



OFFICE OF INSPECTOR GENERAL

FLORIDA DEPARTMENT OF TRANSPORTATION

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Robert E. Clift
Inspector General

May 9, 2014

Florida East Coast Railway Company 2012 Reimbursement Rates for Railroad Work Attestation Report No. 13I-1003

EXECUTIVE SUMMARY

The Florida Department of Transportation's (department) Office of Inspector General (OIG) conducted an examination of Florida East Coast Railway Company's (FEC) labor additive, material handling and supplies, and equipment rates for fiscal year 2012. The rates are to be used by FEC to bill costs related to the rail/highway safety program and are effective upon approval by the department Rail Office and the Federal Highway Administration (FHWA). The approved rates will remain in effect until new rates are examined and approved.

FEC classifies its employees into three labor groups – Maintenance of Roadway, Equipment and Signal Employees; Train Crews, Yardmasters and Train Dispatchers; and Non-Contract and General Office Employees. The labor additive surcharge rates for each group are 67.39%, 70.14% and 80.31%, respectively.

Consistent with the provisions of Code of Federal Regulations (C.F.R.),¹ FEC has elected reimbursement at fixed rates of eight percent for workman's compensation (W/C), public liability and property damage insurance together, and five percent for material handling and supplies. FEC has elected reimbursement for company owned equipment at industry rates as published by Dataquest in the "Blue Book for Railroad Equipment."

Our examination concluded the 2012 labor additive surcharge rates proposed by FEC are reasonable and supported by accounting records. The costs included in the rate computation are reasonable and allowable for use in billing costs to federal-aid projects. In addition, the materials handling and supplies, and equipment rates are reasonable and allowable.

¹ Title 23, Chapter I, Part 140, Subpart I.

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RESULTS OF EXAMINATION

Florida East Coast Railway Company (FEC) serves locations along the Florida east coast between Jacksonville and Miami. FEC has the only rail coastal right of way between Jacksonville and Miami and is the exclusive rail-service provider to the Port of Palm Beach, Port Everglades (Fort Lauderdale) and the Port of Miami.

Pursuant to Title 23, Part 646, C.F.R., Subpart B – Railroad-Highway Projects, federal-aid projects for the elimination of hazards of railroad-highway crossings are intended to establish partnerships with the railroads to address rail/highway crossing safety issues. Policies and procedures for reimbursement of work on rail/highway crossing safety projects as prescribed in 23 C.F.R. 646, Subpart B are located in 23 C.F.R. 140, Subpart I – Reimbursement for Railroad Work. Actual or average rates for labor, material handling and supplies, and equipment costs paid for work on the rail/highway safety project are reimbursable when adequately supported.

FEC currently classifies employees into three labor groups: Group II - Maintenance of Roadway, Equipment and Signal Employees; Group III - Train Crews, Yardmasters and Train Dispatchers; and Group IV - Non-Contract and General Office Employees.² The audited labor additive surcharge rates for each group are 67.39%, 70.14% and 80.31%, respectively (Attachment 1).

For the 2012 proposed rates, FEC removed pension costs and added the cost of bonuses to the labor additive rate calculation. This change resulted from FEC's decision to curtail its unfunded defined benefit plan (pension plan) in 1999. From this date forward, covered members accrued no further benefits from the plan. In addition, FEC successfully ratified bargaining agreements in 2011 and 2012 with employee labor unions, implementing an annual general wage increase of two percent and an Incentive Compensation Plan based on safety results, whereby an employee can earn up to a six percent bonus. We reviewed accounting records and supporting documentation to determine whether bonuses paid to executive leadership are allowable. We found the sum of wages and bonuses for executive management did not exceed reasonable thresholds.³

Under the provisions of 23 C.F.R. 140.906(b)(2)(ii), labor additive surcharge rates for workman's compensation (W/C), public liability and property damage insurance together may be reimbursed at actual costs or at a fixed rate of eight percent. FEC has elected reimbursement at the fixed rate of eight percent.

In accordance with 23 C.F.R. 140.908(e), companies may elect to be reimbursed at actual and direct costs of handling materials and supplies or may choose to bill at a

² In prior years FEC classified General Office Employees in Group I, which are now included in Group IV.

