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STATE AUDITOR'S REPORT ON THE METROPOLITAN DISTRICT COMMISSION'S PRIVATIZATION OF PARKING LOT SERVICES AT NAHANT AND NANTASKET BEACHES

OFFICIAL AUDIT REPORT

JUN 30 1995

**ISSUED BY THE
Department of the State Auditor**

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INTRODUCTION

Background

Chapter 296 of the Acts of 1993, the Commonwealth's privatization law, outlines the process that must be followed by agencies and applicable Authorities seeking to contract for a service that is presently performed by state or Authority employees. The law, which became effective December 15, 1993, applies to contracts that have an aggregate value of \$100,000 or more. Pursuant to this law, a specific process must be followed to demonstrate and certify to the State Auditor that (a) the agency complied with all provisions of MGL Chapter 7, Section 54 and all other applicable laws, (b) the quality of the services to be provided by the designated bidder is likely to equal or exceed the quality of services that could be provided by regular agency employees, (c) the total cost to perform the service by contract will be less than the estimated in-house cost, (d) the designated bidder has no adjudicated record of substantial or repeated noncompliance with relevant federal and state statutes, and (e) the proposed privatization contract is in the public interest, in that it meets applicable quality and fiscal standards. The State Auditor has 30 days to approve or reject the agency's certification.

The process that the agency must follow includes preparing a detailed written statement of services, estimating the most cost-efficient method of providing those services with agency employees, selecting a contractor through a competitive bidding process, and comparing the in-house cost and the cost of contract performance. The agency must also ensure that the private bids and private contract, if ultimately awarded, contain certain provisions regarding wages, health insurance, the hiring of qualified agency employees, nondiscrimination, and affirmative action.

In 1994, the Metropolitan District Commission (MDC) awarded two contracts to vendors to operate the parking lots at Nantasket Beach and Nahant Beach. Both parking lots had been operated by the MDC in previous years with MDC employees. The Office of the State Auditor initiated a review of these contracts in February 1995 to determine whether they had been executed in accordance with Chapter 296 of the Acts of 1993.

Scope, Objectives, and Methodology

This report summarizes the results of our review of whether the contracts awarded by the MDC to operate the parking lots at Nantasket Beach and Nahant Beach during calendar year 1994 should have been subject to the provisions of Chapter 296 of the Acts of 1993.

The MDC believes that Chapter 296 does not apply to these contracts because, when the MDC operated the parking lots in prior years, the gross revenue from each lot was less than the \$100,000 threshold specified in Chapter 296. MDC officials therefore did not submit certification reports to the State Auditor in accordance with MGL Chapter 7, Section 54. The objective of our review was to determine whether the value of the services that were privatized was more or less than \$100,000.

To determine the value of the services, we considered the gross revenue and operating costs for calendar year 1993, when Metropolitan District Commission employees operated the parking lots for 68 days (from July 1 to September 6), and the Request for Proposals for calendar year 1994, which expanded the operating period to five months (May 1, 1994 to September 30, 1994). We also considered the fees paid to the Commonwealth by the two contractors to operate the parking lots during calendar year 1994.

CONCLUSION

Based on our review of the contracts to operate the parking lots at Nantasket and Nahant beaches during calendar year 1994, we have determined that Chapter 296 does not apply to the subject privatization contracts because the value of the services, taking all relevant factors into consideration, was under the \$100,000 threshold in both instances.