



MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor

DATE: March 31, 2008
AUDIT: State Beachfront Management Agreement (#3595) Operational Review
PERIOD: October 1, 2006 through September 30, 2007

This audit report is the result of reviewing the operational controls surrounding the City's managing of the State Beachfront Management Agreement No. 750-0006 dated February 3, 1982 and the corresponding first amendment extending its terms through February 7, 2032. A separate audit report focusing on our financial review was issued to the State in accordance with the agreement.

INTRODUCTION

State Beachfront Management Agreement No. 3595 requires that the City of Miami Beach remit to the Florida Department of Environmental Protection 25% ("sand tax") of any and all monies the City collects from private concerns for the use of State beachfront property. In addition, in accordance with state statutes, the City collects sales tax along with the beachfront rental revenue, and remits same to the State. There are three 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 Penrod Brothers,) who pay for use of the beachfront as per their respective contractual agreements.
- Miami Beach hoteliers and condominium associations, which pay beach upland fees to the City on an annual basis, at the same time that they pay their Occupational License 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 Tourism and Cultural Development.

The following table lists the State's sand tax portion (25%) of the monies collected by the City for the use of State beachfront property for the City's last three fiscal years:

Category	FY 2004/05	FY 2005/06	FY 2006/07 *	Total
Beachfront Concessions	\$134,293	\$125,558	\$150,111	\$409,962
Hoteliers and Condo Associations	\$29,676	\$31,476	\$33,664	\$84,816
Special Events	\$25,646	\$34,328	\$22,856	\$82,830
Total	\$189,615	\$191,362	\$206,631	\$587,608

* This column's figures represent the amounts that should have been paid to the State of Florida and not those actually paid. The \$539.59 underpayment listed in finding #1 should accompany the next quarterly payment due April 20, 2008.

OVERALL OPINION

Miscellaneous Cash Receipts and Payment Vouchers were accurately calculated and separated into the appropriate general ledger accounts. In addition, this data along with upland fee revenues was properly entered into the City's Financial System and/or the Special Events Fee Log. However, the City inadvertently underpaid sand tax totaling \$539.59 to the State of Florida during the past fiscal year as shown in the attached schedule.

In summary, the following shortcomings were noted and are in need of improvement (see detailed findings below):

- The City inadvertently underpaid the State of Florida by a net total of \$539.59 due to incomplete and/or inaccurate calculations.
- Sales tax on upland fees was not collected, imputed or forwarded to the State of Florida during the past five fiscal years. The Finance Department contends that these upland fees are collected as a license fee rather than rent and should be exempt. We believe that the City should seek a formal opinion on whether these fees are subject to the State's sales tax.
- General ledger account 601-7000-229068 (sand tax) erroneously contained a credit balance at year end when it should be a pass through account.
- The upland sand tax payment was incorrectly posted to vendor identification number 014771 entitled the Department of Natural Resources.

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.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

Finance Department

1. Finding: *State's 25% portion of sand tax not paid correctly*
Internal Audit's testing found a variety of calculation errors by the Finance Department causing both sand tax underpayments and overpayments to the State of Florida during the fiscal year. The net result was a \$539.59 underpayment to be included in the City's next quarterly payment.

Found underpayments included the Richmond Hotel, Beta Epsilon/Cadillac LLC and Crystal Beach Development Corporation's upland fee payments received after the 04/02/07 IDS report was run, incorrect deductions of outstanding license balances that are exempt from the sand tax (smoke detectors, restaurant, etc.) and an inclusion of exempted revenues received from the Royal Palm Hotel. Meanwhile, found overpayments included monies remitted on exempt beach concession license fees and the duplication of two upland fee payments (Riutel Florida and Il Villagio Condominium).

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Recommendation(s):

The \$539.59 underpayment to the State of Florida should be added to the City's next sand tax payment. Greater care should be taken to ensure that remitted sand tax payments are complete and accurate.

Management Response:

Finance will include the \$539.59 payment on the next scheduled remittance to the Florida Department of Environmental Protection quarterly payment.

