



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued June 11, 2020

Fall River Line Pier, Inc.

For the period January 1, 2016 through December 31, 2018





Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

June 11, 2020

Mr. Gilbert C. Oliveira, President of the Board of Directors
Fall River Line Pier, Inc.
1 Water Street
Fall River, MA 02721

Dear Mr. Oliveira:

I am pleased to provide this performance audit of Fall River Line Pier, Inc. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2016 through December 31, 2018. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to Fall River Line Pier, Inc. for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular background.

Suzanne M. Bump
Auditor of the Commonwealth

cc: Ricks Frazier, Esq., General Counsel, MassDevelopment
Zach Greene, Senior Vice President of Asset Management, MassDevelopment

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
OVERVIEW OF AUDITED ENTITY	2
AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY.....	3
DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE	5
1. Fall River Line Pier, Inc. did not properly administer its financial activities related to non-payroll expenditures and accounts receivable during the audit period.....	5
a. FRLP paid \$121,874 to companies in which three FRLP board members had a financial interest; the board members did not properly disclose their relationships with the companies.....	5
b. FRLP paid its board members \$17,125 in reimbursements, and made a \$2,500 charitable donation, that were not related to its mission.	6
c. FRLP’s board of directors did not take action to collect accounts receivable.	7

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of Fall River Line Pier, Inc. (FRLP) for the period January 1, 2016 through December 31, 2018. In this performance audit, we determined whether FRLP properly administered its financial activities related to non-payroll expenditures and accounts receivable during the audit period.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1a Page 5	FRLP paid \$121,874 to companies in which three FRLP board members had a financial interest; the board members did not properly disclose their relationships with the companies.
Finding 1b Page 6	FRLP paid its board members \$17,125 in reimbursements, and made a \$2,500 charitable donation, that were not related to its mission.
Finding 1c Page 7	FRLP's board of directors did not take action to collect accounts receivable.
Recommendation Page 8	FRLP's board of directors should establish policies and procedures related to its financial activities, including conflicts of interest, travel, donations, and accounts receivable.

OVERVIEW OF AUDITED ENTITY

Fall River Line Pier, Inc. (FRLP), located at 1 Water Street in Fall River, was created by Chapter 665 of the Acts of 1945 to establish, operate, and maintain a pier in Fall River, serving the South Coast area, for the shipment of freight and merchandise by water. On November 29, 1946, FRLP was chartered as a not-for-profit corporation.

During the audit period, FRLP was overseen by a board of directors with 11 members, who are responsible for managing FRLP's property and business. The pier's daily operations are managed by a general manager who is hired by, and reports to, the board of directors. The general manager supervises the daily activities of FRLP's staff, which consisted of seven full-time and four part-time employees as of the end of the audit period.

FRLP previously leased its premises from the Commonwealth under a 50-year lease agreement, which ended in April 2014. FRLP is currently a tenant at will and negotiating a new agreement with the Commonwealth through MassDevelopment, the state's finance and development agency, as directed by the Department of Conservation and Recreation.

FRLP's revenue and expenses, as reported in its annual financial statements, are summarized below.

FRLP Net Income

	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018
Revenue	\$ 477,665	\$ 493,770	\$ 610,843
Expenses	(482,013)	(470,643)	(473,929)
Net Income	<u>\$ (4,348)</u>	<u>\$ 23,127</u>	<u>\$ 136,914</u>

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of Fall River Line Pier, Inc. (FRLP) for the period January 1, 2016 through December 31, 2018.

We conducted this performance audit 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.

Below is our audit objective, indicating the question we intended our audit to answer, the conclusion we reached regarding the objective, and where the objective is discussed in the audit findings.

