

# BRIAN L. TANNEBAUM, P.A.

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Via email [mary.cagle@miamidade.gov](mailto: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.

1 S.E. 3<sup>rd</sup> Avenue  
Suite 1400  
Miami, Florida 33131

Office 305-379-7904  
Direct: 305-374-7850  
Tallahassee: 850-556-0109

[btannebaum@tannebaum.com](mailto:btannebaum@tannebaum.com)  
[www.tannebaum.com](http://www.tannebaum.com)

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,

1 S.E. 3<sup>rd</sup> Avenue  
Suite 1400  
Miami, Florida 33131

Office 305-379-7904  
Direct: 305-374-7850  
Tallahassee: 850-556-0109

[btannebaum@tannebaum.com](mailto:btannebaum@tannebaum.com)  
[www.tannebaum.com](http://www.tannebaum.com)

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 Phase 1 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 Frigo /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**

| <b>Allowance Account</b>  | <b>Amount</b> |
|---|---------------|
| 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<br>(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.

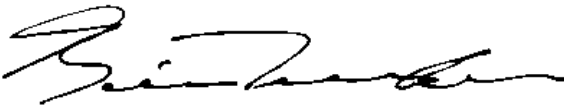
While AvAirPros understands that there were non-criminal ethics issues raised, those ethics issues have been either dismissed against the accused or settled between the COE and the accused party with no admission of guilt.

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,

A handwritten signature in black ink, appearing to read "Brian L. Tannebaum". The signature is fluid and cursive, with a long horizontal stroke at the end.

BRIAN L. TANNEBAUM

Attachments

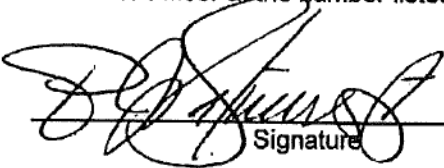
cc: Paul Demkovich, AvAirPros  
Debra Shore

## NOTICE OF CONTRACT REJECTION RECOMMENDATION

|  |  |
|--|--|
| <b>PROJECT NAME:</b> Recommendation to Reject Proposals relating to the Request for Proposals for Baggage Handling System Operation & Maintenance at Miami International Airport | <b>PROJECT No.:</b> RFP No. MDAD-06-11<br><b>DATE:</b> April 8, 2014   |
| <b>CONTRACT OFFICER (CO):</b> Pedro J. Betancourt, CPPO, PMP   | <b>CO's PHONE No.:</b> (305) 876-7345<br><b>CO's EMAIL:</b> <a href="mailto:pjbetancourt@miami-airport.com">pjbetancourt@miami-airport.com</a> |

You are hereby notified that the County Mayor has recommended, to reject all proposals for the Baggage Handling System Operation & Maintenance at Miami International Airport, RFP No. MDAD-06-11, as reflected in the attached memorandum from the Mayor.

Should you have any questions, please contact the Contract Officer at the number listed above.

  
 Signature

### DISTRIBUTION:

| NAME  | COMPANY NAME - ADDRESS                                 | E-MAIL ADDRESS - FAX   |
|---|--|--|
| Ed Zwirn, VP<br>Miami Baggage System Maintenance, LLC   | 201 S. Orange Avenue, Suite 1100<br>Orlando, FL 32801  | Email: <a href="mailto:ed.zwirn@asig.com">ed.zwirn@asig.com</a><br>Fax: (407) 206-5391                   |
| Dan Carmichael, VP & CFO<br>Oxford Electronics Inc. d/b/a Oxford Technical Services                       | 474 Meacham Avenue,<br>Elmont, NY 11003                | Email: <a href="mailto:dcarmichael@oxford1.com">dcarmichael@oxford1.com</a><br>Fax: (516) 327-6051       |
| Brent Ahlstrom, General Manager<br>John Bean Technologies Corporation<br>JBT Aero Tech – Airport Services | 1805 West 2550 South,<br>Ogden, UT 84401               | Email: <a href="mailto:brent.ahlstrom@jbt.com">brent.ahlstrom@jbt.com</a><br>Fax: (801) 629-3487         |
| Michael Conner, General Manager<br>Elite Service Partners, LLC  | 1505 Luna Road, Suite 100,<br>Carrollton, TX 75006     | Email: <a href="mailto:esp@elitelineservices.com">esp@elitelineservices.com</a><br>Fax: (972) 389-6250   |
| Phil Gilkes, Sr. Director Customer Service<br>Siemens, Industry Inc.                                      | 2700 Esters Blvd. Suite 200B,<br>DFW Airport, TX 75261 | Email: <a href="mailto:phillip.gilkes@siemens.com">phillip.gilkes@siemens.com</a><br>Fax: (972) 947-7211 |

C: Clerk's Office  
 David Murray, CAO  
 Marie Clark-Vincent, MDAD  
 Carlos Jose, MDAD  
 Debra Shore, MDAD  
 Project File

