4. I-75 Alligator Alley
5. I-75 Express Lanes
6. Pinellas Bayway System
7. State Road 429 Wekiva Parkway

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<sup>2</sup> The Project Finance Office provided a list of the Department owned facilities that was verified with information from FHWA, Office of Highway Policy Information.

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**RESULTS OF REVIEW**

The OIG reviewed the Department's current processes to ensure that the use of toll facility revenues comply with Section 129. We found the governance of toll facility expenditures were outlined in a September 24, 2021, memorandum from the Department's Comptroller<sup>3</sup> to the Federal Highway Administration (FHWA). The memorandum states in part:

FDOT has a process whereby prior to obligating, the use of those revenues are requested by the district, reviewed for compliance by the Federal Aid Office, reviewed for financial soundness by the Office of Comptroller and Office of Work Program and Budget, and approved/disapproved by the Assistant Secretary of Finance and Administration.

Upon OIG inquiry, the Project Finance Office confirmed this process was in use for Fiscal Year 2021-22.

The Office of Comptroller's General Accounting Office provided toll facility expenditure records for the period July 1, 2021, to June 30, 2022. The expenditure population for the seven facilities was 87,998 transactions totaling \$75,209,608. See Figure 1.

Figure 1: Summary of Toll Facility Expenditures

<b>Section 129 Toll Facilities Summary of Expenditure Transactions July 1, 2021 to June 30, 2022</b>		
<b>Toll Facility</b>	<b>Transaction Count</b>	<b>Dollars</b>
I-275 Sunshine Skyway Bridge	16,851	\$ 36,211,914
I-295 Express East	10,373	2,165,638
I-595 Express	10,425	442,456
I-75 Alligator Alley	14,445	20,510,470
I-75 Express Lanes	10,898	9,287,302
Pinellas Bayway System	14,524	5,550,886
SR 429 Wekiva Parkway	10,482	1,040,942
Totals	87,998	\$ 75,209,608

Source: OIG Prepared Schedule

Of the 87,998 transactions reported for seven toll facilities, we reviewed all 44 transactions greater than \$250,000 and their accounting system object code, description, vendor, and associated toll facility. These transactions represented \$60,209,364 of the total \$75,209,608, or 80 percent. Of the 44 transactions, we tested the supporting documentation for a judgmental sample of four transactions totaling

<sup>3</sup> Robin M. Naitove, CPA

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Florida Department of Transportation**

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\$10,480,943 of the total 60,209,364, or 17 percent. We also tested the supporting documentation for a statistical sample of 148 transactions totaling \$4,113,754 whose amounts were between \$500 and \$250,000. The sampling of transactions to support the determination followed acceptable auditing practices associated with the scope.

As a result of our review, **we determined** the Department's use of toll revenues complied in all material respects with limitations set forth in Title 23 U.S.C., Section 129(a)(3)(A).

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**APPENDIX A – Purpose, Scope, and Methodology**

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The **purpose** of this engagement was to determine if the Department complied with Title 23 United States Code (U.S.C.), Highways, Chapter 1, Federal-Aid Highways, Section 129(a)(3)(A), Toll Roads, Bridges, Tunnels, and Ferries, Limitations on use of toll revenue.

The **scope** of this audit includes the expenditures assigned to the subject toll facilities for the period of July 1, 2021, to June 30, 2022.

The **methodology** included:

- verifying the Department owned toll facilities subject to Section 129 governance with the Project Finance Office;
- reviewing applicable laws, statutes, and Department Memorandum of Understandings with Federal Highway Administration; and
- examining and testing transactions for Section 129 compliance.

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**APPENDIX B – Management Response**

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On September 22, 2022, the Florida Department of Transportation’s Office of the Comptroller sent an email stating they did not have an official response for the report.

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**PROJECT TEAM**

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Engagement was conducted by:  
Fernando Mojica, Auditor  
Corbitt Lyons, Staff Auditor

Under the supervision of:  
Ryan Moore, Senior Audit Supervisor  
Bill Pace, Deputy Audit Director for Contracts  
Joseph W. Gilboy, Director of Audit

Approved by:  
Kristofer B. Sullivan, Inspector General

**STATEMENT OF ACCORDANCE**

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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.