

The Commonwealth of Massachusetts

A. JOSEPH DeNUCCI
AUDITOR

GREGORY W. SULLIVAN
INSPECTOR GENERAL

A Joint Communication of the
AUDITOR OF THE COMMONWEALTH
and the
OFFICE OF THE INSPECTOR GENERAL

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November 17, 2004

Chairman Matthew Amorello
Massachusetts Turnpike Authority
Ten Park Plaza, Suite 4106
Boston, MA 02116

Dear Chairman Amorello:

We are writing to recommend that you increase the damages on your \$150 million cost recovery lawsuit against Bechtel/Parsons Brinckerhoff (B/PB) to include \$35 million that B/PB paid contractors as it attempted to mitigate the water leaks that plague the Central Artery roadway.

As you well know, these leaks, which became a national issue in September, have been around since the late 1990's, years before your arrival at the Turnpike Authority. However, the recent criticism of the leaks has centered on the efforts of the cost recovery team rather than the root of the problem itself.

We firmly believe that the root of the problem is poor construction oversight and quality control by B/PB, in its capacity as project manager.

We strongly recommend that the cost recovery team continue investigating the leaks and pursue cost recovery against B/PB and the other contractors responsible for this situation.

Our own preliminary review has identified more than 150 change orders worth more than \$35 million that has been paid to construction contractors – to deal with an on going problem that reached its climax in September. These change orders are only

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the tip of the iceberg. First, they cover just two of the tunnel's eight contracts and less than a quarter of the roadway that runs through downtown Boston. Second, the problem is far from fixed.

Our Offices have referred many potential cost recovery matters to the Authority. Most recently, on February 2, 2004, the Auditor referred a matter to the cost recovery team concerning B/PB's poor quality control over waterproofing. This waterproofing problem has led to more than \$10 million in cost increases due to damage caused by water leaks and seepage. The Inspector General is preparing to refer an additional waterproofing issue to the Authority as well.

At the same time B/PB has failed to refer a single waterproofing or tunnel leak case to cost recovery. In the case of construction contractors, if B/PB thought that a contractor did a poor job that has led to an increase in costs they could recommend a backcharge against the contractor for these costs. In the case of the tunnel leaks, although there have been tens of millions of dollars spent to temporarily deal with leaks, B/PB has only recommended a total of \$300,000 in backcharges, most for minor items.

The bottom line of these reviews has been the same. B/PB has failed in its professional and contractual duty to ensure quality construction. However, rather than admitting to this failure, B/PB has tried to obscure the issue by seeking to blame others.

As the leak related costs increase, these costs should be added to the lawsuit as well. Costs associated with other cost recovery issues referred by the Auditor and the Inspector General should be added to the lawsuit on an ongoing basis. The Commonwealth should not allow B/PB to get away with deflecting blame onto others when the fault rests squarely on them.

We will forward more information to you as we continue our review.

As you know, our Offices have been committed to cost recovery for years. In October 2001, we issued a joint letter to the Authority describing B/PB's ineffective cost recovery program and stated that: "B/PB's recent refusal to acknowledge any responsibility for or share in the burden of paying for increasing Project cost overruns is irresponsible and unconscionable." When you assumed control of the Authority you accepted our advice and stripped B/PB of its cost recovery responsible. In under two years, Judge Ginsburg and his team have filed multiple lawsuits and collected \$4 million thus far. In the nearly 10 years that B/PB ran cost recovery, they collected \$30,000 from one firm.

Our review has found that the water leak issue has been around since the start of construction of the underground Central Artery roadway. Although the issue has been around for years, records do not indicate that B/PB ever raised this issue to the status it deserved.

Matthew Amorello, Chairman

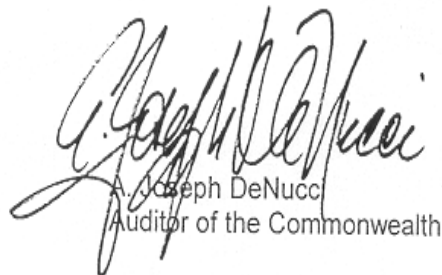
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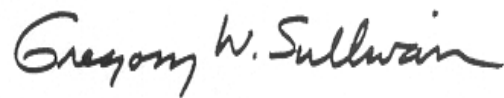
Records clearly show that B/PB knew about and approved the shoddy construction that has led to the leaks. As the project's construction manager, B/PB initiated and approved construction contract change orders worth millions of dollars for the repair of these water leaks during construction. B/PB knew of the problem but apparently did not have the contractors permanently repair the problem. The leak problem would not have occurred if B/PB had simply made the construction contractors perform according to the specification in their contracts. B/PB knew the contractors were not following the specification yet B/PB did nothing about it. Now B/PB seeks to attribute blame elsewhere.

If we can be of assistance to you in the matters raised in this letter or in any other matter, please do not hesitate to contact us. Thank you for your continuing assistance and cooperation.

Sincerely,



A. Joseph DeNucci
Auditor of the Commonwealth



Gregory W. Sullivan
Inspector General

cc: Jordan Levy, Vice Chairman, Massachusetts Turnpike Authority Board
Judge Edward Ginsburg, Cost Recovery Team Leader
Michael Powers, Chief Counsel, Massachusetts Turnpike Authority