



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



MINUTES

AUDIT AND FINANCE COMMITTEE MEETING NO. 14

May 18, 2009

Minutes of a meeting of the New York State Thruway Authority/Canal Corporation Audit and Finance Committee, held in the Board Room at Administrative Headquarters, 200 Southern Boulevard, Albany, New York and via video conference from the Authority's New York Division Office and Buffalo Division Office. The meeting began at 1:00 p.m.

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

Present:

Chairman John L. Buono, ex officio Audit and Finance Committee Member
Frederick Howard, Audit and Finance Committee Member
Donna J. Luh, Audit and Finance Committee Member, via video conference
E. Virgil Conway, Chair, Audit and Finance Committee, via video conference

In addition, there were present the following staff personnel:

Michael Fleischer, Executive Director
Kevin Allen, Acting Director, Audit and Management Services, via video conference
John Bryan, Chief Financial Officer, via video conference
Jill Warner, Board Administrator
Sharon O'Connor, General Counsel
Tracie Sandell, Assistant Counsel, via video conference
Dorraine Steele, Director, Office of Fiscal Audit and Budget
Betsy Graham, Acting Director of Public Affairs
David Malone, Director, Office of Accounting & Disbursements
Daniel Gilbert, Chief of Staff
Katherine McCartney, Deputy Counsel
Wendy Allen, Deputy Chief of Staff

Mildred Selby, Supervisor, Bureau of Cash and Investment Management
Keith Fragomeni, Assistant Investment Officer, Bureau of Debt Management
Michael Sikule, Director, Office of Investments and Asset Management, via video conference
William McDonough, Cash Management Analyst, Bureau of Debt Management, via video conference

Also in Attendance:

John Armstrong, New York Network
Angela Rodell, Senior Vice President, First Southwest, via video conference
William M. Kahn, CPA, Partner, UHY Advisors NY, Inc.
Abigail Olsen, Nixon Peabody, via video conference
Doron Bar-Levav, Harris Beach, via video conference
Steven Kantor, First Southwest, via video conference
Stanley Kramer, Hawkins, Delafield & Wood, via video conference
Bart Livolsi, CitiGroup, via video conference
Dan Cohen, CitiGroup, via video conference

PUBLIC SESSION

Mr. Conway called the meeting of the Audit and Finance Committee to order.

Ms. Warner recorded the minutes as contained herein.

Item 1

Approval of Minutes of Audit and Finance Committee Meeting No. 13

After full discussion, on the motion of Mr. Howard, seconded by Chairman Buono, without any objections, the Audit and Finance Committee approved the Minutes of Audit and Finance Committee Meeting No. 13, held April 9, 2009.

Item 2

Review and Accept the Authority's Single Audit Report for the Years Ending December 31, 2008 and 2007 prepared by UHY, LLP

Mr. Kahn briefly stated exactly what the Single Audit is. When he met with the Committee a couple months ago they reviewed the Financial Audit for 2008 but the Single Audit is significantly different. It is also known as an OMBA133, it is a comprehensive, organization wide, compliance and financial audit that is required of any Federal fund recipient that receives over \$500,000 a year. It's performed annually and it's required to be submitted to the Federal Government to be used in their evaluation and management to show how organizations use Federal funds.

Mr. Kahn explained that Section A, entitled Financial Statement Level Reports, are identical reports to the ones that the Committee reviewed in March. Section B, the Compliance Reports, the first two pages were reviewed by the Committee in March but starting on page 36 is information that encompasses the Single Audit and is new material. Page 36 highlights Federal funds received, Federal expenditures of the Authority for calendar year 2008 and in total that number approximates \$30.5 million from both the U.S. Department of Transportation, which is pass through money from New York State DOT, and the Federal Department of Homeland Security. On page 37 there are footnotes to the schedule of expenditures of Federal awards. On pages 38 and 39 is the Independent Auditors' Report on Compliance with Requirements and Internal Control Over Compliance. In UHY's opinion, the Authority complied, in all material respects, with requirements that are applicable to its major Federal programs for the year ended December 31, 2008. With respect to internal control over compliance there are several definitions included on what a control deficiency is, what a significant deficiency is and what a material weakness is, but UHY did not identify any deficiencies in internal control over compliance that would be considered material weaknesses. In fact, UHY has no findings in connection with the Single Audit. Section C includes the actual form that is submitted to the Federal Government. This form encompasses all of the information included in the Single Audit. It includes information related to the auditee and the auditor and includes information related to findings and questioned costs if there were any.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Howard, with no objections, the Audit and Finance Committee accepted the Authority's Single Audit Report for the Years Ending December 31, 2008 and 2007 prepared by UHY, LLP.

