

*A REPORT BY THE NEW YORK STATE  
OFFICE OF THE STATE COMPTROLLER*

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**Alan G. Hevesi  
COMPTROLLER**



***THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY***

***AWARDING AND MONITORING OF  
CONSULTANT CONTRACTS***

***2004-S-7***

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**DIVISION OF STATE SERVICES**

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**Alan G. Hevesi**  
**COMPTROLLER**

**Report 2004-S-7**

Mr. Anthony Coscia  
Chairman  
Port Authority of New York and New Jersey  
225 Park Avenue South  
New York, NY 10003-1604

Dear Mr. Coscia:

The following is our report on the awarding and monitoring of consultant contracts by the Port Authority of New York and New Jersey.

We did this audit according to the State Comptroller's authority as stated in Section 7071 of the Unconsolidated Laws of New York. Major contributors to this report are listed in Appendix A.

*Office of the State Comptroller*  
*Division of State Services*

May 2, 2005



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## **EXECUTIVE SUMMARY**

### **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

### **AWARDING AND MONITORING OF CONSULTANT CONTRACTS**

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#### **SCOPE OF AUDIT**

The Port Authority uses consultant contracts for professional, technical and advisory services, including contracts for specific projects and temporary staffing services, when workload demands exceed in-house staffing availability or capability. For the year ended December 31, 2003, the Port Authority spent \$543.9 million on contractual services representing 28 percent of its total annual operating expenditures of \$1.9 billion.

Our audit addressed the following questions about the awarding and monitoring of consultant contracts by the Port Authority during calendar years 2002 and 2003:

- Has the Port Authority established and implemented adequate internal controls so that consultant contracts are competitively solicited and properly awarded?
- Has the Port Authority monitored and evaluated contractor performance to ensure it actually received the services it paid for?

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#### **AUDIT OBSERVATIONS AND CONCLUSIONS**

We found control weaknesses are prevalent throughout the consultant contract solicitation and award process. However, we found the Port Authority monitored and evaluated contractor performance to ensure it actually received the services it paid for.

Although the Port Authority has guidelines for the contract award process, we found they were not followed for all contracts we reviewed, creating the risk of abuse in the contracting process. In addition, the guidelines do not include certain procurement controls that are important to a sound contract award process. We recommended the Port Authority ensure all guidelines are followed

and institute additional requirements where our review showed they are necessary. (See pp 11-16.)

The Port Authority did not have adequate controls to account for all proposals received. In addition, we found proposals were opened as they arrived, rather than all at one time on the deadline date. This creates an opportunity for proposals to be shared with firms that have not yet submitted proposals. (See p. 11)

Management has the responsibility to evaluate proposals in a fair and consistent manner to protect the integrity of the contract award process, as well as the interests of the Port Authority. Evaluation committees are responsible for evaluating each proposal and developing an overall rating based on evaluation methodology prepared in advance of the release of the RFPs. However, for five of the 23 contracts we reviewed, there was no documentation of the evaluation methodology to be used by the committee to evaluate the proposals. We also noted the evaluation committee subsequently changed the evaluation methodology for 7 of the 23 contracts without advance, written approval as required. In addition, the Port Authority did not always evaluate proposals in a consistent manner. (See pp. 12 - 14)

The Port Authority should obtain an adequate number of proposals from firms to achieve the best possible price for the required level of service, as well as prepare in-house estimates for comparison with the proposals. We noted instances where the Port Authority asked only one firm from a list of available firms to submit a proposal for call-in contract service. In some of these cases, the Port Authority did not prepare cost estimates in advance for comparison with the proposals. This further increases the uncertainty as to whether a reasonable price was obtained for these projects. (See pp. 14 - 15)

We reviewed a sample of 25 contracts to evaluate the effectiveness of the Port Authority's process for monitoring contractor performance and verifying whether the Port Authority received the services paid for. We found the individuals approving invoices did evaluate and verify services were delivered and they were performed satisfactorily. We also found that the hours worked were well supported. However, the Port Authority needs to verify the rate of pay that all firms use to reimburse their employees for contract-related services. Such verification is important when contract payments are based on hourly rates. (See p. 19)

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## **COMMENTS OF PORT AUTHORITY OFFICIALS**

Port Authority officials agreed with most of our recommendations, claiming some were already the Port Authority's practices. Their comments were considered in preparing this report and are included as Appendix B. Appendix C contains State Comptroller's Notes which address comments in the Port Authority's response.

