




Memorandum



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To: The Honorable Carlos A. Gimenez, Mayor
The Honorable Esteban L. Bovo, Jr., Chairman
and Members, Board of County Commissioners, Miami-Dade County

From: Mary T. Cagle, Inspector General 

Date: April 4, 2018

Subject: OIG Update, MDAD Permittees Audit, IG15-03

By way of this memorandum, the Office of the Inspector General (OIG) is providing an update regarding critical issues discovered during our audits of permittee activities at the Miami-Dade Aviation Department (MDAD). Permits, a revenue generating activity, are issued by MDAD to companies that require access to a county-operated airport in order to transact business with, or provide services to, airport tenants. Most permits require the permittee to pay MDAD an opportunity fee of 7% of its gross revenues arising from its airport business activities. Permittees self-report their revenues and remit payment on a monthly basis.

During the course of our audit fieldwork, MDAD's Real Estate Management and Development Division (MDAD Properties) agreed to reinstate the practice of sending a *Tenant/Vendor Letter (Letter)* to its tenants, which had not been done since 2011. The *Letter* is an important tool for MDAD Properties to verify, through third parties (tenants), the clients and customers of the permittees. Furthermore, the *Letter* is a security control that assists in identifying who should have rightful access to airport premises. The information provided in response to the *Letter* is important to aid MDAD Properties in identifying new business relationships between tenants and their vendors/permittees that may otherwise go unnoticed and result in a loss of revenue to MDAD. Based on discussions with the OIG, MDAD re-issued the *Letter* in August 2016 as we were concluding the first phase of this audit.

In the OIG's second phase of the audit, we recommended that the aforementioned *Letter* be modified to include a request that the tenants, not only identify their vendors (permittees), but to also include the amounts paid to them for the preceding year. This new and improved *Letter* was sent out to all of MDAD's tenants—214 of them¹—in August 2017.

¹ The Letter was sent to 184 terminal and non-terminal tenants at MIA, and 30 tenants of the General Aviation Airports.

Due to the low number of responses received, in January 2018, MDAD requested that its tenants provide the required information. As of March 8, 2018, only 29 of the 214 airport tenants (14%) had responded to MDAD Properties' *Letter*. While only a fraction of the tenants responded, their responses revealed a substantial number of unpermitted vendors transacting business at MDAD airports in varying capacities. Collectively, the responses from 29 tenants revealed 30 unpermitted vendors.² Utilizing the information provided in the responses, the OIG calculated that the 30 unpermitted vendors had been paid a total of \$2,770,560. Without the required permit agreements in place, and assuming a 7% opportunity fee on gross revenue, this resulted in a potential loss of \$193,939 to MDAD. The potential loss of MDAD revenue and the potential security risks associated with the unknown permittees operating at MDAD airports, warrant immediate attention.

MDAD Properties sent notifications regarding permit requirements to the 30 unpermitted vendors. As of March 8, 2018, only 10 of the 30 unpermitted vendors had submitted an application to obtain a permit. This willful disregard of MDAD's requests, combined with the potential breach of contract by the non-responding tenants (185 of 214 tenants), underscores the need for an immediate and uncompromising action by MDAD to account for all the commercial activities taking place on its premises. Given the high number of unpermitted vendors discovered through such a low tenant response rate, one can only deduce that there could be many more unpermitted vendors conducting business at MDAD airports. In our discussions with MDAD administration, it has been clear that they intend to obtain responses to the *Letter* from all tenants, even if it means imposing sanctions.

RECAP OF AUDIT OBSERVATIONS

The OIG initiated its audit in 2015, pursuant to Miami-Dade Board of County Commissioners' concerns regarding revenue accountability. The OIG has since issued two audit reports, *Phase 1* and *Phase 2*, which provided 14 recommendations collectively. MDAD has accepted all of the recommendations and we continue to actively monitor their implementation. Below is a recap of the main observations from the two audit reports:

Phase 1

In addition to the *Tenant/Vendor Letter* discussed above, the *Phase 1* audit covered the application, extension and renewal processes, as well as some ancillary matters, such as insurance requirements and fueling services. Whether it was a permit application, a permit extension, or a permit renewal, MDAD Properties was performing a number of manual steps and manually handling large amounts of documents. Essentially, the permit application/extension/renewal processes are a continuous, year-round, repetitive activity. As result, staff—which until recently had been one individual—had little time, if any, to proactively address processing issues, to coordinate with MDAD Risk Management and the Finance Division on a regular basis, as well as to implement proactive monitoring activities.

² In March 2015, when the OIG initiated its Phase 1 audit, there were only 143 permitted vendors.

This condition was addressed with the addition of two temporary employees, which were later formalized into full-time permanent positions.

