



Joseph M. Centorino, Inspector General

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

DATE: February 3, 2023

PROJECT: State Beachfront Management Agreement (#3595) Operational Audit Report
OIG No. 22-25

PERIOD: October 1, 2020 through September 30, 2021 (Sand Tax Payments)
October 1, 2021 through September 30, 2022 (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 2020/21 fiscal year transactions recorded in the City's sand tax general ledger account and departmental furnished supporting documentation were examined for completeness and accuracy. The audit scope also verified whether the 2021/22 fiscal year 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 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 extended for an additional 25 years beginning February 7, 2007. In return, the City agreed to remit to the State 25% of any and all monies (sand tax) the City collects from concessionaires for the use of State 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 Street, and Pier Park. The current City Commission-approved concessionaires are Boucher Brothers Miami Beach LLC and Penrod Brothers, Inc. They pay for the use of the beachfront as 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., 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 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 (TCD).
 4. Special Events and Film and Print productions requiring the parking of essential vehicles on the beach or sand areas of Miami Beach may also involve purchasing vehicle beach access (VBA) passes from TCD. The pass cost is \$159 per vehicle per event, as per FY2021 Appendix A – Fee Schedule approved by the City Commission through Ordinance No. 2019-4299. Event producers may purchase a maximum of ten VBA passes per event unless the City Manager or their designee approves additional passes.

The following table lists the City's quarterly sand tax payments, totaling \$421,896.25, remitted to the State 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 an examination of the records furnished for October 1, 2020 through September 30, 2021, various deficiencies were noted, resulting in sand tax underpayments and overpayments to the State. The total net underpayment of \$160,927.55 (\$94,976.25 underpayment in finding #1 + \$77,175.09 underpayment in finding #2 - \$6,002.34 overpayment in finding #3 - \$2,987.16 overpayment in finding #4 - \$620.00 overpayment in finding #5 - \$1,614.29 in finding #6), should be included in the City's next quarterly sand tax payment.

Included in this balance are findings from the OIG's prior audit report, dated May 6, 2022, related to the 2019/20 fiscal year that remain unresolved. Once these outstanding findings are corrected, the corresponding sand tax adjustment must be reflected in the City's next quarterly payment to the State.

Although the amount of sand tax due to the State increased in this audit, the number of exemptions and internal control deficiencies decreased compared to the previous year's audit. The OIG is encouraged that the oversight process related to sand tax payments in the affected City departments is improving; however, there were many corresponding corrected journal entries, and a few were not accurately completed. The OIG believes department management should focus more on determining the root causes of the identified errors and take appropriate actions to correct them at their source.

The following shortcomings were noted during this audit:

1. Sand tax of \$94,976.25 is due to the State resulting from an incorrect beachfront upland

- fee payment distribution related to the 2021/22 fiscal year but paid during the 2020/21 fiscal year.
2. Sand tax of \$77,175.09 is due to the State, resulting from collected Wedding, Ceremony, and Team Building permit fees that occurred on State-owned property since the 2010/11 fiscal year but not remitted to the State. TCD management discovered its omission from the City's previous sand tax payments, notified the OIG of the error, and is pursuing corrective action.
 3. The State was overpaid \$6,002.34, due to incorrect computation of the percentage of gross receipts vs. minimum guaranteed payment.
 4. A sand tax overpayment of \$2,987.16 to the State was made because of incorrect upland fee invoicing for the 2020/21 fiscal year.
 5. TCD Special Events Division overpaid the State by \$620.00, due to incorrectly remitting sand tax related to the issuance of a VBA pass for a non-beach event.
 6. Prior audit findings from the 2019/20 fiscal year remain unresolved, resulting in a net sand tax overpayment of \$1,614.29 to the State.

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 for the use of State-owned beachfront property during the 2020/21 fiscal year. Also included in the scope is 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 for the 2020/21 fiscal year were accurately calculated and recorded in the City's Financial System.
- To determine whether the City's Finance Department timely remitted 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 2021/22 fiscal year upland, non-upland, and beachfront concession fees to all tested 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 agreements and approved Standard Operating Procedures;
- 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 2020/21 fiscal year to verify that each was correctly calculated, accurately recorded in the City Financial System, and timely remitted to the State. In addition, the OIG auditor reviewed all supporting documentation provided to determine the completeness of the reported transactions. The deficiencies identified in the audit findings below determined that the City underpaid sand taxes due by a net total of \$160,927.55.

