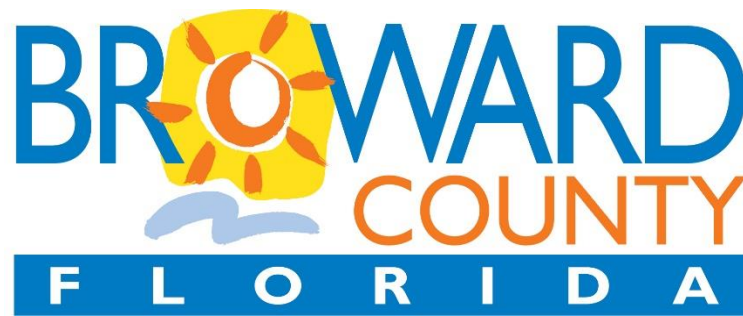




Audit of the Interlocal Agreement Between Broward County and the Broward Metropolitan Planning Organization for Transportation Surtax Services

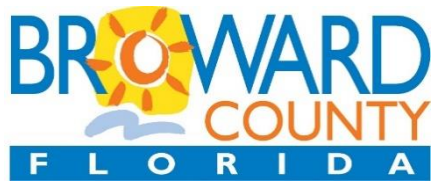
Office of the County Auditor Audit Report

Robert Melton, CPA, CIA, CFE, CIG
County Auditor

Audit Conducted by:

Kathie-Ann Ulett, CPA, Deputy County Auditor
Jed Shank, CPA, CIA, Audit Manager
Jenny Jiang, CPA, Audit Manager
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Kendall Ramsijewan, CPA, CIA, Audit Senior

Report No. 22-02
November 23, 2021



OFFICE OF THE COUNTY AUDITOR

115 S. Andrews Avenue, Room 520 • Fort Lauderdale, Florida 33301 • 954-357-7590 • FAX 954-357-7592

November 23, 2021

Honorable Mayor and Board of County Commissioners:

Pursuant to our Annual Audit Plan, we conducted an Audit of the Interlocal Agreement (ILA) Between Broward County (County) and the Broward Metropolitan Planning Organization (BMPO) for Transportation Surtax Services. The objectives of our audit were to determine whether payments made by the County to the BMPO for transportation surtax services are reasonable and appropriate and whether the BMPO is compliant with terms and conditions of the ILA.

Except as noted in our report, we conclude that payments made to the BMPO for transportation surtax services are reasonable and appropriate, and that the BMPO is in compliance with the general terms of the ILA. Opportunities for Improvement are included in the report.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient and 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.

We appreciate the cooperation and assistance provided by Broward County's Mobility Advancement Program and BMPO staff throughout our audit process.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bob Melton". The signature is fluid and cursive, with the first name "Bob" and last name "Melton" clearly distinguishable.

Bob Melton, County Auditor

cc: Bertha Henry, County Administrator
Andrew Meyers, County Attorney
Monica Cepero, Deputy County Administrator
Kevin Kelleher, Assistant County Administrator
Gretchen Cassini, Mobility Advancement Program Administrator
Angela Wallace, Transportation Surtax General Counsel

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INTRODUCTION

Scope and Methodology

The Office of the County Auditor conducts audits of Broward County's entities, programs, activities, and contractors to provide the Board of County Commissioners, Broward County's residents, County management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted an Audit of the Interlocal Agreement (ILA) Between Broward County (County) and the Broward Metropolitan Planning Organization (BMPO) for Transportation Surtax Services. The objectives of our audit were to determine whether:

1. Payments made by Broward County to the BMPO for Transportation Surtax Services are reasonable and appropriate.
2. The BMPO is compliant with terms and conditions of the ILA.
3. Any Opportunities for Improvement exist.