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## ***Soliciting and Awarding of Consultant Contracts***

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## ***Monitoring of Consultant Contracts***

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# INTRODUCTION

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## Background

The Port Authority of New York and New Jersey (Port Authority) was established on April 30, 1921. It was the first interstate agency ever created under a clause of the United States Constitution permitting compacts between states. The agency's area of jurisdiction is called the Port District, a bi-state region generally within 25 miles of the Statue of Liberty. The agency's mandate is to promote and protect the commerce of the bi-state port and to undertake port and regional improvements not likely to be financed by private enterprise or to be attempted by either state alone. For the year ended December 31, 2003, the Port Authority spent \$543.9 million on contractual services representing 28 percent of its total annual operating expenditures of \$1.9 billion.

The Port Authority uses consultant contracts for professional, technical and advisory services, including contracts for specific projects and temporary staffing services, when workload demands exceed in-house staffing availability or capability. The Professional, Technical and Advisory Services Division (PTA Services) is responsible for obtaining these services.

The Port Authority maintains lists of consultants, such as engineers and architects, prepared from a Professional and Technical Service Firm Questionnaire. These lists are continually updated by soliciting interested firms through public notices and the Port Authority's website. Through an evaluation and screening process, PTA Services reduces the lists of pre-qualified firms to send requests for proposals (RFPs) as needed. RFPs are also publicly advertised. Some RFPs may award a project to one specific firm, while others may create a roster of firms for specific call-in consulting services as needed.

The Port Authority's Procurement Department has issued guidelines for obtaining temporary staffing and other consultant services. Temporary staffing contracts provide help in five general areas (accounting/auditing, clerical/administration, engineering/architecture, information technology, and legal/paralegal). A separate RFP is issued for each area and

award is made to multiple firms in each area based upon anticipated workload. This results in a ranked list of firms the Port Authority can contact when temporary staff are required. As a departmental need arises, firms are solicited to submit resumes and pay rates of employees for consideration and selection.

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## ***Audit Scope, Objectives and Methodology***

**W**e audited the awarding and monitoring of consultant contracts by the Port Authority during calendar years 2002 and 2003. The primary objectives of our performance audit were to determine whether the Port Authority established and implemented adequate internal controls so that consultant contracts are competitively solicited and properly awarded, and whether the Port Authority monitored and evaluated contractor performance to ensure it actually received the services it paid for.

To accomplish our objectives, we interviewed Port Authority management involved in the awarding and monitoring of contracts and reviewed the related records. During calendar years 2002 and 2003, there were 843 consultant contracts recorded on the Port Authority's accounting system. As of February 11, 2004, purchase orders totaling \$440 million were issued against these 843 contracts. From the 843 consultant contracts, we selected a stratified random sample of 25 contracts with purchase orders totaling \$138.3 million. Of the 25 contracts selected, Port Authority files documented two of the contracts had actually been awarded prior to 2002 and therefore these contracts were not included in our review of the contract award process. For the remaining 23 contracts, we obtained the contract award files from the Port Authority and reviewed them for compliance with the Port Authority Procurement Guidelines and RFP Guidelines, as well as proper contracting procedures.

For all 25 contracts, we evaluated the effectiveness of the Port Authority's process for monitoring contractor performance and verifying whether the Port Authority received the services paid for. We obtained payment schedules for the amounts paid against the \$138.3 million in purchase orders, as recorded on the Port Authority's accounting system, and obtained the supporting documentation for a sample of invoices to evaluate whether the Port Authority ensures that billings are correct and it

receives the services it paid for. Nine of the 25 contracts were for temporary staffing, with \$4.39 million in invoices paid for 76 temporary employees. We reviewed \$147,474 in payments by judgmentally selecting one pay period for each of the 76 temporary employees. The remaining 16 contracts were for specific projects and had payments totaling \$63.5 million. We selected one invoice from the list of payments made to each firm, for a total of \$5.4 million.

