



Joseph M. Centorino, Inspector General

TO: State of Florida Department of Environmental Protection
FROM: Joseph Centorino, Inspector General

DATE: February 3, 2023
PROJECT: State Beachfront Management Agreement (#3595) Financial Audit Report
OIG No. 22-24
PERIOD: October 1, 2020 through September 30, 2021

This audit report is 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 assigned No. 3595 by the Florida Department of Natural Resources. Amendment number 1, signed on August 9, 2007, extended 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 to the State of Florida Department of Environmental Protection 25% "sand tax" of any and all monies the City collects from concessionaires for the use of State property. Also, in accordance with Florida Statutes, the City collects 7% sales tax along with the beachfront rental revenue and remits the same to the Florida Department of Revenue.

There are currently four related categories of beachfront property users:

- Operators of concessions seaward of Lummus Park, Ocean Terrace, North Shore Open Space Park, 21st and 46th Streets, and Pier Park who pay for the use of the beachfront pursuant to their respective contractual agreements with the City.
- Miami Beach hoteliers, apartments, and condominium associations located on the beachfront pay beach "upland" fees to the City annually based on its corresponding number of units. This category also includes "non-upland" fee properties that have negotiated an agreement with nearby upland fee properties whereby their residents can use the beach amenities of the upland properties.
- Special Event permits are granted to members of the public 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.
- Special Event and Film and Print productions requiring the parking of essential vehicles on the beach or sand areas must purchase Vehicle Beach Access passes from the City's Tourism and Culture Department.

The City remitted the following four sand tax payments totaling \$421,896.25 to the State of Florida based on the revenues collected during the 2020/21 fiscal year:

Check Date	Period	Check Number	Check Amount
01/29/2021	Oct-Dec 2020	459352	82,185.44
04/22/2021	Jan-Mar 2021	462278	29,386.59
07/15/2021	Apr-Jun 2021	464943	181,975.21
10/19/2021	Jul-Sep 2021	468390	128,349.01
TOTAL			\$421,896.25

OVERALL OPINION

Based upon the City of Miami Beach Office of the Inspector General (OIG) Auditor's examination of City records, it was determined that the City inadvertently underpaid the State of Florida by a total of \$160,927.55 during the October 1, 2020 through September 30, 2021 audit period.

PURPOSE

The purpose of this audit is to determine whether the City complied with State Beachfront Management Agreement No. 3595's terms by accurately calculating and timely remitting all sand tax monies due to the State of Florida Department of Environmental Protection equal to 25% of any and all monies collected from concessionaires for the use of State property.

FINDINGS

The OIG Auditor reviewed all transactions recorded in the sand tax general ledger account during the City's 2020/21 fiscal year and all provided departmental supporting documentation. In addition, follow-up testing was performed on all deficiencies identified during the 2019/20 fiscal year audit to verify that the State was accurately compensated. It was determined that the State is due a net total of \$162,541.84 (\$172,151.34 total underpayment in finding #1 - \$9,609.50 total overpayment in finding #2) related to the 2020/21 fiscal year. In addition, the OIG Auditor followed up on the findings identified in the 2019/20 fiscal year audit previously issued on May 6, 2022, which determined a net sand tax overpayment of \$1,614.29 (finding #3) still outstanding. In sum, this audit concluded that the City underpaid the State by a net total of \$160,927.55 (\$162,541.84 - \$1,614.29) in sand tax, as shown in the findings below.

1. **Sand Tax Total Underpayment Of \$172,151.34 Related To The 2020/21 Fiscal Year.**
 - a. A sand tax underpayment of \$94,976.25 occurred due to an incorrect distribution of payments among the appropriate general ledger accounts. In some instances,

100% of the upland fee payments were distributed to the concession's beachfront revenue account instead of 25% being applied to the sand tax account and 75% to the appropriate revenue account.

- b. A sand tax underpayment of \$77,175.09 ($\$308,700.37 \times 25\%$) related to Wedding, Ceremony, and Team Building permit fees due on transactions occurring from October 1, 2011 through September 30, 2020. Although these transactions occurred on State-owned property, the funds were mistakenly not allocated to the sand tax general ledger account, and the transactions were not included in the documentation furnished annually for audit. Tourism and Culture Department management identified the omission, reported the deficiency to the State in a letter dated April 30, 2021, and promptly revised its internal processes to help prevent similar mistakes from reoccurring.

2. Sand Tax Total Overpayment Of \$9,609.50 Related To The 2020/21 Fiscal Year.

- a. The OIG Auditor tested the annual gross receipts of beachfront concessionaire Boucher Brothers Miami Beach, LLC, and concession payments remitted by the company to the City during the audit period. It was determined that the City Facilities and Fleet Management Department Asset Management Division overbilled the customer by \$25,690.00 ($\$180,730.86 - \$155,040.86$). As a result, the Florida Department of Environmental Protection was overpaid by \$6,002.34 in sand tax ($\$25,690.00 - \$1,680.65 \text{ state sales tax} = \$24,009.35 \times 25\%$).
- b. Five identified Miami Beach businesses overpaid sand tax by a total of \$2,987.16, due to incorrect upland fee invoicing through the annual business tax receipt process.
- c. The Tourism and Culture Department Special Events Division erroneously overpaid the State for \$620.00, due to the inappropriate application of sand tax related to Paraiso Miami Beach, permit # SPE0521-0540, receipt # 327580.

