



**NEW YORK STATE THRUWAY AUTHORITY
NEW YORK STATE CANAL CORPORATION**



MINUTES

AUDIT COMMITTEE MEETING NO. 20

November 17, 2010

Minutes of a meeting of the New York State Thruway Authority/Canal Corporation Audit Committee, held in the Board Room at Administrative Headquarters, 200 Southern Boulevard, Albany, New York.

The meeting began at 12:37 p.m.

The following members of the Audit Committee were present, constituting a quorum:

Present:

Chairman John L. Buono, ex officio Audit Committee Member
J. Donald Rice, Chair, Audit Committee
Brandon R. Sall, Audit Committee Member
Richard N. Simberg, Audit Committee Member

In addition, there were present the following staff personnel:

Michael R. Fleischer, Executive Director
Wendy Allen, Director, Office of Management and Planning
John Bryan, Chief Financial Officer
William Estes, General Counsel
Jonathan Gunther, Assistant Counsel
J. Marc Hannibal, Director, Audit and Management Services
Harry Lennon, Senior Investigator
David Malone, Director, Accounting and Disbursements
Peter Meehan, Manager of Fiscal Audit
Thomas Ryan, Director of Public Affairs
Tracie Sandell, Assistant Director, Audit and Management Services
Michael Sikule, Director, Office of Investments and Asset Management

Dorraine Steele, Director, Office of Fiscal Audit and Budget

Also in Attendance:

John Armstrong, Television Engineer, New York Network
David Spara, Director, Toski, Schaefer & Co., P.C.
Douglas Zimmerman, Director, Toski, Schaefer & Co., P.C.

PUBLIC SESSION

Mr. Rice, Committee Chair, called the meeting of the Audit Committee to order.

Ms. Yanus recorded the minutes as contained herein.

Item 1

Approval of minutes of Audit and Finance Committee Meeting No. 19

After full discussion, on the motion of Mr. Simberg, seconded by Chairman Buono, without any objections, the Audit Committee approved the minutes of Audit and Finance Committee meeting No. 19, held March 29, 2010.

Item 2

Approval of the Scope of Services for the 2010 Financial Statement Audit and Single Audit

Mr. Bryan requested the Committee accept the General Audit Plan for 2010 that was submitted by the Authority's auditors, Toski, Schaefer & Co., P.C. The document outlines the firm's objectives, approach and timetable for its performance of the annual financial audit for the 2010 fiscal year and single audit. Committee approval was requested in order to ensure a timely start to the audit process. He introduced Douglas Zimmerman, Director of Toski, Schaefer & Co., P.C., who provided an overview of the audit plan.

Referencing the General Audit Plan for the year ending December 31, 2010, Mr. Zimmerman reviewed the objectives of the audit, which include: audit of the general purpose financial statements for the year; audit of the Authority's major programs; preparation of a management

letter (if required); issuance of an investment audit report as required by the New York State Public Authorities Law; and performance of agreed-upon procedures of restaurant concessionaires. The audit will be conducted in four phases: planning (which is currently underway), systems evaluation, testing and reporting process. One of Toski's tasks is to perform a Single Audit, which is required for organizations that receive federal money, for which test work has begun. As was the case last year, the Authority's Highway Program is the only subject that needs to be audited for the Single Audit. Mr. Zimmerman concluded his presentation with a review of the audit timeline.

In response to Mr. Simberg's inquiry, Mr. Zimmerman advised that the low risk program not subject to audit this year is "Public Assistance Grants" funded by the Department of Homeland Security. Mr. Rice asked if the audit procedures this year differ from those of prior years. Mr. Zimmerman responded that the broad outline of the plan is similar; however, during the first year of engagement, different procedures need to be done. When Toski, Schaefer & Co., P.C. took over the audit in 2009, it had to review the predecessor firm's work papers, establish consistency of accounting principles and gain an understanding of the Authority's internal controls. Tasks to be undertaken this year include updating the internal controls and evaluating risk assessments.

At the Committee Members' request, staff reviewed the contract terms, noting that the annual fee is \$85,000, which is a fixed price and is approximately 30 to 40 percent lower than the previous firm's. The 2011 audit is the last one under this contract, although the Authority has a two-year renewal option.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Audit Committee approved the scope of services for the 2010 Financial Statement Audit and Single Audit.

