

Audit Report

Canal Place Preservation and Development Authority

August 2010



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

August 27, 2010

Senator Verna L. Jones, Co-Chair, Joint Audit Committee
Delegate Steven J. DeBoy Sr., Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Canal Place Preservation and Development Authority for the period beginning July 9, 2007 and ending May 18, 2010. The Authority's primary purpose is to transform the Chesapeake and Ohio Canal and adjacent areas in the City of Cumberland, Maryland into a showpiece of historic preservation that will enhance recreational, commercial, civic, transportation, educational, and ecological values.

Our audit disclosed that the Authority did not solicit competitive bids for its janitorial and facilities maintenance services. Instead, the Authority has annually renewed the original contract awarded in February 2004. Consequently, the Authority may not have obtained these services in a cost-effective manner, consistent with its regulations.

The Authority's response to this audit is included in Appendix A to this report. Auditor comments related to the Authority's response can be found in Appendix B. We wish to acknowledge the cooperation extended to us by the Authority during the course of this audit.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Canal Place Preservation & Development Authority functions under the provisions of the Financial Institutions Article, Sections 13–001 through 13-1031 of the Annotated Code of Maryland, and is constituted as a public instrumentality of the State of Maryland. The Authority was created to transform the Chesapeake and Ohio Canal and adjacent areas in the City of Cumberland, Maryland into a showpiece of historic preservation that will enhance recreational, commercial, civic, transportation, educational, and ecological values. The affairs of the Authority are managed by its nine members. The administrative affairs and activities of the Authority are directed and supervised by an executive director who is appointed by the Authority, subject to the approval of the Governor. According to the State’s records, the Authority’s operating expenditures totaled approximately \$431,300 during fiscal year 2009.

Financial Information

As specified in the Financial Institutions Article, Section 13-1010 of the Annotated Code of Maryland, the Authority engaged an independent certified public accounting firm to perform annual audits of its financial statements. In related audit reports for fiscal years ended June 30, 2007, 2008, and 2009, the firm stated that the financial statements presented fairly, in all material respects, the financial position of the Authority, and the respective changes in financial position for the aforementioned years in conformity with generally accepted accounting principles accepted in the United States of America.

Findings and Recommendations

Procurement

Finding 1

The Authority has not solicited competitive bids for its janitorial and facilities maintenance contract since it was originally awarded through a competitive procurement in February 2004.

Analysis

The Authority has not solicited competitive bids for janitorial and facilities maintenance services since its current contract was originally awarded, through a

competitive procurement process, more than six years ago in February 2004. Since the original contract award, which expired on June 30, 2005, the Authority has annually renewed the contract, consistent with the original contract language that allowed the Authority to extend the contract at its discretion, and each renewal has been approved by the Authority's Board. Although the Authority is generally exempt from State procurement regulations, the Authority's procurement regulations require that contracts be made in a cost-effective manner consistent with the best interests of the Authority. As a result, there is a lack of assurance the Authority is receiving these services for the best possible price.

Additionally, at both the June 16, 2009 and the June 15, 2010 meetings to approve the two most recent contract extensions, members of the Authority's Board questioned extensively whether continued renewal of the contract was in the Authority's best interest and would comply with the Authority's procurement regulations; one member stressed that consideration should be given to developing a policy governing the frequency of procuring service contracts. Nevertheless, the Board approved both the fiscal year 2010 contract renewal of \$104,000, and the subsequent renewal, for both fiscal years 2011 and 2012, totaling \$213,000.

Since the contract's inception in February 2004, through June 30, 2010, the contact value has accumulated to \$599,750; the most recent renewal period, through fiscal year 2012, increased the value of the contract to \$812,750. During the period from July 9, 2007 through May 18, 2010, the Authority paid the contractor approximately \$295,100.

Recommendation 1

We recommend that the Authority periodically solicit competitive bids for all service contracts. In this regard, the Authority should ensure that all renewal options included in future contract are for limited defined periods.