We did our audit according to Government Auditing Standards. Such standards require we plan and do our audit to adequately assess those operations of the Port Authority within our audit scope. Further, these standards require we understand the Port Authority's internal control structure and its compliance with those laws, rules and regulations relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for the purposes of evaluating organizational independence under Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

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### ***Response of Port Authority Officials to Audit***

A draft copy of this report was provided to Port Authority officials for their review and comments. Their comments were considered in preparing this report and are included as Appendix B. Port Authority officials agreed with most of our

recommendations, stating some were already current practice. Appendix C contains the State Comptroller's Notes, which address comments in the Port Authority's response.

Within 90 days after final release of this report, we request that the Chairman of the Port Authority of New York and New Jersey report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

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# SOLICITING AND AWARDING OF CONSULTANT CONTRACTS

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Control procedures over the Port Authority's consultant contract award process should be strengthened. We found the Procurement Department developed guidelines for the process, yet Port Authority officials did not always ensure staff followed those guidelines. In addition, the guidelines do not include certain procurement controls important to a sound contract award process increasing the risk of abuse in the awarding of consultant contracts. In the absence of those procurement controls, we relied on generally accepted contracting procedures for evaluating certain contract award practices. Control weaknesses are prevalent throughout the consultant contract solicitation and award process, including the RFP process, the evaluation of proposals submitted by firms, and any post-evaluation decisions made to award contracts.

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## *RFP Process*

Proper contracting procedures require the Port Authority to maintain adequate records to account for all proposals received. Without such records, proposals received could be discarded, either intentionally or unintentionally, thereby affecting the outcome of the award process. The Port Authority did not have adequate controls over the receipt of proposals. Procurement Department staff provided us with a document they said contained the names of firms that submitted proposals. However, this record was not adequate because it did not include sufficient information such as the date the proposal was received, the signature of staff who opened the proposals, or the signature of a witness.

Proper contracting procedures also require controls over the opening of bids. However, we found proposals were opened as they arrived, rather than all at one time on the deadline date. This creates an opportunity for proposals to be shared with firms that have not yet submitted proposals, thereby enabling them to adjust their terms to better their chances of receiving a contract.

(In response to our draft report, Port Authority management stated that it centralized, in June/July 2004 the receipt of all bids and proposals and established uniform procedures for the receipt and opening of bids and proposals across Procurement Divisions.)

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## ***Evaluation of Proposals***

**W**hen firms respond to RFPs, management has the responsibility to evaluate proposals in a fair and consistent manner to protect the integrity of the contract award process, as well as the interests of the Port Authority. Adequate evaluation criteria, including a methodology for evaluating proposals against the criteria, should be developed before RFPs are sent to firms. Staff should consistently apply the criteria and methodology. We reviewed Port Authority's practices relating to the evaluation of proposals and noted the need for improvement, as follows.

### **Preparation of Evaluation Criteria**

According to Port Authority guidelines, evaluation committees evaluate each proposal and develop an overall rating. The committee considers the ratings of the individual committee members and decides the overall actual rating. According to Port Authority guidelines, the evaluation methodology (such as the weighting of criteria, the use of evaluation techniques and the selection method) should be established in a memo by the appropriate Project Manager and evaluation committee before RFPs are sent to the firms. Depending on the purpose of the RFP, the criteria could include the firm's management approach, experience, qualifications, number of temporary staffing placements previously made, and the multiplier (a factor applied to the actual rate the firm pays the employee in order to calculate the hourly rate that temporary staff will be billed to the Port Authority). The committee prepares a final summary evaluation to document the results of the evaluation process.

For 11 of the 23 contracts we reviewed, there was no documentation of the evaluation methodology to be used to evaluate the proposals. For 6 of the 11 contracts, Port Authority management explained the evaluation methodology memo was destroyed on September 11, 2001. However, while the Port Authority's response to our draft report stated it is current

practice to prepare the evaluation methodology before an RFP is released, Port Authority staff did not do so in advance of releasing the RFPs for the other five contracts.