Objective	Conclusion
1. Did FRLP administer its financial activities related to non-payroll expenditures and accounts receivable in accordance with its Independent Accountants' Compilation Report for calendar years 2017 and 2018, <i>The [Massachusetts] Attorney General's Guide for Board Members of a Charitable Organization</i> , Section 6C of Chapter 180 of the General Laws, <i>Massachusetts State Piers: A Business and Operations Assessment Report</i> , and Chapter 665 of the Acts of 1945?	No; see Findings <u>1a</u> , <u>1b</u> , and <u>1c</u>

To achieve our objective, we gained an understanding of the internal control environment we determined to be relevant to our audit objective by reviewing original source documents, performing observations, and conducting interviews with FRLP's management and the president of its board of directors.

In addition, we performed the following procedures to obtain sufficient, appropriate audit evidence to address our audit objective.

Administration of Non-Payroll Expenditures and Accounts Receivable

- To determine whether FRLP properly administered its non-payroll expenditures, we selected a nonstatistical, judgmental sample of 92 (totaling \$141,499) out of a total of 773 non-payroll expenditures paid by FRLP during the audit period. We extracted information about these non-payroll expenditures from FRLP's electronic accounting system, QuickBooks. We also reviewed original source documents, such as invoices and check payments, for the non-payroll

expenditures to determine whether they were accurately recorded in the accounting system, were related to FRLP's mission, and did not create a conflict of interest due to a related-party transaction¹ with any members of FRLP's board of directors.

- To determine whether FRLP properly administered its accounts receivable, we selected a nonstatistical, judgmental sample of 198 out of a total of 663 accounts receivable transactions recorded by FRLP during the audit period. We also reviewed original source documents, such as invoices, check payments, and deposit slips, for these accounts receivable to determine whether they were accurately recorded in the accounting system and paid within 90 days of the invoice dates. Further, we reviewed all board minutes from the audit period to determine whether FRLP's board of directors took action to collect any outstanding accounts receivable during each calendar year of our audit period.

Because we used nonstatistical sampling for testing of both non-payroll expenditures and accounts receivable, we did not project the results of either type of test to the total population.

Data Reliability

We determined the reliability of the data obtained from QuickBooks by interviewing members of FRLP's management who were knowledgeable about the data, reviewed prior audit reports, reviewed QuickBooks documentation, and tested selected information-system controls.

Further, to determine the completeness and accuracy of the data, we randomly selected 30 QuickBooks non-payroll expenditures and determined whether the information from QuickBooks matched the original invoices. Next, we randomly selected a sample of 30 original invoices from FRLP's files and traced the information on the invoices to the data in QuickBooks. We then selected a random sample of 30 original source documents from FRLP's accounts receivable, which included each of the three calendar years of the audit period, and traced those sampled documents to QuickBooks.

Additionally, we performed validity and integrity tests on the data for FRLP's non-payroll expenditures and accounts receivable, including (1) testing for missing records or missing values in key data elements, (2) scanning for duplicate entries, (3) verifying fields to detect any data validity errors, and (4) testing for values outside a designated range. Based on these procedures, we determined that the QuickBooks data were sufficiently reliable for the purposes of our audit.

1. The instructions for Form PC, issued by the Massachusetts Office of the Attorney General, which not-for-profit organizations use to file financial data, defines a related party as "an officer, director, or trustee (or an individual having powers or responsibilities similar to those of officers, directors, or trustees) of [an] organization." A related-party transaction is a transaction between parties who had an association before the transaction.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. Fall River Line Pier, Inc. did not properly administer its financial activities related to non-payroll expenditures and accounts receivable during the audit period.

During our audit period, Fall River Line Pier, Inc. (FRLP) did not properly administer its non-payroll expenditures or its accounts receivable. Specifically, FRLP conducted transactions totaling \$121,874 with businesses in which three members of its board of directors had a financial interest, and the board members did not properly disclose their relationships with these businesses. Further, several board members and their businesses received reimbursements and payments totaling \$19,625 for expenses, such as travel, meals, and a donation, that were not related to FRLP's mission. Finally, FRLP's board of directors did not take action to collect money FRLP was owed by its two tenants (companies that rent storage space from FRLP) with the highest accounts receivable balances during the audit period. Many of these balances were not paid within the required 90 days. When financial activities such as these are improperly administered, there is a higher-than-acceptable risk of wasteful and unnecessary expenses being incurred, and revenue may not be realized.

a. FRLP paid \$121,874 to companies in which three FRLP board members had a financial interest; the board members did not properly disclose their relationships with the companies.

