



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General

DATE: May 17, 2024
PROJECT: State Beachfront Management Agreement (#3595) Operational Audit Report
OIG No. 24-06
PERIOD: October 1, 2021, through September 30, 2022 (Sand Tax Payments)
October 1, 2022, through September 30, 2023 (Beachfront Concession Fees)

This report is the result of the City of Miami Beach Office of the Inspector General (OIG) audit of the operational controls surrounding the City's management of State Beachfront Management Agreement No. 3595 and amendment number 1, signed on August 9, 2007, which extended its original terms until February 7, 2032. All 2021/22 fiscal year transactions recorded in the City sand tax general ledger account and departmental supporting documentation were examined for completeness and accuracy. The City's fiscal year is from October 1 through September 30, so the 2021/22 fiscal year would represent October 1, 2021, through September 30, 2022. The audit also verified whether the 2022/23 fiscal year upland fees per unit and beachfront concession fees for equipment, food/beverage, and water sports were correctly billed to the applicable hotels, apartments, and condominiums. Lastly, a separate audit report focusing on the OIG Auditor's related financial review will be issued to the State of Florida Department of Environmental Protection (State).

INTRODUCTION

In 1982, the City entered into a management agreement (originally No. 750-0006, currently No. 3595) with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida to manage the State-owned beach east of the erosion control line within the City for an initial 25-year period, which was subsequently extended for an additional 25-year period beginning February 7, 2007. In return, the City agreed to remit to the Florida Department of Environmental Protection (State) 25% of any and all monies (sand tax) the City collects from concessionaires for the use of State-owned property. The City is also required to provide the State with an annual audit report of all monies collected from said concessionaires.

There are currently four related categories of beachfront property users:

1. Operators of concessions seaward of Lummus Park, Ocean Terrace, North Shore Open Space Park, 21st and 46th Streets, and Pier Park. The current concessionaires approved by the City Commission are Boucher Brothers Miami Beach LLC and Penrod Brothers, Inc., which pay for using the beachfront per their respective contractual agreements with the City.

2. Miami Beach hoteliers, apartments, and condominium associations on the beachfront pay beach "upland" fees to the City annually based on the number of units. This category also includes "non-upland" fee properties, i.e., those properties not located on the beachfront, that have negotiated an agreement with nearby upland fee properties whereby their residents can use the beach amenities of these upland properties.
3. Special Event permits are granted to public members who run organized, usually one-time only, events on the beach, such as weddings and volleyball tournaments. The payments from these special events are remitted to the City Tourism and Culture Department (TCD).
4. Special Events and Film and Print productions involve individuals and businesses wishing to conduct commercial film, television, video, photography, and all other media use projects on public property, which may also include purchasing Vehicle Beach Access passes from TCD for parking of essential vehicles on the beach or sand areas of Miami Beach.

The following table lists the City's quarterly sand tax payments remitted to the State during the 2021/22 fiscal year, totaling \$639,397.68:

Check Date	Period	Check Number	Check Amount
01/21/2022	Oct-Dec 2021	471250	\$241,903.61
04/19/2022	Jan-Mar 2022	474322	\$134,434.38
07/19/2022	Apr-Jun 2022	477512	\$221,746.92
10/18/2022	Jul-Sep 2022	480899	\$41,312.77
TOTAL			\$639,397.68

AUDIT RESULTS SUMMARY (October 1, 2016 – September 30, 2022)

Agreement No. 3595 requires the City provide the State with an annual audit report of all monies collected from said concessionaires. Consequently, Internal Auditors perform annual examinations of the City collections stemming from transactions occurring on State-owned property to verify that 25% of all related monies are timely remitted. Once completed, the corresponding results are included in audit reports disbursed to all affected parties, including the State. The following table summarizes the amounts of sand tax monies underpaid annually to the State during the six most recently examined fiscal years, including the fiscal year covered in this audit report:

Fiscal Year Examined	Amounts Underpaid
2016/17	(\$6,896.11)
2017/18	(\$11,548.69)
2018/19	(\$589,692.75)
2019/20	(\$18,605.94)
2020/21	(\$160,927.55)
2021/22	(\$238,810.21)

It is apparent from the table above that the years of underpayment of sand taxes by the City to the State may be a chronic problem that has resisted correction even with annual audits documenting this deficiency. Although many of the underlying causes of the individual differences stem from multiple errors occurring in several City departments, the OIG is concerned over the increasing magnitude of the underreported amounts during the period.

The OIG recommends that departmental management focus on determining the root causes of the errors, and, if not already done, take appropriate actions to correct each at its source. The

establishment and following of stricter internal controls should result in more accurate future quarterly sand tax payments to the State that could lessen the reliance on the OIG annual audit.

OVERALL OPINION (2021/22 FISCAL YEAR AUDIT RESULTS)

Based upon an examination of the records for October 1, 2021, through September 30, 2022, the OIG Auditor identified various deficiencies, resulting in sand tax underpayments and overpayments to the State. The total net underpayment of \$238,810.21 (\$127,750.75 underpayment in finding #1 - \$409.15 overpayment in finding #2 + \$111,254.42 underpayment in finding #3 + \$214.19 underpayment in finding #4) should be included in the City's next quarterly sand tax payment to the State.

