



Memorandum



Miami-Dade County Office of the Inspector General
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To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County
The Honorable Audrey M. Edmonson, Chairwoman
and Members, Board of County Commissioners, Miami-Dade County

From: Mary T. Cagle, Inspector General 

Date: May 6, 2019 - Revised

Subject: *OIG Final Report of Investigation Re: Probe of MIA's Baggage Handling System Operation and Maintenance Agreement, Ref. IG15-0027-I*

Attached please find the above-captioned Final Report issued by the Office of the Inspector General (OIG). The Final Report details the OIG's lengthy investigation into the Miami-Dade Aviation Department's (MDAD) two procurement processes for the Miami International Airport Baggage Handling System's Operation and Maintenance Agreement (BHS O&M). After the first procurement ended with a rejection of all bids, a second RFP was issued which resulted in the current BHS O&M Agreement, awarded to John Bean Technologies, Inc. (JBT).

The report uncovered two procurement processes rife with Cone of Silence Violations by an MDAD employee on the Selection Committees and/or a representative of Airport and Aviation Professionals (AvAirPros), which holds the Airline Liaison Office (ALO) consulting contract. This Report examines and sheds light on a variety of questionable relationships, prohibited communications, non-compliant practices, and MDAD management failings. Moreover, this Report scrutinizes a "pass-through" contracting arrangement involving these same parties, after the BHS O&M agreement was awarded. The Report examines the purported explanations given for the pass-through arrangement and details the perils of engaging in this type of opaque contracting scheme. Some of these perils include lack of transparency, inability to conduct adequate oversight due to a failure to require back-up documentation for expenses, increased risk of conflicts of interest, and circumvention of SBE utilization requirements.

A draft of this report was previously provided to MDAD, JBT, AvAirPros, and former MDAD employee Debra Shore, for comment. MDAD's response, JBT's response, AvAirPros and Debra Shore's joint response, are all included in the Final Report as Appendices A, B, and C, respectively.

The Final Report contains four recommendations. Two recommendations are directed at MDAD's contractual relationship with JBT and AvAirPros. Recommendations 3 and 4 address MDAD's procurement process—adoption of which, the OIG believes, should be

considered going forward to decrease the likelihood of this recurring and to increase transparency, accountability and fairness in the procurement process.

The OIG requests that MDAD provide a status report on or before July 31, 2019, detailing the implementation status of the OIG's recommendations. For your reading convenience, an Executive Summary follows.

Attachment

cc: Abigail Price-Williams, County Attorney
Jack Osterholt, Deputy Mayor
Lester Sola, Director, Miami-Dade Aviation Department
Tara C. Smith, Director, Internal Services Department
Namita Uppal, Chief Procurement Officer, Internal Services Department
Cathy Jackson, Director, Audit and Management Services Department
Yinka Majekodunmi, Commission Auditor
Parties previously provided with the Draft Report (under separate cover)

OIG EXECUTIVE SUMMARY

Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

This investigation found numerous procurement transgressions, Ethics violations, and management failings. These deficiencies occurred throughout both procurement processes for the BHS O&M Agreement (RFP No. MDAD 06-11 and RFP No. MDAD 11-14). The subject MDAD employee at issue in this report is former Senior Aviation Cost Manager Debra Shore. The subject MDAD consultant is AvAirPros. The favored proposer at issue in this report is JBT, whose Regional Manager is Gilbert Lopez. This report details procurement transgressions related to both RFPs. This report also details post-award non-compliant contractual practices. Namely, MDAD's use of the BHS O&M Agreement in a suspect "pass-through" arrangement to pay AvAirPros for consulting services on a related capital improvement project, rather than access budgeted funds in the AvAirPros consulting contract. This report also details the negative consequences that arise due to the use of this opaque method of contracting.

The OIG found numerous areas of concern regarding the first RFP. First, the OIG discovered potential Sunshine and Public Records law violations due to proposer Mr. Gilbert Lopez (JBT) secretly text messaging Selection Committee member Debra Shore during the public Negotiation Committee meeting. The content of the text message was not preserved. The OIG discovered that Ms. Shore violated the Cone of Silence by directing negative remarks about a proposer to the Deputy Director immediately after it appeared that the BHS O&M contract was poised to be awarded to that same company. The OIG discovered other prohibited communications between Ms. Shore and proposer JBT in the form of emails. The OIG also discovered an influence letter sent by an interested third party (the Airline Management Council) that unlawfully lobbied the Deputy Director. The writing of this lobbying letter was prompted by the actions of JBT. The OIG discovered that consultant AvAirPros influenced the procurement in favor of JBT by circulating an extensive 6-page letter that disparaged Oxford—the top-ranked proposer. This letter opined that awarding the contract to Oxford would be detrimental to Miami International Airport and was sent to MDAD staff, including Ms. Shore, during the Cone of Silence. Finally, the OIG discovered instances of inappropriate fraternization or socializing during the Cone of Silence between Ms. Shore, JBT representatives, and/or other Selection Committee members. Such inappropriate fraternization smacks of favoritism and erodes the public's trust in government.

After the Mayor and Board of County Commissioners (BCC) rejected all proposals in RFP No. MDAD 06-11, a second RFP for the BHS O&M Agreement was initiated. The OIG found three main areas of concern regarding the second procurement. First, AvAirPros advocated that JBT win this procurement and steered Ms. Shore, now a voting Selection Committee member, to vote that way. AvAirPros sent Ms. Shore a "How-to-Vote" spreadsheet, which recommended that JBT win the procurement. Second, the OIG scrutinized telephone records detailing a much larger volume of telephone communications between Ms. Shore, JBT and AvAirPros during key times of the procurement, than occurred with other proposers. Last and most egregiously, Ms. Shore violated the Cone of Silence and her sworn duty to be a fair and impartial public servant, by sharing the aforementioned "How-to-Vote" spreadsheet with JBT—one of the

competitors in this procurement. She provided Mr. Lopez (JBT) with a copy of the spreadsheet days before the oral presentations and final scoring took place.

The Ethics violations and other transgressions detailed herein are a procurement embarrassment. Based upon the above acts that took place during the two procurements, the OIG referred its investigative findings to the COE. The COE's independent review resulted in Ethics violations being filed against Ms. Shore, Mr. Robert Binish of AvAirPros, and Mr. Christopher Bradley of AvAirPros. In mid-2018, the last of the three Ethics prosecutions was resolved. (See the Final Report's Schedule A for a summary of the Ethics violations charged against the three individuals, and the dispositions as to each person's case.)

After the BHS O&M contract was awarded to JBT, the OIG discovered that AvAirPros was paid over \$700,000 out of a BHS O&M dedicated allowance account. This was a pass-through contracting arrangement where AvAirPros was being paid outside of its own contract, thereby shielding the amount of compensation being paid. AvAirPros' Airport Liaison Office (ALO) consulting agreement allowed for \$1.75 million in "Additional Services" to be provided. These additional services expressly authorized consulting related to the CBIS/BHS capital improvement project. Instead of exclusively relying on that contract authorization, MDAD, AvAirPros and the Miami Airport Affairs Committee (MAAC) participated in an arrangement to compensate AvAirPros above and beyond what it stood to earn under its ALO agreement. The arrangement involved MDAD paying AvAirPros additional compensation in the form of "monthly retainers" for CBIS/BHS consulting services. Those payments were applied to an allowance account that was set-up for TSA-reimbursable work, even though these payments would never qualify for TSA reimbursement. The pass-through was employed with MDAD's full approval—albeit actual approvals were executed 18 months after the fact. The pass-through was welcomed by JBT as it received over \$87,000 in mark-up fees for passing through AvAirPros' invoices. Lastly, compensating AvAirPros outside of its ALO agreement circumvented the agreement's 20% SBE utilization goal.

This investigation has exposed a process rank with greed, bias, cronyism, and undue influence. The actions brought to light by this investigation prove that those involved had no appreciation or respect for the rules and regulations enacted to ensure governmental transparency, impartiality, and accountability.

Since the issuance of the Draft Report, MDAD has taken swift action on two of the four OIG recommendations, namely, the termination of AvAirPros for cause and initiating a new procurement process for a successor BHS O&M Agreement service provider. As it relates to OIG recommendation 3 and 4, MDAD has concurred with the recommendations and agreed to take steps to implement them.

**MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT**

Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

**MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL**



FINAL REPORT

IG15-0027-I

*Probe of MIA's Baggage Handling System
Operation and Maintenance Agreement*

**May 6, 2019
Revised**

TABLE OF CONTENTS

| | | |
|-------|--|----|
| I. | INTRODUCTION | 1 |
| II. | SUMMARY OF INVESTIGATION | 2 |
| III. | ABBREVIATIONS & ACRONYMS USED IN THIS REPORT | 4 |
| IV. | OIG JURISDICTIONAL AUTHORITY | 4 |
| V. | RELEVANT GOVERNING AUTHORITIES | 5 |
| VI. | INDIVIDUALS & ENTITIES DISCUSSED IN THIS REPORT | 5 |
| VII. | CASE INITIATION & INVESTIGATIVE METHODOLOGY | 9 |
| VIII. | THE FIRST PROCUREMENT – RFP NO. MDAD 06-11 | 12 |
| IX. | THE SECOND PROCUREMENT - RFP NO. MDAD 11-14 | 19 |
| X. | POST-AWARD ACTIVITIES – SUSPECT PASS-THROUGH ARRANGEMENT | 28 |
| XI. | RESPONSES TO THE DRAFT REPORT & OIG COMMENTS | 43 |
| XII. | OIG RECOMMENDATIONS | 55 |
| XIII. | CONCLUSION | 58 |

Schedule A: Ethics Violations Charged and their Dispositions

OIG Exhibits: 1 - 14

Appendices:

Appendix A: Response from JBT

Appendix B: Joint Response from AvAirPros and Debra Shore

Appendix C: Response from MDAD

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

I. INTRODUCTION

In the middle of an active procurement process, right before the final selection and scoring was about to take place, a Selection Committee member received an email from her department's consultant. The email and its attachment showed her how to vote, by recommending the point scores and rankings that she should give to each proposer. This occurred during the procurement process of a new contract for the operation and maintenance of the baggage handling systems at Miami International Airport. This contract, as awarded, had a value of \$163 million. The email conveyed the consultant's detailed analysis of each proposal, and suggested how to vote on the RFP—even going so far as to provide a spreadsheet attachment that broke down, by evaluation criteria, the suggested point scores for the proposers (hereinafter the "How-to-Vote spreadsheet"). This procurement was on its second go-round; the first had ended in a recommendation to reject all proposals and begin anew. In this subsequent procurement, the consultant suggested that the company that was previously ranked second (in the first RFP), now come out on top as the winner. The Selection Committee member that received the email was an MDAD employee who had, just two months prior, submitted her resume to the consultant's employer to solicit a job.

After receiving the consultant's email, the MDAD employee met with the Regional Manager of John Bean Technologies Corporation (JBT), the consultant's favored proposer. In violation of the Cone of Silence and in violation of all norms of propriety and ethical behavior, the voting member provided a copy of the spreadsheet to the favored proposer. Later, when the Selection Committee convened to evaluate the proposals, the point scores given by the subject MDAD employee bore a remarkable resemblance to the scoring suggestions that she received in the email. The favored company did finish as the top-ranked proposer and was eventually recommended the award of the \$163 million agreement. After completing her duties on the procurement, but prior to eventual contract award, the subject MDAD employee resigned and accepted an offer of employment from the company that sent her the "How-to-Vote spreadsheet."

This report details a lengthy and complex investigation into two procurement processes for a Baggage Handling System Operation and Maintenance (BHS O&M) Agreement for Miami International Airport. The investigation resulted in three individuals being charged with ethics violations—the subject MDAD employee, the consultant that sent the email, and another executive of the subject consulting firm. This report examines and sheds light on a variety of questionable relationships, prohibited communications, and non-compliant practices, all related to the handling of these two procurements. Moreover, this report scrutinizes a "pass-through" contracting arrangement involving these same parties after the BHS O&M Agreement was awarded. Taken in their totality, these transgressions have the effect of undermining public confidence that County procurements are fair, above-board, and without interference by special interests. And, even though the BHS O&M Agreement was awarded three years ago, the revelation of

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

this procurement story is vital to understanding risk and vulnerabilities in our procurement processes.

II. SUMMARY OF INVESTIGATION

This investigation found numerous procurement transgressions, ethics violations, and management failings. These deficiencies occurred throughout both procurement processes for the BHS O&M Agreement (RFP No. MDAD 06-11 and RFP No. MDAD 11-14). The subject MDAD employee at issue in this report is former Senior Aviation Cost Manager Debra Shore. The subject MDAD consultant is AvAirPros. And, the favored proposer at issue in this report is JBT, whose Regional Manager is Gilbert Lopez. This report details procurement transgressions related to both the first and second RFPs. This report also details post-award non-compliant contractual practices. Namely, MDAD's use of the BHS O&M Agreement in a suspect "pass-through" arrangement to pay AvAirPros for consulting services on a related capital improvement project, rather than access budgeted funds in the AvAirPros consulting contract. This report also details the negative consequences that arise due to the use of this opaque method of contracting.

The OIG found numerous areas of concern regarding the first RFP. First, the OIG discovered potential Sunshine and Public Records law violations due to proposer Mr. Gilbert Lopez (JBT) secretly text messaging Ms. Debra Shore during the public Negotiation Committee meeting. The content of the text message was not preserved. The OIG discovered that Ms. Shore violated the Cone of Silence by directing negative remarks about a proposer to the Deputy Director immediately after it appeared that the BHS O&M contract was poised to be awarded to that same company. The OIG discovered other prohibited communications between Ms. Shore and proposer JBT in the form of emails. The OIG also discovered an influence letter sent by an interested third party (the AMC) that unlawfully lobbied the Deputy Director. The writing of this lobbying letter was prompted by actions of JBT. The OIG discovered that consultant AvAirPros influenced the procurement in favor of JBT by circulating an extensive 6-page letter that disparaged Oxford—the top-ranked proposer. This letter opined that awarding the contract to Oxford would be "detrimental" to Miami International Airport. Finally, the OIG discovered instances of inappropriate fraternization or socializing during the Cone of Silence between Ms. Shore, JBT representatives, and/or other Selection Committee members. Such inappropriate fraternization smacks of favoritism and erodes the public's trust in government.

After the Mayor and Board of County Commissioners (BCC) rejected all proposals in RFP No. MDAD 06-11, a second RFP for the BHS O&M Agreement was initiated. The OIG found three main areas of concern regarding the second procurement. First, AvAirPros advocated that JBT win this procurement and steered Ms. Shore, now a voting Selection Committee member, to vote that way. AvAirPros sent Ms. Shore a "How-to-Vote spreadsheet," recommending that JBT win the procurement. Second, the OIG

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

scrutinized telephone records detailing a much larger volume of telephone communications between Ms. Shore, JBT and AvAirPros during key times of the procurement, than occurred with other proposers. Last and most egregiously, Ms. Shore violated the Cone of Silence and her sworn duty to be a fair and impartial public servant, by sharing the aforementioned "How-to-Vote spreadsheet" with JBT—one of the competitors in this procurement. She provided Mr. Lopez (JBT) with a copy of the spreadsheet days before the oral presentations and final scoring took place.

The ethics violations and other transgressions detailed herein are a procurement embarrassment. Based upon the above acts that took place during the two procurements, the OIG referred its investigative findings to the COE. The COE's independent review resulted in ethics violations being filed against Ms. Shore, Mr. Robert Binish of AvAirPros, and Mr. Christopher Bradley of AvAirPros. In mid-2018, the last of the three Ethics prosecutions was resolved. (See Schedule A for a summary of the ethics violations charged against the three individuals, and the dispositions as to each person's case.)

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MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

III. ABBREVIATIONS & ACRONYMS USED IN THIS REPORT

For ease of reference, the following chart contains a list of acronyms and abbreviations used throughout this report:

Table 1: Frequently Used Acronyms and Abbreviations

| Description of the Acronym or Abbreviation | |
|---|---|
| ALO | Airline Liaison Office aka: MAAC Consultant |
| AMC | (Miami) Airline Management Council |
| AvAirPros | Airport & Aviation Professionals, Inc. |
| BCC | Miami-Dade County Board of County Commissioners |
| BHS | Baggage Handling System |
| BHS O&M | Baggage Handling System Operation & Maintenance (Agreement) |
| CAO | Miami-Dade County Attorney's Office |
| CBIS | Checked Baggage Inspection System |
| CIP | Capital Improvement Program |
| COE | Miami-Dade County Commission on Ethics & Public Trust |
| JBT | John Bean Technologies Corporation |
| MAAC | Miami Airport Affairs Committee |
| MDAD | Miami-Dade Aviation Department |
| RFP | Request for Proposal |
| SAO | State Attorney's Office, 11 th Judicial Circuit of Florida |
| TSA | Transportation Security Administration |

IV. OIG JURISDICTIONAL AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs; audit, inspect and review past, present and proposed County programs, accounts, records, contracts and transactions; conduct reviews, audits, inspections, and investigations of County departments, offices, agencies, and Boards; and require reports from County officials and employees, including the Mayor, regarding any matter within the jurisdiction of the Inspector General.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

V. RELEVANT GOVERNING AUTHORITIES

This report invokes the following legal authorities, as summarized below:

- Section 2-11.1(s) of the Code of Miami-Dade County – *Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Lobbying*. Also known as the County's Lobbying Ordinance, this Ordinance requires that lobbyists register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or engaging in lobbying activities. A lobbyist generally means all persons, firms, or corporations that seek to encourage the passage, defeat, or modification of any action, decision or recommendation of County personnel or any County board or committee.
- Section 2-11.1(t) of the Code of Miami-Dade County – *Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Cone of Silence*. The Cone of Silence is the period of time during a procurement, that certain classes of persons, such as Selection Committee members, County staff, and County elected officials are banned from communicating about the procurement with other persons, such as proposers, Selection Committee members, County staff and County elected officials. If there is a written communication from a proposer, it must be first copied to the Clerk of the Board of the County Commission. The Cone of Silence begins upon the advertisement of a procurement. It ends upon the Mayor's written recommendation to the BCC regarding the procurement's award.
- Florida Statute Section 286.011 – *Florida's Government in the Sunshine Law*. Commonly referred to as the Sunshine Law, this State statute requires, in part, that meetings of public boards or commissions be open to the public. It also requires that minutes of the meetings be taken and promptly recorded. It prohibits public board members or commissioners from conducting board or commission business outside of the public meeting.

VI. INDIVIDUALS & ENTITIES DISCUSSED IN THIS REPORT

Oxford Electronics, Inc., d/b/a: Oxford Airport Technical Services (Oxford)

At the time of these procurements, Oxford was one of two incumbent BHS O&M contractors at MIA. Oxford serviced MIA Concourses E, F, and G using the airport's existing conveyor and manual sortation system for these concourses. Oxford's contract also included handling incoming baggage for Concourse D. Oxford was approaching the end of its 5-year contract with the County valued at approximately \$1.1 million annually.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Oxford is a privately-held corporation and a subsidiary of Worldwide Flight Services, Inc. Oxford is in the business of providing airport equipment such as passenger loading bridges, BHS, and cargo and material handling systems. Oxford provides various airport services, including BHS O&M. In addition to MIA, Oxford also has operations at Boston Logan International Airport, John F. Kennedy Airport, Honolulu International Airport, and others.

John Bean Technologies Corporation (JBT)

At the time of these procurements, JBT was the other incumbent BHS O&M contractor at MIA. JBT serviced MIA Concourses H and J using the South Terminal's in-line, automated sortation system. JBT was approaching the end of its 5-year contract with the County valued at approximately \$5.2 million annually.

JBT is a publicly-traded corporation with operations in food technology, health care, manufacturing, and airport services. Airport services, including BHS O&M, are a very small part of JBT's overall operations. In addition to MIA, JBT also has operations at Boston Logan International Airport, Houston International Airport, Los Angeles International Airport, and others.

Gilbert Lopez has been employed by JBT since 2007. Mr. Lopez was JBT's Site Manager at MIA and was promoted to the position of Regional Director in late 2014. In this capacity, he oversees JBT's operations at MIA, and actively participated in the two procurements for the new BHS O&M Agreement that were the focus of this investigation.

Miami Airport Affairs Committee (MAAC) and the Airline Liaison Office (ALO)

The MAAC is a consortium of airline tenants at MIA. There are currently eleven airline representatives that make up the actual committee. The MAAC is the organization by which the airlines operating at MIA collectively communicate and interact with MDAD. The MAAC's activities (as well as the operations of each individual airline) are governed by the rules and regulations set forth in the County's Airline Use Agreement—a contractual agreement entered into by each airline operating at MIA.

The MAAC meets monthly with MDAD management to report, review, and discuss ongoing concerns at MIA such as the budget, financial issues, capital projects, and security issues. The MAAC is represented by individual executives from the various airlines and is operationally supported by the Airline Liaison Office (ALO), an entity whose function is required by the aforementioned Airline Use Agreement. The ALO, which is also referred to as the MAAC Consultant, is staffed by contracted, consultant personnel—in this case by AvAirPros.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Because the MAAC is not a separate legal entity recognized by Florida law, the MAAC cannot hire employees to staff the ALO or independently contract with a consulting firm for personnel. Instead, MDAD contracts for the professional services of a consulting firm to act as the MAAC's consultant. Since approximately 1995, that MAAC Consultant (aka ALO) has continuously been AvAirPros.

Airport & Aviation Professionals, Inc. (AvAirPros)

AvAirPros is a for-profit, privately-held Florida corporation headquartered in Naples, Florida, employing approximately 80 people nationwide. AvAirPros provides professional consulting and management services to airlines and airport operators throughout the United States.¹ At MIA, AvAirPros is contracted by the County to perform the functions of the ALO, which, in essence, is to serve as the MAAC's consultant.

AvAirPros' first engagement with Miami-Dade County began in December 1995 with the award of the professional services agreement (PSA) entitled *Airline Liaison Office Consulting Services*. The services were re-procured in 2007 and again in 2015. AvAirPros was selected as the top-ranked proposer on each occasion and was awarded the PSA. The 2007 PSA was in an amount not to exceed \$3,157,875. The 2015 PSA is for an amount not to exceed \$5,236,125 and is for a total term of seven years.

The ALO is staffed by several AvAirPros employees who split their time between MIA and other work assignments. Two AvAirPros employees that were at the heart of this investigation are Robert Binish and Christopher Bradley.

Robert Binish is an AvAirPros employee of 21 years. At all times material to this report, he held the title of Vice President. He is a professional engineer licensed in the State of Illinois and is experienced in the BHS field. In January 2018, Mr. Binish was the first of the two AvAirPros employees charged with ethics violations related to the second BHS O&M procurement. He settled his charges in May 2018.

Christopher Bradley is an AvAirPros employee of 17 years. He currently holds the position of Vice President, Eastern Region. Mr. Bradley began working at the MIA Airline Liaison Office in 2009. He provides program and project management services for terminal development and capital improvements. He facilitates the MAAC meetings, as well as the negotiations related to the Airline Use Agreement. Mr. Bradley was a voting member on the second Selection Committee (RFP No. MDAD 11-14). In February 2018, Mr.

¹ According to its website (www.avairpros.com) AvAirPros provides professional services to airports in the following U.S cities: Atlanta, Chicago, Dallas, Denver, Detroit, Fort Lauderdale, Honolulu, Houston, Kansas City, Los Angeles, Miami, New York, Oakland, San Antonio, San Diego, San Francisco, San Jose and Seattle.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Bradley was the second AvAirPros employee charged with ethics violations related to the second BHS O&M procurement. In August 2018, the COE dismissed his charges and issued him a letter of instruction.

Miami Airline Management Council, Inc. (AMC)

The AMC is a not-for-profit Florida corporation whose stated objective is to foster, encourage and stimulate cooperation among the scheduled airlines who now operate, or may, in the future, operate at MIA. Membership in the AMC is voluntary, and requires the payment of dues. Over 50 airlines, service providers, and other tenants make up the AMC. Government agencies, such as US Customs and Border Patrol, the Federal Aviation Administration, the Miami-Dade Police Department and Fire Rescue Department, are also members of the AMC but are not required to pay dues.

At all times material to this report, the presiding officer of the AMC was Ashutosh Kaul, Lufthansa Airlines' MIA station manager. The activities of the AMC are governed by a Board of Directors and is organized among several working committees, including a Facilities Committee. JBT's Gilbert Lopez was on the Board of Directors and was the Chairperson of the Facilities Committee. JBT is a member of the AMC. During the time of these procurements, Oxford (the other BHS contractor) was not a member.

MDAD Divisions and Key Personnel

The two RFPs that are the subject of this investigation were administered by the MDAD Contracts Administration Division. The Senior Procurement Officer assigned to these procurements is designated the role of Chairperson of the Selection Committee, albeit, a non-voting member. Contracts Administration typically works with the MDAD user division to develop procurement specifications, minimum requirements, and other operational needs. Related to baggage handling operations, the MDAD user department is the Facilities Development Management Division (Facilities).

MDAD Facilities oversees MIA's baggage handling systems, which includes the integrated conveyer lines, electronic sortation devices, and baggage carousels. The BHS O&M contract falls under the purview of the Facilities Division; however, Facilities staff had a limited role in the BHS O&M first and second procurements. Instead, Ms. Shore, who was on loan from a different MDAD division, was placed in charge of the two incumbent BHS O&M contracts; she was also tasked to lead the BHS procurements.

Ms. Shore was employed by MDAD from 2008 through April 2015. Ms. Shore held the position of Senior Aviation Cost Manager in the Program Controls Division of MDAD Finance. Prior to joining the County, Ms. Shore worked for Dade Aviation Consultants (DAC), and was a Construction Manager on the MIA South Terminal Program and a Project Controls Manager on MIA's north runway project. Other experience noted on her

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

resume included time spent at JFK Airport in New York as a Project Controls Manager and at Reagan National and Dulles International Airports as a Lead Project Controls Specialist.

On March 29, 2013, Ms. Shore was temporarily transferred to the MDAD Operations Division. MDAD Deputy Director Ken Pyatt announced via an email to MDAD executive staff that Ms. Shore would be “on loan” from the MDAD Finance Division for one year, and would report directly to him. Of the new duties listed in the email, Ms. Shore was given oversight of the South Terminal and Central Terminal BHS O&M contracts and was responsible for coordinating the South Terminal and Central Terminal BHS optimization and recapitalization effort, which includes a Checked Baggage Inspection System (CBIS) that is partially funded by a \$101 million TSA grant.

Ms. Shore was on the first procurement's Selection Committee as a non-voting Technical Advisor. She was a voting member on the second procurement's Selection Committee. She was also tasked with recommending to Deputy Director Pyatt individuals to serve on the Selection Committees for both procurements.

On March 24, 2015, after negotiations with the first-ranked proposer, JBT, had concluded, Ms. Shore announced her resignation from County employment (to be effective April 28, 2015). She accepted a management position at AvAirPros, reporting directly to Christopher Bradley. In November 2017, Ms. Shore was charged with ethics violations related to the procurement of the BHS O&M Agreement. She settled her charges in January 2018.

VII. CASE INITIATION & INVESTIGATIVE METHODOLOGY

A. Case Initiation

The OIG received a complaint alerting our office to irregularities during the procurement processes for the BHS O&M Agreement. The complainant, who wished to remain confidential, described both the first and second procurements for the Agreement. The underlying theme to the complainant's allegations related to Ms. Shore's active participation in the procurement processes and her behavior that exhibited a bias in favor of JBT. The complainant questioned the reversal of the first Selection Committee's recommendation, which resulted in the procurement being thrown out and re-procured. The complainant questioned the change in RFP specifications relating to manpower, i.e., minimum staffing requirements, noting that this change essentially nullified pricing as a factor. As such, the complainant remarked that the second procurement's final contract price was \$80 million higher than Oxford's initial proposed price, had the first procurement's contract award been approved.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

The complainant alleged that Ms. Shore, during the first procurement, attempted to sway the opinions of the Selection Committee's voting members. As for the second procurement, the complainant questioned the make-up of the Selection Committee's voting members, alleging that the committee was stacked in favor of JBT.

The allegations described in the complaint, while fairly comprehensive and serious, pale in comparison to the transgressions discovered by the OIG in this investigation.

B. Investigative Methodology

Initially, the OIG met with the Senior Procurement Officer to obtain background information relating to the two RFPs. We were provided video tapes of all the public hearings on the two procurements (i.e., selection and negotiation meetings) and key procurement documents, including copies of all the proposals. During our initial meetings with the Senior Procurement Officer, he described borderline inappropriate behavior exhibited by Ms. Shore that involved openly questioning Oxford's proposal (in the first RFP). According to the Senior Procurement Officer, Ms. Shore, as a non-voting Technical Advisor to the Selection Committee, should have posed her questions through the Committee Chair—not directly to Oxford.

The OIG obtained Ms. Shore's work emails and discovered a host of questionable communications relating to these procurements. They were questionable because they took place while the Cone(s) of Silence were in effect (for each procurement) and involved the proposers, Oxford and JBT. The OIG found an email, sent to Ms. Shore from AvAirPros, recommending how to vote on the second RFP. Later, the OIG found an email from Ms. Shore to AvAirPros attaching her resume for consideration.

These initial findings warranted a deeper examination into the procurements and, thus, were shared with the State Attorney's Office of the 11th Judicial Circuit of Florida (SAO). Agreeing that closer scrutiny was necessary, the OIG and SAO proceeded to jointly investigate the case. Many documents, especially those in the possession of non-County actors, were obtained via duly issued SAO subpoenas; and witness testimony was compelled pursuant to SAO subpoena and taken under oath.

The County records reviewed by the OIG included thousands of email communications pertaining to the two BHS procurements and other related aviation procurements; MDAD procurement files including all BHS-related solicitations, submitted proposals, and resulting contracts both in draft and final form; MDAD personnel files; MDAD finance records including invoices and payment histories; records publicly obtained from other airports; MDAD responses to public records requests; and numerous letters from various entities seeking to influence the outcome of the procurements.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Documents obtained in collaboration with the SAO included personal and corporate bank account records of persons and entities relevant to this investigation, telephone and text messaging records of persons at issue in the investigation, records in the possession of proposer JBT, records in the possession of the AMC, and documents from various other airlines.

Statements were taken from every Selection Committee member from both procurements, including airline executives who sat on the Selection Committees, the Assistant County Attorney assigned to oversee the process, the technical advisors, and the non-voting procurement Chair. Sworn statements were also taken of MDAD Deputy Director Ken Pyatt concerning the entire BHS procurement process and Deputy Mayor Jack Osterholt concerning decisions made to reject all bids from the first procurement. The County's former Chief Procurement Officer was also interviewed about her familiarity with Ms. Shore and her knowledge of the events pertaining to the BHS O&M and CBIS procurements. The OIG also spoke with employees from the Clerk's Office regarding its repository of procurement-related records. Among other MDAD personnel, we interviewed past and present employees responsible for overseeing the BHS, and various other employees involved in finance, human resources, information technology, small business and minority affairs, and facilities, especially related to the CBIS project.

Of the non-County actors, the OIG, in collaboration with the SAO, took sworn statements of Christopher Bradley of AvAirPros, Gilbert Lopez and Jose Almeida of JBT, and Roger Fortin, Regional Manager of Oxford. We also deposed the Chairperson of the AMC, whose name appears on the AMC letter strongly cautioning against awarding the BHS contract to Oxford, and other AMC Board members who were involved in the drafting of that letter. The OIG also reached out to aviation officials at Orlando International Airport and Palm Beach International Airport concerning their experiences with Oxford and/or JBT.

As this investigation was a joint effort with the SAO, the SAO consented to us providing evidence uncovered in the criminal investigation to the Miami-Dade County Commission on Ethics & Public Trust (COE).² The OIG cooperated with the assigned COE investigator in its investigation, which resulted in three persons being charged with numerous civil ethics violations.

Finally, at the conclusion of Ms. Shore's case with the COE and the SAO's decision not to file charges against her, a subpoena was issued to Ms. Shore compelling her testimony. In a sworn statement to the OIG and SAO, Ms. Shore described her

² At that juncture, it was not clear whether criminal charges would be filed in this case; however, the Statute of Limitations was soon to expire on a variety of County ethics violations. As such, prior to any official decisions being made in the criminal case, the ethics violations against Ms. Shore, Mr. Binish, and Mr. Bradley were pursued.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

involvement in the two procurements and confirmed her actions, which violated all ethical rules, norms, and established procurement practices.

VIII. THE FIRST PROCUREMENT – RFP NO. MDAD 06-11

A. Introduction to the First Procurement

On August 1, 2012, the Mayor formally appointed the members of the first Selection Committee via official memorandum. Both Ms. Shore and Deputy Director Pyatt were involved in recommending the Selection Committee's composition. Ms. Shore was named to the Selection Committee as a non-voting Technical Advisor. Initially, Robert Binish was also picked to serve, but was later disqualified by the COE based on an advisory opinion determining that Mr. Binish, through his employer (AvAirPros and/or its related companies) was conflicted from serving on this Committee due to business relationships with the proposers to the RFP.³ AvAirPros—and its employee, Mr. Binish—nevertheless peddled its influence on both BHS O&M procurements. The below table lists the members of the first procurement's Selection Committee, and each member's role.

Table 2: Selection Committee – RFP No. MDAD 06-11

| FIRST SELECTION COMMITTEE COMPOSITION | | |
|--|---|--|
| NAME | AFFILIATION/POSITION | COMMITTEE ROLE |
| Pedro Betancourt | MDAD/Senior Procurement Officer | Non-Voting Chair |
| Juan Carlos Arteaga | MDAD/WASD/NTD Chief | Voting Member |
| Bobbie Jones-Wilfork | MDAD/Administration | Voting Member |
| Lancelot Llewelyn | WASD/Chief | Voting Member |
| Juan Kuryla | Port-Miami/Deputy Director | Voting Member |
| Ken Gordon | United Airlines/AMC/MAAC | Voting Member |
| Neil Wyatt | MDAD/Facilities Maintenance | Non-Voting Technical Advisor |
| Debra Shore | MDAD/Finance – on loan to Operations/BHS | Non-Voting Technical Advisor |
| Robert Binish | AvAirPros | Originally Named as a Voting Member – Disqualified based on COE opinion |

On October 30, 2013, and after being recommended for contract award, Oxford executed the BHS O&M Agreement and returned it to the CAO for County signature. In an attempt to allay MDAD's fear regarding its perceived dearth of staffing, Oxford had agreed to perform the contract with as many employees as needed—at no increased cost to the County. However, the County never executed this Agreement. Instead, the BHS

³ See COE Opinion No. Inq. 12-217, dated December 17, 2012, attached hereto as Exhibit 1. See also AvAirPros Joint Response and OIG comment thereto, regarding the validity of the COE Opinion.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

O&M procurement ended with the BCC rejecting all proposals. The OIG does not question whether this, in fact, was the correct decision. The OIG does take great issue with a series of acts and transgressions that occurred during the procurement of RFP No. MDAD 06-11. These acts and transgressions contributed to the first RFP's rejection, created an appearance of impropriety, or were outright unlawful. These acts and transgressions involved Ms. Shore, RFP proposer JBT, and ALO consultant AvAirPros. Taken together, the transgressions created an atmosphere of bias and the appearance that the procurement process was rigged to favor JBT.

B. Chronology of Key Events

The following is a timeline of important events pertaining to the first procurement of the BHS O&M Agreement:

Table 3: Timeline of Events Relating to RFP No. MDAD 06-11

| DATE | DESCRIPTION OF EVENT |
|------------|---|
| 6/21/2012 | BHS O&M Procurement advertised - <i>CONE OF SILENCE BEGINS</i> |
| 12/17/2012 | COE Opinion: AvAirPros has an Organizational Conflict of Interest re: BHS O&M Procurement. Binish prohibited from serving on Selection Committee |
| 3/29/2013 | Shore given oversight of BHS O&M Agreements and procurements by Deputy Director Pyatt |
| 5/14/2013 | BHS O&M Selection Committee Meeting and Scoring – Oxford ranked first |
| 8/9/2013 | Shore writes a glowing recommendation of JBT for Orlando Airport's BHS O&M procurement and receives feedback from JBT in the email thread concerning the subject MIA procurement |
| 8/16/2013 | BHS O&M Negotiation Committee Meeting – JBT present in audience <ul style="list-style-type: none"> • Lopez of JBT texts Shore during Negotiation Meeting – Potential Violations of Sunshine and Public Records Laws • Shore confronts Deputy Director Pyatt immediately after the Negotiation meeting, in violation of the Cone of Silence, disparaging Oxford's capabilities |
| 8/20/2013 | Meeting in Deputy Director Pyatt's office re: BHS with AMC. Invitees: Pyatt, Shore, AMC Pres. Ashutosh Kaul, and 2 other AMC representatives |
| 8/28/2013 | JBT emails Shore photographs, stating that Oxford can't keep its BHS operational |
| 9/9/2013 | AMC letter expressing "grave concerns" as to whether Oxford can perform the BHS O&M Agreement emailed to Deputy Director Pyatt |
| 10/24/2013 | AMC/JBT Sponsored 4-day Cruise. Attendees: Shore, Binish, Lopez, Ken Gordon, other JBT Executives |
| 10/30/2013 | Oxford executes BHS O&M Agreement and sends to County Attorney's Office (CAO) |
| 11/19/2013 | Mayor orders additional Due Diligence on Oxford |
| 11/26/2013 | Binish emails to Senior Procurement Officer and CAO – AvAirPros opinion letter – opining that Oxford is unable to successfully perform the contract |
| 12/10/2013 | Binish emails to Shore – AvAirPros opinion letter – opining that Oxford is unable to successfully perform the contract |
| 1/6/2014 | Binish emails to Deputy Director Pyatt – AvAirPros opinion letter – opining that Oxford is unable to successfully perform the contract |

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

| DATE | DESCRIPTION OF EVENT |
|-----------|--|
| 1/8/2014 | Shore requests and receives negative Oxford information from Orlando Airport and includes it in the Due Diligence report (Orlando later rescinded the negative report) |
| 1/23/2014 | Due Diligence report sent to Mayor's Office by CAO |
| 4/9/2014 | Mayor recommends rejecting all proposals related to the BHS O&M and requests authorization to obtain Best and Final Offers (BAFOs) from all three proposers. Transportation and Aviation Committee (TAC) considers the item and rejects the second part of the agenda item that requests authorization to obtain BAFOs |
| 4/11/2014 | Binish emails to Shore – AvAirPros opinion letter – opining that Oxford is unable to successfully perform the contract |
| 5/6/2014 | Mayor recommends rejecting all proposals and rebidding BHS O&M Agreement. BCC votes to approve Mayor's recommendation - CONE OF SILENCE LIFTED |

C. Transgressions and Improprieties

It appears from the documents and testimony reviewed by the OIG, that there was a concerted effort to undermine Oxford's position as the top-ranked proposer and to get the BHS O&M Agreement rebid. A host of underhanded tactics were employed. These tactics included prohibited conversations in violation of the Cone of Silence, the exertion of undue influence by a third-party having a financial interest in the outcome of the procurement, and ill-advised fraternization between key parties involved in the procurement. The following are just some examples of the many transgressions and improprieties uncovered in this investigation.

1. Proposer JBT texts Ms. Shore (a Selection Committee member) during the Negotiation Meeting between the County and Oxford.

An Oxford representative testified that he felt that Ms. Shore was biased for JBT, in part, because of his perception that Ms. Shore and JBT were secretly communicating during an official public meeting. He was correct. Mr. Lopez, JBT's MIA Site Manager, was present in the audience during his competitor's August 16, 2013 Negotiation Committee meeting.⁴ As corroborated by telephone records, Mr. Lopez texted Ms. Shore during the meeting. She is seen on the meeting's video recording looking out into the audience, and picking up her phone as if reading a text message. According to phone records, Ms. Shore received only one text message during the meeting—a text from Mr. Lopez.

While the Cone of Silence is lifted during the Negotiation Meeting, secret text message communications between a member of any Selection Committee and a proposer totally circumvents the intent behind Florida's Government-in-the-Sunshine Law

⁴ In addition to Mr. Lopez, two other JBT executives and its lobbyist were also in attendance.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

and should be prohibited.⁵ The OIG was unable to determine the content of the Shore-Lopez text message. Ms. Shore testified that she could not recall receiving a text.⁶

2. Ms. Shore directs remarks to the Deputy Director about the proposed contractor in violation of the Cone of Silence.

Ms. Shore testified that as soon as the Negotiation Committee meeting was officially over, she immediately approached Deputy Director Pyatt, while still in the same room, and told him that there was no way Oxford could adequately perform the BHS O&M Agreement using its proposed staffing levels. As a member of the Selection and Negotiation Committees, albeit serving as a non-voting Technical Advisor, Ms. Shore was barred from discussing any issue relating to the RFP with County professional staff pursuant to the Cone of Silence. The Deputy Director is clearly County professional staff. The fact that Ms. Shore reported directly to the Deputy Director does not excuse this improper communication.

3. JBT's and Ms. Shore's emails to one another violate the Cone of Silence.

While Oxford was in negotiations with MDAD, the OIG discovered a cache of emails between proposer JBT and Ms. Shore. At that time, JBT was the second-ranked proposer, however the Cone of Silence was still in effect and applicable to any communications between JBT and any member of the Selection Committee. Despite this, the OIG found two separate email strings of note between Mr. Lopez and Ms. Shore.

In early August 2013, JBT had listed Ms. Shore as a reference in a BHS procurement at another airport. Instead of declining due to her service on the Selection and Negotiation Committees, Ms. Shore penned a glowing recommendation for JBT, going so far as to characterize them as "an extension of staff" to MDAD. Four minutes after providing the reference to the Orlando airport, Ms. Shore forwarded the email (and attachment) to Mr. Lopez. On the day before the Negotiation Committee met, Mr. Lopez forwarded Ms. Shore an email string between JBT executives that called her recommendation the single-most important JBT reference to date. The string also obliquely referenced the pending MIA BHS O&M procurement stating, "Now if they would only re-award our contract." According to Orlando airport officials, JBT was not the incumbent contractor. As such,

⁵ See Florida Statutes §286.01. Moreover, while the Cone of Silence is temporarily lifted for this meeting, it is lifted for the participants (Oxford and the County). JBT was not a party to the meeting. This text message clearly violated the legislative intent behind the Cone of Silence, if not the Ordinance itself.

⁶ See Ms. Shore's sworn statement to the SAO on 5/25/2018, page 115. The content of the text message could not be obtained from JBT, the telephone carrier, or MDAD. MDAD "scrubbed" Ms. Shore's telephone of all data, including any text messages, upon her resignation. Generally, MDAD utilizes no software or third-party company to preserve text messages. Moreover, MDAD has no process or procedure in place that requires an employee to review the content of a text message for preservation as a public record during the course of the employee's use of the County-issued telephone.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

the remark about re-awarding a contract was, in fact, a remark that Mr. Lopez shared with Ms. Shore about winning the pending MDAD contract award. (Exhibit 2)

The OIG discovered a second email string—with photographs—from the end of August 2013. Again, the emails were between Mr. Lopez and Ms. Shore. The communications contained in the second email string was yet another clear violation of the Cone of Silence. The information contained in this second series of communications touts the services of JBT and disparages the services of Oxford. (Exhibit 3)

Both email strings occurred at the crucial time during the first procurement—right as Oxford was poised to be awarded the BHS O&M Agreement. Neither email string was copied to the Clerk of the Board. Further, Ms. Shore never reported these communications to anyone else at MDAD, such as the Senior Procurement Officer or the County Attorney's Office.⁷

4. The AMC exerts undue influence against Oxford in a letter predicated on JBT's protestations.

The President of the AMC, Ashutosh Kaul, emailed a letter to Deputy Director Pyatt on September 9, 2013. The letter, dated August 29, 2013, lobbied the Deputy Director against awarding the contract to Oxford. The letter expressed the AMC's "grave concerns" as to whether Oxford could perform the BHS O&M Agreement. (Exhibit 4) The genesis of this letter was JBT—a member of the AMC.

