John A. Carey
Inspector General

Office of Inspector General
Palm Beach County

Inspector General
Accredited

"Enhancing Public Trust in Government"

Audit Report

2017-A-0003

Palm Beach County
Palm Tran Connection

Fuel Reimbursement Process

September 25, 2017

Insight – Oversight – Foresight

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY

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AUDIT REPORT
2017-A-0003

DATE ISSUED: SEPTEMBER 25, 2017

"Enhancing Public Trust in Government"

PALM BEACH COUNTY PALM TRAN CONNECTION – FUEL REIMBURSEMENT PROCESS

SUMMARY

WHAT WE DID

We conducted an audit of Palm Beach County Palm Tran Connection's (PTC) fuel reimbursement process. This audit was performed as part of the Office of Inspector General's (OIG) 2016 Annual Audit Plan and carried over into the 2017 Annual Audit Plan.

Our audit focused on determining whether controls were adequate for the reimbursement of paratransit service providers' fuel expenditures. We reviewed the PTC fuel processes and operations, and fuel expenditure reimbursements from October 2015 through September 2016. Additionally, based on exceptions noted during the fuel expenses reimbursement testing, we expanded the original scope of the audit to include review of the County's process for reviewing the paratransit service providers' (contractors) invoices and supporting documentation prior to approving payments to the contractors from February 2015 through June 2017.

WHAT WE FOUND

We found that the controls for the reimbursement of fuel expenditures were **overall satisfactory**, but noted some weaknesses.

PTC Review and Approval Process of Contractor Invoices

We found that PTC did not require the contractors to submit with their invoices all supporting documents identified in the paratransit services contracts, e.g. cancelled checks (or bank records showing electronic fund transfers) evidencing payments to the Disadvantaged Business Enterprise (DBE) subcontractors, prior to the County representatives (PTC staff) approving invoices for payment to the contractors. This resulted in **$10,721,698** of questioned costs.[1] PTC reported to this office that subsequent to the completion of the audit, PTC staff has been working to obtain bank records from the DBE subcontractors needed to perform a full reconciliation of the contractors' invoices submitted to PTC. PTC staff stated they were in the process of completing a reconciliation to

[1] Questioned costs can include costs or financial obligations incurred pursuant to: a potential violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such cost or financial obligation is not supported by adequate documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such and in this specific case, not all questioned costs are indicative of potential fraud or waste.

confirm that the DBE subcontractors received full payment from the contractors for services rendered.

Reimbursement of Fuel Expenses

We found that PTC did not properly review supporting documentation (i.e. actual receipts) prior to approving the contractors' invoices for reimbursement of fuel expenses.

Alternative Fuel Credits

We found that PTC did not seek legal or tax advice to determine whether it had a right to file and receive alternative fuel credits for fuel costs that the County reimbursed to its contractors. Two contractors filed and received Internal Revenue Service (IRS) alternative fuel credits for propane fuel expenditures that had been reimbursed 100% by the County. After the initiation of our audit and discussions between this office and PTC regarding the alternative fuel credit, PTC requested that the contractors pay to the County all of the monies they collected from the IRS for the alternative fuel credit for the costs that had been fully reimbursed by the County. The total amount provided to the County from the contractors for the alternative fuel credit totaled approximately $351,802. This amount includes an administrative fee of **$9,300.99** deducted by MV Transportation (contractor) but later returned to the County upon recommendation from this office.[2] The $9,300.99 amount is reflected as identified costs[3] that PTC was able to collect from MV Transportation as a result of the audit.

WHAT WE RECOMMEND

Our report contains three findings and thirteen recommendations. Implementation of these recommendations will 1) ensure that PTC obtains and reviews all contractually required documentation prior to approving the payment of contractors' invoices, 2) ensure that the process for reimbursement of fuel expenditures includes proper review and reconciliation of invoices and supporting documentation, 3) increase the County's utilization of federal and/or state government programs for obtaining credits for alternative fuel purchases, thereby reducing the taxpayers' burden, and 4) strengthen internal controls.

PTC has concurred and accepted all thirteen recommendations and has taken corrective actions that have resolved ten recommendations.

We have included PTC's management response as Attachment 1.[4]

[2] Neither the contractor nor PTC could provide any information showing an agreement between the parties justifying the deduction of the administrative fee from the fuel credit received from the IRS.

[3] Identified costs are costs that have been identified as dollars that have the potential of being returned to the entity to offset the taxpayers' burden.

[4] PTC's management included references to Exhibits A through Exhibit L in their management responses. These documents are voluminous, as such, are not included in this report.

BACKGROUND

Palm Tran, Inc. was incorporated by the Palm Beach County (County) Board of County Commissioners (BCC) in 1995 to provide public transportation for the residents and visitors of the County. Palm Tran, Inc. has two service divisions, Palm Tran Fixed Route and Palm Tran Connection (PTC).