The most significant identified shortcoming involved the Facilities and Fleet Management Department Beach Maintenance Division's \$127,750.75 sand tax underpayment related to the incorrect general ledger distribution of the beachfront concession payments received for the 2022/23 fiscal year but billed during this audit period. As part of last year's audit process, the OIG Auditor explained the distribution errors found in beach concession fee payments to responsible Beach Maintenance Division staff, as well as the appropriate methodology for prospective sand tax transactions. Yet, similar errors occurred in this year's audit.

The OIG Auditor also determined that the Facilities and Fleet Management Department Asset Management Division incorrectly processed the Boucher Brothers Miami Beach, LLC payment related to its 2022 true-up, resulting in a \$111,254.42 sand tax underpayment to the State. It was later found that the incorrect distribution was caused by a clerical error in the sand tax calculation, remitting 2.5% instead of the required 25%. This type of error is preventable.

Regarding the examined Special Events transactions, the number of exemptions and internal control deficiencies decreased markedly during the audit period and in related journal entries in the 2022/23 fiscal year. Although many vehicle beach access passes and special event square footage transactions were initially incorrectly distributed among the appropriate general ledger accounts in the City Financial System due to charge code mapping errors from the EnerGov system to the Munis system, these errors were corrected by TCD staff prior to the commencement of this audit. The Munis system is the City enterprise resource planning system, while the EnerGov system is the City licensing and permitting system.

The following shortcomings identified during this audit need corrective action:

1. Sand tax of \$127,750.75 is due to the State because of an incorrect beachfront concessions fee payment distribution related to the 2022/23 fiscal year but billed by the City to fee-paying properties during the 2021/22 fiscal year.
2. Sand tax of \$111,254.42 is due to the State because of an incorrect distribution among the City's general ledger accounts related to 2022 true-up payment received from Boucher Brothers Miami Beach, LLC.
3. A sand tax overpayment of \$409.15 to the State occurred because of incorrect upland fee invoicing during the 2021/22 fiscal year.
4. Sand tax of \$214.19 is due to the State because of an incorrect computation of the 2022 true-up payment for Boucher Brothers Miami Beach 21 & 46 Street, LLC.
5. Some Wedding, Ceremony, and Team Building permit fees were incorrectly charged based on the previous fiscal year permit fee schedule.

In addition, the OIG has suggested the following opportunities for improvement:

1. The mapping of City vehicle beach access, special events revenues, and sand tax from the EnerGov system to the Munis system should be revised annually to ensure accuracy.

SCOPE, OBJECTIVES, AND METHODOLOGY

The primary scope of this audit is to determine whether the City complied with the terms of the State Beachfront Management Agreement (No. 3595) and accurately calculated, remitted, and recorded sand tax payments to the State equal to 25% of all monies collected from private concerns east of the dunes for the use of State-owned beachfront property during the 2021/22 fiscal year. Also included in the scope is determining the validation and completeness of the 2021/22 fiscal year beachfront upland and concession fees for equipment, food/beverage, and water sports billed to hotels, apartments, and condominium property owners.

The audit focused on the following general objectives:

- To determine whether tested sand tax transactions occurring during the 2021/22 fiscal year were accurately calculated and recorded in the City Financial System.
- To determine whether the Finance Department timely remitted quarterly sand tax payments due to the State of Florida Department of Environmental Protection.
- To determine whether the Facilities and Fleet Management Department appropriately billed the 2022/23 fiscal year upland, non-upland, and beachfront concession fees to all examined hotels, apartments, and condominiums.
- To determine whether deficiencies identified in prior audits have been corrected.
- Other audit procedures as deemed necessary.

The audit methodology included the following:

- Reviewed applicable provisions of State Beachfront Management Agreement No. 3595;
- Interviewed and made inquiries of staff to gain an understanding of internal controls, assess control risk, and plan audit procedures;
- Performed substantive testing consistent with the audit objectives, including, but not limited to, examination of applicable transactions and records;
- Drew conclusions based on the results of testing with corresponding recommendations and obtained auditee responses and corrective action plans; and
- Performed other audit procedures as deemed necessary.

FINDINGS, RECOMMENDATIONS, AND AUDITEE RESPONSES

The OIG Auditor examined all transactions recorded in the sand tax general ledger account during the 2021/22 fiscal year to verify that each was correctly calculated, accurately recorded in the City Financial System, and any associated monies due to the State were timely and completely remitted. The deficiencies identified in the audit findings below determined that the City underpaid sand tax due to the State by a net total of \$238,810.21.