### MIAMI INTERNATIONAL AIRPORT

MAILING ADDRESS: PO BOX 025504, MIAMI, FLORIDA 33102-5504 • 4200 NW 36 ST, SUITE 400, MIAMI, FLORIDA 33122

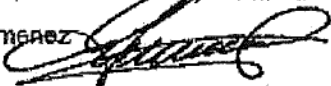
# Exhibit 1

# Memorandum



**Date:** April 9, 2014

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Recommendation to Waive Competitive Bid and Bid Protest Processes, Reject Proposals relating to the Baggage Handling System Operation & Maintenance at Miami International Airport, Authorize Issuance of Best and Final Offer, and Execution of Change Order No. 3 with John Bean Technologies Corporation and a Contract Modification to the Conventional Baggage System Maintenance Contract with Oxford Electronics

TAC  
Agenda Item No. 3(D)

## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board): i) reject all proposals received for the Baggage Handling System (BHS) Operation & Maintenance (O&M) at Miami International Airport (MIA), RFP No. MDAD-08-11; ii) authorize the issuance of a Best and Final Offer (BAFO) to the three (3) firms deemed responsive; iii) approve a waiver of the competitive bid and bid protest processes as set forth in Sections 2-8.1 and 2-8.4 of the Code of Miami Dade County, and implementing Orders 3-98 and 3-21; and iv) authorize Change Order No. 3 to the contract with John Bean Technologies Corporation for the O&M of the South Terminal and Concourse F BHSs, and a contract modification with Oxford Electronics, Inc. d/b/a Oxford Airport for the Conventional Baggage System Maintenance Contract for the Concourse E BHS.

The BAFO process recommended through this resolution will level the playing field among all competitors and assuage user airline concerns regarding minimum staffing levels as outlined below in the background section. The BAFO will specify high priority, quality of service items, including minimum staffing. Submittals deemed to have met all requirements will have their price offers opened, and the firm offering the lowest price that is responsive to the priority requirements will be recommended for further negotiations.

## SCOPE

Miami International Airport is located primarily within Chairwoman Rebeca Sosa's District Six; however, the impact of this agenda item is countywide in nature as MIA is a regional asset.

## DELEGATED AUTHORITY

Not applicable as this is a rejection of proposals.

## FISCAL IMPACT/FUNDING SOURCE

Not applicable as this is a rejection of proposals.

## TRACK RECORD/MONITOR

Not applicable as this is a rejection of proposals.

## DUE DILIGENCE

Not applicable as this is a rejection of proposals.

## BACKGROUND

Baggage handling systems are critical infrastructure for all airports. The County is responsible for the operations and maintenance of all MIA baggage handling systems, with the sole exception of the outbound North Terminal Baggage Handling System, which is maintained by American Airlines. If the County fails to properly maintain or operate these systems, airlines cannot ensure that bags checked by passengers will reach the appropriate destinations. Misdellivered bags cost airlines substantial



Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners  
Page 2

amounts of money and cause immeasurable damage to the reputation of the airline, MIA, and Miami-Dade County.

The original Request for Proposals (RFP) sought an entity to operate and maintain baggage handling systems serving:

- Concourse D (Inbound Only)
- Concourse E (Inbound & Outbound)
- Concourse F (Inbound & Outbound)
- Concourse G (Inbound & Outbound)
- Concourse H (Inbound & Outbound)
- Concourse J (Inbound & Outbound)

Operation of these systems requires near-constant manpower to manually code misdelivered bags, clear bag jams and assist the Transportation Security Administration (TSA). The RFP also requires both preventative and routine maintenance and emergency repairs of the systems. However, in an attempt to preserve flexibility for responders, the RFP does not specify a minimum level of staffing to accomplish these objectives. Currently, 92 individuals are employed by outside firms to maintain these systems.

On October 17, 2012, proposals were received from the following five (5) firms:

- Miami Baggage System Maintenance, LLC
- Siemens Industry, Inc.
- Oxford Electronics, Inc. d/b/a Oxford Airport Technical Services
- Elite Service Partners, LLC
- John Bean Technologies Corporation - JBT Aero Tech - Airport Services

The Evaluation/Selection Committee held a Prescreening Meeting February 12, 2013, and reviewed proposals submitted by the proposers. The Committee recommended oral presentations from all responsive proposers.

On March 26, 2013, a Committee meeting was held to discuss the responsiveness opinion issued by the County Attorney's Office. Two companies were found nonresponsive: Siemens submitted a proposal with exceptions which were considered material deviations, and Elite submitted as a joint venture but their licenses were not in the name of the joint venture as required by Florida Statute. The Committee reconfirmed their recommendation of February 12 to listen to oral presentations from the responsive proposers.