During the audit period, FRLP paid 83 expenses, totaling \$121,874, to four companies in which three FRLP board members had a financial interest, which may not be in FRLP's best interest. Specifically, FRLP paid \$102,753 to two companies with which one board member had business relationships, and it paid \$18,638 and \$483 to two companies owned by other board members.

FRLP did not have a policy regarding conflicts of interest, nor did it have documentation to substantiate that these related-party transactions were discussed by its board of directors.

Authoritative Guidance

Because FRLP is a not-for-profit corporation, we believe the guidelines outlined in *The [Massachusetts] Attorney General's Guide for Board Members of a Charitable Organization* are best practices that FRLP should follow. The guide suggests the following regarding how boards should govern organizations.

- Boards should have policies to address matters related to conflicts of interest.
- Boards should very closely scrutinize transactions associated with conflicts of interest to avoid skepticism on the part of the public and regulators.

Further, Section 6C of Chapter 180 of the Massachusetts General Laws, which applies to FRLP, requires that board members act in good faith and in corporations' best interest.

A director, officer or incorporator of a corporation shall perform his duties as such, including, in the case of a director, his duties as a member of a committee of the board upon which he may serve, in good faith and in a manner he reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position with respect to a similar corporation organized under this chapter would use under similar circumstances.

We believe this law requires board members to disclose all related-party transactions.

Reasons for Issue

FRLP did not provide a reason it did not have a policy requiring it to address matters related to conflicts of interest. In addition, FRLP did not have a procedure to disclose related-party transactions.

b. FRLP paid its board members \$17,125 in reimbursements, and made a \$2,500 charitable donation, that were not related to its mission.

After testing FRLP's non-payroll expenditures, we concluded that 9 (totaling \$19,625) of 92 expenses were payments made directly to members of FRLP's board of directors, or to businesses owned by board members, for expenses that were not related to FRLP's mission. In 2018, the board of directors made a \$2,500 donation to a board member's business for a charity boat race that was unrelated to FRLP's mission. Additionally, in 2017, FRLP's board members were reimbursed \$17,125 for a conference in Miami, Florida, that was not related to FRLP's mission. The president of FRLP's board of directors stated that this conference was attended by all board members to learn how to increase possible tourism if cruise ships began docking at the pier more often. However, travel and tourism are not part of FRLP's mission and daily operations.

Authoritative Guidance

Massachusetts State Piers: A Business and Operations Assessment Report, which was commissioned by MassDevelopment in August 2016, states that FRLP's mission is to be a maritime facility with

cargo freight operations, storage, passenger transportation via the Block Island Ferry, and berthing for fishing boats. In addition, Chapter 665 of the Acts of 1945 states that FRLP's mission is to provide storage terminal facilities for maritime commerce. Money that is paid to board members for travel and donations not related to FRLP's mission is not available for FRLP's daily operations.

Because a board of directors exists to act in its organization's best interest, we believe it is a best practice for a board to use its organization's mission to guide spending.

Reasons for Issue

FRLP's board of directors has not developed an expenditure policy to address areas such as travel and donations to ensure that all expenditures are related to FRLP's mission and daily operations.

c. FRLP's board of directors did not take action to collect accounts receivable.

FRLP had delinquent accounts receivable balances in each year of the audit period for two tenants, but its board of directors did not take action to collect these outstanding balances despite being responsible for the organization's financial health. From our testing, we concluded that 72 out of 105 invoices for one company (shown in the table below as Company A) were not paid within 90 days. Further, none of the 73 invoices for another company (shown below as Company B) were paid within 90 days. The delinquent payments resulted in accounts receivable balances at the end of each calendar year of the audit period, as detailed below.

