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STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 6, 1999

Mr. Lewis M. Eisenberg
Chairman
Port Authority of New York and New Jersey
One World Trade Center
New York, NY 10048

Re: Report 98-F-38

Dear Mr. Eisenberg:

Pursuant to the State Comptroller's authority as set forth in Section 7071 of the Unconsolidated Laws of New York, we have reviewed the actions taken by officials of the Port Authority of New York and New Jersey (Authority), as of December 31, 1998, to implement the recommendations contained in our audit report, *Administration of Airport and Bus Terminal Concession Contracts* (Report 95-S-98). Our report, which was issued on July 28, 1997, examined the questions of whether the contract award process for awarding concessions in the Authority's airports and Bus Terminal was open and competitive and whether those concession operations were being administered in a manner that would maximize Authority revenue and provide an acceptable level of customer service.

Background

The Authority was created in 1921 to operate passenger terminals and transportation facilities within a 25-mile radius of the Statue of Liberty. The Authority's Aviation Department (Aviation) operates three major metropolitan-area airports: John F. Kennedy International (Kennedy), Newark International (Newark), and Fiorello LaGuardia (LaGuardia). Authority officials are responsible for awarding and monitoring concession operations at all of its airports' passenger terminals that are not managed by the lessee airlines. For example, at Kennedy, the Authority is responsible for contracting with, and monitoring, concessionaires at the airport's International Arrivals Building; but Kennedy's other eight terminals are managed by private airlines. Concession sales of food and other items including newspapers, toiletries, luggage, and clothing at all three airports was about \$300 million in 1998. The Authority's share of these revenues was about \$22 million.

The Authority's Bridges, Tunnels and Terminals Department (Department) operates the Port Authority Bus Terminal on the west side of Manhattan and other transportation facilities. The Department administers 43 concession contracts at the Bus Terminal, providing the Authority with revenues of about \$7.3 million in 1998.

Summary Conclusions

Our prior audit found that the Authority's concession contracts often were not awarded through a competitive process, and that contractors' performance was not monitored adequately. We also identified a considerable amount of vacant concession space in the Bus Terminal. We estimated the Authority could have earned as much as \$3.7 million in additional concession revenue if the vacant space had been rented. In our follow-up review, we found that Authority officials have made great strides in utilizing available concession space more effectively and in monitoring concessionaire operations. However, they continue to rely on direct negotiations, rather than competitive bidding, as the preferred method of awarding concession contracts.

Summary of Status of Prior Audit Recommendations

Our prior audit contained six recommendations. We found that Authority officials have implemented three recommendations, have partially implemented two recommendations, and have not implemented one recommendation.

Follow-up Observations

Recommendation 1

Make greater use of formal open competitive bidding procedures to maximize returns from Authority concession contract operations.

Status - Partially Implemented

Agency Action - The Authority uses the services of professional developers and retail leasing professionals to lease and manage its concession operations. The managers and brokers are responsible for selecting the appropriate product mix and reputable concessionaires that will most likely meet the needs of Authority patrons. Authority officials have applied competitive procedures when selecting these developers and brokers, but have not required them to use competitive bidding procedures when they select individual concessionaires. Nevertheless, since our prior report was issued, two of the Bus Terminal's concessions had been awarded through a competitive bidding process.

Recommendation 2

Document the reasons where competitive bidding is not an option or the preferred method.

Status - Not Implemented

Agency Action - Authority officials do not require competitive bidding when awarding concession contracts. Therefore, as a practice, concessions are not bid competitively.

Recommendation 3

Assess all current concession contracts to determine whether contract terms such as capital investment components are reasonable, in line with industry standards, and likely to provide the Authority with a reasonable share of revenue. Use the results of this assessment when negotiating contract renewals.

Status - Partially Implemented

Agency Action - Authority officials provided us with documentation to support the relevant factors they consider when negotiating contract awards and renewals. However, these factors do not include an assessment of the reasonableness of the capital investment components (tenant improvements) in terms of industry standards.

Recommendation 4

Continue efforts to maximize space utilization and strategically plan renovations to minimize loss of potential concession revenue.

Status - Implemented

Agency Action - Authority officials have developed an aggressive marketing plan for maximizing concession space. Authority officials report that all of the available concession space at Kennedy and Newark is occupied, and the Bus Terminal's concession space vacancy rate has been reduced from 25 percent of its available square feet to less than 10 percent.

Recommendation 5

Reassess the reasonableness and competitiveness of the commercial rental rates bus terminal officials are currently asking.

Status - Implemented

Agency Action - Authority officials financed a comprehensive study and analysis of commercial rental rates in the Bus Terminal area and for similar facilities. Their current rental rate structure complies with the results of this study.

Recommendation 6

Establish formal procedures for monitoring contractor performance, including revenue reporting, hours of operation and pricing, and take corrective action with concessionaires which do not comply with contract requirements.

Status - Implemented

Agency Action - Authority officials have shown us evidence that their supervisory personnel, concessionaire liaisons, and internal audit staff are continuously monitoring concessionaire operations, including pricing, product/service quality, and revenue reporting. We saw several notices to concessionaires in which deficiencies were identified and followed up to ensure corrective action.

Major contributors to this report were Frank Patone and Joseph Giaimo.

We would appreciate your written response to this report within 30 days, indicating any additional actions planned or taken. We also thank the management and staff of the Port Authority of New York and New Jersey for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Frank J. Houston
Audit Director

cc: Charles Conaway
Robert Boyle
Edward Jackson