JBT's general manager, Mr. Lopez, who at the time served on the AMC's Board of Directors and was the Chairperson of the AMC Facilities Committee, testified to the OIG that he requested that the AMC, as a body, intervene. He informed the AMC that there was no way Oxford could perform the contract with the staffing level proposed. Prompted by Mr. Lopez's vociferous protest,⁸ AMC representatives met with the Deputy Director on August 20, 2013, wherein they unlawfully lobbied him against awarding the contract to Oxford.⁹ After hearing the AMC's concerns, the Deputy Director advised them to put their concerns in writing. As mentioned above, this letter dated August 29, 2013 was sent to the Deputy Director on September 9, 2013.¹⁰ This letter of influence was of such

⁷ The OIG located another email between Mr. Lopez and Ms. Shore, dated October 11, 2013, where it is clear that Mr. Lopez is keeping Ms. Shore abreast of developments on JBT's lobbying efforts. He forwarded to her correspondence sent by JBT's lobbyist to the Office of the Mayor.

⁸ In sworn testimony, Mr. Lopez stated that he told the AMC that "Oxford got away with murder" and that Oxford's proposal "was a farce." See Gilbert Lopez's sworn statement taken on February 1, 2018, transcript pages 63-64.

⁹ The AMC, a corporate not-for-profit legal entity, was not registered to lobby on the issue of baggage handling, in general, or this procurement, in particular.

¹⁰ According to AMC President Kaul's sworn testimony, he recalls that Mr. Bradley of AvAirPros may have assisted in the writing of the letter. Mr. Kaul mentioned that AvAirPros consistently provides support on

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

import, that the Mayor referenced it in his written recommendation to the BCC that all proposals be rejected.

5. AvAirPros provides an unsolicited critique of Oxford, and then circulates its opinion among County officials.

Starting in November 2013, at the crucial time period wherein MDAD and the Mayor were considering the fate of the pending Oxford proposal, the Mayor ordered that MDAD conduct additional due diligence on Oxford. According to the assigned Assistant County Attorney and the MDAD Senior Procurement Officer, they asked Mr. Binish to provide them with the names and contact information of persons at other similarly-sized airports with knowledge of Oxford and its baggage handling operations. Instead of forwarding the requested contact information, Mr. Binish, on November 26, 2013, emailed the Assistant County Attorney and the Senior Procurement Officer an unsolicited email critiquing Oxford's experience at other airports. Both County officials have told the OIG that while they may have asked for names and contact information at other airports, they did not ask Mr. Binish, or anyone else at AvAirPros, to actually conduct due diligence or express an opinion about Oxford.

The emailed letter, at six pages in length, culminates in Mr. Binish opining that Oxford's lack of experience "will be of detriment to the O&M of the mission critical CBIS/BHS infrastructure and impact overall customer service at MIA."¹¹ (Exhibit 5)

Despite the Cone of Silence being in effect, this letter was widely circulated around MDAD. In December 2013, Mr. Binish emailed his opinion letter to Ms. Shore. In January 2014, Mr. Binish emailed his opinion letter to Deputy Director Pyatt. In April 2014, Mr. Binish again emailed his opinion letter to Ms. Shore. Finally, the Binish opinion letter was later included in an additional Oxford Due Diligence report compiled by MDAD for the Mayor's consideration. Oxford was never afforded an opportunity to rebut Mr. Binish's conclusions before its inclusion in the Due Diligence report. According to the Senior Procurement Officer, MDAD separately requested references from other airports without AvAirPros' involvement. All of the references received from other similar airports regarding Oxford's performance were positive.

the drafting of documents and letters such as this. See Ashutosh Kaul's sworn statement taken on July 20, 2017, transcript pages 20-30.

¹¹ Mr. Binish invoiced MDAD for 5 hours of work on 11/25/2013 and 8 hours on 11/26/2013. Both entries were for "Document Review, Technical Review, Document Preparation." Moreover, a review of phone records show that between 11/25 – 11/26/2013, there were 14 phone calls between Mr. Binish and Mr. Lopez (JBT). There were also six phone calls between Ms. Shore and Mr. Lopez on those same two days.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

6. Fraternalization took place between Selection Committee members and proposer JBT while the Cone of Silence was still in effect.

A public servant, especially one with procurement and contracting responsibilities, should maintain an arms-length relationship with the companies that he or she interacts with and oversees. This is true of contract managers that supervise contracted entities. This is also especially true of procurement officials vis-à-vis the companies seeking to obtain contracts and do business with public entities. Ms. Shore crossed the line when she fraternized with one of the competing proposers while the procurement process was still on-going and at a critical decision-making stage.

On October 24, 2013, while the Cone of Silence was still in effect, Ms. Shore set sail on a 4-day cruise, jointly sponsored by the AMC, proposer JBT, and others. The event was entitled the "AMC Out-of-Country Workshop."¹² The cruise was on a Carnival Cruise Line vessel sailing out of Miami to Key West and Cozumel, Mexico. The list of attendees included two MDAD employees, Ms. Shore and another individual; two JBT executives, including Mr. Lopez; Mr. Binish of AvAirPros; and Selection Committee Member Ken Gordon.¹³ (Exhibit 6 – Cruise Agenda and Attendee List)

It is not clear how individuals—particularly MDAD employees—were invited to attend the cruise-workshop. What was clear is that MDAD management did not prohibit or dissuade Ms. Shore, a Selection Committee member, from participating. In fact, Ms. Shore's supervisor was well aware of her participation in the cruise.

While several witnesses testified that the procurement was not discussed during this event, those statements are cast into doubt due to all of the other improprieties and Cone of Silence violations surrounding this procurement. In and of itself, Ms. Shore's attendance at an event wherein other Selection Committee members and/or proposers are present does not violate the County Ethics Code.¹⁴ But it is conduct such as this that creates an appearance of impropriety, thereby fomenting the public's distrust of government. Every County employee, especially one directly involved in a procurement, must remain vigilant and conduct himself or herself in such a way as to not jeopardize the public's trust in government.

¹² Ms. Shore personally paid for her cost to attend this cruise.

¹³ At this time, Ken Gordon was a United Airlines executive as well as an officer of the AMC. During the first procurement, he served on both the Selection and Negotiation Committees. He was not involved in the second procurement.

¹⁴ For example, in both 2013 and 2015 and during both Cones of Silence, proposer JBT sponsored an annual Holiday party at the home of Mr. Lopez. Concerned about the optics of County employees involved in the BHS O&M procurement attending a party hosted by a proposer, MDAD issued a directive that MDAD staff not attend. No such directive was issued for the AMC/JBT cruise.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

IX. THE SECOND PROCUREMENT – RFP NO. MDAD 11-14

A. Introduction to the Second Procurement

As previously mentioned, Deputy Director Pyatt placed Ms. Shore in charge of the BHS O&M procurement and designated her to be a voting member of the Selection Committee. A key task delegated to Ms. Shore was recommending other individuals to serve on the Selection Committee. Ms. Shore, notably, recommended Christopher Bradley from AvAirPros to serve as a voting member, despite knowing all too well—from the first procurement—that Mr. Bradley's co-worker, Robert Binish, had been earlier disqualified from serving because of the firm's business relationships with the proposers at other airports. Notwithstanding the earlier identified conflict of interest, Mr. Bradley's appointment to the Selection Committee was approved.

Representation from the airlines was also key to the make-up of the Selection Committee. Ms. Shore recommended executives from two airlines (Copa and Delta) to serve. Notably, these two airlines utilize gates in the South Terminal and, were therefore serviced by JBT. No airline executive from the Central Terminal, i.e., an airline serviced by Oxford, was asked to be on the Committee.

Ms. Shore sent an email to the below-listed individuals on October 3, 2014, advising them that they had been recommended to serve on the (second) BHS Selection Committee. On December 15, 2014, by memorandum issued from the County Mayor, the Mayor officially appointed the below-listed individuals to the Selection Committee for RFP No. MDAD 11-14.

Table 4: Selection Committee – RFP No. MDAD 11-14

| SECOND SELECTION COMMITTEE COMPOSITION | | |
|---|---|------------------------------|
| NAME | AFFILIATION/POSITION | COMMITTEE ROLE |
| Pedro Betancourt | MDAD/Contracts Administration | Non-Voting Chair |
| Debra Shore | MDAD/Finance – on loan to Operations/BHS | Voting Member |
| Melvin Payne | MDAD/Facilities Maintenance | Voting Member |
| Christopher Bradley | AvAirPros/MAAC Consultant | Voting Member |
| Brian Miller | Delta Airlines/MAAC/South Terminal Tenant | Voting Member |
| Xiomara Winklaar | Copa Airlines/South Terminal Tenant | Voting Member |
| Neil Wyatt | MDAD/Facilities Maintenance | Non-Voting Technical Advisor |

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

B. Timeline of Key Events

The following is a timeline of important events relevant to the second procurement of the BHS O&M Agreement:

Table 5: Timeline of Events Relating to RFP No. MDAD 11-14

| Date | Description of Event |
|---|--|
| 10/02/2014 | BHS O&M Procurement advertised - <i>CONE OF SILENCE BEGINS</i> |
| 10/03/2014 | Shore emails Selection Committee members regarding their appointment - includes Bradley of AvAirPros on Selection Committee despite a pre-existing conflict of interest |
| 11/10/2014 | Deputy Director Pyatt questions Shore's ability to oversee of the supplementary CBIS project, which was to be partially funded with the \$101 million TSA grant. Pyatt reassigns Shore to work under Assistant Director Pedro Hernandez on all matters related to CBIS and the TSA grant. Shore's assignment on the BHS O&M Agreement's Selection Committee remained unchanged |
| 11/10/2014 | Shore emails her resume to Binish and Bradley of AvAirPros |
| 12/5/2014 | Proposal due date |
| 12/15/2014 | Mayor officially appoints BHS O&M Agreement Selection Committee |
| 1/22/2015 | Selection Committee Pre-screening Meeting |
| 1/25/2015 | Binish emails Shore - requests scoring matrix for the proposals |
| 1/26/2015 | Selection Committee member Winklaar of Copa Air emails Shore - asks if they can meet |
| 1/27/2015 | Binish emails Shore the "How-to-Vote spreadsheet" |
| <i>Sometime between 1/27/2015 and 2/12/2015 – Shore meets with proposer Lopez of JBT and gives him the AvAirPros "How-to-Vote spreadsheet"</i> | |
| 2/12/2015 | BHS O&M Selection Committee Meeting – JBT ranked first |
| 3/10/2015 | Selection Committee successfully negotiates with JBT, and forwards recommendation to Mayor |
| 3/24/2015 | Shore submits resignation letter to MDAD |
| 4/23/2015 | Mayor recommends BHS O&M Agreement be awarded to JBT <i>CONE OF SILENCE LIFTED</i> |
| 6/02/2015 | BCC approves award of BHS O&M Agreement to JBT |

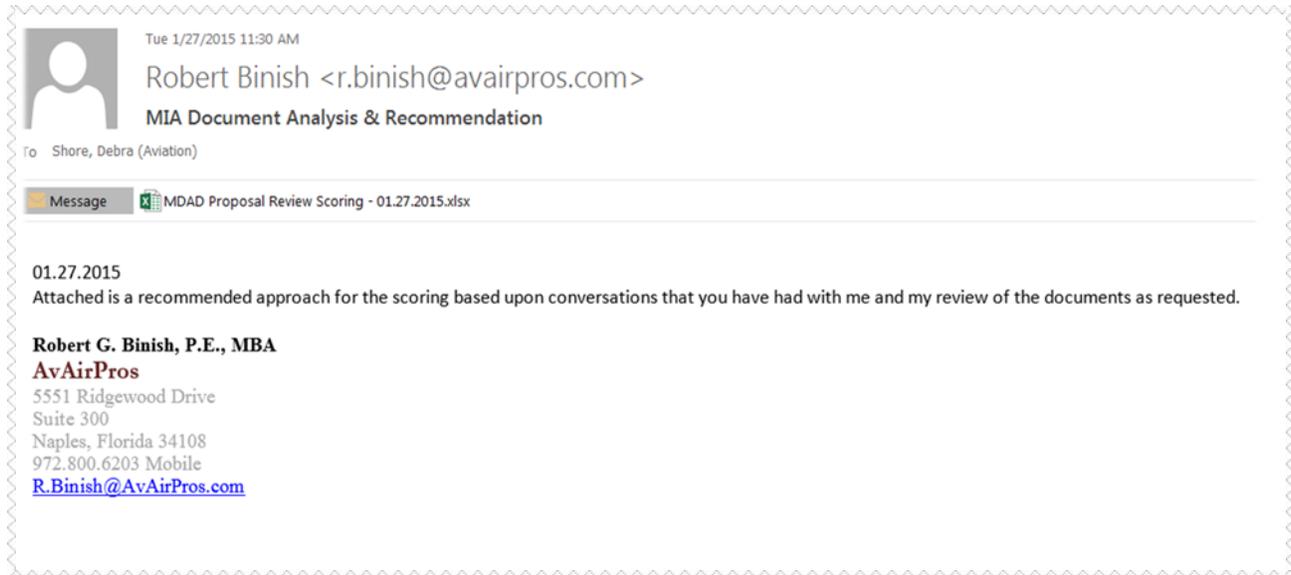
C. Transgressions and Improprieties

1. AvAirPros advocated that JBT win this procurement and steered Debra Shore, a Selection Committee member, to vote that way.

AvAirPros Vice President Robert Binish covertly participated in the second procurement by advocating for JBT to win. He advocated for Elite Line Services (ELS) to come second, and wanted Oxford (the top-ranked proposer from the first procurement) to come third.¹⁵ On January 27, 2015, Mr. Binish emails Ms. Shore as follows:

¹⁵ This is not the first time that Mr. Binish has disparaged Oxford. In or around November 2013, after Oxford was designated the top-ranked proposer in the first procurement, Mr. Binish prepared an unsolicited

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement



Attached to the email was an Excel spreadsheet wherein he laid out an entire approach on how to score each of the three proposals, complete with recommended points, comments to justify the points (whether low or high), and final rankings. (Exhibit 7)

Two weeks later, on February 12, 2015, the Selection Committee met and ranked the three proposers on their technical proposals after listening to an oral presentation from each. The results of the Selection Committee closely resembled what Mr. Binish had recommended. Based on the technical scoring, JBT was ranked first, and Oxford was ranked third.¹⁶ The below chart contains the second RFP's Evaluation Criteria and Maximum Points, Mr. Binish's suggested scoring in each category, and the actual scores awarded by the members of the second Selection Committee.

report evaluating Oxford's performance at various U.S. airports. This report was critical of Oxford. See page 17 herein.)

¹⁶ The price proposals were scored separately and added to the technical scores. ELS had the lowest price and received 100 out of 100 possible points; JBT had the second lowest price and received 94 out of 100 points; and Oxford had the highest price, thus receiving 88 out of 100 points.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Table 6: Comparison of Binish's Recommended Scoring to the Actual Scores

| RFP No. MDAD 11-14 Evaluation Criteria and Maximum Points | | AvAirPros Recommended Scoring | | | Second Selection Committee Actual Scoring | | | | | | | | | | | | | | |
|--|------------|-------------------------------|-----|----|---|-----|----|----------|-----|----|---------|-----|----|-------|-----|----|--------|-----|----|
| | | Binish | | | Shore | | | Winklaar | | | Bradley | | | Payne | | | Miller | | |
| Evaluation Factor* | Max Points | ELS | JBT | OX | ELS | JBT | OX | ELS | JBT | OX | ELS | JBT | OX | ELS | JBT | OX | ELS | JBT | OX |
| A) O&M Experience/ 15,000 bags/Day | 20 | 16 | 19 | 13 | 15 | 19 | 14 | 17 | 18 | 11 | 16 | 18 | 14 | 19 | 19 | 18 | 15 | 19 | 15 |
| B) Org Chart & Staffing Plan | 20 | 13 | 18 | 13 | 15 | 20 | 12 | 11 | 19 | 12 | 13 | 18 | 14 | 16 | 18 | 18 | 15 | 18 | 12 |
| C) Quality of Proposal | 40 | 33 | 35 | 28 | 30 | 38 | 24 | 29 | 36 | 28 | 32 | 35 | 30 | 36 | 35 | 36 | 34 | 36 | 28 |
| Max Points/Total | 80 | 62 | 72 | 54 | 60 | 77 | 50 | 57 | 73 | 51 | 61 | 71 | 58 | 71 | 72 | 72 | 64 | 73 | 55 |
| Ranking | | 2 | 1 | 3 | 2 | 1 | 3 | 2 | 1 | 3 | 2 | 1 | 3 | 2 | 1 | 1 | 2 | 1 | 3 |

*Descriptions are truncated

A comparison of the Binish spreadsheet to the actual scores given by Selection Committee members reveals that four of the five members ranked the proposers in the order that Mr. Binish advocated. Ms. Shore, who received the “How-to-Vote spreadsheet,” gave JBT a total of 77 out of 80 possible points—the highest of any of the five voting members. And Ms. Shore gave Oxford a total of 50 out of 80 possible points—the lowest of any of the five voting members.

Mr. Bradley (Binish's co-worker), and the two airline executives from the South Terminal (Ms. Winkler from Copa Airlines and Mr. Miller from Delta Airlines) all ranked the proposals in the order of JBT – first, ELS – second, and Oxford – third. Only Melvin Payne, Division Director for MDAD Facilities Maintenance, scored differently. Both JBT and Oxford received 72 points from Mr. Payne; he had them tied for first place.

When combined with points accorded to each proposer based on its submitted bid prices, the overall rankings did not change. JBT remained the top-ranked proposer and, after successful negotiations, was recommended for contract award.

Notwithstanding the fact that Oxford's bid was the most expensive in the second procurement, it is truly outrageous that an MDAD consultant would attempt to steer the procurement award by advocating that a Selection Committee member vote a certain way during the Cone of Silence.¹⁷ Moreover, this investigation and our review of O&M contract's budgetary development revealed that AvAirPros was aware of the potential that it would receive additional work through the BHS O&M contract. As such, they had a potential financial interest in the contract. Having a say in who would win the award could certainly help them prospectively with future work assignments from the same contract.

To have meddled in the procurement and to have advocated for who should win is beyond contemptible. To add insult to injury, Mr. Binish's time spent on preparing the

¹⁷ As determined by the COE, the emailing of this “How-to-Vote spreadsheet” to Ms. Shore on this date violated the Cone of Silence ordinance. While the OIG understands the technical nature of this ethics charge, we are certainly more concerned with the insidious attempt to steer this procurement and the overall negative impact it has on the integrity and transparency on procurement at the airport.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

“How-to-Vote spreadsheet” was paid for by MDAD.¹⁸ Even if—as Ms. Shore claims—she requested Mr. Binish’s assistance, as an AvAirPros Vice-President, he should have known better than to directly engage with a Selection Committee member during an active procurement regarding the subject matter of the procurement. After all, his co-worker, Mr. Bradley, was also a voting member of the same Committee.

Additionally problematic was MDAD’s choice of Mr. Bradley as a voting member on this procurement for two reasons. First, the same organizational conflicts that prohibited his co-worker, Mr. Binish, from serving on the first procurement’s Selection Committee, also applied here. Second, the same potential financial interests, cited above, applied here as well. That is – his firm, AvAirPros, stood to financially benefit from the BHS O&M Agreement via prospective subcontracting assignments—funded from the Agreement’s contingency allowance account. MDAD should not have appointed Mr. Bradley to the Selection Committee. As an MDAD professional consultant, we believe, Mr. Bradley should have recused himself once he learned of the potential additional consulting opportunities to be funded from the same agreement.

Last, it goes without saying, at the time Mr. Binish advocated that Ms. Shore score the proposal in accordance with his recommendations, Mr. Binish and Mr. Bradley were aware that Ms. Shore was interested in employment with AvAirPros. Less than three months earlier, Ms. Shore sent these two individuals her resume. On April 28, 2015, Ms. Shore resigned from MDAD, and was hired by AvAirPros – reporting directly to Mr. Bradley.

¹⁸ According to Mr. Bradley, AvAirPros billed and was paid by MDAD for Mr. Binish’s time spent compiling the spreadsheet. The OIG’s review of Mr. Binish’s submitted timesheet shows nine hours on 1/26/2015, and four hours the next day, on 1/27/2015 (the day the “How-to-Vote spreadsheet” was sent to Ms. Shore at 11:30 AM). While the 13 hours was listed as “Coordinate with MDAD, TSA, other Agencies,” Mr. Bradley confirmed to the OIG that the time spent working on the spreadsheet was compensated. Moreover, the OIG’s review of AvAirPros’ December 2014, January 2015, and February 2015 invoices shows that no other time—except for these 13 hours—were attributed to the same billing description. At Mr. Binish’s billing rate of \$236 per hour, MDAD paid \$3,068 to be influenced by the MAAC Consultant.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

2. A series of suspicious communications took place involving Selection Committee members and a proposer during the second procurement while the Cone of Silence was in effect.

Records from Ms. Shore's County-supplied cell phone show a large volume of telephone calls and some text messaging at critical stages during the second procurement—before and after receiving the “How-to-Vote spreadsheet,” and just prior to the second meeting of the Selection Committee, where oral presentations by the proposers were made and the Committee members scored each proposal. We focused on calls/texts made to (or received from) fellow Selection Committee members, proposers to the RFP, and, naturally, the sender of the subject spreadsheet. The chart, beginning below, shows the suspicious timing of these communications.

Table 7: Charting of Debra Shore's Phone Calls To and From Key Individuals Before and After Receiving the “How-to-Vote spreadsheet”

| PARTIES TO THE COMMUNICATION | DATE | TIME | DURATION (MINUTES) |
|---|-------------|-------------|---------------------------|
| Shore calls Lopez (JBT) | 1/26/2015 | 12:07 PM | 1 |
| Shore calls Lopez (JBT) | 1/26/2015 | 12:08 PM | 2 |
| <i>Senior Procurement Officer Betancourt emails the Selection Committee members a list of topics that was developed at the 1/22/2015 pre-screening meeting and noting that these topics should be included by the proposers in their oral presentations – 1/26/2015 @ 12:19 PM</i> | | | |
| <i>Using the same email thread above, Winklaar emails Shore asking to meet - 1/26/2015 @ 2:20 PM</i> | | | |
| Shore calls Bradley (AvAirPros) | 1/26/2015 | 3:19 PM | 14 |
| Shore calls Winklaar (Copa) | 1/26/2015 | 4:24 PM | 1 |
| Winklaar (Copa) calls Shore | 1/26/2015 | 5:59 PM | 3 |
| Shore calls Lopez (JBT) | 1/27/2015 | 8:08 AM | 1 |
| Shore calls Lopez (JBT) | 1/27/2015 | 8:32 AM | 5 |
| <i>Binish emails Shore asking about scoring criteria for the BHS RFP - 1/27/2015 @ 8:36 AM</i> | | | |
| Shore calls Binish (AvAirPros) | 1/27/2015 | 9:05 AM | 1 |
| Binish (AvAirPros) calls Shore | 1/27/2015 | 9:21 AM | 1 |
| <i>Binish sends Shore the “How-to-Vote spreadsheet” via email - 1/27/2015 @ 11:30 AM</i> | | | |
| Shore calls Binish (AvAirPros) | 1/27/2015 | 11:33 AM | 2 |
| Bradley (AvAirPros) calls Shore | 1/27/2015 | 2:47 PM | 2 |
| Shore calls Winklaar (Copa) | 1/27/2015 | 2:50 PM | 1 |
| Shore calls Bradley (AvAirPros) | 1/27/2015 | 2:52 PM | 2 |
| Bradley (AvAirPros) calls Shore | 1/27/2015 | 2:54 PM | 2 |
| Shore calls Bradley (AvAirPros) | 1/27/2015 | 3:04 PM | 1 |
| Shore calls Lopez (JBT) | 1/27/2015 | 3:09 PM | 1 |
| Shore calls Binish (AvAirPros) | 1/27/2015 | 3:12 PM | 4 |

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

| PARTIES TO THE COMMUNICATION | DATE | TIME | DURATION (MINUTES) |
|--|-------------|-------------|-------------------------------|
| Lopez (JBT) calls Shore | 1/27/2015 | 3:19 PM | 2 |
| <i>Various calls primarily between Shore – Bradley and Shore – Binish from 1/28 – 1/30/2015</i> | | | |
| Shore calls Lopez (JBT) | 1/30/2015 | 11:24 AM | 1 |
| Lopez (JBT) calls Shore | 1/30/2015 | 12:04 PM | 2 |
| Shore texts Winklaar (Copa) | 1/30/2015 | 1:59 PM | N/A |
| Winklaar (Copa) texts Shore | 1/30/2015 | 2:00 PM | N/A |
| <i>From January 31 to February 10, 2015, eighteen (18) calls took place between Shore and Bradley. (both are Selection Committee members)</i> | | | |
| <i>The below conversations take place the day before the second meeting of the Selection Committee (2/12/2015), where oral presentations and final scoring will take place.</i> | | | |
| Shore calls Lopez (JBT) | 2/11/2015 | 7:34 AM | 1 |
| Lopez (JBT) calls Shore | 2/11/2015 | 7:42 AM | 1 |
| Shore calls Lopez (JBT) | 2/11/2015 | 8:26 AM | 2 |
| Bradley (AvAirPros) calls Shore | 2/11/2015 | 9:29 AM | 2 |
| Shore calls Bradley (AvAirPros) | 2/11/2015 | 11:09 AM | 4 |
| Bradley (AvAirPros) calls Shore | 2/11/2015 | 5:10 PM | 2 |
| Shore calls Bradley (AvAirPros) | 2/11/2015 | 8:18 PM | 1 |
| Shore calls Binish (AvAirPros) | 2/11/2015 | 8:30 PM | 2 |
| <i>The below conversations take place the day of the second Selection Committee meeting.</i> | | | |
| Shore calls Bradley (AvAirPros) | 2/12/2015 | 7:07 AM | 1 |
| Miller (Delta) calls Shore | 2/12/2015 | 8:00 AM | 1 |
| Shore calls Bradley (AvAirPros) | 2/12/2015 | 2:31 PM | 9 |
| Shore calls Binish (AvAirPros) | 2/12/2015 | 5:55 PM | 14 |

The OIG acknowledges that for a Cone of Silence violation to have taken place, the content of the communication needs to be related to the subject procurement—in this instance, the second BHS procurement. While the OIG was made aware of the substance of some of these discussions—learned through sworn testimony (see sections that follow)—the timing of these communications, especially among these parties, at a minimum, gives rise to appearances of impropriety.

Ms. Shore and Mr. Bradley are both voting members of the Selection Committee, and communications between them concerning the subject procurement, violate the Cone of Silence. Of all of the suspect phone calls and messages that we discovered during the timing of the second procurement, communications between Ms. Shore and Mr. Bradley were the most frequent.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Ms. Winklaar and Mr. Miller are also voting members of the Selection Committee. Why is Mr. Miller calling Ms. Shore at 8:00 AM, before the Selection Committee meeting? Committee members had been instructed to ask any questions in writing and direct them to the Senior Procurement Officer. Selection Committee members—whether they be voting members or technical advisors—are prohibited from talking among themselves about the procurement outside of an official Selection Committee meeting.

Moreover, we are concerned about Ms. Winklaar's several contacts with Ms. Shore. Not shown in the table of communications above is an email sent by Ms. Winklaar to Ms. Shore on January 26, 2015 at 2:20 pm. The email contains the earlier email message from the Senior Procurement Officer Betancourt to all the Selection Committee members summarizing their actions at the pre-screening meeting held the week before. The email lists several areas that the Selection Committee requested that the firms include in their oral presentations. The email ends by asking the members that if they want to add or revise the items on the list, then they should send their comments directly back to him. Ms. Winklaar forwards that communication to Ms. Shore, asking if they could meet "sometime this week or next." (Exhibit 8)

As shown in Table 7, Ms. Winklaar calls Ms. Shore approximately three and a half hours later (at 5:59 PM). Their discussion lasts three minutes. Notably, the next day, after Ms. Shore receives the "How-to-Vote spreadsheet" from Mr. Binish, Ms. Shore calls Ms. Winklaar back. This discussion lasts one minute. On January 30, 2015, the two of them exchange text messages.

The OIG interviewed Ms. Winklaar about her email to Ms. Shore and any other conversations the two of them may have had. As to the email asking to meet, Ms. Winklaar could not remember what she wanted to meet her about. As to conversations with Ms. Shore, Ms. Winklaar described them as having to do with current BHS operations in the South Terminal (where Copa is located).

During her interview with the OIG and SAO, Ms. Shore acknowledged receiving the email meeting request from Ms. Winklaar. Ms. Shore confirmed that she did meet with her, and that Ms. Winklaar did have some questions about the procurement. According to Ms. Shore, she told Ms. Winklaar to speak to the Senior Procurement Officer and pose her questions to him.

The Senior Procurement Officer advised the OIG that Ms. Winklaar did not contact him with any questions about the procurement.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

3. Secret meeting between Selection Committee member and proposer takes place to discuss the desired outcome of the procurement.

At some point after the “How-to-Vote spreadsheet” was emailed to Ms. Shore and prior to the date of the Selection Committee’s second meeting, Ms. Shore summoned Gilbert Lopez, now the JBT Regional Manager, to her office. According to Mr. Lopez’s sworn testimony, the meeting was about one thing only—the procurement and JBT’s proposal. Ms. Shore not only provided a copy of the “How-to-Vote spreadsheet” to JBT, she also suggested that Mr. Lopez share its contents with other individuals. The meeting itself, and what happened during the meeting, completely eviscerated the intent behind the Cone of Silence. This transgression alone violated all norms of fairness, integrity, and transparency in public procurement.¹⁹

Ironically, Ms. Shore, who was a heavy proponent of JBT, actually berated Mr. Lopez over his firm’s written proposal. In explaining what occurred at this meeting to investigators, Mr. Lopez described Ms. Shore’s comments to him:

“ – and she said something to the fact that I can’t believe you guys can’t write a proposal worth a dime or some expression to that; with all the good work that you’ve done here at MIA your proposal could have been much better.”

Mr. Lopez goes on to explain that Ms. Shore gave him a copy of the “How-to-Vote spreadsheet.” According to Mr. Lopez, Ms. Shore stated that she had AvAirPros review the proposals, and that this document was AvAirPros’ review and analysis.

When questioned directly: “Did she ever make any statement about what she was going to do with the document?” Mr. Lopez replied:

“I can’t specifically recall that. She was concerned with the technical competency of the people that sat on the Committee. Because she stated, you know, the first time around was a fiasco with this, I hope this doesn’t turn into another fiasco and as such [sic] like the first one.”

Mr. Lopez, throughout this portion of the interview, related that Ms. Shore’s criticism was due to her belief that JBT’s proposal could have been better, and could have emphasized JBT’s positive experiences at MIA. Mr. Lopez exclaimed: “I don’t write the proposal, Debbie.” According to Mr. Lopez, Ms. Shore replied: “Well, you guys don’t

¹⁹ The following testimony and quotations cited herein are from the Sworn Statement of Gilbert Lopez, which took place on 2/1/2018 at the State Attorney’s Office. The questions and answers about the spreadsheet and the meeting are contained in pages 131 – 140 of the transcript of said sworn statement.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

have a clue.” Mr. Lopez described Ms. Shore during this meeting as being “irate” and “visibly upset.”

Upon further questioning about sharing the spreadsheet with others, Mr. Lopez remarked: “I don’t recall correctly but the conversations about whether I felt comfortable sharing those results with anybody, and I said I do not feel comfortable sharing that, I am not going to do that, I am not going to share those results with anybody.”

Mr. Lopez acknowledged that he did take the spreadsheet with him, but after leaving the meeting, and reading it at his office, he shredded it without sharing it with anyone. Mr. Lopez never reported this meeting to anyone. The OIG only learned of it after Ms. Shore had settled her case with the COE, and Mr. Lopez was subpoenaed to provide testimony.²⁰ Based on his recall of the conversation, he made no attempt to end the discussion and walk away. Instead, Mr. Lopez walked away with a copy of the spreadsheet.

During Ms. Shore’s sworn statement to the OIG and SAO, Ms. Shore admitted to asking for and receiving the “How-to-Vote spreadsheet” from AvAirPros but could not recall sharing it with anyone. After being confronted with Mr. Lopez’s sworn testimony describing his encounter with her, Ms. Shore recanted her testimony and admitted that she had shared the “How-to-Vote spreadsheet” with Mr. Lopez. Ms. Shore continued to maintain that she did not share it with any other Selection Committee member.²¹

The OIG is extremely troubled by these events. Even if Mr. Lopez destroyed the document in his office, he acknowledged having read it first. As such, JBT was privy to Ms. Shore’s and AvAirPros’ perspective on how, during oral presentations, JBT could better satisfy the RFP’s scoring criteria. Mr. Lopez was part of the team that made JBT’s oral presentation. By failing to inform anyone of the prohibited contact by Ms. Shore, JBT obtained an unfair competitive advantage.

X. POST AWARD ACTIVITIES – SUSPECT PASS-THROUGH ARRANGEMENT

One of the BHS O&M contract’s dedicated allowance accounts was used as a “pass-through” account to pay AvAirPros for BHS consulting services on the capital improvement project. That is, this dedicated allowance account was used as a contractual mechanism by which MDAD could pay AvAirPros additional funds outside of its existing ALO consulting contract and without the establishment of a second contract. During a 22-month period (October 2015 to July 2017) AvAirPros received over \$700,000

²⁰ The discussions that took place during this meeting were a violation of the County’s Cone of Silence. The OIG and SAO only learned of this meeting after both the criminal and civil Statute of Limitations had expired.

²¹ See Sworn Statement of Debra Shore dated 5/25/2018, pp. 96 – 105.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

in the form of monthly retainers paid outside of its existing contract. The scope of work provided—consulting services related to the CBIS project—is one of the same services that it was already required to provide pursuant to its ALO contract. By allowing the pass-through arrangement, MDAD paid JBT a 10-percent “mark-up and profit” fee to act merely as a pass-through. JBT performed no oversight of AvAirPros. JBT merely received the AvAirPros monthly invoice and included the AvAirPros invoice amount in its own invoice to MDAD. Also included in the JBT invoice was its own monthly retainer of \$5,181. JBT then submitted its monthly invoice to MDAD pursuant to the BHS O&M contract. Of note, is that AvAirPros’ invoices to JBT were for a monthly lump sum amount—no detail or timesheets were required or submitted. ²²

A. Overview of the BHS O&M Agreement

The procurement of RFP No. MDAD 11-14 resulted in the award of the BHS O&M Agreement to JBT on June 2, 2015.²³ This Agreement is for an initial 5-year term and includes five 1-year extensions. The contract amount, inclusive of all options to extend and all dedicated allowance accounts, is \$163,280,936.

The BHS O&M Agreement contains five different dedicated allowance accounts and one general allowance account, shown below:

Table 8: BHS O&M Allowance Accounts

| Allowance Account | Amount |
|---|---------------|
| Dedicated Allowance Account for Additional Services | \$5,000,000 |
| Dedicated Allowance Account for Parts | \$10,000,000 |
| Dedicated Allowance Account for Training | \$2,000,000 |
| Dedicated Allowance Account for Reimbursement of Rent | \$4,500,000 |
| Dedicated Allowance Account for TSA-funded Work | \$30,000,000 |
| General Allowance Account (10% of contract sub-total, inclusive of dedicated allowance accounts) | \$14,806,705 |

Allowance account-funded work is only authorized at the direction of the County— or, operationally, by the designated MDAD official. The contractor (JBT) is directed by the County to perform this extra work via a duly authorized written work order. The allowance account at issue in this report is the \$30 million dedicated allowance account for TSA-funded work. This particular account, which provides extended contract capacity to expend funds up to \$30 million, was used to pay AvAirPros \$717,776. Identification

²² In stark contrast, a review of monthly ALO submissions for the County consulting contract reveals that AvAirPros submits detailed time sheets, receipts for lodging, parking, meals, airfare, mileage, shipping costs, actual phone bills with cost allocations, invoices for business licenses, rental car invoices and car insurance documentation.

²³ Miami-Dade County Resolution R-475-15.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

and further analysis of the specific work orders used by MDAD and JBT to pay for AvAirPros' services is discussed in subsection C, below.

AvAirPros was paid for BHS-related consulting services pursuant to this pass-through arrangement even though AvAirPros is the designated MAAC consultant with its own consulting contract. That Agreement, described directly below, already contains funding to provide BHS-related consulting services.

B. Overview of AvAirPros' Contract for ALO Consulting Services

AvAirPros' current consulting contract with the County was awarded on February 3, 2015. This was AvAirPros' third consecutive contract—the first beginning in 1995—for it to provide "Airline Liaison Office Consulting Services." According to the Mayor's Memorandum recommending contract award, the consulting function is described as:

The Airline Liaison Office is a valuable asset as a third-party consultant, providing services to both MAAC and MDAD in managing the airport/airline relationship, facilitating airline approval required by any agreements that exist between members of MAAC and providing a single point of contact for all parties on resolving airport/airline issues. The airlines rely on the Airline Liaison Office for analysis of issues and technical expertise to assist in the evaluation of the Airport's rates and charges, proposed policy changes and the existing and proposed Capital Improvement Program.²⁴

The ALO contract term is for seven years and the total contract amount is \$5,263,125. This total amount is comprised of \$3.5 million for basic services, and \$1.75 million for additional services.²⁵ Basic services include a broad range of activities wherein AvAirPros serves as a single point of contact between MDAD and the MAAC. These activities include both coordination efforts and the monitoring and review of future and ongoing capital improvement programs, including but not limited to pre-design, design, and construction monitoring activities.

The Additional Services section also relates to capital improvement programs, and especially BHS operations and maintenance. The contract authorizes additional funds of \$1.75 million for these particular consulting services. Article 3.02 of the 2015 ALO contract entitled, Additional Services, specifically states:

²⁴ See Mayor's Recommendation Memorandum accompanying Resolution R-85-15.

²⁵ The contract also includes a dedicated allowance account of \$13,125 for Inspector General fees.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Subject to the approval of MDAD and the MAAC, the ALO Consultant may be requested to perform additional services, including but not limited to the services listed below:

- A. In the event MDAD proceeds with a major Capital Improvement Program (CIP), MDAD may request the ALO Consultant to provide various program administration services to assist MDAD and the MAAC in monitoring of the CIP.
- B. Review and provide best practices for the installation, maintenance and operations of the airport's baggage system.
- C. Other closely related work as requested by the Department and approved by the MAAC.

The MAAC desired additional oversight of the upcoming CBIS project.²⁶ Thus, the inclusion of additional funds for this specific scope of work was reasonable.

C. Review of AvAirPros' Invoices and the Work Orders Issued to JBT Authorizing Payment from the TSA-funded Dedicated Allowance Account

It was alleged during the course of the OIG's monitoring of MIA's various CIP activities that Mr. Binish may have had his own separate contract with JBT to provide consulting services related to the CBIS project. The OIG was aware of AvAirPros' consulting services related to baggage handling pursuant to its ALO contract. However, the allegation of a separate contract with JBT was disconcerting in light of the two BHS procurements that had just taken place and AvAirPros' dubious involvement therein. The OIG sought to confirm the veracity of this information.

²⁶ The CBIS (Checked Baggage Inspection System) project consists of the replacement of the in-line security screening portion of the South Terminal BHS and the installation of an automated sortation system for the Central Terminal. The project also entails the construction of a four-story, 60,000 square-foot facility that will be integrated into the existing Central Terminal structure at MIA. The architectural and engineering (A/E) aspect of the project, No. A14-MDAD-01, was awarded to Burns & McDonnell Engineering Company, Inc., in May 2015. The original A/E contract was for \$16,102,752, which would be funded, in part, by the \$101 million TSA grant and Aviation revenues. The A/E contract amount was increased by \$3.8 million in July 2018. The construction portion of the project was awarded to Parsons Odebrecht Joint Venture (POJV) in July 2016. The total value of the contract (a Construction Manager at-Risk agreement) was for \$184,484,694, which would be funded, in part, by the \$101 million TSA grant, \$13 million in Florida Department of Transportation grants and MDAD airport bonds. The construction contract was amended in July 2018 to add \$46.3 million, which would fund additional scopes of work that were initially deferred. Construction and implementation of the CBIS infrastructure is taking place alongside JBT's current operation and maintenance of the baggage handling systems in the South and Central terminals. As of February 2019, the project is 58 percent complete.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

The OIG was eventually able to confirm that there was a verbal agreement between the MAAC and MDAD to pay AvAirPros for additional CBIS/BHS-related consulting services from JBT's O&M contract. These payments were in addition to the CBIS/BHS consulting fees paid to AvAirPros from the ALO contract. The additional payments were eventually booked to the \$30 million dedicated allowance account for TSA-funded work found in JBT's O&M contract, even though none of these expenditures would ever qualify for TSA reimbursement. AvAirPros' monthly invoices to JBT—which were passed through to MDAD—were based on a set monthly retainer amount. No time sheets or other supporting documentation were required or submitted. The OIG learned through JBT that even though AvAirPros was technically its sub-consultant for “pass-through” purposes, JBT neither procured nor supervised the work of AvAirPros. Nevertheless, JBT was paid an additional 10-percent mark-up on AvAirPros' monthly retainer.

Based on the OIG's review of documents and records received from MDAD, JBT, and other MDAD consultants; interviews and sworn statements taken by the OIG and SAO during the course of this investigation; and a detailed review of the invoice payments and accounting transactions, the OIG was able to ascertain the following:

- Sometime in September 2015, during a multi-party, CBIS-related project meeting, it was proposed and agreed that AvAirPros would provide support to the CBIS project—as a subcontractor to JBT—for the monthly retainer amount of \$16,827. JBT would provide “support staff for the life of the project at a monthly retainer of \$5,181.67.” JBT would also be paid an additional 10% mark-up for “Overhead and Profit” on the total of AvAirPros' and JBT's costs. The total monthly cost would be \$24,209.54.
 - The first written proposal for the above-described arrangement was submitted by JBT on September 28, 2015. It was approved by MDAD on October 21, 2015. The arrangement was for the period ending December 31, 2015. The document noted that “future participation will be revisited with [MDAD] at that point and [sic] time.”²⁷ (Exhibit 9a)
 - A second written proposal, dated January 1, 2016, was submitted by JBT. The dollar amounts were the same as those in the September 2015 proposal. This second proposal was approved by MDAD on February 24, 2016. (Exhibit 9b) This document is devoid of any details as to the contract account, project code, and/or funding source to which the expenditure would be applied.

²⁷ This document was provided to the OIG by JBT in its response to the Draft Report (JBT Exhibit H). The OIG is including this document in this chronology; however, this agreement approved in September 2015 does not change any of the OIG's analysis, conclusions or recommendations related to the pass-through arrangement.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

- Sometime before March 4, 2016, four invoices (two JBT invoices that included AvAirPros' monthly retainer and two separate JBT invoices for "Escort Services") were submitted for payment. The invoices were routed to MDAD's Bond Engineer for review. By way of an email response to MDAD Program Controls personnel, the Bond Engineer questioned the invoices' support documentation (or lack thereof) and whether the services rendered by AvAirPros satisfied the TSA grant reimbursement guidelines. The Bond Engineer returned the invoices and requested that additional documentation be included.²⁸
 - As to the two invoices passing-through AvAirPros' monthly retainer, there was a notation to reclassify the expenditures to project code T042A-S (BHS support). The invoices were eventually paid and reclassified as requested.
- On June 17, 2016, MDAD submitted another JBT invoice (AvAirPros monthly retainer) to the Bond Engineer for review and approval with a notation that the expenditures would be booked to Project T042A (BHS).
 - The Bond Engineer replied on June 22, 2016, that this JBT invoice shared the same deficiencies noted in the March invoice packages highlighting that 1) the Bond Engineer had not been provided with a copy of the authorizing work order to access the contract's allowance account; 2) back-up and supporting documentation was missing; and 3) the mark-ups applied on the invoice were not consistent with the contract provision on mark-ups. This reply again questioned whether the invoiced expense was in compliance with TSA guidelines for reimbursement. (Exhibit 10 Composite HNTB emails of March and June 2016)
- On August 4, 2016, AvAirPros submitted its revised proposal for CBIS project management and consulting services directly to the MAAC.²⁹ The proposal detailed the estimated monthly hours to be performed in the categories of Consulting Support Coordination, Project Management and Document Review. The proposed retainer, which included all three services, totaled \$43,167 per month. This proposal covered July to December 2016 and indicated that a separate proposal would be submitted for 2017. (Exhibit 11)

²⁸ The Bond Engineer is responsible for approving expenditures that are to be paid from Airport Bond funds. These would include design and construction costs for airport infrastructure. AvAirPros' consulting services did not qualify as a bondable, capital expense, and were eventually paid from operating expenses. Specifically, they were paid from the Tenant Airport Construction Reimbursement Fund.