1. ***FINDING: SAND TAX OF \$94,976.25 IS DUE TO THE STATE RESULTING FROM AN INCORRECT BEACHFRONT UPLAND FEE PAYMENT DISTRIBUTION RELATED TO THE 2021/22 FISCAL YEAR BUT PAID DURING THE 2020/21 FISCAL YEAR.***

Any hotel, apartment, or condominium operating on the beachfront shall pay an upland fee of \$15 per unit charge 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%. Resolution No. 2016-29403, effective October 1, 2016, increased the upland fee annually in accordance with the CPI. Consequently, upland property owners were charged \$24 per unit for the 2021/22 fiscal year, as listed in the FY 2022 Appendix A Fee Schedule.

In addition, Resolution No. 2016-29403 increased the maximum annual fee per upland property from \$10,000 to \$15,000 (similarly increased annually in accordance with the CPI). As per Finance Department, the maximum annual upland fee during the 2020/21 fiscal year equaled \$17,051 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 maximum annual upland fee ($\$17,051 \text{ maximum} / \$24 \text{ per unit} = 710.45 \text{ units}$).

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 concession(s). 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 to upland property owners each summer. The data listed on the completed and signed letter agreement is then used by the Beach Maintenance Division to bill the upland property owner for its annual BTR as recorded in the EnerGov system, the City's licensing and permitting system.

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 comparison of the upland fees due based on the entries on the master summary schedule with the amounts billed in the EnerGov System indicated all upland properties were billed appropriately related to upland fees and concession permits by the Finance Department's Licensing Section during the audit period. However, the OIG Auditor's reconciliation of the sand tax due and the sand tax remitted determined that the State was underpaid by \$94,976.25, as Beach Maintenance Division staff incorrectly distributed upland payments in the City general ledger. More specifically, all upland fee payments remitted during the 2020/21 fiscal year, but related to the 2021/22 fiscal year, were incorrectly distributed to only the beachfront revenue account instead of allocating 25% to the sand tax account (601-7012-229068-00-000-000-00-00-00-) and 75% to the beachfront revenue account (011-80000-369925-00-307-389-00-00-00-).

Recommendation(s):

A correcting journal entry should be completed by the Finance Department 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 by \$94,976.25. Facilities and Fleet Management Department management should more closely scrutinize the upland fee payment distribution to help prevent future inaccuracies from occurring.

Finance Department Response:

The Finance Department is in communication with the Facilities and Fleet Management Department. Once an adjustment is processed, the Finance Department will reflect this adjustment in the next quarterly filing to the State.

2. **FINDING: SAND TAX UNDERPAYMENT OF \$77,175.09 WAS DUE TO TCD IDENTIFIED WEDDING, CEREMONY, AND TEAM BUILDING PERMIT FEES COLLECTED THAT OCCURRED ON STATE-OWNED PROPERTY SINCE THE 2010/11 FISCAL YEAR, BUT WERE NOT PREVIOUSLY REMITTED TO THE STATE**

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 Ordinance (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 special events.

Wedding, Ceremony, and Team Building permits allow for a single temporary use of public property in the City. It shall accommodate no more than 150 people, including guests, wedding party, performers, etc. As a requirement, a completed application detailing the exact location, date, times, and number of attendees shall 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.

Upon examining the sand tax remitted to the State for the 2020/21 fiscal year, the OIG Auditor observed payments regarding Wedding, Ceremony, and Team Building permit fees. The FY2021 Ceremony and Team Building Log furnished by TCD was examined regarding the remittance of sand tax to the State, in which no deficiencies were noted. Although the applicable Wedding, Ceremony, and Team Building permit fee for the 2020/21 fiscal year was \$132 pursuant to the FY2021 Appendix A – Fee Schedule, applicable customers were incorrectly charged \$129 based on the previous fiscal year permit fee as listed in the FY2020 Appendix A – Fee Schedule.