2. Finding: *Applicability of sales tax on beach upland fees*

The City's Finance Department has not collected sales tax from hoteliers and condo associations for at least the past five fiscal years when they pay beach upland fees as part of their annual occupational license fees. Neither has the tax been imputed from the amounts received, nor has it been sent on to the State. Conversely, the fees collected from the beach concessionaires and Special Events permittees for the use of state beachfront property were noted to include sales tax, which was forwarded to the State. According to the Florida Department of Revenue, the collection of sales tax is required when there is rental of real property. We believe that these fees maybe subject to the sales tax in a similar manner as those collected for other beach concessionaires since they represent agreements to operate beachfront concessions.

The following lists the amounts of upland fees collected and the amount of sales tax liability calculated if imputed at 7% for the last five fiscal years:

	FY 2002/03	FY 2003/04	FY 2004/05	FY 2005/06	FY 2006/07	Total
Upland Fees Collected	\$138,380	\$144,800	\$118,705	\$125,558	\$134,656	\$662,099
Sales Tax Imputed	\$9,053	\$9,473	\$7,766	\$8,214	\$8,809	\$43,315

Recommendation(s):

The Finance Department's position of not collecting sales tax is based upon the method of collection. They contend that it is collected as a license fee rather than rent. While this may raise a valid argument for its exclusion, the Finance Department should further research this subject and obtain documentation stating which position is correct. This item is a continuation from last year's audit report as no known opinion has been rendered to date.

If deemed taxable, the feasibility of collecting the sales tax from the hoteliers and condo associations at the time that the beach upland fees are paid, along with occupational license fees, should be explored. Otherwise, the City may also be able to exclude future sales tax remittances for its beach concessionaires.

Management Response:

The Finance Department believes that the Upland Fee is for the privilege to do business. However, we will continue to get clarification on the taxability of the fee. If this fee is determined to be taxable, we will apply sales tax on a go forward basis.

3. Finding: *Incorrect general ledger balance*

General ledger account number 601-7000-229068 (Florida Dept Natural Resources Taxation) is increased by the recording of any sand tax revenues received during the fiscal

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year and decreased by the corresponding payments made to the State of Florida. This account is used as a pass through and any balance remaining after period ending should be paid within 20 days after the close of the period. However, the account had a \$16,822.01 credit balance at year end while the subsequent check paid on 10/18/07 amounted to \$6,277.80 apparently indicating that the Finance Department did not reconcile this account prior to closing the year.

Attempts to determine the root cause of the credit balance were hindered by the lack of an adequate description in the general ledger. Entries merely listed "LI receipt posting" for license receipt posting and did not list the corresponding vendor making searches more time consuming. Sampled entries indicated that the credit balance was due primarily to the inclusion of such previously exempt license fees as beach concession—food, water sports and equipment costing \$604 annually each. These license fees were correctly exempted from sand tax when previously calculated in Permits Plus but were incorrectly included following the City's August 2007 conversion to the Eden System's Licensing Module.

Recommendation(s):

The Finance Department should closer review general ledger accounts prior to fiscal year end to ensure their accuracy. Eden representatives should also be contacted to change the description field from "LI receipt posting" to the name of the vendor making the payment to help facilitate reconciliation. Going forward, sand tax should not be remitted on received beach concession license fees.

Finally, the Finance Department should review all entries causing the \$16,822.01 credit balance and make any needed correcting journal entries. Those involving exempt beach concession license fees should be reclassified to the City's general fund.

Management Response:

The Finance Department has set up the payment of these concessionaire fees to automatically split the 25% to a Liability account. Finance has reconciled the September 30, 2007 year end balance of \$18,280.13 and remitted the check promptly together with the \$539.59 in item 2.

4. Finding: *Financial posting to two different vendor accounts*

Typically, one vendor number should be assigned to each vendor in the City's Financial System and all relevant transactions should be entered under that number. Otherwise, this decentralization of data for the vendor results in excessive vendor accounts thereby confusing the users. Although an improvement over the prior fiscal year's entries, review of the City's Financial System entries showed that the fiscal year 2006/07 quarterly sand tax payments were posted to two different vendor numbers/accounts.