²⁹ At all times material to this report, the MAAC Chairperson was Michael Wesche, who was the Director of Airport Affairs for American Airlines. On July 31, 2018, Mr. Wesche retired from American Airlines and accepted a position with AvAirPros as Senior Managing Director, effective the next day. Mr. Wesche regularly attends the MIA MAAC meetings in his new capacity.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

- On August 12, 2016, the MAAC Chairperson emailed Deputy Director Pyatt stating his approval of AvAirPros' proposal. The Deputy Director forwarded the email with the notation "FYI" to a select group of MDAD's executive management team.
- At this time, there was still no approved work order authorizing JBT (or AvAirPros) to provide any additional services via one of the dedicated allowance accounts.
- In or around July through September 2016, there were several communications among MDAD, JBT and AvAirPros regarding the payment of invoices. In July 2016, AvAirPros requested assistance from MDAD Deputy Director Pyatt. The communication acknowledged that there was an understanding that AvAirPros' work on the CBIS project would be billed through JBT. Later in September 2016, there were several email correspondences from JBT to MDAD regarding past-due invoices and replies from MDAD to JBT requesting appropriate back-up materials in order to facilitate payment approval. JBT responded by stating that the dates of service are on the invoice itself; as to back-up documentation, JBT questioned "what has changed?" On September 23, 2016, MDAD Assistant Director of Facilities made a second request to JBT for a copy of an executed agreement between it and AvAirPros.³⁰ The Assistant Director told JBT that it needed a copy of this document in order to process the pending invoices.³¹
 - At this time, there was still no approved work order authorizing JBT (or AvAirPros) to provide any additional services via one of the dedicated allowance accounts.
- On October 4, 2016, JBT and AvAirPros executed a "Consulting Services Agreement" with an effective date retroactive to October 1, 2015. Schedule A of this subcontract, entitled Scope of Services, describes all of AvAirPros' work as being approved by, and for the benefit of, the MAAC. Schedule B, entitled Compensation, identifies the MAAC as the primary approver of the annual cost proposal.³²

³⁰ The Assistant Director's original request to JBT for a copy of the subcontract was made on September 6, 2016, after the OIG requested to review the subcontract agreement between JBT and AvAirPros.

³¹ The email communication to JBT also requests that AvAirPros include with its invoice certified time sheets documenting the hours worked. The OIG notes that no time sheets were ever submitted with its invoice for the monthly retainer. A later communication in November 2016 from AvAirPros to JBT reasserts its position that, as a monthly retainer, no supporting documentation related to recording time is required.

³² Although the OIG requested a copy of this document in September 2016, we were not provided with it until December 12, 2016.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

- On December 5, 2016, AvAirPros submitted its proposal for CBIS project management and consulting services for calendar year 2017 directly to the MAAC. The proposal laid out estimated monthly hours to be performed in the four categories of Consulting Support Coordination, Project Management, Document Review, and Airline Operations Coordination. The proposed retainer, which includes all four services, totals \$52,600 per month. (Exhibit 12)
- At this time, there was still no approved work order authorizing JBT (or AvAirPros) to provide any additional services via one of the dedicated allowance accounts.

Despite AvAirPros having submitted invoices for services rendered beginning on October 1, 2015 and despite its “Consulting Services Agreement” with JBT being retroactive to October 1, 2015, the first work order that actually authorized payment to AvAirPros from one of the BHS O&M allowance accounts is not dated until March 16, 2017, and approved in April 2017. Thereafter, three additional allowance account work orders were submitted. See Table 9 for the 4 work orders used to pay AvAirPros:

Table 9: JBT Allowance Account Work Orders Matched to AvAirPros Payments

| Work Order No. & Issue Date | Description Title | Authorized Amount | Amount Paid to AvAirPros | Amounts Paid to JBT for Monthly Support | Amount Paid to JBT as 10% Mark-up |
|--|---|--------------------------|---------------------------------|--|--|
| WO #1-017 Issued 3/17/2017 | Project Management, Administration Assistance & Escort Services | \$483,440 | \$297,771 | \$71,693 | \$36,946 |
| WO #1-020 Issued 6/2/2017 | Consulting & Project Management Support | \$631,200 | \$388,927 | \$41,453 | \$43,038 |
| WO #1-033 Issued 12/19/2017 | Project Management, Administration Assistance & Escort Services | \$34,186 | \$31,078 | — | \$3,108 |
| WO #1-043* Issued 7/24/2018 | Project Management & Administration Assistance | \$68,398 | — | \$46,635 | \$4,664 |
| Total Amounts Paid | | | \$717,776 | \$159,781 | \$87,756 |

*The description of work states: “This Work Order supplements Work Order 1-020 for the project management and administrative assistance to be provided during January 1, 2018 to December 31, 2018. . .” Even though no pass-through payments were made to AvAirPros from this work order, the OIG included it because continued retainer payments of \$5,187 per month were billed and paid to JBT for “Staff Support.” Similar to the lack of documentation supporting AvAirPros’ monthly invoice, JBT did not include time sheets for its staff support. JBT did provide a certified payroll identifying by name a person and her rate of pay, but no time sheets for work performed during the month were provided.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Neither the work order titles nor the actual description of the work contained therein, described any service related to the CBIS project. In other words, one would not be able to tell that the work authorized involved CBIS. None of the work order authorizations stated—or even hinted—that the service provider was to be AvAirPros. At best, each contained a vague and ambiguous description of services. And, in the case of Work Order #1-017 (issued 3/17/2017), the stated service period on the authorization was retroactive to September 2015. (Exhibit 13)

The OIG was only able to identify these work orders for the pass-through payments by working backwards from the payments and invoices. In this case, the cart came way before the horse. The work order was issued 18 months after the pass-through arrangement was initiated.

D. Explanations Given for the Pass-through Arrangement

The primary explanation given for this pass-through arrangement was that there was insufficient funds in the ALO budget for CBIS/BHS consulting. Based on the timing of the ALO contract award to AvAirPros and the fact that it contained \$1.75 million for “Additional Services,” which encompassed BHS-related capital improvements, this explanation is unconvincing.

As earlier described (See subsection B, above), the new ALO contract specifically anticipated that consulting services related to the CBIS project might be needed. In addition to basic services capped at \$3.5 million, \$1.75 million for additional services was included.³³ If portioned out equally for the seven years of the Agreement, there would be \$250,000 available each year for additional CBIS/BHS consulting.

The dates of the BHS O&M contract award and the ALO contract award establishes that there were ample funds available for AvAirPros to provide these consulting services. In October 2015, little to no money had been spent from the ALO additional services budget. By having a second, off the books (i.e., non-ALO contract) funding source to pay AvAirPros, the \$1.75 million budget for additional services would last longer. Had all of AvAirPros' consulting time been drawn from the ALO contract, the likelihood of needing a change order (i.e., adding more money to the Agreement) would have been inevitable, and it would have been required well before the 7-year contract term was finished.³⁴

³³ By contrast, the previous 2007 ALO contract did not contain a similar budget for additional services.

³⁴ The possibility of a change order was discussed during AvAirPros' contract negotiations. The ALO Negotiation Committee was comprised of MDAD's Chief Financial Officer, an MDAD executive charged with overseeing the ALO contract, and a MAAC representative. The MAAC representative and two AvAirPros representatives, who were present at that meeting, voiced concern about the possibility of exceeding the contract's total budget by the end of the contract's 7-year term in 2022. MDAD's Chief

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

On the subject of change orders and the anxiety associated with properly obtaining them, AvAirPros provided its perspective on why MDAD chose to pay them via a pass-through arrangement. In his sworn testimony, Mr. Bradley, AvAirPros Vice-President Eastern Region, stated:³⁵

. . . in September of 2015 is the first -- is when I -- when we start finding out that, okay, there is a need for additional involvement, and we start working on -- with the airlines -- to figure out how we are going to handle this because our additional services budget in our contract, at \$250,000 a year, will not cover the level of effort that it's going to take for the baggage. So, the airlines start asking for different funding sources. Why did we end up under the O&M contract? It's because MDAD will not go downtown for change orders. They have had a very tough time with the Commission, and with just about every contract out there, instead of going for change orders, they started rearranging scope to use all these allowances that they make into the contracts. . . . So, instead of going through -- instead of saying, "Okay, AvAirPros, we want you to help us out with the baggage, we need to give you a change order." Instead of doing that the right way, they say, "Let's just take Bob and Bob's efforts for the baggage, since it's related to baggage, and let's run it through an allowance account under the O&M contract," which happens to be JBT. Who won that bid is irrelevant. That was the funding source used to avoid a change order to our contract to increase the value for the increased level of effort related to the baggage that was being requested by the airlines and the airport.

As proffered by Mr. Bradley, avoiding the burden of obtaining a change order was the motivation for passing through these additional payments through the O&M contract's allowance account. As a second motivation, Mr. Bradley pointed to a desire by the airlines to classify these additional expenses as a CBIS-project expense in order to make it eligible for reimbursement under the TSA-grant.³⁶ Apparently the airline representatives, while wanting additional oversight, didn't want to pay for it out of the ALO budget.

When directly questioned about the pass-through arrangement, Assistant Director Hernandez, MDAD Facilities, confirmed that "the airlines wanted to make sure that this was a project cost."³⁷ Assistant Director Hernandez further explained that the airlines wanted to make AvAirPros' fee a bondable expense, but he quickly remarked that he

Financial Officer stated that in the event of the Additional Services budget's depletion, MDAD could request a change order.

³⁵ See pages 78 – 79 of the Sworn Statement of Christopher Bradley, taken on March 7, 2018.

³⁶ Id. at pp. 144 -146.

³⁷ See page 39 of the Sworn Statement of Pedro Hernandez, taken on June 29, 2017.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

didn't think "it will ever be able to qualify as a bondable expense."³⁸ Later in his interview, he declared that because there was no deliverable work product associated with these consulting services, he "knew from day one that this would not be a bondable expense."³⁹

During his interview, Assistant Director Hernandez expressed his efforts in getting the additional AvAirPros services transferred to the AvAirPros ALO contract, and getting it out from the JBT contract. He complained that the AvAirPros payments were depleting his allowance accounts and that he was paying a 10% mark-up to JBT. He remarked that this arrangement was costing more money, and that a change order to the ALO contract was needed.

E. The Perils of Pass-through Contracting

Pass-through arrangements, by their very nature, are inherently non-transparent. This is the case even when the arrangement is known to the various parties who may have consented to the scheme. Well-intended or not, pass-throughs circumvent legally required procurement processes, such as detailed in Florida Statutes Section 287.055, which requires competitive selection of design consultants based on qualifications,⁴⁰ and such as detailed in Miami-Dade County Implementing Order 3-38, which requires that consultancy services (other than A&E services) be procured through competitive processes.⁴¹

In this case, the use of JBT's allowance account to pass-through AvAirPros invoices is even more disturbing because AvAirPros already had its own, existing, stand-alone contract with the County. Moreover, that contract explicitly provided for additional CBIS/BHS-related services and had funds (\$1.75 million) to pay for those very services. This pass-through arrangement was utilized by MDAD in an attempt to reclassify

³⁸ Id.

³⁹ Id. at page 51.

⁴⁰ Another pass-through involved JBT's former BHS O&M contract. In 2013, MDAD utilized surplus funds in one of the contract's allowance accounts to pay \$376,678 for A&E professional services. The A&E work involved creating a design schematic that would be included in MDAD's grant application to the TSA. The A&E consultant was not competitively procured; MDAD cited time exigencies. Instead of awarding a design contract to the consultant, MDAD authorized that work under JBT's contract. JBT was paid the 10% mark-up. JBT did not supervise the services provided by the A&E contractor—yet received \$38,921 for processing eight invoices.

⁴¹ In a previous investigation by the OIG, we reported on a pass-through arrangement involving the Miami-Dade Fire Rescue Department Training Facility Construction Project. In that case, difficulties arose when the department tried to hire a person to provide scheduling consulting services. Those services were to monitor the contractor's activities and adherence to the construction schedule. When the department found itself unable to hire the individual, rather than awarding a competitive contract for said service, the department directed the contractor to subcontract with this individual and pay him from the contingency allowance account. In this case, the pass-through arrangement created an insurmountable conflict of interest. The scheduler's job was to keep tabs on the contractor, yet he had to rely on the same contractor in order to get paid.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

expenses, thereby shielding the total amounts paid. The actual payment mechanism—monthly retainers—avoided all scrutiny. The OIG finds that the pass-through arrangement at issue herein, involving MDAD, AvAirPros and JBT, undermined the County's commitment to the highest standards of governmental contracting practices.

In furtherance of this pass-through arrangement, a multitude of abuses occurred. These acts, some bordering on egregious, involved:

1. The first work order was issued 18 months after the arrangement began.

As described in subsection C above, the first work order associated with AvAirPros' invoices was issued on March 16, 2017; however AvAirPros began submitting invoices for services rendered starting October 1, 2015. Even the MDAD Bond Engineer noticed this deficiency in June 2016 when it reviewed the invoices for payment. The Bond Engineer replied: "HNTB has not received a copy of an authorizing Work Order per Article 4(b)" HNTB, the Bond Engineer, did not approve the invoice for payment as a Bond expenditure, but the invoices were paid by MDAD nevertheless.

Furthermore, the work orders that were eventually issued were vague as to the service to be provided, silent as to the service provider, and silent as to the fee and compensation arrangement—the monthly retainer. This condition (i.e., no work order approved) was not only a direct violation of the contract's requirement that all allowance account funded work be authorized by a work order, it was a fundamental contravention of sensible government contracting practices.

2. JBT and AvAirPros did not enter into a Consulting Services Agreement until 12 months after the pass-through arrangement began.

Only after the OIG had inquired of MDAD about the JBT/AvAirPros arrangement, and MDAD had twice requested (in September 2016) that JBT furnish a copy of the Agreement, did the Agreement get produced.

Notably, the Agreement's "Schedule B – Compensation" makes clear that compensation is provided in the form of a monthly retainer that is approved by the MAAC Chairperson and that no documentation in the form of time cards or expenses need to be submitted. Schedule B also mentions that for invoices submitted starting October 1, 2015 through December 31, 2016, "the retainer concept has been approved by [MDAD] in mid-2016 and that this Consultant Services Agreement provides compensation for services performed commencing 01 October 2015 that have been previously invoiced to JBT . . ."

The fact that AvAirPros and JBT carried on this arrangement for a year without a formal agreement supports the proposition that AvAirPros was never a true sub-

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

consultant to JBT and that this arrangement was, in fact, a pass-through arrangement to avoid paying AvAirPros from its own ALO contract.

3. The MAAC authorized AvAirPros to invoice a set monthly retainer amount with no supporting documentation required.

Under AvAirPros' ALO agreement, work is billed on a time and materials basis at the individual's negotiated hourly rate. Back-up documentation showing the days and number of hours worked, and support for out-of-pocket expenses is required. Pursuant to the arrangements made on the pass-through side, AvAirPros billed a set monthly retainer amount and provided no supporting documentation.

- For the period October 2015 through June 2016, AvAirPros billed a monthly retainer (including expenses) in the amount of \$16,827.
- For the period July 2016 through December 2016, AvAirPros billed a monthly retainer (including expenses) in the amount of \$46,167 (\$5,037 for Mr. Binish to provide Consulting Support Services and \$38,130 for Mr. Binish and another individual to provide Project Management Support Services).
- For the period July 2016 through December 2016, AvAirPros' fees increased to \$52,600 (including expenses) per month (\$5,200 for Mr. Binish to provide Consulting Support Services and \$47,400 for Mr. Binish and two other individuals to provide Project Management Support Services).

To be clear, all of the proposals and correspondence regarding AvAirPros' compensation refers to the fee as a monthly retainer—not a lump sum fee. This monthly fee amount was approved by the MAAC.

While the OIG acknowledges some situations where negotiated lump sum fee arrangements are desirable, we do not find this to be one of those situations. For one, the services, generally, are no different than those authorized by the ALO Agreement. Notwithstanding our objection to the pass-through arrangement, the fee arrangement, payment terms and documentary support requirements should be the same.

Second, lump sum fee arrangements function well where there are discrete scopes of work and defined deliverables. Here there are neither. The work described involves attending various meetings; periodic liaising with TSA; reviewing documents such as cost and schedule records, design drawings, and project specifications, and providing comments thereon; and various coordination activities involving the airlines, TSA, JBT, POJV (the CBIS contractor) and MDAD. There is an estimated number of hours proffered for these services, but the arrangement lacks any MDAD oversight to determine if the true level of effort is commensurate with the monthly level of compensation. AvAirPros

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

personnel could do very little work in any given month and still be paid the full monthly amount.

4. JBT received \$247,537 in monthly retainers and mark-up for its participation in this suspect pass-through.

In addition to the monthly retainer paid to AvAirPros, JBT received both its own monthly retainer (\$5,187.67) and a 10% mark-up for the duration of AvAirPros' pass-through arrangement. The monthly retainer of \$5,187.67 was for JBT support staff.⁴² The identified support staffer, a JBT administrative assistant, presumably spent all of her time supporting AvAirPros' work on the CBIS/BHS project. In total, JBT received \$159,781 for support staff.

On top of this monthly retainer, JBT received a 10% mark-up on its own employee and a 10% mark-up applied to AvAirPros' monthly fees. For the duration of the pass-through arrangement, JBT received \$87,756 as the 10% mark-up value.

Contract authority for a 10% mark-up comes from Article 2.02 entitled "Design and Construction-General." It allows a mark-up to compensate JBT for profit and overhead expenses when it is directed to contract for supplemental design and/or construction services for area improvements. The Bond Engineer, HNTB, noted in its June 2016 review of the invoices that, "The markups shown are not consistent with Article 2 (2.02) & Attachment A (1.8.4)."

The OIG concurs. JBT neither had to procure, nor manage, design and construction services. JBT only had to pass-through AvAirPros' invoices for payment. JBT merely had to create its own invoice and add its amount due to the invoiced monthly retainer submitted by AvAirPros. It is unconscionable that MDAD allowed JBT to profit \$87,756 for facilitating this pass-through arrangement.

5. The pass-through arrangement could give rise to conflicts of interest.

AvAirPros is paid by JBT but is the MAAC's consultant. Baggage handling systems are of utmost importance to the airlines. Airlines consider the baggage handling system to be the most important support service in any airport.

AvAirPros in its consultancy role over the CBIS/BHS project could find themselves in a situation where they might have to criticize and/or judge the work performance of JBT. This puts AvAirPros in the untenable position of having to "bite the hand that feeds it." This is just another reason why pass-through arrangements—where clear lines of reporting and contract privity are obscured—should be avoided.

⁴² Unlike AvAirPros' monthly retainer, timesheets and payroll records were provided.

6. The pass-through circumvented AvAirPros' SBE utilization requirement.

AvAirPros' ALO Agreement (total compensation of \$5.25 million) contained a 20% Small Business Enterprise (SBE) utilization goal (\$1.050 million). Three years into the seven-year agreement, there had been no participation by any SBE.⁴³

The services and fees paid via the pass-through contained no SBE measures. As the OIG has repeatedly noted, the ALO Agreement allowed for CBIS/BHS-related consulting services to be paid from the Additional Services budget. By diverting \$717,776 worth of work out of the ALO Agreement and into the JBT allowance account, AvAirPros avoided meeting utilization goals on this additional amount, which would have been \$143,555.

7. Pass-throughs shield true payment amounts.

As of December 13, 2018, the total amount paid to AvAirPros from the ALO Agreement totals \$2,674,567. AvAirPros received \$717,776 via the pass-through arrangement. As such, the total amounts attributed to AvAirPros is, in reality, \$3,392,343. Based on this adjusted number, the true balance (contract capacity remaining on the ALO agreement) should be \$1,857,657.

We believe combining the two payment streams to be appropriate. The CBIS/BHS services are no different based on the contracting mechanism. The AvAirPros personnel providing the services are also the same. For example, one individual who was proposed as working on monthly retainer via the pass-through, later (after the pass-through arrangement ceased) provided the same services via the Additional Services scope under the ALO Agreement.

If one were to strictly adhere to the two separate budgets for two scopes of work: Basic Services (\$3.5 million) and Additional Services (\$1.75 million), there would be no contract capacity left for CBIS/BHS-related services. That's because, the monies spent for Additional Services has exceeded the \$1.75 million budget, as depicted on the next page.

⁴³ The OIG recognizes that contract issues between AvAirPros and LIVS Associates, LLC (the designated SBE consultant at the time of contract award) materialized during the first year of the Agreement. However, there does not appear to have been timely efforts to find an SBE replacement to comply with the utilization goal.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Table 10: Actual ALO Expenditures, Adjusted By Pass-through Payments

| | Basic Services | Additional Services | Total |
|---|---------------------------|--------------------------------|--------------|
| ALO Contract Allocation | \$ 3,500,000 | \$ 1,750,000 | \$ 5,250,000 |
| Amounts Paid* | 1,481,712 | 1,192,854 | 2,674,566 |
| Pass-Through Amount | - | 717,776 | 717,776 |
| Adjusted Amount | 1,481,712 | 1,910,630 | 3,392,342 |
| Adjusted Contract Balance (Allocation less Adjusted) | \$ 2,018,288 | \$ (160,630) | \$ 1,857,658 |

*The total amounts paid, by scope of work, includes a reclassification of \$282,340 from Additional Services to Basic Services. The expenses involved work performed by an AvAirPros employee for CBIS/BHS operational and technical coordination. As funds were quickly being depleted from the Additional Services fund, a request was made to reclassify the payments for this individual's work. MDAD accounting records show that the reclassification took place, which significantly freed up extra capacity to pay for additional services.

The OIG acknowledges that if MDAD does not include the pass-through amounts, there would be approximately \$550,000 in contract capacity remaining for Additional Services. In any event, given the expenditure rate for CBIS/BHS consulting, the remaining capacity will be extinguished quickly. In light of all the events described herein, the OIG does not believe that additional contract capacity should be added via a change order.

Dedicated allowance accounts exist and are utilized for specific expenses. In JBT's case, there were dedicated allowance accounts established for training expenses, the purchase of parts, reimbursement of rent, and for payment of TSA-funded work. The contract also contained a General Allowance Account to pay for unforeseen, but necessary expenses. What allowance accounts are not meant to do is facilitate pass-through arrangements to avoid transparency.

XI. RESPONSES TO THE DRAFT REPORT & OIG COMMENTS

This report as a draft was provided to JBT, AvAirPros, Ms. Debra Shore, and MDAD for review and an opportunity to provide a written response. Responses were received from all four draft report recipients, and are contained in Appendices A – C. Because Ms. Shore is now employed by AvAirPros, AvAirPros and Ms. Shore returned a joint response. A summary of each response and the OIG comments thereon, follow below.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

A. Response from JBT (Appendix A) & OIG Comment

JBT, through its attorney, submitted a 20-page response with 358 pages of attachments, which are identified as exhibits A – K.⁴⁴ The 20-page response is contained in Appendix A. However due to volume, JBT exhibits A – K are not attached. The full report, with all of the exhibits, is available on the OIG's website, www.miamidadeig.org. Basically, JBT disputes every single thing in the report, including the report's tone. JBT takes great exception to the report's findings, conclusions and recommendations. In some cases, JBT even takes the opportunity to argue—at length—on behalf of AvAirPros, Mr. Binish, and Ms. Shore, especially with regard to the AvAirPros 6-page opinion letter and the How-to-Vote spreadsheet. JBT states that the report relies on presumption and innuendo in place of facts and evidence, and paints every day innocent acts with a darker intent. JBT maintains that there was no bias, whatsoever, in the BHS O&M procurement processes and that JBT has done absolutely nothing wrong. According to JBT, the report's conclusions and proposed recommendations, as they relate to JBT, are misplaced and unfair.

First Procurement: JBT asserts that the Sunshine Law is inapplicable to JBT. JBT also states that there is no evidence that it initiated or benefitted from communications cited in the report as Cone of Silence violations, or that the communications corrupted the BHS O&M procurement process. JBT argues that the email strings were allowable as every day, operational communications between it, as an incumbent contractor, and Ms. Shore. JBT also alleges that the OIG is mistaken as to the period of the Cone of Silence.

Regarding the AMC letter, JBT defends its role in it by stating that a Cone of Silence violation is not involved. Regarding Unregistered Lobbying, JBT cites to the fact that Unregistered Lobbying charges were never brought against the AMC or any of its members. JBT ends with the assertion that JBT had nothing to do with the AMC letter.

JBT claims that the report casts a dark interpretation on everyday, ordinary conduct and cites to the AMC/JBT cruise as an example.⁴⁵ JBT admits that it sponsored

⁴⁴ JBT's Exhibits A and B relate to the first procurement and include a Notice of Contract Rejection Recommendation and a JBT Lobbyist Letter to the Mayor. JBT Exhibits C – G relate to the second procurement and include Appendix B-1 to the RFP, a TSA Monthly Status report, Integrated Local Design Team meeting notes and the Mayor's Award Recommendation. JBT Exhibits H – K relate to the suspect pass-through arrangement and include a JBT Request for Authorization dated September 28, 2015, which the OIG has added to the report's recitation of facts, an email to JBT from a MDAD project manager, an email from AvAirPros to JBT regarding its proposal, and the Mayor's Award Recommendation regarding the ALO.

⁴⁵ Additionally, JBT accuses the OIG of ascribing a prurient meaning to 'escort services,' citing as proof that the words appear in the report within quotation marks. The OIG specifically placed quotation marks around the words so as to indicate that the words were being quoted verbatim from the work order, and therefore, should be interpreted as used within the aviation industry, not an illegal industry.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

a portion of the cruise event, but asserts that there is no evidence that the procurement was discussed during the cruise.

Second Procurement: Regarding the meeting wherein Ms. Shore gave Mr. Lopez the How-to-Vote spreadsheet, JBT acknowledges that Mr. Lopez took it, but states that he shredded it. JBT states that Mr. Lopez properly refused Ms. Shore's request to share it with anyone else—a fact that JBT notes is corroborated by other Selection Committee members. JBT states that Mr. Lopez was candid about the encounter with investigators, unlike Ms. Shore.

Next, regarding the phone calls between Mr. Lopez and Ms. Shore, JBT contends—albeit not addressing any of the specific calls identified in the OIG charts—that the subject matter of the conversations was limited to daily operations.

Post-Award Activities: JBT responds that the allowance account included in the RFP was available for use by MDAD, regardless of which proposer won the BHS O&M contract. JBT adds that other subcontractors were hired through JBT for the Inline [CBIS] BHS project, using this same method. JBT responds that the report minimizes JBT's role in the overall CBIS project as simply passing through AvAirPros' invoices. JBT claims that the report willfully ignores significant work done by JBT for the CBIS project. Said work included JBT providing an administrative staff person and JBT managers attending numerous Integrated Local Design Team (ILDT) meetings and workshops. JBT lists various assignments it completed as part of the CBIS project.

Regarding the 10% mark-up paid to JBT based upon AvAirPros' invoiced amounts, JBT responds that the OIG erred in citing the applicable BHS O&M contract provision which allowed for the AvAirPros CBIS project work. JBT insists that the correct BHS O&M contract section is 4.01 vs. 2.02. JBT then states that no matter which provision is correct, JBT should not be criticized or penalized for doing what MDAD requested. JBT admits that it did nothing to supervise AvAirPros, and that it only processed AvAirPros' invoices at the behest of MDAD. JBT emphasizes that it never concealed the work or the payments it received in compensation for that work. Lastly, JBT states that there is no conflict of interest created by its supervision of AvAirPros. From its point of view, JBT believes that the entire process was transparent.

OIG Comment to JBT Response

Inexplicably, a large part of JBT's response is spent in the defense of others – Ms. Shore and AvAirPros. As the OIG is without knowledge of JBT's authorization to respond on behalf of AvAirPros or Ms. Shore (who have filed their own joint response, detailed below), the OIG is limiting its comments only to acts committed by JBT.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

First Procurement: JBT's assertion that since it didn't start a conversation that violated the Cone of Silence, it was free to participate in it totally ignores the plain language of the Cone of Silence Ordinance. JBT's characterization of the communications between Mr. Lopez and Ms. Shore as everyday operational conversations stretches the bounds of credulity and is disheartening. The email strings speak for themselves. If JBT truly believes that it is perfectly permissible to engage in communications of this type, with a sitting member of a Selection Committee, during an active procurement, then JBT's responsibility as a vendor must be questioned. A responsible contractor should know better than to solicit a recommendation from a member of any Selection Committee during an active procurement, whether a voting member or technical advisor. MDAD has a protocol in place to deal with such recommendation requests, and it should be scrupulously followed. The OIG's issue with the Shore/Lopez communication does not end with the mere fact that Ms. Shore ill-advisedly supplied a recommendation to Orlando for an active proposer. The problem is that Ms. Shore and JBT then *communicated* about the recommendation during the Cone of Silence, referencing the pending procurement. A fact that JBT, in its response, utterly fails to recognize.⁴⁶

Missing from JBT's defense of the AMC incident, is any allusion to the fact that JBT's employee Mr. Lopez—who held a position of power within the AMC as a member of the AMC's Board of Directors and as the Chairperson of the AMC's Facilities Committee—described under oath his interactions with the AMC that prompted the AMC's intervention against Oxford.

Second Procurement: JBT, in its 20-page response, barely addresses the most damning incident of the procurements—its willing receipt of prohibited inside information from a voting member of the Selection Committee. The OIG is stating categorically that anytime a voting Selection Committee member meets with a proposer or bidder to furnish it with inside information—in this case a detailed critique of JBT's proposal vis-a-vis the other proposals—the procurement process is corrupted. Mr. Lopez met with Ms. Shore, took the spreadsheet, and walked away with it. What's worse, after having had the benefit of reading the spreadsheet, Mr. Lopez made the oral presentation of JBT's proposal to the Selection Committee.

⁴⁶ The OIG stands by the dates listed in the report as to the periods of the Cones of Silence. The Cone was briefly suspended on the date of the publicly noticed TAC meeting. At that time, the Mayor's written recommendation to reject all bids and proceed with a BAFO was considered and rejected. Upon rejection and at the end of the meeting, the Cone of Silence was once again applicable to all parties. All parties should have complied. See COE *Request for Advisory Opinion - RQO 10-1*, which holds that "a recommendation to reject all bids and enter into negotiation with several proposers is not an award recommendation for Cone of Silence purposes because the [Mayor] has not determined which firm should receive the award."

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

The Cone of Silence Ordinance puts an affirmative duty on any person with personal knowledge of a Cone violation to report it.⁴⁷ Instead, JBT's Regional Manager failed to report his meeting with Ms. Shore and the fact that he took the spreadsheet, walked away with it, read the spreadsheet, then made the oral presentation of JBT's proposal to the Selection Committee. By these actions alone, JBT and Shore corrupted the second procurement.

Post-Award Activities: Both the OIG and JBT agree that it was contemplated by all parties that some TSA-reimbursable enabling work would be obtained via the BHS O&M contract's dedicated allowance account. In this case, however, compensation to AvAirPros for additional consulting work was not TSA reimbursable and use of the allowance account was totally inappropriate. Much of the OIG's objection to the pass-through scheme, lies with the acts of MDAD and AvAirPros. Even so, despite JBT being a limited participant, it handsomely profited by passing through invoices of a consultant that it admits it never supervised. JBT performed no administrative work in securing the services of AvAirPros such as soliciting bids. Instead, JBT had AvAirPros thrust upon it and did nothing but pass through the AvAirPros' invoices.⁴⁸

Further, according to the bond engineer, AvAirPros' services would never be approved as an allowable expense, absent adequate documentation. These were facts known, or should have been known, to the experienced professional executives involved. Nevertheless, despite AvAirPros having its own ALO contract that specifically contemplated this exact scope of work, MDAD/AvAirPros/JBT participated in what amounts to a contractual shell-game to pay these expenses. The expenses were improperly made to appear as if they were TSA-reimbursable.⁴⁹ Of course this pass-through scheme was transparent to JBT—JBT was an active participant. The problem is that this scheme was transparent to no one else, other than those directly involved. This opaque method of contracting is the exact opposite of fair and transparent governmental contracting.

⁴⁷ See Miami-Dade County Code, Sec. 2-11.1(t)(3), Cone of Silence.

⁴⁸ JBT in its response misstates the AvAirPros/JBT potential conflict of interest this contracting scheme created. The potential conflict was that as the ALO, AvAirPros might have to critique JBT's BHS O&M work, when JBT was the vehicle upon which AvAirPros got paid.

⁴⁹ Pursuant to OIG consultation with the County Attorney's Office during the investigation, BHS O&M contractual provisions 2.02/2.03 (with the TAC-R method of reimbursement) was used to pay these expenses, as stated in the report. This is consistent with the Bond Engineer's statement upon review of these expenses.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

B. Joint Response from AvAirPros and Debra Shore (Appendix B) & OIG Comment

On April 22, 2019, AvAirPros and Ms. Shore, through its attorney, provided a 36-page joint response. The joint response also contains 30-pages of exhibits.⁵⁰ The joint response and its exhibits are contained in Appendix B. However due to volume, AvAirPros' Exhibits 1 - 10 are not attached. The full report, with all of the exhibits, is available on the OIG's website, www.miamidadeig.org.

Basically, the joint response disputes everything in the report. Fourteen pages of the joint response are directed at statements and phrases in the OIG report's introductory sections. In the balance of the joint response, the AvAirPros' attorney selectively quotes words and sentence segments to conclude that the OIG is wrong. AvAirPros asserts that the OIG mischaracterizes a series of events at MIA, then draws wrong conclusions from those events. AvAirPros vehemently objects to the report's recommendations and feels these mischaracterizations wrongly tarnish a company with a long-term, upstanding reputation in the aviation industry. The joint response lists 35 points of argument. The arguments will be addressed in the same order as the OIG report and are summarized as follows:

First Procurement: AvAirPros responds that neither AvAirPros nor Mr. Binish was notified of the COE's Conflict of Interest Opinion, which barred AvAirPros' service on the first Selection Committee, until March 2018. The joint response states that the facts upon which the Opinion is based, i.e. AvAirPros' relationship to most of the bidders at other airports, is false. AvAirPros supplies sworn affidavits from its executives and one of the proposers attesting thereto. AvAirPros responds that given that the COE Opinion existed, MDAD should never have appointed Mr. Bradley to serve on the second Selection Committee. AvAirPros notes that MDAD never rescinded Mr. Bradley's appointment at any time during his service.

As it relates to the 6-page Binish opinion letter, dated November 26, 2013, AvAirPros responds that MDAD requested the information, and Mr. Binish provided it. AvAirPros maintains that the letter is merely a recitation of facts based upon Mr. Binish's experiences and data obtained from other airports regarding baggage volume. AvAirPros

⁵⁰ Joint response exhibits 1, 3, 4, 5, 7 & 8 relate to the first procurement and include a Notice of Contract Rejection Recommendation, affidavits of two AvAirPros employees regarding AvAirPros' contracts, an affidavit from an employee of Siemens, Postal, Parcel and Airport Logistics, LLC regarding AvAirPros' contracts, and email strings circulated among Mr. Binish and MDAD employees regarding Oxford's ability to perform the BHS O&M contract. Joint response exhibits 6 and 9 relate to the second procurement and include a Final Order and a Letter of Instruction from the Miami-Dade Commission on Ethics & Public Trust regarding Ethics charges against AvAirPros employees Robert Binish and Christopher Bradley. Joint response exhibits 2 and 10 relate to the suspect pass-through arrangement and include a JBT proposal letter to MDAD Project Manager Ricardo Solorzano and a MAAC letter to MDAD regarding the MIA airlines' concerns.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

does not concede that the letter contains Mr. Binish's opinion or any assessment of Oxford's performance. AvAirPros further alleges that Mr. Betancourt's testimony, which describes the original MDAD request for information, is false. AvAirPros states that the 6-page opinion letter was sent to Mr. Betancourt, Deputy Director Pyatt and the CAO, all of whom raised no concerns or objections despite the Cone of Silence, it was not intended to unduly influence the procurement or to malign Oxford.

Identical to the JBT response, AvAirPros' attorney characterizes the Shore/JBT Cone of Silence violations as everyday operational communications. Ms. Shore maintains that she never violated ethical rules and norms. The joint response recognizes that the better practice would have been for MDAD to segregate the daily contract management and oversight duties regarding the incumbent O&M agreements from the procurement responsibilities regarding the new O&M agreement.

AvAirPros responds that the telephone calls in 2013 between Mr. Lopez and Mr. Binish are of no evidentiary value, as they are discussions regarding other MDAD projects, not the pending procurement. However, AvAirPros shockingly admits that Mr. Binish and Mr. Lopez did discuss the pending procurement in terms of the Due Diligence Report pertaining to Oxford. Last, while the attorney's response addresses calls between Shore/Lopez and separately AvAirPros (either Binish or Bradley)/Lopez, the attorney's response does not address the phone calls between Shore/Bradley and Shore/Binish.

Second Procurement: The joint response by AvAirPros and Ms. Shore, states that it was reasonable – even essential – for Ms. Shore to request Mr. Binish, in his subject matter expert advisory capacity, to evaluate the technical aspects of the proposals to ensure that the bid respondents could provide the level of service required to operate and maintain complex CBIS/BHS systems and equipment. Ms. Shore's request to Mr. Binish was appropriate, even with his colleague Mr. Bradley's participation as a voting member on the same selection committee. AvAirPros objects to calling the spreadsheet a "How-to-Vote" spreadsheet, and instead prefers that we call it the "MDAD Proposal Review Scoring – 01.27.2015." AvAirPros insists that the spreadsheet was merely technical bid analysis, did not steer Ms. Shore on how to vote, and did not advocate for JBT.

In a number of sections of the joint response, AvAirPros correctly states that Mr. Binish did not plead no contest to Illegal Lobbying.⁵¹ The 36-page joint response is silent and does nothing to defend Ms. Shore regarding her encounter with Mr. Lopez, wherein she provided him with the How-to-Vote spreadsheet and asked him to share it with others.

⁵¹Upon receipt of AvAirPros' response, the OIG confirmed that Mr. Binish pled no contest to violating the County's Cone of Silence Ordinance, Section 2-11.1(t). The facts supporting said count were his providing Ms. Shore with the spreadsheet during the Cone of Silence.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

Post-Award Activities: The joint response accurately notes that MDAD's utilization of the suspect pass-through arrangement occurred after Ms. Shore resigned her MDAD employment. AvAirPros responds that the pass-through arrangement was not an AvAirPros-engineered payment scheme. It was solely created and implemented by MDAD. AvAirPros identifies itself as the Project Manager, noting that MDAD was going to procure a Project Manager separately, but didn't. Therefore, AvAirPros was merely filling this void. Moreover, AvAirPros responds that there was no Conflict of Interest in this, because AvAirPros was providing services to MDAD through a contractor that was working for MDAD. According to AvAirPros, the Deputy Director approved the utilization of the JBT allowance account to pay for additional consulting services. AvAirPros explains MDAD's motivation for utilizing the allowance account of JBT to pay for these services as a reticence to appear before the BCC for a change order. AvAirPros affirmatively acknowledges that there was not enough money in the ALO contract to pay for these additional services requested by the airlines.

AvAirPros contends that it is an expert in TSA-allowable expenditures, even over MDAD's bond engineer HNTB. AvAirPros maintains that it was totally appropriate to use this allowance account to pay for its services as the Project Manager. Moreover, AvAirPros states that the retainer method was instituted at the request of MDAD, so that MDAD did not have to spend time "wading through" back-up documentation to approve invoices. AvAirPros states that there was an understanding that they would "true-up" any over-payments or under-payments at year's end, which they did. AvAirPros objects to characterizing the pass-through scheme as anything other than transparent. Nowhere in the 36-pages does AvAirPros say that the \$717,776 paid to them was submitted to or actually reimbursed by TSA. Even so, AvAirPros objects to characterizing the pass-through arrangement as anything other than transparent.

Last, regarding AvAirPros SBE goal, AvAirPros contends that there was no circumvention. It maintains that SBE goals are set by MDAD, and MDAD could have applied a SBE goal to the pass-through work, but didn't. AvAirPros responds that once the pass-through work was "moved back to the ALO in August 2017, AvAirPros worked with MDAD to develop a plan to achieve its SBE participation goal of 20%." AvAirPros notes that it "removed one of its own staff members from its assignment, and replaced the position with an SBE subcontractor to make progress to achieving its contractual commitment."

OIG Comment to the AvAirPros/Shore Joint Response

The OIG has re-verified with the COE and with AvAirPros' attorney that Mr. Binish did indeed enter a plea of no contest to Count 1, Violation of the County's Cone of Silence Ordinance, based upon his sending Ms. Shore the How-to-Vote spreadsheet.⁵²

⁵² The OIG notes that no one was charged with Illegal Lobbying and/or a Cone of Silence violation related to the 6-page opinion letter as the applicable statute of limitations had expired.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

First Procurement: AvAirPros responds that the facts supporting the 2012 COE Opinion are untrue and submits sworn Affidavits of Fact in support of this claim. Whether or not there was an actual conflict, Mr. Binish was uncomfortable enough with his company's relationships with the proposers to notify the MDAD Sr. Procurement Officer after being named to the Selection Committee and being presented with a Neutrality Affidavit form to fill out. According to Mr. Betancourt, Mr. Binish voiced concerns about his ability to truthfully execute the form and Mr. Binish orally described the now-disputed relationships that resulted in the COE opinion and Mr. Binish's disqualification from serving on the Selection Committee. (See OIG Exhibit 1)

AvAirPros' response that it was totally unaware of the Conflict of Interest Opinion is curious, given Mr. Binish knew he was appointed to the Selection Committee, supplied information as to why he might, in fact, have a Conflict of Interest. It is illogical that he would never have followed up on whether or not his services as a Selection Committee member were needed. Further, Ms. Shore testified that Mr. Binish did, in fact, know of the Conflict of Interest Opinion.

However, AvAirPros is correct in responding that MDAD should have ensured that AvAirPros had no further involvement with the BHS O&M procurement. Instead, MDAD ignored the Opinion and allowed AvAirPros' continued participation. While the supplied Affidavits of Fact do not create a complete defense, they do create enough ambiguity that the OIG has amended the draft report in areas that address the original AvAirPros organizational conflict of interest.

As to the unsolicited 6-page opinion letter, both AvAirPros' description and Mr. Betancourt's descriptions of MDAD's request for information corroborate each other. AvAirPros describes Mr. Betancourt's request for information as follows:

"Pedro Betancourt specifically asked Mr. Binish for *airport information* that had a large number of international operations that would be comparable to MIA. Pedro Betancourt also requested *contact information and terminals* where Oxford provided services. Mr. Betancourt asked these questions because he was aware that AvAirPros Services, Inc., an affiliated AvAirPros company, operated several terminals where Oxford provided BHS O&M services as had been discussed during the RFP development process by Mr. Betancourt and Mr. Binish." (*Emphasis added*)

This is totally consistent with Mr. Betancourt's testimony. Unfortunately, the 6-page opinion letter goes much further than what was requested. The information contained in the Binish 6-page opinion letter speaks for itself. It is in no way limited to "information regarding other Category X airports and contact information." Mr. Binish gratuitously

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

provided an adverse and unsolicited assessment of *Oxford's performance* at the other Category X airports. More disturbing is AvAirPros' admission that it conferred with JBT, the rival proposer, regarding its drafting of the 6-page opinion letter for the Due Diligence report.⁵³ Finally, the joint response fails to explain why Mr. Binish sent this opinion letter to Ms. Shore who—by AvAirPros' own admission—was never a party to Mr. Betancourt's original request for information.

Second Procurement: At all times material hereto, Mssrs. Binish and Bradley were the face of AvAirPros at MIA. Mr. Bradley was a voting member of the Selection Committee. AvAirPros wants the reader to believe that despite this, Mr. Binish was requested by MDAD to be a subject matter expert. Moreover, it wants the reader to believe that MDAD—through Ms. Shore—solicited the scoring matrix from Mr. Binish and that there was nothing abnormal about such request.

The emailing of this spreadsheet to a voting member of the Selection Committee was wrong, regardless of how AvAirPros now wishes to title it. AvAirPros' creation of this spreadsheet—and its subsequent distribution to JBT by Ms. Shore—are the most flagrant violations in the report. AvAirPros attempts to justify its involvement in the spreadsheet's creation by implying that MDAD engaged Mr. Binish as a subject matter expert to assist the Selection Committee with an assessment of the proposals' responsiveness. This explanation is disingenuous.