At a public hearing on May 3, 2013, the Committee heard presentations from the following responsive firms:

- Miami Baggage System Maintenance, LLC
- Oxford Electronics, Inc. d/b/a Oxford Airport Technical Services
- John Bean Technologies Corporation - JBT Aero Tech - Airport Services

After the oral presentations, the Committee evaluated and ranked proposals and then opened and read aloud the sealed price proposals. As a result, the Committee recommended Oxford Electronics Inc. d/b/a Oxford Airport Technical Services for negotiations of the non-exclusive Operator Agreement for the MIA BHS O&M.

| PROPOSER      | TECHNICAL CRITERIA POINTS | TOTAL PRICE POINTS | OVERALL SCORE (Technical & Price) | PROPOSED PRICE AMOUNT | OVERALL RANKING |
|---------------|---------------------------|--------------------|-----------------------------------|-----------------------|-----------------|
| Oxford        | 304                       | 150                | 454                               | \$89,030,365.61       | 1               |
| JBT           | 334                       | 103                | 437                               | \$129,753,858.69      | 2               |
| Miami Baggage | 272                       | 109                | 381                               | \$122,695,191.05      | 3               |

There are significant differences in the staffing levels offered by the various proposers. Oxford indicated it would complete the contract obligations with 46 employees, JBT with 91 employees, and Miami Baggage with 103 employees. Because of these staffing disparities, the Selection Committee recommended further negotiations on staffing terms in order to proceed with Oxford.

The Negotiation Committee came to an agreement with Oxford which guarantees that Oxford will be responsible for all costs associated with necessary staffing levels, including any costs associated with staffing for services beyond the minimum number that was guaranteed. This guarantee would come at no additional cost to the Miami-Dade Aviation Department (MDAD). The Committee also negotiated that the minimum staffing levels be revised in accordance with Oxford's June 12, 2013, letter in which it agreed to increase the staffing levels to a minimum of 50 employees.

On August 29, 2013, MDAD received a letter from the Airline Management Council (AMC), the organization that represents the majority of the airlines serving MIA, expressing concern that the staffing levels proffered by Oxford are insufficient to guarantee reliable operation of the BHS. While both United Airlines, which was represented on the Selection and Negotiation Committees, and JBT are AMC members, MDAD believes these concerns are reasonable given historic staffing for the O&M of these systems. However, MDAD staff strives to contain costs at MIA, noting a substantial difference in price between Oxford and the next-ranked proposer. Moreover, Oxford has experience maintaining BHS at numerous airports around the nation.

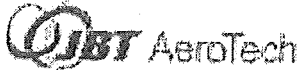
In order to balance these competing obligations and best ensure that MIA, the County's number one economic engine, properly balances risk to airline operations with impact to the bottom line, it is recommended that the proposals be rejected, and that BAFOs be solicited from Oxford, JBT and Miami Baggage on contract terms which are substantially similar to the RFP, but which specify high priority, quality of services items, including minimum level of staffing to assuage airline concerns. These bids will ensure a level playing field among all competitors while also reducing risk to the Airport, its users, and passengers. Upon review of the specified quality of service items, the submittals that are deemed to have met all requirements will have their price offers opened. After the opening of the price proposals, the firm offering the lowest-price that is responsive to the priority requirements will be recommended to further negotiate.

MDAD anticipates an expeditious conclusion of this BAFO process. However, as the current JBT BHS O&M contract expires on June 27, 2014, and the separate County contract with Oxford for Conventional Baggage System Maintenance expires on September 30, 2014, in order to maintain this vital system, this item also authorizes the issuance of a change order to the existing contract with JBT and a contract modification to the Oxford contract which would extend those contracts at the current rates on a month-to-month basis, not to exceed six (6) months to allow sufficient time to award a new contract. MDAD will terminate the contracts with JBT and Oxford as soon as the new contract is awarded.

  
 Jack Osterhoff, Deputy Mayor

JBT AeroTech  
P.O. Box 822044  
Miami, FL 33162  
Phone: 305.875.6334  
Fax: 305.836.0395

JBT AeroTech  
16770 International Blvd., Suite 205  
Houston, TX 77060  
Phone: 811.361.1166  
Fax: 811.361.1166



September 23, 2015

Mr. Ricardo Solorzano  
Construction Manager Facilities  
Miami-Dade Aviation Department  
P.O. Box 522075  
Miami, FL 33139

Subject: ALDT - JBT Project Manager and Administration Assistance

Dear Ricardo,

As discussed and requested at the ALDT - Enabling meeting on Friday, September 23, 2015, JBT hereby requests authorization to subcontract AvAirPros at the standard MVA rate of \$225.00/hour for fifteen (15) hours per week, billed monthly at \$14,577.00; plus \$2,230.00 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 in Process:

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.