Consequently, the City's 2020/21 fiscal year related revenue was reduced by \$588.00 (\$3.00 per event) for the 196 Wedding, Ceremony, and Team Building permit fee transactions. This error did not affect the accuracy of the City's sand tax remittances to the State because it was properly calculated based on the monies received. Further testing revealed that the \$134 permit fee charged for the 2021/22 fiscal year agreed with the FY2022 Appendix A – Fee Schedule.

In addition, the OIG Auditor determined that sand tax was not charged or remitted to the State related to Wedding, Ceremony, and Team Building permit fees for the prior fiscal years (2010/11 through 2019/20 fiscal years).

After the OIG Auditor's request, TCD provided the Ceremony and Team Building Permit Fee Logs for prior fiscal years. Unbeknownst initially to the OIG Auditor, TCD had already identified the related deficiency dating back to the 2010/11 fiscal year and had performed its own internal review of the Wedding, Ceremony, and Team Building revenue accounts and the corresponding sand tax underpayment. In sum, TCD staff determined that the City underpaid the State by \$77,175.09 (25% of \$308,700.37) from October 1, 2010 through September 30, 2020, which was verified by the OIG Auditor. Its omission was not detected previously because 25% of the monies received were not allocated to the sand tax general ledger account, and it was not listed in the documentation that reported transactions occurring on State-owned property.

In a letter dated April 30, 2021, the TCD Director notified the State of the \$77,175.09 in sand tax due and requested guidance and direction to remedy its calculated underpayment. TCD management also initiated corrective action by revising its internal processes to help prevent similar omissions from reoccurring.

Recommendation:

If not already resolved, the OIG recommends that the City's next quarterly sand tax payment be increased by the identified underpayment of \$77,175.09. TCD staff should timely review the fees listed in the approved annual Appendix A – Fee Schedule and the corresponding fees charged in the Munis system for completeness and accuracy to help prevent future billing errors from occurring.

Finance Department Response:

The Finance Department is in communication with the Tourism and Culture Department. Once a journal entry has been submitted by the Tourism and Culture Department and processed, the Finance Department will reflect this adjustment in the next quarterly filing to the State.

Tourism and Culture Department Responses:

As noted in the preliminary finding, the Tourism and Culture Department management identified the omission, reported the deficiency to the State in a letter dated April 30, 2021 (see attached), and promptly revised its internal processes to help prevent similar mistakes from reoccurring. Tourism and Culture Department management followed up the letter with an e-mail to the State dated May 24, 2021 (attached) in which the State replied that they would review and respond to the issue. No follow-up from the State has occurred. **A journal entry (attached) has been sent to the Finance Department to correct the underpayment to the State.** Tourism and Culture Department staff will validate Appendix A fees to the fees being charged and mapped from EnerGov to Munis on a more frequent basis throughout the fiscal year to ensure accuracy.

3. **FINDING: SAND TAX OVERPAYMENT OF \$6,002.34 TO THE STATE WAS CAUSED BY AN INCORRECT COMPUTATION OF THE DIFFERENCE BETWEEN THE PERCENTAGE OF GROSS RECEIPTS VS. MINIMUM GUARANTEED PAYMENTS PURSUANT TO THE CONCESSION AGREEMENT EXECUTED BY BOUCHER BROTHERS MIAMI BEACH LLC.**

The Boucher Brothers Miami Beach, LLC Amended and Re-stated Public Beachfront Concession Agreement in Section 4.1 Minimum Guarantee specifies that the concessionaire pays the City a Minimum Guarantee Annual Concession Fee (MG) in the amount of \$1,200,000 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 pay 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:*

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

In addition, the Mayor and City Commission adopted Resolution No. 2021-31789 on July 28, 2021, amending Resolution No. 2020-31368, which included the following financial terms:

- 3A) Minimum Guaranteed Annual Concession Fee (MG): \$1,200,000, payable with \$600,000 due in January and \$600,000 due in July:

- Concessionaire paid \$600,000 in January 2020 (covers January - June 2020);
- MG Credit of \$367,000 due to closures (March 12, 2020 - June 30, 2020)
- July 2020 MG waived;
- January 2021 MG (\$600,000 -\$367,000 credit); and
- January 2022, MG is greater of \$1,200,000 or average PG for the last 5 years of the original concession areas governed by the Amended and Re-stated Agreement.