The Binish spreadsheet was far more than a mere assessment of whether the proposals were responsive to the RFP. Just one look at this spreadsheet (see OIG exhibit 7) reveals it to be a roadmap on how to vote and the defensibility of said scores. The fact that this document was emailed solely to Ms. Shore and no other member of the Selection Committee demonstrates that Mr. Binish knew he was no properly-hired subject matter expert. Regardless of whether or not Ms. Shore requested Mr. Binish's opinion, if Mr. Binish was providing this assessment in his professional capacity as a baggage expert to a public agency, i.e. the airport, as a premier expert in the industry, he should have known the proper procedures to follow. Mr. Binish was never engaged by MDAD to provide his assessment of how the three proposals should be scored and ranked.

Indeed, AvAirPros had actual knowledge that it could not discuss a solicitation with the Selection Committee dating back to the first solicitation. Mr. Bradley was copied on a February 11, 2013 email string, between Ms. Shore and Mr. Betancourt. (Exhibit 14). Apparently at the MAAC's prompting, AvAirPros requested copies of the first solicitation's proposals. Before supplying AvAirPros with a copy, Ms. Shore asked Mr. Betancourt for permission. Mr. Betancourt consented, and wrote,

⁵³ See Section 19 of the joint response.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

“The proposals are public record and Mr. Bradley may review them. However, Mr. Bradley may not address, or discuss this solicitation with the Selection Committee.”

AvAirPros holds itself out as a preeminent aviation-industry consultant and provides services to numerous public airports and authorities throughout the nation. Basic knowledge of government procurement practices should not be foreign to them. As such, Mr. Binish's actions of compiling the spreadsheet, assigning the points, proposing the final outcome, and sending it to Ms. Shore, is one of the most blatant procurement transgressions uncovered by the OIG in our 20-year history.

As it relates to the second procurement, AvAirPros does not address Ms. Shore's actions. Notably, the joint response fails to even mention the fact that Ms. Shore met with and provided Mr. Lopez with a copy of the How-to-Vote spreadsheet.

Post-Award Activities: The OIG recognizes that MDAD, not AvAirPros, is ultimately to blame for allowing the pass-through contracting scheme. However, AvAirPros and JBT were willing participants. AvAirPros already had a contract at MDAD to provide consulting services. The fact that the ALO contract capacity would be depleted sooner, fails to justify circumventing it. AvAirPros is correct, MDAD should have sought a change order. AvAirPros justifying the arrangement by calling itself the Project Manager to the CBIS CMAR project and subcontracting its services to JBT “because JBT did not have the requisite BHS project management skills nor the available resources to support the management of the project,” is preposterous.

First, AvAirPros was not the Project Manager. Its role on the CBIS CMAR project was to serve as an extra set of eyes and ears for the airlines. Regardless of whether the MAAC wanted additional services, all parties knew that AvAirPros' work as a second Project Manager would never be TSA-reimbursable. According to testimony, TSA would never reimburse the County for the type of consulting services provided by AvAirPros. Moreover, the absence of actual time and cost documentation was a further reason for TSA to disallow reimbursement of the monthly retainer. Even while AvAirPros maintains it's an expert in TSA-allowable expenses, it was very careful in its response never to claim that the \$717,776 paid to them was actually TSA-reimbursable.

Second, as to what AvAirPros refers to as the “true-up,” the OIG notes that it was not a reconciliation of time and materials (i.e. hours expended) to the monthly retainer. AvAirPros refers to a credit that was applied to the next year's payment as proof that this “true-up” took place. The OIG acknowledges that there was a credit applied to calendar year 2017. However, that credit was due to a 2016 scope of work “that did not materialize or was delayed into calendar year 2017.” In other words, there was something that they were supposed to do, but didn't wind up doing, related to the CBIS project. This does

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

nothing to change the fact that AvAirPros was paid on a monthly retainer basis, without needing to supply any supporting documentation to back up its invoices.

Third, as to SBE goals in general, it was up to MDAD to place such a goal on the pass-through work. But why would they, given that this was not a transparent method of contracting. AvAirPros was already failing miserably on its achievement of the 20% SBE goal on its ALO contact. AvAirPros had paid zero monies to any SBE sub-consultant. Indeed, this could be one of the main reasons that MDAD was reticent to obtain a change order from the BCC. MDAD knew that the Board would not be receptive to such a change order, once it learned how dilatory AvAirPros had been in its obligation to meet its SBE goal. AvAirPros statement about working with MDAD to meet its goal by replacing a staff member, had nothing to do with the movement of the pass-through work back under the ALO contact. Rather, it was AvAirPros' attempt to come into compliance with its original SBE goal.

C. Response from MDAD (Appendix C) & OIG Comment

The OIG received a 5-page response from MDAD that solely addresses the OIG recommendations. Attached to that response is MDAD's earlier correspondence, dated March 25, 2019, wherein MDAD requested an extension of time. It also notified the OIG that it had terminated AvAirPros' contract, and provided a list of reforms that have taken place at MDAD under the new Director's leadership.

MDAD's specific responses to each of the OIG's recommendations are summarized below within the Recommendation Section of this report. As to procurement reforms, the MDAD Director lists numerous actions MDAD has taken to (1) decrease the possibility of this happening in the future, and (2) increase transparency, accountability and fairness in the procurement process. Among these, the MDAD Director stated that it will be re-procuring the BHS O&M contract.

The OIG is pleased with the immediate actions taken to (1) terminate AvAirPros' contract, (2) recoup the \$3,028, and (3) initiate a new BHS O&M procurement. However as it relates to the remaining JBT-related recommendations, MDAD provided only a partial response. Regarding OIG recommendations 3 and 4 of the report, the response does detail future actions that will be taken by MDAD to address the OIG concerns regarding Selection Committee composition and Ethics and procurement training. The OIG will be requesting through follow-up status reports, that MDAD provide updates on its continued efforts.

As pleased as the OIG is with the immediate actions taken by MDAD, the OIG would be remiss in failing to note that MDAD's response is silent on the OIG findings, especially in regards to MDAD's use of a TSA dedicated allowance account to pass through AvAirPros additional work. This arrangement was approved by MDAD. JBT and

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

AvAirPros both, throughout their responses, point to the fact that MDAD approved this arrangement. Just because a series of MDAD officials signed off on this pass-through arrangement, does not make it defensible.

The use of this contractual scheme to obtain additional consulting services beyond what the ALO contract allowed—merely because “it’s easier” for MDAD to tap into JBT’s dedicated allowance account than to competitively bid the work or obtain a change order on the ALO contract—cannot be tolerated. Therefore, the OIG would appreciate MDAD addressing this issue directly in its follow-up status report.

XII. OIG RECOMMENDATIONS

1. Based upon the totality of events and findings identified herein, the OIG recommends that the County terminate its contract with AvAirPros and/or seek debarment. While the acts of Mr. Binish and Mr. Bradley resulted in Ethics charges being filed against them, it does not absolve AvAirPros from being vicariously liable for the actions of its employees.

While the OIG finds termination and/or debarment to be appropriate based on these facts, in lieu of termination, the OIG strongly recommends that the following actions be imposed and/or taken by MDAD:

- a. Require AvAirPros to repay the County \$3,068 for the time-spent working on the “How-to-Vote spreadsheet” (See footnote 18 in this report).
- b. Add \$717,776 (the pass-through amount) to the expenditure level of the ALO contract; back-out these same amounts from the BHS O&M contract’s dedicated allowance account for TSA-reimbursed work.
- c. Retroactively apply the SBE utilization goal of 20% to the pass-through amount of \$717,766. Add this amount to the 20% goal of the ALO Agreement.
- d. Do not add, by way of change order, amendment, or contract modification, any additional monetary capacity to the ALO Agreement, which should remain at \$5.25 million.
- e. Re-assess the level of CBIS/BHS consulting services needed and re-solicit for consulting services specific to this activity and the qualifications required. At present, the CBIS/BHS consulting expenses account for 65% of the monies spent under the agreement, overshadowing the activity level for ALO basic services.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

MDAD Response: In response to the OIG, MDAD states that it has terminated AvAirPros' ALO contract for cause, effective April 21, 2019. MDAD has recouped the \$3,068 by deducting it from AvAirPros' monthly payment. MDAD also will check with ISD's Small Business Development Division to determine how best to address the unattained utilization goals from the pass-through payments.

2. Based upon the totality of events and findings identified herein, the OIG recommends that the County terminate its Agreement with JBT and/or seek debarment for engaging in prohibited conduct during the two procurement processes that ultimately resulted in it being awarded the BHS O&M contract.

While the OIG finds termination and/or debarment to be appropriate based on these facts, in lieu of termination, the OIG strongly recommends that the following actions be imposed and/or taken by MDAD:

- a. Disallow \$87,756 for the 10% mark-up fees paid to JBT. The 10% mark-up allowed under Article 2.02 does not apply to this pass-through arrangement and should not have been paid.
- b. Disallow \$159,781 (or a portion thereof) paid to JBT for monthly project support without adequate supporting documentation (e.g., payrolls and timesheets).
- c. The JBT contract's base 5-year term will expire in June 2020. Following expiration, the contract has five 1-year options to renew at the sole discretion of the County. The OIG recommends that the County promptly begin the procurement process for a new BHS O&M agreement and not exercise any renewal options.

MDAD Response: In response to the OIG, MDAD states that it will be resoliciting for a new BHS O&M agreement through a new RFP in lieu of exercising any extension in the current contract. MDAD's response, however, is silent as to the other OIG recommendations.

3. Relating to the composition of Selection Committees, the OIG makes two recommendations that, we believe, provide a higher degree of transparency. We suggest that the County:
 - a. Create and implement separate (or supplemental) disclosure forms to be filled out by non-County personnel serving on selection committees. At present, there is only one version of the disclosure form, entitled "Neutrality/Disclosure Form." However, for third parties, such as the two airline executives and Mr. Bradley who served on the second RFP's Selection Committee, there should

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

be more probing (in the form of questions) as to their company's business ties with possible proposers and other industry members. In other words, the situation that occurred in this case should have been avoided (two airline executives familiar with JBT's past performance, but no airline executives familiar with Oxford's).

- b. Similar to (b) above, a separate (or supplemental) form should be used for employees of other government (non-County) agencies that serve on Selection Committees. While not a factor in this case, the OIG is aware of several other high profile procurements where a non-County, government employee has served on a Selection Committee.

MDAD Response: In response to the OIG, MDAD states that it concurs that additional disclosures will enhance transparency in the procurement process and that it will comply with the new disclosures once ISD approves and issues standard forms.

4. This investigation has revealed a variety of acts ranging from malfeasance to misfeasance by MDAD officials and staff. It is difficult to fashion recommendations to address the lack of ethics, the need for more strenuous supervision, and especially, the need for staff to carry out their duties objectively and without bias. Nevertheless, if there is any value to stating the obvious, then the OIG recommends that management:
 - a. Institute increased ethics and procurement training for staff—even if that person does not directly hold a procurement position, there is still the likelihood that the staff member, at some time, will encounter a procurement-related assignment.
 - b. Ensure that high profile assignments are more strictly supervised.
 - c. Demand that staff carry out their duties objectively and without bias; advise staff to avoid any activity that creates a conflict of interest or a perceived conflict, such as socializing with vendors, and emphasizing what the repercussions might be for non-compliance with this professional directive.

MDAD Response: In response to the OIG, MDAD states that all future Selection Committee panels will exclude aviation consultants as voting members and the Director will more closely monitor the future panel's composition. MDAD is enacting stricter controls via technology software and restructuring its procurement of commodities and contracts such that all purchasing functions are now centralized to contracts administration. Lastly, MDAD is requiring all employees to undergo in-depth Ethics training.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
FINAL REPORT OF INVESTIGATION
Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

XIII. CONCLUSION

Companies are in the business to further their bottom line. They bid and propose on government contracts with the intention of winning. Even consultants, whose job it is to professionally service their client, are desirous of keeping and growing their scope of work. This drive to increase business opportunities and revenues is not the issue.

The issue, especially at the government level, is fair contracting. Fair contracting can only be achieved when procurement rules are followed, and when contracts are administered and managed competently and impartially. Ultimately, it is up to public servants to ensure that the process has integrity. This procurement story is vital to understanding risk and vulnerabilities in our procurement processes. Only by exposing these facts can we take steps to ensure that the County's reputation as a place where companies can fairly compete, is restored.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
OIG SCHEDULE A

Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

ETHICS VIOLATIONS CHARGED AND THEIR DISPOSITIONS

As the criminal investigation was nearing its end, the criminal two-year statute of limitations applicable to Ethics violations when prosecuted as criminal misdemeanor offenses had expired. The civil 3-year statute of limitations applicable to civilly prosecuted Ethics violations was nearing expiration. Before final expiration of the civil statute of limitations, the OIG referred the investigation to the COE for civil prosecution. An Ethics Investigator was assigned, resulting in the charging of the following Ethics violations and settlements.

A. Debra Shore

On November 9, 2017 the COE filed Ethics violations against Ms. Shore in case number C17-34. Ms. Shore was charged with the following civil Ethics violations:

1. Section 2-11.1(g), Exploitation of Official Position, for use of her County email to solicit a job from AvAirPros.
2. Section 2-11.1(g), Exploitation of Official Position, using her position to follow the recommendation of her future employer AvAirPros, knowing AvAirPros would get a JBT subcontract.
3. Section (A)(2), Citizen's Bill of Rights, for executing a False Neutrality affidavit.
4. Section 2-11.1(t), Cone of Silence, for numerous prohibited communications.
5. Section 2-11.1(g), Exploitation of Official Position, for soliciting, receiving and acting on Mr. Binish's "How-to-Vote spreadsheet."

On January 17, 2018, Ms. Shore entered a plea of no contest to the following Ethics counts:

1. Section 2-11.1(g), Exploitation of Official Position, for use of her County email to solicit a job from AvAirPros.
3. Section (A)(2), Citizen's Bill of Rights, for executing a false Neutrality Affidavit.
4. Section 2-11.1(t), Cone of Silence, for numerous prohibited communications.

Counts 2 and 5 were dismissed pursuant to the plea negotiations. Ms. Shore was fined \$1,000.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL

OIG SCHEDULE A

Probe of MIA's Baggage Handling System Operation and Maintenance Agreement

B. Robert Binish

On March 5, 2018, the COE filed an amended complaint against Mr. Binish in case number C18-06-01. Mr. Binish was charged with the following civil Ethics violations:

1. Section 2-11.1(t), Cone of Silence, for emailing Ms. Shore and questioning her about how the scoring matrix works.
2. Section 2-11.1(t), Cone of Silence, for sending a second email to Ms. Shore with the recommended scoring matrix.

On May 15, 2018, Mr. Binish entered a plea of no contest to count 1, violation of the Cone of Silence. The remaining one count was dismissed pursuant to plea negotiations. Mr. Binish paid investigative costs of \$500 and received a Letter of Instruction to guide and assist Mr. Binish should he ever be involved in future procurements.

C. Christopher Bradley

On February 12, 2018, the COE filed Ethics violations against Mr. Bradley in case number C18-10-02. Mr. Bradley was charged with Section 2-11.1(j), Conflicting Employment Prohibited, for serving on a Selection Committee while knowing that his employer, AvAirPros, would likely receive a subcontract from the winning proposer. On May 15, 2018, the COE dismissed the charge against Mr. Bradley reasoning that the conflict was known and neither MDAD nor the CAO objected to his service. While no sentence was imposed due to the dismissal of charges, the COE did issue a Letter of Instruction to guide and assist Mr. Bradley should he ever be involved in future procurements.

**Miami-Dade County
Office of the Inspector General**

Exhibit 1

**Commission on Ethics & Public Trust Opinion Regarding AvAirPros'
Conflict of Interest, INQ. 12-217
(4 pages)**

OIG Case No. 15-0027-I

From: Betancourt, Pete J. (Aviation)
Sent: Monday, December 17, 2012 3:58 PM
To: Clark-Vincent, Marie (Aviation)
Subject: FW: Aviation Selection Committee Member (INQ 12-217)

We need to go with alternate.

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



From: Betancourt, Pete J. (Aviation)
Sent: Monday, December 17, 2012 3:58 PM
To: Frigo, Victoria (COE)
Cc: Centorino, Joseph (COE)
Subject: RE: Aviation Selection Committee Member (INQ 12-217)

Ms. Frigo,

We appreciate your time and effort with this matter.

Sincerely,

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



From: Frigo, Victoria (COE) [<mailto:FRIGOV@miamidade.gov>]
Sent: Monday, December 17, 2012 3:52 PM
To: Betancourt, Pete J. (Aviation)
Cc: Centorino, Joseph (COE)
Subject: Aviation Selection Committee Member (INQ 12-217)

Mr. Betancourt,

The County's Conflict of Interest Code prohibits Robert Binish, an employee of AvairPros, from serving on the County selection committee that is evaluating proposers to provide baggage handling services at Miami-Dade County Airport. See the Miami-Dade County Code at Sec. 2-11.1 (j).

For purposes of this analysis, we have assumed that Mr. Binish's employer, AvairPros, is closely affiliated with AvairPros Services. AvairPros Services has contracted or sub-contracted with four of the five bidders being evaluated by the selection committee. A proposer who wins the County contract, and who also holds a contract with AvairPros Services, might improperly respond to winning the County contract by augmenting its business dealings with AvairPros Services.

County employees and others who serve as selection committee members cannot engage in activities that would impair their independence of judgment in the performance of their public duties. Applying this section of the Code in Mr. Binish's case is not meant to imply that Mr. Binish would attempt to benefit his private employer to the detriment of the County. Rather, the intent of the Conflict of Interest Code is to *prevent* situations in which private economic considerations may override the faithful discharge of public responsibilities.

The State ethics law further emphasizes this rationale. In pertinent part, it states that a government worker may not "hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties." See Fla. Stat. 112.313(7)(a).

Thank you for bringing this matter to our attention, and we thank Mr. Binish for his willingness to serve Miami-Dade County in this capacity.

If you have additional questions, please feel free to contact me.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

Phone: 305 350-0601

Fax: 305 579-0273



19 West Flagler St., Suite 820
Miami, FL 33130

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.

From: Betancourt, Pete J. (Aviation) [<mailto:PJBETANCOURT@miami-airport.com>]

Sent: Monday, December 17, 2012 9:23 AM

To: Frigo, Victoria (COE)

Subject: RE: Opinion - Evaluation/Selection Committee Member

Good morning.

I apologize for not getting back to you sooner. I was out three (3) days last week.

As I mentioned before, the number of firms providing Baggage Handling System Operations & Maintenance (BHS O&M) providers are very limited.

AvairPros - provides business consulting, financial analysis, project management, use & lease agreement negotiations for airlines and airport authorities. Committee member, Mr. Robert Binish is employed with AvairPros and completed parts of a final report on or about 2008 on one of the proposing entities JBT Aero. The JBT Aero contact at the time was Mr. Tom Mayfield who is no longer with JBT.

AvairPros Services (sister of AvairPros above) – provides terminal management, financial management, operations & maintenance of airline systems & equipment at terminal facilities (airport). AvairPros Services has contracted or sub-contracted or worked with four (4) of the five (5) proposers in other states across the U.S. as follows:

- 1) Elite Line Services
- 2) Siemens
- 3) JBT Aero Tech
- 4) Oxford

I am also attaching a copy of the Neutrality Affidavit that committee members are required to execute. Please let me know if you require additional information.

Your assistance is greatly appreciated.

Regards,

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



From: Frigo, Victoria (COE) [<mailto:FRIGOV@miamidade.gov>]
Sent: Thursday, December 06, 2012 4:43 PM
To: Betancourt, Pete J. (Aviation)
Subject: RE: Opinion - Evaluation/Selection Committee Member

I have received your request for an opinion and will have a response to you by Monday.
Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY
Phone: 305 350-0601
Fax: 305 579-0273



19 West Flagler St., Suite 820
Miami, FL 33130

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.

From: Betancourt, Pete J. (Aviation) [<mailto:PJBETANCOURT@miami-airport.com>]
Sent: Thursday, December 06, 2012 2:38 PM
To: Frigo, Victoria (COE)
Cc: Clark-Vincent, Marie (Aviation)
Subject: Opinion - Evaluation/Selection Committee Member

Good afternoon Ms. Frigo.

The Aviation Department often utilizes external (non-County) candidates to serve on selection committees. We have one (1) external committee member requesting an opinion from your office.

The committee member works with AvAirpros and a sister company of AvAirpros, has existing contracts at other US airports (not MIA) with three (3) of the firms proposing. The committee member has no interaction or involvement (interaction) with the firms or the existing contracts. Could you opine on this matter for us before we proceed?

Your assistance is greatly appreciated and please let me know if you require additional information.

Regards,

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



**Miami-Dade County
Office of the Inspector General**

Exhibit 2

**Email String Between Mr. Lopez of JBT and Ms. Shore Regarding her Positive
Recommendation of JBT to an Orlando Airport**

(7 pages)

OIG Case No. 15-0027-I

From: Lopez, Gilbert <Gilbert.Lopez@JBTC.COM>
Sent: Thursday, August 15, 2013 4:08 PM
To: Shore, Debra (Aviation)
Subject: FW: reference check for JBT

fyi

From: AHLSTROM, BRENT
Sent: Thursday, August 15, 2013 2:15 PM
To: Charters, Ian; Garlick, Mike; Dusenbury, Dave; Lopez, Gilbert
Subject: RE: reference check for JBT

I know.....I think Gil is stretching this out to fit his retirement schedule!

Brent Ahlstrom
General Manager
E: brent.ahlstrom@jbt.com
O: 801-629-3121 M: 801-510-1787

From: Charters, Ian
Sent: Thursday, August 15, 2013 12:14 PM
To: AHLSTROM, BRENT; Garlick, Mike; Dusenbury, Dave; Lopez, Gilbert
Subject: RE: reference check for JBT

To my mind, although it doesn't include bridges, due to its Florida location this is the single most important reference we have given to MCO and what a beauty. Now if they would just re-award our contract.....

Ian Charters
Director of Business Development
E: ian.charters@jbt.com | M: 817-204-3094

JBT AeroTech – Airport Services
1805 West 2550 South | Ogden, UT | 84401 USA
www.jbt.com

From: AHLSTROM, BRENT
Sent: Thursday, August 15, 2013 12:47 PM
To: Garlick, Mike; Charters, Ian; Dusenbury, Dave
Subject: FW: reference check for JBT

FYI – Debbie Shore response to Orlando.

Brent Ahlstrom
General Manager
E: brent.ahlstrom@jbt.com
O: 801-629-3121 M: 801-510-1787

From: Lopez, Gilbert
Sent: Thursday, August 15, 2013 8:02 AM

To: AHLSTROM, BRENT
Subject: FW: reference check for JBT

From: Shore, Debra (Aviation) [<mailto:Debbie@miami-airport.com>]
Sent: Friday, August 09, 2013 8:51 AM
To: Lopez, Gilbert
Subject: FW: reference check for JBT

fyi

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

From: Shore, Debra (Aviation)
Sent: Friday, August 09, 2013 8:47 AM
To: 'Denise Schneider'
Subject: RE: reference check for JBT

Thank you for the opportunity for providing this recommendation.

Please let me know if you need anything else.

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

From: Denise Schneider [<mailto:DSchneider@goaa.org>]
Sent: Thursday, August 08, 2013 3:34 PM
To: Shore, Debra (Aviation)
Subject: reference check for JBT

Good Afternoon,

JBT has listed you as a reference in response to a Request for Qualifications. Can you please fill out your section of the attached form and return to my attention? Thank you!

Denise

Denise K Schneider, CPPO, C:P.M., CPPB, C.M.
Assistant Director Purchasing and Material Control
Greater Orlando Aviation Authority
8652 Casa Verde Rd. Building 811
Orlando, Florida 32827

407-825-3843

FAX: 407-825-4020

dschneider@goaa.org

Public Procurement Guiding Principles:

Accountability, Ethics, Impartiality, Professionalism, Service & Transparency

Email Scan by McAfee

Email Scan by McAfee

| | Reference 1 | Reference 2 | Reference 3 |
|---|---|--|---|
| <u>REFERENCE CHECK QUESTIONS</u> | United Airlines @Houston George Bush Intercontinental Airport Dave Brandenburg-Dir. Facilities 281-553-8588 dave.brandenburg@united.com | Washington Dulles Int'l Airport Roy Fuller-Manager Maint 703-572-1805 Roy.fuller@mwaa.com | Miami-Dade Co. Aviation Dept. Carlos Jose-Asst. Director 305-876-8398 cjose@miami-airport.com DShore@miami-airport.com |
| 1. Is the Submitter working for you now? How long? In the Past? How long? | | | Yes 7 years |
| 2. What is the total value of the Contract? | | | \$56Million |
| 3. What type of service do they provide? | | | Operations and Maintenance of both inline screening and automated sortation systems as well as conventional systems – the biggest of which handles an average of 15K bags/day. Manage upgrades (design and construction) to these systems. |
| 4. <u>BHS Operation, Maintenance and Repair:</u> Do the submitter provide BHS maintenance and repair? Do they provide manual bag movement including loading/unloading of conveyors, bag alignment and clearing of bag jams on the conveyor system, manual bag recording/sorting functions, collecting/distributing bag tubs, cleaning on and around the system and bag room? | | | Yes to all of questions, they provide all baggage related services except the loading/unloading of tugs to and from the airplanes. |

| | Reference 1 | Reference 2 | Reference 3 | | |
|--|---|---|---|-------------------------|------------------------------|
| <u>REFERENCE CHECK QUESTIONS</u> | United Airlines @Houston George Bush Intercontinental Airport Dave Brandenburg-Dir. Facilities 281-553-8588 dave.brandenburg@united.com | Washington Dulles Int'l Airport Roy Fuller-Manager Maint 703-572-1805 Roy.fuller@mwa.com | Miami-Dade Co. Aviation Dept. Carlos Jose-Asst. Director 305-876-8398 cjose@miami-airport.com DShore@miami-airport.com | | |
| 5. Number of lineal feet of conveyor maintained? Average number of outbound passenger bags processed each day? | | | Approx.. 5 miles 15,000/bags per day – average In peak – over 20,000/day | | |
| 6. Does the submitter maintain and repair a baggage handling system that has multiple In-Line EDS machines at one Airport? Name of Airport? | | | Yes, we have 10 in-line EDS machines at MIA | | |
| 7. Passenger Boarding Bridge Maintenance and Repair: Does the submitter maintain and repair passenger boarding bridges including ground support equipment maintenance and repair services, pre-conditioned air, and 400 Hz ground power units?. | | | Yes they can – but not at this airport. The Maintenance of the PLB's and associated equipment is mostly done in-house. | | |
| 8. Number of passenger boarding bridges maintained? | | | 0 | | |
| Scale for question 9 through 12 | | | | | |
| | 1- Poor | 2- Below Average | 3- Average | 4- Above Average | 5- Outstanding |
| 9. Rate their performance as to meeting your contract standards on a scale of 1 to 5? Would you hire this company again for similar work? | | | | | 5 Absolutely, no question |

| | Reference 1 | Reference 2 | Reference 3 |
|--|---|--|---|
| <u>REFERENCE CHECK QUESTIONS</u> | United Airlines @Houston George Bush Intercontinental Airport Dave Brandenburg-Dir. Facilities 281-553-8588 dave.brandenburg@united.com | Washington Dulles Int'l Airport Roy Fuller-Manager Maint 703-572-1805 Roy.fuller@mwaa.com | Miami-Dade Co. Aviation Dept. Carlos Jose-Asst. Director 305-876-8398 cjose@miami-airport.com DShore@miami-airport.com |
| 10. Rate their level of corporate management cooperation on a scale of 1 to 5? | | | 5, Corporate support has been unflinching |
| 11. Rate their responsiveness on a scale of 1 to 5? | | | 5 |
| How compliant are they to following instructions? | | | 5 |
| How are they at following directives? | | | 5 |
| 12. Rate the employee appearance on a scale of 1 to 5? | | | 5 – employee's must wear uniforms and special hats that look like baseball hats but are hard hats as the area they work in has many low-hanging obstacles. |

| | Reference 1 | Reference 2 | Reference 3 |
|---|--|---|--|
| <p align="center"><u>REFERENCE CHECK QUESTIONS</u></p> | <p>United Airlines @Houston George Bush Intercontinental Airport Dave Brandenburg-Dir. Facilities 281-553-8588 dave.brandenburg@united.com</p> | <p>Washington Dulles Int'l Airport Roy Fuller-Manager Maint 703-572-1805 Roy.fuller@mwa.com</p> | <p>Miami-Dade Co. Aviation Dept. Carlos Jose-Asst. Director 305-876-8398 cjose@miami-airport.com DShore@miami-airport.com</p> |
| <p>13. Comments?</p> | | | <p>JBT has done an outstanding job for MIA. They are the O&M vendor on the first in-line-screening/automated sortation BHS at MIA and has had to be pro-active from the start given the uncertainty of system performance. The in-line system serves over 25 different carriers – mostly international and their passengers carry / check very large and diverse bags. JBT has been instrumental in working with the carriers to effectuate change with the airlines and their ticket agents on proper baggage induction as well as with the TSA on customer service issues. Truly they have been more of an extension of staff than just another vendor – taking pride in their work product.</p> |

**Miami-Dade County
Office of the Inspector General**

Exhibit 3

**Email String from Mr. Lopez of JBT to Ms. Shore dated 8/28/2013, Regarding
Oxford's Performance at MIA
(8 pages)**

OIG Case No. 15-0027-I

From: Shore, Debra (Aviation)
Sent: Wednesday, August 28, 2013 2:42 PM
To: 'Lopez, Gilbert'
Subject: RE: Oxford can't keep the system maaaaan.

Not going to do anything

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

From: Lopez, Gilbert [<mailto:Gilbert.Lopez@JBTC.COM>]
Sent: Wednesday, August 28, 2013 2:41 PM
To: Shore, Debra (Aviation)
Subject: RE: Oxford can't keep the system maaaaan.

The actual repair was acceptable the response time was awful from being informed to starting the repairs look at the length of time fortunately the customer did not suffer because we took him in house ...see reports from MDAD for that day and check to the info Neil wrote do not do anything crazy

From: Shore, Debra (Aviation) [<mailto:Debbie@miami-airport.com>]
Sent: Wednesday, August 28, 2013 2:37 PM
To: Lopez, Gilbert
Subject: RE: Oxford can't keep the system maaaaan.

So just for information – how long did the repair work actually take – or should I say how long would JBT have needed to repair?

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

From: Lopez, Gilbert [<mailto:Gilbert.Lopez@JBTC.COM>]
Sent: Wednesday, August 28, 2013 2:27 PM
To: Shore, Debra (Aviation)
Subject: RE: Oxford can't keep the system maaaaan.

At or around 11am

From: Shore, Debra (Aviation) [<mailto:Debbie@miami-airport.com>]
Sent: Wednesday, August 28, 2013 2:24 PM
To: Lopez, Gilbert
Subject: RE: Oxford can't keep the system maaaaan.

When was this fixed?

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

From: Lopez, Gilbert [<mailto:Gilbert.Lopez@JBTC.COM>]
Sent: Wednesday, August 28, 2013 2:22 PM
To: Shore, Debra (Aviation)
Subject: FW: Oxford can't keep the system maaaaan.

Jose to provide follow up curious last pm documented for this carousel 47

From: Jose Almeida [<mailto:jose.almeida@jbtsservices.com>]
Sent: Wednesday, August 28, 2013 2:20 PM
To: Lopez, Gilbert
Subject: Fwd: Oxford can't keep the system maaaaan.

Jose Almeida

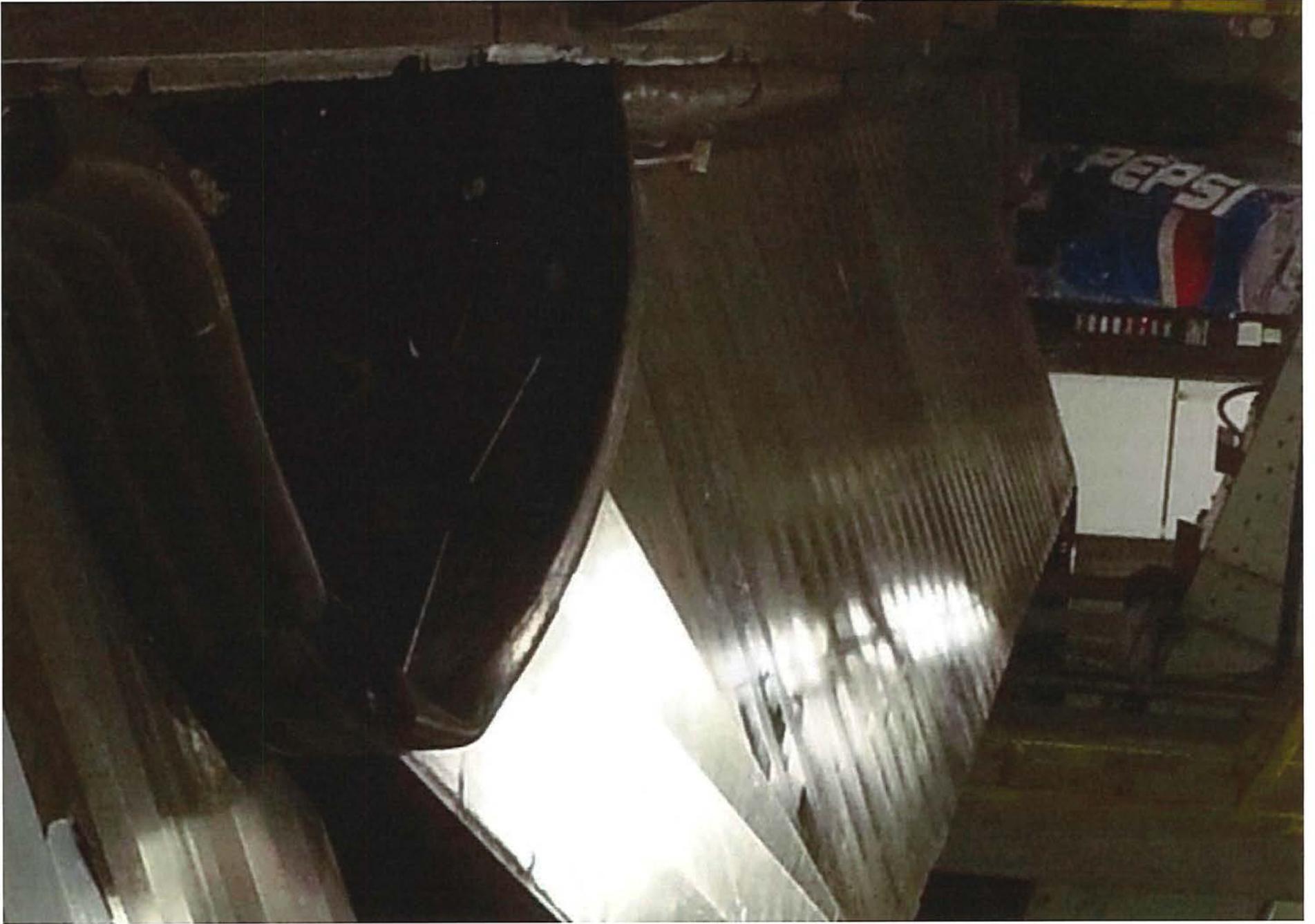
Begin forwarded message:

From: Alonzo <pra1012@gmail.com>
Date: August 24, 2013, 10:14:15 EDT
To: jose.almeida@jbtsservices.com
Subject: Oxford can't keep the system maaaaan.
Reply-To: Alonzo <pra1012@gmail.com>

This problem started around 8:30am today. It is 10:15 and nobody working on it yet. JBT rose to the challenge and redirected the Cuba flights to the piers.

Sent from my Galaxy S®III













**Miami-Dade County
Office of the Inspector General**

Exhibit 4

**AMC Letter dated 8/29/2013 and Related Emails Regarding its Grave Concerns
About Oxford's Ability to Perform the Contract
(2 pages)**

OIG Case No. 15-0027-I

From: Pyatt, Ken (Aviation)
Sent: Monday, September 09, 2013 4:03 PM
To: Murray, David M. (Aviation)
Subject: FW: BHS CONTRACT
Attachments: amc bhs final doc.doc

FYI

Ken Pyatt
Deputy Director
Miami-Dade Aviation Department
Tel: (305) 876-7129
Fax: (305) 876-0948
Email: kpyatt@miami-airport.com
"Delivering Excellence Every Day"

From: ashutosh.kaul@dlh.de [mailto:ashutosh.kaul@dlh.de]
Sent: Monday, September 09, 2013 1:50 PM
To: Pyatt, Ken (Aviation)
Subject: FW: BHS CONTRACT

Dear Ken,
Thanks for taking time to speak to us with regards to our concerns with the BHS contract. Please see attached our request.

Best Regards
Ashu

Ashutosh Kaul
Station Manager-MIAST

Lufthansa German Airlines
MIAST
PO Box 261225
Miami International Airport
Miami FL 33126
Phone: 305-526-6560
Mobile: 305-766-3219
Fax: 305-526-1100
E-Mail: ashutosh.kaul@dlh.de

Sitz der Gesellschaft / Corporate Headquarters: Deutsche Lufthansa Aktiengesellschaft, Koeln, Registereintragung / Registration: Amtsgericht Koeln HR B 2168
Vorsitzender des Aufsichtsrats / Chairman of the Supervisory Board: Wolfgang Mayrhuber
Vorstand / Executive Board: Dr. Christoph Franz (Vorsitzender / Chairman), Simone Menne, Carsten Spohr, Dr. Bettina Volkens, Harry Hohmeister

Email Scan by McAfee

August 29, 2013

Mr. Ken Pyatt
Deputy Director Aviation
Miami International airport
Miami, Florida

Dear Ken,

The purpose of this letter is to express our grave concern from all the carriers operating out of south terminal over the recommendation to award the Baggage Handling Systems Operations and Maintenance Contract to Oxford Airport Technical Services. As the President of the Airline Management Council (AMC), I would like to raise our concern which stems solely from the desire to ensure the efficient functioning of the BHS at Miami International Airport. The BHS constitutes the circulatory system for the entire airport. If it fails to run efficiently, all other aspects of airport operations will suffer and will undoubtedly severely and negatively impact the image and reputation of MIA and its airline partners with the traveling public.

The new contract calls for the consolidation of BHS O&M services for all terminals, except American Airline's outbound system. At present the entire scope of service is maintained with approximately 92 employees.

It is also our understanding that the scope of services for the new contract covers additional areas and responsibilities not currently included in the existing contract.

Oxford, the entity recommended for award, proposes to provide anywhere from 48 to 61 employees to staff the entire scope of services under the new contract. As such, Oxford proposes to do more work with 33% to 52% less staff. Although the cost-savings proposed by Oxford seem tempting, your airline partners cannot possibly understand how Oxford can provide proper service without jeopardizing operational performance of the entire airport. We, the MIA airline community, fully understand that saving cost is a big priority for everyone but at the same time we have to provide high quality of service to our customers. We are concerned that the airlines may have to face dissatisfied customers as well as the increased costs incurred due to any failures in the system and the lack of services.

On behalf of the airlines I would kindly request you to look into the awarded contract and do all that is possible to ensure that the current service level standards are met and or are improved upon.

Looking forward to our continued partnership.

Sincerely

Ashutosh Kaul
President Airlines Management council

**Miami-Dade County
Office of the Inspector General**

Exhibit 5

**Letter from Mr. Binish of AvAirPros,
Critical of Oxford's Ability to Perform the Contract
(6 pages)**

OIG Case No. 15-0027-I

From: Robert Binish

Sent: Tuesday, November 26, 2013 2:27 PM

To: Betancourt, Pete J. (Aviation) (PJBETANCOURT@miami-airport.com)

Cc: r.binish@avairpros.com; David M. Murray (dmmurray@miami-airport.com)

Subject: MIA CBIS/BHS O&M: Airport comparisons and O&M questions

Pete;

As requested kindly note contacts related to Oxford Airport Technical Services for CBIS/BHS O&M services contained in the airport descriptions below. I would note the following:

- Based upon the sample of international airports provided below, it appears that Oxford has very limited long term experience operating CBIS/BHS installations at large international gateways to the United States.
- Primary large CBIS/BHS experience for Oxford is JFK Terminal 5 CBIS/BHS has been operational since 2009 and serves jetBlue hub with limited Caribbean and Mexico international flights.
- In 2013 Oxford was the lowest apparent bidder for two new international CBIS operations at HNL and ORD T5 and a CBIS was added to the JFK Terminal 1 BHS:
 - HNL: Oxford took over CBIS/BHS O&M services starting in October 2013 and the bag volume averages about 10,000 bags per day over four in-line CBIS/BHS Lobbies. Note that Oxford was the only bid respondent and contract negotiations were difficult. Oxford parent company WFS provides management services over Oxford at HNL.
 - ORD T5: Oxford took over CBIS/BHS O&M services starting in July 2013 and the bag volume averages about 13,400 bags per day. Note that Oxford provided a very low initial bid and demanded a union affiliation change resulting in very contentious startup – oxford has a master service agreement with the transportation workers union.
 - JFK T1: Oxford has provided O&M for the BHS at Terminal 1 and the CBIS equipment was added to the existing BHS to create an integrated CBIS/BHS WITH INTEGRATED OPERATIONS COMMENCING IN September 2013. Previously this system did not have an attended control room. Oxford also provided BHS mechanical installation services to VanDerLande and did not perform as required during the mechanical installation phase.

Areas where I would suggest that MDAD focus any follow-up questions would include:

- What software system does Oxford use for the Computerized Maintenance Management System (CMMS)?
- Where is this system being used by Oxford?
- From an existing CMMS provide a scheduled Preventative Maintenance Work Order for review.
- Define the spare parts procurement process including payment cycles.
- Define the role of Oxford parent company Worldwide Flight Services.
- Define Oxford relationship with the transportation Workers Union and provide copy of any master agreement
- Define staffing levels for the various functions?
- Are Oxford O&M personnel cross utilized for other O&M functions (such as jet bridges); and, if so is the response time on the CBIS/BHS sufficient to maintain CBIS/BHS operational?

Last week we discussed CBIS/BHS O&M at airports with large international traffic volumes. In reviewing this request the following factors were considered:

- Airport as a primary international gateway to the UA
- International traffic as a percentage of airport traffic
- number of international gates
- does the international operation have a CBIS
- Is there a control room for the CBIS/BHS
- Who provides CBIS/BHS Operations & Maintenance

Contact information for those locations where oxford provides CBIS/BHS O&M services at internationally focused locations are provided below under the appropriate airport section. Similar contacts can be provided for JBT AeroTech as well is requested.

For your consideration kindly note the following as it relates to international airports comparable to MIA:

Atlanta Hartsfield Jackson International Airport (ATL)

- Category X airport
- International traffic in Jan 2013: Domestic 3,121,255; International 360,547; Total 3,481,802 => International traffic at ~12%
- International departures at International Concourse E and F Building – 30 gates at Concourse E Recheck CBIS plus 14 gates at International/Concourse F
- CBIS Operations for international flights:
 - Ticketing South CBIS/BHS - Delta Airlines personnel
 - Ticketing North CBIS/BHS – Atlanta Airport Terminal Corporation
 - Concourse E Recheck CBIS - In-Line CBIS completed in 2009 with manned CBIS/BHS control Room
 - International Terminal /Concourse F – In-Line CBIS completed in 2013 with manned CBIS/BHS control Room -
- O&M Entity
 - International Terminal /Concourse F and Concourse E Recheck CBIS/BHS – Delta Airlines personnel

Boston Logan International Airport (BOS)

- Category X airport
- International traffic in Jan 2013: Domestic 1,725,706; International 287,024; Total 2,012,730 => International traffic at ~16%
- International departures at International Concourse A, B, C and E
- CBIS Operations for international flights:
 - Terminal A – Alaska, Delta and United (limited international departures)
 - Terminal B – US Airways and American (limited international departures)
 - Terminal C – Jet Blue and United (limited international departures)
 - Terminal E – International Airline departures -
- O&M Entity
 - Terminal A BHS – ABM
 - Terminal B BHS - American airlines personnel, JBT AeroTech
 - Terminal C BHS – Oxford

- Terminal E BHS – Cofely
- All CBIS installations at Terminals A, B C and E - Cofely

Chicago O'Hare International Airport (MIA)

- Category X airport
- International traffic in Jan 2013: Domestic 4,078,677; International 731,802; Total 4,810,479 => International traffic at ~15%
- International departures at Terminal 1 Concourses B and C, Terminal 2 Concourse E and F; Terminal 3 – Concourse G, H, K and L; and Terminal 5
- CBIS Operations for international flights:
 - Terminal 1 Concourses B and C – In-Line CBIS completed in 2008 and 2013 with O&M services by United Airlines Personnel
 - Terminal 2 Concourse E and F – None
 - Terminal 3 – Concourse G, H, K and L – In-Line CBIS completed in 2008 with O&M services by American Airlines Personnel
 - Terminal 5 - In-Line CBIS completed in 2011 with manned CBIS/BHS control Room and CBIS/BHS O&M by Linc Systems prior to July 2013 and Oxford after July 2013. Daily bag volume averaged ~13,400 bags per day.

