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OFFICE OF THE STATE COMPTROLLER

H. Carl McCall
STATE COMPTROLLER

NEW YORK CITY CONVENTION CENTER OPERATING CORPORATION

CONTRACTING PRACTICES

2000-S-48

DIVISION OF MANAGEMENT AUDIT AND
STATE FINANCIAL SERVICES

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H. Carl McCall
STATE COMPTROLLER

Report 2000-S-48

Mr. Gerald T. McQueen
President & CEO
The Jacob K. Javits Convention Corporation
655 West 34th Street
New York, New York 10001-1188

Dear Mr. McQueen:

The following is our report addressing the contracting practices of the New York Convention Center Operating Corporation.

We performed this audit pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. Major contributors to this report are listed in Appendix A.

Office of the State Comptroller
Division of Management Audit
and State Financial Services

May 16, 2002

EXECUTIVE SUMMARY

NEW YORK CITY CONVENTION CENTER OPERATING CORPORATION

CONTRACTING PRACTICES

SCOPE OF AUDIT

The New York Convention Center Operating Corporation (Corporation) was established in 1979 as a public benefit corporation to operate and maintain the Jacob K. Javits Convention Center (Convention Center) as a world-class facility. The Corporation derives revenue from rental and event service fees, as well as from revenue contracts for advertising and concessions operating at the Convention Center. For the fiscal year ended March 31, 2001, the Corporation reported its total operating revenues were $123 million, including nearly $10.9 million from revenue contracts. Corporation purchasing records showed it issued 1,985 purchase orders valued at $21.3 million from October 1, 1998 to October 15, 2000.

According to the Corporation's Procurement Guidelines (Guidelines), the Corporation should select contractors from as broad a spectrum of providers as is practical, consistent with quality of services and price reasonableness, when using procurement contracts. State policy directs agencies to promote the participation of minority and women-owned business enterprises (M/WBE) in the procurement process.

Our audit addressed the following questions about the Corporation's contracting practices for the period October 1, 1998 through December 31, 2000:

- Has the Corporation established contracting practices and procedures that provide for maximum competition among vendors?
- Does the Corporation make an effort to contract with minority and women-owned businesses?
- Does the Corporation adequately monitor and control its revenue contracts?

AUDIT OBSERVATIONS AND CONCLUSIONS

We found that only a limited number of vendors submitted proposals bid for Corporation business because Corporation practices limit, rather than encourage, vendor competition. Further, the Corporation does not meet even the low goals it has set for M/WBE participation. We also found the Corporation does not seek competition for, or monitor compliance with, certain revenue contracts.

An organization generally pays lower prices for goods and services it buys when numerous vendors compete for its business. However, our review of a judgmental sample of 76 Corporation purchases totaling about $11 million found that just one to five vendors submit proposals for a typical solicitation. We attribute this low participation rate to Corporation practices, which could discourage competition. For example, the Corporation does not publish its intent to solicit bids in newspapers and trade journals to reach a broad range of vendors, and it does not maintain a list of prospective bidders by commodity who can be notified of impending bids. The Corporation also used the Request for Proposal (RFP) process, which emphasizes vendor qualifications, to contract for construction and repair work, when it should have used the Invitation for Bid (IFB) process, which emphasizes lowest cost. We concluded the Corporation could have saved $300,000 on just nine of the purchases we reviewed if it had used IFBs rather than RFPs. We recommend the Corporation amend its Guidelines to require broader advertising of bids, develop vendor lists and use IFBs when appropriate. (See pp. 5-10)

The Corporation has set its M/WBE goals at 5 percent (minority-owned businesses) and 2 percent (women-owned businesses) of the annual dollar value of purchases. Two other convention centers we contacted reported setting, and making efforts to meet, participation goals of 15 and 30 percent. Further, the Corporation does not even meet its goals, or consider M/WBE concerns when it evaluates bids or proposals. We recommend the Corporation raise M/WBE goals and implement an aggressive strategy for achieving them. (See pp. 13-14)

We also found the Corporation could not document that it sought concessions and sponsorships competitively and did not monitor its revenue contracts. For example, the Corporation exercised a renewal option on a 15-year contract with its food service concessionaire four years before it was due, and without determining whether other vendors could offer better deals. Further, the Corporation does not track contract commissions that are overdue. An accounts receivable aging report prepared at our request showed the Corporation was owed $500,000, nearly $200,000 of which was more than a month and a half late. We recommend the Corporation establish competitive bidding procedures for revenue contracts and implement effective systems to monitor contract compliance and identify past due accounts. (See pp. 17-19)

COMMENTS OF CORPORATION OFFICIALS

A draft copy of this report was provided to Corporation officials for their review and comment. Their comments have been considered in preparing this final report, and are included as Appendix B.

Corporation officials indicated they have implemented, or are in the process of implementing, most of our recommendations. However, they did not agree with our conclusions or recommendations that they needed to do more advertising of their RFPs or IFBs. They consider the current level of effort as sufficient to foster a competitive environment. We believe Corporation officials need to reconsider their position, which relies on one publication to reach all vendors as well as maximize competition.

CONTENTS

INTRODUCTION

Background

The New York Convention Center Operating Corporation (Corporation) was established in 1979 as a public benefit corporation to operate and maintain the Jacob K. Javits Convention Center (Convention Center) as a world-class facility, attracting events from all over the world. The Corporation's business is the sale of time, labor and space for events stimulating economic activities in New York City (City) and New York State (State).

For the fiscal year ended March 31, 2001, the Corporation reported its total operating revenue increased 13 percent over the previous fiscal year, from $109 million to $123 million. This includes nearly $10.9 million from various revenue contracts for items such as food and newspaper concessions, sponsorships, and advertising. The Corporation's operating expenses (excluding employee compensation and benefits) totaled more than $11 million for each of the two years ended March 31, 2001. The Corporation's purchasing records showed that it issued 1,985 purchase orders valued at $21.3 million from October 1, 1998 through October 15, 2000.

Audit Scope, Objectives and Methodology

We audited selected contracting practices at the Corporation for the period October 1, 1998 through December 31, 2000. The objectives of our performance audit were to determine whether the Corporation established contracting practices and procedures that provide for competition among vendors, whether the Corporation makes an effort to contract with minority- and women-owned business enterprises, and whether the Corporation adequately monitors and controls its revenue contracts.

To accomplish our objectives, we interviewed Corporation officials and reviewed the Corporation's procurement and revenue policies and procedures. We obtained the Corporation's computerized database of vendor purchase orders for the period of October 1, 1998 through October 15,

2000 that showed 1,985 purchases were made from 622 vendors. We reviewed the contract and procurement records for 45 vendors to which the Corporation had awarded purchase orders for $50,000 or more during this period. We judgmentally reviewed the two largest purchase orders issued to the vendors (if they were issued more than one purchase order) – 76 purchases totaling about $11 million. We also reviewed a judgmental sample of 10 of the 306 vendors with purchases of $5,000 and under. For these vendors we selected the two highest purchases for a total of 17 purchases. We reviewed the Corporation's policies and procedures, as well as its activities that involved contracting with minority and women-owned business enterprises. In addition, we contacted selected convention centers around the country, particularly those that regularly contracted with businesses owned by women or members of a minority, to learn how they handle such purchases. We also reviewed how the Corporation awards and monitors its revenue contracts.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those Corporation operations that are within our scope. Further, these standards require that we understand the Corporation's internal control structure and compliance with those laws, rules and regulations that are relevant to our audit scope. An audit includes examining on a test basis evidence supporting transactions in the accounting and operating records and applying such other procedures we consider necessary in the circumstances. An audit also includes assessing the estimates, decisions and judgments made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We therefore focus our efforts on those activities we have identified as having the greatest potential for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort to reviewing operations that may be relatively efficient and effective. As a result, we prepare our audit reports on "an exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

Comments of Corporation Officials

We provided Corporation officials with a draft copy of this report for their review and comment. Their comments were considered in preparing this final report, and are included as Appendix B.

