



LCPA Audit Recommendations Status Report As of December 31, 2019

Inspector General Department



Tim Parks, Chief Internal Audit Officer/Inspector General



LCPA Audit Recommendations Status Report As of December 31, 2019



To: The Honorable Linda Doggett, Lee County Clerk of the Circuit Court & Comptroller

From: Tim Parks, Chief Internal Audit Officer/Inspector General

Date: January 3, 2020

Re: Lee County Port Authority (LCPA)
Audit Recommendations Status Report as of 12/31/2019

Dear Ms. Doggett,

The Inspector General Department has completed its *LCPA Audit Recommendations Status Report as of December 31, 2019*, which reflects the implementation status of outstanding audit report recommendations for the Lee County Port Authority. The report fulfills the IG Department's accountability for reporting on issues through their resolution.

This audit activity conforms to the Institute of Internal Auditor's (IIA) *International Standards for the Professional Practice of Internal Auditing (Red Book)* and the Association of Inspectors General (AIG) *Principles and Standards for Offices of Inspector General*.

The follow-up on recommendation status was conducted during the fourth quarter of 2019. We reviewed the status of the audit recommendations with the department personnel responsible for implementing the audit recommendations.

The follow-up report contains information regarding each outstanding recommendation, including recommendation status, management action taken, and Internal Audit follow up notes.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Tim Parks".

Tim Parks, Chief Internal Audit Officer/Inspector General
Inspector General Department
TJP/GK



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LCPA Contract Administration On-Site Parking Operations (Project 2017.17, Issued November 2018)

Annual Operating Budget		
Observation	Recommendation	Management Response
<p>The Annual Operating Budget is a significant internal control and requirement of the management agreement. We examined the approved operating budget in comparison to actual results and found a lack of correlation between the approved budget and actual expenditures for several key line items. The approved annual operating budget failed to deliver a detailed projection of anticipated results as stipulated by the management agreement. These inaccuracies weakened the internal control of benchmarking actual performance and the opportunity to detect misappropriations at a high-level. We also examined the fiscal year 2018 approved budget, noting no adjustment or improvement to reflect the prior year's actual results.</p>	<p>We recommend:</p> <ul style="list-style-type: none">• That the budgetary process be enhanced to ensure the Operator evaluates and incorporates prior year's results as the fundamental baseline for projecting anticipated expenditures. Management should reject proposed budgets that lack correlation to prior year's results.• That the LCPA and Operator adhere to the controls set forth by the agreement and actively seek written permission prior to exceeding any budgeted line item.	<p>We agree with the auditor's recommendation to incorporate prior year budgetary results as the baseline for projecting anticipated expenditures. Staff works to enhance the operating budget each year to properly reflect anticipated expenses based on past experience, revenue projections, planned service needs and other factors to ensure the budget remains an effective planning tool. We will continue to review past performance factors to the extent practicable to formulate an operating budget that accommodates anticipated activity levels. Staff will continue to work with the Operator to meet the needs of the traveling public for parking and shuttle operations, working within established contractual and Airport Contract Administration departmental control guidelines.</p> <p>The ACM Department maintains a detailed SP Plus Budget Profile by month, reflecting variances by dollar amount and percentage of the initial or amended budget, and SP Plus similarly documents year-to-date amounts spent by line item on their monthly pay applications. This tracking information is used to evaluate the budget incrementally throughout the funding year, to allow for mid-year adjustments, and to identify any discrepancies or opportunities for savings.</p>