Contact at Terminal 5 related to Oxford O&M services is Mr. Jack Ranttila; CIVATEC Executive Director; 773-894-2525

Dallas Fort Worth International Airport (DFW)

- Category X airport
- International traffic in Jan 2013: Domestic 2,362,824; International 251,559; Total 2,314,383 => International traffic at ~11%
- International departures at International Terminal D Building – 28 gates
- CBIS Operations for international flights:
 - International Terminal D Building - In-Line CBIS completed in 2005 with manned CBIS/BHS control Room
- O&M Entity
 - International Terminal D CBIS/BHS – VanDerLande Industries

Honolulu International Airport (HNL)

- Category X airport
- International departure at OverSeas Terminal Building – 29 gates
- CBIS Operations for international flights:
 - Lobby 4 - In-Line CBIS completed in ~2009 with manned CBIS/BHS control Room
 - Lobby 5 - In-Line CBIS completed in ~2009 with manned CBIS/BHS control Room
 - Lobby 6 – Stand-alone system
 - Lobby 7 - In-Line CBIS completed in ~2011 with manned CBIS/BHS control Room
 - Lobby 8 - In-Line CBIS completed in ~2010 with manned CBIS/BHS control Room
- Average daily bag volume through Lobbies 4, 5, 7 and 8 is ~10,600 bags per day
- O&M Entity
 - Prior to October 2013: State of Hawaii managed Elite Line Services (ELS) for CBIS/BHS O&M services
 - Subsequent to October 2013 Airline Committee of Hawaii manages Oxford Airport Technical Services for CBIS/BHS O&M

Contact at Terminal 5 related to Oxford O&M services is Mr. Alan Ogawa/AvAirPros;
Representative for Airline Committee of Hawaii; 310-387-8897

Houston International Airport (IAH)

- Category X airport
- International traffic in Jan 2013: Domestic 1,194,694; International 377,581; Total 1,572,275 => International traffic at ~11%
- International departures at International Terminal D Building – 13 gates plus International departures for UA/Continental from Terminals A, B and C
- CBIS Operations for international flights:
 - International Terminal Building - In-Line CBIS completed in 2009 with manned CBIS/BHS control Room
- O&M Entity
 - Terminals A, B and C - JBT AeroTech with average bag volume in excess of 30,000 bags per day in excess of 10 years
 - International Terminal D Building – JBT AeroTech with average bag volume in excess of 6,500 bags per day in excess of 5 years; took over system O&M from Oxford

Kennedy International Airport (JFK)

- Category X airport
- International traffic in 2012: Domestic 24,217,083; International 25,075,650; Total 49,292,733 => International traffic at ~52%
- International departures at
 - Terminal 1 – 11 gates
 - Terminal 2 – ~7 gates
 - Terminal 4 – 26 gates
 - Terminal 5 – 26 gates
 - Terminal 7 – 12 gates; and
 - Terminal 8 – domestic and international AA ~ 26 gates
- CBIS Operations for international flights:
 - Terminal 1 – new In-Line CBIS operational September 2013 with manned CBIS/BHS control Room
 - Terminal 2 – stand alone screening
 - Terminal 4 – new In-Line CBIS operational July 2013 with manned CBIS/BHS control Room
 - Terminal 5 – In-Line CBIS completed in ~2009 with manned CBIS/BHS control Room
 - Terminal 7 – stand alone screening
 - Terminal 8 – In-Line CBIS completed in ~2009 with manned CBIS/BHS control Room
- O&M Entity
 - Terminal 1 – TOGA Consortium with Oxford providing BHS O&M until October 2013 when In-Line CBIS became operational. Daily bag volume average is approximately 9,400 bags per day
 - Terminal 2 – Delta Airlines personnel
 - Terminal 4 – Delta Airlines personnel
 - Terminal 5 – Oxford Airport Technical Services
 - Terminal 7 – United Airlines
 - Terminal 8 – American Airlines personnel

Contact at Terminal 1 related to Oxford O&M services is Mr. Edward Paquette; TOGA Executive Director; 718-751-1701 or Mr. Robert Binish, AvAirPros Vice President 972-800-6203 related to recent CBIS project.

Contact at Terminal 5 related to Oxford O&M services is Mr. Jeffrey Nesbit with jetBlue; 718-709-3093.

Los Angeles International Airport (LAX)

- Category X airport
- International traffic in Jan 2013: Domestic 3,655,638; International 1,419,642; Total 5,075,280
=> International traffic at ~29%
- International departures at
 - Terminal 2 – 13 gates
 - Terminal 4 – 13 gates
 - Terminal 5 – 14 gates
 - Terminal 7 – 15 gates; and
 - Tom Bradley International Terminal – 17 gates
- CBIS Operations for international flights:
 - Terminal 2 – stand alone screening
 - Terminal 4 – stand alone screening
 - Terminal 5 – In-Line CBIS completed in 2011 with manned CBIS/BHS control Room
 - Terminal 7 – stand alone screening
 - Tom Bradley – In-Line CBIS completed in 2010 with manned CBIS/BHS control Room
- O&M Entity
 - Terminal 2 – Lax 2 Consortium with JBT AeroTech
 - Terminal 4 – American Airlines
 - Terminal 5 – JBT AeroTech
 - Terminal 7 – United Airlines
 - Tom Bradley – TBITEC Consortium with Elite Line Services

Miami International Airport (MIA)

- Category X airport
- International traffic in Jan 2013: Domestic 894,877; International 867,620; Total 1,762,497 => International traffic at ~48%
- International departures at North Terminal Concourse D, Central Terminal Concourses E, F and G, South Terminal Concourses H and J
- CBIS Operations for international flights:
 - North Terminal Concourse D – In-Line CBIS completed in 2011 with Control Room staffing by Oxford, In-line CBIS Maintenance by American Airlines personnel
 - Central Terminal Concourses E and G – stand alone screening with BHS O&M by Oxford
 - Central Terminal Concourse F – stand alone screening with BHS Sortation System O&M by JBT AeroTech
 - South Terminal Concourses H and J - In-Line CBIS completed in 2008 with manned CBIS/BHS control Room and CBIS/BHS O&M by JBT AeroTech. Daily bag volume averaged ~14,500 bags per day
 - International Terminal /Concourse F – In-Line CBIS completed in 2013 with manned CBIS/BHS control Room

San Francisco International Airport (SFO)

- Category X airport
- International traffic in Jan 2013: Domestic 1,221,356; International 337,329; Total 1,558,685 => International traffic at ~26%
- International departures at International Terminal Building – 24 gates
- CBIS Operations for international flights:
 - International Terminal Building - In-Line CBIS completed in 2002 with manned CBIS/BHS control Room with Recapitalization project in progress
- O&M Entity
 - International Terminal CBIS/BHS – SFOTEC Consortium with Elite Line Services

Seattle-Tacoma International Airport (SEA)

- Category X airport
- International traffic in Jan 2013: Domestic 1,079,787; International 132,852; Total 1,212,639 => International traffic at ~12%
- International departures at multiple Concourses
- O&M Entity
 - All CBIS/BHS O&M by Port of Seattle personnel

My opinion is that when reviewing comparable Category X airports with large international flight activity that are similar to MIA it is apparent that Oxford's CBIS/BHS experience base is limited and this will be of detriment to the O&M of the mission critical CBIS/BHS infrastructure and impact overall customer service at MIA.

Kindly advise if you need any additional information.

Robert G. Binish, P.E.
AvAirPros
5551 Ridgewood Drive
Suite 300
Naples, Florida 34108
972.800.6203 Mobile
R.Binish@AvAirPros.com

**Miami-Dade County
Office of the Inspector General**

Exhibit 6

**AMC Out-of-Country Workshop Agenda Showing Itinerary, Sponsors,
and List of Attendees**

(4 pages)

OIG Case No. 15-0027-I



Miami A.M.C. Out of Country Workshop

AGENDA

October 24-28th

Carnival
VICTORY

Miami -Key
West- Cozumel



✚ **Thursday October 24, 2013 -**

✚ **1:00p.m. SUPERSHUTTLE** vans

leave from upper Drive Concourse E to
Port Miami

✚ **VIP Check In Port Miami**

7:15p.m.- Cocktail Reception

Hosted by JBT Aero

ADRIATIC Aft Lounge Promenade Deck

✚ **Friday October 25, 2013**

✚ **Key West**

✚ **1200Noon - General Session Meeting
/ Luncheon**

SLOPPY JOE's Duval Street Key West

Sponsor -

**Eulin/JBTAero/Swissport/Triangle
/Servicesair**

Friday Oct 25, 2013 (Cont.)

✚ 7:15p.m. Cocktail Reception Irish Seas Piano Bar
Hosted by the Miami Airline Management Council

Saturday October 26, 2013

Cozumel, Mexico

Beach Day, Swim with the Dolphins, Mexican Cuisine, Snorkeling, Diving

Sunday October 27, 2013

Day at Sea

✚ 2:00p.m. - *Poolside Games*

✚ 7:15p.m. - *Cocktail reception Host – SWISSPORT Location*
Caspian Wine Bar - Promenade Deck

✚ 8:00p.m. *Group Picture - TBA*

✚ *Wine at Dinner Courtesy of SWISSPORT*

Monday October 28, 2013

0900- Disembarkation

0915 SUPERSHUTTLE Vans return to Airport

ONBOARD CABIN CREDIT \$100.00 PER CABIN

*Provided by **DIRECT LINE TRAVEL AND CRUISES***

Your onboard account has been credited \$100.00 for your choice
of activities or onboard purchases.

Attendees

| | LAST NAME | FIRST NAME | Company | Cabin |
|----|---------------|--------------|---------------------|-------|
| 1 | SHORE | DEBRA JO | Miami Dade Aviation | 1371 |
| 1 | | | | |
| 2 | BURKE-WHEELER | DIALIS | Miami Dade Aviation | 1271 |
| 2 | WHEELER | CARL | | |
| 3 | ALMEIDA | JOSE ERNESTO | JA Airport Services | 1047 |
| 3 | MONTENEGRO | ANA | | |
| 4 | LOPEZ | GILBERT | JBT Aero | 1046 |
| 4 | LOPEZ | CHRISTINA | | |
| 5 | RAMOS | RICARDO | Swissport | 1366 |
| 5 | CORREDOR | MARGARITA | | |
| 6 | DIAZ | ADAM | Swissport | 1348 |
| 6 | Ventura | Gabriela | | |
| 7 | Souesi | Yasser | Swissport | 1262 |
| 7 | Abeiga | Grace | | |
| 8 | Sottorio | Anna | Eulen | 1043 |
| 8 | Sottorio | Carlos | | |
| 9 | Blandon | Desiree | Serviceair | 1067 |
| 9 | Blandon | Arianna | | |
| 10 | Carmona | Laura | Triangle | 1042 |
| 10 | Garces | Adriana | | |
| 11 | Gordon | Ken | United | 1056 |

| | | | | |
|----|-----------------|--------------|-------------|------|
| 11 | Gordon | Ivonne | | |
| 12 | Miranda | Ramiro | Serviceair | 1030 |
| 12 | | | | |
| 13 | Sierra | Jose | Smart Carte | 2254 |
| 13 | Rivero | Isabel | | |
| 14 | Ahlstrom | | JBT Aero | 2461 |
| | | Brent/Gail | | |
| 15 | Binnish | Robert/Maria | AvAirPro's | 1010 |

Travel Hints and Suggestions

Before you go

- *Check in ONLINE now for your Cruise*
- *Cruised With CARNIVAL before add your VIFP number*
- *Remember your onboard account starts with a \$100.00 credit per cabin*
- *See Any Shore excursions you like? Book them online in advance to ensure that you will be booked*
- *Wine or Champagne 1 bottle per Adult may be brought on board*
- *Gratuities run about \$11.25 per day per person and may be put on your onboard account (suggested)*

Onboard

- *Check with your cellular carrier regarding data plans and roaming costs or <http://www.cellularatsea.com/>. Good hint is to turn off data roaming on board and definitely in Mexico.*

**Miami-Dade County
Office of the Inspector General**

Exhibit 7

AvAirPros' "How-to-Vote Spreadsheet"
(1 page)

OIG Case No. 15-0027-I

| Evaluation Factor | Maximum Available Points |
|---|--------------------------|
| A) Experience in Operating and Maintaining complex automated baggage sortation systems including Checked Baggage Inspection Systems at a major airport, handling 15,000 bags per day | 20 |
| B) Organizational Chart, Staffing Plan and specialized experience of the personnel committed to this project. Preference will be given to proposers whose personnel for the work of this contract have specific experience in maintenance of inbound baggage handling systems, automated baggage handling systems, TSA Checked Baggage Inspection Systems, airport security door systems and related equipment of comparable size and/or complexity to the types of systems used at MOA and outlines in the RFP. a) Contingency Plan b) Configuration Management Plan c) CMMS Reports Logs | 20 |
| C) Quality, sufficiency, and completeness of the Proposers submitted Plan of Action (10 Points), Training Plan (10 Points), Maintenance Plan (10 Points), Quality Control Plan and Safety Plan (10 Points) | 40 |
| MAXIMUM TOTAL POINTS | 80 |

SCORE RANKING

| ELS/Webb - Joint Venture | |
|--------------------------|--|
| Recommended Points | Comments |
| 16 | <p>GOOD</p> <p>MINUS: References at TBIT and PHX indicate weakness in managing spare parts inventory, management of labor, staffing levels and PM performance NEUTRAL: References for MSP and DTW for Delta indicates operations are primarily for domestic operations with minimal international daily bag volumes; but large daily bag volumes. MIA will be predominately international bags. PLUS: YZ experience is for mixed use terminal, large system, inbound & Outbound operations with WebView. No labor issues noted.</p> <p>FAIR</p> <p>MINUS: Site Manager does not meet minimum internal ELS requirements and alternate Site Manager suggested without providing name - suggests that this person is not yet an ELS employee. This will be significant risk to MDAD in that this potential new manager will not be familiar with ELS procedures and policies. MINUS: Qualification of "GO Team" for transition not clearly defined. MINUS: No named personnel for Shift Supervisors - these are key day to day operational staff. Impact to implementation of contingency operations and relationships with MDAD and Airlines MINUS: 95 personnel proposed to be hired in 4 weeks, trained, badged and familiar with multiple systems MINUS: Shift supervisors (key personnel) paid less than MRT this will lead to turnover - as experienced at other locations - and put MIA at risk MINUS: Proposed CSBE firms have not specific experience for the job types indicated MINUS: No experience with MIA contingency operations</p> <p>GOOD</p> <p>Plan of Action: Plan is complete; however, hiring and badging 95 personnel in four weeks is highly problematic. 7 points Training Plan: Plan is complete; however, training 95 personnel including Site Manager and four Shift Supervisors is problematic. 7 points Maintenance Plan: Plan is comprehensive, good suggestions to improve system reliability. CMMS data migration may be an issue to be monitored. 10 points Quality & Safety Plan: Plan is comprehensive and safety specifics are included. 9 points</p> |
| 62 | ELS/Jevis Webb Total Score |
| | RANK 2 |

| JBT Airport Services | |
|----------------------|---|
| Recommended Points | Comments |
| 19 | <p>EXCELLENT</p> <p>PLUS: Site Manager and Shift Supervisors have multiple years experience operating and maintaining the MIA South Terminal CBIS NEUTRAL: References do not indicate pattern of poor performance or poor personnel supervision/retention. PLUS: MIA South CBIS is Webb equipment and WebView Control System PLUS: Dulles CBIS is Webb equipment and WebView Control System</p> <p>EXCELLANT</p> <p>PLUS: Site Manager is a known element to MDAD and Airlines and will continue to provide quality service. PLUS: Four Shift Supervisors are known elements to MDAD and Airlines and will continue to provide quality service including ability to implement contingency operations with minimal risk to operations. PLUS: Minimal hiring of additional personnel will be required to fully staff project requirements. PLUS: No transition team, transition plan or use of Transition Allowance Account is required. NEUTRAL: Control Expertise is not resident at MIA; however, JBT indicates subcontract with Jevis Webb to support WebView as is currently the accepted approach. NEUTRAL: JBT did not submit Contingency Plan and Configuration Management Plan; however, JBT developed the current contingency plan and configuration management plan for the South Terminal so JBT is versed in MIA requirements.</p> <p>GOOD</p> <p>Plan of Action: Plan is comprehensive, hiring and badging an additional 10 personnel in four weeks should be a straightforward task with minimal risk. 9 points Training Plan: Plan is comprehensive and is in place; training approximately 10 additional personnel should be a straightforward task with minimal risk. 9 points Maintenance Plan: Plan is comprehensive, South Terminal CBIS/BHS is in good operational condition, JBT needs to be more proactive in providing suggestions to improve system reliability. CMMS data migration from Central Terminal may be an issue to be monitored. 8 points Quality & Safety Plan: Plan is comprehensive; safety record on site is very good. 9 points</p> |
| 72 | JBT Total Score |
| | RANK 1 |

| Oxford Airport Technical Services | |
|-----------------------------------|---|
| Recommended Points | Comments |
| 13 | <p>GOOD</p> <p>PLUS: Oxford experience at JFK TS is on Siemens equipment. Webb equipment being installed under terminal expansion project. NEUTRAL: Oxford has long term acceptable experience at JFK Terminal 1; however, HNL and ORD experience is limited to less than 18 months. NEUTRAL: References for JFK and BOS indicates operations for JetBlue are primarily for domestic operations with minimal international daily bag volumes; but large daily bag volumes. MIA will be predominately international bags. NEUTRAL: Oxford lists transitioning to IBM Maximo CMMS at several locations; this will be critical to maintaining the continuity of MIA operations. MINUS: MIA experience with TSA systems does NOT include In-Line Automated CBIS</p> <p>FAIR</p> <p>MINUS: Proposal states 64 personnel required and personnel will be cross utilized to staff Manual Encode and Jam Clearing. MINUS: Site Manager is listed as an employee of both Oxford and United Airlines. Oxford does not indicate that this person will be a full time Oxford employee for this contract. MINUS: Qualification of "GO Team" for transition not clearly defined. MINUS: No named personnel for Shift Supervisors - these are key day to day operational staff. Existing staff appears not to be qualified as Shift Supervisor. Impact to implementation of contingency operations and relationships with MDAD and Airlines MINUS: Existing staff is listed as 17, Oxford will be required to hire, train, badge and familiarize either 47 to 70 additional personnel proposed to be hired in 4 weeks on multiple systems MINUS: No experience with MIA South Terminal CBIS contingency operations</p> <p>GOOD</p> <p>Plan of Action: Plan is complete; however, hiring and badging up to 70 personnel in four weeks is highly problematic. 7 points Training Plan: Plan is complete; however, training 70 personnel including four Shift Supervisors is problematic. 7 points Maintenance Plan: Plan is comprehensive, good suggestions to improve system reliability. CMMS data migration is an issue that will need to be monitored due to the indication that Oxford is transitioning to Maximo across all of their other O&M locations. 8 points Quality & Safety Plan: Plan is acceptable; however minimal specifics are provided and no safety history indicated. 6 points</p> |
| 54 | Oxford Total Score |
| | RANK 3 |

Scoring Range
Excellent : 18 - 20
Good : 14 - 17
Fair : 10 - 13
Poor : 0 - 9

**Miami-Dade County
Office of the Inspector General**

Exhibit 8

**Email Between Selection Committee Members Xiomara Winklaar and Debra Shore
dated 1/26/2015
(2 pages)**

OIG Case No. 15-0027-I

From: Xiomara Winklaar (CM) <xwinklaar@copaair.com>
Sent: Monday, January 26, 2015 2:20 PM
To: Shore, Debra (Aviation)
Subject: FW: RFP No. MDAD-11-14 BHS O+M at MIA (Draft Presentation Information)

Importance: High

Categories: Red Category

Debbie....can we meet sometime this week or next?

Xiomara L. Winklaar
Station Manager | Miami International Airport | **Copa Airlines**
Miami, FL | ☎ (305) 869-1924 | copa.com |



From: Betancourt, Pete J. (Aviation) [mailto:PJBETANCOURT@miami-airport.com]
Sent: Monday, January 26, 2015 12:19 PM
To: Miller, Brian (Brian.Miller@delta.com); Xiomara Winklaar (CM); Payne, Melvin (Aviation); Chris Bradley (c.bradley@avairpros.com); Shore, Debra (Aviation)
Cc: Clark-Vincent, Marie (Aviation); Murray, David M. (Aviation); CLERKBCC@MIAMIDADE.GOV
Subject: RFP No. MDAD-11-14 BHS O+M at MIA (Draft Presentation Information)
Importance: High

Good afternoon Committee Members.

At the January 22nd prescreening meeting for the referenced solicitation, the Committee recommended that the firms cover specific critical areas in their respective presentations scheduled for February 12, 2015.

Based on my notes and video recording of the meeting (January 22nd), the Committee has requested that all firms include in their presentations the following areas:

- Firms experience as it relates to the evaluation criteria (see RFP Section 4.2, Evaluation Process)
- Contingency Planning and Training (activation protocol, examples from other airports)
- Staffing deployment as it relates to ramp-up
- Configuration management (provide examples from other airports)
- Equipment reliability testing, preventive, conditional and corrective maintenance
- Software maintenance and support (CMMS and other supporting software)
- Inventory management (inventory control, safety stock and critical spare parts management)
- Discuss response time and what metrics are utilized to determine those response times
- What is your firm including in the General Conditions (Expense Categories) (Section 2.0, Appendix B – Price Proposal Form)

Please feel free to add, revise accordingly and return to my attention no later than Thursday, January 29, 2015.

Once again, your assistance with this solicitation is greatly appreciated.

Regards,

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pibetancourt@miami-airport.com

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**Miami-Dade County
Office of the Inspector General**

Exhibit 9a & 9b

**JBT Requests for Authorization to Subcontract with AvAirPros
dated 9/28/2015 and 1/1/2016**

(2 pages)

OIG Case No. 15-0027-I

JBT AeroTech
P.O. Box 62234
Miami, FL 33162
Phone 305.875.0234
Fax 305.875.0286

JBT AeroTech
18770 Imperial Valley Dr., Suite 425
Houston, TX 77060
Phone 832.389.1320
Fax 832.940.1340



September 28, 2015

Mr. Ricardo Sciarano
Construction Manager Facilities
Miami-Dade Aviation Department
P.O. Box 582075
Miami, FL 33169

Subject: ILDT - JBT Project Manager and Administration Assistance

Dear Ricardo,

As discussed and requested at the ILDT - Enabling meeting on Friday, September 25, 2015, JBT hereby requests authorization to subcontract AvAirPros at the standard M/A rate of \$225.00/hour for fifteen (15) hours per week, billed monthly at \$14,577.00; plus \$2,250.00 a month for expenses. In addition, JBT will hire one (1) support staff for the life of the project at a monthly rate of \$5,181.67.

Please note that AvAirPros support concludes December 31, 2015 and their future participation will be revisited with you, at that point and time.

Price Breakdown:

| | |
|-------------------------------------|-------------|
| AvAirPros Support | \$16,827.00 |
| JBT Support Staff | \$ 5,181.67 |
| JBT 10% Contractual Overhead/Profit | \$ 2,200.87 |
| Total | \$24,209.54 |

Authorization to Proceed:

Name

PEDRO HERNANDEZ

Assistant Director

Title

Oct 21, 2015

Date

Note: Signature denotes Miami-Dade Aviation Department's approval to proceed as detailed above.

If you have any questions, please feel free to contact me.

Sincerely,

Gil Lopez
Regional Manager
JBT AeroTech

PEASOL AVIATION TOFRA KT 94 250

JBT 02841

JBT AeroTech
P.O Box 522244
Miami, FL 33152
Phone 305 876 0294
Fax 305 876 0295

JBT AeroTech
16770 Imperial Valley Dr., Suite 125
Houston, TX 77060
Phone 832 399 3700
Fax 832 399 3740



January 1, 2016

Mr. Ricardo Solorzano
Construction Manager Facilities
Miami-Dade Aviation Department
P.O. Box 592075
Miami, FL 33169

Subject: ILDT – JBT Project Manager and Administration Assistance

Dear Ricardo,

As discussed and requested at the ILDT – Enabling meeting on Friday, September 25, 2015, JBT hereby requests authorization to subcontract AvAirPros at the standard MIA rate of \$226.00/hour for fifteen (15) hours per week, billed monthly at \$14,577.00; plus \$2,250.00 a month for expenses. In addition, JBT will hire one (1) support staff for the life of the project at a monthly rate of \$5,181.67.

Please note that AvAirPros support will continue for the life of the project and/or until such time said contribution is no longer necessary.

Price Breakdown:

| | |
|-------------------------------------|-------------|
| AvAirPros Support | \$16,827.00 |
| JBT Support Staff | \$ 5,181.67 |
| JBT 10% Contractual Overhead/Profit | \$ 2,200.87 |
| Total Monthly Cost | \$24,209.54 |

Authorization to Proceed:

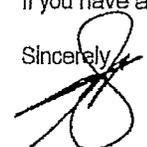

Name

PROJECT MANAGER
Title

2/24/16
Date

Note: Signature denotes Miami-Dade Aviation Department's approval to proceed as detailed above.

If you have any questions, please feel free to contact me.

Sincerely,


Gil Lopez
Regional Manager
JBT AeroTech

**Miami-Dade County
Office of the Inspector General**

Exhibit 10

**Emails from HNTB Regarding its Analysis of JBT/AvAirPros Invoices
(8 pages)**

OIG Case No. 15-0027-I

Reply Reply All Forward

Emails

Kurt Dobbrunz [KDobbrunz@HNTB.com]

To: Johnson, James (Aviation)

Cc: Jose M. Diaz - MIA [JDIAZ@HNTB.com]

Attachments: (2) Download all attachments

RE: JBT Inv 2016-0428 cursory...; Re: JOHN BEAN TECHNOLOGIES PR...

Friday, August 17, 2018 8:20 AM

You replied on 8/21/2018 8:40 AM.

This is an EXTERNAL email. **Exercise Caution.** DO NOT open attachments or click links from unknown senders or unexpected emails. Please use your Report Spam button if this is a suspicious message.

Jim,

In answer to your inquiry as to how HNTB rejected MDAD's submissions concerning the subject invoicing, please note that as part of our due diligence process in the performance of our duties under the Trust Agreement we review the associated contracts to help determine an invoice's eligibility for reimbursement from the Trust Account. In researching the archive, I located 2 Emails. Neither of which was an outright rejection, both requested further information, listed concerns, and requested verifications to allow for a complete evaluation.

Thanks,

Kurt Dobbrunz

Project/Section Manager

Tel (305) 551-8100 ext. 21436 Cell (305) 968-2690 Fax (305) 551-2100

HNTB CORPORATION

161 NW 6th Street, Miami, Florida 33021 Suite 1000 | www.hntb.com

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From: Cuellar, Leon (Aviation) [<mailto:LCUELLAR@miami-airport.com>]
Sent: Friday, June 17, 2016 1:24 PM
To: Lourdes Larrea; Kurt Dobbrunz
Cc: Gonzales, Jorge (Aviation); Westgate, Maribel (Aviation)
Subject: JBT Inv 2016-0428

Lourdes,

Based on our conversation, before we finalize our processing of the subject invoice, please review it to determine if it is satisfactory to HNTB.

We intend to book the invoice to project T042A.

Thanks,

Regards,

Leon Cuellar

Aviation Cost Analyst

Miami-Dade Aviation Dept. - Program Controls

Miami International Airport

PO Box 526624

Miami FL 33152-6624

(305-876-8485

cid:image004.jpg@01D0D5CD.59326030

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The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and are thus subject to disclosures. All e-mail sent and received is captured by our server and kept as a public record.

RE: JBT Inv 2016-0428 cursory review

Kurt Dobbrunz [KDobbrunz@HNTB.com]

Sent: Wednesday, June 22, 2016 11:08 AM

To: Cuellar, Leon (Aviation); Lourdes Larrea

Cc: Gonzales, Jorge (Aviation); Westgate, Maribel (Aviation); Jose M. Diaz - MIA [JDIAZ@HNTB.com]

Attachments: image001.png (2 KB) ; image002.png (2 KB) ; image004.png (2 KB) ; image005.jpg (1 KB) ; image006.jpg (4 KB)

Leon,

The invoice presented with your Email of June 17, 2016 requesting for a cursory review appears to have many of the same issues concerning payment that we noted in our March 4, 2016 e-mail.

We would like to direct your attention to the following areas of the contract between Miami-Dade County and JBT dated June 17, 2015.

HNTB has not received a copy of an authorizing Work Order per Article 4 (b), Exhibit A (1.7.2.11) & (1.8.1 (B))

Backup and supporting data are missing for some of the charges such as certified payrolls and expense records. Per Article 6 (C & E)

The markups shown are not consistent with Article 2 (2.02) & Attachment A (1.8.4)

Furthermore, it is our understanding that; there has been no verification that the billing intended for processing is in compliance with TSA guidelines for reimbursement.

In consideration of the issues that have presented themselves with the proposed invoice the department may want to consider vetting these issues with the appropriate departments at MDAD prior to moving forward with any invoice submissions or payments.

Kurt Dobbrunz

Res. Project Mgr

Tel (305) 551-8100 ext. 21436 Cell (305) 968-2690 Fax (305) 551-2100

HNTB CORPORATION

Address, City, State ZIP | <<http://www.hntb.com/>> www.hntb.com

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<<https://twitter.com/HNTBCorp>> cid:image003.png@01D1B0E4.F6B00D60
<<https://www.linkedin.com/company/hntb?trk=tyah>> cid:image005.png@01D1B0E3.4DFEBD20
<<https://www.facebook.com/HNTBCorp>> cid:image006.png@01D1B0E3.4DFEBD20

<<https://www.instagram.com/hntbcorp/>> cid:image004.png@01D1B017.473CAC30

From: Cuellar, Leon (Aviation) [<mailto:LCUELLAR@miami-airport.com>]
Sent: Friday, June 17, 2016 1:24 PM
To: Lourdes Larrea; Kurt Dobbrunz
Cc: Gonzales, Jorge (Aviation); Westgate, Maribel (Aviation)
Subject: JBT Inv 2016-0428

Lourdes,

Based on our conversation, before we finalize our processing of the subject invoice, please review it to determine if it is satisfactory to HNTB.

We intend to book the invoice to project T042A.

Thanks,

Regards,

Leon Cuellar

Aviation Cost Analyst

Miami-Dade Aviation Dept. - Program Controls

Miami International Airport

PO Box 526624

Miami FL 33152-6624

(305-876-8485

cid:image004.jpg@01D0D5CD.59326030

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Re: JOHN BEAN TECHNOLOGIES PROJECT #T042A AND INVOICES # 2015-0918, 2016-0105, 2015-1125 AND 2015-1230

Kurt Dobbrunz [KDobbrunz@HNTB.com]

Sent: Friday, March 04, 2016 3:24 PM

To: Cuellar, Leon (Aviation)

Cc: Jose M. Diaz - MIA [JDIAZ@HNTB.com]; Solorzano, Ricardo (Aviation); Gonzales, Jorge (Aviation); Lourdes Larrea; Shakira Bethel [SBethel@HNTB.com]; Jameison, Omar (Aviation); Perez, Alejandro (Aviation)

Attachments: image002.jpg (976 B) ; image004.png (1 KB) ; image006.jpg (954 B) ; image008.png (1 KB)

Leon,

We have the subject Invoices for our review/approval process. At this time we cannot complete our review for the following reasons mentioned below, therefore we are returning the subject invoices.

The only attachment to the contract we received is Exhibit K, Please forward the other Exhibits.

Verification that the billing to be processed is in compliance with TSA guidelines for reimbursement.

Pease forward the supporting back up for the invoices, timecards, expenses, ETC.

The scope of service being billed has to be clearly defined and linked to the project design/construction cost.

You might want to consider consulting Norma Mata regarding the grant reimbursement requirements.

Kurt Dobbrunz

Res. Project Mgr.

Tel (305) 551-8100 ext. 21436 Cell (305) 968-2690 Fax (305) 551-2100

HNTB CORPORATION

8700 W. Flagler Street, Suite 402

Miami, FL 33174 | <http://www.hntb.com/> www.hntb.com

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<https://www.youtube.com/user/hntbcorp?feature=results_main>

cid:image002.png@01D12EA7.758A5070 <<http://www.linkedin.com/company/hntb?trk=tyah>>

cid:image003.jpg@01D12EA7.758A5070 <<https://www.facebook.com/HNTBCorp>>

cid:image004.png@01D12EA7.758A5070

**Miami-Dade County
Office of the Inspector General**

Exhibit 11

**AvAirPros REVISED Proposal for Consulting and Project Management Support
dated 8/4/2016
(3 pages)**

OIG Case No. 15-0027-I

August 04, 2016

Mr. Michael Wesche - Chairman
Miami Airport Affairs Committee
Miami International Airport
P. O. Box 592075
Miami, FL 33159

**RE: Miami International Airport (MIA)
South & Central Terminal CBIS Recapitalization and Optimization (Project)
REVISED Proposal for Consulting and Project Management Support**

Dear Mike,

Airport & Aviation Professionals, Inc. (AvAirPros) is pleased to provide this REVISED proposal for Consulting and Project Management Support services to be provided during calendar year 2016 for the South and Central Terminal CBIS Recapitalization and Optimization Project that is currently in the design phase at Miami International Airport. It is our understanding that MDAD desires that the requested Consulting and Project Management Support services be separated into those services associated with the MAAC Office function (the "Consulting" Services); and, those services associated with the detailed design and construction of the CBIS/BHS project (the "Project Management" Services). As requested by MDAD, the scope of the Consulting and Project Management Support and the associated monthly retainer amount is to be identified separately. It is our understanding that all services will be invoiced through the JBT Aerotech agreement.

UNDERSTANDING

The Project consists of the construction of a new multi-story building between Concourse G and H, development of a replacement Baggage Handling System (BHS) including Checked Baggage Inspection System (CBIS) for the Central Terminal, a new CBIS with modifications to the existing BHS for the South Terminal, and a new BHS/CBIS Control Room. The Project is being designed by the Burns & McDonnell Design Team and implementation is currently scheduled to be complete in 2020. The overall project estimate currently stands at \$235M.

AvAirPros is currently providing support services for the Project through both the MAAC Airline Liaison Office (ALO) budget and through the JBT Aerotech Operations & Maintenance

agreement for specific services related to the Enabling Works. The full range of anticipated Consulting and Project Management services are beyond the intended scope of the ALO and are not being properly accounted for in the overall Project budget. As requested AvAirPros has identified specific scopes of work related to Consulting Services for the MAAC ALO and Project Management Support services for the overall project.

PROPOSED SUPPORT SERVICES

AvAirPros will provide Consulting and Project Management Support services for the Project on behalf of the MIA Airline community. The typical services will include Airline Liaison services, project management support services, TSA reimbursement support, document review services, and airline operations coordination. The following highlights our proposed scope of services for the Project at MIA.

A. Consulting Support Services

As previously requested, Mr. Robert Binish has been providing Consulting Support services for the Project since July 2013. Mr. Binish will continue in the role and participate in the following areas: BHS Steering Committee meetings, Integrated Local Design Team meetings, monthly MAAC and MAAC/MDAD meetings and periodic liaison with the TSA.

The estimated involvement for Consulting Support coordination is approximately 20 hours per month at a monthly retainer of \$5,037.00 including associated expenses for the period of July to December 2016.

B. Project Management Support Services

The Program Management Support services are expected to include BHS project management, document reviews, financial reimbursement assistance and airline operations coordination.

Project Management Services

Mr. Binish will provide BHS Project Management services including participation in design team meetings, Enabling Works progress meetings, coordination with JBT Aerotech, schedule reviews, CMAR agreement negotiation team meetings, TSA Site Lead coordination, and cost reviews/meetings with MDAD staff, the design team, and the TSA Site Lead. The estimate involvement for the Project Management Services is approximately 100 hours per month for the period of July through December 2016.

Document Review Services

Mr. Milan Dedek will review documents related to the CBIS building, Civil and Utility infrastructure including review of project design drawings and project specifications. Mr. Binish will review documents related to the CBIS/CBRA and Baggage Handling

System, the BHS Control Room infrastructure and the TSA PGDS submittal packages including review of project design drawings and project specifications. AvAirPros will provide detailed written comments, participate in comment resolution meetings and coordinate any airline reviews. The estimated involvement for the Document Review Services is approximately 50 hours per month for the period of July through December 2016.

The Project Management Support services will be provided at a monthly retainer of \$38,130.00 including associated expenses for the period of July to December 2016. Both Consulting and Project Management Support Services will be invoiced to JBT Aerotech. As requested the details of this proposal have been reviewed with Mr. Brian Miller / Delta Air Lines and his concerns have been addressed.

As requested, AvAirPros will provide an annual proposal for calendars years 2017 through 2021 to identify the scope of services and attendant costs associated with both the Consulting and Project Management Support Services for the above referenced project. The proposal for future periods will include a review of previous period retainer to ensure that over or under billing has not occurred.

Please do not hesitate to contact me with questions or concerns about this proposal.

Sincerely,

Robert G. Binish

Robert G. Binish, P. E., MBA
Vice President

CC: Brian Miler – Delta Air Lines
Chris Bradley

**Miami-Dade County
Office of the Inspector General**

Exhibit 12

**AvAirPros Proposal for Consulting and Project Management Support
dated 12/5/2016
(3 pages)**

OIG Case No. 15-0027-I

05 December, 2016

Mr. Michael Wesche - Chairman
Miami Airport Affairs Committee
Miami International Airport
P. O. Box 592075
Miami, FL 33159

**RE: Miami International Airport (MIA)
South & Central Terminal CBIS Recapitalization and Optimization (Project)
Proposal for Consulting and Project Management Support in CY 2017**

Dear Mike,

Airport & Aviation Professionals, Inc. (AvAirPros) is pleased to provide this proposal for Consulting and Project Management Support services to be provided during calendar year 2017 for the South and Central Terminal CBIS Recapitalization and Optimization Project that is currently in the PreConstruction phase and is anticipated to enter the Construction phase in 2017 at Miami International Airport. It is our understanding that MDAD desires that the requested Consulting and Project Management Support services be separated into those services associated with the Airline Liaison Office (ALO) function (the "Consulting" Services); and, those services associated with the detailed design and construction of the CBIS/BHS project (the "Project Management" Services). As requested by MDAD, the scope of the Consulting and Project Management Support and the associated monthly retainer amount is to be identified separately. It is our understanding that all services will be invoiced through the JBT Aerotech agreement.

UNDERSTANDING

The Project consists of the construction of a new multi-story building between Concourse G and H, development of a replacement Baggage Handling System (BHS) including Checked Baggage Inspection System (CBIS) for the Central Terminal, a new CBIS with modifications to the existing BHS for the South Terminal, and a new BHS/CBIS Control Room. The Project is being designed by the Burns & McDonnell Design Team and implementation is currently scheduled to be complete in 2020. The overall project estimate currently stands at approximately \$262M.

AvAirPros is currently providing support services for the Project through the JBT Aerotech Operations & Maintenance agreement for specific services related to the Project. The full range of anticipated Consulting and Project Management services are beyond the intended scope of the ALO and are not being properly accounted for in the overall Project budget. As requested, AvAirPros has identified specific scopes of work



related to Consulting Services for the ALO and Project Management Support services for the overall project.

PROPOSED SUPPORT SERVICES

AvAirPros will provide Consulting and Project Management Support services for the Project on behalf of the MIA Airline community. The typical services will include Airline Liaison services, Project Management support services, TSA reimbursement support, document review services, and airline operations coordination. The following highlights our proposed scope of services for the Project at MIA.

A. Consulting Support Services

As previously requested, Mr. Robert Binish has been providing Consulting Support services for the Project since July 2013. Mr. Binish will continue in the role and participate in the following areas: BHS Steering Committee meetings, Integrated Local Design Team meetings, monthly MAAC and MAAC/MDAD meetings and periodic liaison with the TSA.

The estimated involvement for Consulting Support coordination is approximately 20 hours per month at a monthly fixed fee retainer of \$5,200.00 including associated expenses for the period of January to December 2017.

B. Project Management Support Services

The Program Management Support services are expected to include BHS project management, document reviews, financial reimbursement assistance and airline operations coordination.

Project Management Services

Mr. Binish will provide BHS Project Management services including participation in design team meetings, Enabling Works progress meetings, coordination with JBT Aerotech, schedule reviews, CMAR agreement negotiation team meetings, TSA Site Lead coordination, and cost reviews/meetings with MDAD staff, the design team, and the TSA Site Lead. The estimate involvement for the Project Management Services is approximately 80 hours per month for the period of July through December 2016.

Document Review Services

Mr. Milan Dedek will periodically review documents related to the CBIS building, Civil and Utility infrastructure including review of project design drawings and project specifications. Mr. Binish will review documents related to the CBIS/CBRA and Baggage Handling System, the control system Functional Specifications, Report databases, BHS Control Room function and the TSA PGDS submittal packages, contractor CBIS/BHS submittals including compliance with project design drawings and project specifications. When appropriate AvAirPros will provide detailed written comments, participate in comment resolution meetings and coordinate any airline reviews. The estimated

involvement for the Document Review Services is approximately 50 hours per month for the period of January through December 2017.

Airline Operations Coordination

Mr. Juan Francisco Aveleyra will provide on-site full time operational coordination for the CBIS/BHS Project including interfacing with MDAD, TSA, POJV, JBT Aerotech and the airlines with respect to impacts to airline ticketing functions, requirements for baggage portering, airline baggage make-up requirements, and phasing in both the South and Central Terminals. AvAirPros will coordinate with JBT Aerotech with respect to training for the new BHS operational Control Center function, WebbView functionality, CMMS integration, airline training for baggage hygiene and operational reporting. The estimated involvement for Airlines Operations Coordination is approximately 168 hours per month for the period of January through December 2017

The Project Management Support services will be provided at a monthly fixed fee retainer of \$47,400.00 including associated expenses for the period of January to December 2017.

AvAirPros has determined that we have a surplus in our CY2016 retainer based on expected work that did not materialize or was delayed into CY2017. Therefore, we have reduced the CY2017 estimate by \$49,900, which is reflected in the Project Management Support services monthly fixed fee retainer.

Both Consulting and Project Management Support Services will be invoiced to JBT Aerotech. As requested, AvAirPros will provide an annual proposal for calendars years 2018 through 2020 to identify the scope of services and attendant costs associated with both the Consulting and Project Management Support Services for the above referenced project. The proposal for future periods will include a review of previous period retainer to ensure that over or under billing has not occurred.

Please do not hesitate to contact me with questions or concerns about this proposal.

Sincerely,

Robert G. Binish

Robert G. Binish, P. E., MBA
Vice President

CC: Chris Bradley

**Miami-Dade County
Office of the Inspector General**

Exhibit 13

**MDAD Allowance Account Work Order # 1-017, dated 3/16/2017 for JBT's Project
Management, Administration Assistance & Escort Services
(3 pages)**

OIG Case No. 15-0027-I

Allowance Account Work Order # 1- 017



LOCATION: Miami International Airport

PROJECT No.:

DATE: 3/16/17

PROJECT NAME: South Terminal Development - Baggage Handling System (BHS) **FUND:** EA101

TO CONTRACTOR: JBT AeroTech

DESCRIPTION: Project Management, Administration Assistance & Escort Services

The contractor is hereby authorized to make the following changes to the current contract, and perform the work subject to all contract stipulations and covenants.

| ITEM NO. | DESCRIPTION OF WORK | AMOUNT |
|----------|---|---------------|
| 1 | This Work Order authorizes the project management, administration assistance & escort services from September, 2015 through October, 2016. This Lump Sum Work Order includes General Conditions, General and Administrative (G&A), and Profit in accordance with the Contract. This Work Order assigns the above scope to the ITN-MDAD-11-14 Contract. All work shall be govern by the JBT Contract General Conditions and TAC-R procedures. | \$ 483,440.34 |

JUSTIFICATION: COUNTY REQUESTED CHANGES
Owner's request.