To evaluate the reasonableness and appropriateness of payments made to the BMPO for transportation surtax services, we reviewed a sample of invoices and supporting documentation submitted for reimbursement, reconciled total payments and expenditures recorded to Surtax Start-up Funds (Grant 107) and Surtax Services Funds (Grant 108); reviewed annual reconciliations performed by the Broward County Mobility Advancement Program (MAP) Administrator and BMPO; conducted interviews with MAP and BMPO staff; reviewed selected payroll records and overhead costs; performed calculations for any credits owed to the County; and evaluated reasonableness of remaining balances in Surtax Start-up Funds (Grant 107) and Surtax Services Funds (Grant 108).

To determine whether the BMPO is compliant with terms and conditions of the ILA, we reviewed the ILA between the County and the BMPO and reports and deliverables provided by the BMPO to the MAP Administrator as required by the ILA. We also reviewed the interlocal agreement between the BMPO and third-party consultants, reports and deliverables provided by third-party consultants to the BMPO, and the ranking and prioritization process of municipal surtax projects performed by the third-party consultants.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

Audit of the Interlocal Agreement Between Broward County and the Broward Metropolitan Planning Organization for Transportation Surtax Services

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.

Our audit included such tests of records and other auditing procedures deemed necessary. The audit period was April 1, 2019, to September 30, 2020; however, transactions, processes, and situations reviewed were not limited by the audit period.

Overall Conclusion

Except as noted in our report, we conclude that payments made to the BMPO for transportation surtax services are reasonable and appropriate, and that the BMPO is in compliance with the general terms of the ILA. Opportunities for Improvement are included in the report.

Background

Broward County Mobility Advancement Program

Broward County voters approved a 30-year, one percent sales surtax (surtax) for transportation in November 2018. The surtax is administered under the Mobility Advancement Program (MAP). Part of the MAP's responsibilities include providing funding for eligible Municipal Capital Projects.

Broward Metropolitan Planning Organization

The BMPO is a federally mandated agency that is responsible for making policy on local transportation issues and deciding how to spend federal money on transportation projects within Broward County. It seeks to address overall mobility needs within the county, based on the needs and aspirations of residents, businesses, and visitors. BMPO's mission is to collaboratively plan, prioritize and fund the delivery of diverse transportation options. The BMPO works with transportation stakeholders who represent all segments of the BMPO's planning areas: individual members of the public, civic and community groups, government agencies and planning organizations at the local, county, state, and federal levels.

Interlocal Agreement

The County entered into an ILA for transportation surtax services with the BMPO on April 16th, 2019, for a maximum not-to-exceed amount of three million eight hundred ninety-one thousand nine dollars (\$3,891,009), which provides for the BMPO to 1) identify the process by which any participating municipality within the County may apply for project funding from surtax proceeds; 2) review and rank the projects submitted with municipal applications for surtax funding; and 3)

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submit a ranked list of municipal projects and applicable funding recommendations to the County. The initial term of the ILA spans retroactively from April 1st, 2019, through December 31st, 2024, with automatic one-year annual renewals beyond the initial term. The ILA requires the BMPO to review, rank, and prioritize submitted municipal projects based on each project's ability to alleviate traffic congestion and enhance connectivity. Because municipal rehabilitation and maintenance projects may not promote connectivity or alleviate traffic congestion, the first amendment to the ILA was made on September 12th, 2019, to provide for the County's evaluation and ranking of municipal rehabilitation and maintenance projects utilizing different criteria.

A Second Amendment to and Restatement of the Transportation Surtax ILA (Second Amendment) was fully executed by the parties on March 19th, 2021, to accomplish the following:

- a. Document the completion of the BMPO's first cycle of evaluating and ranking municipal capital projects to be funded with transportation surtax proceeds.
- b. Document the allocation of FY2019, FY2020, and FY2021 transportation surtax proceeds for approved municipal capital projects.
- c. Set forth the BMPO's criteria going forward for evaluating, ranking, and recommending funding for municipal capital projects to the County for consideration during the County's annual budget and five-year capital improvement plan approval process.
- d. Outline the County's general process for evaluating and ranking of municipal rehabilitation and maintenance projects and document completion of that process for FY2020.
- e. Document the allocation of FY2019 and FY2020 transportation surtax proceeds for approved municipal capital and municipal rehabilitation and maintenance projects.
- f. Document an agreed upon process for funding municipal capital projects, including the timing of funding and the process for adjusting County's annual five-year capital improvement plans.