Corporation officials agreed with most of our recommendations and indicated they were implemented or were in the process of being implemented. However, they did not agree with our conclusions regarding the need to improve their advertising activities to increase competition or to foster business with minority and women-owned business enterprises. The response also indicates that the report contains "broad generalizations" that Corporation officials maintain are not supported in the report. We believe the summary conclusions are well supported based on the audit results taken as a whole. To help ensure that our consideration of the Corporation's comments is clear, we respond to those comments in the State Comptroller's Notes, Appendix C. Where appropriate, we have made changes to the report to recognize factual information conveyed in the response.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the President and CEO of the Corporation shall report to the Governor, the State Comptroller and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

PROCUREMENT AND VENDOR SOLICITATION PRACTICES

In accordance with the Public Authorities Law, the Corporation's Board of Directors (Board) has established Procurement Guidelines (Guidelines) that set the operative policies and procedures for procuring goods and services. The Corporation does not have guidelines for selecting revenue contractors; however, the law does not require them. Among other provisions, the Guidelines state that when procurement contracts are used, contractors should be selected from as broad a spectrum of providers as is practical, consistent with the quality of services required at fair and reasonable prices. However, there is a need to strengthen these Guidelines to improve competition among vendors.

Based on our examination, we conclude that the Corporation needs to change its procurement procedures if it is to maximize competition among prospective vendors for purchased goods and services. The Guidelines also need to be revised so that they enunciate expectations more clearly and comply with sound business practices. We noted that for large purchases the Corporation generally used the Request for Proposal (RFP) process that emphasizes bidder qualifications more than costs instead of using the Invitation for Bid (IFB) process that would have allowed the Corporation to select the lowest responsible bidder and in a shorter period of time. In addition, Corporation files were missing documents to illustrate that vendors were apprised of the methodology for review and selection, or why some bids were not evaluated. Furthermore, the Corporation does not have a system for ongoing monitoring that could improve compliance with rules and regulations.

Vendor Competition

It is generally recognized that when numerous vendors compete for an organization's business, the organization pays lower prices for the goods and services it buys. Therefore, vendor competition is a good thing and it is imperative that organizations do as much as possible to maximize this

competition. We found that a limited number of vendors bid for the Corporation's business. Normally, just one to five actually submitted a proposal to a typical solicitation. We believe more vendors should be competing for the goods and services based on its size and location in the most-populous metropolitan area in the country. However, Corporation practices actually limit the extent of vendor competition, instead of encouraging it.

The Guidelines state that, where required by law, the Corporation should publish its intent to solicit bids or proposals in the *New York State Contract Reporter* (*Reporter*) and may also advertise in other appropriate newspapers or trade journals, direct mailings to firms that are considered qualified vendors, and other outreach media, including those related to minority and women-owned business enterprises (M/WBE). It is a good business practice for prospective buyers to stimulate competition among their suppliers by advertising in as many applicable media outlets as practical. However, the Corporation meets only the minimum requirements called for in its Guidelines: publishing its intent to purchase only in the *Reporter*. It does not publicize its purchasing intent to take advantage of other advertising opportunities, such as those provided by local newspapers and trade journals. For all of the 76 purchases we reviewed, the Corporation advertised its purchasing intent only in the *Reporter*. We were advised that the Corporation uses the minimum public notification because wider publicity would delay the purchasing process. An official stated the increased volume of responses would become an administrative burden. Corporation officials reply to the draft report indicates they received an average of 16 responses per RFP. However, the request for information is not a true measure of the amount of competition generated; instead, the measure should be the number of actual proposals to a RFP or bids to an IFB. We continue to believe that by expanding its advertising to other publications it could improve competition.

Another good procurement practice is to maintain a list of prospective bidders, grouped by commodity that would be notified directly about purchases the Corporation is planning to make, enabling interested vendors to submit bids in response. Although its Guidelines suggest that a list of prospective bidders should be used, the Corporation does not have such a list. Maintaining a list of prospective bidders and notifying them about upcoming purchases is generally considered a successful way to stimulate competition.

Request for Proposal

The Guidelines state that an IFB should be issued when cost is of primary importance and the goods or services required are standardized, with exact specifications. In such cases, the contracts are to be awarded to qualified vendors on the basis of the lowest price. The Guidelines further state that a RFP should be issued when cost is less important in relation to other factors, and when the purchase involves services that are not standardized or products that have less-exact specifications. Such contracts are to be awarded on a best-value basis that takes into account the vendor's qualifications, the proposed methodology, the vendor's management capability, and cost.

We noted that the Corporation used RFPs for 17 of 48 purchases in excess of $50,000, including contracts for construction and repairs. We believe that many of these purchases should have been made through IFBs, where purchase contracts are awarded to the responsible bidder that offers the lowest price. It is also more time-consuming to use an RFP instead of an IFB, and the RFP places significantly less emphasis on cost. We conclude that, had the Corporation used IFBs for more of its purchases, it could have saved nearly $300,000 on just nine of the purchases we reviewed by purchasing from the lowest responsible bidder. We believe that the Guidelines should specify more clearly the types of purchases that are most appropriate to the IFB process. The Corporation should be able to use IFBs more frequently, thereby reducing administrative work associated with the purchases, speeding the procurement process, and saving money by purchasing from the responsible bidder offering the lowest price. Corporation officials told us that they seek quality and timeliness when they need to buy something, and that these nine purchases were done through the RFP process due to the technical nature of the purchase and the need to have the work completed in a timely manner. They also said that they would consider using more IFBs if they can pre-qualify prospective bidders.

When it uses RFPs, the Corporation awards most evaluation points to vendors that have performed satisfactorily at the Convention Center in the past. As a result, it often deals with the same suppliers over the years. We believe this practice may contribute to the paucity of interest shown by metropolitan

New York City firms in bidding for Corporation purchases. The knowledge that companies with prior experience with the Convention Center have a strong advantage for future contracts may stifle competition from prospective bidders who have not previously done business with the Corporation.

We also reviewed the manner in which the Corporation procured goods and services through RFPs. We found several weaknesses that should be addressed immediately to improve the integrity of the process and to encourage vendors to compete for Corporation business. For example:

- Some of the Corporation's proposals reviewed contained restrictive specifications such as a brand name that limit the number of vendors that can supply the requested goods or services. The Corporation sought to purchase specific brands of utility carts, transformers and communication equipment. Corporation officials advised us that, in the future, advertisements will include the phrase "or equivalent" when a brand name is specified.

- It is a good business practice to require vendors submit sealed bids, which are opened publicly at a specified date. However, the Corporation does not request sealed bids and does not have public bid openings. According to the Corporation, public bid openings are only held at the request of a bidder.

- When an RFP is used, the evaluation factors should be communicated clearly to prospective vendors. At present, the Corporation does not provide such criteria, which should also be defined and communicated clearly to the individuals who are rating the proposals. We found no evidence for 7 of the 76 purchases reviewed that such expectations are communicated to the raters. In addition, we found inconsistencies in the way proposals are rated. All proposals received should be rated, and rated fairly, based on their merits. However, we found proposal evaluations in which some evaluators did not rate all proposals, resulting in scores of zero for the companies whose proposals were unrated.

- The cost portion of the bids is generally weighted just 15 percent by the Corporation. Compared with the RFP process used by other New York State agencies, we

conclude that this weighting factor is low. State agencies generally evaluate cost with a relative weight of between 30 and 70 percent of the total proposal score. The relative weight fluctuates based on the expertise and specialization needed. This component should be calculated objectively, with each bid compared with the lowest bid received and that comparison resulting in the lowest bid receiving more evaluation points than the highest one. However, the Corporation does not follow this process; instead, it rates the cost component subjectively. We noted four RFP evaluations contained a higher score for the components of proposals that offered higher costs. In fact, the Corporation's major evaluation components relate primarily to the qualifications of the bidders and their management capacity. Corporation management expects this component to be evaluated through reference checks and financial checks with Dunn & Bradstreet. However, we noted three proposals where the Corporation did not document the performance of such checks. Therefore, we have no assurance that these components were evaluated properly.