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		<p>ACM works within the budgetary process and parameters to include efforts to comply with goals limiting year-over-year budgetary increases across the organization, and endeavors to prepare a reasonable, effective budgetary planning tool that provides the necessary resources for the contract operations to succeed. The extraordinary growth in parking and shuttle activities has presented a challenge in achieving these goals over the last few successful and profitable fiscal years, but ACM has been able to utilize and reallocate resources via intradepartmental fund transfers throughout the fiscal year to provide any necessary supplemental funding to accommodate these extraordinary expense needs for this particular service, while remaining within the broader parameters of the overall departmental budget. These reconciliations occur each year with different contracts requiring such support.</p> <p>The quarterly budget meetings and frequent discussions between the Operator and Authority are the forum by which the ACM Department ultimately prepares Budget Forecasts identifying line items which exceed the initial budget, and reconciles the annualized budget to address both forecasted averages and shortfalls. Staff is confident the budgetary overages/variances are within a reasonable range both for FY16 and FY17.</p>
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Estimated Implementation Date	Revised Implementation Date	Status
1/31/2019	12/31/2019	Implemented
Last Status Update	Current Recommendation Action	IA Follow-up Notes
3/31/2019 7/12/2019 9/23/2019	N/A	Continuing to work with Management to verify implementation.
11/20/2019	N/A	To evaluate the reasonableness of budgeted line items, the IA examined the Statement of Revenue and Expense as of 9/2019 and compared fiscal ending balances to the 19/20 budgeted amounts. The following line item were selected and noted as improved. Wages: Actual 9/2019 - \$1,884,276; Budget 19/20 - \$1,882,122; this amount was previously over budget by \$73,752. SUTA: Actual 9/2019 - \$4,765 Budget 19/20 - \$5,000; this amount was previously over budget by \$433. Conversely, other budgeted line items remain unchanged. Per discussion with the Sr. Manager of this department, greater improvement will be implemented during the 20/21 budgeting cycle. Therefore, this recommendation will be considered implemented with management's commitment to continue budgetary adjustments that are in-line with prior year's actual results.
Budget Overruns		



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Observation	Recommendation	Management Response
The requirement set forth by RFP section 1.21 intended to increase accountability, and awareness over expenditures by obtaining prior written permission to exceed a budgeted line item was not met. We noted several line items that exceeded the approved budgeted amount without evidence of prior written permission obtained.	LCPA and Operator must adhere to the controls set forth by the agreement. The Operator must actively seek written permission prior to exceeding any budgeted line item.	The ACM Department maintains a detailed SP Plus Budget Profile by month, reflecting variances by dollar amount and percentage of the initial or amended budget, and SP Plus similarly documents year-to-date amounts spent by line item on their monthly pay applications. This tracking information is used to evaluate the budget incrementally throughout the funding year, to allow for mid-year adjustments, and to identify any discrepancies or opportunities for savings
Estimated Implementation Date	Revised Implementation Date	Status
1/31/2019	12/31/2019	Implemented
Last Status Update	Current Recommendation Action	IA Follow-up Notes
3/11/2019 7/12/2019 9/23/2019	N/A	Continuing to work with Management to verify implementation.
11/20/2019	N/A	The IA examined a revenues and expenses year-to-date report comparing budget to actual for May 2019. This report indicated that Holiday Pay was budgeted for \$52,624 and the actual expense totaled \$50,547. An LCPA Contract Service Request Form dated 5/30/2019 submitted by SP Plus requested authorization to exceed the budgeted amount for this particular line item. This request was approved by LCPA on 6/3/2017 and serves as evidence that possible budget overruns are being monitoring and timely approved.