Signature

Gil Lopez  
Regional Manager  
JBT AeroTech

COMMISSION ON ETHICS & PUBLIC TRUST

MIAMI-DADE COUNTY

ETHICS COMPLAINT

C 18-10-02

In Re: Christopher Bradley

Respondent

**AFFIDAVIT OF PAUL DEMKOVICH**

STATE OF FLORIDA

COUNTY OF COLLIER

I, Paul Demkovich, after being first duly sworn upon my oath under penalties of perjury, state as follows:

1. I am over the age of 18 years.
2. I currently hold, and have held since 2012, the position of Chief Financial Officer with Aviation & Airport Professionals, Inc. Prior to then, I held the position of Vice President from 2003-2011.
3. I currently hold, and have held since 2016, the positions of Chief Executive Officer and Chief Financial Officer with AvAirPros Services, Inc. Prior to then, I held the positions of President and Chief Financial Officer from 2012-2015, and I held the positions of Vice President and Chief Financial Officer from 2003-2011.
5. In my roles with both entities I am and have for many years been responsible for maintaining business records for both entities, and have had responsibilities related to contract administration for each of these two separate entities. I have personal knowledge of entities with whom both Airport & Aviation Professionals, Inc. and AvAirPros Services, Inc. had contractual

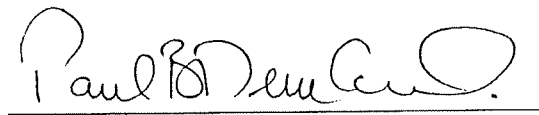
relationships with in December of 2012 and thereafter through the end of March of 2015, as well as entities with whom they did not have such relationships during such time period.

6. I have read two emails which appear to have been sent by MDAD representative Pedro Betancourt on December 6, 2012, and on December 17, 2012 to Victoria Frigo (COE). Mr. Betancourt's statements in his December 6 email that there were "existing contracts" between Aviation & Airport Professionals, Inc., or AvAirPros Services, Inc., and any of the "firms proposing" for the project referenced in Mr. Betancourt's email, are not true. No such contracts existed with any of the competitors for that MDAD contract in December of 2012, or at any time thereafter through March of 2015. Specifically, neither entity had any contract, or subcontract, nor other pecuniary relationship with Elite Line Services, Siemens, JBT Aero Tech or Oxford, as falsely stated in Mr. Betancourt's email of December 17, 2012.

7. I have also read an email which Victoria Frigo (COE) apparently sent to Mr. Betancourt regarding INQ 12-217. To my personal knowledge, as well as my information and belief, no one employed by Airport & Aviation Professionals, Inc. had ever seen or been provided a copy of this email prior to commencement of charges against Debra Shore by the Miami-Dade Council On Ethics last year. The assumptions which Ms. Frigo has made in the second paragraph of her email of December 17, 2012 are inaccurate and false. Neither Airport & Aviation Professionals, Inc., nor AvAirPros Services, Inc., had contracts or sub-contracts with any of the "bidders being evaluated by the selection committee."

Under penalties of perjury, I declare that I have read the foregoing affidavit and the facts stated herein are true.

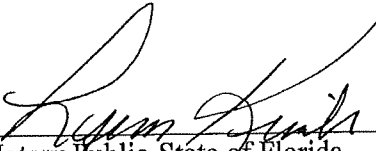
FURTHER AFFIANT SAYETH NAUGHT.

  
PAUL DEMKOVICH

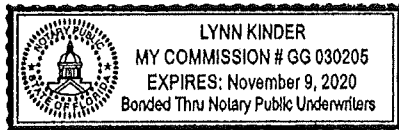
STATE OF FLORIDA

COUNTY OF COLLIER

The foregoing instrument was acknowledged and sworn to under oath before me this 8<sup>th</sup> day of May, 2018, by Paul Demkovich, who is \_\_\_\_\_ personally known to me or who has produced FLA. DRIV. LIC as identification and who did  (did not) take an oath.

  
\_\_\_\_\_  
Notary Public-State of Florida

My Commission Expires:





COMMISSION ON ETHICS & PUBLIC TRUST

MIAMI-DADE COUNTY

ETHICS COMPLAINT  
C 18-10-02

In Re: Christopher Bradley

Respondent

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AFFIDAVIT OF BRENT AHLSTROM

STATE OF FLORIDA

COUNTY OF COLLIER

I, Brent Ahlstrom, after being first duly sworn upon my oath under penalties of perjury, state as follows:

1. I am over the age of 18 years and make these statements herein from my personal knowledge.
2. I hold the title of Vice President, General Manager for Airport Services, a JBT Corporation business, and have held this position since 2009.
3. As General Manager for Airport Services I am a records custodian for the business records maintained by it in the ordinary and regular course of its business.
4. I have confirmed from review of the business records of Airport Services that it did not have any contractual relationship with Airport & Aviation Professionals, Inc., or AvAirPros, Inc. or AvAirPros Services, Inc., or any known affiliate of theirs, during the periods from December 1, 2012 through March 31, 2015.