Item 3

Acceptance of the Concessionaire Report Prepared by Toski, Schaefer & Co., P.C.

Mr. Bryan requested the Committee accept the three concessionaire audit reports that were recently completed by the Authority's independent auditing firm, Toski, Schaefer & Co., P.C. The audits are performed annually on the sales of food and other services by the three vendors that operate at the Authority's 27 service plazas: HMS Host, McDonald's and Delaware North Companies. The audits analyzed a sampling of sales at a variety of locations to establish whether or not these vendors are paying the proper rents to the Authority. For Delaware North concessions Toski had no findings. For McDonald's, Toski, Schaefer & Co., P.C. found minor underreporting of gift shop sales that resulted in \$53 in rent being due the Authority which will be invoiced to McDonald's and is very minor considering that nearly \$900,000 in rents were paid during the audit period. In addition, for the food venues and vending machines that were analyzed at the McDonald's locations, Toski, Schaefer & Co., P.C. had difficulty in reconciling the daily deposits to daily sales, but concluded that the rents appear to be correct. For HMS Host, it was found that sales by a food venue located at two different geographical locations had been combined which should have been reported separately. However, it was found that the overall rent that was paid was correct. In addition, sales reported at other HMS Host food venues were both over and under reported, the net effect of which was an underreporting of \$53.80 in sales, which is an extremely small percentage of the \$5.9 million in total sales that was analyzed. The rent due from this underreported amount is less than \$10, which is a de minimus amount considering the volume. There was also difficulty in reconciling the sales reported on New York State sales tax forms to what was reported to the Authority, due to the tax exemption on clothing.

Mr. Spara attributed the discrepancy to a timing issue; the concessionaire reporting system is based on a 13 to 14 week period in contrast the State that operates in a calendar year. The information and database used to report both are the same, however.

Mr. Zimmerman summarized the reports, stating that Toski, Schaefer & Co., P.C. had reviewed the contracts and the data reported by the concessionaires to ensure that reporting was being done in

compliance with the contract terms. Only minor issues were noted; no significant issues were detected.

Mr. Bryan added that staff is working with the vendors to ensure that these issues are being addressed.

Chairman Buono requested that the auditors provide future reports to the Committee rather than the Authority's Chief Financial Officer. The Committee Members concurred.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Audit Committee accepted the Concessionaire Report prepared by Toski, Schaefer & Co., P.C.

Item 4

Acceptance of the Fiscal/Toll Audit 2011 Audit Plan and 2009 Accomplishments

Mr. Bryan requested the Committee accept the Authority's internal Fiscal and Toll Audit Plan for 2011. Each year the Finance Department conducts a large number and wide variety of risk-based audits and reviews. The Authority's Bureau of Fiscal and Toll audit is staffed by over 40 auditors, accountant aides, clerks and other staff who annually spend over 20,000 hours on: the reconciliation, audit and accountability of toll revenues and toll transactions; the accuracy of other revenues and payments made to the Authority; the accuracy of payroll, employee attendance and payments the Authority makes to contractors; the accuracy and reliability of financial reports and related systems; and the evaluation of important controls and procedures to minimize the opportunity for fraud and abuse. A copy of the proposed audit program that details all of the specific audits the Authority expects to perform in 2011 was included in the meeting materials.

Mr. Rice raised several questions pertaining to audit procedures and the reporting structure. Staff explained that the Department of Audit and Management Services manages the internal audit program that pertains to the management of fraud, waste, security and investigations.

Additional management and operational audits are expected to be conducted within the coming year. The Department of Finance oversees the fiscal and toll audit program that examines and audits contracts and financial statements to ensure that payments being received by the Authority and those paid by the Authority to external parties are fair and reasonable. Other tasks performed under this program include the auditing of the Authority's internal Procurement Card program and the monitoring of all financial transactions to ensure that all functions are operating in accordance with established guidelines and policies.