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Operating Expense		
Observation	Recommendation	Management Response
<p>Capital Items Improperly Recorded: LCPA internal review process was unsuccessful in identifying purchases of fixed assets. As a direct result the following items were incorrectly recorded as a period expense:</p> <ul style="list-style-type: none"> • LPI Hand Held Computers \$22,101 • Office Furniture \$4,354 <p>The requirement set forth by RFP section E. Right of Approval of Fixed Assets is intended to ensure that LCPA properly recognizes and records capital assets as required by Florida law and governmental accounting standards. According to the Lee County Fixed Asset User Guide the aforementioned items are considered property/capital assets according to: Section 274.02(1), Florida Statutes, the word "property" is defined as fixtures and other tangible personal property of a non-consumable nature. Tangible personal property includes equipment, computer equipment, furniture, and vehicles and rolling stock. According to GASB Statement No. 34, paragraph 19, "capital assets" are tangible and intangible assets acquired for use in operations that will benefit more than a single fiscal period. Pursuant to the Florida Administration Code-Rule Chapter 69I-73.002, all property with a value or cost of \$1,000 or more and a projected useful life of one year or more shall be recorded in the local government's financial system as property for inventory purposes⁶. GASB Statement No. 34 further states that all capital assets (subject to a capitalization threshold) with a useful life of</p>	<p>Capital items Improperly Recorded:</p> <ul style="list-style-type: none"> • That the Operator and Contract Management Department independently forward the approved expenditure forms to the Finance Department. • That the Finance Department examines the Operator's monthly detailed invoice for purchases that exceed the \$1,000 threshold. Additionally, this will also improve the lack of segregation of duties surrounding the monthly invoice review process, since the Contract Management Department is involved in the procurement, annual budget approval, review of expenditures and continued involvement with the Operator. • Properly recognize and record capital items consistent with Lee County policy. <p>Mobile Scrubber Acquisition and Shuttle Bus Fleet:</p> <ul style="list-style-type: none"> • Evaluation of the transactions pertaining to the Scrubber/Sweeper and Fleet of Shuttle Busses at the end of their respective terms, and if deemed appropriate seek a recovery of any overpayments. • Examination of material agreements 	<p>Capital Items Improperly Recoded: As per our discussion on Wednesday, October 17, 2018, relative to another LCPA service provider agreement, all future capital items purchased by the Operator, in this case, SP Plus, will be treated as a fixed asset. Expenditure forms will be sent to the Finance Department and a fixed asset number will be assigned to such items and accounted for annually, as per procedure. As a result of this discussion, we also understand that sufficient departmental authority and corresponding controls and processes are in place to allow for contractor procurement of such capital items, and that it is not necessary or recommended that independent contractors be subject to internal capital procurement practices as it represents an overly burdensome process affecting the contractors' need and Board-approved contractual obligation to furnish and perform their designated contractual responsibilities without undue delay.</p> <p>Mobile Scrubber Acquisition: The acquisition of the 2016 Tennant M-20 Mobile Scrubber/Sweeper does not include a 'markup' but rather reflects financing costs on the base price of the unit, plus taxes, to provide for full amortization of the unit over 54 months. For an item of this value, staff elected to negotiate a fixed, monthly expense with a one dollar end-of-lease buyout at the Authority's</p>