FRLP Accounts Receivable

Calendar Year Ended	Company A	Company B	Accounts Receivable Balance
2016	\$132,436	\$ 25,150	\$ 157,586
2017	54,398	28,069	82,467
2018	\$ 15,521	\$ 46,229	\$ 61,750

Authoritative Guidance

Because FRLP is a not-for-profit corporation, we believe the guidelines outlined in *The Attorney General's Guide for Board Members of a Charitable Organization* are best practices that FRLP should follow. According to this guide, a board "is ultimately responsible for the financial health and integrity of [its] organization."

Further, FRLP's Independent Accountants' Compilation Report for calendar years 2017 and 2018 states that FRLP's accounts receivable are considered delinquent when payments are not received within 90 days of invoicing.

We consider it a best practice for a board to take action on delinquent accounts.

Reasons for Issue

FRLP's board of directors has not established policies that address financial management for FRLP's daily operations, including addressing delinquent accounts receivable.

Recommendation

FRLP's board of directors should establish policies and procedures related to its financial activities, including conflicts of interest, travel, donations, and accounts receivable.

Auditee's Response

I note that you claim that \$121,874.00 was paid during this period to companies in which three board members had a financial interest.

First, there have been national power boat races that have taken places in the Taunton River/Mount Hope Bay. In an effort to promote FRLP and its services, FRLP donated to the races in return for advertising and making the Pier available to the public. The sponsorship included the cost of a large banner. As a result of one sponsorship, we had over 500 spectators at the FRLP on race day. Although there was a check made to a board member's business, that business did not keep the funds, it was spent on advertising including the large banner. Relative to the payments to the restaurant where the board meetings took place, those expenses would have been incurred no matter where the meetings took place. None of the expenses were inflated and were all reasonable costs. All of the board members know of this relationship.

Pertaining to the accounts receivable two of the Pier's largest tenants became overdue on their rent from 30–90 days. This began in the beginning of 2016. The Pier management had a decision to make which was discussed in detail. The Pier had to decide whether to demand overdue rent and threaten eviction, which we felt would have taken several months, the end result being the probability of losing otherwise good tenants and maybe getting paid half of what we are owed after legal fees or attempting to work with the tenants and offering our assistance to get them current. Pier management [chose] the [latter]. It took a while to have both tenants become totally current with their account balance. They continued to pay rent faithfully and by the end of 2018 they were current.

The \$2,500 Donation was made to Make A Wish who was a partial sponsor and the entire recipient of the proceeds from a huge 3 day event that involved the FRLP. This event involved a

parade both on land and on the water, spectators along the pier and overall brought 10,000 people to the city of Fall River over the 3 days.

*Relative to the insurance payments, there were no payments to the **insurance company** owned by the board member, the **insurance agent** is a board member. His company does not provide medical coverage or workman's compensation coverage to FRLP. In fact, this coverage was in place prior to his board membership. At some point during his term, his agency became the servicing agent for this coverage. Invoices for same are sent to the Pier directly and all payments for these charges are paid directly [to] the companies. My thought is that you may have picked up the invoices for these bills but the corresponding payments would evidence that no payments were made to the board member's agency by FRLP.*

The oil company that provides heating oil to the FRLP has been providing oil to the Pier since the 1950's, about the time the board member was born. His father has had this contract for almost 60 years. When his father passed away, the son and the daughter inherited the business and all of the accounts which were in place. The thought of disclosure for this activity was never considered because it was in place for such a long period of time. The board member did not sell, service or originate this account.

Lastly, I am not sure that you have properly identified the merits of the conference that the board members attended. It was not a tourism conference and, in fact, it covered many important topics relative to our mission. The conference covered subjects such as short sea shipping, cruise line and ferry business, port technology and national port security. The forum for these topics was classroom discussions and all of the board members obtained valuable information relative to the [pier's] operation and mission. We considered this conference as Pier related and designed to educate the board in order to promote its business.