Other Purchasing Issues

The Corporation's Purchasing Department does not ensure that all required documents are submitted or that all reviews are performed before a vendor is selected. During our review, we found that the Corporation did not always fully document its purchasing process. For example, in addition to the reference checks, the Corporation did not always document its reasons for not selecting the low bidder in 7 instances or for forming the judgments it made regarding the experience and relevant knowledge of new bidders in 5 instances. In addition, the original bids, documentation providing details of the evaluation process, or supporting documentation for the final vendor selection were not on file for two. An enhanced bid checklist would help ensure compliance with documenting the procurement process. For example all steps performed should have a sign off. In addition someone other than the purchasing agent should review the bids for accuracy and completeness of the bidding process.

The Corporation has not established a monitoring system that will assure management that input and output information are being reviewed promptly for authorization, completeness, and

accuracy; and for compliance with its regulations. We noted that the Corporation's database listed several purchases as competitive that had, in fact, been either sole source or single source purchases, or had been awarded although just one bid was received. An inaccurate database can misrepresent the actual nature of the Corporation's purchases, and can provide inaccurate statistical results to the Board of Directors as well as the public.

The Guidelines require formal Board approval of all service contracts that exceed one year in duration. The two service contracts in our procurement sample, which lasted more than a year, were not approved by the Board, as required.

The Corporation's Purchasing Manual requires the use of a competitive vendor-selection process in which the minimum number of bidders is to increase progressively as the dollar value of the purchase increases: e.g., one written price quote for purchases valued at less than $1,000; two written price quotes for purchases with values ranging between $1,001 and $3,000; and three written price quotes for purchases valued at more than $3,000 but less than $5,000. Our review of 17 purchases valued at less than $5,000, disclosed that for 9 (53 percent) of these purchases, the Corporation did not obtain the required competitive price quotations, or the price quotations received were incomplete (e.g., the vendors did not provide price quotations for all requested items).

Recommendations

1. Amend the Corporation's Procurement Guidelines to include a requirement to advertise for bids in local newspapers and trade journals unless it is documented that doing so is not appropriate.

   (Corporation officials replied they will not implement the recommendation because advertising purchases only in the Reporter is generally sufficient and cost effective. They indicate that vendor response to bid invitations has been good and cite that the average number of responses (16) to the 24 purchases we reviewed as evidence that using the Reporter is enough.

Recommendations (Cont'd)

Auditors' Comments: The Corporation's response to the draft audit report indicates that a reasonable number of companies asked for the Corporation's procurement information based solely on advertising in the Reporter. However, we believe the true measure of successful publicity or purchases is the number of companies that actually submit bids. We found that just one to five companies actually submitted bids for Corporation contracts.)

2. Develop a list of vendors, grouped by commodity or expertise; and notify appropriate vendors about upcoming Corporation purchasing opportunities.

3. Prevent businesses from obtaining an unfair advantage by increasing their usage of the Invitations for Bid Process. This action could result in the awarding of purchase contracts to the lowest responsible bidder.

4. Revise the Request for Proposal including, but not limited to, the following:

   - Avoid restrictive specifications that unfairly limit the number of vendors that can respond to the RFP.

   - Inform both prospective bidders and evaluators about the criteria that will be used to evaluate proposals and the relative weight of each criterion.

   - Develop a sealed bid process that culminates in a formal public bid opening. Include in the Guidelines a requirement that bidders must submit their bid proposals by a common carrier and that a public bid opening will be held.

   - Rate all proposals received in an objective manner.

   - Increase the relative weight assigned to the cost component.

   - Document all reference and Dunn & Bradstreet financial checks.

Recommendations (Cont'd)

5. Develop a better checklist that will foster greater assurance that the requirement to document the procurement process is performed.

6. Establish an accurate and complete procurement database that will provide a clear picture of the process followed for each purchase.

7. Comply with the requirement that the Board of Directors review and approve all service contracts that last more than one year.

8. Obtain and document the required number of price quotations for purchases less than $5,000, as required by the Corporation's Guidelines.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

According to New York State policy, State agencies are to promote participation of minority and women-owned business enterprises by making efforts to contact these vendors and providing incentives for them to participate in competitive bidding. Such incentives on the Statewide level may include aggressive outreach to M/WBE firms during the procurement process and a 10-percent mark-up to a non-M/WBE vendor's prices during the bid-evaluation process. The Guidelines also address the M/WBE issue, stating that it is a Corporation goal to award a fair share of contracts to M/WBEs, and that bidders for contracts worth more than $50,000 are to be encouraged to demonstrate how they will use M/WBEs. The Guidelines require the purchasing department to maintain a list of qualified M/WBEs by area of expertise and to consider such firms when they request bids for Corporation contracts. However, in practice, the Corporation has not established a method to improve its approach to contracting with M/WBEs.

The Corporation has set its M/WBE goals at 5 percent for minority-owned business enterprises and at 2 percent for women-owned business enterprises. However, compared to other convention centers in the country, these goals are low, and the Corporation does not even meet them. Spokesmen for two of the convention centers contacted told us their M/WBE goals are 15 percent and 30 percent of the annual dollar volume of purchase orders issued, including commodity and service/construction contracts. They indicated their goals were achieved because they make an aggressive effort to do business with M/WBEs.

The Corporation, on the other hand, does not make an effort to contract with M/WBEs. The standard *Reporter* advertisement provides space for identifying M/WBE goals for each purchase. However, 76 purchases advertised in the *Reporter* disclosed that for 75 purchases the M/WBE goal was "0 percent." In addition, for contracts worth more than $50,000, the Corporation does not require bidders to indicate how they will use M/WBE

firms. Nor does it consider the M/WBE issue when it evaluates bids or proposals.

To reach M/WBEs, the Corporation needs to take new initiatives. It needs to stretch goals for M/WBE participation, and develop an aggressive strategy for increasing the volume of its M/WBE business. To determine how close it is to achieving its new goals, it should also monitor the results of its efforts. For example, the Corporation should consider advertising upcoming purchases in publications directed at M/WBE owners; enlisting the help of the New York State's Empire State Development in identifying and contacting approved M/WBEs that provide goods and services the Corporation needs; considering W/MBE status as an important factor when evaluating bids and/or proposals; and developing alliances with community and civic groups in the metropolitan New York City area. By implementing an aggressive M/WBE campaign strategy, the Corporation would communicate its commitment to the participation of M/WBE vendors in the public sector.

Recommendations

9. Increase M/WBE goals and monitor the Corporation's progress in achieving them.

10. Amend the Procurement Guidelines to require that all upcoming bids be advertised in publications directed at the owners of minority and women-owned businesses.

11. Work with Empire State Development to develop a list of qualified M/WBE firms, grouped by commodity and service type, and actively solicit M/WBE vendors when purchasing goods and services.

12. Consider M/WBE as an important evaluation factor in reviewing bids and proposals.

Recommendations (Cont'd)

(Corporation officials do not agree with Recommendation 10 to amend their procurement guidelines to include the advertisement of upcoming bids in publications directed at M/WBEs because the corporation is not required to advertise upcoming purchases in publications, other than in the Reporter, that M/WBE firms are likely to review. They also do not agree with Recommendation 12 because they believe skewing evaluations to favor M/WBE firms is prohibited, especially since the Corporation has no documented history of past discrimination against such contractors that needs to be rectified.

Auditors' Comments: Giving attention to minority and women-owned business enterprises is a public social-consciousness issue designed to assist companies that traditionally have not been given adequate business opportunities in the past. While we acknowledge that the Corporation is not required to increase contracting with minority and women-owned business enterprises, it clearly can do more to promote M/WBE firms. We also noted that other convention centers around the country strive for a higher level of business with M/WBE firms.)

13. Develop alliances with community and civic groups to promote M/WBE participation.

REVENUE CONTRACTS

In addition to rental and event service fees, the Corporation derives revenue from corporate sponsorships and concessionaires operating at the Convention Center. The sponsorship contracts generally authorize major companies to display their advertising at the Convention Center. Concessions include a newsstand, food service, pay phone services, laptop services, lift services, taxi services, and postal services. The sponsorship and concession contracts earned the Corporation $10.9 million in revenue for the period of April 1999 through March 2001.