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ILA Funding Arrangement

The ILA requires the County to transfer to the BMPO, a maximum not to exceed amount of \$129,610 on a quarterly basis throughout the term of the ILA. This amount is escalated at the rate of 5% per calendar year, due and payable on January 1, April 1, July 1, and October 1 of each year. The quarterly payments to the BMPO are made and recorded under the Surtax Services Fund (Grant 108). The County also provided a one-time lump sum payment to the BMPO in the amount of \$494,235 for non-recurring specialized services and start-up costs necessary to complete the scope of services outlined in the ILA during the initial term of the agreement (April 1, 2019, to December 31, 2024). The one-time lump sum payment to the BMPO was made and recorded under the Surtax Start-up Fund (Grant 107). Figure 1 displays total payments made by the County to the BMPO during calendar years 2019 and 2020.

Figure 1

Total Payments by Broward County to BMPO for Calendar Years 2019 and 2020

Calendar Year	Surtax Start-up Funds (Grant 107)	Surtax Services Funds (Grant 108)	Total Payments
2019	494,235	388,830	883,065
2020	0	408,272	408,272
Total	\$ 494,235	\$ 797,102	\$ 1,291,337

Source: Prepared by the Office of the County Auditor using information obtained from MAP Admin and BMPO.

Surtax Services Fund (Grant 108) payments shown in Figure 1 reflect three rather than four quarterly payments for each year. For calendar year 2019, the ILA was initiated after the first quarter of the calendar year; therefore, only three quarterly payments were made. For calendar year 2020, only three quarterly payments were made as a result of the annual reconciliation process described below.

Annual Reconciliation Process

The ILA requires both the County and the BMPO to maintain a running balance of all payments received from the County and the invoices submitted for reimbursement to the County. Both parties, during the first quarter of each calendar year, are required to review actual expenditures incurred by the BMPO and identify the balance of unspent funds (i.e. funds distributed by the County to the BMPO via the quarterly payments but not fully expended by the BMPO). If it is determined that excess funds exist, the ILA provides options which include: the County to request a refund of excess funds, allow any excess balance to carry forward, or reduce the quarterly payment by the amount of any excess balance.

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Figures 2 and 3 display total payments from the County to the BMPO, expenditures by the BMPO, and ending account balances for Surtax Start-up Fund (Grant 107) and Surtax Services Fund (Grant 108), based on annual reconciliation performed by the MAP Administrator and BMPO, for 2019 and 2020. Total ending account balances, for 2019 and 2020, available for use by BMPO in Surtax Start-up Fund (Grant 107) were \$309,460 and \$245,724, respectively. Total ending account balances, for 2019 and 2020, available for use by BMPO in Surtax Services Fund (Grant 108) were \$190,222 and \$248,210, respectively.

Figure 2
Total Payments, Expenditures, and Ending Account Balances for Start-up Funds (Grant 107)
for Calendar Year 2019 and 2020

Fund Category	2019	2020
Opening Fund Balance	0	\$309,460
Cash Disbursement(s) made to BMPO		
Payments	494,235	0
Interest Income	275	175
Total Cash Disbursement(s)	\$494,510	\$175
Expenditures incurred by BMPO		
Salaries	28,865	1,522
Recovered Overhead	14,432	761
Advertising Recruitment	6,508	0
Legal Fees	294	0
Office Supplies	54	0
Software/Equipment	27,134	0
Consultants	107,763	61,628
Total Expenditures	\$185,050	\$63,911
Ending Fund Balance	\$309,460	\$245,724

Source: Prepared by the Office of the County Auditor using information obtained from MAP Admin and BMPO.