3B) Annual Percentage of Gross Receipts (PG) - varying percentages based upon certain categories:

- Abatement of PG from January 2020 through February 2021; and
- PG resuming March 1, 2021.

The Facilities and Fleet Management Department Asset Management Division review the concessionaire's submitted reports containing its annual gross receipts to multiply the corresponding gross receipts by the applicable percentage of sales: food and beverage sales (15%), beach-related sundries/skincare products sales (20%), beach equipment rentals (20%), watersports equipment rentals (20%), sand sifting fees (20%), team building events fees (25%), advertising/sponsorship fees (50%), and City Displacement fees (30%). If the resulting calculation exceeds the MG paid by the concessionaire, then additional monies are owed to the City pursuant to Section 4.2.

Invoice #36214 was issued for a total amount of \$180,730.86 with the corresponding sand tax of \$41,442.29 for the PG related to the 2021 calendar year (January 1, 2021, through December 31, 2021). The OIG Auditor calculated that the Asset Management Division overbilled Boucher Brothers Miami Beach, LLC for its 2021 PG by \$25,690.00 (\$180,730.86 - \$155,040.86). As a result, the State was overpaid by \$6,002.34 in sand tax (\$41,442.29 - \$35,439.95), as shown in the below table.

Description	Original Bill (Inv. # 36214)	OIG Computation	Difference Over/(Under)
Asset Revenue (75%)	\$127,684.73	\$109,458.05	\$18,226.68
Sand Tax (25%)	\$41,442.29	\$35,439.95	\$6,002.34
Sales Tax	\$11,603.84	\$10,142.86	\$1,460.98
Total Balance Due	\$180,730.86	\$155,040.86	\$25,690.00

Recommendation(s):

Boucher Brothers Miami Beach, LLC should receive either a credit or a refund of the amount overpaid. Once completed, \$6,002.34 should be deducted from the amount due the State in the City's next quarterly sand tax payment. In the future, the Asset Management Division should calculate the percentage of gross receipts that exceeds the amount of the MG at year-end and determine if an additional lump sum payment is due (no later than May 31) after each agreement year.

Finance Department Response:

An adjustment was submitted by the Facilities and Fleet Management Department in December 2022 and the Finance Department reflected this adjustment in the January 2023 filing to the State.

4. **FINDING: A SAND TAX OVERPAYMENT OF \$2,987.16 TO THE STATE WAS CAUSED BY INCORRECT UPLAND FEE INVOICING DURING THE 2020/21 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 2020/21 fiscal year was \$851.00, as reported in the FY 2021 Appendix A Fee Schedule.

Signed beachfront agreement letters authorize the entity to operate a beachfront concession, and, among other terms, include the amount 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.

A review of related sand tax payments remitted to the State during the audit period identified six businesses inaccurately charged through the BTR process, as separated below by those that overpaid and underpaid sand tax.

Total overpayment of sand tax = \$2,987.16 (\$2,774.41 + \$212.75)

- Although the five businesses below are not upland properties, each was incorrectly charged and remitted sand tax totaling \$2,774.41:
 - (a) \$28.50 by Enad Investment Corp. (Enriquez, Raydel); permit BTR010645-08-202, receipt # 346100
 - (b) \$2,108.40 by The Italian Job Miami, LLC / Siena Taver, permit RL-10007474, receipt # 338343
 - (c) \$193.38 by Ramisha Raiyan Inc. (Rahman, Mohammed M.), permit BTR010139-05-202, receipt # 328963
 - (d) \$385.00 by The Advantaged Yacht Charters & Sales, permit BTR009831-03-202, receipt # 315572
 - (e) \$59.13 by Heavy Duty Goods Inc. (Cohen, Steven), permit BTR007346-08-201, receipt # 313712

- \$212.75 in sand tax was also mistakenly charged to permit fee for C/O General Manager, RP/WG Cabana Owner, permit RL-10007187, receipt # 279142.

Recommendation(s):

- a) The Finance Department Licensing Section should issue a refund or credit to the five identified businesses incorrectly charged sand tax totaling \$2,774.41. Once completed, the City should deduct that amount from its next quarterly payment to the State.