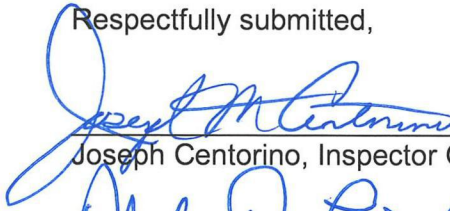
3. Follow-Up Of May 6, 2022 Audit Report Findings Related To The 2019/20 Fiscal Year Resulting In A Net Sand Tax Overpayment of \$1,614.29 Due To The State.

- a. Sand Tax Overpayments totaling \$2,537.25
 - Two events held west of the erosion control line, which is not State-owned property, were incorrectly charged for and paid sand tax: (1) 2019 Miami Beach Halloween Half Marathon & Freaky 4-Miler, permit # SPE0719-0017, receipt #228755; and (2) Milonga by KCC, permit # SPE0819-0074, receipt #233087. Although journal entries were created to correct these errors, as of September 23, 2022 they have not been completed, resulting in an outstanding sand tax overpayment of \$304.00 to the State.
 - Four upland properties: (1) Georgian Condominium (Non-Upland Kaskades Hotel), license number: RL-03000250; (2) King Richard Condominium, license number: RL-03000189; (3) SoHo Beach House Hotel, license number: RL-10003800; and (4) Fontainebleau Hilton Resort, license number: RL-05001340; were overbilled by a net total of \$4,149.00. As a result, \$1,037.25 in sand tax remains overpaid to the State.

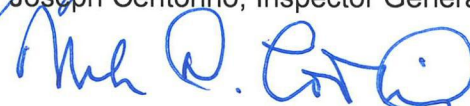
- The upland property: (1) Beach Hotel Associates, LLC/ Delano Hotel, license number: RL-10005920, was overbilled \$4,784.00 in upland fees as it was not operating during the 2020/21 fiscal year. As of September 23, 2022, it has not been resolved. Consequently, \$1,196.00 in sand tax remains overpaid to the State.
- b. Sand Tax Underpayments Totaling \$922.96
- For B.B. Deco Productions-Cisco Beach, permit # SPE0819-0056, receipt # 224872, the amount related to sand tax was incorrectly entered as sales tax, resulting in an underpayment to the State of \$318.75. Although Journal Entry #11-118 was posted on September 14, 2022, no payment has yet been submitted to the State.
 - Two events were held east of the erosion control line, but no sand tax was applied to the (1) Kringstein and Sevin Wedding Ceremony, permit # SPE0220-0315, invoice # 25741, and (2) Elwing Wedding, permit # SPE0919-0083, receipt # 232534, resulting in a total underpayment to the State of \$315.00.
 - The OIG auditor noted the following 15 events where the City did not correctly invoice customers, resulting in a total sand tax underpayment to the State of \$139.21.
 1. SOHO House-Pre Art Basel-Tent, permit #SPE1119-0173, receipt # 240363;
 2. SOHO House-Art Basel Tent, SPE1019-0143, receipt # 240364.
 3. BB_Edition-Full moon watch party, SPE1019-0162, receipt # 231382;
 4. BB_British Tobacco Beach Reception, permit # SPE1019-0128, receipt # 231383;
 5. BB_IMMUNOTEC/MONDOaquixia Beach BBQ, SPE1019-0144, receipt # 231947;
 6. Black & Decker Annual Conference, SPE1219-0210, receipt # 239308;
 7. BB_Tiger Risk, SPE1219-0244, receipt # 240358;
 8. BB_Patron Spirits, SPE1219-0252, receipt # 240356;
 9. Hakakian And Azulay Faena Beachfront Wedding, SPE1219-0203, receipt # 240155;
 10. BB_Event Consulting INTL, SPE1219-0240, receipt # 240357;
 11. BB_360 Destination FOX, SPE1219-0256, receipt # 242654;
 12. BB_Akoya Beach Reception, SPE0120-0283, receipt # 244699;
 13. BB_VEVO Beach Reception, SPE0120-0294, receipt # 244698;
 14. BB_EPIC TRAVEL EVENT, SPE0120-0287, receipt # 244701; and
 15. BB_YEXT Beach Reception, SPE0120-0282.
 - Sand tax was underpaid to the State during the audit period in the amount of \$150.00 for King Richard Condominium, license number: RL-03000189. No evidence of correction was provided; therefore, \$150.00 remains underpaid to the State.

- c. In sum, the above calculations result in an outstanding net sand tax overpayment of \$1,614.29 (\$2,537.25 overpayment - \$922.96 underpayment) to be included in the City's next quarterly payment to the State.

Respectfully submitted,



Joseph Centorino, Inspector General



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