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Figure 3

**Total Payments, Expenditures, and Ending Account Balances for Surtax Services Funds
(Grant 108) for Calendar Year 2019 and 2020**

Fund Category	2019	2020
Opening Fund Balance	\$0	\$190,222
Cash Disbursement(s) made to BMPO		
Payments	388,830	408,272
Interest Income	135	223
Total Cash Disbursement(s)	\$388,965	\$408,495
Expenditures incurred by BMPO		
Salaries	59,572	144,944
Recovered Overhead	29,786	72,472
Advertising Recruitment	0	0
Legal Fees	4,893	64,111
Software/Equipment	121	1,763
Bank Fees	0	51
Consultants	104,371	67,166
Total Expenditures	\$198,743	\$350,507
Ending Fund Balance	\$190,222	\$248,210

Source: Prepared by the Office of the County Auditor using information obtained from MAP Admin and BMPO.

As stated in the ILA, Surtax Start-up Fund (Grant 107) include one-time lumpsum of \$494,235 made by the County to BMPO and is to be used during the initial term of the ILA. Surtax Services Fund (Grant 108) include recurring quarterly payments to be made by the County to BMPO during each year of the ILA. Based on the calendar year 2019 and 2020 ending fund balances in the Surtax Services Fund (Grant 108), MAP Administrator exercised the County's right, as prescribed in the ILA, by withholding the quarterly payment due for 2nd quarter, 2020 (April – June) and 2nd quarter, 2021 (April – June). The BMPO agreed with the MAP Administrator's assessment in both instances.

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Advisory Memo No. 141 Issued by the County Auditor

On April 13, 2020 our office issued Advisory Memo No. 141 communicating serious concerns regarding BMPO's conflict of interest involving surtax funding and recommending amendment of applicable surtax agreements to include relevant conflict of interest language to mitigate concerns. The memo stated that per the ILA, Broward County paid the BMPO for services including ranking municipal capital projects for surtax funding; however, the BMPO sought to provide services to the municipalities related to the same projects that it has the responsibility to consider for ranking, creating an obvious conflict of interest issue. The identified conflict of interest issue could amount to a "pay for play" situation, creating opportunities for corrupt practices. The recommendations outlined in the memo were accepted by the Broward County Administrator leading to incorporating a conflict-of-interest provision into the municipal project surtax funding interlocal agreements, which prohibits the BMPO from entering into agreements with municipalities for the BMPO to provide services for municipal projects receiving surtax funding.

OPPORTUNITIES FOR IMPROVEMENT

Our audit disclosed certain policies, procedures and practices that could be improved. Our audit was neither designed nor intended to be a detailed study of every relevant system, procedure, or transaction. Accordingly, the Opportunities for Improvement presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Approximately \$352,000 of BMPO 2019 and 2020 Salary and Overhead Costs Paid by the County, Lack Underlying Support Evidencing the Work Performed and Services Provided.

We noted that Broward Metropolitan Planning Organization (BMPO) does not require its employees to prepare and submit detailed timesheets documenting the nature of work performed/services provided, along with the number of hours charged for Transportation Surtax Services.

Exhibit B of the ILA requires “Timesheet-based hours of work by BMPO employees on the Transportation Surtax Services....” to support salary costs paid by the County. BMPO employees working on Transportation Surtax Services should prepare detailed timesheets documenting the nature of work performed/services provided on Transportation Surtax Services, along with hours charged.

BMPO provided a list of hours, pay rates, and amounts by employee which, when tallied, agreed to the \$352,354 in salary and overhead costs paid by the County for 2019 and 2020. However, the BMPO could not provide detailed timesheets documenting the nature of work performed/services provided for the hours. For example, one employee incurred twenty-eight hours during 2020, but BMPO could not provide further documentation (i.e. a detailed timesheet) showing how the twenty-eight hours were determined (i.e. how it was “split out” from other hours worked by that employee during the year) and what activity the employee performed for the twenty-eight hours incurred.

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Figure 4 below shows a sample of the list provided by the BMPO for one of the employees.

Figure 4

Pay Code ID	Regular Hours	Check Date	Hourly Rate
REGULAR	3.00	08/28/2020	56.9471
REGULAR	8.50	09/11/2020	56.9471
REGULAR	8.00	10/23/2020	56.9471
REGULAR	5.00	11/06/2020	56.9471
REGULAR	3.00	11/20/2020	56.9471
REGULAR	0.50	12/18/2020	56.9471

Source: Prepared by the Office of the County Auditor using information obtained from BMPO.