PTC is a shared-ride, door-to-door paratransit service that provides transportation for residents and visitors in Palm Beach County under the following programs: Americans with Disabilities Act, Division of Senior Services, Transportation Disadvantaged Program, Board of County Commissioner Program, County Senior Transportation Program, and Medicaid. Private entities contract with the County to operate the door-to-door service for senior citizens and individuals with disabilities. PTC staff schedules all trips, prepares vehicle manifests, handles customer concerns and commendations, determines eligibility, and monitors the performance of the contracted transportation providers[5].

On October 7, 2014, the BCC approved Agenda Item 4F-1 for three separate seven-year contracts for the delivery of paratransit services for PTC. The BCC awarded one contract to MV Transportation, Inc., and its subsidiary, MV Contract Transportation, Inc. (collectively, "MV Transportation"), for an amount not anticipated to exceed $72,670,431.20 for service and materials; a second contract to First Group America, Inc. and its wholly owned subsidiary, First Transit, Inc. (collectively, "First Transit"), for an amount not anticipated to exceed $76,201,014.96 for service and materials; and a third contract to Maruti Fleet & Management, LLC for an amount not anticipated to exceed $35,017,146.77 for service and materials. The total not to exceed amount for these contracts is $183,888,592.93. The actual total amount paid was to be based on the actual number of hours completed.

The County supports the federal government's DBE program, and accordingly, set overall goals for DBE participation in the contracts in accordance with 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs. The County established a DBE participation goal of 20% for the duration of the contracts with MV Transportation and First Transit. Twenty percent (20%) of the total not to exceed the amount of the contracts with MV Transportation and First Transit is $29,774,289.23.

The contracts between the contractors and the County provided that the payment structure included proposed fixed costs, mobilization costs, variable costs, and fuel costs, as indicated on weekly invoices. The contractors were required to provide an invoice, in addition to all completed vehicle manifests for each week, and supporting documentation to the County by the close of business on the second Friday after completion of the billing period. The contracts set forth specific information to be provided with completed invoices, including actual vehicle hours, copies of cancelled checks for payments to all DBE subcontractors, and fuel expenses incurred, with supporting documentation in the

[5] http://discover.pbcgov.org/palmtran/Pages/Connection.aspx

form of actual receipts (or credit card reports with sufficient detail) for all gasoline and propane purchases for services rendered. The cost of fuel as stated on weekly invoices was treated as direct payments to the contractors. Additionally, contractors were required to pay DBE subcontractors for subcontracted work prior to seeking and receiving payment from the County.

A weekly progress payment, to the contractors, for 90% of the projected amount due each week was paid on Mondays following the close of the prior week's service, with a reconciliation payment made for any remaining amount due after the County representative's approval, no more than seven weeks after the progress payment. According to the contracts, invoices from the contractors would be reviewed and approved by the County representative, indicating that services had been rendered in conformity with the paratransit services contracts.

The OIG's 2016 Annual Audit Plan included a section titled "Multiple Entities – Fleet/Fuel Management." This audit of PTC was selected based on this section of the 2016 Annual Audit Plan and carried forward into the 2017 Annual Audit Plan.

OBJECTIVES, SCOPE, AND METHODOLOGY

The primary audit objective was to determine whether adequate controls exist for the reimbursement of fuel expenses. The scope of the audit covered selected activities for the time period October 1, 2015 through September 30, 2016.

The scope of the audit was expanded, based on exceptions noted during the fuel expenses reimbursement testing, to include additional review of the County's process for contractors' invoices and supporting documentation, prior to approving payments to the contractors. We extended the scope period to include February 2015 through June 2017.

The audit methodology included:

- Conducting a review of internal controls;
- Interviewing appropriate personnel;
- Reviewing invoices, reports, and contracts; and,
- Performing detailed testing of selected transactions.

This audit was conducted in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

Finding (1): PTC staff approved payments of contractors' invoices that did not include cancelled checks or other official bank records as proof of payments to DBE subcontractors.

On October 7, 2014, the County approved contracts with MV Transportation, Inc., and its subsidiary, MV Contract Transportation, Inc., for an amount not anticipated to exceed $72,670,431.20; First Group America, Inc. and its wholly owned subsidiary, First Transit, Inc., for an amount not anticipated to exceed $76,201,014.96; and Maruti Fleet and Management, LLC for an amount not anticipated to exceed $35,017,146.77. Two of the contractors, MV Transportation and First Transit, used DBE subcontractors.

MV Transportation and First Transit agreed to abide by all requirements of the applicable DBE provisions of their contracts, including the task and proportionate dollar amounts related to the use of DBE firms; agreed to pay DBE subcontractors for subcontracted work prior to seeking and receiving payment from the County; and agreed that nonpayment of a subcontractor was a material breach of the contract.

The contracts required the contractors to submit to the County cancelled checks evidencing proof of payment to their DBE subcontractors. After the contracts were signed, the County became aware that the contractors paid DBE subcontractors using electronic transfer of funds in lieu of checks. PTC did not require the contractors to submit with their invoices, cancelled checks or bank records showing electronic fund transfers[6] evidencing payments to the DBE subcontractors prior to approving payment of those invoices. Instead, PTC relied upon copies of the DBE subcontractors' general ledger and unverified, written statements that they were paid to approve payment. The documents upon which PTC relied did not suffice as proof of payment from a third-party banking institution. Records from a third-party banking institution would show that the contractors paid the DBE subcontractors and that the DBE subcontractors received full payment for the amounts invoiced, that the transfer of funds cleared the bank, and that contractors were complying with the DBE provisions of the contracts relating to payment and participation goals.