The Finance Department issued four quarterly checks for revenues received from beachfront concessions and special events to the Florida Department of Environmental Protection or vendor identification number 006672. Meanwhile, the upland fee sand tax payment was sent to the Department of Natural Resources or vendor identification number 014771. Subsequent inquiries were unsuccessful in trying to determine the reason for the existence of the two vendors.

Recommendation(s):

Both of the aforementioned vendor accounts presently remain open but the preferred approach is to close 014771 and have all subsequent sand tax entries made to vendor

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identification number 006672. The Finance Department should periodically sort through the current vendor accounts in an effort to purge or eliminate any unnecessary duplication.

Management Response:

Finance is in the process of reviewing the multiple vendors' setup for the Florida Department of Environmental Protection and will update the vendor files accordingly to simplify and leave only one vendor with all the history of payments.

EXIT CONFERENCE

An exit conference was held on March 5, 2008 in the Finance Department. Participants included Georgina Echert (Assistant Finance Director), Raul Soria (Revenue Manager), James Sutter (Internal Auditor) and Mark Coolidge (Senior Auditor). All parties were in agreement as to the contents of this report. Management responses were solicited and included in our report.

JJS:MC:mc

Audit performed by Mark Coolidge

cc: Patricia Walker, Chief Financial Officer
Georgina Echert, Assistant Director, Finance Department

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SCHEDULE OF FEES COLLECTED
 BEACHFRONT MANAGEMENT AGREEMENT
 FISCAL YEAR 06/07

		<u>75% OF</u>	<u>25% DUE</u>	<u>REMITTED</u>	<u>OWED</u>	
<u>CONCESSIONAIRE</u>	<u>TOTAL FEES *</u>	<u>TOTAL</u>	<u>STATE</u>	<u>TO STATE</u>	<u>TO STATE</u>	
1	1500 Ocean Drive Associates	\$1,792.00	\$1,344.00	\$448.00	\$362.63	\$85.37
2	2201 Collins Avenue, LLC	5,664.00	4,248.00	1,416.00	1,416.00	0.00
3	Alexander Hotel	3,680.00	2,760.00	920.00	920.00	0.00
4	Arden Savoy	1,200.00	900.00	300.00	300.00	0.00
5	Art Center South Florida	6,308.40	4,731.30	1,577.10	1,577.10	0.00
6	Avista Studios	5,887.84	4,415.88	1,471.96	1,471.96	0.00
7	Best Western Atlantic Beach	3,264.00	2,448.00	816.00	816.00	0.00
8	Beta Epsilon/Cadillac LLC	4,208.00	3,156.00	1,052.00	0.00	1,052.00
9	BGW Design Limited	3,785.04	2,838.78	946.26	946.26	0.00
10	Blue and Green Diamond	0.00	0.00	0.00	158.50	(158.50)
11	Boucher Brothers	583,457.40	437,593.05	145,864.35	146,498.35	(634.00)
12	Continuum on So. Beach	5,024.00	3,768.00	1,256.00	1,256.00	0.00
13	Crystal Beach Development	1,344.00	1,008.00	336.00	0.00	336.00
14	CSC Traymore	1,376.00	1,032.00	344.00	344.00	0.00
15	Days Inn Art Deco	2,336.00	1,752.00	584.00	584.00	0.00
16	Days Inn Oceanside	2,128.00	1,596.00	532.00	532.00	0.00
17	Deco Productions	1,373.84	1,030.38	343.46	343.46	0.00
18	Decoplage Condo Assn.	10,000.00	7,500.00	2,500.00	2,500.00	0.00
19	Delano Hotel	3,328.00	2,496.00	832.00	832.00	0.00
20	Doubletree Surfcomber Hotel	1,760.00	1,320.00	440.00	440.00	0.00
21	East End Volleyball	446.52	334.89	111.63	111.63	0.00
22	Eden Roc Hotel	5,600.00	4,200.00	1,400.00	1,400.00	0.00
23	Exclusive Marketing Inc.	3,709.08	2,781.81	927.27	927.27	0.00
24	Fontainebleau Hotel	10,000.00	7,500.00	2,500.00	2,500.00	0.00
25	Four Points/Sheraton	3,456.00	2,592.00	864.00	864.00	0.00
26	Frere Independent	747.68	560.76	186.92	186.92	0.00
27	Hello Florida Inc.	2,989.72	2,242.29	747.43	747.43	0.00
28	Holiday Inn Miami Beach	3,968.00	2,976.00	992.00	992.00	0.00
29	Hospitality by Brenda Gordon, Inc.	175.24	131.43	43.81	43.81	0.00
30	Il Villaggio Condo Assn.	2,032.00	1,524.00	508.00	430.12	77.88
31	Innovative Events	560.76	420.57	140.19	990.69	(850.50)
32	Katrina's/The Bath Club	3,200.00	2,400.00	800.00	800.00	0.00
33	Lead Dog Marketing Group	140.60	105.45	35.15	35.15	0.00
34	Marseille Hotel	1,808.00	1,356.00	452.00	452.00	0.00
35	Miami Beach Marriott	3,776.00	2,832.00	944.00	944.00	0.00
36	On Board Entertainment	8,859.80	6,644.85	2,214.95	2,214.95	0.00
37	Palms South Beach	3,936.00	2,952.00	984.00	984.00	0.00
38	Penrod Brothers	58,999.40	44,249.55	14,749.85	14,749.85	0.00
39	Polo Line LLC	4,759.04	3,569.28	1,189.76	1,189.76	0.00
40	Quality Inn	3,600.00	2,700.00	900.00	900.00	0.00
41	Regency Party Rentals	1,404.68	1,053.51	351.17	351.17	0.00
42	Riande Continental Hotel	4,016.00	3,012.00	1,004.00	1,143.75	(139.75)
43	Richmond Hotel	1,712.00	1,284.00	428.00	(1,154.13)	1,582.13
44	Riutel Florida	4,544.00	3,408.00	1,136.00	2,645.75	(1,509.75)