To evaluate the Corporation's methods and procedures for selecting vendors, we reviewed the Corporation's 11 concession contracts and one sponsorship contract in effect during our audit period. We found that the Corporation does not have formal procedures for selecting vendors or monitoring the contracts. Furthermore, we found that a food service contract was originally awarded in 1987 to last 15 years with a five-year renewal clause. We also found that the concession contract was scheduled for renewal in 2001; however, the Corporation re-negotiated this contract in 1997 and agreed to exercise the renewal clause through 2007. By retaining the same food concession revenue contract for 20 years without submitting the operation to a competitive bid process, the Corporation has not attempted to maintain a competitive environment or maximize its revenue.

Corporation officials replied to the draft report that the 1997 amendment extended the term of the concession agreement through 2006; it called for the concessionaire to make capital improvements to the Convention Center's food service facilities and it revised the commission schedule. Notwithstanding, the contract was extended in the tenth year of the 15-year contract, and the Corporation did not seek competition to ascertain whether other concessionaires would offer better deals.

The Corporation also has not sought sponsorships or concessions competitively, and does not advertise periodically to learn whether it could obtain better services or revenue from

other vendors. It is a good business practice to regularly seek competition among revenue contractors as a means of assuring management that the organization is getting the best financial benefits and is providing its customers the highest quality services. Corporation officials indicated that they seek competition for revenue contracts, prepare RFPs for all revenue contracts and send the documentation to the Office of the State Comptroller (OSC) for review and approval. However, our review of the 11 contract files maintained by the Corporation disclosed the following information was missing: original bids, bidders lists and canvassing letters to M/WBE firms. Furthermore, four of the contract files did not have documentation of the Corporation's competitive selection process.

According to the Corporation's enabling legislation, the New York State Comptroller must approve its rental and concession contracts. However, the renewal of the Corporation's food service contract was not submitted to OSC even though it was subject to a major modification.

The Corporation has not established policies and procedures with respect to its sponsorship and concession contracts. While not required by Law, it is a good business practice to establish clear statements of policies and procedures to assure management that all control and monitoring activities are working effectively. An ongoing monitoring system would help ensure that commissions are received and reviewed promptly for accuracy and completeness. Although the Corporation contracts with a public accounting firm for a financial audit of the commissions, the Corporation does not otherwise monitor compliance with the terms of the concessionaire agreement.

Many businesses use accounts receivable aging reports, a standard type of report useful in assessing and controlling revenues. We found that the Corporation has neither established a centralized device for handling and monitoring of revenue contract commissions nor programmed its computer system to routinely produce such reports. By not maintaining an ongoing accounts receivable system, management does not have a tool it can use to detect certain revenue that is due but has not been received. At our request, the Corporation prepared an accounts receivable aging report. It showed the Corporation was owed approximately $500,000 -- and nearly $200,000 of that amount was delinquent by more than one and

one-half months. Corporation officials told us their legal department was working on a disputed charge of $195,000 that was more than three months delinquent. That amount was eventually negotiated and collected.

We also found that the Corporation's work pertaining to these revenue contracts is limited to a comparison of monthly statements received from each revenue contractor. It should periodically review the controls and activities of the contractors to verify they are recording all revenues and transmitting the proper commissions on a timely basis.

Furthermore, the Corporation rents storage space at the Convention Center to vendors at annual rates between $1,980 and $7,560, but it does not have adequate oversight over the status of space; i.e., rented or available. The storage space was not properly marked or labeled. Nor does the Corporation maintain a map showing all of the storage space that is available. Based on our audit inquiries, Corporation staff prepared an inventory of rental space opportunities and identified six additional locations that could be rented, generating $26,000 a year in rental income. While Corporation officials stated that it is not necessary to have an inventory of all possible rental space because they find space to cover demand for such rentals on an as-needed basis. However, we ascertained that the Corporation had rented these six additional locations subsequent to our audit.

Recommendations

14. Establish, implement and formally document written bidding policies and procedures for the selection and awarding of revenue contracts including, but not limited to:

    - Soliciting competitively-bid revenue contracts on a more-frequent basis; and

    - Obtaining Office of the State Comptroller approval for all revenue contracts and renewals, as required.

Recommendations (Cont'd)

15. Centralize the handling and monitoring of all revenue contracts and prepare periodic accounts receivable aging reports to identify past due accounts. Follow up with prompt collection actions.

16. Perform periodic reviews of controls and activities of revenue contractors to ensure that they are recording all revenues and transmitting the accurately-calculated commissions on a timely basis.

17. Maintain a complete and accurate inventory of storage space that is rented and available for rent at the Convention Center.

MAJOR CONTRIBUTORS TO THIS REPORT

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THE JACOB K. JAVITS CONVENTION CENTER OF NEW YORK

GERALD T. MCQUEEN
President and Chief Executive Officer

March 28, 2002

Ms. Carmen Maldonado
Audit Director
State of New York
Office of the Comptroller
110 State Street
Albany, NY 12236

Dear Ms. Maldonado:

Enclosed please find the response of the New York Convention Center Operating Corp. to the draft audit report (2000-S-48) you forwarded to my attention. We welcome any opportunity to improve our procurement practices and revenue-generating capabilities and your report offers us many valuable suggestions in that regard. As indicated in our response, we do not concur with some of your findings.

However, I would be remiss if I did not thank you, Dominick Vanacore, Roger Mazula, Marianne Boyer, Alina Mattie, Nadiuska Piedra and Marticia Madory for all the work you have done and the recommendations you made during this audit. All of us come out winners when we improve the way the Javits Center conducts its business.

Sincerely,

Gerald T. McQueen
President and
Chief Executive Officer

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Appendix B

Introduction

The New York Convention Center Operating Corporation management welcomes OSC's recommendations for improvements in its procurement procedures and revenue-generating practices. As detailed below, management was already pursuing some of the recommended practices, has implemented a number of others in response to preliminary discussions with OSC and intends to implement several others in the near future. The New York Convention Center Operating Corporation has declined to implement only a few of the recommendations, for reasons documented in its responses.

With respect to the text of the report, the Corporation has responded to a number of OSC's specific descriptions of alleged weaknesses. Those responses immediately follow its response to the related recommendation. The New York Convention Center Operating Corporation management also takes issue, however, with a few broad generalizations contained in the report that appear to have no evidentiary foundation at all. Thus, for example, the report makes the sweeping statement that "the Corporation does not have a system for ongoing monitoring" of procurement contracts (see p. 4), yet nowhere in the report is any support for that assertion offered other than its identification of a few human errors in entering information in its purchasing database (see pp. 8-9), nor are any recommendations offered for correcting this perceived shortcoming. Similarly, the report opines that "[t]he Corporation has not sought sponsorships or concessions competitively" without citing a single example and despite having been presented with evidence that most of the New York Convention Center's concessions have been competitively solicited. Such unsupported generalizations are inaccurate and do not facilitate our joint efforts to improve the Javits Center's concession procedures.

* Note 1

* Note 2

* See State Comptroller's Notes, Appendix C

NEW YORK CONVENTION CENTER OPERATING CORPORATION
RESPONSE TO NEW YORK STATE COMPTROLLER'S AUDIT
2000-S-48

1. ➢ **Audit Recommendation:**

Amend the Corporation's Procurement Guidelines to include a requirement to advertise for bids in local newspapers and trade journals unless it is documented that doing so is not appropriate.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Not Implemented

We agree that strides should always be taken to increase competition. We will pursue advertising in trade journals under appropriate circumstances. Our policies encourage this as do the State's Procurement Guidelines. However, though neither New York Convention Center Operating Corporation's nor the State's guidelines require such advertising, they recommend it where appropriate. In addition, the legislative findings and declaration that precede the legislation creating the State Contract Reporter recite that its purpose is to create an "efficient procurement information system" and "to create a central information source that will alert businesses to new opportunities to participate in state procurement activities." Accordingly, it should not be necessary in most cases to go beyond the Contract Reporter, nor would it be cost effective for any but our largest contracts. Moreover, our experience has been that a substantial number of companies respond to the Contract Reporter ad, even in the cases where the number of ultimate bidders is small.

➢ **New York Convention Center Operating Corporation's response to text**:

The Audit Observations and Conclusions stated that the Corporation does not get much competition from businesses through advertising solely in the Contract Reporter, and that just one (1) to five (5) vendors respond to a typical purchase solicitation. The auditors reviewed approximately 24 RFPs. (See Appendix A). Those 24 RFPs generated 377 vendor responses or an average of 16 per RFP to the bid invitation via the Contract Reporter.