[6] Today, new technology has minimized paper check writing. Many businesses have substituted check writing with the electronic transfer of funds. The most widely used form of sending money today is the Electronic Fund Transfer (EFT). This is a general term that includes all types of electronic transfers: credit and debit cards, payroll deposits of employees, direct debit payments, online banking, and wire transfers. The most popular method of transferring money electronically is ACH. ACH stands for Automated Clearing House, which is an electronic network used by financial institutions to electronically transfer funds from one bank account directly into another bank account through the Federal Reserve Bank's Automated Clearing House system.

The invoices submitted for payment did not comply with the requirements of the contracts. Cancelled checks or a reasonably sufficient substitute such as bank records were not provided at the time of the audit. This resulted in **$10,721,698** in questioned costs. The questioned costs broken down by years and contractors are as follows:

	First Transit DBE Payments	MV Transportation DBE Payments
2/1/2015 - 12/31/2015	$2,040,431	$1,363,480
1/1/2016 – 12/31/2016	$2,305,470	$2,133,968
1/1/2017 – 6/2017	$1,444,179	$1,434,170
Total by Contractor	**$5,790,080**	**$4,931,618**
Total Questioned Costs	**$10,721,698**	

Approving invoices without all the required supporting documentation increases the risk that the work committed to DBEs is not actually being performed by the DBEs, that contractors are not properly paying the DBE subcontractors prior to seeking payment from the County for services provided, or that contractors are not making a good faith effort to comply with their DBE participation commitment goals. The County is required under 49 CFR 26 to have a mechanism for running a tally of actual DBE attainments (e.g., payments actually made to DBE firms), and a means of comparing these attainments to commitments.

Subsequent to the completion of the audit, PTC staff requested that the DBE subcontractors provide official bank records as proof of payment for all **prior** payments to the DBE subcontractors. PTC staff stated that they were in the process of reconciling the invoices from contractors against bank records of the DBE subcontractors.

On July 28, 2017, PTC held a meeting with the contractors to discuss contractual requirements and contract compliance. PTC has scheduled more in-depth training with each contractor and completed training with its staff regarding compliance with the contract requirements.

Recommendations:

(1) PTC should ensure that its staff does not approve invoices for payment without all the proper supporting documentation required by the contracts.

(2) Additional training should be provided to PTC staff and the contractors to ensure they comply with the contractual requirements for supporting documentation.

(3) The contracts should accurately reflect the proof of payment documentation the County is willing to accept to approve invoices for payment.

Summary of Management Responses:

(1) PTC management concurs with this recommendation and effective August 1, 2017, no weekly true-up invoice has been processed for payment without

"proof of payment" in the form of bank statements, EFT and/or ACH consistent with the vendor payment checklist (See Exhibit B – vendor payment checklist). PTC management implemented this recommendation and considers this item closed.

(2) PTC management concurs with this recommendation and completed training in July 2017 to PTC staff involved in processing of invoices for payment in addition to conducting meetings with all three (3) vendors on contractual requirements and supporting documentation consistent with the payment checklist (Exhibit C – Outlook meeting schedule with vendors). PTC management implemented this recommendation and considers this item closed.

(3) PTC management concurs with this recommendation and will amend the current contracts by April 2018 to delete cancelled checks and add proof of payment to DBE subcontractors.

Finding (2): PTC reimbursed the contractors for fuel expenses without reviewing documentation (i.e. actual receipts or credit card reports with sufficient detail) or reconciling the documentation provided.

On October 7, 2014, the County approved contracts with MV Transportation, Inc., and its subsidiary, MV Contract Transportation, Inc., for an amount not anticipated to exceed $72,670,431.20; First Group America, Inc. and its wholly owned subsidiary, First Transit, Inc., for an amount not anticipated to exceed $76,201,014.96; and Maruti Fleet and Management, LLC for an amount not anticipated to exceed $35,017,146.77. The signed contract required that the "contractor will be responsible for providing actual receipts for all gasoline and propane purchases for services rendered hereunder... (note: credit card reports are acceptable if purchase detail is provided…)". Additionally, the contract required that "once the County receives the contractor's invoice and all required documentation, the County will verify the information on the contractor's invoice…Invoices received from the Contractor pursuant to this Contract will be reviewed and approved by the County's representative indicating that services have been rendered in conformity with the Contract."

On September 14, 2016, we requested, from PTC, copies of invoices that were reviewed prior to authorizing payment to the contractors, including the actual receipts for all gasoline and propane purchases and supporting documentation needed to approve reimbursements for such expenditures. On September 22, 2016, PTC staff stated that actual receipts were not obtained with the invoices, and thus, were not reviewed prior to reimbursing the contractors for such expenses. On March 17, 2017---six months after our request--- PTC staff recalled that supporting documents for invoices had been collected from contractors and stored at a separate storage location, but that the supporting documentation had not been reviewed prior to reimbursing the contractors for such expenses. In the absence of adequate review and reconciliation of the fuel receipts, potential errors may not be discovered and expenses may be improperly reimbursed. On March 23, 2017, PTC provided actual receipts to this office for testing. Our testing did not reveal material issues of concern regarding the amount the County paid for reimbursement of fuel expenses.