Audit Scope, Objectives, and Methodology

We have audited the Canal Place Preservation and Development Authority for the period beginning July 9, 2007 and ending May 18, 2010. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Authority's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included procurements, disbursements, and cash receipt collections. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Authority's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

The Authority's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

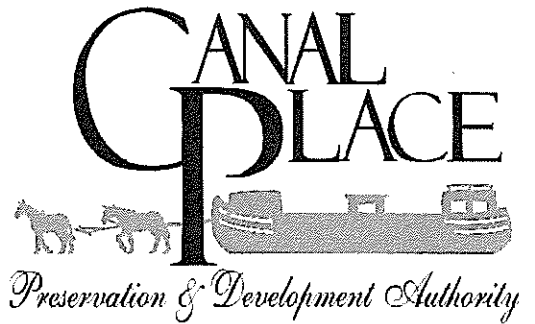
Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

Our audit did not disclose any conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Authority's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This report includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Another less significant finding was communicated to the Authority that did not warrant inclusion in this report.

The Authority's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Authority regarding the results of our review of its response.

APPENDIX A



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Authority Members

Chairman Andy Vick
Allegany Arts
Council

Kevin Brandt
U.S. Department of
the Interior

Howard Buchanan
Maryland Historical
Trust

Matt Diaz
Allegany County

Susan Keller
City of Frostburg

Kathy McKenney
City of Cumberland

Doug Schwab
H&S Development,
LLC

Rick Thayer
First United Bank &
Trust

Kara Rogers Thomas
Frostburg State
University

Executive Director
Renee Bone

August 25, 2010

Bruce A. Myers
Legislative Auditor
Office of Legislative Audits
Department of Legislative Services
301 West Preston Street, Room 1202
Baltimore, Maryland 21201

Dear Mr. Myers:

The Authority appreciates having the opportunity to respond to the draft audit report for the Canal Place Preservation & Development Authority's Legislative Audit for the period of July 9, 2007 through May 18, 2010.

The first and only finding is a result of the Authority not rebidding its janitorial and facilities maintenance contract since February 2004. While the Authority agrees with the premise of this finding 99% of the time and acts accordingly, we disagree with this finding related to our janitorial and facilities maintenance contract. The 2004 contract allows the Authority to renew the contract for an unspecified period of time, and the Authority has chosen to renew the contract without soliciting additional bids. While the Authority has not rebid the contract for janitorial and facilities maintenance services, we do remain cognizant of market rates for these services. The National Park Service and City of Cumberland are represented on the Authority and provide services similar to those of the Authority. These government entities share information on the average cost of these services for their organization and we are also able to track the local market rates for janitorial and maintenance services. We are able to discern that the hourly cost of our contract remains below those market rates. The knowledge that the cost of our contract is very competitive and the fact that we are very satisfied with the work that has been done under the contract, has led the Authority to renew the contract rather than rebid the contract. The Authority discussed the possibility of rebidding this contract during its June 2010 Board Meeting and will revisit the matter in January 2012 to determine the appropriate course of action for awarding the 2013 contract. During the January 2012 meeting a similar conversation will unfold, where our current janitorial and facilities contract will be compared to the costs other agencies are paying for similar services and the local market rates for these types of services. Based on the outcome of this discussion, the Authority will take action that is deemed to be in the best interests of the agency and the most financially responsible with our limited resources. The Authority works fastidiously to follow all of its procurement regulations and will continue to do so.

Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

Renee A. Bone
Executive Director

APPENDIX B

Auditor's Comment on the Authority's Response

The Authority's response indicates that, even though it generally agrees with the finding, it does not agree to periodically solicit competitive bids for its janitorial and facilities maintenance services since the current contract allows for the Authority to extend the contract indefinitely. The Authority contends that its discussions with other parties indicate that the current contract continues to be cost-effective; however, support for this assertion was not provided to us during the course of the audit. We continue to believe the Authority should periodically solicit competitive bids for these services to better ensure that public funds are being used in a cost-effective manner.

AUDIT TEAM

Matthew L. Streett, CPA, CFE
Audit Manager

Rick E. Pyles
Senior Auditor