



OFFICE OF INSPECTOR GENERAL

FLORIDA DEPARTMENT OF TRANSPORTATION

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Robert E. Clift
Inspector General

Joint Participation Agreement AO924 between
District Three and the Panama City Port Authority
Attestation Report No. 12I-3002

October 17, 2012

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) conducted an examination of Joint Participation Agreement (JPA) No. AO924 between the Florida Department of Transportation (department) and the Panama City Port Authority (Port). The purpose of the JPA was to provide financial assistance for rail service to the Port's Intermodal Distribution Center located along U.S. Highway 231 in Bay County. We conducted the examination as part of the OIG's annual work plan.

This JPA was a matching agreement. The total estimated cost of the project was \$1,500,000. The department's maximum participation was 75% or \$1,125,000.

Our examination concluded that the Port complied, in all material respects, with JPA AO924 and applicable governing authorities. Based upon examination of the sampled invoices and supporting documentation, costs charged to the JPA AO924 were presented fairly. Additionally, costs billed to the department were appropriate and adequately documented. While reviewing the requirements of JPA AO924, we noted three findings related to the district regarding:

- Not having adequate documentation within the project file, supporting written approvals for third party agreements or project plans/specifications;
- No documented evidence of district project monitoring in the project files; and
- Accurate Single Audit language was not included within the contract document.

We recommend the District Three:

- Project managers document and maintain, within the project file, approvals provided to recipients regarding third party contractors and project plans;
- Intermodal Systems Development Manager implement procedures for documenting oversight and monitoring of projects in the project files; and
- Project managers ensure future JPAs are executed using the full version with the most recent revisions. The district project managers also need to determine if all active agreements are up-to-date for single audit language.

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BACKGROUND AND INTRODUCTION

The Port and the department entered into JPA AO924 on December 29, 2005. The purpose of the JPA was to provide financial assistance for construction and to improve rail service to the Port's Intermodal Distribution Center located along U.S. Highway 231. The total estimated cost of the project was \$1,500,000. The department's maximum participation was 75% or \$1,125,000.

This JPA had two change orders. The first, dated November 2, 2010, extended the agreement expiration date to December 9, 2011. The second, dated December 2, 2011, extended the agreement expiration date to March 9, 2012. The change orders did not include monetary changes to the JPA. The district closed the project in the department's Enterprise Information Portal on December 29, 2011.

INDEPENDENT ACCOUNTANT'S REPORT

We have examined Port records for the period December 29, 2005 through March 9, 2012, in accordance with JPA AO924 and specified requirements.

The Port's management is responsible for compliance with these requirements. Our responsibility is to express an opinion on the Port's compliance based on our examination.

Our examination was conducted 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 of the Port's compliance with those requirements and performing such other procedures as we considered necessary under the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the Port's compliance with the specified requirements. In our opinion, the Port billings for JPA AO924 present, in all material respects, allowable amounts due for the period December 29, 2005 through March 9, 2012, in conformity with the terms of the JPA.

RESULTS OF EXAMINATION

During this examination, we reviewed a sample of invoices and supporting documentation submitted by the Port for reimbursement. This sample included one invoice from each of the six different subcontractors/vendors used by the Port for this project. This sample represented costs totaling \$621,773, or 41%, of the total agreement amount of \$1,500,000. No significant issues were identified relating to the costs that were reimbursed by the district. However, one minor issue was noted in the Port records. Atkins Inc., the Port's sub-vendor, mileage reimbursement rates were in excess of the amounts allowable by Florida Statutes. The district overpaid the Port for mileage expenses by \$22.78. Travel expenses must be reimbursed at the allowable rate as defined by Section 112.061, Florida Statutes.

While we do not recommend reimbursement of the overpayment, we recommend:

- District Three project managers, on future agreements, thoroughly review supporting invoice documentation for travel related expenses and enforce the rates set by Florida Statutes;
- Port management also review those contracts that receive state funds and enforce the appropriate mileage rates; and
- Port management ensure third party agreements, funded with state funds, reference Section 112.061, Florida Statutes (F.S.), for travel expenditures.

While reviewing the requirements of JPA AO924, we noted three findings related to the district. These findings are further detailed below.