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 FISCAL YEAR 06/07

<u>CONCESSIONAIRE</u>	<u>TOTAL FEES *</u>	<u>75% OF TOTAL</u>	<u>25% DUE STATE</u>	<u>REMITTED TO STATE</u>	<u>OWED TO STATE</u>
45 Ritz Carlton	6,016.00	4,512.00	1,504.00	1,504.00	0.00
46 Royal Palm	0.00	0.00	0.00	(917.30)	917.30
47 Sagamore Hotel	1,472.00	1,104.00	368.00	586.58	(218.58)
48 SC Collins LLC	4,711.68	3,533.76	1,177.92	1,177.92	0.00
49 Shelborne Beach Resort	4,080.00	3,060.00	1,020.00	1,020.00	0.00
50 Soiree Miami Inc.	280.36	210.27	70.09	70.09	0.00
51 South Seas Hotel	1,872.00	1,404.00	468.00	468.00	0.00
52 TBA Global Events	3,271.04	2,453.28	817.76	817.76	0.00
53 The Bentley Beach	1,744.00	1,308.00	436.00	436.00	0.00
54 The National	2,560.00	1,920.00	640.00	640.00	0.00
55 The Raleigh Hotel	1,824.00	1,368.00	456.00	456.00	0.00
56 The Setai Resort and Condo	4,272.00	3,204.00	1,068.00	1,068.00	0.00
57 The Shore Club Hotel/Philips	5,200.00	3,900.00	1,300.00	1,300.00	0.00
58 Wyndham Miami Beach Resort	6,864.00	5,148.00	1,716.00	1,716.00	0.00
Total	\$826,524.12	\$619,893.09	\$206,631.03	\$206,091.45	\$539.59

*Excludes sales tax