Item 3

Review and Approve the Thirteenth Supplemental Bond Resolution Authorizing the Issuance of Second General Highway and Bridge Trust Fund Bonds, Series 2009B for up to \$300 Million for New Purposes, \$50 Million in Refunding Authorization and Related Documents for Board Action

Mr. Bryan reported that the New York State Division of Budget has requested the Authority issue up to \$300 million of the Series 2009B bonds for new money purposes to assist in funding the State Transportation Program. DOB has also requested the Authority issue an amount not to exceed \$50 million for purposes of refunding prior bonds.

The Trust Fund bonds are special obligations of the Authority payable subject to appropriation. There is no pledge of Authority revenues or assets as security for the Trust Fund bonds and the Authority is not liable in the event that the State fails to appropriate the necessary monies for debt service.

DOB has requested the Authority price and close this transaction in July. Mr. Bryan stated Abby Olsen from Nixon Peabody, the Authority's bond counsel on this transaction, was available if anyone has any questions.

Chairman Buono inquired if the Authority was still participating in a fee exchange program for its expenses. Ms. O'Connor responded that the Authority is still reimbursed for all costs associated with the issuance.

After full discussion, on the motion of Mr. Howard, seconded by Ms. Luh, with no objections, the Audit and Finance Committee authorized submission of the Thirteenth Supplemental Bond Resolution Authorizing the Issuance of Second General Highway and Bridge Trust Fund Bonds,

Series 2009B for up to \$300 Million for New Purposes, \$50 Million in Refunding Authorization and Related Documents to the Authority Board for consideration.

Item 4

Review and Approve the Eighth Supplemental Bond Resolution Authorizing the Issuance of State Personal Income Tax Revenue Bonds Series 2009A for up to \$475 Million for New Purposes, \$150 Million in Refunding Authorization and Related Documents for Board Action

Mr. Bryan reported that the New York State Division of Budget has requested the Authority issue Personal Income Tax (PIT) Revenue Bonds Series 2009A up to \$475 million for new money purposes. DOB has also requested the Authority issue an amount not to exceed \$150 million for purposes of refunding prior bonds.

PIT bonds are special obligations of the Authority. DOB notified Authority staff that on March 9, 2009, the Governor signed into law Chapter 52 of the Laws of New York of 2009 which authorizes the expenditure of funds to meet the debt service requirement of the State for the current fiscal year. There is no pledge of Authority revenues or assets as security for the PIT bonds and the Authority is not liable in the event the State fails to appropriate the necessary monies for debt service.

DOB has requested the Authority price this transaction the week of May 26th and close the week of June 8th. Mr. Bryan stated that Doron Bar-Levav from Harris Beach, the Authority's bond counsel on this transaction, was available if anyone had any questions.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Howard, with no objections, the Audit and Finance Committee authorized submission of the Eighth Supplemental Bond Resolution Authorizing the Issuance of State Personal Income Tax Revenue Bonds Series 2009A for up to \$475 Million for New Purposes, \$150 Million in Refunding Authorization and Related Documents to the Authority Board for consideration.

Item 5

Review and Approve the Authority's First Quarter Investment Report for Board Action.

Mr. Bryan reported that the Office of the State Comptroller ("OSC") guidelines require that the Authority provide a quarterly report to OSC on all investments made by the Authority. The report details, by fund, the investments made and yield obtained for each investment. In total, in the first quarter of 2008, the Authority invested a total of \$667.5 million, earning an average yield of approximately 0.4 percent.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Howard, without any objections, the Audit and Finance Committee authorized submission of the First Quarter Investment Report to the Authority Board for consideration.

Item 6

Review and Accept the 2008-09 Internal Control Report Submitted to the Division of the Budget

Mr. Allen presented the above Item for review and acceptance.

Mr. Allen stated that the report and certification measures the Authority's compliance with requirements of the Internal Control Act. This is the first year the Authority has the option of characterizing itself as fully compliant, partially compliant or not compliant. Under Sections B and F the Authority is listed as partially compliant.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Conway, the Audit and Finance Committee noted the above report as accepted.

Item 7

Review and Discuss, as Necessary, the Following Items:

- a. Solicitation of Professional Accounting and Auditing Services**
- b. 2008 Reports Submitted Pursuant to the Public Authorities Accountability Act**
- c. Audit and Finance Committee 2009 Draft Work Plan**

Mr. Bryan and Mr. Allen presented the above Items for review and discussion only.