REASON FOR CHANGE:

| | | | |
|--|---|----|---------------|
| Regulatory Change | ORIGINAL ALLOWANCE ACCOUNT AMOUNT | \$ | 30,000,000.00 |
| Other Agency Requested Change | PREVIOUS WORK ORDERS TO DATE | \$ | 5,481,977.29 |
| Design Errors | PREVIOUS BALANCE IN ALLOWANCE ACCOUNT | \$ | 24,518,022.71 |
| Design Omissions | AMOUNT OF THIS WORK ORDER NO. | \$ | 483,440.34 |
| County Requested Changes | BALANCE IN ALLOWANCE ACCOUNT | \$ | 24,034,582.37 |
| Unforeseen or Unforeseeable Conditions | | | |
| Other | | | |

In consideration for payment to the Contractor of the Work Order amount, the Contractor waives and relinquishes any and all claims, dispute or causes of action of whatever kind of nature arising out of or relating to the above referenced changed work. Including without limitation, any Direct and Indirect Costs related to delays, disruption, cumulative impact or other impact. By execution of this Work Order, Contractor accepts the Work Order Amount and time as fill and final compensation for the changed work, agrees the changed work shall have no impact on the Contract duration, and expressly waives and releases the Owner from and against any additional compensation arising out of or relating to the changed work.

A/E STATEMENT:

We have reviewed the scope of work and other information included herein and recommend approval by the Owner.

By: FOR: _____ DATE _____
 ACCREDITED: GENERAL CONTRACTOR (JBT AeroTech)
 PRINT NAME: GILBERT LOPEZ

By: 3/20/17
 RECOMMENDED: MDAD PROJECT MANAGER DATE _____
 PRINT NAME: REYNALDO GARCIA

By: 4/07/17
 APPROVED: MDAD/DCAD MGR., MINORITY AFF DATE _____
 PRINT NAME: MILTON L. COLLINS

By: 4-26-17
 APPROVED: MDAD CHIEF DATE _____
 PRINT NAME: ENRIQUE PEREZ and/or AIDA BAO-GARCIGA

By: _____ N/A
 APPROVED: CONSULTING ENGINEER (HNTB) DATE _____
 PRINT NAME: JOSE M. DIAZ

By: 1/26/17
 APPROVED: ASST. AVIATION DIR. FACILITY DEPT. DATE _____
 PRINT NAME: PEDRO HERNANDEZ

Allowance Account Work Order # 1- 017
LOCATION: Miami International Airport



DBE/CSBE SUPPLEMENT SHEET

PROJECT NO. _____ DATE: 3/16/17
PROJECT NAME: South Terminal Development - Baggage Handling System (BHS) DESCRIPTION: Project Management, Administration Assistance & Escort Services
TO CONTRACTOR: JBT AeroTech

***** MUST BE COMPLETED PRIOR TO APPROVAL *****

Existing Subcontractor(s) to Perform Work: Yes _____ No _____

If Yes:

Sub-Name: _____ Code: _____ Amount: _____
Sub-Name: _____ Code: _____ Amount: _____

If No:

Sub-Name: _____ Code: _____ Amount: _____
Sub-Name: _____ Code: _____ Amount: _____

CODE: DBE-DISADVANTAGED BUSINESS ENTERPRISE; CSBE-COMMUNITY SMALL BUSINESS ENTERPRISE

JBT STD BHS Escort Svcs Pri Mgr Administration Assistance thru Oct 2016

| | | | | | | | | | | | | | | | | | | | | | |
|-------|--------------------------------|---------|------------|----------|-------------------|------------|-----------------------------|-------|--------|----|--------|---------------|-----|-------------------|------------|------|----|------------|--|--|--|
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/26/2016 | 00208431 | 2015-0918-RECLASS | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 6,311.61 | 940 | 9406 | | 2016 | 7 | APV0267183 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/26/2016 | 00208434 | 2015-1125-RECLASS | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9406 | | 2016 | 7 | APV0267183 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/26/2016 | 00208435 | 2015-1230-RECLASS | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9406 | | 2016 | 7 | APV0267183 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/26/2016 | 00208436 | 2016-0105-RECLASS | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 5,423.35 | 940 | 9406 | | 2016 | 7 | APV0267183 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/26/2016 | 00208438 | 2016-0130-RECLASS | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9406 | | 2016 | 7 | APV0267183 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/20/2016 | 00208090 | 2016-0224 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9499 | 1000017317 | 2016 | 7 | APV0267231 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 4/20/2016 | 00208091 | 2016-0327 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9499 | 1000017317 | 2016 | 7 | APV0267231 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 7/12/2016 | 00213666 | 2016-0428 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 24,209.54 | 940 | 9499 | 1000017338 | 2016 | 10 | APV0270786 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 8/29/2016 | 00217187 | 2016-0518 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 722430 | 65,294.90 | 940 | 9499 | 1000017352 | 2016 | 11 | APV0273033 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 11/21/2016 | 00223628 | 2016-0528 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 24,209.54 | 940 | 9499 | 1000017387 | 2017 | 2 | APV0278165 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 11/21/2016 | 00223630 | 2016-0629 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 24,209.54 | 940 | 9499 | 1000017387 | 2017 | 2 | APV0278165 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 11/21/2016 | 00223629 | 2016-0729 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 24,209.54 | 940 | 9499 | 1000017387 | 2017 | 2 | APV0278165 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 12/6/2016 | 00224370 | 2016-0730 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 5,540.70 | 940 | 9499 | 1000017391 | 2017 | 3 | APV0279122 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 11/21/2016 | 00223633 | 2016-0731B | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 23,433.30 | 940 | 9499 | 1000017387 | 2017 | 2 | APV0278454 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 12/6/2016 | 00224383 | 2016-0831 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 53,183.54 | 940 | 9499 | 1000017391 | 2017 | 3 | APV0279236 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 12/6/2016 | 00224384 | 2016-0930 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 53,183.54 | 940 | 9499 | 1000017391 | 2017 | 3 | APV0279236 | | | |
| T042A | MIA South/Central BHS Improvem | T042A-S | 12/6/2016 | 00224386 | 2016-1029 | 0000014817 | JOHN BEAN TECHNOLOGIES CORP | EA101 | AV1501 | 11 | 721411 | 53,183.54 | 940 | 9499 | 1000017391 | 2017 | 3 | APV0279236 | | | |
| | | | | | | | | | | | | Total: | | 483,440.34 | | | | | | | |

**Miami-Dade County
Office of the Inspector General**

Exhibit 14

**Feb. 11, 2013 email string between Ms. Shore, Mr. Betancourt, and Mr. Bradley
warning that while AvAirPros can review the proposals, there can be no
discussion with Selection Committee members**

(2 pages)

OIG Case No. 15-0027-I

Betancourt, Pete J. (Aviation)

From: Shore, Debra (Aviation)
Sent: Monday, February 11, 2013 8:22 AM
To: Betancourt, Pete J. (Aviation)
Cc: Christopher L. Bradley
Subject: RE: BHS O&M Meeting

thanks

*Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile*

"Delivering Excellence Every Day"

From: Betancourt, Pete J. (Aviation)
Sent: Monday, February 11, 2013 8:20 AM
To: Shore, Debra (Aviation)
Cc: Christopher L. Bradley
Subject: RE: BHS O&M Meeting

The proposals are a public record and Mr. Bradley may review them. However, Mr. Bradley may not address, or discuss this solicitation with the Selection Committee.

Let me know if you have any questions.

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



From: Shore, Debra (Aviation)
Sent: Monday, February 11, 2013 8:15 AM
To: Betancourt, Pete J. (Aviation)
Cc: Christopher L. Bradley
Subject: RE: BHS O&M Meeting

And reviewing the proposals?

*Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile*

"Delivering Excellence Every Day"

From: Betancourt, Pete J. (Aviation)
Sent: Monday, February 11, 2013 7:59 AM
To: Shore, Debra (Aviation)
Cc: Christopher L. Bradley
Subject: RE: BHS O&M Meeting

Not a problem. It's a public meeting.

Pedro J. Betancourt, PMP, CPPO, LEED® AP O+M
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
T (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com



From: Shore, Debra (Aviation)
Sent: Friday, February 08, 2013 4:01 PM
To: Betancourt, Pete J. (Aviation)
Cc: Christopher L. Bradley
Subject: BHS O&M Meeting

Pete
Chris Bradley from AAP (MAAC Consultant) called to request permission to go to the meeting on the 12th and review the proposals prior to then?
Is this ok ?
thanks

Debra J. Shore
Miami-Dade Aviation Department
Senior Aviation Cost Manager
305 869 4585- office
786 298 0421- mobile

"Delivering Excellence Every Day"

MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL



FINAL REPORT

Appendix A

JBT's Response

*Probe of MIA's Baggage Handling System
Operation and Maintenance Agreement*

IG15-0027-I



Robert M. Andalman
randalman@AandGlaw.com
TEL (312) 348-7629

April 15, 2019

By Email (Mary.Cagle@miamidade.gov) and UPS Overnight Delivery

Mary T. Cagle, Inspector General
Miami-Dade County Office of the Inspector General
601 NW 1st Court
South Tower, 22nd Floor
Miami, Florida 33136

Re: JBT Response to OIG Draft Report – Ref: IG15-0027-I

Dear Ms. Cagle:

John Bean Technologies Corporation (“JBT”), which my firm represents, requests a meeting with you to discuss the above report (the “Report”). In any event, JBT asks that the Report be amended. As written, the Report relies on factual errors, draws negative inferences unsupported by evidence, fails to include material facts and disregards the merits of the baggage handling system operations and maintenance (“BHS O&M”) bids that are its subject. As a result, the Report reaches conclusions that are not supported. JBT asserts its right for this letter, and the attached exhibits, to be included with the Report when it is published so that the facts are of public record. JBT further asks that, should the OIG decide to make changes to the Report based on this response, that JBT be given an opportunity to address those changes in a further response.

Concerning the subject matter of the Report, JBT agrees with the Report’s statement that “[b]aggage handling systems are of utmost importance to the airlines.” Report at 41. This is true. These systems are critical not just to the airlines, but also to the airport and to the community the airport serves. JBT is proud of its exceptional body of work partnering with airport staff over the past 12 years to maintain and operate the baggage handling system at Miami International Airport (“MIA”). During that time, JBT has consistently done whatever was necessary and requested by officials at the airport to ensure that MIA continues to be an economic engine for Miami-Dade.

The quality of JBT’s work at MIA is undisputed, including by the Report, which does not identify a single service failure by JBT. The Report challenges the procurement process for the BHS O&M contract bid in 2012 and rebid in 2014, but does not articulate any example when JBT sought out or took any unfair advantage in that process. The Report leads with the fact that a technical consultant at the airport (Robert Binish of AvAirPros) sent a contract selection committee member (Miami Dade Aviation Department (“MDAD”) employee Debra Shore) an email that included proposed scoring for BHS O&M contract bids. The Report says Ms. Shore requested the scoring from Mr. Binish, the technical consultant. JBT had nothing to do with Ms.



Shore's request and the Report does not claim otherwise. Neither does the Report suggest that Mr. Binish's scoring was inaccurate. The Report does not identify any evidence that Ms. Shore shared Mr. Binish's scoring with others on the selection committee. Critically, while the Report states that the OIG spoke to every person on the selection committee, it does not identify any fact – from the selection committee or otherwise – to refute the conclusion that JBT's bid was technically equal to or better than every other bid. And the Report just ignores the irrefutable fact that JBT's bid was also \$12 million lower in price than the bid from Oxford Airport Technical Services ("Oxford"), which the Report suggests (without explanation) should have been accepted. In this regard, while the Report refers to JBT as the "preferred proposer," it does not identify any reason why JBT was preferred other than superior technical quality and lower price.

As discussed in detail below, the Report repeatedly relies on presumption and innuendo in place of fact and evidence. It suggests that procurement irregularities led to the BHS O&M contract being rebid in 2014 rather than being awarded to Oxford, but that is not the case. Oxford's bid was rejected when it came to light that Oxford had won the bid by proposing half the staff required to do the job. That understaffing was objected to by airport staff, the airlines and, yes, by JBT, publicly and transparently. The Report ignores that every person involved in the process (except Oxford) agreed that Oxford's bid was unfair to the other bidders and potentially disastrous for MIA. The Report is silent about how the inadequacy of Oxford's first bid was dramatically demonstrated when Oxford's bid price nearly doubled (***increasing by \$87 million***) after the RFP was changed to require minimum, and adequate, staffing by every bidder.

The fact is that, despite an extensive years-long investigation by the Miami-Dade State's Attorney's Office and the County Commission on Ethics & Public Trust, neither JBT nor anyone employed by JBT was charged with any ethics or legal violations concerning the subject procurement. JBT respects the procurement process. It has no quarrel with the OIG policing that process. However, there is simply no evidence that JBT engaged in any illegal conduct or that the process was actually corrupted in this case. To the contrary, the process worked as was intended: a low-ball bid that depended upon significant understaffing was rejected following a public objection process; the contract was rebid; and the technically strongest and most cost-effective bid was then accepted. The resulting work by JBT has been unimpeachable.

A full third of the Report has nothing to do with the procurement process, but instead criticizes the decision by airport staff to use an allowance in the BHS O&M contract to fund work by AvAirPros on a new inline baggage handling system. The Report characterizes this as a "suspect" pass-through arrangement and suggests it was JBT's idea. This was never the case. The decision to use the allowance for this work was MDAD's. The allowance was in the RFP and in the resulting BHS O&M contract. It would have been applied regardless of whether JBT or some other bidder had won the contract. Indeed, the same allowance was applied in the same manner to fund other subcontractors working on the new system, none of which the Report questions. The Report further mischaracterizes JBT's role with the new system as simply having the "pleasure" of passing along AvAirPros' invoices. That is not true. JBT contributed hundreds



of work hours to the project. Notably, the Report fails to identify any regulation or law broken by MDAD, JBT or AvAirPros concerning work on the new baggage handling system.

In the context of the actual facts, it makes no sense for JBT to be considered for debarment, for the BHS O&M contract to be terminated or for the county and airport to endure a new, expensive and complex bidding process. Neither would such a result comport with justice or due process. JBT further supports its position below.

I. Background

Prior to the bids at issue in the Report, operation and maintenance of the BHS at MIA was handled under two contracts. The central and north terminals, other than outbound American Airlines flights, were handled by Oxford. The systems in those terminals were conventional in style, which required less manpower. JBT contracted to oversee BHS operations and maintenance for the remainder of the airport and had been doing so successfully since 2007. The JBT-served terminals used a different, more complex system that serviced more than two dozen different airlines and required more manpower to operate and maintain. This system moved between 15,000 and 18,000 bags each day, approximately 10% of which had to be handled manually somewhere in the system. The bids at issue in the Report responded to a solicitation for a contract that would unify the BHS operations and maintenance under a single contract with one provider for all terminals.

A. The First RFP: Disparate Bids Based on Failure to Include Minimum Staffing Requirements

The first solicitation for proposals ("First RFP") for the BHS O&M contract was advertised on June 21, 2012. The First RFP lacked specificity in key respects, including by failing to include minimum staffing requirements. That led to disparate bids, one of which was from Oxford, which based its bid on staffing that was half the number then required to do the work and half of what the other two bidders proposed.

In fact, based on the selection committee's scoring on technical criterion, the Oxford bid was 10% lower than JBT's (a score of 304 for Oxford vs. 334 for JBT). The Report does not question the technical superiority of JBT's bid. Despite this fact, on May 3, 2013, the selection committee recommended that Oxford be awarded the contract. The basis for this recommendation was that Oxford's proposed price was extraordinarily low: 30% lower than either of the other two bids, including JBT's. It turns out that Oxford was able to offer this price because it proposed to operate and maintain the entire BHS system with just 46 employees, less than half the number then performing the work. These facts are set forth in the April 8, 2014 Notice of Contract Rejection Recommendation issued by the County Mayor. Notice of Contract Rejection, Exhibit A.



The Mayor's recommendation to reject Oxford's bid followed formal and public objections, including by JBT. To make its objection, JBT retained and followed the advice of senior lawyers who are experts in county procurement at the well-respected Miami-based law firm Holland & Knight. Scrupulously following procurement rules, they filed a formal written objection with MDAD on June 7, 2013, detailing that the County should find Oxford non-responsible because it could not perform its contractual obligations with the skeletal staffing it proposed. 6/7/2013 Objection, Exhibit B. The nine-page Holland & Knight letter details the factual and legal reasons why the Oxford contract would have been devastating to MIA, the airlines who depend upon it and the community it serves. Holland & Knight identifies the numerous "red flags" the Oxford proposal raised, including "[a] proposal \$40 million less than its competitors"; "[a]n admission that Oxford will provide services with 45 and 58 less employees than the other two bidders in the process respectively, and 48 less employees than those currently servicing the more limited existing contract"; and "[a] proposal that takes exceptions to the RFP requirements to allow more limited staffing and a lower performance standard than that required by the RFP." *Id.* at 7-8. On behalf of JBT, Holland & Knight filed the objection and openly served it on the MDAD, the Board of County Commissioners, and the County Attorney. *Id.* at 9.

On August 29, 2013, the Airline Management Council ("AMC") weighed in, too. The AMC was founded in 1960 and represents the interests of airlines – the BHS customers – at MIA. Its officers include representatives of the airlines themselves. In 2013, its President was Ashutosh Kaul of Lufthansa Airlines. Mr. Kaul wrote an email and letter to Ken Pyatt, the Deputy Director of MIA, expressing the AMC's concerns about Oxford's proposed staffing, which is attached as Exhibit 4 of the Report. It states: "Thanks for taking time to speak to us with regards to our concerns with the BHS contract. Please see attached our request." The AMC's request was for Mr. Pyatt and the airport to look more closely at the service implications of Oxford's proposal. As Mr. Kaul wrote: "Although the cost-savings proposed by Oxford seem tempting, your airline partners cannot possibly understand how Oxford can provide proper service without jeopardizing operational performance of the entire airport." *Id.* The AMC letter did not mention or lobby for JBT.

On April 8, 2014, the Notice of Contract Rejection Recommendation was issued noting that the County Mayor had recommended to reject all proposals. Notice of Contract Rejection, Exhibit A. The Mayor's notice stated that the rejection "will level the playing field among all competitors and assuage user airline concerns regarding minimum staffing levels" *Id.* at 1. As the notice explained, "[b]aggage handling systems are critical infrastructure for all airlines." *Id.* Furthermore, "[o]peration of these systems requires near-constant manpower to manually code misdelivered bags, clear bag jams and assist the Transportation Security Administration (TSA)." The Mayor's notice also observed that while the initial solicitation for bids did not specify staffing levels, 92 individuals were then employed to complete the necessary work. *Id.* at 2. The Mayor's notice stated that the letter from the AMC expressed concern that "the staffing levels proffered by Oxford are insufficient to guarantee reliable operation of the BHS." *Id.* at 3. The Mayor acknowledged that JBT, the incumbent provider for the automated portion of the



BHS system at MIA, worked with the AMC – as the Report points out – but stated that MDAD “believes these concerns are reasonable given historic staffing for the O&M [that is, operations and maintenance] of these systems.” *Id.* The Mayor’s recommendation was to hold a rebid that required comparable staffing requirements across all bids and then to select “the firm offering the lowest-price that is responsive to the priority requirements.” *Id.* This was done.

B. The Second RFP: The Playing Field Levels

The new RFP (“Second RFP”) was advertised on October 2, 2014. It included an addendum that required all bids to include at least 87 employees, specifying the number required to be employed in different categories and listing the required “Responsible Wage Rate” for non-management employees. Appendix B-1, Addendum No. 4, RFP No. MDAD-11-14, Exhibit C. The addendum further required all bidders to include a \$30 million allowance for TSA-funded projects. *Id.*

On April 24, 2015, MDAD sent a Notice of Award Recommendation for JBT to be awarded the BHS O&M contract. Notice of Award, Exhibit D. The Memorandum from the Mayor that accompanied that Notice showed that JBT scored 22% higher than Oxford in terms of technical criterion (a score of 366 for JBT vs. 286 for Oxford). *Id.* at 2. But now, required to staff comparably to its competitors, Oxford’s bid had nearly doubled in price (from \$89 million to \$176 million) and was nearly \$12 million higher in price than JBT’s bid. *Id.* The increase in Oxford’s bid was consistent with the fact that Oxford was required by the Second RFP to nearly double its staff to levels comparable to other bidders and as required to perform the work satisfactorily.

C. MDAD Asks JBT to Retain AvAirPros for TSA Funded Work

As noted above, the RFP for the BHS O&M contract that JBT won provided for \$30 million as an allowance for TSA-funded projects. The RFP specifically included a 10% markup for work done by third parties but funded through the BHS O&M contract utilizing this or other special contract allowances. Appendix B-1, Addendum No. 4, RFP No. MDAD-11-14, Exhibit C. That allowance and the 10% mark-up was part of every bidder’s proposal and was a term of the final contract. This would have been the case regardless of which bidder was selected.

During 2015, there was a TSA-funded project being worked on at the airport. The Report describes this project in part at footnote 26 on page 31. It involved the construction of a new in-line baggage handling system (the “Inline BHS Project”) that would allow TSA to do its work with fewer salaried employees. The engineering firm Burns McDonnell was hired to provide consulting and design work for the project. There can be no dispute that the Inline BHS Project was TSA-funded work. A July 2015 status report on TSA letterhead explains this. *See* 7/2015 TSA Monthly Status Report, Exhibit E. According to the TSA document, TSA was investing over \$101 million in the project. *Id.* at 3.



During 2015, meetings for the Inline BHS Project occurred at least bi-weekly and included senior MDAD staff, including Ken Pyatt, Ricardo Solorzano and their top deputies. JBT also attended. Representatives from TSA called into the meetings. 6/2/2015 ILDT Meeting Notes, Exhibit F. As a technical BHS expert contracted pursuant to an MDAD agreement to represent and advise the airlines, Mr. Binish of AvAirPros also attended the regular meetings about the Inline BHS Project. *Id.*

At the time of the award of the BHS O&M contract, it was known by MDAD and recorded in public meeting notes that the contract would “be used as the vehicle for JBT to undertake enabling works task(s), as necessary, [related to the Inline BHS Project] such as relocation of the baggage make-up devices from the footprint of the proposed new CBIS building.” *Id.* at 3. This was not decided or suggested by JBT, AvAirPros or any other contractor. It was decided by MDAD based on its exercise of administrative discretion concerning how the airport could best allocate resources to fulfill its mission. This work was not included in the base services required by the BHS O&M contract, which concerned existing baggage handling systems. Section 2.01 of Operator Agreement, Exhibit G. However, the BHS O&M contract did require that JBT perform work outside the base services, funded from the allowance accounts, at the direction of MDAD. *Id.* Neither was the use of the TSA-funded project allowance in the contract specific or limited to AvAirPros. At MDAD’s request, other subcontractors, such as Vic Thompson Company and Daifuku Webb, provided services relating to the Inline BHS Project in the same manner as AvAirPros, including invoicing through JBT using the TSA-funded project allowance and the 10% mark-up allowed to JBT. This was the usual course. It was well known and public.

On September 25, 2015, there was a meeting about the Inline BHS Project that included JBT and Richard Solorzano, who was the construction manager for MDAD. JBT’s Regional Manager, Gilbert Lopez, attended. At the meeting, Mr. Solorzano asked if JBT could provide project management services, reviewing the work of the engineering firm Burns McDonnell and advising MDAD. Mr. Lopez explained that JBT lacked the manpower or expertise to do this. Mr. Solorzano then asked Mr. Binish if he would provide this service. As explained to JBT, this was outside AvAirPros’ existing contract and so Mr. Solorzano asked JBT if JBT would pay AvAirPros for this work utilizing the TSA-funded project allowance in the BHS O&M contract. As noted, the project was TSA-funded to the amount of \$101 million and JBT understood that TSA would fund this portion, too.

Although the Report includes only a later request for authorization dated in January 2016, *see* Report, Exhibit 9, just three days after the September 25 meeting, on September 28, 2015, Mr. Lopez wrote a request for authorization to Mr. Solorzano detailing the arrangement requested by Mr. Solorzano and breaking out the proposed payments to fund the work. This work order explicitly included what AvAirPros would be paid; an amount to cover administrative expenses that JBT was incurring; and the 10% “contractual overhead/profit” provided for in the BHS O&M contract where work not foreseen or designed at the time of the contract. 9/28/2015 ILDT-JBT Request for Authorization, Exhibit H. On October 21, 2015, this



request was countersigned by Pedro Hernandez, Mr. Solorzano's Assistant Director, and JBT was authorized to proceed. *Id.* This document was updated a few months later, on January 1, 2016, in the exhibit attached to the Report, this time signed by the MDAD Construction Manager, Mr. Solorzano, himself.

MDAD's request that JBT perform this work was consistent with the BHS O&M contract terms. Specifically, the contract provided that: "Certain portions of work which may be required to be performed by [JBT] under this Contract are either unforeseeable or have not yet been designed, and the value of such work, if any, is included in the Contract as a specific line item. County may, at its sole discretion, utilize the Allowance Accounts, either dedicated or general, to pay for additional or extra work." Section 4.01 of Operator Agreement, Exhibit G. Critically, the provision placed in MDAD's "sole discretion" the use and application of the allowance. For this allowance work, JBT was "entitled up to a maximum of ten percent (10%) of the direct costs associated with the Services performed under the General Allowance Account, such amount being full compensation to [JBT] for all indirect costs, mark-up and profit." *Id.*

Thereafter, acting on the signed requests for authorization the airport provided, AvAirPros billed JBT, JBT paid AvAirPros, and JBT then invoiced MDAD consistent with the agreed-upon amounts documented in this correspondence. By July 2016, however, MDAD had not reimbursed JBT for these amounts, including what was adding up to over \$100,000 that JBT advanced to AvAirPros. This was openly discussed between MDAD Deputy Director Ken Pyatt, JBT and AvAirPros, after which, at Mr. Pyatt's request, additional detail about the work, including supporting time sheets and receipts, were provided to Mr. Solarzano. 7/1/2016 Correspondence, Exhibit I. Periodically throughout this time, AvAirPros copied JBT on correspondence between it and Michael Wesche, Chairman of the Miami Airport Affairs Committee ("MAAC"), detailing the project management services it was providing for the Inline BHS Project and explicitly stating that the work was being funded in part "through the JBT Aerotech Operations & Maintenance agreement for specific services relating to the Enabling Works." *E.g.* 8/16/16 Correspondence, Exhibit J. These agreements were, based on documents sent to JBT, approved by the MAAC and by Ken Pyatt of MDAD. The documentation of AvAirPros' time and expenses requested by MDAD over time were provided by JBT to MDAD and then to investigators preparing the Report.

From its perspective, JBT was complying with its contractual obligations and the instructions of the contract owner when it acceded to the airport's requests to use the TSA-funded project allowance to fund AvAirPros' work on the Inline BHS Project. This was openly discussed, was transparent and was well-documented with leadership across MIA. The authorizations to proceed that MDAD signed and provided to JBT constituted work orders consistent with the BHS O&M contract, which defined "Work Order" as: "A written order, authorized by the Director, directing the Operator to perform work under a specific Allowance Account" Operator Agreement at 15, Exhibit G. The contract further defines "Director" as an "authorized representative(s)" within "Miami-Dade Aviation Department" *Id.* at 14. That MDAD decided to later issue another work order in March 2017 that referred back to the same



work does not change the validity or fact of the prior work orders. *See* Report, Exhibit 13. The March 2017 work order is very clear, however, in its description of the “justification” for the work. That is: “COUNTY REQUESTED CHANGES. Owner’s request.” *Id.*

Consistent with the terms of the work orders it received, JBT invested significant administrative and accounting work toward the Inline BHS Project, dedicating a staff person to this purpose. In addition, JBT itself did extensive additional work for the Inline BHS Project, for which it appropriately was compensated through the 10% markup. JBT was involved with capacity surveys that required JBT to gather and provide data baggage numbers, *i.e.* typical bags per person. JBT was also responsible for coordination of relocation of the airlines during the overhaul of several baggage carousels. JBT provided input on control room design, provided comments to the Bag Hygiene Policy, attended a site walk with TSA, discussed curbside input requirements, and coordinated TSA travel plans. JBT also provided escort services, as its employees were permitted access to the necessary locations in the airport, for both Burns McDonnell and another contractor working on the Inline BHS Project, BNP. In addition, JBT managers spent hundreds of hours at meetings about the Inline BHS Project, including bi-weekly ILDT meetings and weekly BHS workshop meetings. JBT was regularly assigned tasks related to the project during these meetings. As noted above, JBT managers devoted significant time – often 20-30 hours a week – to the project. The company’s only compensation for this additional work, which was above and beyond operation and maintenance of the existing BHS systems, consisted of the 10% mark-up of amounts billed through the TSA-funded allowance in the contract.

II. Additional Response to OIG Report

The Report paints a starkly different and darker picture than either the facts or law support. The Report identifies specific instances, mostly involving MDAD employee Debra Shore, that demonstrate alleged violations of the Cone of Silence rules that govern county procurement. However, the Report does not identify evidence to support the conclusion that JBT initiated or took advantage of any of these violations, let alone that any violations corrupted the procurement process for the BHS O&M contract. The Report in no way challenges the validity of JBT’s bids for the BHS O&M contract; the accuracy or methodology JBT utilized to object to the Oxford bid that would have devastated baggage handling service at the airport; or the quality and integrity of JBT’s work at MIA. JBT below specifically responds to the material allegations the Report makes against it.

A. The Allegations do not Support a Finding of Cone of Silence Violations by JBT

The only alleged legal violations identified in the Report concern Cone of Silence violations, but the Report fails to identify any evidence that JBT violated those rules. After the First RFP and Second RFP were advertised, a mandatory Cone of Silence was put into place pursuant to Miami-Dade County’s Conflict of Interest and Code of Ethics Ordinance. Section 2-



11.1(t). The purpose of a Cone of Silence is to “protect the integrity of the procurement process by shielding it from undue influences prior to the recommendation of contract award.” Miami-Dade County Administrative Order 3-27. The Cone of Silence only applies to communications regarding an advertised RFP, however; it does not prohibit all communications among relevant individuals. *Id.* Moreover, the Cone of Silence ordinance and administrative order specifically allow for some communications regarding a pending RFP. The ordinance allows for communications between: “a potential vendor, service provider or bidder and employees of the...department identified in the solicitation document as the issuing department” and “communications in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP.” Section 2-11.1(t)(1)(a)(viii); Miami-Dade County Administrative Order 3-27.

As the Report acknowledges, during both RFPs for the BHS O&M contract, Ms. Shore was “placed in charge of the two incumbent BHS O&M contracts.” Report at 8. Thus, Ms. Shore was responsible for overseeing performance of the incumbent contracts at the same time she was responsible for awarding a new contract for the same services. Such an arrangement is not inappropriate. To the contrary, it allows an individual with knowledge of the requirements of a contract, and the proposers, to be involved in the decision-making process. This also means that a person involved in the selection committee (Ms. Shore) logically has daily communications with the incumbent service providers about non-procurement matters having to do with contract performance. This is true even when those providers, like JBT, are also proposers for the new contract. The Report ignores this fact and, without identifying any evidence to corroborate its speculation, just assumes that communications between JBT and Ms. Shore during the Cone of Silence necessarily involved procurement matters. This is an unfair and inaccurate assumption, as discussed further below.

The Report does not even accurately identify the dates when the Cone of Silence was in place. Thus, it identifies May 6, 2014 as the date when the Cone of Silence ended for the First RFP. Report at 14. However, the Cone of Silence terminates “when the County Manager issues a written recommendation to the Board of County Commissioners”; it is reinstated if the “Board of County Commissioners refer the County Manager’s recommendation back for further review.” Miami-Dade County Administrative Order 3-27. Here, the Cone of Silence for the First RFP lifted when the Mayor first made a written recommendation to the Board of County Commissioners to reject all the bids, which occurred more than a month earlier than the date in the Report, on April 8, 2014. *See Exhibit A.* While a committee of the Board of County Commissioners took the issue up on April 9, the Mayor’s recommendation had still been presented to the Board of County Commissioners in writing. Moreover, while the committee changed the recommendation, there is no indication that the committee returned the recommendation to the Mayor at that time. Thus, while the Report identifies an April 11, 2014 AvAirPros email opining that Oxford could not perform the contract with its proposal of 46 employees as a Cone of Silence violation, the period had actually ended at that point. *See Report at 14.* While JBT is not alleged to have been involved in AvAirPros voicing its opinion on April



11, the inaccuracy of the Report on these basic factual and legal points is consistent with the Report's statements about JBT, too.

For JBT, the Report consistently suggests Cone of Silence violations where no evidence of violation exists.

1. Communications between Ms. Shore and JBT

The Report claims the OIG discovered a “cache of emails between proposer JBT and Ms. Shore.” Report at 15. The Report says nothing about the contents of most of these emails. Instead it relies on a presumption of impropriety, while never acknowledging the obvious: that is, that Ms. Shore was managing JBT's work under the existing contract on a daily basis, requiring regular, necessary and proper email communication between her and JBT managers.

The same is true about telephone communications. The Report lists multiple phone calls between Ms. Shore and others, including JBT manager Gilbert Lopez, speculating without any evidence of the contents of the calls, that these communications improperly concerned the procurement process. *See* Report at 24-26. In fact, Mr. Lopez and Ms. Shore spoke nearly every day about the operations of the incumbent contract, both before, during and after the procurement process. The Report does not state that such daily communication would have violated the Cone of Silence. It could not, since this would have meant shutting down the management of the incumbent contract during the procurement. Instead, the Report chooses and charts only communications during the procurement process and suggests without support that those communications must have involved the pending RFPs. The absence of supporting evidence is telling in the context of this massive investigation, in which every person who remotely touched the procurement process, including participants in the underlying calls, were interviewed and thousands of documents were reviewed. *See id.* at 10-12.

Regarding the two specific emails the Report identifies that involve JBT, the first relates to a reference Ms. Shore provided for JBT to Orlando Airport. *Id.* at 15. The OIG implies that Ms. Shore should have declined to provide the reference, stating she did so “[i]nstead of declining due to her service on the Selection and Negotiation Committees.” *Id.* However, the Report does not cite any procurement or ethical rule that prevented Ms. Shore from providing a reference to a different airport based upon her prior and ongoing work managing JBT. MDAD itself relied upon references from other airports when evaluating proposers during the First RFP. *Id.* at 17. In lieu of identifying anything improper in what Ms. Shore stated in her recommendation, the Report suggests that there was a Cone of Silence violation because within an email chain about Ms. Shore's recommendation in the Orlando procurement, there is a statement by one JBT employee to another JBT employee: “Now if they would just re-award our contract.” *Id.* at 15. Though a later email in the chain is then forwarded to Ms. Shore, the subject comment was not made to her and was not made in the context of the MIA procurement. This is no basis for a Cone of Silence violation in Miami based on this email.



The OIG also refers to an email from Mr. Lopez to Ms. Shore whereby he “touts the services of JBT and disparages the services of Oxford.” Report at 16, citing to Exhibit 3. Again, the Report suggests that this email involved the procurement process when it did not. Rather, a reading of the email demonstrates that it concerned an operational issue that arose on the day of the email. Thus, the first email in the chain is from a JBT employee to Jose Almeida, a JBT manager, on August 24, 2013 about a “problem [that] started around 8:30am today,” stating that “[i]t is 10:15 and nobody working on it yet.” Report, Exhibit 3. The issue had to do with a baggage carousel that had broken down in the part of the airport that Oxford managed. The email states that “JBT rose to the challenge and redirected the Cuba flights to the pier.” *Id.* This email was sent to Mr. Lopez, who forwarded the chain to Ms. Shore indicating that Jose would provide follow up and asking a question about documentation for the carousel. Ms. Shore responded by asking “when was this fixed” and Mr. Lopez responded, “at or around 11am.” *Id.* They then discussed the time the repair took and Mr. Lopez referred Ms. Shore to MDAD reports. Ms. Shore ended the chain by saying she was not going to do anything further. *Id.* This email constitutes a typical report by JBT to its manager at the airport about what it was doing that day, so that she would understand the status of the systems she oversaw. In her capacity managing the BHS systems, Ms. Shore needed to know about the matters reported and the Report does not suggest otherwise. The Report includes with the email chain photos that appear to be of the broken carousel, though none of the emails in the chain refer to attachments. At no point in the chain is the pending RFP discussed. Moreover, though Mr. Lopez and Mr. Almeida were both interviewed extensively as part of the investigation, neither were asked even a single question about this email chain. This is yet another example in which the Report chooses to rely on innuendo rather than evidence – even when there was ample opportunity to obtain the evidence just by asking.

2. AMC Letter

The Report cites an August 29, 2013 letter from the AMC sent to the Deputy Director of Aviation, Ken Pyatt, as a “transgression[] and impropriety[.]” Report at 14, 16-17. Specifically, the OIG states that Mr. Lopez asked the AMC to intervene in the pending RFP, which the AMC did by submitting a letter voicing its concerns about the staffing levels for the contract that Oxford was proposing. *Id.* at 16. The AMC letter does not mention JBT once. It does not lobby for JBT in any way. Instead, it asks in conclusion that: “On behalf of the airlines I would kindly request you to look into the awarded contract and do all that is possible to ensure that the current service level standards are met and or are improved upon.” Report, Exhibit 4. There is no evidence in the Report that the letter did not reflect the sincerely held beliefs and concerns of the AMC. In ultimately requiring the contract to be rebid with consistent staffing levels across bidders, the Mayor cited this letter, which was formally filed, and he noted JBT’s involvement with the AMC when he did so. None of this violated the Cone of Silence, which is true even if Mr. Lopez encouraged the AMC to speak its mind.

The Cone of Silence Administrative Order explicitly permits “communications in writing at any time with any County employee, official or member of the Board of County



Commissioners unless specifically prohibited by the applicable RFP.” Miami-Dade County Administrative Order 3-27. In this case, the RFP did not prohibit written communications such as the AMC letter. Thus, the AMC letter itself was not a Cone of Silence violation. The transmitting email for the AMC letter refers to a discussion between Mr. Pyatt and Mr. Kaul, the AMC President. The Report suggests that such a discussion was a lobbying violation because the AMC was not a registered lobbyist. Report at 16. Notably, however, the Report provides absolutely no detail about that meeting or what was said in it. This is true even though the Report states that sworn testimony was taken from the meeting participants, Mr. Kaul and Mr. Pyatt. *See id.* at 11. No claim of any lobbying violation was brought or is recommended by the Report against the AMC based on that meeting. In any event, JBT is not alleged in the Report to have participated in any way in the meeting. JBT notes that during the period when the AMC letter was sent, JBT was working in consultation with Holland & Knight and following that firm’s advice concerning objections to the award of the contract to Oxford based on Oxford’s significantly understaffed proposal.

3. Communications that do not Involve JBT

The Report repeatedly cites to communications that do not involve JBT as a basis for seeking to impose some sanction on JBT, implying that because Ms. Shore or Mr. Binish thought JBT’s proposal was preferred to Oxford’s, that JBT is responsible for any Cone of Silence or other violations by them. There is no factual or legal basis for such vicarious liability.

In this regard, the Report cites to two communications from Mr. Binish to Ms. Shore: the first is a November 2014 letter; the second is an email that includes a “how to vote” matrix. The Report suggests that these communications were either Cone of Silence violations or an inappropriate attempt to steer the RFP away from Oxford to JBT. *See* Report at 17, 21-22. While the Report identifies no evidence linking JBT to either communication (other than the fact that the communications are about JBT), neither communication suggests any wrongdoing by JBT.

AvAirPros was hired by MDAD to provide consulting services. The scope of work of the agreement between AvAirPros and MDAD provides that AvAirPros “will provide a single point of contact for the Miami-Dade Aviation Department (“MDAD”) as it relates to coordination of issues with the Miami Airport Affairs Committee (“MAAC”) on matters with broad implications to airlines related to financial, technical, operations, and airport affairs.” AvAirPros Contract, Exhibit K at Section 3.01. AvAirPros was required to “establish and maintain effective lines of communication between MAAC, MDAD, MDAD consultant, and other County departments” and “[e]stablish processes to encourage MDAD and the MAAC to work together to identify and resolve areas of potential disagreement.” *Id.* Thus, Mr. Binish and AvAirPros were hired for the very purpose of providing their expertise and communicating with MDAD regarding technical and operational airport affairs. Moreover, Mr. Binish is an expert in the field of baggage handling systems and the MDAD hired him for this expertise.



With this scope of services in mind, it is not surprising that Mr. Binish provided his opinion in November 2013 about Oxford's ability to perform the contract. Report, Exhibit 5. Moreover, that email was sent to the County Attorney (David Murry) and the Contracting Officer (Pete Betancourt). Communications by Mr. Binish with these individuals are excluded from the Cone of Silence. Miami-Dade County Administrative Order 3-27. Moreover, Mr. Binish was a member of professional staff at the airport as a result of AvAirPros' consulting agreement. He therefore was not precluded from communicating with these individuals about his opinions. The Report itself acknowledges that the Binish letter "was widely circulated around MDAD." Report at 17. It does not allege that it went to any prohibited individuals or that it lacked transparency.

Regarding the draft scoring matrix, the Report does not identify any way in which Mr. Binish's analysis of the proposals influenced JBT's selection. The fact that the proposed scores were similar to what the selection committee ultimately found just confirms that Mr. Binish's assessment of the proposals was accurate – as was the committee's. Neither is there evidence the matrix was shared with decision-makers other than Ms. Shore, who requested it. To the contrary, the Report cites Ms. Shore's sworn testimony that she never shared it. Report at 28. In this regard, the Report states that every member of the selection committee was interviewed. *Id.* at 11. Apparently, none of them stated that they ever saw Mr. Binish's matrix. The Report takes issue with the fact that Mr. Binish charged MDAD for his time to write the letter and to analyze the proposals. *Id.* at 17 n.11. But this is not surprising either, since Mr. Binish was doing the work he was hired by MDAD to do, that is, to act as a technical consultant.

In any event, whether or not Ms. Shore and Mr. Binish were properly communicating with each other, there is no evidence JBT motivated or suggested any of those communications or that JBT was involved with them at all. Instead, concerning the scoring matrix, the Report states that Ms. Shore called Mr. Lopez to her office, berated him by saying that JBT should have had an even stronger score on the merits, and then suggested that Mr. Lopez share the matrix. Report at 27-28. According to the Report, Mr. Lopez responded to Ms. Shore: "I do not feel comfortable sharing that, I am not going to do that, I am not going to share those results with anybody." *Id.* at 28. Mr. Lopez then took the matrix back to his office and shredded it. *Id.* There is no evidence that he did ever share anything about the matrix with anybody or that JBT ever utilized any of the information in the matrix in any way in the procurement process. At worst, the Report is left with the suggestion that Mr. Lopez should have reported Ms. Shore as having breached the Cone of Silence instead of what he did, which was to refuse her request to share the information, shred the document she gave him and then not mention it again until he testified fully and frankly about it when asked by investigators. Mr. Lopez's transparency with investigators is a contrast from Ms. Shore, who denied the meeting until confronted with Mr. Lopez's truthful testimony. *See id.* at 27-28.



B. Government-in-the-Sunshine Law Allegations

The Report also states that there was a potential Sunshine Law violation because of what it characterizes as a “secret” text between Mr. Lopez and Ms. Shore from August 16, 2013. Report at 14-15. The Report does not explain why that text is considered any more “secret” than any other text that Ms. Shore and Mr. Lopez exchanged nearly daily as she oversaw JBT’s then-existing work at the airport. Neither could it do so. There is nothing but evidence of a text being sent, albeit during a public meeting. There is no evidence – and the Report cites to none – that supports the Report’s supposition that the text concerned the procurement or that it had any impact whatsoever on the procurement. Neither is there any evidence the text constituted a violation of the Sunshine Law – and certainly not a violation by JBT.