* Note 3

2. ➢ **Audit Recommendation:**

Develop a list of vendors, grouped by commodity or expertise; and notify appropriate vendors about upcoming Corporation purchasing opportunities.

* See State Comptroller's Notes, Appendix C

- **New York Convention Center Operating Corporation's Response to Recommendation:**
  Implemented

There is a master listing in place of all the vendors. Per the recommendation of the auditors, we will revise this list to group vendors by commodity or expertise and notify vendors of upcoming purchasing opportunities.

3. - **Audit Recommendation:**

Prevent businesses from obtaining an unfair advantage by increasing their usage of the Invitation for Bid Process. This action could result in the awarding of purchase contracts to the lowest responsible bidder.

- **New York Convention Center Operating Corporation's Response to Recommendation:**
  Implemented

For many of our purchases, the specifications are more complex and technical, and cannot be evaluated on price alone. We are in a customer-driven satisfaction/event business and our customers demand quality. Therefore, we utilize the RFP procurement technique and award the contract based on best value as outlined in the State Procurement Guidelines. Best Value is the basis for awarding all service and technical contracts based on cost, efficiency, responsiveness and responsibility of vendors. We believe that this process is more competitive because it includes more factors than just price. We will continue to standardize specifications where possible, and utilize the IFB technique when there is an opportunity to do so.

- **New York Convention Center Operating Corporation's response to text**:

The report stated that the Corporation could have saved $300,000 on just nine purchases if the IFB had been used. These nine purchases were bid using the RFP technique and evaluated by a committee because of the technical, complex and timely service nature of the specifications. An award could not be made based on the lowest price alone, but rather by a combination of factors (price, expertise, ability to perform work in a timely manner, experience, etc.). All of the contracts reviewed were for services that in most cases demand 24x7 response and technical expertise. IFBs are more suited for commodities and we will utilize as appropriate.

* Note 4

4. - **Audit Recommendation:**

Revise the Request for Proposal including, but not limited to, the following:

* See State Comptroller's Notes, Appendix C

A. Audit Recommendation:

Avoid restrictive specifications that unfairly limit the number of vendors that can respond to the RFP.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We always try to avoid unduly restrictive specifications and will redouble our efforts in this regard. The Center's purchasing needs are both varied and complex and its small operations staff sometimes requires outside assistance in drawing up specifications for which they lack the expertise. We will make efforts to insure that our outside consultants as well as our own project managers understand the importance we place on encouraging competition through broadly designed specifications, and that our RFPs permit substitution or equivalent products wherever appropriate.

B. Audit Recommendation:

Inform both prospective bidders and evaluators about criteria that will be used to evaluate proposals and the relative weight of each criterion.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

The criteria for evaluating proposals are in the advertisement we place with the New York State Contract Reporter. We list the criteria in order of importance for evaluating the proposals. These criteria are also in the RFP we send to prospective vendors, and we will publish the weights assigned to the criteria.

* Note 5

C. Audit Recommendation:

Develop a sealed bid process that culminates in a formal public bid opening. Include in the Guidelines a requirement that bidders must submit their bid proposals by a common carrier and that a public bid opening will be held.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

Our bid process complies in every respect with the State's Procurement Guidelines. Almost one hundred percent (100%) of the bids are submitted by a common carrier. However, we do not feel it appropriate to eliminate hand delivery. We will tighten the

* See State Comptroller's Notes, Appendix C

procedure for hand delivery recording. We advertise and state in the bid package the date and time of the bid opening. As bids are received they are placed in a secure location until the time of the bid opening. At the announced bid opening time, an authorized representative opens all the bids in the presence of at least one agency witness and anyone from the public that is in attendance. The person opening the bids is required to sign a bid affidavit certifying that the person opened for the specific bid at the appointed time. No alterations or corrections of bids are allowed at the time of opening.

* Note 6

Per your recommendation, in addition to advertising the due date, we will advertise the public bid opening.

D. Audit Recommendation:

Rate all proposals received in an objective manner.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We do and will continue to do so.

* Note 7

E. Audit Recommendation:

Increase the relative weight assigned to the cost component.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We have increased the relative weight of the cost component, and adopted the formula provided by the audit team.

* Note 8

F. Audit Recommendation:

Document all references and Dunn & Bradstreet financial checks.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We do utilize the state contract for Dunn and Bradstreet to do financial checks. There were several incidents where a D&B had not been run or was missing from the folders.

* See State Comptroller's Notes, Appendix C

5. ➢ **Audit Recommendation:**

Develop better checklist that will foster greater assurance that the requirement to document the procurement process is performed.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We have a checklist which we revised per the auditors' recommendation. In addition, the Purchasing Department is audited annually by the Finance and Planning Department, as well as by a private accounting firm.

* Note 9

6. ➢ **Audit Recommendation:**

Establish an accurate and complete procurement database that will provide a clear picture of the process followed for each purchase.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We utilize a financial database system, (CICS) of which procurement is a subset. There were human data input errors that presented several purchases as being listed as competitive or non-competitive which were errors. One hundred percent (100%) accuracy in data input will be our goal. To accomplish this we will be instituting a daily review of input.

7. ➢ **Audit Recommendation:**

Comply with the requirement that the Board of Directors review and approve all service contracts that last more than one year.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

There were several cases where contracts should have been presented to the Board and were not. Per the auditors' recommendations, we have updated the procurement checklist in order to insure that the proper documentation goes to the Board for approval.

* Note 9

8. ➢ **Audit Recommendation:**

* See State Comptroller's Notes, Appendix C

Obtain and document the required number of price quotations for purchase less than $5,000, as required by the Corporation's Guidelines.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

The Corporation's Guidelines, relating to purchases less than $5,000, are as follows:

- $1.00 - $1,000.00:

  Verbal quotes are requested from one vendor.

- $1,001.00 - $3,000.00:

  Written quotes are requested from two separate vendors

- $3,001.00 - $4,999.99:

  Written quotes are requested from three separate vendors.

The Purchasing Department complies with these procedures. However, there were a few instances where quotes were requested from three or four vendors and only two submitted prices. This is part of our annual internal control review.

9. ➢ **Audit Recommendation:**

Increase M/WBE goals and monitor the Corporation's progress in achieving them.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**

We submit our agency's Annual Goal Plan for the utilization of M/WBE businesses annually to the Empire State Department of Economic Development for review and approval.

* Note 10

10. ➢ **Audit Recommendation:**

Amend the Procurement Guidelines to require that all upcoming bids be advertised in publications directed at the owners of minority- and women-owned businesses.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Not Implemented

* See State Comptroller's Notes, Appendix C

We do not agree with this recommendation. The Public Authorities Law does not require us to advertise in publications directed at minority and women-owned businesses, and, as noted above in response to Recommendation No.1, it is not necessary or cost effective to go beyond the Contract Reporter in most cases. Also, M/WBE firms are aware of the State's policies favoring them in the procurement process and are therefore among the likeliest to review the Contract Reporter on a regular basis.

11. ➢ **Audit Recommendation:**

Work with Empire State Development to develop a list of qualified M/WBE firms, grouped by commodity and service type, and actively solicit M/WBE vendors when purchasing goods and services.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

Empire State Development has a list of M/WBE firms in their database listed on their web page. We will proactively solicit bid responses from vendors on the list.

12. ➢ **Audit Recommendation:**

Consider M/WBE as an important evaluation factor in reviewing bids and proposals.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Not Implemented

We disagree with this recommendation and with the suggestion that a ten percent (10%) markup, as suggested on page 11, be added to non-M/WBE prices during the evaluation process. We have agreed to make efforts to expand the pool of minority bidders in order to increase the likelihood that more awards can be made to M/WBE contractors according to published race and gender neutral selection criteria. To skew the criteria themselves to favor M/WBE vendors would involve us in a constitutionally prohibited practice, particularly since the Center has no documented history of past discrimination against such contractors that needs to be rectified.

* Note 11

13. ➢ **Audit Recommendation:**

Develop alliances with community and civic groups to promote M/WBE participation.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

* See State Comptroller's Notes, Appendix C

We are working with the Empire State Development Corporation to develop ways to reach out to these groups.