We want to make you are aware that none of these payments or activities were disguised in any way, and no board member had any intent to deceive or mislead. The payments and activities were reviewed, discussed and approved by the board and they were revealed to the [certified public accountant]. Any payments made were related to expenses associated with the regular, reasonable and everyday operation of FRLP.

We will ensure that the proper policies and procedures are in place so that future financial activities and potential conflicts are properly addressed.

Auditor's Reply

Our audit found problems with how FRLP administered some of its non-payroll expenditures. FRLP made payments totaling \$121,874 to four companies in which three FRLP board members had a financial interest. In its response, FRLP explains that some of these related-party transactions are longstanding and suggests that they are appropriate. For example, FRLP states that payments were made to an insurance company for which an FRLP board member is the insurance agent, not to the board member. However, FRLP does not point out that as the insurance agent, the board member was in a position to

obtain a financial benefit from this relationship in the form of a fee or commission. Our concern is that when transactions like this are conducted without the benefit of a competitive procurement process, FRLP cannot be certain of getting the best value for services. Although the Office of the State Auditor (OSA) acknowledges that related-party transactions can benefit organizations, these transactions were not conducted with transparency. Therefore, they are more likely to be wasteful or unnecessary. Board members have a responsibility to establish controls that prevent related-party transactions unless the board determines that they are clearly in the agency's best interest. FRLP's board of directors has not established a conflict-of-interest policy and therefore lacks adequate controls in this area. In its response, FRLP states that it will ensure that proper policies and procedures are in place to deal with potential conflicts of interest.

OSA suggests that FRLP refer to *The Attorney General's Guide for Board Members of a Charitable Organization* as a model when developing such policies and procedures. Regarding matters of financial interest, this guide states,

Prior to the board vote, the board member should fully disclose his or her financial interest to the entire board, and the board member should not vote on any aspect of the arrangement or be present when it is being discussed or voted upon. . . .

- *The policy should include a procedure for the annual written disclosure by all board members and senior managers or key decision makers in the organization of their business involvements with the charity and their other board memberships and business interests, both for-profit and charitable. The information disclosed should be circulated to all board members and be updated throughout the year as necessary. The Attorney General's Non-Profit Organizations/Public Charities Division requires that the value and terms of these related party transactions be disclosed on the organization's annual Form PC filing.*

In addition, OSA found nine payments, totaling \$19,625, that were made directly to members of FRLP's board of directors, or to businesses owned by board members, for expenses that were not related to FRLP's mission. These expenses included a \$2,500 donation to a board member's business for a charity boat race and \$17,125 for a conference in Miami, Florida, that six board members attended. In its response, FRLP states that the \$2,500 donation check was made out to a board member's business but that the business did not keep the funds. However, FRLP did not provide any documentation to substantiate this assertion. Moreover, donating funds to a charity boat race is not consistent with FRLP's mission, which is to operate and maintain a pier. It is OSA's opinion that these funds should not have been used for expenses that were not related to this mission.

We did not review the additional donation to the Make-A-Wish Foundation because it was outside our audit period.

FRLP states in its response that the board-attended conference covered many subjects that were consistent with its mission. However, OSA requested, but was not provided with, any documentation to substantiate why it was necessary for six board members to attend the conference; what training sessions, if any, board members attended; or how FRLP was using, or would use, any of the information presented at the conference. Therefore, it is unclear to OSA whether incurring these expenses was prudent and in the best interest of the organization.

Finally, FRLP's board of directors did not take action to collect money it was owed by two of its tenants. In its response, FRLP states that the overdue rents from its two largest tenants were discussed in detail by FRLP management. FRLP management then determined that rather than demanding overdue rents, FRLP would help the tenants make their accounts current. However, the accounts were still not current at the end of 2018. OSA was not provided with any documentation to substantiate that this problem was discussed by FRLP's board of directors. Further, the board president told us during our audit that he was unaware of these tenants' high balances. In addition, FRLP lacks adequate controls: it has not established policies that address financial management for its daily operations, including addressing delinquent accounts receivable. Accordingly, we advise FRLP to implement our recommendations.