I have read the foregoing affidavit and the facts stated herein are true.

FURTHER AFFIANT SAYETH NAUGHT.

  
BRENT AHLSTROM

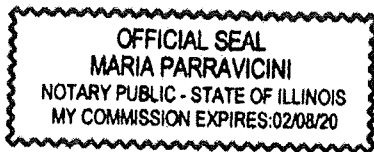
**NOTARIAL CERTIFICATE**

STATE OF ILLINOIS    )  
COUNTY OF COOK     )

The attached Affidavit of Brent Ahlstrom was acknowledged before me on July 11, 2018 by Brent Ahlstrom as Vice President, General Manager for Airport Services for John Bean Technologies Corporation.



Maria Parravicini  
Notary Public, State of Illinois  
My Commission Expires February 8, 2020



COMMISSION ON ETHICS & PUBLIC TRUST

MIAMI-DADE COUNTY

ETHICS COMPLAINT  
C 18-10-02

In Re: Christopher Bradley

Respondent  
\_\_\_\_\_ /

AFFIDAVIT OF NANCY HYMAN

STATE OF TEXAS

COUNTY OF DALLAS

I, Nancy Hyman, after being first duly sworn upon my oath under penalties of perjury, state as follows:

1. I am over the age of 18 years and make these statements herein from my personal knowledge.
2. I hold the title of Paralegal with Siemens Postal, Parcel & Airport Logistics LLC and have held this position since April, 2015.
3. I am the records custodian for the business records maintained by it in the ordinary and regular course of its business.
4. I have confirmed from review of the business records of Siemens Postal, Parcel & Airport Logistics LLC that it did not have any contractual relationship with Airport & Aviation Professionals, Inc., or AvAirPros, Inc. or AvAirPros Services, Inc., or any known affiliate of theirs, during the period from December 1, 2012 through March 31, 2015.

I have read the foregoing affidavit and the facts stated herein are true.

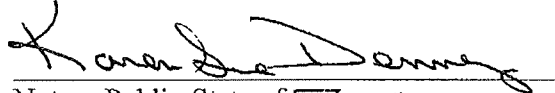
FURTHER AFFIANT SAYETH NAUGHT.

Nancy Hyman  
(name)

STATE OF TEXAS

COUNTY OF TARRANT

The foregoing instrument was acknowledged and sworn to upon his oath under penalties of perjury before me this 11th day of July, 2018, by Nancy Hyman, who is \_\_\_ personally known to me or who has produced \_\_\_\_\_ as identification and who did not take an oath.

  
Notary Public-State of TEXAS

My Commission Expires: 9-19-2019



**FILE COPY**



**MIAMI-DADE  
COMMISSION ON ETHICS & PUBLIC TRUST**

CLERK OF THE BOARD

2018 MAY 23 PM 12:45

CLERK, CIRCUIT & COUNTY CT.  
MIAMI-DADE COUNTY, FLA.  
#1

In re:

**C 18-10-02**

**Christopher Bradley**  
\_\_\_\_\_ /

**PUBLIC REPORT AND FINAL ORDER**

The Advocate filed this complaint against Christopher Bradley (Bradley), an executive at AvAirPros. It was alleged that Bradley had a conflict under Section 2-11.1(j) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance entitled "Conflicting employment prohibited." It was alleged that Bradley had this conflict because he was selected to serve on a County selection committee (RFP-MDAD-11-14) to award a baggage handling contract (RFP) and Bradley's employer, AvAirPros, had contracts with several of the firms responding to the RFP or likely would serve as a sub-contractor to one or more of the responding firms. <sup>1</sup>

The Ethics Commission considered that the Office of the Commission Auditor (OCA) conducted a background check and essentially "vetted" the proposed selection committee members. The OCA's "vetting" process cleared Bradley to serve on the RFP selection committee. Neither the County's Internal Services Division/ Procurement Management nor the County Attorney's Office recognized the conflict Bradley had with serving on the selection committee.

<sup>1</sup> It should be noted that the CFO of AvAirPros provided a sworn affidavit maintaining that, at the time of the RFP, AvAirPros did not have any contractual relationships with any of the responding firms.

Final Order

In re: Christopher Bradley

C18-10-02

On May 15, 2018 the Ethics Commission accepted the Advocate's recommendation that the complaint be dismissed with a Letter of Instruction issued to Respondent.