14. ➢ Audit Recommendation:

Establish, implement and formally document written bidding policies and procedures for the selection and awarding of revenue contracts including, but not limited to:

- *Soliciting competitively-bid revenue contracts on a more-frequent basis; and*
- *Obtaining Office of the State Comptroller approval for all revenue contracts and renewals, as required.*

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

We have bidding policies and procedures that are followed in most cases, although they are not formally documented. Those procedures require :

- Competitive solicitation of concession contracts by the most appropriate means. Most of our concession contracts have been sought competitively by putting out an RFP and, in many cases, advertising in the Contract Reporter.
- Distribution of an RFP through the Purchasing Department, with all the usual procedures such as submission of sealed proposals by a given date, evaluation by a committee, etc.
- Approval by OSC for all concession contracts. Since all concession contracts are pre-approved by OSC, which requires complete documentation of the selection process, it follows that OSC found that process and its documentation adequate at the time. We have not sought such approval of renewals provided for in an approved contract because the law does not by its terms require it and the discretion to renew has already been approved by OSC. At the auditors' request, however, we will submit the renewals for approval.

We will draw up a document that memorializes these practices and makes it clear that they are to be followed as a matter of management policy. We do not agree, however, that concession contracts should be bid more frequently as a general matter. Concession contracts, unlike procurement contracts, usually require a substantial investment by the concessionaire in the construction of facilities and hiring of personnel for the Javits Center location. Limiting the terms of the concession contracts too severely would discourage rather than encourage competitive bids.

*
Note 12

* See State Comptroller's Notes, Appendix C

➢ **New York Convention Center Operating Corporation's response to text**:

On page 13 of the Report, it is stated that by exercising a renewal option in its food service contract, New York Convention Center Operating Corporation "has not attempted to maintain a competitive environment or maximize its revenue." The facts do not support this generalization. The original food service contract with Service America was for a term of 15 years (1986-2001) with an option to renew, on consent of both parties, for an additional five years. Thus, the original agreement contemplated a termination date that could be as late as 2006. That contract, with the renewal option, was approved by OSC. In 1997 the parties signed an Amendment Agreement agreeing, among other things, to exercise the extension option under the original contract. Accordingly, the concession contract with Service America now expires in 2006, the outside date provided in the original approved contract.

The 1997 Amendment also made some other changes in the original agreement, virtually all of them in favor of New York Convention Center Operating Corporation. Among those changes were commitments by Service America to invest heavily in specified capital improvements in the food concession facilities at the Center and to maintain a special advertising account for the promotion of Special Events at the Center. Some adjustments were made in the commission schedule, most in the Center's favor, one in Service America's favor. Following those adjustments, and the new investments by Service America, New York Convention Center Operating Corporation's commission revenue increased by almost 70% from slightly over $2.0 million in FY 96/97 to almost $3.4 million in FY 00/01 (See Attachment B). Thus it appears that New York Convention Center Operating Corporation has maximized its revenue by negotiating the Amendment Agreement.

* Note 13

15. ➢ Audit Recommendation:

Centralize the handling and monitoring of all revenue contracts and prepare periodic accounts receivable aging reports to identify past due accounts. Follow up with prompt collection accounts.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

Below is a status of our procedures for monitoring the contracts and collection of Advertising Tenants and Storage Tenants. The computerized invoicing system for the services mentioned below were developed and tested within the last year.

Advertising Tenants

The Advertising and Marketing Manager handles the contracts and collection process of the Advertising Tenants. This would be advertising revenues affecting advertising on the Website, Javits guide and other advertising areas of revenue.

* Note 14

* See State Comptroller's Notes, Appendix C

As soon as the contracts are finalized, they are entered into the system and invoiced. This data is now part of the accounts receivable and aging system.

Two reports are provided to monitor the receivables. They are the Accounts Receivable Report, (gl5429P) which shows all the invoices generated, billing amounts, payments and balances. The second report is the Aging Report (gl5430P) which ages all the billable items up to an over 90 day period.

Storage Tenants

There are 24 of these tenants. Their lease term is based on our fiscal year, which is from April to March of the following year. The contracts and invoices are prepared in February and sent to the various tenants for approval. This gives the tenants a month to prepare payment which are due by the first of the month in April. The process is monitored by the Accounting Manager from its distribution to collection.

The invoicing process mentioned above is computerized. Invoices are created and made part of the accounts receivable and aging system whose reports are mentioned below. The revenue for the Storage tenants are kept in a deferred account and transferred every month to a revenue account as they come due.

An Accounts Receivable Report (gl5429P) which shows all the invoices generated, billing amounts, payments and balances is also used together with the Aging Report (gl5430P).

A spreadsheet, which shows all the tenants and invoices broken down by month, is used to monitor the receivables on a daily basis. All related check payments are recorded in the spreadsheet and at-a-glance balances and past-due accounts are calculated and available as soon as payments are made. This report is circulated to management on a quarterly basis for their review.

16. ➢ Audit Recommendation:

Perform periodic reviews of controls and activities of revenue to ensure that they are recording all revenues and transmitting the accurately-calculated commissions on a timely basis.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

As part of our annual internal control for the past 3 years, we ask our service contractors to request their Certified Public Accountants to attest to the commissions and/or rent they paid to the New York Convention Center Operating Corporation for the past year. In addition, we also request their Certified Public Accountants to audit their "Adjusted Gross Sales" as per the contract definition and express an opinion on the appropriateness, timeliness and completeness of the payment amounts they provided as per their contract requirements. The commission amount

* Note 15

* See State Comptroller's Notes, Appendix C

stated on their audit reports is then reconciled to the payments they submitted to the New York Convention Center Operating Corporation.

Based on the previous commission revenue audit for Year 2000, ClarkLift of New York, Inc. (TMR Realty Company Inc.) had underpaid New York Convention Center Operating Corporation $4,995 in commission due to clerical error. The unpaid balance was submitted to New York Convention Center Operating Corporation on August 2001. In addition, AT&T Corp. (TCG Payphones USA, Inc.) also owed New York Convention Center Operating Corporation $952.28 in commission after we audited their monthly revenue reports for July 2000 – June 2001. Contractor was notified on the audit results and a check for $952.28 was sent to New York Convention Center Operating Corporation on February 2002.

In addition, "Rental & Commission Report" from 01/1997 – Present is being distributed to upper management on a quarterly basis. (Exhibit C)

Attached please find copies of:

- New York Convention Center Operating Corporation Commission Verification Internal Control for the prior year. (Appendix D)
- Check by ClarkLift of New York, Inc. (TMR Realty Company Inc.) Inc. for $4,995 (Appendix E)
- Check by AT&T Corp. (TCG Payphones USA, Inc.) for $952.28

New York Convention Center Operating Corporation will continue to perform annual audit to review and verify the contractor's adherence to the terms and conditions of its contracts with New York Convention Center Operating Corporation and we will state same in the procedure manual. The specifics of the audit procedure will vary based on each year's risk evaluation.

17. ➢ Audit Recommendation:

Maintain a complete and accurate inventory of storage space that is rented and available for rent at the Convention Center.

➢ **New York Convention Center Operating Corporation's Response to Recommendation:**
Implemented

New York Convention Center Operating Corporation does keep records of rented storage space with leases, payment records and aging reports. At your recommendation, in the future, these spaces will be marked on the building floor plan. These spaces are areas taken from common space in the building. We do not sell this space. It is reluctantly rented as an accommodation to our customers.