On July 13, 2017, subsequent to the completion of the audit, PTC implemented a more detailed review and reconciliation process for reviewing supporting documentation and approving invoices. Additionally, PTC created a checklist to facilitate the review process.

Recommendations four (4) through six (6) have been addressed and corrective actions have been implemented, as of the date of this report.

Recommendations:

(4) PTC should continue to ensure that invoices submitted by contractors have actual receipts or credit card reports with sufficient detail for fuel expenditures, as required by the contracts, and document the review of all submitted documentation prior to approval of reimbursement for such expenses.

(5) PTC should complete reconciliations of all supporting documentation and retain the reconciliation.

(6) PTC should consider developing more detailed written procedures and consider creating a checklist for the review and approval process for invoices.

Summary of Management Responses:

(4) PTC management concurs with this recommendation and no weekly true-up invoice will be processed for payment without proper supporting documentation consistent with the vendor payment checklist (See Exhibit B – vendor payment checklist). PTC management implemented this recommendation and considers this item closed.

(5) PTC management concurs with this recommendation and has revised its current billing procedures to now include weekly fuel reconciliation as part of the process to ensure accurate reimbursement of fuel expenses (See Exhibit D - Fuel Reconciliation Procedures). All reconciliations are electronically archived. A copy is also filed with the weekly billing which remains on site for approximately three months. PTC management implemented this recommendation on August 1, 2017 and considers this item closed.

(6) PTC management concurs with this recommendation and has memorialized its process in the form of a Standard Operating Guideline (SOG) (See Exhibit E) in additional to developing a vendor payment checklist (See Exhibit B). PTC staff completed training on the SOG with all staff in July 2017.

Finding (3): PTC did not seek independent legal or tax guidance regarding any rights it may have to pursue alternative fuel credits for fuel costs PTC reimbursed to its contractors.

Pursuant to the paratransit service contracts with the County, the purchase of gas and propane is the sole responsibility of the contractors. The County reimburses the contractors for 100% of the actual cost of fuel used for County owned vehicles. The contracts did not contain language on the filing of claims with the IRS for fuel credits for fuel used by the contractors in the performance of the contracts because the IRS program was approved in December 2015, after the contracts were executed. The IRS program was part of a two-year extension through 2016 of federal credits. It was made retroactive to the beginning of 2015.

MV Transportation and First Transit used propane, which was eligible for the alternative fuel credit. PTC reimbursed the contractors for 100% of the fuel purchases. PTC staff did not obtain independent legal or tax guidance regarding any rights PTC may have to seek alternative fuel credits for fuel costs the County reimbursed to its contractors.

On November 18, 2016, PTC staff advised this office that they were anticipating a $6,000 check from MV Transportation for a 2015 IRS alternative fuel credit. After the initiation of our audit and discussions between this office and PTC regarding the alternative fuel credit, PTC requested that the contractors pay to the County all of the monies they collected from the IRS for the alternative fuel credit for the costs that had been fully reimbursed by the County. Thereafter, MV Transportation tendered multiple checks to PTC totaling $186,019.95 for 2015 and 2016. During the audit, the other contractor, First Transit, upon request by PTC, filed for the alternative fuel credit for 2015 and 2016. Subsequent to the completion of the audit, First Transit submitted payments to PTC totaling $165,781.64. The total amount PTC received from the two contractors was $351,801.59.

Alternative Fuel Credit Funds received from MV Transportation:

Year	Gross Fuel Credit	Processing Fee (5%)	Check Amount
2015 (all)	$103,632.25	$5,181.61	$98,450.64
2016 (Q1 – Q3)	$59,975.06	$2,998.75	$56,976.31
2016 (Q4)	$22,412.64	$1,120.63	$21,292.01
TOTAL	**$186,019.95**	**$9,300.99**	**$176,718.96**

Alternative Fuel Credit Funds received from First Transit:

Year	Gross Fuel Credit	Check Amount
2015 (all)	$89,847.69	$89,847.69
2016 (all)	$75,933.95	$75,933.95
TOTAL	**$165,781.64**	**$165,781.64**

This amount includes an administrative fee of $9,300.99 deducted by a contractor MV Transportation but later returned to the County on July 12, 2017, upon recommendation from this office. The $9,300.99 fee returned to the County is reflected as an identified cost that PTC was able to collect from the contractor as a result of the audit.

On July 12, 2017, subsequent to the completion of the audit, PTC received a check from MV Transportation to refund the processing fee in the total amount of $9,300.99. According to PTC, neither contractor MV Transportation nor First Transit provided PTC with copies of its filings with the IRS seeking the alternative fuel credit. The contractors did provide PTC with documentation that allowed PTC to conduct an independent cost analysis to validate the amount of funds received from each vendor. As a corrective action, in July 2017, PTC completed an independent cost analysis. PTC's analysis showed that the reimbursement from the contractors was reasonable.