### **Changes to the Evaluation Methodology**

For seven of the 23 contracts we reviewed, the evaluation methodology specified how many firms would receive a contract as a result of the evaluation process. However, the evaluation committee subsequently changed the methodology for these seven contracts without the written approval of the Procurement director, as required.

Six of the seven sampled contracts resulted from the same RFP. The evaluation committee had the responsibility of rating the firms' proposals. According to the original evaluation methodology, approximately ten firms were to be awarded contracts from this RFP. However, according to the final summary evaluation, 20 firms were selected. In fact, four of the six firms in our sample were not in the top ten and would not have been awarded a contract under the original goal to select ten. A fifth sampled firm was not ranked, but received a "bridge" contract to complete work started under an existing contract. For the seventh contract from another RFP, the original methodology called for the awarding of contracts to five firms. However, contracts were awarded to seven firms.

In response to our preliminary findings, Port Authority management stated the original number of firms was not enough and that having more firms to call would be more competitive and to their advantage. However, we found this was not documented at the time of the award. Therefore, management, which approved the original selection criteria, including the number of contracts to be awarded, had no way of verifying whether the awarding of contracts to additional firms was beneficial to the Port Authority.

### **Inconsistent Evaluations**

Proper contracting procedures require the Port Authority to evaluate proposals in a consistent manner. A firm's multiplier is one of the criteria that may be used to evaluate firms. We found inconsistencies in the scoring of proposals on the final summary evaluations for six sampled contracts when the committee evaluated firms on their proposed multiplier. For the RFP that

resulted in these six contracts, mark-ups of 25 percent generally received a score of “8.” However, we noted that a mark-up of 24.9 percent received a score of “10.” The final summary evaluations did not explain why a mark-up of one-tenth of one percent below the others received a substantially higher (by 25 percent) score. In addition, we noted that one firm received a score of “6,” even though it had a 25 percent mark-up.

For the same six firms, we found inconsistencies in the final summary evaluations regarding the evaluation criteria of firm experience or staff qualifications. We noted that firms with 36 and 24 years of experience received scores of “10,” while a firm with 46 years received a score of “9.67.” A firm with 27 years of experience received a score of “7.67” while another with 27 years received a perfect “10.” Inconsistent evaluations are contrary to a fair contract award process.

In addition, for 11 of the 23 contracts, there was no explanation for why the multiplier was not considered in calculating the total score for the final summary evaluations, even though there was a column for the multiplier on these evaluations and the multiplier was mentioned as an evaluation criterion in the RFPs.

In response to our preliminary findings, Port Authority management stated there is no inconsistency in the evaluation process; rather, the instances we cited were errors that did not affect the outcome. Regarding the issue of firm experience or staff qualifications, Port Authority management responded the evaluation of these criteria is based on qualitative issues and cost, not just the number of years of providing similar services. However, Port Authority management was not able to provide us with documentation proving the evaluation process was fair and accurate in regard to these issues.

### **Negotiations with Firms**

Port Authority guidelines allow for contract negotiations both before and after the evaluation committee makes its recommendation for an award. However, we noted that for 6 contracts where multipliers were part of the evaluation process, the evaluation committee changed certain firms’ multipliers and rankings after negotiations with these firms. There was no documentation as to why the negotiations were undertaken or why they were not undertaken with all firms. Instead, the evaluation committee merely changed the multiplier on the final

summary evaluations, crossing out the old multiplier and inserting the new one. By having the opportunity to lower the multiplier, a firm is able to reduce its proposed cost, thereby receiving a higher score and increasing the chances of receiving a contract.

In response to our preliminary findings, Port Authority management explained the practice is to negotiate with any highly rated firm that also has a relatively high multiplier and to offer any firm with the same technical rating the same opportunity to lower its multiplier. However, we found no documentation that all firms received the opportunity to lower their multipliers. The Port Authority needs to document such negotiations and provide all affected firms with an equal opportunity to negotiate.

(In its response to our draft report, Port Authority management stated documentation has been improved as recommended.)

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## ***Post-Evaluation Practices***

**A**fter the evaluation process, the Port Authority should select firms that are able to provide the necessary services at the best price, and should maintain adequate records to support its decisions. We noted the need for improvement in this area, as follows.