- b) \$212.75 in sand tax should be deducted from the City's next quarterly payment to the State related to C/O General Manager, RP/WG Cabana Owner.

Finance Department Response:

Total overpayment of sand tax = \$2,987.16 (\$2,774.41 + \$212.75): The next quarterly payment to the state will be decreased by \$2,987.16. The amount will be reclassified from Sand Tax to BTR Revenue in the April 2023 quarterly filing to the state.

In order to prevent this occurring in the future, the Finance Department has removed the Upland Fee category from our Licensing Module.

Implementation Date: April 2023.

5. **FINDING: TCD SPECIAL EVENTS DIVISION OVERPAID THE STATE \$620.00 DUE TO AN INCORRECT CHARGE RELATED TO A VEHICLE ACCESS PASS FOR A NON-BEACH EVENT**

City Code Chapter 12 - Arts, Culture and Entertainment (the department's name was changed to Tourism and Culture Department (TCD)) 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 2020/21 fiscal year fees for special events are \$159 per VBA pass fee and a \$.27 beach square footage fee pursuant to FY 2021 Appendix A Fee Schedule as approved by the City Commission through Ordinance No. 2019-4299, effective October 5, 2019.

The TCD Special Events Division creates invoices in the Munis system, the City's enterprise resource planning system, detailing the general ledger account distribution for special event permits and any corresponding VBA passes issued.

During audit fieldwork, some invoicing errors were noted whereby transactions recorded in the EnerGov system were incorrectly distributed, with 100% going to the sand tax account instead of 25% to the sand tax account and 75% to the appropriate revenue account. The distribution was occasionally inverted in other invoices, with 75% recorded in the sand tax general ledger account and the remaining 25% applied to the appropriate revenue account.

Most of these errors were identified during a self-audit conducted by TCD Special Events Division staff. In response, journal entries like JE #10-099 and JE #12-116 were created to allocate revenues to the proper accounts due to EnerGov charge code mapping errors. Although these journal entries aimed to correct all identified errors, one was not accurately completed, resulting in a \$620.00 overpayment to the State. More specifically, the total payment charged for four VBA passes issued for an event held west of the erosion control line, which is not State-owned property, was incorrectly included in the City sand tax quarterly payment to the State: (1) Paraiso Miami Beach, permit # SPE0521-0540, receipt # 327580.

In addition, the OIG Auditor determined that the VBA pass fee and beach square footage fee charged for the 2020/21 fiscal year of \$155 and \$0.26 respectively, incorrectly correspond to the 2019/20 fiscal year as per FY2020 Appendix A – Fee Schedule. The actual 2020/21 fiscal year cost of the VBA pass fee is \$159 per event, and the beach square footage fee is \$0.27 per FY2021 Appendix A – Fee Schedule. Therefore, City revenue was reduced by \$4.00 for each VBA pass and \$0.01 for each square foot of the

beach square footage fee collected during the 2020/21 fiscal year. This error did not affect the accuracy of the City's sand tax remittances to the State because the sand tax was calculated correctly based on the monies received by the City.

Internal Control Deficiencies:

Discrepancies existed between the amounts included in the TCD maintained Special Events Fee Log "SPE Fee Log 20-21" and the corresponding EnerGov and Munis system invoices, creating confusion about correct figures. EnerGov is the City's permitting and licensing system. For example, the OIG Auditor determined that Citadel Beach Lunch, permit # SPE0921-0645, receipt # 348220, was not included in the "SPE Fee Log 20-21". However, invoice # 312706, related to beach square footage fees, was created in the Munis system for this event.

Conversely, the Faena Art Program event @ 32 ST Beachfront, permit # SPE0920-0398, receipt # 286902, and 286901 are included in the "SPE Fee Log 20-21", but not VBA, and square footage transactions were recorded in the EnerGov system.

In addition, the World Polo event, permit # SPE0720-0383, receipt # 313515, contained a discrepancy in its sand tax computations related to the square footage of \$10 was observed in the "SPE Fee Log 20-21". However, the customer was billed correctly, and the State received the correct sand tax due.