Appendix A

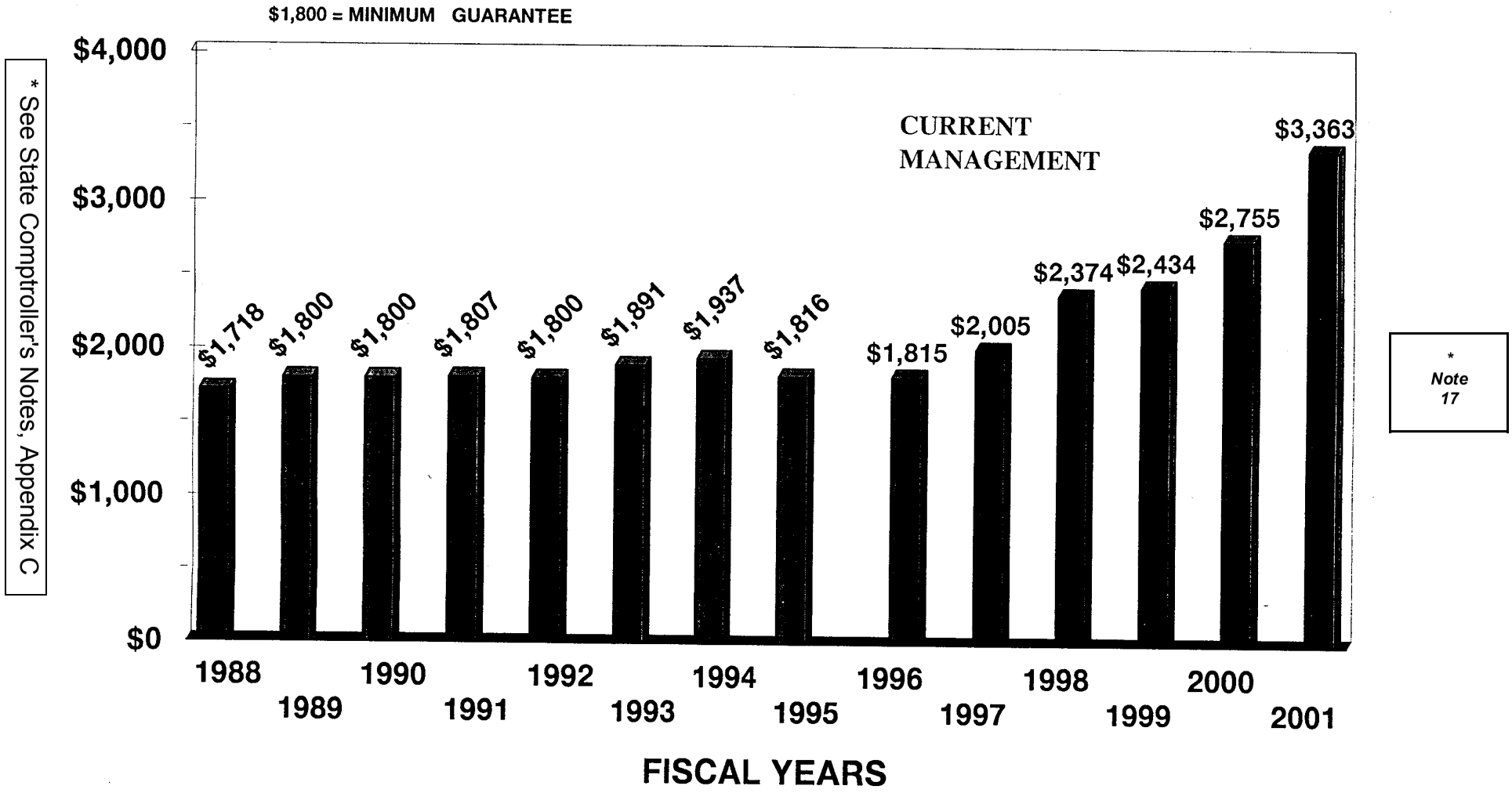
Bid #	Service Requested	Bids sent via NYSCR	
1062	Architectural Services	61	
1271	Elevator Maintenance	15	
1286	Concrete/Asphalt Repair	11	
1291	Temp Service	32	
1292	Curtain Wall Repair	28	
1293	Glass Replacement	11	
1298	Terrazzo Replacement	19	
1305	Siemens (Sole Source)	1	
1308	Auditing Services	18	
1313	Water Treatment Services	5	
1314	Service Lighting Control Systems	4	
1315	Aerial Equip. Maintenance	5	
1327	Newton PC Printing Javits Guide	30	
1335	Roof Repair	23	
1343	Electrical Work Building Mgt. Services	12	
1344	Interior Renovations Phase 3	5	
1351	Uniforms Service	7	
1376	Electronically Supplies	30	
1388-9	Aerial Lifts Rental	9	
1414	Concrete Repair	12	
1422	Roof Repair	15	
1425	Exterminating Services	16	
	Transformer	8	

*
Note 16

* See State Comptroller's Notes, Appendix C

APPENDIX B
FOOD SERVICE COMMISSIONS
FOR THE FISCAL YEARS 1991 - 2001

$ THOUSANDS



APPENDIX C

Rental and Commission Revenue 01/97 - 12/01

Contractor	Rental Fee For 01/97-12/97	01/98-12/98	01/99-12/99	01/00-12/00	01/01-12/01	TOTAL
Amer Convention Svc	-	-	-	-	2,120	2,120
Creative Management	7,560	7,560	7,560	7,560	7,560	37,800
Coastal	-	-	-	-	2,187	2,187
CSI	2,304	2,601	5,868	5,868	5,868	22,509
Czarnowski Display	-	-	-	-	2,525	2,525
Delta Management Group	5,544	5,544	5,544	5,544	5,544	27,720
Eagle Management Group	3,240	3,240	3,240	3,240	4,941	17,901
EIS	2,304	2,304	2,304	2,304	2,304	11,520
Expo Network	-	-	-	-	2,430	2,430
Exposervices/Giltspur	9,360	9,360	5,838	4,536	6,458	35,552
Exserv, Inc.	3,672	3,672	3,672	3,672	3,672	18,360
Freeman Decorating Co	-	-	211	2,529	2,529	5,269
Manny Stone Decorators	-	-	-	945	4,020	4,965
Media On Demand	-	-	-	978	3,260	4,238
Michael Portera	-	1,071	2,856	-	-	3,927
Momentum	-	-	-	-	4,455	4,455
Nth Degree, Inc.	8,280	8,280	8,280	8,280	8,280	41,400
Preferred Exhibitor Service	1,980	1,980	1,980	1,980	1,980	9,900
RAV Investigation	3,600	3,600	3,600	3,600	3,000	17,400
Renaissance Management	5,130	5,130	5,130	5,130	5,130	25,650
Spectrum Show Services	3,600	3,600	3,600	3,600	3,600	18,000
Willworks	-	-	-	-	938	938
TOTAL RENTAL FEE	**56,574**	**57,942**	**59,683**	**59,766**	**82,799**	**316,764**

Contractor	Commission Revenue For 01/97-12/97	01/98-12/98	01/99-12/99	01/00-12/00	0/01-12/01	TOTAL
AT&T	82,622	52,890	42,830	51	61	178,454
Bell Atlantic	12,212	24,564	6,591	-	-	43,368
Forklift Commission	125,358	117,611	136,800	128,480	114,272	622,521
Gray Line	8,600	7,320	7,305	5,216	5,694	34,134
Hudson News	18,027	18,692	32,696	35,713	33,320	138,447
Lap Top Lane	-	-	-	-	79,875	79,875
Mail Boxes, Etc.	24,000	24,000	24,000	24,000	31,329	127,329
Media On Demand	-	-	-	33,334	49,998	83,332
Omnipoint	-	-	-	-	15,871	15,871
PCS World	88,605	490,362	538,160	787,168	399,241	2,303,537
SAC	2,188,237	2,156,213	2,236,815	3,235,226	2,355,265	12,171,755
Teleport C G	-	-	65,200	120,048	102,214	287,462
Vending Machine Comm	20,757	23,756	24,110	39,238	41,127	148,989
TOTAL COMMISSION FEE	**2,568,418**	**2,915,410**	**3,114,506**	**4,408,474**	**3,228,266**	**16,235,074**

	Total Rental & Commission Fee For 01/97-12/97	01/98-12/98	01/99-12/99	01/00-12/00	0/01-12/01	TOTAL
TOTAL RENTAL FEE	56,574	57,942	59,683	59,766	82,799	316,764
TOTAL COMMISSION FEE	2,568,418	2,915,410	3,114,506	4,408,474	3,228,266	16,235,074
TOTAL	**2,624,992**	**2,973,352**	**3,174,189**	**4,468,240**	**3,311,065**	**16,551,838**