### **Selecting Firms for Call-In Services**

Proper contracting procedures require that when additional staff is needed for a specific call-in service, the Port Authority should obtain more than one cost proposal for evaluation, and should prepare in-house estimates for comparison with the proposals. Six of the contracts in our sample were call-in contracts for which the Port Authority had a list of firms that could provide the necessary call-in service. For five of these projects the Port Authority selected the firm to do the work after asking only one firm from the list to submit a proposal. For these five projects there was no written justification for why the Port Authority chose each of these particular firms.

In addition, for two of the six projects, the Port Authority did not prepare cost estimates in advance for comparison with the proposals. This further increases the uncertainty as to whether a reasonable price was obtained for these projects.

## **Record Retention**

Proper contracting procedures require proposals not selected be retained for a reasonable period. This is important so that the Port Authority has documentation that the evaluation of firms was done accurately and fairly, in the event of a lawsuit by a losing firm. For all of our sampled contracts, the Port Authority did not retain the proposals of firms not chosen.

(In response to our draft report, Port Authority management stated they have implemented our recommendation to retain these records for a reasonable period.)

## **Recommendations**

1. Recommendation deleted.
2. Maintain adequate records to account for all proposals received, and open all proposals received at one time on the deadline date.
3. Ensure the methodology for evaluating proposals for all contracts is prepared before sending RFPs.
4. Ensure all contract proposals are evaluated in a consistent manner according to the methodology that was established prior to sending the RFPs. Adequately document any reasons for deviating from the established methodology, and receive the approval of the Procurement director.
5. Document negotiations where there is a change in the ranking of firms, and provide all affected firms an equal opportunity to negotiate.
6. Ensure, for all call-in contracts, an adequate number of proposals from firms is obtained in order to achieve the best possible price for the required level of service. Prepare in-house estimates for comparison with the proposals.
7. Retain, for a reasonable period, the proposals of firms that do not receive a contract.



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## MONITORING OF CONSULTANT CONTRACTS

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The Port Authority's functional areas (e.g., Engineering, Technical Services, Auditing, and Legal) each issue their own procedures and guidelines for monitoring the satisfactory completion of work performed under the contracts and for processing payments of invoices. Procedures for temporary staffing contracts include daily sign-in sheets that are checked and combined by Port Authority staff into a weekly total that is approved and reconciled to invoices before the staffing agency is paid. For engineering and architectural related contracts for specific projects, written procedures require Project Managers in the field to monitor that work is properly performed and to review and approve invoices to be processed and paid. Invoices typically itemize hourly billings for multiple individuals performing services during the invoice period.

We reviewed a sample of 25 contracts to evaluate the effectiveness of the Port Authority's process for monitoring contractor performance and verifying whether the Port Authority received the services paid for. We found the individuals approving invoices did evaluate and verify services were delivered and they were performed satisfactorily. We also found the hours worked were well supported. However, we found an area that needs improvement.

For 20 of the 25 contracts, payments are based on the actual hourly rate paid by the firm to its employees. The other five contracts are based on a fixed, agreed-to price. We found that for 17 of the 20 contracts with hourly rates, the Port Authority did not verify the actual rates paid by the firms to their employees. Such verification is important because the actual rate is used as the basis for contract payment.

### Recommendation

8. Verify that all firms paid their employees the actual hourly rates billed to the Port Authority.



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## MAJOR CONTRIBUTORS TO THIS REPORT

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David R. Hancox

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# APPENDIX B



**THE PORT AUTHORITY** OF NY & NJ

*A. Paul Blanco  
Chief Financial Officer*

January 10, 2005

Mr. David R. Hancox  
Director, State Audit Bureau  
Office of the State Comptroller  
State of New York  
110 State Street  
Albany, NY 12236-0001

*RE: Office of the State Comptroller - Draft Audit Report 2004-S-7: Awarding and  
Monitoring Consultant Contracts*

Dear Mr. Hancox:

Enclosed is the Port Authority response to the draft report covering the New York State Auditors review of the Awarding and Monitoring of Consultant Practices.