1. ***SAND TAX OF \$127,750.75 IS DUE TO THE STATE BECAUSE OF AN INCORRECT DISTRIBUTION OF BEACHFRONT CONCESSION FEE PAYMENTS RELATED TO THE 2022/23 FISCAL YEAR BUT BILLED BY THE CITY DURING THE 2021/22 FISCAL YEAR.***

Any hotel, apartment, or condominium operating on the beachfront must pay an upland fee of \$16.00 per unit per year starting in the 2003/04 fiscal year. City Ordinance No. 2003-3420 established an increase in fees charged annually for occupational licenses (now called business tax receipts or BTRs) of 5% every other year, rounded to the nearest dollar until such fees have caught up with the cumulative change in Consumer Price Index (CPI) and have reached 24.5%. Ordinance No. 2019-4299 created Section 1-15, "Fee Schedule," to provide that all fees established by the City Commission must be set forth in Appendix A to the City Code. Consequently, the upland fee equaled \$24.00 per unit for the 2021/22 fiscal year as listed in the FY 2022 Appendix A Fee Schedule and \$25.00 per unit for the 2022/23 fiscal year as indicated in the FY 2023 Appendix A – Fee Schedule.

In addition, Resolution No. 2016-29403, effective October 1, 2016, increased the maximum fee per upland property from \$10,000.00 to \$15,000.00. Afterwards, the maximum annual fee is increased annually by the CPI, similar to upland fees. According to Finance Department staff, the maximum annual upland fee during the 2021/22 fiscal year equaled \$17,051.00 per upland property. Only three upland properties (Loews Hotel, One Hotel and Condominium, and Fontainebleau Hilton Resort) contained more than the 710 units needed to be invoiced the \$17,051.00 maximum annual upland fee ($\$17,051.00 \text{ maximum} / \$24.00 \text{ per unit} = 710.45 \text{ units}$). The 2022/23 fiscal year maximum annual upland fee increased to \$18,274.00 per upland property.

Hotels, apartments, and condominiums subject to upland fees, along with beachfront concessionaires, will typically also owe some combination of concession fees related to equipment, food/beverage, and/or water sports. The cost of each applicable beachfront concession fee permit for the 2021/22 and 2022/23 fiscal years was \$878.00 and \$895.00 respectively.

Signed beachfront agreement letters authorize the entity to operate a beachfront concession, and among other terms, it includes a schedule of fees owed. All the individual fees owed are summarized for each property in the master summary schedule so that the corresponding billings are accurate.

Section 3(c) of the Fifth Amended and Re-stated Rules and Regulations for Beachfront Concession Operation states, "In the event that the Concessionaire is an Upland Owner Concessionaire, and the Concession Area is utilized by any additional property or properties, other than the Upland Property, the Upland Property owner must receive prior written approval from the City and shall pay an Upland Fee, per property, based on the number of units contained in the Upland Property and any additional properties. There shall be no maximum Upland Fee for Beachfront Concessions utilized by multiple properties or for two or more Beachfront Concessions held by a Concessionaire..." This amendment was created when the City became aware that some non-upland fee properties were negotiating agreements with upland fee properties, so its residents could use the beach amenities of these upland properties.

The Facilities and Fleet Management Department Beach Maintenance Division annually prepares and mails letter agreements to all known properties authorized to operate beachfront concessions. These letter agreements provide the framework for permitted beachfront concessions, including the number of upland units and the amount of upland and beachfront concession permit fees due.

Letter agreements are typically mailed annually to upland property owners each summer. The Beach Maintenance Division then uses the data in the completed and signed letter agreements to bill the upland property owners for its annual beachfront concessions.

The Beach Maintenance Division also maintains a master summary schedule of fees for each beachfront property location to verify that the corresponding upland property is accurately billed. The master summary schedule includes any known non-upland properties that negotiated agreements with upland fee properties.

- a) The OIG Auditor's reconciliation of the sand tax due as per the FY 2022/23 Concession Fees schedule with the sand tax remitted, determined that the State was underpaid by \$127,750.75 because the beachfront concession payments were incorrectly distributed in the City general ledger. More specifically, concession fee payments remitted during the 2021/22 fiscal year, but related to the 2022/23 fiscal year, were incorrectly distributed to only the beachfront revenue account instead of allocating 75% to the beachfront revenue account (011-80000-369925-00-307-389-00-00-00-) and 25% to the sand tax account (601-7012-229068-00-000-000-00-00-00-).
- b) A comparison between the FY 2022/23 Concession Fees schedule and the adopted Appendix A – Fee Schedule for FY 2023 found discrepancies for the fees charged per upland unit, equipment, and activity/location. It was noted that the Facilities and Fleet Management Department Beach Maintenance Division invoiced the properties for their upland fee per unit, per equipment, per activity/location based on the fees as reflected in the Proposed FY 2023 Fee Schedule - Appendix A (with an applied 7.1% CPI increase not yet approved by the City Commission). Due to the application of the unapproved increase, some upland fees per unit were billed at \$26.00 instead of \$25.00, resulting in an overbilling of \$15,998.54 (15,998.54 upland units x \$1.00). In addition, the concession fee was billed at \$941.00 instead of \$895.00 resulting in a total overbilling of \$4,646.00 (101 permits x 46).

As mentioned previously, the letter agreements for FY2022-23 would be mailed to upland property owners during the summer of 2022, before approval of the FY 2023 Fee Schedule - Appendix A. Because the CPI increase of 7.1% was not approved for FY2022-23 at the time of the billing in July 2022, the bills mistakenly reflected a \$26 fee per unit instead of \$25.