As shown in Figure 4, the list does not indicate how the hours were determined or what activity was performed.

Based on correspondence with the BMPO, the BMPO interprets the definition of “Timesheet-based hours” as timesheets containing only number of hours charged by its employees working on Transportation Surtax Services. BMPO staff stated that the practice is in accordance with their reporting guidelines to federal agencies for payment on their respective projects.

Due to unavailability of detailed timesheets documenting the nature of work performed/services provided and the amount of time spent performing the work/services, we are unable to assess the reasonableness of services provided for the hours charged by BMPO employees.

We recommend management direct the BMPO to provide detailed timesheets documenting nature of work performed/services provided, along with the number of hours charged to support future salary costs paid by the County.

2. BMPO Salary and Overhead Costs Paid by the County for 2019 and 2020 Included \$26,238 for 'Holiday' and Paid Time Off ('PTO') Hours.

During our audit, we determined that the BMPO charged 'Holiday' and 'PTO' hours in addition to actual hours of work performed for employees working on Transportation Surtax Services. Total costs charged during 2019 and 2020 were \$17,492 for 405 hours of 'Holiday' and 'PTO' hours, plus 50% of the overhead costs charged on 'Holiday' and 'PTO' hours (\$8,746), for a total cost of \$26,238.

Figure 5 below shows the number of total 'Holiday' and 'PTO' hours, total salary costs charged for 'Holiday' and 'PTO' hours, and total overhead costs charged for 'Holiday' and 'PTO' hours for 2019 and 2020.

Figure 5

Year	Total for Holiday and PTO Hours Charged	Total Salary Costs Charged for Holiday and PTO Hours	Total Overhead Costs Charged for Holiday and PTO Hours
2019	168	\$7,381	\$3,691
2020	237	\$10,111	\$5,055
Total	405	\$17,492	\$8,746

Source: Prepared by the Office of the County Auditor using information obtained from BMPO.

'Holiday' and 'PTO' pay are overhead costs and should not be directly billed as salary costs. Exhibit B of the ILA states "Salaries of BMPO staff performing work under this agreement will be **actual salaries...**" Further, the ILA provides a mechanism for BMPO to recover overhead costs incurred, such as 'Holiday' and 'PTO' pay, by allowing an overhead rate of 50% to be added to all actual salaries. Exhibit B of the ILA states "The BMPO overhead rate is 0.50 and covers costs such as building rents, office furniture, computers, software licenses, office supplies, information technology, etc. for employees of the BMPO who may provide support for surtax-funded staff and activities." Based on discussions with the County Attorney's Office items such as 'Holiday' and 'PTO' hours should be covered under the Overhead rate as well. Charging 'Holiday' and 'PTO' hours as actual salary costs results in the County being double billed by the BMPO for Transportation Surtax Services.

Directly charging 'Holiday' and 'PTO' rather than including within an overhead rate also presents challenges in determining which project or client should pay for the costs. For example, if an employee takes 8 hours of PTO, it is unclear how much should be charged to Transportation Surtax Services versus how much should be borne by the BMPO.

The BMPO's practice was to charge the County for all hours (Regular, Holiday, PTO) for employees working on Transportation Surtax Services during 2019 and 2020. According to BMPO staff, most

Audit of the Interlocal Agreement Between Broward County and
the Broward Metropolitan Planning Organization for Transportation Surtax Services

of the 'Holiday' and 'PTO' hours charged related to employees that were substantially full-time dedicated to the Transportation Surtax Services; therefore, the 'Holiday' and 'PTO' leave time would be charged to the County in full regardless of whether it was charged directly or allocated through an overhead rate.