Recommendations:

(7) PTC should seek independent legal and/or tax advice to determine if the County is eligible to file a claim with the IRS for the alternative fuel credit, either directly or through its contractors. If the contractors file on behalf of the County, the contract should be amended to provide that the contractors must provide PTC with copies of any and all IRS forms and supporting documentation needed to validate the amount of the alternative fuel credit.

(8) PTC should seek payment from MV Transportation for the alternative fuel credit for the fourth quarter of 2016.

(9) PTC should seek payment from MV Transportation for the $9,300.99 processing fee deducted from the payment to PTC for alternative fuel credit.

(10) PTC should obtain copies of the IRS claim forms and supporting documentation submitted by the contractors to validate the remittance received by the contractors for the 2015 and 2016 IRS claims. PTC should

complete a reconciliation of the documents used by the contractors to submit the alternative fuel credit claim to ensure that the County receives the full amount of the claim.

(11) If First Transit receives a remittance from the IRS for the alternative fuel tax credit for fuel used for Palm Beach County vehicles, PTC should ensure that 100% of the funds are remitted to PTC.

(12) PTC should explore opportunities to save funds through direct payment to subcontractors for the purchase of fuel and/or explore additional tax savings programs offered by the IRS and the State of Florida.

(13) PTC should monitor legislative action for approval of alternative fuel credits and should participate in programs that it is eligible to participate in to reduce the taxpayers' burden.

Summary of Management Responses:

(7) PTC management concurs with the recommendation and has been actively working with the appropriate County departments to determine if the County is eligible to file directly to the IRS or through its contractors for the alternative fuel credit. We anticipate this work to be completed within 90 days. Depending on the outcome of our investigation and research, PTC will determine if a contract amendment is needed.

(8) PTC has received payment from MV Transportation for the fourth quarter of 2016 on June 13, 2017 in amount of $21,292.01 (See Exhibit F). PTC Management considers this recommendation closed.

(9) As noted in the OIG's audit, on July 12, 2017, MV Transportation returned the administrative processing fee of $9,300.99. As reported, MV Transportation assessed a 5% administrative fee for its services to process the alternative fuel credit with the IRS. While Palm Tran recognizes that there is likely to be administrative costs associated with the contractor filing for the alternative fuel credit on behalf of the County, our records indicate that such an arrangement was never memorialized in a written agreement. In the event that the County opines that it is within its best interest for the contractor to continue to file for the alternative fuel tax credit on the County's behalf, the County and the contractors will negotiate an administrative processing fee for these services and memorialize the terms in an agreement between the two parties. (See Exhibit G). Palm Tran considers this recommendation closed.

(10) PTC completed an independent reconciliation of the alternative fuel credit based on monthly propane fuel consumption reports and the IRS tax code. The remittance received from the contractors for the year 2015 and 2016 is

reconciled and correct (See Exhibit H). PTC management implemented this recommendation and considers this item closed.

(11) First Transit submitted and received a remittance from the IRS for alternative fuel credit for the 4th quarter of 2016 for Palm Beach County vehicles. PTC received payment from First Transit in the amount of $19,880.95 for the 4th quarter of calendar year 2016 (See Exhibit I). First Transit amended its Federal tax returns for 2015 and the first three (3) quarters of 2016 to include the alternative fuel credit for PTC vehicles. There is a complete breakdown of the amended tax returns and estimated time that PTC will receive the rebate (See Exhibit J). The calendar year 2015 and 2016 remittance amounts are reconciled to the monthly alternative fuel consumption report and the IRS tax code calculations. PTC management implemented this recommendation and considers this item closed.

(12) Palm Tran staff researched the concept of Palm Tran Connection vendors utilizing these stations for fueling as part of the service design prior to contracting with the transportation providers. Palm Beach County Facilities Development and Operations (FDO) Department provided a significant amount of information being responsible for fuel procurement for the County as well as the management and maintenance of eleven (11) County-owned general use fueling stations strategically located throughout the County. In 2006, the County received a Technical Assistance Advisement from the Florida Department of Revenue that specifically advised that the County's fuel tax exemption extends only to fuel used in vehicles operated by the County (See Exhibit K). FDO Director, Audrey Wolf, advised Palm Tran that allowing transportation providers to purchase County fuel was not an option that the County can pursue as use or re-sale to other entities will jeopardize the County's tax exemption status. The IRS has issued guidance to state and local governments in a 2010 memorandum (See Exhibit L) which also supported the FDOR advisory. Palm Tran sought confirmation of this position from the County Attorney's Office and it was again confirmed.

(13) PTC management concurs with this recommendation and has partnered with the County's Department of Legislative Affairs to enhance monitoring of any legislative actions both on the state and federal levels to secure additional alternative fuel credit opportunities for Palm Tran operations.