Relative to the internal reporting structure, the Director of the Office of Fiscal Audit and Budget reports directly to the Chief Financial Officer who reports directly to the Executive Director. The Director of Audit and Management Services audits the fiscal and toll audit program, as does the external auditor. He reports directly to the Board and secondarily to the Executive Director in providing recommendations for operational efficiencies, as well as serving as the Authority's liaison to the Office of the Inspector General (IG). The IG is an external, independent, Governor-appointed position that investigates fraud, waste and abuse in State government. The Authority's Audit Plan is internal to the Authority. The Audit Plan has been, and will continue to be this year, designed internally. Staff of the Authority does, however, belong to an internal auditors statewide association to ensure that the Authority's Plan is equally as aggressive as those of other State agencies.

At Mr. Rice's request, Mr. Bryan reviewed the timing cycle of the audit and reporting practices, stating that every year a plan is developed that outlines a prospective view of activities for the upcoming year as well as accomplishments for the previous year. The plan is adjusted based on the audit findings. Every audit has an associated report. The reporting structure varies depending on the subject of the audit and the staff involved. All reports are reviewed by the Chief Financial Officer and the Director of Audit and Management Services. Reports are provided to the Executive Director and the Board, when appropriate.

Expressing concern that the Authority's infrastructure is subject to damage caused by natural and manmade disasters, Mr. Simberg requested an audit be conducted of the Authority's emergency response plan to mitigate the risk to public safety and potential public damage. Mr. Hannibal

acknowledged that the Tappan Zee Bridge has been identified as critical infrastructure. The Authority employees a security coordinator specifically assigned to the Bridge who coordinates with the FBI and Department of Homeland Security. Mr. Fleischer offered that the Department of Audit and Management Services would conduct the audit, adding that the diversion plan for the Tappan Zee Bridge was developed in concert with the Westchester County Police and the Rockland County Public Safety Police. Ms. Steele added that a member of her staff is a liaison with State Emergency Management Office and is designated to respond to the statewide emergencies to coordinate the financial aspects (such as resources and accumulating cost data).

After full discussion, on the motion of Mr. Simberg, seconded by Mr. Sall, without any objections, the Audit Committee accepted the Fiscal and Toll Audit Plan for 2011.

Item 5

Acceptance of Audit & Management Services 2009 Accomplishments

Mr. Hannibal requested the Committee accept the Department of Audit and Management Services report of accomplishments for the year ending December 31, 2009. The submission reflects the Department's previous year's commitment to investigations and security matters. For the upcoming year, additional staff have been hired to allow the Authority to focus on management and operational audits.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Audit Committee accepted the Department of Audit and Management Services report of 2009 Accomplishments.

Item 6

Acceptance of the 2009-10 Internal Control Report Submitted to the Division of the Budget

Mr. Hannibal requested the Committee accept the 2009-10 Internal Control Report. The report certification measures the Authority's compliance with the requirements of the Internal Control Act. The Authority has the option of characterizing itself as being either fully, partially or non-

compliant. Relative to sections B and F (maintaining a system of internal controls and a program for internal control review, and evaluating the need for an internal audit function, respectively), the Authority is partially compliant; it is fully compliant in all other sections. Management uses internal controls to ensure that the policies and procedures of the Authority are efficient. Information for this report, which is due to the Division of the Budget at the end of the April, is collected from each department in February.

The Committee Members raised several questions regarding the compliance status of present and historical reports. Staff attributed the present partial compliance to staffing vacancies, which resulted in a number of items relating to managerial and operational audits being incomplete. In addition to hiring three additional staff in the Department of Audit and Management Services and redesignating existing office staff, the Authority purchased two automated resources to enhance its ability to perform audits and to assess and monitor controls. The automated systems are in the process of being implemented, but are not yet fully operational. Full compliance in all areas is planned for the calendar year 2011. In past years, the Authority's compliance status has been similar to the present.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Audit Committee accepted the 2009-10 Internal Control Report.

Item 7

Acceptance of Periodic Reports sent to the Office of the State Inspector General (OSIG)

Mr. Hannibal requested the Committee accept the status reports of investigations for the period January 1, 2010 through September 30, 2010 submitted by the Authority to the OSIG. These periodic reports, prepared by the Department of Audit and Management Services, identify all investigative matters opened or disposed of during the calendar year.

Mr. Rice requested highlights of the report. Mr. Hannibal responded, advising that the investigations are routine matters raised pursuant to staff allegations or at the request of the OSIG. No significant matters have been noted, with the exception of an issue that occurred in

the first quarter of the year. That case involved a Buffalo Division employee using significant Authority resources to operate a private business while on duty at the Authority over an 18-month audit period, which garnered approximately \$80,000 in fees. The employee was subsequently terminated.