We recommend management:

- A. Evaluate whether the established overhead rate sufficiently covers fringe benefit costs such as 'Holiday' and 'PTO' and, if warranted, adjust the rate in future ILA amendments
- B. Amend contractual language to clearly identify fringe benefit costs such as 'Holiday' and 'PTO' as costs covered by the overhead rate.
- C. Ensure that going forward BMPO should include costs related to 'Holiday' and 'PTO' hours for employees working on Transportation Surtax Services as part of overhead rate, and not charge them separately as actual salary costs.

3. BMPO Transportation Surtax Services Costs Paid by the County Included \$29,072 in Duplicate Billed Costs for Software, Furniture, and Office Supplies.

Total costs paid by the County to BMPO for Transportation Surtax Services costs during 2019 and 2020 included \$117,451 in overhead costs intended to cover costs for items such as furniture, software, and office supplies; however, the total costs for Transportation Surtax Services paid by the County during 2019 and 2020 also included an additional \$29,072 in direct costs charged for furniture, software, and office supplies and reported as a separate line item. Figure 6 below shows number of total overhead costs and unallowable direct costs for software, furniture, and office supplies, charged by BMPO during 2019 and 2020.

Figure 6

Year	Total Overhead Costs Charged	Total Unallowable Direct Costs Charged For Software, Furniture, And Office Supplies
2019	\$44,218	\$27,309
2020	\$73,233	\$1,763
Total	\$117,451	\$29,072

Source: Prepared by the Office of the County Auditor using information obtained from BMPO.

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the Broward Metropolitan Planning Organization for Transportation Surtax Services

The County separately pays for overhead costs at the rate of 50% of actual salaries for BMPO employees working on Transportation Surtax Services. Exhibit B of the ILA states “The BMPO overhead rate is 0.50 and covers costs such as building rents, office furniture, computers, software licenses, office supplies, information technology, etc. for employees of the BMPO who may provide support for surtax-funded staff and activities.” The ILA provides a mechanism for the BMPO to recover costs related to furniture, software, and office supplies, under the overhead rate.

BMPO improperly billed furniture, software, and office supplies as separate direct costs. Charging furniture, software, and office supplies costs separately resulted in the County being double billed by BMPO.

We recommend management:

- A. Direct the BMPO to reimburse the County a total of \$29,072 for duplicate billed furniture, software, and office supplies costs. Alternatively, the County may deduct the amount from future advances.
- B. Ensure that going forward all costs related to furniture, software, and office supplies should be included as part of overhead rate by BMPO, and not charged as separate direct costs.

4. Contractual Provisions are Needed to Address Independence Requirements in the Agreement Between BMPO and Third-party Consultants.

During our review of the agreement between BMPO and third-party consultants, Whitehouse Group, Inc., containing work orders for transportation planning services, we noted that the agreement does not include express provisions mandating independence of work performed related to municipal project ranking and prioritization, from the BMPO’s influence. Based on the agreement, the BMPO has the authority to recommend changes to deliverables produced by the Whitehouse Group, Inc., which may be perceived as impairment of independence.

The work performed by the Whitehouse Group, Inc. is for the benefit of all municipalities and the associated costs paid to them by the BMPO are reimbursed by the County using surtax funds. Therefore, it is imperative for the BMPO to maintain independence in fact and appearance regarding work performed by them related to municipal project ranking and prioritization. Independent ranking and prioritization of municipal projects by the Whitehouse Group, Inc. has direct impact on equitable distribution of surtax funds.

Audit of the Interlocal Agreement Between Broward County and
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Based on the agreement between BMPO and Whitehouse Group, Inc., for transportation planning services, tasks performed by Whitehouse Group, Inc. pursuant to work orders issued by the BMPO are for the benefit of BMPO or other local governments, at the sole discretion of BMPO. Task number 3 of the agreement states that “the Consultant will prepare the ranked list of surtax projects and coordinate with the cities to determine if a project proposed as a swap to a ranked FY2020 project will remain on the FY2021 list. The Consultant will provide MPO Project Manager a finalized list of ranked municipal surtax projects representing new and swapped projects resulting from the municipal outreach process.” However, it does not include express provision mandating independence of work performed related to municipal project ranking and prioritization, from the BMPO’s influence.