Certain of the recommendations contained in the draft report have already been implemented. In those cases where recommendations have not been implemented, management has provided a detailed response demonstrating that the Port Authority's policies and procedures governing procurement practices for consultant contracts have, in fact, been followed and that adequate controls are in place.

We appreciate the opportunity to respond to this draft report.

Sincerely,

A. Paul Blanco  
Chief Financial Officer

enclosure

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**THE PORT AUTHORITY OF NEW YORK & NEW JERSEY**  
**Response to Draft Report by the New York State Auditors**  
**Awarding and Monitoring of Consultant Contracts**  
**2004-S-7**

**Comment on New York State Audit Observations**

Thank you for providing the Port Authority with this opportunity to comment on Draft Audit Report 2004-S7, "Awarding and Monitoring of Consultant Contracts". As more fully discussed below, we have highlighted certain items that we believe are not properly reflected in the draft Report. Additionally, while we have implemented some of the recommendations set forth in the draft report, other recommendations were either already part of routine Port Authority procurement practices, or were not consistent with best procurement practices currently followed by the Port Authority.

**Items not properly reflected in the draft Report**

- The draft Report alleges lack of management commitment to or weaknesses in "internal controls" and the lack of comprehensive guidelines. The Port Authority's Request For Proposals (RFP) Guidelines are 55 pages in length (not including appendices) and are used for consultant and other appropriate contracts. A copy of the guidelines was furnished to the auditors. They provide detailed processes and procedures for how to conduct RFPs and are similar to those used by other governmental and private entities. The RFP methodology is built around the exercise of judgment in evaluating proposals and allows flexibility and the use of discretion by staff and managers. The exercise of flexibility and judgment is integral to best procurement practices and does not portray a lack of management commitment to internal controls.
- The draft Report fails to take into account and unfairly fails to note that the contracts under review were established during the aftermath of the September 11, 2001 attacks. The context of the audit is essential. While in rudimentary temporary facilities, without records, and with what was, at the best of times, a heavy workload and a limited staff, the Port Authority was committed to maintaining the competitive basis of these contracts. The exigent circumstances could have easily warranted non-competitive contracting.
- The draft Report alleges technical errors while discounting the solicitation process as a whole. The RFP process involved broad public advertisement, management oversight of underlying procedures, independent evaluation boards, and final review by management of the fairness and integrity of the processes prior to award. The draft Report entirely ignores this final review by management to ensure that process errors, if they occurred, did not have an impact on the fairness of the selection. To reach its conclusions the draft Report completely ignores the Port Authority's procurement process taken as a whole.

\*  
**Note**  
**1**

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**Note**  
**2**

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**Note**  
**3**

\* See State Comptroller's Notes, page 27

**Recommendations Implemented by the Port Authority**

**Recommendation 1**

Develop comprehensive guidelines that will, at a minimum, address the control weaknesses identified in our report. Port Authority management should support the implementation of such guidelines, as well as monitor and enforce compliance with the guidelines.

\*  
Note  
1

**Port Authority Response 1**

The Port Authority has comprehensive RFP Guidelines. Port Authority management supports the guidelines and monitors compliance with the guidelines.

**Recommendation 2**

Maintain adequate records to account for all proposals received, and open all proposals received at one time on the deadline date.

**Port Authority Response 2**

This recommendation has been implemented. Procurement centralized the receipt of all bids and proposals and established uniform procedures for the receipt and opening of bids and proposals across Procurement divisions in June/July 2004.

**Recommendation 3**

Prepare the methodology for evaluating proposals before sending RFPs. The methodology should include minimum passing scores.

**Port Authority Response 3**

It is the Port Authority's practice to prepare the evaluation methodology before an RFP is released.

\*  
Note  
4

We do not agree with the recommendation that the RFP methodology should include minimum passing scores. We believe the preferred procurement practice is to not "advance" to award any firm found unsatisfactory in any critical evaluation category (even though such firm might obtain a minimum passing score). We believe that minimum passing scores are more easily subject to manipulation and that the comparative rating of the firms as agreed to by the evaluation team should be the determining factor. Moreover, this recommendation is not consistent with the best procurement practice of using a narrative evaluation format.