³ Pursuant to 48 C.F.R. 31(205-6)(p) the Office of Federal Procurement Policy establishes the benchmark executive compensation amount.

fixed rate of five percent. FEC has elected reimbursement at the fixed rate of five percent for materials handling and supplies.

Additionally, 23 C.F.R. 140.910(a) allows for the reimbursement of equipment operation costs, repairs and depreciation at average costs, actual costs or industry rates. FEC has elected reimbursement for company owned equipment at industry rates as published by Dataquest in the "Blue Book for Railroad Equipment."

Our examination concluded the 2012 labor additive surcharge rates proposed by FEC are reasonable and supported by accounting records. The costs included in the rate computation are reasonable and allowable for use in billing costs to federal-aid projects. In addition, the materials handling and supplies, and equipment rates are reasonable and allowable.

USE OF EXAMINATION

This examination does not replace the need for the department to review direct costs incurred by FEC for rail projects to determine if costs are allowable, allocable and reasonable as outlined in 23 C.F.R. 140, Subpart I and 48 C.F.R. 31, Subpart 31.2, Contracts with Commercial Organizations. Each district's rail office is responsible for evaluating the accuracy of FEC's invoices through independent inspection of records, including evaluation of prices charged for direct labor, materials handling and supplies, and equipment usage, and for ensuring approved labor additive surcharge rates are properly charged.

APPENDIX A – INDEPENDENT ACCOUNTANT’S REPORT

We examined FEC’s proposed 2012 labor additive surcharge rates and supporting records for fiscal year 2012 to determine if rates for labor additive, materials handling and supplies, and equipment were reasonable, allowable and adequately supported in accordance with applicable federal regulations. FEC’s management is responsible for the accuracy of the rates and compliance with applicable federal regulations. Our responsibility is to express an opinion on FEC’s compliance based on our examination.

We conducted the examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and standards applicable to Attestation Engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Accordingly, this engagement included examining, on a test basis, evidence supporting FEC’s costs used to develop the 2012 labor additive surcharge rates and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion.

In our opinion, the 2012 labor additive surcharge rates proposed by FEC are reasonable and supported by accounting records. The costs included in the rate computation are reasonable and allowable for use in billing costs to federal-aid projects. In addition, the materials handling and supplies, and equipment rates are reasonable and allowable.

APPENDIX B – PURPOSE, SCOPE AND METHODOLOGY

Section 20.055, Florida Statutes, requires the OIG to conduct audits, examinations, investigations and management reviews related to programs and operations of the department. We performed this examination as a part of the OIG's mission to promote integrity, accountability and process improvement in the Department of Transportation by providing objective fact-based assessments to the department team.

The **purpose** of the examination was to determine whether FEC's fiscal year 2012 labor additive, materials handling and supplies, and equipment rates were developed based on costs which were reasonable, allowable and adequately supported.

The **scope** of our examination consisted of the proposed 2012 labor additive surcharge rates submitted by FEC, and associated records and supporting documentation.

The **methodology** of our examination consisted of:

- reviewing 23 C.F.R. 646, Subpart B;
- reviewing 23 C.F.R. 140, Subpart I;
- reviewing 48 C.F.R. 31, Subpart 31.2; and
- examining FEC's accounting records and supporting documentation to determine if costs were reasonable and allowable and charged in accordance with applicable federal regulations.

APPENDIX C – FEC RESPONSE

On April 10, 2014, Ms. Shelley Faulkner, FEC Accounts Payable and Payroll Manager, provided a reply to the draft report stating that FEC reviewed the draft report and agreed with the results.

APPENDIX D – RAIL OFFICE RESPONSE



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.
SECRETARY

April 14, 2014

Mr. Kristofer Sullivan
Internal Audit Manager
Office of Inspector General
Florida Department of Transportation
605 Suwannee Street
Tallahassee, FL 32399-0450

Dear Mr. Sullivan:

The Florida Department of Transportation (FDOT) Rail Office has completed the review of your 2012 Reimbursement Rates for Railroad Work Attestation Report No. 13I-1003 for the Florida East Coast Railway Company (FEC), dated April 10, 2014. The rates contained in Attachment 1 of the report denote FEC labor surcharge rates, labor additive and material handling rates for the fiscal year 2012. Attachment 2 shows the proposed variation in audit rates for the various labor groups as classified by the subject rail company relative to the most recently approved (2009) audited rates. Based upon your review of the audited rates provided in the report, and after reviewing Attachments 1 and 2 of the report, we agree that the 2012 labor additive surcharge rates proposed by FEC are reasonable and allowable in accordance with applicable federal regulations.