Without an express provision in the agreement addressing independence requirements, independence of the work performed by Whitehouse Group, Inc. may potentially be impaired.

We recommend management direct the BMPO to, for future consultant agreements and amendments, include express provisions mandating independence of work performed related to municipal project ranking and prioritization, from BMPO’s influence.

MANAGEMENT'S RESPONSE

Audit of the Interlocal Agreement Between Broward County and
the Broward Metropolitan Planning Organization for Transportation Surtax Services



BERTHA W. HENRY, County Administrator
115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

MEMORANDUM

DATE: November 18, 2021

TO: Robert Melton, CPA, CIA, CFE, CIG
County Auditor

FROM: Bertha Henry
County Administrator

RE: **Audit of the Interlocal Agreement between Broward County and the Broward Metropolitan Planning Organization (BMPO) for Transportation Surtax Services**

The Transportation Surtax Oversight Board requested the Office of the County Auditor initiate an audit of the Transportation Surtax Services contract between Broward County and the BMPO in August 2020. The Mobility Advancement Program Administration (MAP Admin) has reviewed the Auditor's Report with Management. The following is Management's response.

In summary, Management generally concurs with the Audit report conclusions, with one exception. Management generally accepts the Audit Report's Opportunities for Improvement. Please find detailed responses to Auditor's recommendations:

Opportunity for Improvement 1: Approximately \$352,000 of BMPO 2019 and 2020 Salary and Overhead Costs Paid by the County, Lack Underlying Support Evidencing the Work Performed and Services Provided.

Auditor Recommendation: Management direct the BMPO to provide detailed timesheets documenting the nature of work performed/services provided, along with the number of hours charged to support future salary costs paid by the County.

Response: *Management agrees and resolved.* For the period the Audit covered, two full-time employees were hired to oversee the evaluation, review, ranking and recommendation process for over 700 municipal surtax projects. The two BMPO surtax-funded employees reported to the County's MAP Administrator and BMPO Contract Administrator regularly, no less than bi-monthly, documenting in detail the nature of work performed. BMPO Surtax Services staff provided various work, including, but not limited to: frequent email updates regarding activities and/or challenges; public presentations and workshops; written and verbal reports, including 110 project recommendations to the MPO and Oversight Boards; extensive municipal technical assistance, etc. There was no reason to question the work performed or services provided by full-time BMPO Surtax Services staff.

Broward County Board of County Commissioners
Mark D. Bogen • Lamar P. Fisher • Beam Furr • Steve Geller • Dale V.C. Holness • Nan H. Rich • Tim Ryan • Barbara Sharief • Michael Udine
www.broward.org

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November 18, 2021

Robert Melton, County Auditor

Audit of ILA between Broward County and MPO for Transportation Surtax Services

During the first annual reconciliation process, detailed justification was requested relating to the percentage of non-Surtax Services BMPO employees' salaries and legal fees (at an hourly rate) charged to the surtax fund(s). Documents were shared through an online portal that no longer exists. In mid-2020, the BMPO moved to outsource Surtax Services functions to a consulting firm. The selected consultant provides detailed timesheets with each invoice; the County's Contract Administrator and Finance Manager for MAP Admin review and approve each invoice and its back-up documentation before payment is made by the BMPO. Accordingly, this matter has been resolved.

Opportunity for Improvement 2: BMPO Salary and Overhead Costs Paid by the County for 2019 and 2020 included \$26,238 for "Holiday" and Paid Time Off ('PTO') Hours

Auditor Recommendation:

- A. Evaluate whether the established overhead rate sufficiently covers fringe benefit costs such as 'Holiday' and 'PTO' and, if warranted, adjust the rate in future ILA amendments
- B. Amend contractual language to clearly identify fringe benefit costs such as 'Holiday' and 'PTO' as costs covered by the overhead rate.
- C. Ensure that going forward BMPO should include costs related to 'Holiday' and 'PTO' hours for employees working on Transportation Surtax Services as part of overhead rate, and not charge them separately as actual salary costs