The Director of the Office of Management and Budget was contacted concerning the discrepancy between the proposed vs. adopted fees, per FY 2023 Appendix A. The Director, in an email dated July 17th, 2023, explained that, *The discrepancy between the two fees schedules noted arose from an adjustment that was made to the beachfront concession fees before the FY 2023 Fee Schedule was finalized in September 2022, based on the attached email from the Finance department, which oversees these fees.*

Secondly, the Director stated, *From the time the CPI Ordinance was created, the beachfront concession fees were grouped with the Business Tax Receipt (BTR) fees and have been increased according to the same rate of increase as the other BTR fees. For FY 2023, the BTR fees were increased by 1.9% rather than the 7.1% CPI due to the 5% cap for every other year that the BTR fees are constrained by.* She also provided communication with the Finance Department as evidence of the request to limit the increase of upland fee per unit to \$25.00 and the fee per equipment, activity/location to \$895.00.

Lastly, the Director of the Office of Management and Budget acknowledged receipt

of Resolution No. 2019-31017 from the Beach Maintenance Division Director stating that the beachfront concession fees are subject to the annual CPI increase and was able to conclude that the beachfront concession fees were mistakenly grouped with the BTR fees. The Office of Management and Budget provided a list containing the following implemented steps to remedy this issue:

1. Determined what the fees were for that year based on the numbers provided in the resolution.
2. Applied the CPI for all the subsequent years leading up to FY 2024 (which is a 9.9% CPI increase).
3. Adjusted the FY 2024 fees to reflect what the fees should have been.

As per the Director of the Office of Management and Budget, *The adjustment to FY 2024 is a "catch-up" to ensure that the fees are where they should be according to that approved 2019 resolution.*

Recommendation(s):

The Finance Department should complete a correcting journal entry to reclassify the corresponding amounts recorded to the applicable beachfront revenue general ledger account(s) to the sand tax general ledger account. Once completed, the City's next quarterly sand tax payment to the State should be increased accordingly.

Facilities and Fleet Management Department staff should more closely scrutinize future upland fee payment distributions to help prevent inaccuracies. In addition, the Facilities and Fleet Management Department should timely review and validate the annual Appendix A – Fee Schedule to the concession fees being charged for accuracy and to help prevent future billing errors from occurring.

It is also recommended that the Beach Maintenance Division implement updates to the spreadsheet "Beachfront Concession Fess" by adding a calculation of the sand tax due per upland property to be used as a validation tool to confirm that the financial systems have accurate sand tax distributions.

Facilities and Fleet Management Department Response:

The Facilities and Fleet Management Department submitted a journal entry reclassifying this amount to the sand tax general ledger. Additionally, Appendix A is being reviewed annually with Budget.

Implementation Date:

May 2024

Finance Department Response:

The Finance Department Revenue Division will process a correcting journal entry to reclassify the proper amounts from the beachfront revenue general ledger account(s) to the sand tax general ledger account, upon finalization of the OIG audit.

Once the journal entry is processed, these adjustments will be reflected in the following City's quarterly sand tax filing to the State.

Implementation Date:

Post finalization of OIG Audit.

2. SAND TAX OF \$111,254.42 IS DUE TO THE STATE BECAUSE OF AN INCORRECT DISTRIBUTION AMONG THE CITY'S GENERAL LEDGER ACCOUNTS RELATED TO THE 2022 TRUE-UP PAYMENT RECEIVED FROM BOUCHER BROTHERS MIAMI BEACH, LLC.

The Boucher Brothers Miami Beach, LLC Amended and Re-stated Public Beachfront Concession Agreement (Agreement) in Section 4.1 Minimum Guarantee provides that the concessionaire is to pay the City a Minimum Guarantee Annual Concession Fee (MG) in the amount of \$1,200,000.00 effective January 1, 2020, for food and beverage sales, beach equipment rentals, the sale of beach-related sundries/skincare products, and watersports equipment rentals. Fifty percent (50%) of the MG for each Agreement year shall be due and payable to the City on January 1 of each such Agreement year during the term, and the remaining (50%) of the MG for that Agreement year shall be due and payable to the City on July 1 of each such Agreement year during the term.

Section 4.2 Percentage of Gross (vs.) MG (PG) states: *For each Agreement year during the term, concessionaire pays the City the difference between the MG provided in **Subsection 4.1** above and the percentage of gross receipts that exceeds the amount of the MG for food and beverage sales, the sale of Beach-Related Sundries/Skin Care products, Beach Equipment rentals, Watersports Equipment rentals, Sand Sifting Fees, Team Building Events Fees, Advertising/Sponsorship Fees and City Displacement Fees (the "Percentage of Gross" (PG)), as follows:*

The PG for the Original Concession Areas shall be based on the categories set forth below:

<i>Food and Beverage Sales</i>	<i>15%</i>
<i>Beach-Related Sundries/Skincare Products Sales</i>	<i>20%</i>
<i>Beach Equipment Rentals</i>	<i>20%</i>
<i>Watersports Equipment Rentals</i>	<i>20%</i>
<i>Sand Sifting Fees</i>	<i>20%</i>
<i>Team Building Events Fees</i>	<i>25%</i>
<i>Advertising/Sponsorship Fees</i>	<i>50%</i>
<i>City Displacement Fees</i>	<i>30%</i>

The Facilities and Fleet Management Department Asset Management Division examines the concessionaire's submitted reports containing its annual gross receipts and multiplies the corresponding gross receipts by the applicable percentage. If the resulting calculation exceeds the MG paid by the concessionaire, then additional monies are owed to the City according to Section 4.2.