Florida’s Sunshine Law requires that, “All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times.” Florida Statutes Section 286.011. The Report claims that any communication about the meeting via text was not public, but there is no evidence that the text was about the meeting. Moreover, any violation of the Sunshine Law would not be a violation by JBT, but by Ms. Shore. *Id.* (providing that violations are by a “pubic officer” or “any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision”).

The Report acknowledges that the text – whatever it said – did not violate the Cone of Silence rules; instead it stretches to suggest the text “violated the legislative intent behind the Cone of Silence.” Report at 15 n.5. Even this conjecture is unsupported given that there is no evidence the text concerned the procurement process rather than operational matters about which Mr. Lopez and Ms. Shore communicated regularly and by necessity. It is noteworthy in this regard that Mr. Lopez gave extensive testimony under oath in the investigation, but investigators from the OIG never asked him about the contents of this “secret” text message.

C. The Report Relies on Dark Interpretations of Everyday Conduct

The Report relies throughout on unsupported conclusions and logical leaps. For example, while JBT and Ms. Shore would have been expected, and in fact required, to communicate regularly about the incumbent contract operations, the Report infers that any and all communications between them are evidence of “improprieties.” Typical is the chart that includes a handful of one- and two-minute phone calls between Ms. Shore and Mr. Lopez between January 26 and 30, 2015 and between February 11 and 12, 2015. Report at 24-25. The Report acknowledges that “for a Cone of Silence violation to have taken place, the content of the communication needs to be related to the subject procurement.” *Id.* at 25. Regardless, without identifying any evidence of improper content concerning any of the charted calls involving JBT,



and without acknowledging the operational necessity that Ms. Shore and Mr. Lopez communicate about ongoing work, the Report suggests that the fact of these calls give rise to “appearances of impropriety.” *Id.*

Similarly, while it seems clear that Ms. Shore and Mr. Binish had strong opinions about JBT and Oxford’s respective proposals, and that each preferred JBT, there is nothing improper about this, as the Report would have it. To the contrary, Ms. Shore and Mr. Binish were each in her or his own way paid to apply their expertise to develop those opinions on behalf of MDAD. The Report nowhere suggests any evidence that either Ms. Shore, Mr. Binish, the AMC, the other MDAD administrators or anybody else involved with the procurement was improperly motivated when they concluded: first, that Oxford could not perform the contract with half the staff of every other bidder; or, second, that JBT’s second round bid was not only \$12 million less expensive than Oxford’s but was also technically superior. The Report nonetheless attempts to draw nefarious motives from Ms. Shore and Mr. Binish’s preferences, even while it carefully avoids overt criticism of the decision to reject the first Oxford bid and rebid the contract. *See* Report at 13. This attempt to darken otherwise normal conduct – conduct that, in fact, spared MIA a contract that would have significantly undermined its BHS system – is pervasive throughout the Report.

A powerful example is the Report’s emphasis on a “cruise” sponsored by the AMC and attended by JBT managers and Ms. Shore, among others in October 2013. *See* Report at 18. The Report suggests that this “cruise” constituted improper “fraternization,” though it cites to no ethical rule or law to support this position. The Report refers to the event as the “JBT-AMC Cruise,” *id.*, even though the agenda attached as an exhibit demonstrates that it was titled the “Miami AMC Out of Country Workshop.” *See* Report, Exhibit 6. Not mentioned in the Report is that the workshop, which on this occasion took place on a cruise ship but which has been sponsored by the AMC at various venues over the years, is an annual event. JBT did sponsor the opening reception and it co-sponsored one lunch with other MIA vendors Eulen, Swissport, Triangle and Serviceair. *See id.* Other receptions or meals were sponsored by the MAAC or by Swissport alone. Attendees included multiple MDAD employees (not just Ms. Shore), employees of JA Airport Services, Swissport, Eulen, Serviceair, Triangle, United Airlines, Smart Carte and AvAirPros. Oxford and other companies who had a presence at MIA would also have been invited to attend. As the Report notes, there was nothing secret about the workshop and, as the Report concedes, “[w]hat is clear is that MDAD management did not prohibit or dissuade Ms. Shore [] from participating. In fact, Ms. Shore’s supervisor was well aware of her participation.” Report at 18.

The workshop had to do with ongoing operations and had nothing to do with the BHS O&M procurement. Neither does the Report suggest any evidence – despite all of the testimony taken in the investigation – that the procurement was discussed at all, by anyone at the workshop. To the contrary, the Report concedes that multiple witnesses testified the procurement was not discussed. *Id.* (“several witnesses testified that the procurement was not discussed during this event”). Without evidentiary basis, the Report simply chooses to discard that testimony in favor



of its own dark interpretations. Notably, at the time of the workshop in October 2013, the procurement was in the hands of the Mayor – the selection committee having made its decision in May 2013 and objections having been filed by JBT and others throughout June to August 2013.

Another example of the Report’s reliance on innuendo concerning everyday events is its reference to the fact that the March 2017 Work Order for the Inline BHS Project, Exhibit 13 to the Report, refers to JBT providing “escort,” among other services. The Report puts “escort services” in quotation marks to suggest it is a euphemism for something improper. Report at 32. It is not. As the OIG must know, “escort services” in this context refers to the fact that a security protocol designed to prevent terrorism and theft requires that no one who has not been thoroughly vetted and given a security badge is allowed near the baggage handling area. When it is necessary for a subcontractor’s unbadged employees to nonetheless be given access to these areas, those unbadged employees must be escorted by a badged person 100% of the time. That is what “escort” refers to here. It is troubling that in this, and other examples discussed below, the Report utilizes omission and tone to imply impropriety where there is none.

Ultimately, the Report insinuates that the Second RFP, announced in June 2014, was somehow improperly tilted toward JBT and should have gone to Oxford. However, as noted, the Report (a) does not identify any error in the technical scoring of the bids that demonstrated the superiority of JBT’s bid; and (b) never acknowledges the fact that JBT’s bid was \$12 million less than Oxford’s once Oxford was required to include funding for minimum staffing numbers. The Report criticizes Ms. Shore’s role recommending who should be on the selection committee, but nowhere suggests that Ms. Shore had authority over Pedro Betancourt, the committee chair, or the Mayor, who appointed the committee. *See* Report at 19. What the Report seems to suggest is that a different committee would have reached a different result. This defies common sense in light of the scoring and pricing of the bids and is rank speculation. Furthermore, it is unsupported by any evidence calling into question the committee’s conclusions.

D. JBT Properly Followed the Owner’s Requests and Performed Consistent with the Contract Terms Concerning the Inline BHS Project

A full third of the Report has nothing to do with the procurement process but criticizes MDAD’s use of the TSA-funded allowance in the BHS O&M contract to fund AvAirPros’ work on the Inline BHS Project. Report at 28-43. The Report characterizes this as a “suspect” pass-through arrangement and misstates JBT’s role in the project as simply passing through AvAirPros’ invoices. *Id.* at 28. As discussed above, the Report’s statements about JBT’s involvement in the project are untrue and incomplete. It is also significant that in this discussion, the Report does not identify a single regulation or law that was broken either by MDAD, by JBT or by AvAirPros. The Report does not address that the same allowance was included in the RFP and would have been available and used by MDAD to fund this work regardless of what bidder won the BHS O&M contract. Neither does it address the use of this same allowance with respect to other subcontractors hired through JBT for the Inline BHS Project.



Preliminarily, the Report does not cite the correct section of the BHS O&M contract that provides for the supplier to utilize the allowance and include the 10% mark-up for expenses paid to a third party. On this point, while the Report cites to Article 2.02 of the BHS O&M contract, Report at 41, the basis for the work performed by JBT and AvAirPros on the Inline BHS Project is Section 4.01. As discussed above, Section 4.01 provides: “Certain portions of work which may be required to be performed by [JBT] under this Contract are either unforeseeable or have not yet been designed, and the value of such work, if any, is included in the Contract as a specific line item.” Section 4.01 of Operator Agreement, Exhibit G. Pursuant to this Section, it is within the county’s “sole discretion” to order the work and to utilize the Allowance Accounts “to pay for additional or extra work.” *Id.* The OIG clearly disagrees with MDAD utilizing this provision for work that is outside of JBT’s ability to perform, and for which a third-party like AvAirPros would need to be hired; however, the contract imposes no such limitation on the county’s discretion. Indeed, as discussed above, the existence of the special allowances in the BHS O&M contract, as well as the 10% mark-up for work contracted through those allowances, were a required feature of every bid for the BHS O&M contract. *See* Appendix B-1, Addendum No. 4, RFP No. MDAD-11-14, Exhibit C.

It was never JBT’s role or authority to tell MDAD – the contract owner – how the TSA-funded allowance account should or should not be utilized. JBT did not comment at the time and does not respond now to whether a better procedure could or should have been followed to obtain AvAirPros’ work on the Inline BHS Project, which is the subject that occupies much of the Report on this subject. However, JBT is not properly criticized – let alone penalized – for doing what MDAD requested it to do, none of which was hidden by JBT from anyone at the airport and all of which followed signed authorizations to proceed received from MDAD beginning in September 2015, as discussed above. *See* Exhibit H. Moreover, while the Report complains that the use of the BHS O&M contract to retain AvAirPros on the Inline BHS Project lacked transparency, from JBT’s point of view, it was entirely transparent and well-known to all at the airport, up to and including the most senior management, who were copied on relevant documents, participated and who were well aware of the funding of AvAirPros’ work through the BHS O&M contract allowance for TSA-funded projects.

JBT further strongly objects to the Report willfully ignoring the significant work that JBT did on the Inline BHS Project. Contrary to the Report, that work was decidedly not limited to the “pleasure” of passing through AvAirPros’ invoices. The details are discussed above, but this work included dedication of an administrative staff and JBT managers attending dozens of ILDT meetings and even more BHS workshop meetings dedicated to the Inline BHS Project. In total, JBT estimates its managers attended in excess of 100 meetings on this project – many of which resulted in JBT being given additional assignments to assist. This included but was not limited to JBT’s work on capacity surveys, on logistics for the airlines during construction, escort work and other work. JBT did not directly supervise AvAirPros – and did not have the specialization to do so, which is why AvAirPros was retained in the first place. Instead, JBT complied with what the contract owner – MDAD – asked it to do, on a project that was to JBT’s understanding (and as



documented) TSA-funded. JBT's work on the Inline BHS Project went beyond the scope of the base services as defined in the original BHS O&M contract, which concerned the operation and maintenance of existing BHS equipment. That JBT was compensated for this work through special allowances, including the 10% mark-up on invoices provided for in the contract and to which MDAD agreed in writing, is not inappropriate and was never concealed. It is not fair or accurate to suggest that this money was improperly obtained or is not properly retained by JBT.

The Report incorrectly states that MDAD circumvented procurement processes that require design consultants be competitively selected when MDAD requested JBT to fund AvAirPros' work on the Inline BHS Project through the TSA-funded project allowance. Report at 38, citing Florida Statutes Section 287.255 (though we believe the appropriate cite is to Section 287.055 since there is no Section 287.255) and Miami-Dade County Implementing Order 3-38. While the decision to proceed in this manner was MDAD's and not JBT's, Florida Statutes Section 287.055 does not apply to the work performed by JBT and AvAirPros. It requires that agencies "publicly announce...when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed [\$325,000]." However, "professional services" is defined as "services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice." None of the services provided by JBT or AvAirPros on the Inline BHS Project fall under any of these categories. Moreover, Miami-Dade County Implementing Order 3-38 establishes procurement methods and "the roles and responsibilities of the Internal Services Department" not the roles and responsibilities of vendors.

The possibility of work on systems not designed at the time of bidding was foreseen in the BHS O&M bidding process, which is why the special allowances – including for TSA-funded projects – were included in the BHS O&M contract. And that contract was awarded following a competitive process. JBT was complying with MDAD's requests when it agreed (as any contracting party would have done) with the request that it fund AvAirPros' project management work through the TSA-funded project allowance of the BHS O&M contract. That is no basis for any penalty or sanction to anyone.

The Report further criticizes the documentation of AvAirPros' work on the Inline BHS Project. Again, this was the subject of significant back and forth between JBT and MDAD concerning the level of detail required from AvAirPros. This was discussed throughout the project between JBT, MDAD and even AvAirPros. At no point during that process was it suggested that there was any impropriety in using the TSA-funded project allowance in the BHS O&M contract for this purpose. Neither is it true that "[n]o time sheets or other supporting documentation were required or submitted" for AvAirPros' work. Report at 32. While initial invoices were requested and provided on a lump sum basis, when this changed because (apparently) the TSA required additional documentation, JBT did request from AvAirPros and



submit to MDAD both time sheets and receipts and other verification. Those were later submitted to investigators, who have them in their file.

Similarly, the Report's undeveloped suggestion that a "potential conflict" could arise whereby AvAirPros might have to criticize JBT in the context of the work being reimbursed through the BHS O&M contract, Report at 41, mistakes the nature of the work at issue. That work by AvAirPros related very specifically to the Inline BHS Project that was being designed by Burns McDonnell. JBT was providing enabling work to MDAD for that contract, but it had no role in the design and the project itself was not yet built or operational. The Report here again stretches to manufacture negative inferences where the underlying facts in no way support doing so.

* * * *

Since 2007, JBT has worked to make MIA's BHS systems work effectively and efficiently for the benefit of the airport and the county. Whenever MDAD asked it to do so, JBT has been a good partner, stepped up and done the work. JBT has fulfilled its contract obligations. And JBT has been an honest participant in the procurement process, never seeking and never utilizing any improper advantage. There is no witness statement, no document, no evidence at all in the Report that refutes these facts.

Concerning the subject procurements, the Report does not point to a single bit of evidence that would call into question the fact that JBT's bids were technically superior to those submitted by Oxford. Moreover, the Report can ignore, but it cannot change the fact that, JBT's final bid was also \$12 million less than Oxford's final bid. The notion that the county should expend years and hundreds of thousands of dollars rebidding that contract on these facts is indefensible and ignores the hardship that process would put on the county and MIA. Likewise, it is absurd to suggest that debarment, termination, non-renewal or disgorgement is an appropriate penalty for JBT in the absence of any evidence that JBT sought or utilized any unfair advantage. These are serious matters and require serious evidence to proceed. That evidence is glaringly absent here.

JBT is always willing to discuss business issues with the contract owner. It would do so here with MDAD with no objection. What JBT can and must object to is this Report, which substitutes innuendo for evidence and imputes on JBT improper motives that everyone involved in the underlying events knows are inaccurate and unfair. JBT is troubled by the apparent intent of the Report to create unfounded political pressure for the county to act against its own interests and to undermine a trust and confidence that has been hard-earned over a dozen years of real partnership at MIA.

As stated at the outset of this letter, JBT would appreciate the courtesy of a meeting with you to discuss the issues raised here. Absent that opportunity, JBT asserts its right for this letter and the accompanying attachments to be included with the Report as published. If this Report is



Mary T. Cagle, Inspector General
Miami-Dade County Office of the Inspector General
April 15, 2019
Page 20

modified in answer to this response, JBT further requests the opportunity to respond to those modifications so that the public record can be made complete.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Robert M. Andalman

cc: John Bean Technologies Corporation

MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL



FINAL REPORT

Appendix B

AvAirPros' and Debra Shore's Joint Response

*Probe of MIA's Baggage Handling System
Operation and Maintenance Agreement*

IG15-0027-I

BRIAN L. TANNEBAUM, P.A.

Via email mary.cagle@miamidade.gov

April 22, 2019

Mary Cagle
Inspector General
Office of the Inspector General
601 NW 1st Court
Transit Village South Tower
22nd Floor
Miami, Florida 33136

Re: Response of AvAirPros/Debra Shore to OIG Draft Report - Probe of MIA's
Baggage Handling System Operation and Maintenance Agreement
Ref: IG15-0027-1

Introduction and Background

The Draft OIG Report mischaracterizes a series of events at MIA and then draws wrong conclusions from those events. In the process, OIG has unfairly judged and determined AvAirPros – a company with a stellar reputation - guilty of wrongdoing.

AvAirPros should not be terminated or debarred, as many of the conclusions in this report lack a factual basis and are the result of misinterpretations which wrongly tarnish a company with a long-term upstanding reputation in the aviation industry.

By this response AvAirPros is requesting to meet with your office to discuss the below in addition to requesting that the final report correct a series of incorrect conclusions, and withdraw all accusations of wrongdoing by AvAirPros - because none are supported by the facts.

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As background, the first Request for Proposals (RFP) for a new Baggage Handling System (BHS) Operation and Maintenance (O&M) Contract at Miami International Airport (MIA) was advertised in June 2012. The selection committee for that RFP consisted primarily of County employees, most of whom did not have any BHS and/or BHS O&M experience to properly evaluate technical aspects of the proposals that were received. All bids were rejected by the County due to concerns that the low bidder's proposed staffing was inadequate to maintain the mission critical BHS. (See Exhibit 1). There is nothing in the factual record to support any conclusion other than that Oxford was not a responsible bidder, and that the Mayor's rejection of its low bid was fully justified under the true facts.

The second BHS O&M RFP was advertised in October 2014. This RFP included a fixed staffing model in order to normalize bids, and the selection committee was composed of more knowledgeable individuals with actual BHS experience. The contract was awarded in May 2015. The only remarkable aspect of this second award is that Oxford's bid essentially doubled, and became the highest among the competing bidders, once a proper staffing model was made a requirement for a responsible bid. This further amplifies the fact that a proper responsible bidder was selected to perform this particular BHS O&M RFP.

AvAirPros Robert Binish, P.E, is an industry recognized Subject Matter Expert (SME) related to Checked Baggage Inspection Systems (CBIS) and BHS. Mr. Binish provided advisory input to MDAD on technical aspects of the first and second BHS O&M RFP documents under the Airline Liaison Office (ALO) contract between AvAirPros and MDAD.

At all times, Mr. Binish also performed his assigned duties and responsibilities as requested and/or directed by MDAD (Ken Pyatt - Deputy Director, Pedro Betancourt - MDAD Senior Procurement Officer, Debra Shore- MDAD – Senior Cost Manager, as well as David Murray - County Attorney's Office (CAO). This included services to the North Terminal BHS liaison, North Terminal BHS crossover expert opinion, South Terminal BHS Technical Committee, South & Central Terminal CBIS/BHS Program, the first and second BHS O&M, and other BHS areas existing at MIA.

Apparently as a result of Mr. Binish performing his duties at the direction of MDAD, the draft OIG report has inexplicably taken unrelated situations surrounding the two

BHS O&M RFP's described above, and concluded that they are somehow nefariously tied to provisions of a CBIS/BHS Program under which there are allowance items for TSA-funded projects. AvAirPros, at the direction of MDAD, was compensated for CBIS/BHS TSA-funded Project Management services under a subcontract with JBT Aerotech. AvAirPros would have been retained by MDAD to perform these services, and compensated from the TSA allowance, regardless of who was selected as the successful bidder for the RFP.

The decision to retain AvAirPros support for the TSA funded project was requested in an ILDT-Enabling meeting - which are matters of public record - and was approved by Assistant MDAD Director Pedro Hernandez on October 21, 2015. (See Exhibit 2) and again on February 26, 2016. (See OIG report, Exhibit 9). Indeed, on page 32 of its report OIG confirms that MDAD directed this arrangement.

There was nothing secretive nor suspicious about any aspect of this utilization of TSA-funded allowances for this work. As the record below shows, OIG is wrong to conclude that the TSA-funded allowance was not properly utilized for the work AvAirPros was performing as Project Manager (PM) for the new Inline CBIS/BHS Program.

Specific Responses to the OIG Draft Report

1 The Email to a Selection Committee Member was Requested by MDAD

On page 1 of 46 of the report, it states that a Selection Committee member "received an email from her Department's consultant." The Draft OIG Report attempts to suggest that since the AvAirPros ALO Agreement was through MDAD, that AvAirPros is a "Department Consultant." In fact, AvAirPros is a consultant to both the MAAC and MDAD. Its ALO Agreement is with MDAD, which serves as a mechanism of convenience for both MDAD and the MAAC to pay for the professional advisory services that AvAirPros provides to both parties in their mutual efforts to implement MDAD's Capital Improvement Program (CIP), including but not limited to CBIS/BHS related projects, as well as a myriad of other operational, financial, etc. issues that arise.

AvAirPros has been providing CBIS/BHS related analysis, document drafts, estimating, scheduling, Subject Matter Expert (SME) advisory and other CBIS/BHS related support services both to the MAAC and MDAD at the request of both the airlines and the MDAD Deputy Director (Mr. Max Fajardo initially then succeeded by Mr. Ken Pyatt) since 2007.

MDAD requested that AvAirPros review the Second BHS O&M bid responses - given that AvAirPros had drafted large sections of the first BHS O&M RFP at the request of MDAD. In the capacity of providing nearly a decade of prior BHS SME advisory services to MDAD, such a request to review the Second BHS O&M bid responses was not considered to be unusual nor out of any normal scope of work.

Readers of the OIG report should note the make-up of the Selection Committee of the first BHS O&M procurement in the context of how vital this substantial new CBIS/BHS project is to the safety and efficiency of MIA for the benefit of the travelling public, the airlines and MIA. MDAD staffed the initial Selection Committee with personnel who did not have BHS O&M experience. Ken Gordon had been the Station Manager for United Airlines at MIA, and had a tenure as head of the AMC, which had him involved in the overall function and operations of South Terminal CBIS/BHS. None of the others who were appointed to serve on the Selection Committee had an understanding of operations and maintenance (O&M) of BHS equipment, but rather were appointed based on other factors.

Robert Binish is nationally recognized in the industry as a CBIS/BHS SME. Since 2009 when Mr. Binish was appointed by Mr. Pyatt as a member of the South Terminal Technical Committee, MDAD did not then have resources with the specialized expertise necessary to oversee the implementation of the BHS improvements that were then currently ongoing at MIA. It was reasonable (perhaps even essential given the lack of technical expertise on the part of those persons who were appointed to be on the Selection Committee for the first BHS O&M procurement) that MDAD would request Mr. Binish, in his SME advisory capacity, to evaluate the technical aspects of the proposal responses and provide his findings to MDAD to ensure that the bid respondents were capable of providing the level of service required to operate and maintain complex CBIS/BHS systems and equipment installations that are mission critical to airline operators and their customers.

2 There was no “How-to-Vote” Spreadsheet

On Page 1 of the report, reference is made to a “How-to-Vote spreadsheet.” This is a gratuitous term that is purposely misleading and a gross mischaracterization of the honest intent of the evaluation. There was a request to Mr. Binish for a review of the bid responses for the second O&M RFP made by the MDAD official (Debra Shore) who was responsible for MIA baggage handling systems. The technical content bid analysis was performed by Mr. Binish as requested, and the results of the review were provided to the requesting MDAD official. The technical bid analysis did not state how to vote. Instead, the technical bid analysis provided Mr. Binish’s expert opinion based on his review as requested by MDAD. The term “how-to-vote” is a misleading editorial comment on the document and should be correctly and factually titled “MDAD Proposal Review Scoring – 01.27.2015.”

3 Debra Shore’s Resignation was Independent of Her Work on the Selection Committee

Page 2 of the report makes reference to Debra Shore’s resignation from MDAD. Debra Shore resigned because in November 2014 Ken Pyatt reassigned her to Pedro Hernandez, Assistant Director for Facilities Department on the new South & Central Terminal CBIS Project. At that time the project was in the procurement process for A/E services as well as the development of the procurement documents for the construction manager at risk services.

To Ms. Shore, this indicated that Mr. Pyatt no longer supported her efforts at MDAD even though she was instrumental in gaining \$101,000,000 in TSA funding for the South and Central CBIS/BHS project, and for resolving multiple issues within the North and South Terminal FIS Facilities that other MDAD personnel could not solve. In sum, Ms. Shore believed she was ostracized by MDAD leadership because she was effective, and because she did not defer to the established political lobby that de facto runs MDAD. In fact, as the OIG report states, Mr. Pyatt issued a written reprimand to Debra Shore on November 10, 2014. On that same date Ms. Shore sent her resume to AvAirPros, (as reported in Table 5 on page 20 of the Draft OIG report), which evidences that Ms. Shore’s resignation is not related to any action by AvAirPros.

Ms. Shore did not resign because AvAirPros won a contract or offered her a job. Rather, Ms. Shore recognized that an opportunity with AvAirPros would provide her with long term career opportunities that exceeded any opportunity available to her at MDAD. AvAirPros can document that it was actively seeking prospective candidates for various positions during this time period.

4 AvAirPros did not Advocate for JBT

AvAirPros did not "advocate" for JBT to win the procurement related to the second BHS RFP. Nor did AvAirPros steer Ms. Shore to vote that way. AvAirPros reviewed and analyzed the O&M proposals, because AvAirPros was asked by MDAD to review the O&M proposal submittals and provide Mr. Binish's expert analysis. Ms. Shore was at all times free to draw her own conclusions based on her review of the bid response materials submitted by the proposers.

5 Utilization of the Dedicated Allowance Account for TSA Funded Work through a subcontract with JBT was the decision of MDAD and the MAAC, and was not "created" by AvAirPros

Page 2, paragraph 7 of the report, refers to a "suspect pass-through arrangement to pay AvAirPros."

The airlines, who pay most of the costs at MIA, requested that AvAirPros CBIS/BHS related services, which were becoming less advisory and more Project Management (PM) in nature, be captured in the cost center where the costs were incurred. MDAD agreed and determined that the existing BHS O&M agreement, which MDAD awarded and controlled, contained a number of allowance accounts that were included by MDAD procurement, and approved by the Mayor, and thus were the appropriate vehicle to capture and pay for AvAirPros South and Central Terminal CBIS/BHS related ALO advisory and PM costs.

This approach allowed MDAD to allocate these costs to a BHS specific project and cost center. This approach also allowed MDAD to avoid the County's procurement process of presenting for review and approval a change order to the BCC for additional AvAirPros service. Ken Pyatt (MDAD) and David Murray (CAO) jointly

made the decision(s) not to present a change order to the BCC for the added AvAirPros CBIS/BHS related Advisory and PM services.

A review of MDAD's procurement process will reveal a reoccurring pattern and standard practice of including of allowance accounts - often multiple allowances - to many of MDAD's contracts to cover missed scopes of work, unknown conditions and to add scopes of work to a project without requiring additional lengthy approval processes or seeking BCC approvals. Specific examples of this practice include, but are not limited to, contracts related to North Terminal Train O&M Contract, Sole Source Contracts for Access Control, Building Management System and Security Camera Supplier, as well as the Common Use Equipment Software and Hardware (SITA).

The "allowance account" approach provides MDAD with additional funds and contracting flexibility to address myriad operational and project related issues in an expedited manner, versus the requirement to navigate through the cumbersome and time-consuming County procurement processes or change order processes. The additional funds and contracting flexibility are frequently necessary to protect the operation of the airport and airlines serving MIA. This procurement practice is regularly followed by Pedro Hernandez; permitted by Pedro Betancourt, Marie Vincent-Clark and David Murray; and, condoned by Ken Pyatt and the entire Board of County Commissioners (BCC) and the Mayor as well as the OIG, COE and SAO.

In fact, during 2015, MDAD had the leeway to increase project costs by up to 25% without needing the approval of the airlines who fund the majority of the costs at MIA; thus creating a situation wherein MDAD routinely avoided the scrutiny of the BCC in its management approach at MIA, which is why the Mayor directed that MDAD procurement be subsumed back into the County procurement office at the Clark Building.

The range of services requested of AvAirPros by MDAD included nearly two Full Time Equivalents (FTE's) to provide Project Management (PM) services for the South and Central Terminal CBIS/BHS related PM services during the design and construction of the new South and Central Terminal CBIS/BHS project, coordination of airline baggage services during phased shutdowns, requested support to Norma Mata/MDAD for preparation of TSA reimbursement invoicing,

and other ad hoc BHS support services. The range of services requested of AvAirPros was estimated to cost over \$600,000 per year (or \$2,400,000 over the four-year time period from design to final project closeout for the South and Central Terminal CBIS/BHS project) and would have greatly exceeded the available “additional services” allowance of \$1,750,000 in the AvAirPros ALO agreement.

Exceeding the available additional service allowance account would force MDAD to seek a contract amendment to the AvAirPros ALO agreement, however, MDAD personnel advised that they would not to go back to the BCC following the difficulties in procuring both the BHS O&M services and the South and Central Terminal CBIS/BHS Construction Manager at Risk (CMAR) agreement. The CMAR preconstruction agreement indicated a maximum contract value of approximately \$175M for the South & Central Terminal CBIS/BHS project.

However, after the CMAR had completed its preconstruction services including bid pricing from subcontractors the South and Central Terminal CBIS/BHS project estimate exceeded \$205M. As requested by Pedro Hernandez, AvAirPros developed a deferred scope document that modified that project delivery into a Phase1 and Phase 2 approach and provided this document to Pedro Hernandez on 13 April 2017. This deferred scope approach allowed MDAD and the CMAR to execute the CMAR agreement at approximately \$175M for Phase 1; and, the Phase 2 Deferred Work would be added to the CMAR agreement via a change order to be approved by the BCC at a later date.

Thus, MDAD approved adding the requested AvAirPros BHS Advisory and PM services to the JBT agreement via the TSA funded allowance.

Debra Shore advised Ken Pyatt that 3 procurements would be needed for the new South and Central Terminal CBIS/BHS project: 1 – Design; 2 – Construction and 3 – Program Management Services. These 3 different types of contracts were provided for most every project in the \$6,200,000,000 Capital Development Program (CDP) at MIA. When Ms. Shore left MDAD in April of 2015, MDAD’s project management support services RFP and its BHS design consultant RFP were going through the County’s lengthy procurement process; however, the MDAD project management support services were never contracted for by MDAD. Thus, in the

Summer of 2015 MDAD was left without knowledgeable project managers to oversee the South and Central Terminal CBIS/BHS project.

Additionally, these CDP program management services were budgeted at approximately 4% of the total CDP costs, which would have been significantly more than what AvAirPros was charging (approximately \$8M considering a CMAR agreement final amount in excess of \$200 million). Finally, there is a significant distinction between the scopes of CBIS/BHS related advisory services, which AvAirPros was initially providing as part of its ALO Agreement with MDAD, versus CBIS/BHS related Project Management (PM) services that became increasingly more prevalent.

Until the date of ALO Agreement Termination on April 21, 2019, MDAD continued to not only rely upon, but require AvAirPros' CBIS/BHS SME services. In July 2017, Messer's. Ken Pyatt and Joe Napoli called Christopher Bradley with direction to transfer BHS services back to the ALO Agreement. Ken Pyatt and Joe Napoli acknowledged and agreed to provide a change order to the ALO Agreement to ensure proper funding of the CBIS/BHS SME Project Management services under the ALO Agreement.

On January 31, 2018, Christopher Bradley met with Pedro Hernandez to discuss Mr. Binish's removal from the ALO assignment as requested by MDAD. In reference to Mr. Binish's departure, Mr. Hernandez stated, "Every time I get a tool that I can use, the County takes it away from me." Mr. Hernandez stated that he would welcome Mr. Binish back if he were cleared of the charges but requested continued CBIS/BHS Services from AvAirPros. AvAirPros discussed using another CBIS/BHS SME, Chad Rosser, which Mr. Hernandez welcomed. Mr. Hernandez also confirmed that he wanted Juan Francisco Aveleyra to continue his role on the Project.

Later, on August 22, 2018, Messer's. Lester Sola, Ken Pyatt, and other MDAD participants met with Christopher Bradley, Mike Wesche, and Ariela Ruiz to discuss the SBE recovery plan. When advised by Lester Sola that he would not honor the previous commitment to provide a change order to AvAirPros for CBIS/BHS Services, AvAirPros voluntarily recommended discontinuing the CBIS/BHS Services. MDAD, knowing they heavily relied upon the CBIS/BHS Services provided by AvAirPros, directed AvAirPros to continue providing CBIS/BHS PM

and Advisory services. AvAirPros eventually recommended replacing CBIS/BHS staff with an SBE subcontractor, which was approved by MDAD. This condition continued until termination of the contracts on April 21, 2019. At no time did MDAD direct or request AvAirPros to stop providing its CBIS/BHS Services.

6 There was never any Conflict of Interest Known to AvAirPros

Page 2, section II of the report, states that there was an allegation of a “conflict of interest” but fails to tell the reader that such allegation was not supported by actual facts.

AvAirPros assumes the conflict of interest statement is related to Mr. Binish being asked to serve on the selection committee for the first BHS O&M procurement in 2012. When AvAirPros first learned in 2018 about some correspondence between Pedro Betancourt/MDAD and Victoria Erigo /COE of this allegation by the COE, we immediately undertook to and did provide to COE a sworn affidavit which established that the underlying premises behind Ms. Frigo’s email to Pedro Betancourt of December, 2012 were false. (See Exhibit 1 of the Draft OIG report for Ms. Frigo’s email).

Neither AvAirPros nor Mr. Binish were notified, prior to March 2018, as to the reason that the COE determined back in 2012 that he was conflicted from serving. Upon learning that the COE’s opinion was based on a report which falsely claimed that AvAirPros had contractual relationships with various proposers to the RFP, AvAirPros CFO Paul Demkovich provided a sworn affidavit that this claim was false. (See Exhibit 3). His affidavit was confirmed to be the true facts by representatives of the bidders. (See Exhibits 4 and 5). There is **no factual basis** for this conclusion that conflicts of interest ever existed. The COE dismissed its claim that a conflict of interest existed, yet the OIG draft report continues to propagate this false narrative. (See Exhibit 6).

Additionally, OIG’s statement that AvAirPros “influenced the procurement in favor of JBT” during the first BHS O&M procurement in 2012 period is false. The 6-page email (OIG Exhibit 5) OIG references was sent in November 2013 during the first O&M RFP to Pedro Betancourt per his specific request, and later forwarded to Ken Pyatt at his specific request. The 6-page email provides factual information related

to certain airports where Oxford was providing O&M services, provides names of contacts, and provides factual data concerning actual large international bag volumes at Category X airports. The email contains the conclusion “that when reviewing comparable Category X Airports with large international flight activity that are similar to MIA it is apparent that Oxford’s CBIS/BHS experience base is limited, and this will be of detriment to the O&M of the mission critical CBIS/BHS infrastructure and impact overall customer service at MIA.” This was and is the factually based opinion of an SME, Robert Binish, provided to MDAD senior administrators as requested.

Additionally, while having explicit knowledge of the COE finding of a conflict of interest for Mr. Binish to serve on a selection committee, Pedro Betancourt not only continued to seek Mr. Binish’s BHS related expertise during the first RFP cone of silence period but also responded to an email from Mr. Binish expressing his appreciation for his input. (See Exhibit 7). Mr. Pyatt also - during the cone of silence - requested Binish forward the 6-page email to his attention. (See Exhibit 8). When the 6-page email was initially issued to Pedro Betancourt it was also copied to the County Attorney’s Office (David Murray) who raised no objection as to the content and/or timing during the cone of silence.

**7 The Out-of-County Workshop was not “Inappropriate
Fraternization.”**

On page 2 of the report, OIG states that “such inappropriate fraternization smacks of favoritism and erodes the public’s trust in government.”

Exhibit 6 refers to the Out-of-County workshop in October 2013. The workshop is sponsored by Airline Management Council (AMC) and was open to all members of the AMC, including MDAD representatives who regularly interacted with the AMC. This event has been on-going for many years. There was no favoritism in the invites. Mr. Binish was not a Member of the Selection Committee and was not constrained by the cone of silence during any relevant time period. Mr. Binish personally paid all expenses associated with the workshop event in 2013.

8 AvAirPros did not “Steer” Debra Shore to Vote that Way

Page 2 of the report states that AvAirPros advocated that JBT win this procurement and “steered Ms. Shore, now a voting Selection Committee member, to vote that way.”

The “MDAD Proposal Review Scoring – 01.27.2015” spreadsheet did provide an opinion on the scoring format, but there is no favoritism or “steering” of Ms. Shore contained in the document. The “MDAD Proposal Review Scoring – 01.27.2015” spreadsheet provided a side by side comparison of the technical portion of all of the O&M bid responses to the selection criteria and to all the other bid responses. This review was provided at the request of Ms. Shore/MDAD in the same vein as innumerable other requests from MDAD since 2007 related to AvAirPros role as a CBIS/BHS SME. The reader of the spreadsheet was left to draw their own conclusions.

Additionally, the technical scoring was one component (400 of 500 total points or 80%) of the overall total scoring, and no analysis was provided regarding the financial scoring (100 of 500 total points or 20%) of responses and no adjustment for the 5% Local Preference modification was included. In summary the “MDAD Proposal Review Scoring – 01.27.2015” spreadsheet only provides a technical evaluation for one of three parts of the full proposal scoring calculation from MDAD’s BHS SME as specifically requested by MDAD senior management.

9 AvAirPros did not “Shield Compensation”

Page 3 of the report states that AvAirPros was “shielding the amount of compensation that it was receiving,” and that AvAirPros and the MAAC “engineered a scheme to compensate AvAirPros above and beyond what it stood to earn under its ALO agreement,” and that these payments “would never qualify for TSA reimbursement.” All of these accusations by OIG are false.

In point of fact, HNTB, as the airport bond consultant, was not involved in the preparation of TSA reimbursement documentation, and HNTB’s local MIA representatives did not have knowledge as to what would qualify for TSA

reimbursement. Further, in May 2017 AvAirPros, at the request of MDAD, prepared the initial TSA Attachment F-A showing total project costs, and reimbursable and non-reimbursable cost allocations, as a means to allow MDAD and the TSA to reach agreement because neither MDAD nor its consultants had the level of experience that AvAirPros had related to TSA reimbursements.

The statement that “these payments would never qualify for TSA reimbursement” is false. PM services qualify for TSA reimbursement in accordance with the TSA’s Planning Guidelines and Design Standards manual (reference PGDS, Version 4.2, Appendix F, Section F.3 Definition of Soft Costs), which specifically notes Project Management costs. Further, Attachment F-A includes specific line items for Project Management in the overall project estimate summary format.

There is **no factual basis** for OIG’s statement that AvAirPros was “shielding the amount of compensation that it was receiving.” AvAirPros’ invoices were processed through MDAD for its ALO work and AvAirPros CBIS/BHS related Advisory and PM services were processed through the ALO agreement from 2013 through 2016, and thereafter from August 2017 through the present. The subcontract with the BHS O&M provider utilizing the allowance account was formally implemented by MDAD in October 2015, and as admitted by OIG on page 32 of the report verbally agreed to by MDAD.

Subsequent to the award of the Second BHS O&M contract to JBT Aerotech (JBT), and as a result of a request by the airlines to capture all BHS related costs for the new CBIS/BHS project separately from the many other BHS-related costs contemplated under the ALO contract, the AvAirPros BHS related services were contracted for payment under one of the JBT Allowance Accounts as directed by Ken Pyatt and concurred with by Anne Lee (then CFO of MDAD). Utilization of the allowance account was fully known by Dave Murray (CAO). MDAD memorialized its knowledge and understanding in Exhibit 2. (See also Exhibit 9 to the OIG report).

OIG itself concedes on page 32 of its report that AvAirPros was being directed by MDAD and the MAAC to proceed as it did. AvAirPros invoices for BHS related services were approved by Pedro Hernandez of MDAD, and processed by Ricardo Solorzano/MDAD and Kurt Dobbrunz/HNTB. Invoices were also reviewed by the financial staff at MDAD responsible for that task. The issue of allocating the cost of

AvAirPros South and Central Terminal CBIS/BHS related Advisory and PM services to the JBT allowance account was discussed at the Integrated Local Design Team (ILDT) meeting, as noted on page 32 of the Draft OIG Report, which included representatives from MDAD/TSA/HNTB/AvAirPros and others. The amount of MDAD personnel involvement (and MDAD consultants), along with the OIG representatives who attended the ILDT meetings over an extended period of time, evidences that OIG's claim that the compensation AvAirPros received was "shielded," is false.

Also, on page 3, paragraph 3, the report states: "After the BHS O&M contract was awarded to JBT, the OIG discovered that AvAirPros was paid over \$700,000 out of a BHS O&M dedicated allowance account." This statement is misleading and suggests that the OIG discovered the payments after the fact. There was never any agreement or payment between AvAirPros and JBT until well after the BHS O&M contract was awarded. There were no payments to discover before or upon award of the BHS O&M contract as none existed. Placement of AvAirPros services under the allowance account was going to occur no matter who the successful bidder under the BHS O&M was.

In the same paragraph, it states: "...compensating AvAirPros outside of its ALO agreement circumvented the agreement's 20% SBE utilization goal." This was not a circumvention. SBE goals are set by MDAD. MDAD could have applied an SBE goal to AvAirPros CBIS/BHS related advisory and PM services performed through the BHS O&M allowance in JBT's contract, however, they did not. Setting an SBE goal was not, nor has it ever been, under the control of AvAirPros. Once the cost for AvAirPros CBIS/BHS related advisory and PM services were moved back to the ALO in August 2017, AvAirPros worked with MDAD to develop a plan to achieve its SBE participation goal of 20%. AvAirPros went so far as to remove one of its own staff members from the assignment and replaced the position with an SBE subcontractor to make progress towards achieving its contractual commitments.

On page 3 of the report, the statement that "This investigation has illuminated the dark underbelly of County procurement" suggests that there have not been other investigations regarding County procurement that have resulted in findings of misconduct. This is false. AvAirPros is not the cause of the many issues with County procurement which have led to criminal charges in other instances. This statement

mischaracterizes the history of procurement in Miami-Dade County and should be deleted.

10 AvAirPros did not “Engineer a Scheme”

On page 3 of the report it states that “AvAirPros and the Miami Airport Affairs Committee (MAAC) engineered a scheme to compensate AvAirPros above and beyond what it stood to earn.” This is an editorial comment without any basis in fact. Moreover, it reflects the OIG’s lack of understanding of basic airport finance and how airline and airport operators typically strive to fund and expense costs related to airport capital improvement projects.

We know this because of the following: The estimated cost for AvAirPros CBIS/BHS related advisory and PM services was to be in excess of \$600,000 per year, or nearly \$2.4M over the four-year period for this assignment. This amount is more than the \$1.75M additional services allowance that was included in the AvAirPros ALO Agreement and would have left no allowance funding for other critical ALO tasks such as supporting the airlines during the renegotiation of the Airline Use Agreement. The airlines requested *and MDAD agreed* up to and including the level of the CFO (Anne Lee), bond consultant (Mary Tracey), Deputy Director (Ken Pyatt) and Dave Murray (CAO) to have the AvAirPros CBIS/BHS related advisory and PM services assigned to a BHS cost center via the JBT TSA Allowance Account.

The use of this mechanism to fund AvAirPros South and Central Terminal CBIS/BHS related advisory and PM services was not done at AvAirPros’ request but rather because MDAD decided it did not want to go to the Board of County Commissioners (BCC) and potentially face negative consequences of requesting a change order, and because MDAD chose not to retain the CDP project management support services. Therefore, AvAirPros’ South and Central Terminal CBIS/BHS related advisory and PM services were assigned to the BHS O&M TSA Allowance account by MDAD. This was done with the full knowledge of all MDAD senior staff and included the CAO. This was not an “engineered scheme” by AvAirPros but rather was a decision made by MDAD to use a TSA Allowance Account.

As AvAirPros understands it, MDAD has the flexibility to decide how to use “allowance accounts” that are routinely included in Contracts that have been previously approved by the BCC and is not a mechanism to circumvent procurement rules. The concern by some at MDAD that AvAirPros was deficient in achieving its SBE utilization goal may have played a role in why MDAD did not want to present a change order to the BCC; however, it was MDAD senior leadership that made the decisions to circumvent County procurement rules and regulations – not AvAirPros as alleged by the OIG.

HNTB’s local bond engineer staff had no experience as it relates to what is allowable under the federal rules for TSA reimbursement of Allowable Costs for CBIS projects including CBIS/BHS related advisory and PM services costs for the program whose reimbursement payments are audited and administered by the Coast Guard.

In fact, AvAirPros provided a small workshop to Norma Mata/MDAD who was responsible for submission of reimbursement packages to Tim Travis, the TSA Site Lead and the first review entity for TSA reviews. In May 2017, AvAirPros was requested by Ken Pyatt and Pedro Hernandez to prepare the initial cost allocation between reimbursable and non-reimbursable costs in the TSA Attachment F-A, because neither MDAD nor its consultants (HNTB) had any relevant experience in the TSA reimbursement process that is delineated in the Other Transaction Agreement (OTA). AvAirPros personnel have provided the TSA reimbursement accounting at JFK Terminals 1 and 4, DTW, FLL, PBI, LAS, and LAX and is knowledgeable in the OTA reimbursement process.