\*  
Note  
5

**Recommendation 4**

Evaluate proposals in a consistent manner and adhere to the methodology that was established prior to sending the RFPs. Adequately document any reasons for deviating from the established methodology, and receive the approval of the Procurement director.

\*  
Note  
6

**Port Authority Response 4**

This is the Port Authority's current practice.

\* See State Comptroller's Notes, page 27

**Recommendation 5**

Document negotiations where there is a change in the ranking of firms, and provide all affected firms an equal opportunity to negotiate.

**Port Authority Response 5**

This is the Port Authority's current practice. Documentation has been improved as recommended.

\*  
**Note**  
7

**Recommendation 6**

Obtain an adequate number of proposals from firms to achieve the best possible price for the required level of service. Prepare in-house estimates for comparison with the proposals.

**Port Authority Response 6**

This recommendation calls for an additional competitive solicitation for the distribution of each work order under a consultant call-in program. This is the Port Authority's current practice for call-in programs, where the number of work orders is few, the work is not of a repetitive standard type, and the initial selection does not result in a ranked list. We do not agree with the recommendation as it pertains to the Port Authority Engineering Department's consultant call-in program where an alternative procurement model is used. The Engineering Department call-in program is set up to allow us to maximize distribution of work orders across a broad base of qualified firms while fostering competition through the initial RFP process, which balances technical qualifications and cost and results in a list of firms ranked in order of best value. We achieve a fair and reasonable price for work orders through use of independent cost estimates. Under current practice, in-house estimates are prepared for comparison with proposals on project/work orders issued from Engineering Department consultant call-in lists.

\*  
**Note**  
8

**Recommendation 7**

Retain, for a reasonable period, the proposals of firms that do not receive a contract.

**Port Authority Response 7**

This recommendation has been implemented.

**Recommendation 8**

Obtain and evaluate documentation from firms to document the actual rates they pay the staff they provide.

**Port Authority Response 8**

All agreements between the Port Authority and supplemental staffing vendors contain an audit clause, which provides for verification by the Port Authority of rates billed by the vendor. The Port Authority's internal Audit Department includes a number of these firms in its audit plan each year for purposes of verifying charges billed to the Port Authority.

\*  
**Note**  
9

\* See State Comptroller's Notes page 27

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## ***State Comptroller's Notes***

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1. We deleted recommendation 1. While we agree the Port Authority has comprehensive guidelines, we found these guidelines did not include certain procedures needed for a strong internal control system. We modified our report to reflect the need for inclusion of these procedures and the need to enforce those contracting procedures already within the guidelines in order to reduce the risks of abuse.
2. We modified our report to reflect only those contracts where documentation was required to be developed subsequent to September 11, 2001.
3. As stated in our report, for those sampled contracts where we found inconsistent evaluations, we saw no evidence that Port Authority management was aware of the inconsistencies and subsequently concluded they had no impact on the fairness of the selection.
4. While Port Authority officials stated it is current practice to document evaluation methodology prior to releasing RFPs, we found no documentation to that effect for five contracts we reviewed. We have modified our recommendation to call upon Port Authority officials to ensure the evaluation methodology for all contracts is prepared before sending RFPs.
5. We deleted the portions of recommendation 3 that pertain to minimum passing score and revised the body of our report accordingly.
6. Although the Port Authority's response states that this is current practice, we noted that practice was not followed for several of the sampled contracts described in our report. We saw no evidence of supervisory approval when evaluation methodology was changed for these contracts. In addition, there was no evidence of supervisory review to confirm errors made in the evaluation proposals did not affect the outcome. We modified our recommendations to call upon the Port Authority to ensure proposals for all contracts are evaluated in a consistent manner and those evaluations adhere to the methodology established prior to sending RFPs.
7. While Port Authority officials stated it was current practice to document negotiations, we found, as stated in our report, instances where those negotiations were not documented.
8. We have modified our report to more clearly reference the findings to the call-in contract process. However, as stated in our report, we found neither evidence that an additional solicitation was initiated for call-in contracts in our sample nor support that cost estimates were prepared for comparison with proposals.
9. We modified our recommendation to call upon the Port Authority to verify that all firms paid their employees the actual hourly rates billed to the Port Authority.