Invoice #42807 was issued for a total amount of \$546,949.25, including sand tax of \$12,361.60 related to the Boucher Brothers Miami Beach, LLC 2022 calendar year true-up. It was then determined during a Microsoft TEAMS meeting with the Asset Management Division Director, that the incorrect distribution was caused by a clerical error in the sand tax calculation for the 2022 true-up payment. Instead of calculating the corresponding sand tax rate of 25% for the true-up amount due, a 2.5% sand tax rate was mistakenly entered into the applicable Excel formula. The resulting figures from the incorrect computation were used to create invoice #42807 related to the Boucher Brothers Miami Beach, LLC 2022 PG, which was paid in full.

As a result, the State was underpaid by \$111,254.42 in sand tax, as shown in the below table. The Facilities and Fleet Management Department Asset Management Division

agreed with the OIG's calculations and revised its internal processes to help prevent similar mistakes from reoccurring.

Description	True Up Inv. #42807	OIG Computation	Difference Over/(Under)
Asset Revenue (75%)	\$ 501,205.77	\$ 389,951.35	\$ 111,254.42
Sand Tax (25%)	\$ 12,361.60	\$ 123,616.02	\$ (111,254.42)
Sales Tax (6.5%)	\$ 33,381.88	\$ 33,381.88	\$ 0.00
Total Balance Due	\$ 546,949.25	\$ 546,949.25	\$ 0.00

Recommendation(s):

If not already done, the necessary adjusting journal entries should be prepared, and the related \$111,254.42 in sand tax due should be included in the City's next quarterly sand tax payment to the State. In the future, the Asset Management Division Director or his/her designee should ensure that the computation of the PG and any annual true-up payments due are correct and the associated allocations for City revenue, sand tax, and sales tax reported in the Munis system are accurate, creating templates with locked formulas to calculate the corresponding amounts billed to customers, and how the received payment is distributed among the appropriate general ledger accounts.

Facilities and Fleet Management Department Responses:

This adjustment was reflected in Q4 2023. The Asset Management Division is implementing new software that will allow for calculating and tracking of PG and any true-up payments.

Implementation Date:

October 2023

Finance Department Response:

The Finance Department Revenue Division processed a correcting journal entry to reclassify the proper amounts from the beachfront revenue general ledger account(s) to the sand tax general ledger account.

Once the journal entry was processed in Q4 2023, the adjustments were reflected in the following City's quarterly sand tax remittance to the State.

Implementation Date:

October 2023

3. A SAND TAX OVERPAYMENT OF \$409.15 TO THE STATE OCCURRED BECAUSE OF INCORRECT UPLAND FEE INVOICING DURING THE 2021/22 FISCAL YEAR.

Hotels, apartments, and condominiums subject to upland fees, along with beachfront concessionaires, will typically owe some combination of concession fees related to equipment, food/beverage, and/or water sports. The cost of each applicable beachfront concession permit for the 2021/22 fiscal year was \$878.00, as reported in the FY 2022 Appendix A Fee Schedule.

Signed beachfront agreement letters authorize the entity to operate a beachfront

concession, and, among other terms, include the fees owed. All the individual fees owed are summarized for each property in the master summary schedule so that the corresponding billings are accurate.

A review of related sand tax payments remitted to the State during the audit period identified eleven businesses inaccurately charged upland fee through the BTR process. Although the eleven businesses below are not upland properties, they were incorrectly charged upland fees of \$1,636.58 and \$409.15 (\$1,636.58 x 25%) in related sand tax was remitted to the State:

- (a) Consulting Group, BMC was billed \$16.19 for upland fees resulting in \$4.05 applied to sand tax, related to permit BTR004508-07-201, receipt # 412047.
- (b) Roney 338 LLC (De Sadow, Robert & Maria) was billed \$13.40 for upland fees, resulting in \$3.35 applied to sand tax, related to permit BTR006828-06-201, receipt # 349299.
- (c) Horcajada, Hector was billed \$64.25 for upland fees, resulting in \$16.06 applied to sand tax, related to permit BTR011391-01-202, receipt # 365193.
- (d) Amy Skincare was billed \$296.00 for upland fees, resulting in \$74.00 applied to sand tax, related to permit BTR011536-02-202, receipt # 374161.
- (e) Investment N Miami 45 St LLC (Cohen, Ric) was billed \$45.00 for upland fees, resulting in \$11.25 applied to sand tax, related to permit BTR011928-04-202, receipt # 387666.
- (f) Anton, Hortensia was billed \$14.00 for upland fees, resulting in \$3.50 applied to sand tax, related to permit BTR012515-08-202, receipt # 405242.
- (g) Sasha Investments LLC (Tobon, Juan) was billed \$522.26 for upland fees, resulting in \$130.58 applied to sand tax, related to permit BTR012587-09-202, receipt # 414194.
- (h) Lobos Cruzat, Camila was billed \$30.00 for upland fees, resulting in \$7.50 applied to sand tax, related to permit BTR012655-09-202, receipt # 413129.
- (i) King Richard Condo (Da Cruz, Christian) was billed \$600.00 for upland fees, resulting in \$150.00 applied to sand tax, related to permit RL-03000189, receipt # 382996.
- (j) Regatta Real Estate Management, Inc, permit RL-03001657 was billed \$25.48 for upland fees, resulting in \$6.37 applied to sand tax, related to receipt # 363883.
- (l) Luxury Rentals Miami Beach, Inc. c/o Kri was billed \$10.00 for upland fees, resulting in \$2.50 applied to sand tax, related to permit BTR010493-07-202, receipt # 358268.