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<p>one year or more must be capitalized, whether depreciable or non-depreciable, and reported in the government's financial statement⁶. For consistency the County uses the same threshold of \$1,000 for all assets with exceptions for infrastructure, software, and land.</p> <p>Mobile Scrubber/Sweeper: The Operator acquired a new 2016 Tennant PC M-M20 Scrubber/Sweeper with a reimbursement of \$66,145.68 or \$1,224.92 invoiced monthly over a term of 54 months beginning on April 1, 2016, and continuing to September 30, 2020, with an end-of-lease Authority buyout option of \$1.00. An examination of the Operator's purchase invoice indicated a total cash outlay variance and mark up of \$10,698. Original price was: \$57,020; plus \$1,387 & \$2,742 for freight charge and applicable sales tax, respectively; minus: agreement discount of \$5,702.</p> <p>Additionally, the Operator entered into a FMV lease and LCPA subsequently structured reimbursements to amortize the maximum end-of-lease buyout of \$309,152 (\$5,725 monthly) or 24% of the original invoiced amount and 6% sales tax. However, the Operator has the option to negotiate the purchase price of the equipment at maturity. The management agreement does not contain a recovery contingency if the FMV of the equipment is determined to be less than \$309,152 (inclusive of sales tax) paid in advance by LCPA.</p>	<p>entered into by the Operator to ensure expenses are a direct expense without mark-up as defined by the management agreement.</p> <ul style="list-style-type: none"> That management considers revising future contracts to include a recovery contingency. <p>Sales Tax:</p> <ul style="list-style-type: none"> That LCPA perform an independent assessment of the deficiencies noted above and if deemed factual, remit the applicable amount as required. Pursuant to F.S. 95.091b, Limitation on actions to collect taxes, LCPA is encouraged to require the Operator to perform a self-audit of its purchases to determine any other tax liability. Late Charge : LCPA seeks a recovery of said amounts. Improve the monthly review process to identify and discount late charges from the Operator's invoiced expenses. 	<p>option to coincide with the conclusion of the initial contract term on September 30, 2020, as opposed to absorbing a one-time lump sum budgetary impact. The monthly fee for this item was negotiated separately during the contract approval of the solicitation process to provide for the longer term financing of this item. The financial repayment formula for this separately negotiated procurement is available upon request.</p> <p>Shuttle Bus Fleet: Similarly, the acquisition of the fleet of nineteen (19) Ford E-450 15-passenger shuttle buses was also procured as a custom lease via an Airport Concession Disadvantaged Business Enterprise (ACDBE) vendor. Global Parking Systems, LLC, to allow the Operator to achieve their proposed 18% ACDBE vendor participation goal to comply with the Airport Concessionaire requirements of the Federal Aviation Administration (FAA), which are incorporated into the approved Service Provider Agreement. This lease was also compressed into a customized 54-month term in order to remain within a five (5) year Long Term Exclusive (LTE) agreement maximum term, also mandated by the FAA, which provides for full amortization of the shuttle fleet within the compressed lease term with a one dollar per bus buyout clause at the Authority's option.</p>
<p>Sale and Use Tax: The Operator purchased \$36,181 of taxable tangible personal property for which sales tax due of \$2,170 was not remitted to the state of Florida. This</p>		<p>In order to accommodate the Authority's request for a fall amortization and optional end-of-lease purchase, in addition to the monthly repayment</p>