Response: Management partially agrees. As described in the Response to Opportunity for Improvement 1, BMPO Surtax Services staff were full-time employees. As the Auditor notes: "According to BMPO staff, most of the 'Holiday' and 'PTO' hours charged related to employees that were substantially full-time dedicated to the Transportation Surtax Services; therefore the 'Holiday' and 'PTO' leave time would be charged to the County in full regardless of whether it was charged directly or allocated through an overhead rate." Now that the services are being performed exclusively by a consultant overseen by the BMPO's Director of Transportation Policy, the issue is largely moot. Notwithstanding, the Contract Administrator will advise the BMPO of the County Auditor's position that all paid time off associated with BMPO benefit-eligible employees working even partially on Surtax Services be included in the overhead rate.

Opportunity for Improvement 3: Transportation Surtax Services Costs Paid by the County Included \$29,072 in Duplicate Billed Costs for Software, Furniture, and Office Supplies

Auditor Recommendation:

- A. Direct the BMPO to reimburse the County a total of \$29,072 for duplicate billed furniture, software, and office supplies costs. Alternatively, the County may deduct the amount from future advances.
- B. Ensure that going forward all costs related to furniture, software, and office supplies should be included as part of the overhead rate by BMPO, and not charged as separate direct costs.

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Robert Melton, County Auditor
Audit of ILA between Broward County and MPO for Transportation Surtax Services

Response: *Management agrees* and will take the appropriate administrative actions. Specifically, Management will hold-back the duplicatively billed amount during the annual reconciliation process required per Exhibit B that will occur in the first quarter of next calendar year. Management will notify the BMPO of its expectation that direct and overhead costs are billed and paid in the appropriate categories. Management believes the \$117,451 associated with Software, Furniture and Office Supplies was excessive for only two full-time staff providing surtax services for less than one full year of a five-year contract. Since Surtax Services have been contracted out to a consulting firm, Management intends to seek the return of equipment, software, office supplies, furniture and any other assets purchased with surtax revenues intended for use by Surtax Services employees. For comparison, MAP Admin spent \$24,491 in 2019 for 4 staff and \$22,823 in 2020 for 4 additional staff on office equipment (including computers, phones, furniture), office supplies, and computer software.

Opportunity for Improvement 4: Contractual Provisions are Needed to Address Independence Requirements in the Agreement Between the BMPO and Third-Party Consultants

Auditor Recommendation: Direct the BMPO to, for future consultant agreements and amendments, include express provisions mandating independence of work performed related to municipal project ranking and prioritization, from BMPO's influence.

Response: *Management agrees*. The County's Contract Administrator shared with BMPO's Contract Administrator the County Auditor's recommendation that clear independence exist between the BMPO and any consultants performing surtax services to avoid possible influence in evaluating, rating, or ranking municipal projects and that such clauses be included in future contracts. The BMPO's Legal Counsel, Mr. Alan Gabriel, worked directly with Surtax General Counsel, Ms. Angela Wallace, to finalize an agreement outsourcing Surtax Services to the Whitehouse Group. Mr. Caletka indicated in writing that legal counsel for both parties agreed the Whitehouse Group was the sole reasonable source for these services. The BMPO Board approved the contract on October 14, 2021, before the County's Contract Administrator or County Auditor had the opportunity to review the independence clause in Section 8.17.3. Section 8.17.3 focuses on independence between the municipalities and the Consultant, not between the BMPO and the Consultant.

Thank you for the opportunity to respond and provide Management's comments to the Audit. If the County Auditor modifies substantive elements of the existing draft, please provide us the opportunity to review prior to issuance. Should you have any questions, please contact me.

c: Mayor and Broward County Board of County Commissioners
Transportation Surtax Oversight Board
Monica Cepero, Deputy County Administrator
Gretchen Cassini, Mobility Advancement Program Administrator
Kevin Kelleher, Assistant County Administrator
Andrew Meyers, County Attorney
Angela J. Wallace, Surtax General Counsel
Margaret Dalley-Johns, Finance Manager, MAP Administration