

MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jimmy L. Morales, City Manager
VIA Cintya G. Ramos, Budget and Performance Improvement Director 
FROM: James J. Sutter, Internal Auditor 

DATE: June 24, 2016
AUDIT: State Beachfront Management Agreement (#3595) Financial Review
PERIOD: October 1, 2012 through September 30, 2015

This audit report is being submitted in compliance with the audit reporting requirement of subparagraph (2) of the original State Beachfront Management Agreement No. 750-0006 dated February 3, 1982, which was subsequently reassigned No. 3595 by the State Department of Natural Resources. Furthermore, amendment number 1 was signed on August 9, 2007 extending the original terms for an additional twenty-five years until February 7, 2032.

INTRODUCTION

State Beachfront Management Agreement No. 3595 requires the City of Miami Beach to remit 25% ("sand tax") of any and all monies collected from private concessionaires or other private concerns for the use of State beachfront property to the Florida Department of Environmental Protection. Also, in accordance with state statutes, the City collects 7% sales tax along with the beachfront rental revenue, and remits same to the State's Department of Revenue.

There are four categories of beachfront property users:

- Operators of beachfront concessions seaward of Lummus Park, Ocean Terrace, North Shore Open Space Park and Pier Park (Boucher Brothers and Penrods Brothers) who pay for use of the beachfront as per their respective contractual agreements with the City.
- Miami Beach hoteliers, apartments and condominium associations, which pay beach upland fees to the City on an annual basis, at the same time that they pay their business tax receipt fees.
- Members of the public who run organized, usually one time only, events on the beach, such as weddings, volleyball tournaments and corporate affairs. These are called special events, and payments are remitted to the City's Tourism and Cultural Development Department.
- Productions requiring to park essential vehicles on the beach or sand areas of Miami Beach may purchase vehicle beach access passes from the City's Tourism and Cultural Development Department. The cost of the pass is typically \$150 per vehicle per day (other discounts may apply depending on the date purchased) unless the vehicles do not move from a specified location for that permitted use, but the first one per day is free.

OVERALL OPINION

Based upon our examination of City records, it has been determined that during the audit period of October 1, 2012 through September 30, 2015, the City received a total of \$4,906,925.49 in revenues subject to the State Beachfront Management Agreement. Testing determined that the City inadvertently underpaid the State of Florida by a total of \$11,044.19 during this three year period due primarily to the incorrect programmed sand tax calculations for beachfront concessionaires (the appropriate corrections were made prospectively during the 2014/15 fiscal year), charging state sales tax when the entity is tax exempt and incorrect mathematical calculations. Of this difference, the \$234.06 overpayment from the 2012/13 fiscal year was corrected and deducted from the 2013/14 fiscal year's payments resulting in the City owing a net total of \$11,278.25 to the State of Florida during this three year audit period.

PURPOSE

The purpose of this audit is to determine whether the City complied with State Beachfront Management Agreement No. 3595 by accurately calculating, timely remitting and properly recording sand tax monies to the Florida Department of Environmental Protection equal to 25% of any and all revenues collected from private concerns for the use of State beachfront property.

FINDING AND RECOMMENDATION

1. **Finding:** *The State of Florida was Inadvertently Underpaid by a Net Total of \$11,278.25 in Sand Tax During the 2012/13, 2013/14 and 2014/15 Fiscal Years*
 Internal Audit reviewed every reported sand tax transaction occurring during the 2012/13, 2013/14 and 2014/15 fiscal years for accuracy. The table below summarizes our calculations concerning the amounts of sand tax (under) over paid to the State annually as well as the totals for the three year period:

Revenue Categories by Beachfront Property User	Total Revenues Collected	Sand Tax Payments	Sand Tax Due	Sand Tax Difference
Beachfront Concessions	\$1,069,565.04	\$267,013.25	\$267,391.26	(\$378.01)
Upland Fees	\$128,384.99	\$32,096.25	\$32,096.25	\$0.00
Special Events	\$192,163.92	\$48,654.30	\$48,040.98	\$613.32
Vehicle Beach Access Fees	\$69,380.00	\$17,343.75	\$17,345.00	(\$1.25)
Total (10/01/12 – 09/30/13)	\$1,459,493.95	\$365,107.55	\$364,873.49	\$234.06
Beachfront Concessions	\$1,177,026.76	\$285,046.27	\$294,256.69	(\$9,210.42)
Upland Fees	\$298,972.32	\$74,743.08	\$74,743.08	\$0.00
Special Events	\$205,387.12	\$51,058.03	\$51,346.78	(\$288.75)
Vehicle Beach Access Fees	\$49,242.00	\$12,310.50	\$12,310.50	\$0.00
Total (10/01/13 – 09/30/14)	\$1,730,628.20	\$423,157.88	\$432,657.05	(\$9,499.17)
Beachfront Concessions	\$1,254,773.92	\$311,914.40	\$313,693.48	(\$1,779.08)
Upland Fees	\$266,851.62	\$66,712.90	\$66,712.90	\$0.00
Special Events	\$134,758.96	\$33,689.74	\$33,689.74	\$0.00
Vehicle Beach Access Fees	\$63,450.00	\$15,862.50	\$15,862.50	\$0.00
Total (10/01/14 – 09/30/15)	\$1,719,834.50	\$428,179.54	\$429,958.62	(\$1,779.08)
Subtotal (10/01/12 – 09/30/15)	\$4,906,925.49	\$1,216,444.97	\$1,227,106.38	(\$11,044.19)
FY 2012/13 Adjustment	\$0.00	(\$234.06)	\$0.00	(\$234.06)
Grand Total (10/01/12 – 09/30/15)	\$4,906,925.49	\$1,216,210.91	\$1,227,106.38	(\$11,278.25)

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The individual entities that comprise these differences can be found in Exhibit A located at the end of this audit report.

Recommendation(s):

The City's Finance Department has been notified and will add \$11,278.25 to their next quarterly sand tax payment to the State of Florida.

JJS:MC:mc

Audit performed by Senior Auditor Mark Coolidge

cc: Allison Williams, Chief Financial Officer
John Shumaker, Deputy Finance Director

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SCHEDULE OF FEES COLLECTED
 BEACHFRONT MANAGEMENT AGREEMENT
 10/01/12 – 09/30/15
 EXHIBIT A

ENTITIES	FEE CATEGORY	FISCAL YEAR 2012/13			FISCAL YEAR 2013/14			FISCAL YEAR 2014/15			TOTAL OWED TO STATE
		25% DUE STATE	REMITTED TO STATE	OWED TO STATE	25% DUE STATE	REMITTED TO STATE	OWED TO STATE	25% DUE STATE	REMITTED TO STATE	OWED TO STATE	
Boucher Brothers Inc.	Beach Concessionaire	\$242,995.39	\$242,854.91	\$140.48	\$266,095.02	\$266,202.82	(\$107.80)	\$284,885.93	\$283,910.50	\$975.43	\$1,008.11
CI Foundation	Special Events	\$0.00	\$0.00	\$0.00	\$5,038.75	\$4,750.00	\$288.75	\$0.00	\$0.00	\$0.00	\$288.75
FIU Sports	Special Events	\$0.00	\$62.50	(\$62.50)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(\$62.50)
Funkshion	Special Events	\$886.68	\$1,437.50	(\$550.82)	\$0.00	\$0.00	\$0.00	\$6,087.50	\$6,087.50	\$0.00	(\$550.82)
Imperial Woodpecker	Vehicle Beach Access	\$413.75	\$412.50	\$1.25	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1.25
Penrod Brothers Inc.	Beach Concessionaire	\$13,090.18	\$13,058.24	\$31.94	\$14,516.81	\$4,843.45	\$9,673.36	\$14,730.71	\$13,927.06	\$803.65	\$10,508.95
Tim Wilcox, Inc.	Beach Concessionaire	\$11,305.69	\$11,100.10	\$205.59	\$13,644.86	\$14,000.00	(\$355.14)	\$14,076.84	\$14,076.84	\$0.00	(\$149.55)
Subtotal		\$268,691.69	\$268,925.75	(\$234.06)	\$299,295.44	\$289,796.27	\$9,499.17	\$319,780.98	\$318,001.90	\$1,779.08	\$11,044.19
Adjustments Completed		\$0.00	\$0.00	\$234.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$234.06
Total		\$268,691.69	\$268,925.75	\$0.00	\$299,295.44	\$289,796.27	\$9,499.17	\$319,780.98	\$318,001.90	\$1,779.08	\$11,278.25