Mr. Bryan stated that at the April Meeting the Committee approved moving forward in soliciting professional accounting and auditing services. At the time, staff had recommended possibly procuring services through the Office of General Services Statewide Contract but has since rethought that option and is recommending that the Committee approve soliciting these services via a public RFP process some time in June. There has been a delay in the Authority's procurement of these services due to the fact that the Governor's M/WBE Task Force is currently reviewing procurement methods associated with certain professional services, including accounting services. Mr. Fleischer and Mr. Bryan spoke with the Task Force Chairman recently and they think they were given the green light to move forward expeditiously in procuring these services. Chairman Buono questioned why they think they were given the green light but are not certain of it. Mr. Bryan responded that Chairman Williams indicated that Task Force recommendations for accounting services would not be complete until September. Chairman Williams provided a list of procurement guidelines that had been adopted for legal services, and he requested that the Authority's RFP for auditing services conform as close as possible to those guidelines. Chairman Williams also indicated that they would like to see the RFP before the Authority issues it. Mr. Bryan stated that they are well aware and appreciate the time horizon the Authority is dealing with and he believes they are going to work with staff to get the RFP out the door in the next 45 days.

Chairman Buono inquired as to how long it takes to put a procurement together. Mr. Bryan responded that the general rule of thumb is between 10 and 12 months from beginning to end. The State Comptroller's Office can take several months, there is also the Authority's Board process and internal review process. Mr. Bryan added that in talking to the Authority's procurement staff, they believe that if they can get the RFP out on the street by the end of June the Authority should have an effectuated contract with the next auditor by year's end. Mr. Conway inquired how long it would take, or how much time the Authority would save, by using the State contract instead of issuing an RFP. Mr. Bryan stated that it could cut down the time by a couple of months, but the reason the Authority decided not to go with the State contract list is because the list is basically a subset of the firms out there. Staff believes if the Authority does a

general procurement with an RFP the Authority will get more competition and may end up with a better price. There were also no M/WBE's on the OGS list. Mr. Howard inquired if staff could leave the option available in the RFP to go with the OGS Contract if the Board decides to. Mr. Bryan responded that doing that would essentially be terminating the RFP procurement, which staff could do at any time but they would then be starting over with a new procurement. The Authority would still want to engage in a competitive process, even using the OGS list, staff would still require that bidders present their credentials.

Chairman Buono requested clarification regarding the time each entity takes in the approval process. Mr. Bryan responded that from the time a draft RFP is put together it could be a couple of months in-house; each procurement's unique so staff drafts a scope and reviews it. When the RFP goes to the street staff tries to give bidders enough time to come back with some quality bids and give everyone an opportunity to answer, that can take up to a couple months. In many cases, once a winner is chosen, staff then has to seek the Board's approval to enter into a contract, so with every other month meetings it can add a couple months to the process. Contract negotiations can take anywhere from a couple of weeks to a couple of months. Once the Authority's contract is written up it goes to the Attorney General's Office for approval and then to the State Comptroller's Office. Approval from the Comptroller's Office can take anywhere from one to two months depending on the type and size of the contract. Sometimes the Comptroller's Office will have two or three questions total, other times they'll ask two or three questions every day for a month. Their reaction is really the driver at the end of this process in determining how long the contract ultimately takes to get done. That is why staff prefers to have the 10 or 12 month window for this process, rather than be in a position with only a month left on a contract and get stuck; doing it this way provides a buffer so that staff can finalize the procurement and get a vendor under contract before the next contract period begins.

Mr. Allen presented the 2008 and 2007 Reports Submitted Pursuant to the Public Authorities Accountability Act. Of note, is the listing of salaries in excess of \$100,000; real property listings that include properties the Authority intends to dispose of and has already disposed of; and the schedule of the cost issuance of debt.

Mr. Allen also presented the 2009 Draft Work Plan, which is brought before the Committee at each meeting and provides an outline of what the Committee has in front of them for the balance of the year.

Item 8

Other Business

Ms. O'Connor reported that there has been no change in the status on Legislative actions related to unpaid tolls or the Canal Corporation since the last meeting, but that Authority staff is still having discussions with Legislative staff on both bills.

Mr. Allen stated that staff will report back to the Committee when there is a change or a significant update.

Adjournment

There being no further business to come before the Audit and Finance Committee, on the motion of Mr. Howard, seconded by Ms. Luh, without any objections, the meeting was adjourned at 1:23 p.m.