SUMMARY OF POTENTIAL FINANCIAL AND OTHER BENEFITS IDENTIFIED IN THE AUDIT

Questioned Costs

Finding	Description	Questioned Costs
1	Lack of contractually required supporting documentation	$10,721,698

Identified Costs

Finding	Description	Identified Costs
3	Alternative Fuel Credit	$9,300.99[7]

ATTACHMENT

Attachment 1 – Palm Tran's Management Response, page 14 - 20

ACKNOWLEDGEMENT

The Inspector General's audit staff would like to extend our appreciation to the PTC Executive Director, management, and staff for their assistance with the completion of this audit and for proactively completing corrective actions for the recommendations.

This report is available on the OIG website at: http://www.pbcgov.com/OIG. Please address inquiries regarding this report to the Director of Audit by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

[7] These funds were recovered as a result of the audit.

ATTACHMENT 1 – PALM TRAN'S MANAGEMENT RESPONSE

Palm Tran
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Palm Beach County
Board of County
Commissioners

Paulette Burdick, Mayor
Melissa McKinlay, Vice Mayor
Hal R. Valeche
Dave Kerner
Steven L. Abrams
Mary Lou Berger
Mack Bernard

County Administrator
Verdenia C. Baker

"An Equal Opportunity Affirmative Action Employer"

Official Electronic Letterhead

DATE: September 19, 2017

TO: Megan Gaillard, Acting Director of Audit
Office of Inspector General

FROM: Clinton B. Forbes, Executive Director, Palm Tran

Palm Tran Response to Audit Report 2017-A-003 Palm Tran Connection Fuel Reimbursement Process

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Thank you for the opportunity to provide a written response to Audit Report 2017-A-0003, regarding Palm Tran Connection (PTC) fuel reimbursement process. We appreciate your consideration of extending the due date to Tuesday, September 19, 2017, in light of Hurricane Irma.

While there were some process and control issues found, I am pleased that you also found that the controls of our reimbursement of fuel expenditures to be overall satisfactory. Moreover, I was also pleased to learn that once proper documentation was provided during the audit process, there were no cost variances found as part of Palm Tran Connection's reimbursement of fuel expenses to vendors.

We appreciate your work in helping us strengthen internal controls and improve our fuel reimbursement process. As a result, our organization is better.

Attached is our official response to each finding and recommendation with corresponding supporting documentation as delineated in the attached report.

Should you have questions, please contact me at 561.841.4227.

c: Verdenia C. Baker, County Administrator
Todd J. Bonlarron, Assistant County Administrator
John A. Carey, Inspector General
Palm Tran Executive Leadership Team

Attachments

September 19, 2017

Palm Tran – Response to IG Audit Report 2017-A-0003

Attachments referenced in Palm Tran's response below and included under separate cover:

- Exhibit A – DBE Reconciliation Report with Bank Statements
- Exhibit B – Vendor Payment Checklist
- Exhibit C – Outlook meeting schedule with vendors which document of providers
- Exhibit D – Fuel Reconciliation Procedure
- Exhibit E – Standard Operating Guidelines (SOG) for Invoice Processing
- Exhibit F – Proof of Payment for fuel reimbursement from MV (Fourth Quarter)
- Exhibit G – Proof of payment from MV for return of Admin Processing fee
- Exhibit H – PTC analysis of propane fuel consumption and reconciliation
- Exhibit I – Proof of Payment for fuel reimbursement from First Transit (Fourth Quarter)
- Exhibit J – First Transit estimated tax rebate timeline
- Exhibit K – Florida Department of Revenue Technical Assistance Letter
- Exhibit L – Internal Revenue Service Memorandum

Finding #1: PTC staff approved payments of contractor's invoices that did not include cancelled checks or other official bank records as proof of payments to DBE subcontractors.

Management Response: Palm Tran management concurs with the OIG's finding with explanation and emphasis on the OIG's note in their audit report that the contractual requirement for the vendor to provide "cancelled checks" as proof of payment has been substituted by many businesses with Electronic Funds Transfer (EFT) documentation which has minimized check writing. Using similar logic, at contract inception in October 2014, payment to Disadvantage Business Enterprises (DBEs) from the prime contractor was being performed by EFT in lieu of following the contractual requirement to show proof of payment through a "cancelled check." At that time, Palm Tran Connection (PTC) staff accepted the contractor's accounts receivables general ledger reflecting EFTs to DBEs along with a signed letter from an authorized representative of the DBE vendors which was used to validate and serve as proof of payment in lieu of the prime contractor presenting a "cancelled check" as required by the contract. Palm Tran agrees with the OIG that the general ledger should not be used as proof of payment and effective August 1, 2017, has stopped accepting the general ledger as proof of payment. We are pleased to report that Palm Tran has worked diligently with the prime contractor and all DBE vendors to take receipt of actual bank statements from all DBEs since contract inception which reconciles and validates that all DBEs have received 100% of payment due to them since contract inception, totaling $10,721,698 (See Exhibit A -- DBE Reconciliation w/ Bank Statements). Further, we are thrilled that this amount to date exceeds the DBE goal of 20% set forth in this contract.