For the 2012 rate classifications FEC has combined Group I (General Office) with Group IV (Non-Contract), removed pension costs and added the cost of bonuses to the labor additive rate calculation. FDOT finds these changes to be significant, but agree that the total audited rates for the reclassified groups are within a tolerable range for the audit period. The specified rates are acceptable and are to remain in effect until subsequent rate proposals are submitted by FEC, audited by your office, and approved by the Federal Highway Administration.

Sincerely,

J. Fred Wise
Rail Office Manager

www.dot.state.fl.us

APPENDIX E – FHWA RESPONSE



U.S. Department
of Transportation
**Federal Highway
Administration**

Florida Division

May 2, 2014

545 John Knox Road, Suite 200
Tallahassee, Florida 32303
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Fax: (850) 942-9691 / 942-8308
www.fhwa.dot.gov/fldiv

In Reply Refer To:
HDA-FL

Mr. Robert E. Clift
Inspector General
Florida Department of Transportation
605 Sewanee Street
Tallahassee, FL 32399-0450

Subject: Approval of Audited Rates of Florida East Coast Railway Company (FEC)

Dear Mr. Clift:

This is in response to your April 17, 2014 request for approval of the audited rates on labor additive surcharge rates for each of four (4) labor categories and additional rates and cost treatments for the period ended December 31, 2012.

FEC combined Group I (General Office) with Group IV (Non-Contract) subsequently removed pension costs and added cost of bonuses to the labor additive rate calculation. Florida Division FHWA considers this rate change to be substantial; nevertheless, this specific change is allowable and reasonable as outlined in 23 C.F.R., Subpart I. Based on the information provided in the attached draft audit report, the following audited rates are approved and are to remain in effect until subsequent rate proposals are submitted by FEC, audited by your office and approved by the Federal Highway Administration (FHWA).

Group I - General Office	0.00%
Group II - Maintenance of Roadway, Equipment and Signal Employees	67.39%
Group III - Train Crews, Yardmasters and Train Dispatchers	70.14%
Group IV - Non-Contract and General Office Employees	80.31%

If you have any questions regarding this action, please contact the FHWA Florida Division Financial Manager, Doug Roberts, at (850) 553-2213 or at doug.roberts@dot.gov.

Sincerely,

James Christian, P.E.
Division Administrator

Enclosure

DISTRIBUTION, PROJECT TEAM AND STATEMENT OF ACCORDANCE

Action Official Distribution:

Fred Wise, State Rail Manager

Information Distribution:

Ananth Prasad, P.E., Secretary of Transportation
Jim Boxold, Chief of Staff
Richard Biter, Assistant Secretary for Intermodal Systems Development
Juan Flores, State Freight and Logistics Administrator
Brian Blanchard, Assistant Secretary for Engineering and Operations
Brian Peters, Assistant Secretary for Finance and Administration
Robin Naitove, Comptroller
James Christian, Federal Highway Administration Division Administrator
Ken Harvey, Director, Office of Finance and Administration
Doug Roberts, Finance Manager
Shelly Faulkner, FEC Manager, Payroll & Accounts Payable

Project Team:

Engagement was conducted by Cameisha Smith, Auditor in Charge
Under the supervision of:
Intermodal Audit Manager; and
Kristofer B. Sullivan, Director of Audit
Approved by: Robert E. Clift, Inspector General

Statement of Accordance

*The mission of the department is
to provide a safe transportation system that ensures the mobility of people and goods,
enhances economic prosperity, and preserves the quality of our environment and
communities.*

*The mission of the Office of Inspector General is
to promote integrity, accountability and process improvement in the Department of
Transportation by providing objective fact-based assessments to the DOT team.*

This work product was prepared pursuant to Section 20.055, Florida Statutes, in accordance with the applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General and the American Institute of Certified Public Accountants and standards contained in Government Auditing Standards issued by the Comptroller General of the United States.