Recommendation(s):

The City's next quarterly payment to the State should be reduced by \$620.00 due to the incorrect application of sand tax to a non-beach-related transaction. The corresponding amount should be reclassified to the appropriate general ledger revenue from the sand tax account. In the future, TCD staff should more closely verify the location of each special event to determine the applicability of sand tax, so that the correct entries are made among the general ledger accounts. Finally, TCD staff should review the fees listed in the approved annual Appendix A – Fee Schedule and the corresponding fees charged in the Munis system for completeness and accuracy to help prevent future billing errors from occurring.

Internal Control Deficiency Recommendations:

The TCD Director or her designee should consider incorporating the following changes in the Special Event Fee Logs: (1) separating events held east and west of the erosion control line; and (2) creating templates with locked formulas to calculate the corresponding amounts to be billed to customers depending on the type of transaction and how the payment should be distributed among the appropriate general ledger accounts. In addition, the Special Event Fee Log should be reconciled periodically to ensure that all events are correctly recorded and the computation of the total square footage, VBA, and allocations for City revenue and sand tax are accurately charged.

Finance Department Response:

A journal entry was posted for this overpayment in September 2022 and the Finance Department reflected this adjustment in the January 2023 filing to the State.

Tourism and Culture Department Response:

The Tourism and Culture Department agrees with the validity of the finding and can attribute this to a charge code mapping error from the Energov permitting system to the

Munis financial system. The City utilizes EnerGov, a financial permitting software, to issue Special Event permits. On the financial side of the program, the staff can only enter square footage, and the EnerGov program calculates the amounts and, therefore, the percentage due to Sand Tax. These calculations are embedded within EnerGov by our IT Department and done on the back end of the program, making it extremely difficult to isolate an error by TCD staff. Most of the findings result from the charge codes pointing at the wrong account being added to EnerGov. To clarify, TCD does not oversee the management of the EnerGov system. The mapping issue has since been corrected. **A journal entry (12-150 - attached) was posted by Finance in FY 2022 on November 10, 2022 correcting the overpayment of \$620.00.** The Tourism and Culture Department has since implemented updates to the Special Event Fee Log to use as an independent validation tool to confirm that the Energov system is mapping the accurate Sand Tax distribution to the Munis financial system. Tourism and Culture Department staff will validate Appendix A fees to the fees being charged and mapped from Energov to Munis on a more frequent basis throughout the fiscal year to ensure accuracy.

6. **FINDING: UNRESOLVED PRIOR FINDINGS FROM THE 2019/20 FISCAL YEAR AUDIT RESULTED IN A NET SAND TAX OVERPAYMENT OF \$1,614.29 DUE TO THE STATE.** The OIG Auditor performed a follow-up of the findings identified in the prior audit report issued May 6, 2022 related to the 2019/20 fiscal year, in which it was noted that the following items had not been resolved, resulting in an outstanding net sand tax overpayment to the State of \$1,614.29 (\$468.96 underpayment finding # 1 - \$2,083.25 overpayment finding # 2):

Prior Audit Finding # 1 (net underpayment of \$468.96)

A. Overpayments to the State totaling \$304.00

- Sand tax was incorrectly remitted for the following two events held west of the erosion control line, not on State-owned property: (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 by TCD staff to correct these errors, they were not accurately completed, resulting in a total outstanding overpayment of \$304.00 to the State.

B. Underpayments to the State totaling \$772.96

- For BB 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.
- OIG auditor noted the following 15 events where the City did not correctly invoice the named 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.

Prior Audit Finding # 2 (net overpayment of \$2,083.25)

Overpayments totaling \$2,233.25:

- a. Four upland properties: (1) Georgian Condominium (Non-Upland Kaskades Hotel), license number: RL-03000250 (\$575.00); (2) King Richard Condominium, license number: RL-03000189 (\$5.00); (3) SoHo Beach House Hotel, license number: RL-10003800 (\$5.00); and (4) Fontainebleau Hilton Resort, license number: RL-05001340 (3,564.00); were overbilled by a total of \$4,149.00. As a result, \$1,037.25 in sand tax is still overpaid to the State.
- b. The upland property: (1) Beach Hotel Associates, LLC/ Delano Hotel, license number: RL-10005920, was overbilled upland fees of \$4,784.00 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 is still overpaid to the State.

Underpayments totaling \$150.00:

- c. 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 is still underpaid to the State.