11 Robert Binish was never a lobbyist

On page 5 of the report, an assertion is made that Robert Binish should have registered as a lobbyist. But OIG fails to point out that COE made this charge and then dismissed it because it lacked any factual basis. Schedule A of the OIG Draft Report says that Mr. Binish pled to illegal lobbying, which is false.

AvAirPros role as the ALO and a consultant responding to MDAD requests is not akin to lobbying. AvAirPros was never retained by any of the bidders during the procurement periods and was never paid a fee by any of the bidders including JBT. This statement by OIG is unsupported by any factual or legal basis.

The OIG position that AvAirPros should have known it was the County's "Professional Staff" by extension of its ALO contract for purposes of the "cone of silence" is refuted by the fact that the interpretation provided by the COE was never issued to AvAirPros, and was only made known to AvAirPros well after the award of the O&M contract to JBT. The OIG is using a future event (a May 2016 COE opinion letter) to attempt to retroactively charge AvAirPros with cone of silence violations in 2015. (See Exhibit 9). This is an *ex post facto* use of a finding to allege a violation.

12 RFP Specifications Routinely Change

Page 9 in the report states that "The complainant questioned the change in RFP specifications relating to manpower, i.e. staffing requirements, noting that this change essentially nullified pricing as a factor."

In the pre-proposal conference for the first BHS O&M RFP, it was stated several times that price was not the most important factor. Rather, the capability to provide the required services was the most important factor. It is AvAirPros understanding from Ms. Shore that the reason for minimum staffing levels being included in the second BHS O&M RFP was to protect airline and airport operations, which is what the low bidder appeared to be circumventing during the first procurement by proposing an inadequate staff resulting at a very low cost. AvAirPros now understands that Ms. Shore repeatedly stressed this point at that time to Ken Pyatt, Dave Murray (CAO) and MDAD's Procurement Officer.

It is not uncommon for an airport to reject and reissue RFPs with modified documents. After an extended review period, the County determined that the evaluation criteria included in the first BHS O&M procurement would not provide MDAD with the required minimum level of support.

After the issues related to the first BHS O&M RFP were discussed with the Mayor, resulting in cancellation of the bids, MDAD's Pedro Betancourt forwarded an excel spreadsheet that provided for a fixed staffing level for bid responders to use in a future BHS O&M County procurement. MDAD had used a fixed staffing model on other procurements and due to the wide variability in staffing responses during the

first BHS O&M procurement, MDAD decided to use a fixed staffing model to deliver a certain level of service for the second BHS O&M RFP. The OIG statement that the fixed staffing made an \$80M difference is wrong. In the second BHS O&M RFP additional allowances were included that increased the overall value of the O&M agreement.

13 Debra Shore did not Resign in 2018

Also, on Page 9, the report states that Debra Shore handed in her resignation on March 24, 2018. This is factually incorrect. Ms. Shore resigned from MDAD on March 24, 2015 to be effective April 28, 2015, not 2018.

14 The Committee was not “Stacked” in Favor of JBT

On page 10 of the report, it states that the complainant was “alleging that the committee was stacked in favor of JBT.”

During the first BHS O&M RFP the Selection Committee personnel were selected with little or no credence given to airport experience, BHS O&M experience or understanding of baggage handling systems. Mr. Binish was disqualified from serving by an incorrect COE opinion that was never shared with Mr. Binish until 2018. The airlines who are most impacted by poor O&M services were represented by only one member of the original Selection Committee. The second BHS O&M RFP Selection Committee was comprised of members who were airlines, airline consultants or personnel who all had some understanding of baggage handling systems and BHS O&M requirements.

MDAD recognized the issues related to the personnel chosen for the first BHS O&M RFP Selection Committee and made the decision to staff the second BHS O&M Selection Committee with personnel having more relevant experience. AvAirPros had no involvement in determining the personnel who comprised the first or the second BHS O&M Selection Committee.

15 Debra Shore did not “Violate all Ethical Rules and Norms”

Pages 11 – 12 of the report state that “Ms. Shore described her involvement in this odious affair and confirmed her actions that violated all ethical rules, norms, and established procurement practices.” Ms. Shore agreed to not contest the allegations which were specific and limited. This comment is not justified by the facts.

Most of the emails between Ms. Shore and JBT during the cone of silence period were regarding the operations and maintenance of South Terminal CBIS/BHS and Concourse F BHS systems, which both Ms. Shore and JBT were responsible for. The Draft OIG Report fails to mention these responsibilities. The emails that are cited in the report are not about the solicitation and, therefore, did not violate the cone of silence. Both Ken Pyatt and Dave Murray, Assistant County Attorney, knew that during the procurement process, Ms. Shore was overseeing the existing JBT contract for South Terminal and Concourse F BHS systems. Perhaps the better course would have been for MDAD to have separated these responsibilities of O&M management and procurement management to avoid the appearance of MDAD Staff having prohibited communications with bidders during the cone of silence period.

While Ms. Shore gave a “glowing recommendation” of JBT to the Orlando Airport staff, the airlines and Ken Pyatt also repeatedly praised JBT for its performance. But Ms. Shore also called JBT out for lapses in providing service as a component of her responsibility to manage the existing JBT contract.

16 Neither Robert Binish nor AvAirPros Knew of the Reason for a Conflict nor “Peddled Influence”

Page 12 of the report states that “Initially Robert Binish was also picked to serve however was later disqualified by the COE based on an advisory opinion determining that Mr. Binish, through his employer (AvAirPros and /or its related companies) was conflicted from serving on this Committee due to business relationships with the proposers to the RFP. AvAirPros - and its employee Mr. Binish - nevertheless peddled its influence on both BHS O&M procurements.”

The suggestion that AvAirPros “peddled influence” is factually wrong and completely unjustified. As a consultant to both the MAAC and MDAD, AvAirPros responded to requests to review the bid documents both to Debra Shore in the form of the bid evaluation (for the second BHS O&M RFP) and to Pedro Betancourt in the form of the 6-page review of airports where Oxford provided O&M services (the first BHS O&M RFP). In fact, neither MDAD nor the COE informed AvAirPros as to the reason for the disqualification until Mr. Binish was notified by the COE in March of 2018.

It is interesting to note that Mr. Bradley of AvAirPros was permitted by MDAD, the CAO and the COE to participate on the Selection Committee for the second BHS O&M RFP even though Mr. Bradley should have been disqualified based upon the COE’s mistaken advisory opinion from December of 2012, which was based on Pedro Betancourt’s erroneous characterization that AvAirPros and/or AvAirPros Services held contracts with the potential BHS O&M bidders. All COE charges that Mr. Bradley had a conflict of interest were dismissed. The OIG violates due process of law when it draws false conclusions about conflicts which were not and could not be established in proceedings before the COE.

On page 13 of the report, there is a list of events titled “Table 3.”

Included is an entry: “11.19.2013 – Mayor orders additional Due Diligence on Oxford.” This mayoral directive is what led to the request from Pedro Betancourt to Mr. Binish (who as we now know had been mistakenly conflicted from serving on the first BHS O&M Selection Committee but now was being directly contacted by MDAD’s Procurement Officer without following the required communication procedures during the cone of silence) to provide information regarding airports where Oxford was providing O&M services and for contact information (names/phone numbers). This is the origin of the 6-page email.

At the end of the 6-page email there is a sentence indicating that Oxford’s experience does not appear to meet the MDAD requirements and would be a detriment to baggage operations. This does not equate to “influence peddling,” rather, it is a direct factual response to a specific request from an MDAD Procurement Officer and provides an industry recognized SME level opinion related to the limitations of Oxford’s BHS O&M experience at large airports with significant international

baggage volumes. Pedro Betancourt expressed in writing his appreciation to Mr. Binish for providing his analysis. (See Exhibit 7). Ken Pyatt requested and was provided a copy as part of his implementation of the “due diligence” ordered by the Mayor. (See Exhibit 8 and Exhibit 1). David Murray (CAO) was copied and raised no concerns or objections despite the fact that a cone of silence was then in effect.

18 Binish was Asked his Opinion Re: Oxford

On page 17 of the report it states that “Both County officials have told the OIG that while they may have asked for names and contact information at other airports, they did not ask Mr. Binish, or anyone else at AvAirPros, to actually conduct due diligence or express an opinion about Oxford.”

This is false.

The 6-page email was specifically solicited by Pedro Betancourt when he and Ken Pyatt were returning from a meeting with the Mayor. The Mayor ordered the additional “due diligence”. Pedro Betancourt specifically asked Mr. Binish for airport information that had a large number of international operations that would be comparable to MIA. Pedro Betancourt also requested contact information and terminals where Oxford provided services. Mr. Betancourt asked these questions because he was aware that AvAirPros Services, Inc., an affiliated AvAirPros company, operated several terminals where Oxford provided BHS O&M services as had been discussed during the RFP development process by Mr. Betancourt and Mr. Binish.

Mr. Murray/CAO was copied on the email to Pedro Betancourt, as this was during the cone of silence. Mr. Murray never objected to the information provided by Mr. Binish during the cone of silence period. Per his specific request, Ken Pyatt was provided a copy. (See Exhibit 8). Mr. Betancourt expressed appreciation for the information at the time (See Exhibit 7)

19 The Phone Calls Evidence Nothing

Also, on page 17 of the report, it states that “Moreover, a review of phone records

shows that between 11/25 – 11/26/2013, there were 14 phone calls between Mr. Binish and Mr. Lopez (JBT).”

The telephone calls to Mr. Lopez during this period may have included discussing the performance of the South Terminal CBIS/BHS over the Thanksgiving period, coordination with JBT following review of performance statistics, discussions with

JBT regarding the South & Central Terminal CBIS/BHS design scope of work and verification of contact information, baggage volumes at Category X airports in response to the Mayor’s request for additional due diligence. There were many ongoing existing interfaces between Mr. Binish in his ALO role and JBT having nothing whatever to do with any pending procurement.

It is misleading to infer otherwise when there is **no factual basis** for the inference nor was AvAirPros in any position to influence the award of a contract to JBT. This is also a situation where a perceived conflict was inevitable because of the limited number of responsible individuals at the airport and the requirements for continuing with the active management of live contracts while procuring new services at the same time. This conflict is driven by the limited resources in the industry who have the particular expertise required for BHS design, construction and O&M possessed by Mr. Binish and AvAirPros.

20 Christopher Bradley’s Appointment was not Rescinded by MDAD

On page 19 of the report, it refers to the appointment of Mr. Bradley “despite the earlier identified conflict of interest.”

COE made no objection to Mr. Bradley’s neutrality affidavit. MDAD, COE and the CAO knowingly allowed Mr. Bradley to serve on the Selection Committee. The OIG report fails to acknowledge the importance of what is now an improper after the fact criticism of AvAirPros for conduct initiated and endorsed by MDAD.

Additionally, as discussed above in 11, the reasons for Mr. Binish’s disqualification in 2013 were not known to AvAirPros until the COE investigation and complaints against Mr. Binish were sent to him in March 2018 and were shown to be based upon false reports.

21 Robert Binish did not “Covertly” Participate

Page 20 of the report states that “AvAirPros Vice President Robert Binish, who was disqualified from serving on the first procurement Selection Committee, covertly participated in the second procurement by advocating for JBT to win.”

Nothing was done covertly nor was there any advocacy for anyone. The MDAD Proposal Review Scoring – 01.27.2015 document was provided in response to a request from MDAD during the second O&M BHS RFP. Mr. Binish reviewed the bid documents and provided his evaluation as requested through the normal course of business as it relates to AvAirPros’ providing BHS Advisory services to MDAD for over a decade.

22 Robert Binish did not “Malign” Oxford

On page 21 of the report, footnote 15 states “This is not the first time that Mr. Binish maligned Oxford. In or around November 2013, after Oxford was designated the top-ranked proposer in the first procurement, Mr. Binish prepared an unsolicited report evaluating Oxford’s performance at various U.S. airports. This report was critical of Oxford.”

This, again, is the 6-page email, the report provided by Mr. Binish which was not “unsolicited” as alleged by the OIG report; rather, Mr. Betancourt has admitted as noted in the OIG report that MDAD requested the due diligence report on Oxford as directed by the Mayor.

Mr. Binish was reporting facts based on his experience and data obtained from other airports. If Oxford is working at an airport providing O&M services, and the bag volume at that location does not meet the requested MDAD minimum requirements as defined in the MDAD RFP (“Proposer should demonstrate a minimum of five (5) years in operating and maintaining complex automated baggage sortation systems including Checked Baggage Inspection Systems at a major airport, handling 15,000 bags per day within the United States”), then reporting that information to MDAD is not “maligning.” Rather it is a relevant statement of fact. It is an example of AvAirPros performing precisely the job MDAD hired it to do.

23 AvAirPros did not have a “Financial Interest Based on who Won the Contract”

Page 22 of the report states “As such, they had a potential financial interest in the contract. Having a say in who would win the award could certainly help them prospectively with future work assignments from the same contract.” This intimation is false.

Regardless of who won the contract, Oxford, JBT, or whomever, AvAirPros would have been asked to provide BHS related PM services in part because MDAD was unable to procure Program Management services as required by the CDP. Also, the MAAC specifically wrote to MDAD in May 2015 asking to have Mr. Binish involved in all aspects of the South and Central Terminal CBIS/BHS. (See Exhibit 10)

The statement in the Draft Report regarding AvAirPros “financial interest based on who won the contract” is a false assumption with **no basis in fact**.

24 No AvAirPros Employee was Ever Required to Register as a Lobbyist

Page 22 of the report, footnote 17 refers to an alleged failure of Mr. Binish to register as a lobbyist.

While this charge was made by the COE, it dismissed that charge. AvAirPros has never been a lobbyist and there are no facts upon which to contend otherwise.

25 A List of False Assumptions with no basis in fact

Page 23 of the report contains many assumptions that are false.

Christopher Bradley did not have a conflict of interest. AvAirPros did not know until well after the BHS O&M contract was awarded May 2015, that we would have a contractual relationship with the BHS O&M vendor. Additionally, the assertion that Binish “advocated” that Shore score the proposal in accordance with his recommendations is a false accusation. He simply provided Shore the “MDAD

Proposal Review Scoring – 01.27.2015” spreadsheet which indicated the results of his evaluation. Shore was on her own to score and vote as she saw fit.

The timing of Ms. Shore sending her resume, had nothing to do with her vote. Shore and AvAirPros had casually discussed her working there over a period of time unrelated to this procurement process. Shore leaving MDAD was as a result of her working environment at MDAD, not due to the awarding of the contract to JBT.

26 The Chart of Communications has no Evidence of their Content

On pages 24 and 25 of the report, the chart showing communications neglects to note that these parties had many other reasons to communicate with each other.

Specific examples of communications between the parties would include meetings to develop remedial solutions to South Terminal BHS tracking deficiencies; exchange of draft documents for the O&M RFPs, draft documents for the BHS Design RFP draft documents for the BHS CMR RFP; discussions related to the TSA BASE team report; exchange of meeting minutes; exchange of daily BHS operational reports over a one year period to facilitate development of operational trends; meetings with MDAD procurement for development of O&M RFP documents, meetings to review preliminary designs for the South and Central Terminal CBIS/BHS TSA submittal; and, operational briefings with MDAD and MAAC management. Ms. Shore also provided updates at the MAAC meetings and that was frequently communicated and coordinated.

The lack of acknowledging this fact leaves the reader with nothing to evaluate beyond the editorial term “suspicious.” Phone calls, meetings, data analysis, document exchanges occurred routinely, as AvAirPros was assisting MDAD with development of the BHS Design RFP documents, the CMAR RFP and design of the future South and Central Terminal CBIS/BHS Project that was not related to the BHS O&M procurement. In point of fact, during this relevant time period AvAirPros provided the majority of the technical write-ups that were included with the boilerplate contract terms and conditions to support nearly \$500,000,000.00 of BHS O&M, BHS Design and BHS CMR at MIA using its SME expertise required due to the lack of CBIS/BHS experience at MDAD.

Multiple meetings were held with D. Shore, P. Betancourt, M Vincent-Clark, D. Murray and R. Binish during this time period for the purposes of developing RFP documents and responding to direction from the mayor (change CMR experience requirements, change BHS O&M experience requirements and provide due diligence research related to Oxford).

28 The “Pass-Through” was the Idea of MDAD

Page 28 of the report states that “One of the BHS O&M contract’s dedicated allowance accounts was used as a “pass through” account to pay AvAirPros for BHS consulting services on the capital improvement project.”

This statement requires a review of the chronology to understand the context of timing.

1. Second O&M RFP advertised in October 2014.
2. Ken Pyatt reassigned D. Shore to report to Pedro Hernandez who would now be in charge of the South and Central Terminal CBIS/BHS project in November 2014. Ms. Shore sends her resume to AvAirPros on same day she is reassigned and reprimanded by Ken Pyatt.
3. Second O&M Selection Committee January to March 2015.
4. D. Shore resigns from MDAD on March 24, 2015 (her last day at MDAD was on April 28, 2015) and accepts a position with AvAirPros, starting on May 1, 2015.
5. Mayor executes JBT agreement in May 2015.
6. Burns & McDonnell design agreement executed in May 2015.
7. Design of Enabling Works to support relocation of Make-Up Units 41, 42 and 43 commences in June 2015.

8. June 23, 2015, JBT submits letter from Daifuku Webb seeking confirmation from MDAD that involvement on Enabling Works projects does not create a conflict of interest with the future South & Central Terminal CBIS Project.
9. July 15, 2015, CAO confirms to Ken Pyatt that Daifuku Webb, a subcontractor to JBT, could perform Enabling Works.
10. July 29, 2015, During an ILDT meeting, Pedro Hernandez informs JBT that Daifuku Webb can perform Enabling Works.
11. September 22, 2015, During an ILDT meeting, Pedro Hernandez confirms the use of JBT's Allowance account for Enabling Works, indicating the CAO's guidance of same.
12. September 28, 2015, JBT submits to MDAD for approval the terms of subcontract with AvAirPros for "project manager and administration assistance" associated with Enabling Works.
13. October 1, 2015, AvAirPros CBIS/BHS PM services for Enabling Works begin under JBT in October 2015.
14. October 7, 2015, JBT confirms receipt of notice to proceed from MDAD for Enabling Works.
15. October 21, 2015, MDAD Assistant Director Hernandez authorizes JBT to proceed with the AvAirPros subcontract with a total monthly cost of \$24,209.54. AvAirPros' portion of the subcontract was \$16,827 per month for BHS PM services related to Enabling Works. (See Exhibit 2).

From this chronology of events, it is clear that Ms. Shore was not involved with MDAD's decision to use the BHS O&M allowance account to fund AvAirPros' South and Central Terminal CBIS/BHS related Advisory and PM services following submittal of her resignation on March 24, 2015. Decisions concerning utilization of the O&M Allowance accounts to pay for AvAirPros Project Management (PM) support services directly related to the TSA sponsored South and Central Terminal CBIS/BHS project were made by Ken Pyatt/MDAD and Dave Murray/CAO.

Further chronological events include:

1. CMAR negotiation complete with POJV December 23, 2015.
2. On December 2, 2015, AvAirPros submitted to the MAAC the ALO budget for CY2016. Included in the ALO Additional Services budget were CBIS/BHS Services totaling \$189,420 plus expenses, a YOY increase of over 400%. CBIS/BHS Services accounted for 26% of the overall CY2016 ALO budget, wherein CY2015 CBIS/BHS Services were only 7.5% of the ALO budget. When combined with AUA negotiations that were to begin in CY2016 and other additional services, the total Additional Services budget reached \$408,866, greatly exceeding the ALO contractual annual allowance amount of \$250,000. The MAAC, noting that the CBIS/BHS Services were necessary, knew that the level of CBIS/BHS would effectively limit the services for which the ALO Agreement was intended.
3. On March 11, 2016, Ken Pyatt confirmed to Christopher Bradley that an AvAirPros subcontract with JBT to capture ALO costs related to the CBIS Project is NOT a conflict of interest, because AvAirPros is still providing services to MDAD through a contractor that works for MDAD. Ken Pyatt also approved utilization of JBT Allowance Accounts to pay for AvAirPros' CBIS/BHS related Advisory and PM services with an effective date of January 1, 2016.
4. CMAR Agreement executed May 2016.
5. Enabling Works complete by JBT/Jervis B. Webb in approximately August 2016.

From the continued chronology of events it is clear that MDAD Procurement processes were extending the timeline to develop the South & Central Terminal CBIS/BHS project and that awarding the Enabling Works (relocation of Make-up units 41, 42 and 43) to JBT through its MDAD Approved TSA Allowance Accounts was the only means available to MDAD to make progress on a portion of the project. It was necessary to show a good faith effort and achieve some level of construction

progress to avoid the potential loss of TSA funding due to overall lack of progress.
(See Exhibit 10)

Note that the OTA for the South and Central Terminal CBIS/BHS project was executed in September 2013 and had a 5-year duration to August 2018; and, at this point in time nearly two years had elapsed and MDAD had made almost no progress in developing the project. MDAD approved AvAirPros to provide PM Services to JBT, because JBT did not have the requisite BHS project management skills nor the available resources to support the management of the project. Use of the JBT Allowance Accounts provided MDAD the required flexibility to make progress on the project and avoid potential loss of TSA funding, even though the project had grown from \$133M to \$324M due to MDAD inactions.

The proof that this was not “shenanigans” by AvAirPros is that MDAD has the sole ability to direct and approve the contracts involved in this “pass through.” There is no evidence to corroborate the use of the term “shenanigans” describing AvAirPros’ actions.

29 AvAirPros Provided Services

Page 29 of the report mentions services “purportedly” provided.

This implies that AvAirPros did not provide services which is false. Mr. Binish was actively engaged in the South and Central terminal CBIS/BHS project, which MDAD can confirm through any number of sources including meeting minutes (including meetings which the OIG attended) and time records.

Page 31 of the report states that “It was alleged during the course of the OIG’s monitoring of MIA’s various CIP activities that Mr. Binish may have had his own separate contract with JBT to provide consulting services related to the CBIS project.” This allegation is false. The OIG provides no evidence to support this allegation.

The first AvAirPros invoices to JBT were in the amount of approximately \$5,000 per month for project management services provided to help JBT prepare bid packages to bid out the Enabling Works packages for rerouting conveyors to allow

for demolition of make-up carousels (41, 42 and 43). This work was discussed at an Integrated Local Design Team (ILDT) meeting (as noted in the OIG draft report) and agreed to by Ken Pyatt, Pedro Hernandez and signed off by Ricardo Solorzano at MDAD through execution of JBT proposals and invoices.

Separately AvAirPros continued to provide CBIS/BHS related Advisory services to the MAAC through its Airline Liaison Office agreement. Specifically reference Exhibit 12 of the OIG report which contains the AvAirPros proposal dated 05 December 2016 wherein AvAirPros provides for separate retainers for Project Management services provided through the JBT Allowance Account (per MDAD's direction) and for ALO advisory and consulting services.

The AvAirPros proposal clearly delineates the services to be provided under each specific activity and the retainer approach was requested by Pedro Hernandez to avoid the necessity and delay of having MDAD staff audit every monthly invoice. JBT submitted detailed reconciliation of AvAirPros invoices for services to MDAD officials under the TSA-funded allowance on July 21, 2016 consistent with prior approvals from Ken Pyatt. This fact should have been disclosed by OIG in its report.

30 The Draft Report Eventually Confirms the "Pass-Through was not an AvAirPros "Engineered Scheme"

On page 32 of the report, after pages and pages of insinuating that AvAirPros was complicit in some dubious arrangement, the draft report states: "The OIG was eventually able to confirm that there was a verbal agreement *between the MAAC and MDAD* to pay AvAirPros for additional South and Central Terminal CBIS/BHS-related PM services from JBT's O&M contract." The validity of the prior negative assumptions and accusations is not something that should be revealed after 32 pages of the draft report. This revelation should occur on Page 1.

AvAirPros did not dictate nor negotiate the agreement between MDAD/MAAC directing JBT to subcontract with AvAirPros under authority of the TSA funded allowance account. Further, AvAirPros simply did not, does not, nor ever had the ability to effect the contracting change, nor award itself a contract under an MDAD controlled contract. The MAAC and MDAD decided to allocate the BHS SME services where they believed the costs properly belonged.

This report should not leave the reader to think that anything wrong occurred regarding payment to AvAirPros for CBIS/BHS related PM services. Every comment in this draft report that accuses AvAirPros of wrongdoing regarding the alleged “pass-through agreement,” should be deleted due to the many false premises upon which the allegations rely.

31 The Lack of a Work Order is not an Issue Against AvAirPros

On page 33 of the report, it states: “At this time, there was still no approved work order authorizing JBT (or AvAirPros) to provide any additional services via one of the dedicated allowance accounts.”

It is important to note that there could not be a work order until such time as MDAD/MAAC agreed to such an approach. In the meantime, AvAirPros fees were in limbo while AvAirPros was still providing CBIS/BHS advisory and PM services at the request and direction of MDAD and the MAAC.

A Work Order was eventually issued to JBT, providing proof that MDAD authorized and effected the change to pay for CBIS/BHS related advisory and PM services from the designated BHS O&M Allowance Account included in the JBT contract. JBT should have copies of all “Work Orders” authorizing use of the Allowance Accounts.

In fact, JBT would prepare a cover letter to include its own associated costs and allowable markup percentage of 10% and have MDAD PM – Ricardo Solorzano execute or countersign the proposal before the work would begin. It should also be noted that MDAD negotiated the JBT agreement and the associated 10% markup. Such markups are not uncommon in the industry.

For brevity, the allowance accounts are included in the OIG report on page 29 as follows:

Table 8: BHS O&M Allowance Accounts

| Allowance Account | Amount |
|---|---------------|
| Dedicated Allowance Account for Additional Services | \$5,000,000 |
| Dedicated Allowance Account for Parts | \$10,000,000 |
| Dedicated Allowance Account for Training | \$2,000,000 |
| Dedicated Allowance Account for Reimbursement of Rent | \$4,500,000 |
| Dedicated Allowance Account for TSA-funded Work | \$30,000,000 |
| General Allowance Account (10% of contract sub-total, inclusive of dedicated allowance accounts) | \$14,806,705 |

32 Michael Wesche is Irrelevant to this Report

Page 33 of the report, footnote 28, states that “At all times material to this report, the MAAC Chairperson was Michael Wesche, who was the Director of Airport Affairs for American Airlines. On July 31, 2018, Mr. Wesche retired from American Airlines and accepted a position with AvAirPros as Senior Managing Director, effective the next day. Mr. Wesche regularly attends the MIA MAAC meetings in his new capacity.”

There appears to be no relevance to this footnote. Mr. Wesche is not accused of any wrongdoing, nor is there any evidence that there was any impropriety in the retirement or hiring of Mr. Wesche. This appears to be a comment placed in this Draft Report to encourage the reader to speculate whether there was any wrongdoing without any factual support for such speculation. This footnote should be deleted.

33 The Airlines at MIA Operate as they do at Other Airports

Page 37 of the report states that “the airline representatives, while wanting additional oversight, didn’t want to pay for it out of the ALO budget.”

This is not a matter of the airlines not wanting to pay for these services. The airlines would pay for the services whether they are included as part of the ALO budget or are otherwise included in a different cost center within which the costs of the JBT contract are allocated. This is not only consistent with what the airlines were seeking in earlier discussions with MDAD but also, is consistent with what airlines typically insist upon at other airports, which is to make sure that costs are allocated to the

appropriate cost center. This arrangement is also what MDAD agreed to and approved.

This is often how airport capital program finance works. Airlines prefer for such costs to be included as part of project budgets, such as it was done with building of the new South Terminal Baggage Handling System as well as the New North Terminal Baggage Handling System, so costs are amortized along with all other project costs over a longer time period.

34 AvAirPros Should not be Assailed for the Pass-Through Payments

Page 38 of the report states: “In this case, the use of JBT’s allowance account to pass-through AvAirPros invoices is even more disturbing because AvAirPros already had its own, existing, stand-alone contract with the County. Moreover, that contract explicitly provided for additional CBIS/BHS-related services and had funds (\$1.75 million) to pay for those very services. Instead, this pass-through arrangement was utilized in an attempt to reclassify expenses, thereby shielding the total amounts paid. The actual payment mechanism—monthly retainers—avoided all scrutiny.”

These statements are false.

The ALO contract included then existing BHS/CBIS related advisory services and was never contemplated to be used for the new extensive South and Central Terminal BHS/CBIS related PM services which both the MAAC and MDAD ultimately agreed.

As for the use of monthly retainers, as referenced in response to #29 above, MDAD’s Pedro Hernandez asked for monthly retainers, because he did not want to wade through timesheets and expense reports for time and material invoices submitted under the JBT contract. For their part, the airlines did not necessarily like the use of a monthly retainer. To appease both MDAD and the MAAC, AvAirPros agreed to use a monthly retainer and also to “true it up” annually such that any over or under run would be applied in the following year. That “true up” was submitted by JBT to MDAD on July 1, 2016.

The OIG Draft Report exhibits containing the AvAirPros proposals also prove this. The first proposal states that we will apply the difference between actual and retainer payments to the following year. The following year proposal shows that a credit was applied, proving that AvAirPros honored that commitment. Further, when directed to transfer the South and Central Terminal BHS/CBIS related PM services from the BHS O&M Agreement back to the ALO Agreement in August 2017, AvAirPros actual cost of South and Central Terminal BHS/CBIS related PM services billed to that date exceeded its monthly retainer by approximately \$45,000. To date, this amount has not been collected from MDAD or the airlines.

Again, the reader of the report is left to think that AvAirPros is the reason for this arrangement, when it was the decision of MDAD to make payment this way. The OIG acknowledges this truth but not until page 32 of its report.

35 AvAirPros Never Did “Very Little Work”

On page 40 of the report, there is a comment that “AvAirPros personnel could do very little work in any given month and still be paid the full monthly amount.”

There is no evidence provided by the OIG that AvAirPros personnel did “very little work” in any given month.

To the contrary, AvAirPros incurred more otherwise billable time than the retainer amount provided. Those extra hours spent by AvAirPros, acting in the best overall interest of the project, were not billed. AvAirPros is unaware if the OIG reviewed meeting minutes for project related meetings, which evidence that AvAirPros regularly attended multiple design meetings, ILDT meetings, MDAD/POJV Contractor meetings and responded to all MDAD requests for various levels of support. The statement questioning AvAirPros’ amount of work is without any basis in fact and should be deleted.

Page 42 of the report states: “The South and Central terminal CBIS/BHS services are no different based on the contracting mechanism.”

This is false.

This statement indicates the lack of understanding of contracts and scopes of work. This statement creates a false narrative and should be deleted.

The South and Central Terminal CBIS/BHS services performed under JBT were predominantly project management (PM) related services, while the BHS/CBIS services performed as part of the ALO contract are advisory related services. The level of effort between advisory and PM related roles and professional services related thereto is significantly different. AvAirPros is available to provide the OIG with a short course regarding the difference between project management and Airline Liaison Office advisory services if so desired.

Conclusion

Throughout the Draft Report, reference is made to the method in which AvAirPros was paid, never mentioning how this all happened. Not until page 32 does it mention that it was at the direction of MDAD. It wasn't an "engineered scheme," and AvAirPros doesn't decide how money is distributed. MIA is run by MDAD and the County, and the method in which contracts are handled is determined solely by MDAD and approved by the CAO within what would be considered normal governmental checks and balances.

It is essential to understand through all of this that the County has a problem when compliance with the cumbersome and politically motivated procurement processes of the county outweigh the importance of running an efficient airport operation with an ability to react to customer needs.

While AvAirPros understands that there were non-criminal ethics issues raised, those ethics issues have been either dismissed against the accused or settled between the COE and the accused party with no admission of guilt.

The OIG's condemnation of AvAirPros is based upon misapplication of false information, innuendo and inferences not supported by any competent, substantial evidence.

This is not a case warranting AvAirPros termination or debarment. The negative conclusions made in this report go far beyond the provable facts, and a company – a company that has enjoyed a stellar reputation for decades - should not be banished from an airport due to the alleged but unproven conduct of employees which did not rise to nor evidence any criminal behavior.

We look forward to an opportunity to further discuss any aspect of this response with your office.

Very truly yours,



BRIAN L. TANNEBAUM

Attachments

cc: Paul Demkovich, AvAirPros
Debra Shore

MIAMI-DADE COUNTY
OFFICE OF THE INSPECTOR GENERAL



FINAL REPORT

Appendix C

MDAD's Response

*Probe of MIA's Baggage Handling System
Operation and Maintenance Agreement*

IG15-0027-I

Memorandum



Date: April 15, 2019

To: Mary T. Cagle
Inspector General

From: Lester Sola, Director
Miami-Dade Aviation Department

Subject: Office of the Inspector General (OIG) Probe of MIA's Baggage Handling System Operation and Maintenance Agreement – Ref: IG15-0027-I

We have received the above referenced draft report dated March 18, 2019, which provided us the opportunity to respond to the reported findings by April 15, 2019, as extended from the original due date of April 1, 2019. In our request for a response extension, we also provided a preliminary response, due to the serious nature of the report's findings, included with this response as reference (**Attachment I**).

Within the report, the OIG provided specific recommendations to address their reported concerns, these are italicized and replicated in order of report appearance below, followed by the Department's response.

OIG Recommendation

- 1. Based upon the totality of events and findings identified herein, the OIG recommends that the County terminate its contract with AvAirPros and/or seek debarment. While the bad acts of Mr. Binish and Mr. Bradley resulted in Ethics charges being filed against them, it does not absolve AvAirPros from being vicariously liable for the actions of its employees.*

While the OIG finds termination and/or debarment to be appropriate based on these facts, in lieu of termination, the OIG strongly recommends that the following actions be imposed and/or taken by MDAD:

- a. Require AvAirPros to repay the County \$3,068 for the time-spent working on the "How-to-Vote spreadsheet" (See footnote 18 in this report).*
- b. Add \$717,776 (the pass-through amount) to the expenditure level of the ALO contract; back-out these same amounts from the BHS O&M contract's dedicated allowance account for TSA-reimbursed work.*
- c. Retroactively apply the SBE utilization goal of 20% to the pass-through amount of \$717,766. Add this amount to the 20% goal of the ALO Agreement.*

- d. *Do not add, by way of change order, amendment or contract modification, any additional monetary capacity to the ALO Agreement, which should remain at \$5.25 million.*
- e. *Re-assess the level of CBIS/BHS consulting services needed and re-solicit for consulting services specific to this activity and the qualifications required. At present, the CBIS/BHS consulting expenses account for 65% of the monies spent under the agreement, overshadowing the activity level for ALO basic services.*

Department Response

We concur and had advised the Airline Liaison Office (ALO) consultant contractor, Airport & Aviation Professionals, Inc. (AvAirPros) on March 22, 2019, that we will be terminating their contract for cause; services will effectively terminate on April 21, 2019. The amount collected by AvAirPros for Mr. Binish's time, totaling \$3,068, has been reimbursed back to Department via deduction from the AvAirPros monthly payment. Regarding the unattained utilization goals from the pass-through payments, the Department will work with the Internal Services Department's (ISD) Small Business Development Division to determine how to best address workforce requirement deficiencies based on those payments.

OIG Recommendation

2. *Based upon the totality of events and findings identified herein, the OIG recommends that the County terminate its Agreement with JBT and/or seek debarment for engaging in prohibited conduct during the two procurement processes that ultimately resulted in it being awarded the BHS O&M contract.*

While the OIG finds termination and/or debarment to be appropriate based on these facts, in lieu of termination, the OIG strongly recommends that the following actions be imposed and/or taken by MDAD:

- a. *Disallow \$87,756 for the 10% mark-up fees paid to JBT. The 10% mark up allowed under Article 2.02 does not apply to this pass-through arrangement and should not have been paid.*
- b. *Disallow \$159,781 (or a portion thereof) paid to JBT for monthly project support without adequate supporting documentation (e.g., payrolls and timesheets).*
- c. *The JBT contract's base 5-year term will expire in June 2020. Following expiration, the contract has five 1-year options to renew at the sole discretion of the County. The OIG recommends that the County promptly begin the procurement process for a new BHS O&M agreement and not exercise any renewal options.*

Department Response

As indicated, the initial 5-year term for the Operation and Maintenance Agreement for the Baggage Handling System ends June 2020, with five 1-year options to renew. Earlier this year, as stated in **Attachment I**, we had decided we would not be exercising the five 1-year options and had begun developing a new solicitation for these services in lieu of a change order requested by the current provider. The Department's new Strategic Procurement Director has been leading our efforts and working with ISD Procurement to develop a competitive Request for Proposal for the operation and management of the baggage handling system. While we are focused on issuing a transparent, competitive and fully functional proposal, the operation of the baggage handling system is a critical operating function for the Department and airlines, therefore it is imperative that we have effective and uninterrupted baggage handling services during the procurement process.

OIG Recommendation

3. *Relating to the composition of Selection Committees, the OIG makes two recommendations that, we believe, provide a higher degree of transparency. We suggest that the County:*
 - a. *Create and implement separate (or supplemental) disclosure forms to be filled out by non-County personnel serving on selection committees. At present, there is only one version of the disclosure form, entitled "Neutrality/Disclosure Form". However, for third parties, such as the two airline executives and Mr. Bradley who served on the second RFP Selection Committee, there should be more probing (in the form of questions) as to their company's business ties with possible proposers and other industry members. In other words, the situation that occurred in this case should have been avoided (two airline executives familiar with JBT's past performance, but no airline executives familiar with Oxford's).*
 - b. *Similar to (a) above, a separate (or supplemental) form should be used for employees of other government (non-County) agencies that serve on Selection Committees. While not a factor in this case, the OIG is aware of several other high profile procurements where a non-County, government employee has served on a Selection Committee.*

Department Response

We concur that the additional disclosures will enhance the transparency of the procurement process and once these forms become a standard requirement by ISD, the Department will comply. We also want to advise of the changes made to the Department's procurement processes which began after the appointment of the Aviation Director and recently with the hiring of our Strategic Procurement Director. All selection committee panels will no longer include aviation consultants as voting members. As always, panels will be balanced,

diversified and experienced, to include employees from other County Departments and subject matter experts. Further, all recommended selection committees are to be reviewed by the Aviation Director before the recommended appointment memo is routed to ISD. All new procurements or renewals, to include modifications or allocation requests, are developed through consultation with the Director's office and only moved forward with the Director's approval.

The Department is also restructuring its procurement of commodities and contracts such that all purchasing functions are centralized to Contracts Administration, which will provide for stricter adherence to the County's established policies and best practices for procurement. We will be implementing new software that will allow for aviation contracts to be centralized onto one platform that will provide better visibility, control and oversight of all Department procurements. The biggest change will be the institution of procurement teams that consists of procurement staff who are cross trained in various procurement functions who will manage new procurements and resultant contracts. Teams will be assigned commodities and/or specific divisions within the Department and act as the point-of-contact for Department staff, the end user, and as liaison to the ISD Procurement Division. The end user will now have their designated team provide contract oversight to ensure compliance to contract terms, assistance with contract changes or amendments as well as allocation or expense monitoring. Key to the team concept will be the procurement knowledge imparted to the end user through regular discussions and training, which facilitates ongoing compliance to procurement practices and policies. As stated in **Attachment I**, we had already identified procurement deficiencies and made immediate changes and will continually make enhancements and institute controls where necessary to maintain compliance with the County's procurement policies.

OIG Recommendation

4. *This investigation has revealed a variety of acts ranging from malfeasance to misfeasance by MDAD officials and staff. It is difficult to fashion recommendations to address the lack of ethics, the need for more strenuous supervision, and especially, the need for staff to carry out their duties objectively and without bias. Nevertheless, if there is any value to stating the obvious, then the OIG recommends that management:*
 - a. *Institute increased ethics and procurement training for staff---even if that person does not directly hold a procurement position, there is still the likelihood that the staff member, at some time, will encounter a procurement-related assignment.*
 - b. *Ensure that high profile assignments are more strictly supervised.*
 - c. *Demand that staff carry out duties objectively and without bias; advise staff to avoid any activity that creates a conflict of interest or a perceived conflict, such as socializing with vendors, and emphasizing what the repercussions might be for non-compliance with this professional directive.*

Department Response

The Department agrees that ethics and procurement training is needed. We have begun dialogue with the Commission on Ethics to provide ethics training for all Department employees to commence within the next four weeks. Training will include relevant topics from the Ethics Ordinance, such as compliance to the Code of Silence and Lobbying practices. More importantly, an overview of the Public Service Honor Code will be provided to reinforce the expectations of public employees that they are to protect the public interest, protect against waste or fraud, respect and uphold County laws, ordinances, rules and regulations and to report any information constituting a crime. We have also commenced ISD selection committee training for all supervisory level employees to provide both a reinforcement of procurement selection practices and to give the Department a greater pool of potential selection committee panel candidates. Regarding having stricter oversight of high-profile agreements, the initiation of the Department's procurement teams, as indicated in our previous response should aptly correct this deficiency.

The Department will also consider progressive disciplinary action for employees involved in this procurement.

The Department thanks the Office of the Inspector General (OIG) for the opportunity to provide this progress report on the identified areas for improvement. Should you have any questions regarding our response, please contact me directly at 305-876-7066.

cc: Arlyn Rull, Chief of Staff, MDAD
Ken Pyatt, Deputy Director, MDAD

Memorandum



Date: March 25, 2019

Attachment I

To: Mary T. Cagle
Inspector General

From: Lester Sola, Director and Chief Executive Officer
Miami-Dade Aviation Department

A handwritten signature in blue ink, appearing to read "Lester Sola".

Subject: Office of the Inspector General (OIG) Draft Report of Investigation – Probe of MIA's
Baggage Handling System Operation and Maintenance Agreement

The Miami-Dade Aviation Department (MDAD) is in receipt of the above referenced draft report dated March 18, 2019 and acknowledges the opportunity to respond by April 1, 2019. The draft report raises serious concerns over the procurement of the operation and maintenance agreement of the baggage handling system resulting from the unethical acts and questionable relationships of an ex-employee and consultant several years ago.

As the former Director of the Internal Services Department (ISD), which included the County's centralized Procurement Services Division (Procurement), I have an abundance of experience with the County's procurement protocols and practices and therefore can assure you that, under my leadership, the Department will always follow County policy and provide an open, fair and competitive process for MDAD's procurements. Immediately following my appointment to the Aviation Director position in February 2018, a top-to-bottom assessment of MDAD's procurement processes was performed, which revealed among other things, the noted deficiencies in the draft report. Without delay, I instituted policies and procedures to address these internal procedural flaws to avoid any future repeat incidents. To begin with, all stringent legislation and policies adopted by the Board of County Commissioners aimed at preserving the integrity of the County's procurement practices are being strictly enforced in the Department as well as any procedures developed by ISD to make certain MDAD's procurements are totally transparent and compliant. As standard practice, all planned selection committees are carefully reviewed to ensure the panels are balanced and comprised of adequately trained professionals, cognizant of their ethical responsibilities. I recently added to my team a Strategic Procurement Director, who most recently served in the capacity of ISD Procurement Manager, to manage MDAD's procurement activities and responsibilities and lead all training initiatives. MDAD's Strategic Procurement Director will spearhead the Department's efforts and collaborate with ISD to issue a new competitive request for proposals (RFP) for the operation and management of the baggage handling system. It is worth mentioning that MDAD was preparing to re-bid the current contract in lieu of processing a change order proffered by the current vendor for additional spending authority to increase current staffing levels. ISD and MDAD staff are working expeditiously to have the new RFP ready for immediate issuance. Finally, I do not accept the actions of these reported individuals as common practice at MDAD, therefore, all MDAD staff will be required to undergo ethics training and will be reminded that there is zero tolerance for unethical acts and procurement transgressions.

Please be aware that in a letter dated March 22, 2019, the Department terminated for cause the agreement with the Airport Liaison Office consultant, AvAirPros. MDAD will collect the OIG's recommended amounts owed and settle any remaining payments due from this consultant.

The Department is in general concurrence with the recommendations made by the OIG and plans to fully develop a course of action in response to those suggestions. Please consider this as a request to extend MDAD's response due date to on or before April 15, 2019.