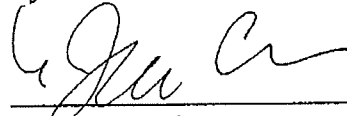
Wherefore it is:

**ORDERED AND ADJUDGED** that COMPLAINT C 18-10-02 against Respondent Christopher Bradley is hereby concluded.

**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session on May 15, 2018.

MIAMI-DADE COUNTY COMMISSION ON ETHICS  
& PUBLIC TRUST

By:



H. Jeffrey Cutler  
Chair

Signed on this date:

05/18/2018



---

**From:** Betancourt, Pete J. (Aviation) <PJBETANCOURT@miami-airport.com>  
**Sent:** Tuesday, November 26, 2013 2:55 PM  
**To:** Robert Binish  
**Cc:** Murray, David M. (Aviation)  
**Subject:** RE: MIA CBIS/BHS O&M: Airport comparisons and O&M questions

Really appreciate it Bob.

---

**From:** Robert Binish [mailto:r.binish@avairpros.com]  
**Sent:** Tuesday, November 26, 2013 2:27 PM  
**To:** Betancourt, Pete J. (Aviation)  
**Cc:** Robert Binish; Murray, David M. (Aviation)  
**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:

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

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- Category X airport
- International traffic in Jan 2013: Domestic 2,362,824; International 251,559; Total 2,314,383 => International traffic at ~11%
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- CBIS Operations for international flights:
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- O&M Entity
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- Category X airport
- International departure at OverSeas Terminal Building – 29 gates
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- Average daily bag volume through Lobbies 4, 5, 7 and 8 is ~10,600 bags per day
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  - Prior to October 2013: State of Hawaii managed Elite Line Services (ELS) for CBIS/BHS O&M services
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- CBIS Operations for international flights:
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- 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
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  - Terminal 5 – 26 gates
  - Terminal 7 – 12 gates; and
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- CBIS Operations for international flights:
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  - 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
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  - Terminal 7 – 15 gates; and
  - Tom Bradley International Terminal – 17 gates
- CBIS Operations for international flights:
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- Terminal 5 – In-Line CBIS completed in 2011 with manned CBIS/BHS control Room
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- Tom Bradley – In-Line CBIS completed in 2010 with manned CBIS/BHS control Room
- O&M Entity
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### **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%
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- CBIS Operations for international flights:
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  - 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
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### **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%
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- 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](mailto:R.Binish@AvAirPros.com)

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Email Scan by McAfee



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**From:** Robert Binish <r.binish@avairpros.com>  
**Sent:** Monday, January 6, 2014 4:06 PM  
**To:** Ken Pyatt (kpyatt@miami-airport.com)  
**Subject:** FW: MIA CBIS/BHS O&M: Airport comparisons and O&M questions

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Per your request

**Robert G. Binish, P.E.**

**AvAirPros**

5551 Ridgewood Drive

Suite 300

Naples, Florida 34108

972.800.6203 Mobile

[R.Binish@AvAirPros.com](mailto:R.Binish@AvAirPros.com)

---

**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:

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Kindly advise if you need any additional information.

**Robert G. Binish, P.E.**

**AvAirPros**

5551 Ridgewood Drive

Suite 300

Naples, Florida 34108

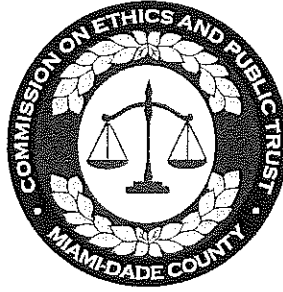
972.800.6203 Mobile

[R.Binish@AvAirPros.com](mailto:R.Binish@AvAirPros.com)

CLERK OF THE BOARD

2018 AUG -1 AM 10:15

CLERK, CIRCUIT & COUNTY DEPT.  
MIAMI-DADE COUNTY, FLA.  
#1



MIAMI-DADE  
COMMISSION ON ETHICS & PUBLIC TRUST

APPROVED 7/18/2018

CHAIRMAN'S INITIALS: *[Signature]*

LETTER OF INSTRUCTION

To: Robert Binish

From: Miami-Dade County Commission on Ethics and Public Trust

Re: C18-06-01

Date: July 11, 2018

---

An Ethics Complaint was filed against Robert Binish (Binish) for violating Section 2-11.1(t) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance entitled, "Cone of Silence."

On January 27, 2015, Binish sent Miami- Dade Aviation Department (MDAD) employee Deborah Shore (Shore) an e-mail with an attached Excel spreadsheet. The subject line stated: "MIA Document Analysis & Recommendation." The e-mail stated: "01.27.2015 Attached is a recommended approach for the scoring based upon conversations that you have had with me and my review of the documents as requested."

This e-mail was sent during the time period that the Cone of Silence was in effect for a MDAD procurement regarding the baggage handling system at Miami International Airport.

Binish pled No Contest to the allegation, paid \$500.00 in investigative costs and agreed to accept a Letter of Instruction.

On May 15, 2018, the Ethics Commission accepted Binish's No Contest plea and ordered a Letter of Instruction to be issued.