Finding 1 – Documentation of Approvals for Third Party Agreements and Project Plans and Specifications

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| Objective | Determine if the Port and the department complied with applicable JPA terms, laws, rules, regulations and department procedures. |
| Conclusion | District Three staff did not have adequate documentation within the project file, supporting written approvals for third party agreements or project plans/specifications. |
| Condition (Supporting Evidence) | <p>Documentation confirming the project manager's approval of third party agreements was not maintained within the District Three project files. During the review, documentation verifying approval was found in the Port's project files.</p> <p>Documentation confirming the project manager's approval of the plans/specifications of the project was not included within the District Three project files. An email from the project manager confirmed the written approval was unavailable.</p> |
| Criteria | <p>JPA AO924 contains the following agreement terms:</p> <ul style="list-style-type: none">• 12.10 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department.• 15.00 Plans and Specifications: In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. |
| Cause | District Three does not have a process in place to document the written approvals within the project files. |

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| Effect (Impact) | The monitoring procedures found in provisions 12.10 “Third Party Agreements” and 15.00 “Plans and Specifications” allow the district to properly determine whether state resources are utilized in an efficient and effective manner as required by the department’s Project Management Handbook. |
| Recommendation | We recommend District Three project managers document and maintain, within the project file, approvals provided to recipients regarding third party contractors and project plans. |

Finding 2 – District Oversight

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| Objective | Determine if District Three conducted adequate oversight of the project. |
| Conclusion | There is no documented evidence of district project monitoring in the project files. |
| Condition (Supporting Evidence) | Documentation of project monitoring, such as site visits, was not found within the District Three project files. The district project manager confirmed the district did not maintain physical documentation of monitoring activities, but stated that site visits were conducted. During interviews, Port staff verified the District Three project manager made site visits. |
| Criteria | <p>The Project Management Handbook, Chapter 4, Monitoring and Control, describes the project manager’s responsibility for proper stewardship of state resources; use of resources in a manner consistent with the department’s mission and in compliance with regulations; and with a minimum of waste and mismanagement.</p> <p>The Project Management Handbook, Chapter 7, Responsibilities and Roles of the Project Manager, states that department employees must ensure resources are used efficiently and effectively to achieve the intended results. This section also describes the following areas of responsibility of all project managers: scope, contract, cost, time, quality, risk, communication and human resources.</p> |
| Cause | Project monitoring, including site visits, was not documented and maintained within the district project files. |
| Effect (Impact) | The district cannot maintain adequate control over the project without a sufficient procedure in place for monitoring and oversight. The district must have planned ongoing and periodic monitoring activity to assure; safeguarding of assets, receipt of deliverables and services and compliance with all agreement terms and conditions. Without proper oversight, the district risks paying too much for services, paying for unnecessary services and paying for services not received. |
| Recommendation | We recommend the District Three Intermodal Systems Development Manager implement procedures for documenting oversight and monitoring of projects in the project files. |

Finding 3 – State Single Audit Language

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| Objective | Determine if the district complied with the applicable JPA terms, laws, rules, regulations and department procedures. |
| Conclusion | The district did not include accurate Single Audit language within the contract document. |
| Condition (Supporting Evidence) | Provision 7.62 of the executed JPA with the Port require a Single Audit when expenditures total \$300,000 or more. At the time this contract was executed, Section 215.97, F.S., stated the state Single Audit threshold was \$500,000. |
| Criteria | <p>Rule Chapter 69I-5.006, Florida Administrative Code: (3) Whenever a non-state organization is determined to be a recipient or subrecipient of state or federal financial assistance, the standard audit language contained on Form DFS-A2-CL (Effective 7/05) must be included in the document that establishes the State's, recipient's, or subrecipient's relationship with the non-state entity.</p> <p>Except for the first page of the JPA, the district did not use the latest revised JPA, dated 09/05, form at the time of execution. The revised JPA included up-to-date single audit threshold language as well as other required language such as monitoring.</p> |
| Cause | The district did not use the updated JPA, dated 09/05, which included the audit threshold amount of \$500,000 for fiscal years ended after December 31, 2003. |
| Effect (Impact) | Improper references in agreements can lead to violation of state statutes. Furthermore, the department has received adverse findings from the Auditor General concerning single audit language in the department's contract and agreements. |
| Recommendation | We recommend District Three project managers ensure future JPAs are executed using the full version with the most recent revisions. Also, the district project managers need to determine if all active agreements are up-to-date for single audit language. |

APPENDIX A – Purpose, Scope and Methodology

Section 20.055, F.S., requires the OIG to conduct audits, examinations, investigations and management reviews related to programs and operations of the department. This examination was performed as part of the OIG’s mission to promote accountability, integrity and efficiency for the citizens of Florida by providing objective, timely audit and investigative services.