Recommendation(s):

The Finance Department Licensing Section should review all above payments to determine whether the associated amounts billed were incorrectly coded. Once completed, the City should issue the appropriate refunds or credits to any businesses which were incorrectly charged upland fees. Also, the City should adjust its next quarterly payment to the State accordingly. Per the Finance Department's response from last year's audit, the Upland Fee category should be removed from the Licensing Module to help prevent similar errors from reoccurring.

Facilities and Fleet Management Department Responses:

The Facilities and Fleet Management Department submitted a journal entry reclassifying this amount to the sand tax general ledger. Additionally, Appendix A is being reviewed annually with Budget.

Implementation Date:

May 2024

Finance Department Response:

- (a) The Finance Department has removed the upland fee category from our Licensing Module, EnerGov, to avoid future errors. Upland charges are now billed directly by Asset Management.

Implementation Date:

April 2023

- (b) In response to the findings outlined by the OIG Auditors, the Finance Department BTR Division noted that although the customers were charged for upland fees – in actuality the charges were for various BTR costs such as late fees. The BTR division will process a journal entry to reclass these balances from the Sand Tax accounts to the appropriate BTR revenue account. This will decrease the next quarterly payment to the state by \$259.16.

Implementation Date:

Post finalization of OIG Audit.

- (c) Regarding item (i), the overpaid sand tax in the amount of \$ 150.00, this is an audit correction dated 05/06/2022 for underpaid sand tax and was corrected in May 2022.

Implementation Date:

May 2022

4. ***SAND TAX OF \$214.19 IS DUE TO THE STATE BECAUSE OF AN INCORRECT COMPUTATION OF THE 2022 TRUE-UP PAYMENT FOR BOUCHER BROTHERS MIAMI BEACH 21 & 46 STREET, LLC.***

Boucher Brothers Miami Beach 21st & 46th Street, LLC Public's Beachfront Concession Agreement (Agreement) requires that the concessionaire pay the City a minimum guarantee annual concession fee (MG) in the amount of \$122,000.00 for food and beverage sales, beach equipment rentals, and the sale of beach-related sundries/skincare products. Fifty percent of the MG for each Agreement year shall be due and payable to the City on January 1 of each such year during the term, and the remaining 50% of the MG for that Agreement year shall be due and payable to the City on July 1 of each such year during the term for the right to operate the concessions.

Section 4.2 of the Agreement states that the Concessionaire (Boucher Brothers Miami Beach 21st & 46th Street, LLC) shall pay the City the greater of (\$122,000.00) the minimum guaranteed, or if annual gross receipts exceed \$600,000.00, 25% of **ALL** gross receipts. This true-up provision is calculated based on the Concessionaire's revenue reports provided for the following March.

Boucher Brothers Miami Beach 21st & 46th Street, LLC requested the City Administration to consider financial relief due to the economic impact caused by the COVID-19 pandemic. Accordingly, the City Administration proposed an amendment to the "Amended and Restated Public Beachfront Concession Agreement" to modify the essential terms for Amendment No. 1.

The Mayor and City Commission subsequently adopted Resolution No. 2021-31789 on

July 28, 2021, amending Resolution No. 2020-31368, which included the following financial terms:

- 1) Increase the following fees to the City for the concession areas governed by both agreements:
 - Displacement fees to the City increased from 25% to 30%
 - Advertising/sponsorship fees increase from 25% to 50%
- 2) Incorporate the 21st and 46th Street concessions into the Amended and Restated Agreement;
 - A) Financial terms relating to the 21st & 46th Street concessions:
 - M.G. as of January 2022 increases from \$122,000 to \$200,000
 - B) Incorporation of miscellaneous provisions relating to the 21st & 46th Street Agreement:
 - Commencing on March 1, 2021, 25% of PG shall apply to **all** gross receipts

As the actual sales occurring on the beach are unknown at the time the MG payments are due, the Facilities and Fleet Management Department Asset Management Division initially estimates the portion of sales subject to sand tax based on projected sales. When documentation is subsequently received reporting the actual beach sales, among other revenue categories, the Asset Management Division recalculates the amount of sand tax due and makes the necessary adjustments.