WHEREFORE, the Commission on Ethics and Public Trust issues this Letter of Instruction.

Section 2-11.1(t) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance states, in part:

A Cone of Silence shall be imposed upon each RFP, RFQ, and bid after the advertisement of said RFP, RFQ or bid.

The Cone of Silence shall terminate at the time the [Mayor] makes his or her written recommendation to the County Commission...

**Exhibit 9**

County Commission...

“Cone of Silence” is hereby defined to mean a prohibition on any communication regarding a particular RFP, RFQ or bid between ... (vi) any member of the County’s professional staff and any member of the selection committee therefor.

The Code of Ethics does not provide a definition of “County’s professional staff.” However, the principle that Binish should have been considered part of the “County’s professional staff” was pronounced in a January 2011 opinion. (See INQ11-10.)

Binish was similarly situated as a contract “consultant” to MDAD for the baggage handling procurement. Accordingly, he is considered part of the “County’s professional staff.”

INQ16-129 further clarified that a “consultant” is considered “professional staff.” (determining that a consultant hired by the City of North Miami to advise the city regarding a water utility system would be barred under the Cone of Silence from communicating with a member of the RFQ selection committee). That opinion concluded that a consultant hired by the City to advise the City during the procurement process is in the same position as a member of the City’s “professional staff” and is so bound by the prohibitions in the Cone of Silence.

It should be noted, however, that INO16-129 was not issued until May of 2016, several months after Binish sent the subject e-mail that violated the Cone of Silence. It is plausible, as Binish contends, that he was likely unaware of his status as “professional staff” and was not informed of this by MDAD administration. Although ignorance of the law is not an excuse, under this circumstance, this Letter of Instruction is appropriate and will, hopefully, prevent Mr. Binish from ever making this mistake again.

It is our understanding that Mr. Binish is the preeminent expert on airport baggage handling systems and that his expertise is sought after across the country. It is our hope that the issuance of this Letter of Instruction and going through the complaint process will impress upon Mr. Binish the importance of compliance with the Ethics Code.

We are hopeful that Mr. Binish has learned from this experience and will use this Letter of Instruction to guide his future conduct should he have any further dealings with Miami-Dade County, Miami International Airport and MDAD.

**MAAC**  
MIAMI AIRPORT AFFAIRS COMMITTEE

Miami International Airport  
P.O. Box 592075  
Concourse E - 6th Floor  
Miami, FL 33159

*Delivered via electronic mail*

May 20, 2015

Mr. Kenneth Pyatt  
Deputy Director  
Miami Dade Aviation Department  
P.O. Box 025504  
Miami, FL 33102-5504

RE: South/Central Checked Baggage Inspection System (CBIS) Project  
Airline Concerns

Dear Ken:

The Miami Airport Affairs Committee (MAAC) met with you and MDAD staff on April 22 to discuss the MAAC's and the Airline Management Council's (AMC) concerns regarding the South/Central Terminal Checked Baggage Inspection System (CBIS) Project (the "CBIS Project"). This is an extremely critical project for both the airlines and MDAD. Unfortunately, since its inception in 2013, the project has experienced numerous delays due primarily to procurement issues. These delays have resulted in the project being behind schedule to the extent that completion will not occur until after the expiration of the \$101M Other Transaction Agreement (OTA) grant in 2018. Moreover, project costs are projected to increase from the original budget of \$147M (which had included an Early Baggage Storage system for the South Terminal that has now been removed from the project scope) to \$168M. Not only does this present significant financial risk to the airlines, it places additional operational risk to the airlines operating in the South and Central Terminals that must continue to use the existing baggage system (that has already exceeded its useful life) until the CBIS Project can be completed.

Both MDAD and the airlines stated at the April 22 meeting, and in follow up discussions with you, that we must work together to complete the project as quickly as possible. The project must deliver to the airlines a reliable and efficient baggage system that supports this critical component of the airlines' operations at the airport. The purpose of this letter is to summarize the airlines' understanding of the current status of the CBIS Project, and to provide our recommendations on how we can work together to get the project moving forward as effectively as possible. Please advise if anything stated in this letter is inaccurate or if other supplemental information is available.

American Airlines - Chairman  
Air Canada  
Envoy Air  
British Airways

Delta Air Lines  
Federal Express  
LAN Airlines  
Lufthansa German Airlines

United Airlines  
United Parcel Service  
US Airways



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### OTA Status

Since the April 22 meeting, it is our understanding that you and other MDAD representatives met with the TSA regarding the status of the OTA grant. We understand that the TSA has indicated it is unlikely that the current OTA will be extended, and that the project needs to move forward as quickly as possible in order that the maximum amount of project cost can be covered under the existing grant. We also understand that an additional grant may be applied for upon expiration of the existing OTA, however there is no assurance at this point that any additional application for project funding not covered under the existing OTA will be approved in the future. Developing a current detailed project schedule to determine the airline's risk exposure and to develop potential mitigation solutions, if needed, is an important activity that we should collectively seek to accomplish within the next 30 days.