Additionally, although MDAD Properties is diligent in making sure that all active permits are current, we observed that some permittees were operating with expired permits. In some of the longest cases, we learned that there were legal disagreements over the applicability of certain permit requirements, and that the County Attorney's Office has been consulted. For three permittees, who since 2005-2006 have been disputing the applicability of the County's Living Wage Ordinance, they have continued to provide commercial services to the airlines on a month-to-month permit for the last 10 years. As to the permittees challenging the applicability of the County's Living Wage Ordinance, we were advised that this issue is close to legal resolution.

Last, we shared several observations with MDAD concerning standardizing the "Fuel Services Permit" and the tracking of the minimum insurance coverages and the expiration dates of tenant's Certificates of Insurance. MDAD concurred with our recommendations by amending the *Fueling Services Agreement*. The MDAD Risk Management Division improved the processes by utilizing additional capabilities within the PROPworks® system, as well as working closer with the MDAD Environmental Division to determine appropriate levels of insurance coverage.

Phase 2

The *Phase 2* audit covered MDAD's monitoring of the permittees' monthly and annual gross revenue reporting, to determine whether permittees were submitting their gross revenue reports timely and whether they were reporting gross revenue to MDAD Finance from the same clients previously disclosed to MDAD Properties.

OIG audit testing of MDAD Properties' and MDAD Finance's records revealed that not all permittees have been accurately submitting the identity of their customers. The OIG's selection of ten permittees for testing revealed that one customer had reported to both divisions accurately, while eight permittees had reported gross revenues to MDAD Finance from more customers than were disclosed in their permit agreements. The final sampled permittee, SodexoMAGIC, LLC (Sodexo), was found to be reporting revenue from only one of its two customers; in other words, Sodexo was significantly underreporting its gross revenues.

Sodexo failed to report over \$1 million in gross revenue from its customer, Delta Airlines Sky Club, over a 44-month period from November 2011 through June 2015. This discovery, however, was made prior to the OIG auditors testing Sodexo's file. What we found was that MDAD staff, themselves, made this discovery and questioned Sodexo on its failure to disclose its client and remit the proper fees. MDAD eventually collected \$72,354 from Sodexo for unpaid opportunity fees, however, MDAD had not assessed any late fees, penalties or interest. In our audit, we questioned MDAD's practices of how staff evaluates whether late fees, penalties or interest should be waived or imposed, and under what circumstances these cases should be referred for further investigation. The OIG

recommended that there be an “audit trail” documenting the decisions made in cases like these.

In response to our audit recommendation, MDAD drafted a fraud policy that establishes the Department's stance on fraud, and addresses the responsibilities of the Finance and Real Estate Divisions when a material misrepresentation of reported gross revenues has been identified. The policy requires the Division identifying the misrepresentation to provide detailed information regarding the incident, and if penalties, fees or other sanctions should be assessed. This written information is then provided to the heads of the Finance, Real Estate and Professional Compliance Divisions, where a written joint consensus recommending how to proceed is submitted for approval from the Director or his designee.

Furthermore, as it relates to Sodexo's underreporting, MDAD assessed the annual 18% interest penalty (totaling \$21,788), as prescribed in its permit agreement, for the 44 months that Sodexo underreported its gross revenue. This occurrence with Sodexo emphasizes, once again, the need for MDAD to develop and implement more robust internal controls to help mitigate the risks related to permittees' self-reporting of gross revenue.

Phase 3

Finally, due to the poor tenant response rate to MDAD Properties' August 2017 *Letter*, the follow-up request made in January 2018, and the high number of unpermitted vendors revealed by only 29 tenant responses, the OIG will immediately begin a third phase to this audit. The OIG will focus on MDAD's on-going efforts to obtain compliance from its tenants and its progress in securing permits from the newly discovered unpermitted vendors. The OIG will also monitor MDAD's research on how the unpermitted vendors were able to provide service to their customers, if or how MDAD ID credentials were obtained, and if or how they were able to gain access to MDAD's secure areas. As warranted, the OIG may supply investigative resources to these efforts.

CONCLUSION

While self-reporting is not an uncommon practice at airports around the country, it does provide an opportunity for unscrupulous permittees to underreport their gross revenue and cheat MDAD out of the opportunity fees owed under their permit agreements. Additional steps to mitigate this risk are critical, since MDAD utilizes self-reported gross revenue as the basis for calculating the permittees' opportunity fees. Accordingly, the practice of self-reporting should be accompanied by resolute and hard-hitting enforcement measures to deter underreporting.

Overall, MDAD's response to the audits shows a commitment to implementing heightened internal controls of business operations and demonstrates a willingness to obtain the necessary information from its tenants. This will help strengthen MDAD's control environment and revenue accountability by improving its ability to detect and deter

any permittee's misreporting of customer identities and associated revenues. We appreciate its response to the audit recommendations, as well as its commitment to resolving the matters raised by the *Letter*.

cc: Lester Sola, Director, Miami-Dade Aviation Department
Cathy Jackson, Interim Commission Auditor, and Director,
Audit and Management Services Department