After full discussion, on the motion of Mr. Sall, seconded by Mr. Simberg, without any objections, the Audit Committee accepted the report sent to the OSIG.

Item 8

Report on the Following Items:

- a. Office of the State Comptroller (OSC) Audit: “Management of Overtime Costs”**
- b. OSC Audit: “Accuracy of Employee Retirement Reporting” (Follow-Up Report)**
- c. OSC Audit: “Gas Prices at Thruway Travel Plazas” (Follow-Up Report)**
- d. Audit Committee’s 2011 Draft Work Plan**

Mr. Hannibal provided the status of three audits of Authority practices that were conducted by the New York State Office of the State Comptroller during the year.

a. OSC Audit: “Management of Overtime Costs”

The Authority received a favorable report that concluded that Authority officials were effectively managing and monitoring employee overtime, and that the use of authorized overtime was justified. The report stated that the Authority has issued policies and guidelines to limit overtime, negotiated changes to employee contracts, issued cost containment directives, and monitored reports of overtime usage. One recommendation was made, however, to explore further measures to achieve additional overtime savings in future contract negotiations.

b. OSC Audit: “Accuracy of Employee Retirement Reporting” (Follow-Up Report)

This was a follow-up report to the one issued in July 2008 that examined the Authority’s accuracy in meeting the reporting requirements of employee information to the retirement system with respect to enrollment, earnings and days worked. The OSC concluded that the Authority was deemed generally compliant. One exception was noted, however, for which the number of days worked by an employee was overstated.

The OSC recommended that the Authority work with the retirement system to ensure that the information gets accurately reported and retroactively changed, if necessary. The Authority provided documentation to the OSC stating that it had satisfactorily complied.

c. OSC Audit: “Gas Prices at Thruway Travel Plazas” (Follow-Up Report)

This was a follow-up report to the April 2009 audit that examined the gas prices of Authority fuel providers at a number of Authority travel plazas. The report concluded that gas prices were not always in compliance with contractual limits, resulting in patron overcharges for gas. Twelve recommendations were made, of which five were implemented, five were partially implemented, one was not implemented and one was no longer necessary. The follow-up audit was complete, and the Authority provided a response detailing the implemented actions as well as including the justification for not implementing one of the recommendations. Mr. Fleischer explained that the Authority elected not to implement the OSC’s recommendation to independently survey the local fuel vendors to ensure that the Authority’s concessionaires were accurately setting prices in accordance with its contract terms. It is the Authority’s practice to conduct spot checks of the off-road stations’ prices and compare them to those reported by its concessionaires as a quality control measure. It would be labor intensive to verify every price for every station. The Authority posts its prices on the Internet, thereby adding to the Authority’s system of checks and balances, which Mr. Fleischer deemed appropriate.

A discussion pertaining to the surveying procedure ensued, whereby Mr. Rice acknowledged that the Authority’s prices of conducting independent price checks as a third party was not cost effective; however, it seems valid as a means to ensure compliance. Mr. Fleischer explained that the surveying was not done randomly; travel plaza operators are required to check prices once or twice a week on a definitive day and time in order to avoid unfair price fluctuations.

The Committee Members raised questions pertaining to the Authority's practice of posting gas prices on the Internet with respect to the specific information included. Mr. Fleischer stated that the actual prices currently being charged are listed, but was unsure whether or not the methodology pertaining to allowable prices and the survey process was included. For the purpose of enhancing transparency, Mr. Rice suggested that the surveying methodology be posted. Mr. Sall expressed concern that collusion among the local vendors to inflate prices might result.

d. Audit Committee's 2011 Draft Work Plan

No discussion occurred relative to the 2011 Draft Work Plan.

After full discussion, on the motion of Mr. Simberg, seconded by Mr. Sall, without any objections, the Audit Committee accepted the status reports of the following three audits conducted by the OSC: "Management of Overtime Costs," "Accuracy of Employee Retirement Reporting," and "Gas Prices at Thruway Travel Plazas."

Adjournment

There being no further business to come before the Audit Committee, on the motion of Mr. Sall, seconded by Chairman Buono, without any objections, the meeting was adjourned at 1:27 p.m.