September 19, 2017

Palm Tran understands the OIG's reasoning for slating the $10,721,698 as "questioned cost" considering that at the time of the audit, proper documentation was not being provided by the prime contractor that payment was being received. However, as a result of reconciliation and validation of bank statements received from all DBEs in the amount of $10,721,698, Palm Tran considers this item closed and the amount paid to DBE vendors not to be in question.

By April 2018, Palm Tran will take to the BCC an amendment to the contract to remove the language "cancelled checks" as proof of payment from the paratransit services contract and replace it with language stipulating that only Electronic Funds Transfer (EFT), Automated Clearing House (ACH) and/or bank statement documentation can be used as proof of payment.

Recommendations:

1. PTC should ensure that its staff does not approve invoices for payment without all the proper supporting documentation required by the contracts.

   Management Response: PTC management concurs with this recommendation and effective August 1, 2017, no weekly true-up invoice has been processed for payment without "proof of payment" in the form of bank statements, EFT and/or ACH consistent with the vendor payment checklist (See Exhibit B – vendor payment checklist). PTC management implemented this recommendation and considers this item closed.

2. Additional training should be provided to PTC staff and the contractors to ensure they comply with the contractual requirements for supporting documentation.

   Management Response: PTC management concurs with this recommendation and completed training in July 2017 to PTC staff involved in processing of invoices for payment in addition to conducting meetings with all three (3) vendors on contractual requirements and supporting documentation consistent with the payment checklist (Exhibit C – Outlook meeting schedule with vendors). PTC management implemented this recommendation and considers this item closed.

3. The contracts should accurately reflect the proof of payment documentation the County is willing to accept to approve invoices for payment.

   Management Response: PTC management concurs with this recommendation and will amend the current contracts by April 2018 to delete cancelled checks and add proof of payment to DBE subcontractors.

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Finding #2: PTC reimbursed the contractors for fuel expenses without reviewing documentation (i.e. actual receipts or credit card reports with sufficient detail) or reconciling the documentation provided.

Management Response: Palm Tran concurs with this finding and is pleased that the outcome resulted in all of MV Transportation's fuel receipts being reviewed prior to completion of the OIG's audit. Prior to completion of the OIG audit, fuel receipts and fuel purchase documentation were reconciled against fuel consumption, and once tested by the OIG revealed no material issue of concern regarding the amount the County paid for reimbursement of fuel expenses. MV Transportation is the only provider whose drivers fuel at retail gas stations and are required to provide fuel receipts after every fueling; the other two providers have contracts with wet hose fueling companies. Wet hosing, also known as mobile fueling or on-site fueling, is where a fuel truck directly fuels company vehicles and equipment at the company's location. One of the major benefits of wet hosing is fuel inventory control. PTC staff had relied on documentation provided by each contractor in weekly excel spreadsheets which were reconciled to the contractor's monthly fuel statement, instead of requiring contractors to provide support documentation (actual fuel receipts and fuel vendor statement) reconciled on a weekly basis. MV Transportation has committed and taken the necessary steps to transition to a wet hose contractor within 90 days. Additionally, until MV Transportation transitions to wet hosing, PTC will continue to review actual fuel receipts as part of its new fuel reimbursement process.

Recommendations

4. PTC should continue to ensure that invoices submitted by the contractors have actual receipts or credit card reports with sufficient detail for fuel expenditures, as required by the contracts, and document the review of all submitted documentation prior to approval of reimbursement for such expenses.

   Management Response: PTC management concurs with this recommendation and no weekly true-up invoice will be processed for payment without proper supporting documentation consistent with the vendor payment checklist (See Exhibit B – vendor payment checklist). PTC management implemented this recommendation and considers this item closed.

5. PTC should complete reconciliations of all supporting documentation and retain the reconciliation.

   Management Response:
   PTC management concurs with this recommendation and has revised its current billing procedures to now include weekly fuel reconciliation as part of the process to ensure accurate reimbursement of fuel expenses (See Exhibit D- Fuel

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Reconciliation Procedures). All reconciliations are electronically archived. A copy is also filed with the weekly billing which remains on site for approximately three months. PTC management implemented this recommendation on August 1, 2017 and considers this item closed.

6. PTC should consider developing more detailed written procedures and consider creating a checklist for the review and approval process for invoices.

   Management Response: PTC management concurs with this recommendation and has memorialized its process in the form of a Standard Operating Guideline (SOG) (See Exhibit E) in additional to developing a vendor payment checklist (See Exhibit B). PTC staff completed training on the SOG with all staff in July 2017.

Finding #3: PTC did not seek independent legal or tax guidance regarding any rights it may have to pursue alternative fuel credits for fuel costs PTC reimbursed to its contractors.

Management Response: Palm Tran agrees with the OIG's finding that PTC management should have sought tax guidance from a tax professional to ensure the County pursues all available opportunities for fuel refunds and credits including alternative fuel rebates from the state and federal governments. As correctly noted by the OIG, the IRS program for the rebates was implemented after the paratransit services contract was executed, and as such, the paratransit services contracts included no guidance on how to properly pursue fuel refunds and credits from this new program. It should also be noted that staff had begun the process of requesting fuel refunds and credits from one vendor prior to the OIG's audit, and is thankful for the assistance of the OIG in pursuing the outstanding fuel refunds and credits as part of this audit. As noted by the OIG audit team, the independent cost analysis performed by PTC to validate the amount of funds received from each vendor showed that the reimbursement from the contractors for alternative fuel credits was reasonable.