APPENDIX D

INTERNAL CONTROL TEST RESULTS

FUNCTION PROCEDURE: **TCG Payphones USA Commission Verification**

INDIVIDUAL CONDUCTING TESTS: **Kris Woo** **TELEPHONE NUMBER:** **2106**

REVIEWED BY:_____ **DATE:** **12/19/01**

Brief Description of the key control points being tested -	**Testing Process: Describe the process used to test whether the key control points are being followed -**	**Sample size: Describe the number of staff interviewed, transactions observed, or documents sampled and universe -**	**Describe the results of the test, stating whether no problems were found or the weaknesses discovered and estimate the frequency of failure in the procedure -**	**Analyze the weaknesses uncovered: Cite the source of the failure and the possible corrective actions -**
Verification of revenue received on an annual minimum revenue guarantee / commission basis from TCG Payphones USA.	TCG Concession Agreement and monthly detail reports from 07/00 – 06/01 were reviewed. The commission amount stated on the agreement is then reconciled to the payments TCG Payphones USA have submitted to the Javits Center.	A total of 12 monthly reports were reviewed.	Based on the 12 monthly reports, it shows TCG has underpaid JJKCC $952.28 due to our 30% share was greater than the minimum guarantee as stated in the contract. The unpaid balance was submitted on February 12, 2002 to JJKCC.	TCG monthly reports should be analyze on a annual basis to ensure correct commission was paid to JJKCC.

INTERNAL CONTROL TEST RESULTS

FUNCTION PROCEDURE: Commission Verification

INDIVIDUAL CONDUCTING TESTS: Kris Woo **TELEPHONE NUMBER:** 2106

REVIEWED BY:_____ **DATE:** 11/01/01

Brief Description of the key control points being tested -	Testing Process: Describe the process used to test whether the key control points are being followed -	Sample size: Describe the number of staff interviewed, transactions observed, or documents sampled and universe -	Describe the results of the test, stating whether no problems were found or the weaknesses discovered and estimate the frequency of failure in the procedure -	Analyze the weaknesses uncovered: Cite the source of the failure and the possible corrective actions -
Verification of revenue received on a commission basis for Jan 2000 – Dec 2000 from Mailbox Etc, Hudson News, Service America Corporation and Forklift.	A request was made to all vendors to have their CPA audit their schedule of gross receipts and express an opinion on the appropriateness of the commission amount they paid to the Javits Center for the past year. The commission amount stated on the audit reports is then reconciled to the payments they submitted to the Javits Center.	A total of 4 CPA audit reports were received.	Due to clerical errors, ClarkLift has underpaid JJKCC $4,995. Unpaid balance was submitted to JJKCC along with their CPA report on August 2001. Hudson News has a credit of $267 for Commission Year 2000. Service America also shown overpayment of $1,372 after year-end adjustment. No other discrepancy was found.	Accounting manager should assure monthly revenue report from all vendor is submitted to JJKCC on a regular basis in order to verify commission revenue.

APPENDIX E

3360

TMR REALTY CO., INC.
4501 20TH AVE.
LONG ISLAND CITY, NY 11105

DATE 8/17/01

50-1063/214 829

PAY TO THE ORDER OF Jacob Javits Convention Center $ 4,995.—

Four Thousand Nine Hundred Ninety Five Dollars — DOLLARS

THE BANK OF NEW YORK

1570 OLD COUNTRY RD., WESTBURY, N.Y. 11590

MEMO balance due from 2000-1MH

Robert F. Ridolle

⑈003360⑈ ⑆021410637⑆ ⑈6900675818⑈

INVOICE DATE	INVOICE NUMBER	INV. AMOUNT	DEDUCTIONS	NET INVOICE
01/28/2002	012802NYCONV	952.28	0.00	952.28

KRIS WOO 212-216-2106

4140400

AT&T

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Account Number 31172621

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NINE HUNDRED FIFTY TWO DOLLARS AND TWENTY EIGHT CENTS IN US DOLLARS

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NY CONVENTION CENTER OPERATING
655 W 34TH ST
NEW YORK NY 10001

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Edward M. Durgin
Authorized Signature

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State Comptroller's Notes

1. Corporation officials assert that the audit report makes a sweeping statement that the Corporation does not have a system for ongoing monitoring of procurement but does not support that assertion other than its identification of a few human errors. To the contrary, we identified a number of different individual audit findings that, when taken as a whole, lead us to make this summary conclusion. The various audit recommendations in this section are aimed at improving the Corporation's procurement process to help ensure compliance with rules and regulations, to enhance vendor competition, and to improve the overall purchasing process. Although we did not make a specific recommendation for the Corporation to monitor these activities, such monitoring is important and inherent in a well-managed organization.

2. Corporation officials criticize the audit for reporting that they had not sought concessionaires competitively. They also indicated the audit did not give a single example of this condition. However, Corporation officials could provide no documentation to show they sought competition for 4 of the 11 concession contracts we reviewed.

3. Corporation officials assert that advertising in the Contract Reporter is generally sufficient and cost-effective. They also assert that the auditors reviewed approximately 24 RFPs that resulted in an average of 16 vendor responses to the bid invitations through the Contract Reporter. This information reflects the number of companies which Corporation officials show as asking for bid information. We maintain that the true measure of successful publicity of upcoming purchases is the number of companies that actually submit bids, and we found that just one to five companies had submitted bids for more than half of the 46 contracts we reviewed.

4. Corporation officials disagree with our conclusion it could have saved $300,000 on just nine purchases if it had used an IFB instead of an RFP process and assert that the purchases were either technical, complex, or were needed timely. They add that IFBs are more suited for commodities. To the contrary, of the nine purchases in our analysis, five were for repairs, three were for supplies, and one was for routine professional services.

5. During our audit, the Corporation did not publish the evaluation criteria in the Contract Reporter and did not publish the weights assigned to the criteria in the RFP documents.

6. During our audit, the Corporation stored bids in a desk drawer which was unlocked during the work day and the envelopes containing submitted bids were not adequately sealed.

7. We identified several instances where bids were not objectively rated, especially the cost component.

8. The information that the auditors showed Corporation officials was developed by the Office of General Services (OGS) for evaluating the cost component in proposals and included in OGS' State Procurement Guidelines.

9. The auditors did not recommend a checklist, but instead provided Corporation officials for their consideration a checklist which is used by contracting officials at the Office of the State Comptroller.

10. Although Corporation officials submit their annual M/WBE goals to Empire State Development, they are not precluded from increasing these goals.

11. Giving attention to minority and women-owned business enterprises is a public social-consciousness issue designed to help out companies that traditionally have not been given adequate business opportunities in the past. While we acknowledge that the Corporation is not required to increase contracting with minority and women-owned business enterprises, it clearly can do more to promote M/WBEs. Other convention centers around the country have set the level of business with these firms at 15 and 30 percent.

12. Corporation officials do not agree to bid out concessionaire contracts in a more frequent manner and state that these revenue contracts usually require a substantial investment by the concessionaire and the need to hire personnel, limiting the contract term would discourage bidders. With the exception of the Corporation's food service contractor, the other concessionaires were not required to invest in capital improvement at the Convention Center and hiring staff is a routine cost of doing business. We agree that the term of the contract should be sufficient for the concessionaires to recover capital improvement costs, but nonetheless stand by our recommendation that Corporation officials review the appropriateness of the duration of such contracts, especially when they are considering exercising renewal options.

13. Corporation officials state that the 1997 amendment extends the term of the concession agreement through 2006; it called for the concessionaire to make capital improvements to the Convention Center's food service facilities and it revised the commission schedule. Notwithstanding, the contract was extended in the tenth year of the 15-year contract; and the Corporation did not seek competition to ascertain whether other concessionaires would offer better deals.

14. Proper internal controls should preclude a single individual (e.g., the Advertising and Marketing Manager) from both administering contracts and collecting revenues associated with the contracts. The Corporation should separate these duties.

15. At the time of our audit, Corporation officials had prepared only one internal control risk assessment and not three as indicated in their response.

16. The column "Bids sent via NYSCR" represents the number of companies who requested bid information from the Corporation, not the number of bid proposals submitted by vendors.

17. The increase in food service commissions are the result of a number of different factors apart from the commission rate, such as the number of trade shows and conventions held, the number of special events held, and the price of food and drink items.