The Asset Management Division creates invoices in the Munis system detailing the general ledger account number(s) for distributing the concessionaire monies billed and paid under each contractual agreement. Given this information, testing was conducted on Boucher Brothers Miami Beach 21st & 46th Street, LLC concession payments remitted to the City during the audit period, where it was determined that the Asset Management Division incorrectly invoiced and allocated the Boucher Brothers 21st and 46th Street payment for the 2022 true-up in the Munis system. As shown in the table below, invoice #42806 related to the concessionaire's 2022 true-up payment contained the listed inaccuracies.

Description	True Up Inv. #42806	OIG Computation	Difference Over/(Under)
Asset Revenue (75%)	\$ 174,437.16	\$ 174,267.08	\$ 170.08
Sand Tax (25%)	\$ 57,874.84	\$ 58,089.03	\$ (214.19)
Sales Tax (6.5%)	\$ 15,100.28	\$ 15,103.15	\$ (2.87)
Total Balance Due	\$ 247,412.28	\$ 247,459.26	\$ (46.98)

It was determined that the total balance due was incorrectly calculated due to a mathematical error in the sales tax rate applied to the beach displacement fee subtracted from the true-up calculation waived by Resolution No. 2022-32116. In addition, an incorrect payment distribution among the City general ledger accounts resulted in a sand tax underpayment of \$214.19 to the State.

Recommendation(s):

After completing the necessary adjusting journal entry, the City's next quarterly sand tax payment to the State should be adjusted accordingly. In the future, the Asset Management Division should ensure that the computation of the true-up and the allocations for City revenue, sand tax, and sales tax reported in the Munis system is correct.

Facilities and Fleet Management Department Responses:

The Facilities and Fleet Management Department will submit a journal entry reclassifying this amount to the sand tax general ledger. Additionally, Appendix A is being reviewed annually with Budget.

Finance Department Response:

The Finance Department will complete a correcting journal entry to adjust the Asset Revenue, Sand Tax Payable, and Sales Tax Payable. When completed, the City's next quarterly sand tax payment to the State will reflect this adjustment.

5. ***SOME WEDDING, CEREMONY, AND TEAM BUILDING PERMIT FEES WERE CHARGED BASED ON A PREVIOUS FISCAL YEAR PERMIT FEE SCHEDULE.***

TCD introduced a Wedding, Ceremony, and Team Building permit fee in the 2010/11 fiscal year as part of its Special Events Permit Fees and Guidelines. The Special Events Chapter 12, Article II, Section 12-5 of the Miami Beach City Code and the Special Events Requirements and Guidelines were intended to mitigate the costs of City services for selected special events.

Wedding, Ceremony, and Team Building permits allow for a single temporary use of public property in the City, which shall accommodate no more than 150 people, including guests, wedding parties, performers, etc. It is required that a completed application detailing the location, date, times, and number of attendees be submitted no less than 14 days before the event. In addition, Wedding, Ceremony, and Team Building permit fees are payable to the City and due before the commencement of the activity.

After examining the sand tax remitted to the State related to the 2021/22 fiscal year, the OIG Auditor observed some differences in payments regarding Wedding, Ceremony, and Team Building permit fees. According to the FY2022 Appendix A – Fee Schedule, the applicable Wedding, Ceremony, and Team Building permit fee is \$134.00. However, primarily at the beginning of the audit period, some customers were incorrectly charged \$129.00 based on the permit fee listed in the FY2020 Appendix A – Fee Schedule.

Although the City's 2021/22 fiscal year-related revenue was reduced by \$5.00 (\$3.75 revenue + \$1.25 in sand tax) per event transaction, the total amount of \$95.00 was not collected, which would include \$23.75 in sand tax due to the State. This underbilling did not affect the accuracy of the City's sand tax remittances to the State because the examined transactions were calculated correctly based on the monies received.

Recommendation:

Tourism and Culture Department staff should timely review the fees listed in the approved annual Appendix A – Fee Schedule. In addition, TCD staff should validate the annual Appendix A – Fee Schedule to the corresponding fees charged and the mapping from the EnerGov system to the Munis system for completeness and accuracy to help prevent future errors from occurring.

Tourism and Culture Department Responses:

The Tourism and Culture Department agrees with the recommendation and tests the Munis and EnerGov fees at the beginning of the fiscal year to ensure that the fees being charged are in alignment with the approved fees in Appendix A.

In addition, the Tourism and Culture Department reconciles the Special Event Square Footage fee account, Vehicle Beach Access (VBA) fee account, and related entries in the sand tax account against the Special Events Fees Log to ensure that the correct GL mapping distribution is occurring from EnerGov to Munis.

Implementation Date:

Quarterly and the beginning of each Fiscal Year.

OIG SUGGESTED OPPORTUNITY FOR IMPROVEMENT

Regardless of the level of oversight exercised, opportunities for improvement may always be explored, which is a benefit of an independent audit. The following point is presented for evaluation purposes:

1. ***CITY VEHICLE BEACH ACCESS, SPECIAL EVENTS REVENUES AND SAND TAX MAPPED FROM THE ENERGOV SYSTEM TO THE MUNIS SYSTEM SHOULD BE REVISED EVERY YEAR TO ENSURE ACCURACY.***

City Code Chapter 12 - Arts, Culture, and Entertainment (the department's name was later changed to Tourism and Culture Department) Sections 12-1 and 12-5 require film and print productions, as well as applicants wishing to hold special events, to submit complete documentation in addition to any required fees. The 2021/22 fiscal year fees for special events are \$161.00 per Vehicle Beach Access (VBA) pass fee from October 1 through May 31 and \$81.00 from June 1 through September 30, and a \$.28 beach square footage fee under the FY 2022 Appendix A Fee Schedule as approved by the City Commission through Ordinance No. 2019-4299, effective October 5, 2019.