Recommendations:

7. PTC should seek independent legal and/or tax advice to determine if the County is eligible to file with the IRS for the alternative fuel credit, either directly or through its contractors. If the contractors file on behalf of the County, the contract should be amended to provide that the contractors must provide PTC with copies of any and all IRS forms and supporting documentation needed to validate the amount of the alternative fuel credit.

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Management Response: PTC management concurs with the recommendation and has been actively working with the appropriate County departments to determine if the County is eligible to file directly to the IRS or through its contractors for the alternative fuel credit. We anticipate this work to be completed within 90 days. Depending on the outcome of our investigation and research, PTC will determine if a contract amendment is needed.

8. PTC should seek payment from MV Transportation for the alternative fuel credit for the fourth quarter of 2016.

   Management Response: PTC has received payment from MV Transportation for the fourth quarter of 2016 on June 13, 2017 in amount of $21,292.01 (See Exhibit F). PTC Management considers this recommendation closed.

9. PTC should seek payment from MV Transportation for the $9,300.99 processing fee deducted from the payment to PTC for alternative fuel credit.

   Management Response: As noted in the OIG's audit on July 12, 2017, MV Transportation returned the administrative processing fee of $9,300.99. As reported, MV Transportation assessed a 5% administrative fee for its services to process the alternative fuel credit with the IRS. While Palm Tran recognizes that there is likely to be administrative costs associated with the contractor filing for the alternative fuel credit on behalf of the County, our records indicate that such an arrangement was never memorialized in a written agreement. In the event that the County opines that it is within its best interest for the contractor to continue to file for the alternative fuel tax credit on the County's behalf, the County and the contractors will negotiate an administrative processing fee for these services and memorialize the terms in an agreement between the two parties. (See Exhibit G). Palm Tran considers this recommendation closed.

10. PTC should obtain copies of the IRS claim forms and supporting documentation submitted by the contractors to validate the remittance received by the contractors for the 2015 and the 2016 IRS claims. PTC should complete a reconciliation of the documents used by the contractors to submit the alternative fuel credit claim to ensure that the County receives the full amount of the claim.

    Management Response: PTC completed an independent reconciliation of the alternative fuel credit based on monthly propane fuel consumption reports and the IRS tax code. The remittance received from the contractors for the year 2015 and 2016 is reconciled and correct (See Exhibit H). PTC management implemented this recommendation and considers this item closed.

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11. If First Transit receives a remittance from the IRS for the alternative fuel credit for fuel used for Palm Beach County vehicles, PTC should ensure that 100% of the funds are remitted to PTC.

    Management Response: First Transit submitted and received a remittance from the IRS for alternative fuel credit for the 4th quarter of 2016 for Palm Beach County vehicles. PTC received payment from First Transit in the amount of $19,880.95 for the 4th quarter of calendar year 2016 (See Exhibit I). First Transit amended its Federal tax returns for 2015 and the first three (3) quarters of 2016 to include the alternative fuel credit for PTC vehicles. There is a complete breakdown of the amended tax returns and estimated time that PTC will receive the rebate (See Exhibit J). The calendar year 2015 and 2016 remittance amounts are reconciled to the monthly alternative fuel consumption report and the IRS tax code calculations. PTC management implemented this recommendation and considers this item closed.

12. PTC should explore opportunities to save funds through direct payment to subcontractors for the purchase of fuel and/or explore additional tax savings programs offered by the IRS and the State of Florida.

    Management Response: Palm Tran staff researched the concept of Palm Tran Connection vendors utilizing these stations for fueling as part of the service design prior to contracting with the transportation providers. Palm Beach County Facilities Development and Operations (FDO) Department provided a significant amount of information being responsible for fuel procurement for the County as well as the management and maintenance of eleven (11) County-owned general use fueling stations strategically located throughout the County. In 2006, the County received a Technical Assistance Advisement from the Florida Department of Revenue that specifically advised that the County's fuel tax exemption extends only to fuel used in vehicles operated by the County (See Exhibit K). FDO Director, Audrey Wolf, advised Palm Tran that allowing transportation providers to purchase County fuel was not an option that the County can pursue as use or re-sale to other entities will jeopardize the County's tax exemption status. The IRS has issued guidance to state and local governments in a 2010 memorandum (See Exhibit L) which also supported the FDOR advisory. Palm Tran sought confirmation of this position from the County Attorney's Office and it was again confirmed.

13. PTC should monitor legislative action for approval of alternative fuel credits and should participate in programs that it is eligible to participate in to reduce the taxpayers' burden.

    Management Response: PTC management concurs with this recommendation and has partnered with the County's Department of Legislative Affairs to enhance monitoring of any legislative actions both on the state and federal levels to secure additional alternative fuel credit opportunities for Palm Tran operations.

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