Prior Audit Finding # 3 (No sand tax consequences)

- a. The permit fees mistakenly billed to Beach Hotel Associates, LLC/ Delano Hotel,

permit number: RL-10005920, of \$1,702.00 has not been credited to the customer as of September 23, 2022.

- b. Three permit fee transactions incorrectly overbilled by \$2,553.00, and paid by the following: (1) East Atlantic Gardens Condominium, license number: RL-03000512; (2) King Richard Condominium, license number: RL-03000189; (3) Eden Roc, LLLP, RL-10004440 as of September 23, 2022, has not been credited.

In sum, the above calculations result in an outstanding net sand tax overpayment of \$1,614.29 (\$468.96 underpayment finding # 1 - \$2,083.25 overpayment finding # 2 + \$0 finding #3) that needs to be included in the next quarterly payment to the State.

Finance Department Response:

- A. Overpayments to the State totaling \$304.00
The Finance Department has reminded the Tourism and Culture Department that a journal entry needs to be submitted for this adjustment. Once received, the Finance Department will reflect this adjustment in the next quarterly filing to the State.

- B-1 Underpayments to the State totaling \$772.96 (Part B, Item 1 - \$318.75)
A journal entry was posted in August 2022 for \$318.75 and this amount was included by the Finance Department in the October 2022 filing to the State.

- B-2 Underpayments to the State totaling \$772.96 (Part B, Item 2 - \$315.00)
The Finance Department has reminded the Tourism and Culture Department that a journal entry needs to be submitted for this adjustment. Once received, the Finance Department will reflect this adjustment in the next quarterly filing to the State.

- B-3 Underpayments to the State totaling \$772.96 (Part B, Item 3 - \$139.21)
The Finance Department has reminded the Tourism and Culture Department that a journal entry needs to be submitted for this adjustment. Once received, the Finance Department will reflect this adjustment in the next quarterly filing to the State.

Prior Audit Finding # 2 (net overpayment of \$2,083.25)

Overpayments totaling \$2,233.25: In October 2022, the Finance Department reduced the upland fees by the amounts listed below.

- i. Georgian Condominium: \$143.75
- ii. King Richard Hotel: \$1.25
- iii. SoHo Beach House Hotel \$1.25
- iv. Fontainebleau Hilton Resort: \$891.00
- v. Beach Hotel Associates, LLC / Delano Hotel \$1196.00

The Finance Department reflected these adjustments in the October 2022 filing to the State.

Underpayments totaling \$150.00: In April 2022, the Finance Department increased the upland fees by the amounts listed below.

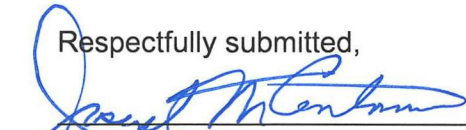
i. King Richard Hotel: \$150.00

The Finance Department reflected these adjustments in the July 2022 filing to the State.

Prior Audit Finding # 3 (No sand tax consequences)

On September 29, 2022, the Finance Department refunded the 2020/2021 overbilling for \$1,702.00 to Beach Hotel Associates, LLC / Delano Hotel. On September 29, 2022, the Finance Department refunded the 2020/2021 overbilling for \$2,553.00 to East Atlantic Gardens Condominium, King Richard Condominium, and Eden Roc, LL. The adjustments were properly reflected in the subsequent Sand Tax filing.

Respectfully submitted,



Joseph M. Centorino, Inspector General



Mark D. Coolidge, Chief Auditor

cc: Alina Hudak, City Manager
Eric Carpenter, Deputy City Manager
Marcia Monserrat, Chief of Intergovernmental and External Affairs
Adrian Morales, Facilities and Fleet Management Department Director
Lissette Garcia Arrogante, Tourism and Culture Department Director
Kathie Brooks, Acting Chief Financial Officer

OFFICE OF THE INSPECTOR GENERAL, City of Miami Beach
1130 Washington Avenue, 6th Floor, Miami Beach, FL 33139
Tel: 305.673.7020 • Fax: 305.206.5509 • **Hotline: 786.897.1111**
Email: CityofMiamiBeachOIG@miamibeachfl.gov
Website: www.mbinspectorgeneral.com