### Design Contract

The Miami Dade County Board of County Commissioners (BCC) has approved the A/E design contract with the team of Burns & McDonnell and BNP. Because of the extreme urgency of this project, the ten day comment period has been waived and the contract is now in effect. We understand that you have directed Pedro Hernandez to proceed as quickly as possible with the design process, and to include the airlines' technical representatives on every aspect of the process in order to ensure the project meets the airlines' operational needs.

As you know, Bob Binish of AvAirPros represents the airlines' interests on baggage system issues at MIA and at numerous other airports around the system. Bob's industry knowledge of CBIS projects is unparalleled. He has been involved from the early phases of this project and can be an invaluable technical resource to assist MDAD in your discussions with the selected A/E team. We understand that you have agreed to involve Bob in all project meetings. We believe that project meetings, such as the A/E kickoff meeting, should be established now and look forward to receiving an invitation to such meetings as they are scheduled.

### ILDT Formation

The TSA Planning Guidelines and Design Standards (PGDS) requires the establishment of an Integrated Local Design Team (ILDT) consisting of, at minimum, the airport, TSA, and the airlines. For this project, we understand that the stakeholders would include representatives from MDAD, the TSA, the baggage system O&M contractor, the airlines, and the various design consultants and construction contractors working on the project. We understand that MDAD will be initiating an ILDT meeting as early as this week to begin this process. The airlines would like to include Bob Binish as the airline representative on the ILDT, as well as Brian Miller who represents Delta Air Lines. Delta is one of the largest passenger airlines at MIA that will be a user of the CBIS Project, and Brian possesses significant experience in baggage systems that will aid MDAD in the execution of the project.

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CMR Procurement

MDAD and the airlines agree that the Construction Manager at Risk (CMR) contract must be procured as quickly as possible in order to provide preconstruction services related to constructability, phasing, cost validation, and risk mitigation. While the CMR would ideally be procured at the same time as the A/E, we understand that it will be at least until November 2015 before this contract can be procured. During the interim period, the airlines believe that Bob Binish should be used as a technical advisor to assist the MDAD team. We understand that a meeting that had been scheduled three weeks ago to review the CMR contract in advance of the CMR advertisement was cancelled and has not yet been rescheduled. Please ask your staff to coordinate with Bob on the re-scheduling of this meeting in order that the CMR procurement process is not delayed further. The airlines further request to be part of the selection committee for the CMR contract to assist MDAD with the evaluation and selection of this critical project team member.

Program Manager

MDAD indicated at the April 22 meeting that it plans to hire a Program Manager to assist MDAD staff in coordinating the activities of the A/E and the CMR throughout the CBIS Project. The airlines concur that hiring a PM experienced in CBIS projects would be of value to the project. The airlines look forward to assisting MDAD in the development of the bid package and being involved as members of the selection committee for this important contract.

Project Cost

The airlines continue to be concerned about the escalating cost of the project, as noted in the opening paragraph. During the April 22 meeting, MDAD noted that the A/E contract was being executed in the amount of approximately \$17M. Based on our understanding of the project, the budget for the A/E is approximately \$9.5M. MDAD explained that A/E expenditures would be controlled through the issuance of task orders. The airlines would like to better understand the methodology of this approach and how costs can be controlled and kept in line with the approved budget for the A/E and future contracts and agreements.

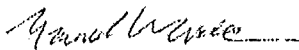
Communication

The airlines are designating Bob Binish as our primary point of contact for all project related correspondence. Please include Bob in your material distributions and meeting requests (and Brian Miller as it relates to the ILDT). Contact information for Bob and Brian will be provided, if needed.

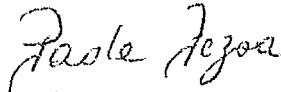
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As discussed at the April 22 meeting, we cannot afford to look backward at the reasons for the cause of the previous CBIS Project delays and cost increases. We must move forward with this project as quickly as possible to establish a firm budget and to produce an efficient and reliable baggage system for the south/central terminal airlines that minimizes operational and cost risk to the airlines. Given the importance of this project, we will keep this item on the MAAC agenda for monthly updates. The airlines look forward to working closely with MDAD on moving this project forward.

Respectfully,



Michael Wesche  
MAAC Chairperson



Paola Pezoa  
AMC Chairperson

CC: Emilio Gonzalez, MDAD Aviation Director  
Joe Napoli, MDAD Chief of Staff  
Anne Lee, MDAD CFO  
Dan Agostino, MDAD Assistant Director for Operations  
Pedro Hernandez, MDAD Assistant Director for Facilities Development  
MAAC Members  
AMC Members  
Airline Liaison Office