The **purpose** of the examination was to assess compliance with the provisions of JPA No. AO924, the reasonableness and allowability of the claimed and reimbursed costs and adequacy of documentation to support claimed and reimbursed costs.

The **scope** of our examination consisted of examining documentation relative to the costs invoiced to the department for JPA AO924 from December 29, 2005 through March 9, 2012.

Our **methodology** consisted of:

- Reviewing JPA AO924 and all change orders;
- Reviewing Section 311.07 F.S., Florida Seaport Transportation and Economic Development Funding;
- Reviewing Title 2, Part 225, Code of Federal Regulations, Cost Principles for State, Local, and Indian Tribal Governments;
- Reviewing the department’s Project Management Handbook;
- Examining and testing supporting documentation to determine whether costs charged to the project were allowable, reasonable and in accordance with the terms of the JPA and other governing authorities; and
- Interviewing appropriate staff.

APPENDIX B – Port Response



**PORT PANAMA CITY
U.S.A.**

August 28, 2012

Mr. Joe Gilboy, Audit Manager
Florida Department of Transportation
Office of Inspector General
605 Suwannee Street, MS 44
Tallahassee, Florida 32399-0450

Re: Response to Draft Attestation Report 12I-3002, JPA AO924

Dear Mr. Gilboy:

Thank you for the opportunity to respond to the findings of the Department's audit of JPA AO924, used to provide additional funding for our Intermodal Distribution Center Rail project. We are pleased that your audit found the Port to be compliant "in all material respects," with the JPA and applicable governing authorities.

In reference to the Port's sub-vendor and the mileage reimbursement rates in excess of the amounts allowable under Florida Statutes, the Port will review existing contracts and enforce the appropriate mileage rates. In addition, the Port will ensure that new third party agreements reference Florida Statute 112.061, for travel expenditures.

We value the support of the FDOT and are committed to working closely with District Three on compliance issues.

Sincerely,

Wayne Stubbs
Executive Director

WS/clp/L-1227

Panama City Port Authority & Foreign Trade Zone 65

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APPENDIX C – Management Response



Florida Department of Transportation

RICK SCOTT
GOVERNOR

1074 Hwy 90
Chipley, FL 32428

ANANTH PRASAD, P.E.
SECRETARY

October 1, 2012

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

Dear Mr. Gilboy:

We have received your transmittal, dated August 30, 2012, and associated Attestation Report No. 12I-3002 regarding joint participation agreement A0924 between District Three and the Panama City Port Authority. In response to the preliminary findings outlined in the report, the following information is provided for your reference.

The District 3 Seaport Coordinator will document and maintain (within project files maintained in the District 3 Intermodal Systems Development Office) approvals provided regarding third party contractors and project plans. In addition, procedures will be implemented for documenting oversight and monitoring of projects in project files in the District 3 Intermodal Systems Development Office. Additionally, future joint participation agreements will be executed using the most recent and complete full-version forms. Further, existing active agreements will be checked to ensure they are up-to-date for single audit language.

Thank you for the opportunity to provide input. We trust the actions referenced above address the concerns noted in this report. If you have any questions or need further assistance, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink that reads "Blair L. Martin".

Blair Martin, P.E.
Intermodal Systems Development Manager

www.dot.state.fl.us

DISTRIBUTION, PROJECT TEAM AND STATEMENT OF ACCORDANCE

Action Official Distribution:

Tommy Barfield P.E., District Three Secretary
Jason Peters P.E., District Three Transportation Development Director
Blair Martin P.E., Intermodal Systems Development Manager
Ed Chadwell, District Three Rail and Seaport Coordinator

Information Distribution:

Ananth Prasad P.E., Secretary
Richard Biter, Assistant Secretary for Intermodal Systems Development
Juan Flores, State Freight and Logistics Administrator
Meredith Dahlrose, Seaport Office Manager
Brian Peters, Assistant Secretary for Finance and Administration
Robin Naitove, Comptroller
Brian Blanchard, P.E., Assistant Secretary for Engineering and Operations
Francis Gibbs, Chief of Staff
Wayne Stubbs, Executive Director of Port Panama City

Project Team:

Engagement was conducted by Carlos Mistry, Audit Team Leader and
Angela Crosby, Auditor
Under the supervision of:
Joe Gilboy, Audit Manager and
Kristofer 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.