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<p>represents a 60% error rate from the expense population of \$60,184. Pursuant 12A-1.038(4)(b) FAC: When the payment for taxable property or services is made with the personal funds of an authorized representative of the governmental unit, the purchase is subject to tax, even if the representative is subsequently reimbursed with the governmental unit's funds. We identified the following applicable Florida Statute and FAC: 212.05(1)(b); 212.21(2) & 12A-1.025; 12A-1.091. According to RFP section 2.23 Operator's Compliance with Taxes, Licenses, Permits, and Rules - E. As between the Operator and the Authority, the Authority agrees to pay, in addition to the prices herein quoted, the amount of any tax based upon the transfer, use, ownership, or possession of the equipment to which the Management Agreement relates, imposed by any law enacted after the date of the agreement or imposed upon the Authority by an existing law. By so agreeing, the Authority does not in any way admit the validity of any such tax. We caution LCPA of the potential liability arising from unpaid sales and use tax, penalties and interest. According to FS 212.13(3) & 212.12(2)(b)(5)(a) the state has the authority to audit the Operator's books and records and demand payment of any tax deficiencies, penalties and interest imposed.</p> <p>Late Charges: On 18 separate instances the Operator was erroneously reimbursed for late charges associated with a reoccurring equipment rental of \$397.65.</p>		<p>amount of the base fleet cost and required sales tax, the lease provides for amortization of a Residual (amount to finance) of 24%, as determined by the lessee (Minority Alliance Capital, LLC).</p> <p>As it relates to future leases for shuttle bus fleet equipment, the Authority will consider revising future governing Service Provider Agreements, or perhaps in the event of a prospective amendment and extension to the existing Agreement for the residual amount in question, to include a recovery contingency clause in the event there may be a variance between the stated predetermined residual and ultimate fair market value 'option to purchase fleet cost, if different and as appropriate, going forward.</p> <p>Sales and Use Tax: The Authority will coordinate with SP Plus to identify any deficiencies related to unpaid sales and use taxes, and remit such taxes as appropriate in coordination with the involved vendor. The Authority will also request the Operator perform a self-audit of its purchases to determine any tax liability going forward. There are some SP Plus monthly statements that do charge sales and use tax separately from the vendor invoice as an individual charge. In many instances, the applicability of sales and use tax criteria are perplexing across various states and localities served by SP Plus and apparently too many of the involved vendors as well. SP Plus has spoken to several vendors and requested that sales tax be added and compiled as appropriate. Some out-of-state vendors have denied this request, expressing</p>
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		<p>an unwillingness to adjust their payment processing systems to work within the Florida Tax Code or to retroactively adjust previously processed and closed invoices. SP Plus will coordinate with their vendors to address and correct this issue where warranted and to the extent practicable.</p> <p>Late Charges: The Operator has informed us that they now have a new system that allows for removal of late charges from an invoice which provides for the invoices to be billed to two separate accounts (i.e., a client and internal account). This way Late Charges would be absorbed by SP Plus and the invoice can still be processed in an expeditious manner. Reported Late Charges were immediately credited in March 2018.</p>
Estimated Implementation Date	<i>Revised Implementation Date</i>	Status
1/31/2019	<i>12/31/2019</i>	Implemented
Last Status Update	<i>Current Recommendation Action</i>	IA Follow-up Notes
1/31/2019	<i>9/30/2019</i>	Partially Implemented
3/11/2019 7/12/2019	<i>N/A</i>	<p>Capital Items Improperly Recoded (Implemented): The IA examined the bill of sale of a recently purchased Ford Explorer. The IA queried the Asset Tag Cost History Report and Fixed Asset Account Report to determine that vehicle was capitalized as of the date of purchase under asset no. 0010594600.</p> <p>Sales Tax (Pending): Per discussion with SP Plus Sr. Manager, a self-audit was been performed and</p>