This report is intended for the use of the agency to which it was disseminated and may contain information that is exempt from disclosure under applicable law. Do not release without prior coordination with the Office of Inspector General.

Please address inquiries regarding this report to the department's Office of Inspector General at (850) 410-5800.

ATTACHMENT 1 – 2012 LABOR ADDITIVE SURCHARGE RATES

Group II - Maintenance of Roadway, Equipment and Signal Employees

Holiday and Vacation	11.54%
Sick	0.00%
Other Paid Absences	1.90%
Bonuses	4.75%
Payroll Taxes	22.40%
Health and Welfare	18.80%
Workman's Compensation (W/C), Public Liability & Property Damage Insurance	8.00%
Total	67.39%

Group III - Train Crews, Yardmasters and Train Dispatchers

Holiday and Vacation	12.69%
Sick	0.03%
Other Paid Absences	5.70%
Bonuses	4.59%
Payroll Taxes	23.31%
Health and Welfare	15.82%
W/C, Public Liability & Property Damage Insurance	8.00%
Total	70.14%

Group IV - Non-Contract and General Office Employees

Holiday and Vacation	8.72%
Sick	0.99%
Other Paid Absences	1.53%
Bonuses	21.81%
Payroll Taxes	25.21%
Health and Welfare	14.05%
W/C, Public Liability & Property Damage Insurance	8.00%
Total	80.31%

ATTACHMENT 2 – COMPARISON BETWEEN 2009 AND 2012 AUDITED RATES

Group I, General Office	2009 Audited	2012 Audited⁴	Change
Holiday & Vacation	14.75%	0.00%	-14.75%
Sick	0.51%	0.00%	-0.51%
Other Paid Absences	4.37%	0.00%	-4.37%
Bonuses	0.00%	0.00%	0.00%
Payroll Taxes	22.22%	0.00%	-22.22%
Health and Welfare	31.92%	0.00%	-31.92%
W/C, Public Liability & Property Damage Insurance ⁵	8.00%	0.00%	-8.00%
Total	81.77%	0.00%	-81.77%
Group II - Maintenance of Roadway, Equipment and Signal Employees			
Holiday & Vacation	12.61%	11.54%	-1.07%
Sick	0.00%	0.00%	0.00%
Other Paid Absences	1.49%	1.90%	0.41%
Bonuses	0.00%	4.75%	4.75%
Payroll Taxes	21.19%	22.40%	1.21%
Health and Welfare	22.07%	18.80%	-3.27%
W/C, Public Liability & Property Damage Insurance ⁴	8.00%	8.00%	0.00%
Total	65.36%	67.39%	2.03%
Group III - Train Crews, Yardmasters and Train Dispatchers			
Holiday & Vacation	15.82%	12.69%	-3.13%
Sick	0.00%	0.03%	0.03%
Other Paid Absences	2.08%	5.70%	3.62%
Bonuses	0.00%	4.59%	4.59%
Payroll Taxes	21.89%	23.31%	1.42%
Health and Welfare	18.77%	15.82%	-2.95%
W/C, Public Liability & Property Damage Insurance ⁴	8.00%	8.00%	0.00%
Total	66.56%	70.14%	3.58%
Group IV - Non-Contract and General Office Employees			
Holiday & Vacation	8.50%	8.72%	0.22%
Sick	0.99%	0.99%	0.00%
Other Paid Absences	0.35%	1.53%	1.18%
Bonuses	0.00%	21.81%	21.81%
Payroll Taxes	20.40%	25.21%	4.81%
Health and Welfare	12.51%	14.05%	1.54%
W/C, Public Liability & Property Damage Insurance ⁴	8.00%	8.00%	0.00%
Pension Costs	3.38%	0.00%	-3.38%
Total	54.13%	80.31%	26.18%

⁴ In prior years FEC classified General Office Employees in Group I, which are now included in Group IV.

⁵ In prior years this was reported as workman compensation.