The TCD Special Events Division utilizes the EnerGov system to issue Special Event permits and create invoices detailing the general ledger account distribution for special event permits and any corresponding VBA passes issued, including individuals and businesses wishing to conduct commercial film, television, video, photography, and all other media use projects on public property.

Upon examining all transactions recorded in the sand tax general ledger account during the 2021/22 fiscal year, it was determined that the VBA passes, and special event square footage transactions were correctly calculated in the EnerGov system. However, the same allocation was not accurately reflected in several transactions in the Munis system. For example, some correctly recorded transactions in the EnerGov system were incorrectly distributed, with 100% going to revenue accounts in the Munis system instead of 25% to the sand tax account and 75% to the appropriate revenue account. This resulted in an overstatement of revenues and an understating of sand tax due.

More specifically, the total payment charged for VBA passes and special event square footage was divided into two revenue accounts. One account, named "Veh Access Pass-East and Sq Ft Beach," includes 75% of the total payment received, and the other revenue account, "Veh Access Pass and Sq Ft Beach," consists of the remaining 25%. The OIG Auditor found that the 25% sand tax recorded in the sand tax general ledger account and remitted to the State represented 25% of the revenue account "Veh Access Pass-East and Sq Ft Beach" represented 75% of the total payment charged. As a result, the sand

tax remitted to the State was understated for this period.

Although the TCD Special Events Division staff identified these errors during a self-audit and made the proper corrections with two correcting journal entries during the 2022/23 fiscal year, the OIG Auditor was concerned regarding whether the identified mapping issues were prospectively corrected. Therefore, the OIG Auditor tested some transactions occurring during the 2022/23 fiscal year, outside the audit period, and found that mapping errors continued to exist within the EnerGov and Munis systems. These errors are resulting in an inaccurate general ledger distribution with corresponding sand tax underpayment to the State. Although the Information Technology (IT) Department later corrected the configuration error and correcting journal entries were prepared, some of the mistakes were not completely fixed as the journal entries contained errors.

The OIG Auditor also had difficulty in verifying the accuracy of the information in the sand tax general ledger account related to Special Events transactions due to a high number of calculation errors and subsequent adjustments and corrections. The resulting workload for departmental and OIG staff involved in this process has continued to escalate as the root causes of these errors have not been addressed. Any corresponding identified errors result in additional work for all parties involved, as correcting journal entries must be prepared, processed, and reviewed for accuracy. Regardless of the underlying reasons, the frequency of these initial errors is troublesome, and prompt corrective action is needed to correct the root cause.

OIG Auditors contacted the Tourism and Culture Department regarding the corrections of these mapping errors identified during the 2021/22 fiscal year audit and during its small sample examined during the 2022/23 fiscal year. TCD provided evidence of its communication with the IT and Finance Departments related to correcting the General Ledger charge code mapping issues. On a positive note, TCD Special Events Division staff identified the erroneous transactions due to charge code mapping errors, reported the deficiency, created journal entry requests to allocate payments to the proper accounts, and worked with the other departments involved to resolve the issue.

Recommendations:

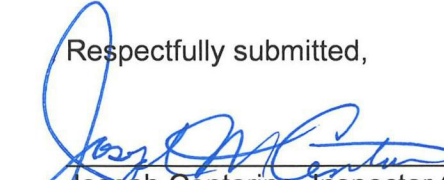
It is recommended that TCD management annually verify that the allocations for City revenue and sand tax mapped from the EnerGov system to the Munis system related to Square Footage and VBA payments are correct. If discrepancies exist, the IT Department should be promptly contacted to make the necessary corrections. In addition, TCD staff should periodically reconcile the Special Event Fee Log to ensure that all events are correctly recorded and allocations for City revenue and sand tax are accurately charged.

Tourism and Culture Department Response:

The Tourism and Culture Department agrees with the recommendation and tests the Munis and EnerGov fees at the beginning of the fiscal year to ensure that the fees being charged are in alignment with the approved fees in Appendix A.

The final report includes all management responses received pursuant to City Code Section 2-256(h).

Respectfully submitted,



Joseph Centorino, Inspector General

05/17/2024
Date



Mark Coolidge, Chief Auditor

05/17/2024
Date

DocuSigned by:


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Norman Blaiotta, Deputy Chief Auditor

5/17/2024 | 2:30 PM EDT

Date

- cc: Rickelle Williams, Interim City Manager
Eric Carpenter, Deputy City Manager
Elizabeth Miro, Facilities and Fleet Management Department Interim Director
Lissette Garcia Arrogante, Tourism and Culture Department Director
Jason Greene, Chief Financial Officer
Ricardo Dopico, City Attorney

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