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		<p>evidence of payment remittance is pending. Also, pending is evidence of monthly process to identify taxable transactions and remittance of tax payment.</p> <p>Late Charges (Implemented): The IA selected the invoice for 12/2018 that included a Century Link bill with late charges of 43.98. The respective SP Plus invoice to LCPA properly removed this late charge.</p> <p>Mobile Scrubber Acquisition & Shuttle Bus Fleet: Per Management's response the related Recommendations are not being tracked for implementation.</p>
9/23/2019	12/31/2019	Continuing to work with Management to verify implementation.
11/20/2019	N/A	SP Plus identified 9 items totaling \$2,135 of unpaid sale tax resulting from the recommended self-audit. The IA reviewed the related journal entry on 3/1/2019 posting this tax liability into the accounting system. A sales and use tax return (DR-15) for the collection period of 2/2019 filed on 3/18/2018 serves as evidence that \$2,135 was remitted to the state of Florida categorized as taxable purchases.
LCPA Information Technology- Service Recovery (Project 2019.12, Issued July 2010)		
Disaster Recovery Policy		
Observation	Recommendation	Management Response



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<p>Disaster Recovery Plan (DRP) defines a disaster as an interruption or partial destruction of the computer, communication, and network environment within the primary data center that will trigger the use of the secondary data center. Common risk factors leading to a disaster in a data center are hardware failure or fatigue, equipment damage by fire, flooding or mishandling, power brownouts or spikes, etc.</p> <p>Based on the review:</p> <ul style="list-style-type: none">• The DRP did not contain a policy denoting who in the LCPA had overall responsibility for the DRP. There was no chain of command stating who makes Disaster Recover (DR) decisions and coordinates in a disaster or emergency.• There was no documentation of the steps for coordination, development, and maintenance of the DRP.• There was no formal DRP committee or senior management approval for the DR status.• There was not a documented process to evaluate whether new hardware or software should be included or removed from the DRP. <p>As a best practice:</p> <ul style="list-style-type: none">• The DRP is created to provide governance of the DRP and testing procedures.• The DRP states who is responsible for coordination, development, education, and maintenance.• A DRP committee/board (Finance, Administration, Risk Management, etc.) is assembled for successful development and execution of the DRP.	<p>We recommend that management create written DRP Policy and Procedures that outlines the DRP's governance, management, coordination, development, and maintenance. We recommend that the DRP be approved by senior management.</p>	<p>Port Authority staff will develop a DRP Policy document that clearly outlines policy and procedure to govern and maintain the Disaster Recovery Plan as suggested.</p>
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<ul style="list-style-type: none"> Policy steps require annual verification of the hardware and software requirements to be included or removed from the DRP. The policy details how the Department will manage and control any newly identified assets, risks in the DRP. <p>Without a fully developed DRP, the risk increases that management will be unable to provide a systematic approach for safeguarding the vital LCPA technology and data. The DRP provides a framework for the management, development, implementation, and maintenance of the LCPA assets. With a complete DRP, senior management can best ensure that sufficient financial, personnel and other resources will be available for the DRP.</p>		
Estimated Implementation Date	Revised Implementation Date	Status
4/30/2020		Pending
Last Status Update	Current Recommendation Action	IA Follow-up Notes
9/23/2019	N/A	Recommendation is being worked on by LCPA management and will be actioned by April 2020.
DRP Lifecycle		
Observation	Recommendation	Management Response



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<p>There were no documentation details about the DRP's "focal point" with responsibility for overseeing DR activities in an event of an emergency.</p> <p>The DRP did not identify at what point one DR phase of the DR incident would stop and when the next phase of the DR should start. Generally the DR emergency management has continuous lifecycle. As a best practice, the DRP identifies who is responsible (focal point) to identify the transition between the DR phases of the DRP lifecycle.</p>	<p>We recommend that the DRP focal point be identified as responsible for declaring that normal operations may resume after an emergency. We recommend that the DRP be updated to identify the transitions between DR stages.</p>	<p>DR team leader is identified. Port Authority will add language requiring DR team leader to inform leadership and customers that normal business may proceed.</p>
Estimated Implementation Date	Revised Implementation Date	Status
4/30/2020		Pending
Last Status Update	Current Recommendation Action	IA Follow-up Notes
9/23/2019	N/A	Recommendation is being worked on by LCPA management and will be actioned by April 2020.
DRP Maintenance		
Observation	Recommendation	Management Response
<p>The DRP did not address a DRP Maintenance Strategy. We noted:</p> <p>There was no section to address the process to add or delete new applications or IT solutions in the DRP; and how to address the testing for those needs. There were no details in the plan on how often the DR procedures need to be reviewed or tested.</p> <p>The DRP steps and updates were not communicated to LCPA authorized staff. There was no documented evidence that the DRP were distributed to LCPA critical employees.</p>	<p>We recommend that:</p> <p>The updates address if all the critical applications or IT solutions were included and tested in the DRP.</p> <p>The newly revised DRP plans are distributed or made available to all critical and authorized employees.</p>	<p>Port Authority will include these recommendations in the DRP Policy guide.</p>



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<p>The latest revisions in the DRP Plan that were updated in April 2019 were not distributed.</p> <p>There was no evidence of retention management. There were no instructions on how to discard old DRP plans upon creation of the new plans.</p> <p>Management did track the changes to the DRP plan but did not formally present and get them approved by the senior LCPA management team.</p> <p>There was no evidence that the employees were trained and made aware of their roles in the DRP. Additionally, there were no details in the plan on how often the DRP testing needs to occur.</p> <p>There was no evidence that the DRP plans or updates were communicated to LCPA employees.</p>	<p>Record management steps are referenced in the DRP, and only the current version of the DRP is retained.</p>	
Estimated Implementation Date	Revised Implementation Date	Status
4/30/2020		Pending
Last Status Update	Current Recommendation Action	IA Follow-up Notes
9/23/2019	N/A	Recommendation is being worked on by LCPA management and will be actioned by April 2020.