



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-1466-50

**INDEPENDENT STATE AUDITOR'S REVIEW OF
THE COLLECTION OF ADMINISTRATIVE FEES
ASSOCIATED WITH THE INFRASTRUCTURE
IMPROVEMENTS MADE TO FACILITATE THE
CONSTRUCTION OF GILLETTE STADIUM
PURSUANT TO
CHAPTER 16 OF THE ACTS OF 1999**

**OFFICIAL AUDIT
REPORT
DECEMBER 27, 2006**

REVIEW RESULTS

Introduction

The Office of the State Auditor (OSA) has conducted a review of the collection of administrative fees¹ under Chapter 16, Section 7, of the Acts of 1999. The review and the issuance of this report was conducted pursuant to the authority granted the OSA under Chapter 11, Section 12, of the Massachusetts General Laws and included a review of the \$69,810,000 debt offering that was used to finance the infrastructure improvements completed to support Gillette Stadium. The period under review was June 2000 through December 2006.

Background and Legislative Action

After several failed attempts to relocate the National Football League's New England Patriots football franchise to Hartford, Connecticut; Providence, Rhode Island; and South Boston, Massachusetts; the owner of the New England Patriots, the Town of Foxborough, and the Massachusetts General Court agreed to a finance plan that would ensure that the New England Patriots would remain in the Town of Foxborough for an extended period of time (Chapter 16 of the Acts of 1999). The plan that was agreed to among the parties required the construction of a new privately financed football stadium located in the Town of Foxborough. It was estimated that the cost of construction for the new stadium would be approximately \$325 million, and that the stadium would be constructed without any financial aid from the Commonwealth of Massachusetts. In addition, the Commonwealth agreed to pay for certain infrastructure improvements that were intended to promote the public safety and convenience of persons attending events at the new stadium. The Commonwealth agreed to pay up to \$70 million to cover the cost of these infrastructure improvements, which included roadways, pedestrian walkways and bridges, lighting and other utilities, and wastewater and solid waste management facilities.

Prior to the completion of the new stadium, the team owner and entities controlled by the owner agreed to convey the 24.16-acre stadium site to the Town of Foxborough. In turn, the Town of

¹ Chapter 16, Section 7, of the Acts of 1999, as amended by Chapter 72 of the Acts of 2000, requires that administrative fees totaling \$1,150,000 annually be charged to all parking spaces licensed by the appropriate town within the parking and traffic management zone, which is to be collected by the towns of Sharon, Walpole, Wrentham, and Foxborough and returned to the Commonwealth of Massachusetts for deposit in the General Fund. In addition, the stadium lessee is required to pay an annual administrative fee of \$250,000 to the Commonwealth for deposit in the General Fund.

Foxborough leased back the stadium site to an affiliate company controlled by the owner (the stadium lessee) for an initial term of 35 years that is subject to renewal, at the option of the stadium lessee, for up to 35 additional years. As part of the agreement to provide financing for infrastructure improvements, the stadium lessee and surrounding towns are required to make certain payments, in the form of administrative fees, to the Commonwealth up to and until the expiration date of the debt service obligations that were issued to finance the planning, design, acquisition, construction, development, modernization, and improvement costs to support the new stadium.

Chapter 16 of the Acts of 1999, An Act Relative to the Construction and Financing of Infrastructure and Other Improvements in the Town of Foxborough and at Foxboro Stadium

Chapter 16 of the Acts of 1999 (the Act) authorized the creation of the Foxborough Industrial Development Financing Authority for the purpose of financing the design and construction of infrastructure improvements to support a 68,000-seat, multi-purpose open-air stadium built in the town of Foxborough that serves as the home field for the New England Patriots. Section 4 of the Act authorized the Town of Foxborough, acting through the Authority, to reimburse the developer, as that term is defined by said Act, for (1) all cost of infrastructure improvements, including utility relocation or construction, within the economic development area² up to an aggregate amount not to exceed \$42 million, and (2) for the cost of infrastructure improvements within the economic development area related to promoting public health and safety (e.g., wastewater and solid waste management facilities, storm drains, utilities, lighting, pedestrian walkways, bridges, and roadways). Section 4 of the Act further provides that any additional costs of infrastructure improvements within the economic development area that exceed the amounts authorized be borne by the developer.

In order to pay for the infrastructure improvements identified therein, the Act, pursuant to Section 7, authorized the Town of Foxborough (acting through the Authority) to issue bonds for the purpose of financing the infrastructure improvements associated with the construction of the new stadium not to exceed the amount of \$70 million authorized by the Massachusetts General Court. In support, the Town of Foxborough and the Authority agreed to pay the debt service associated with the issuance of these bonds, and the Commonwealth, pursuant to Section 8 of the Act, entered into an agreement with the Town of Foxborough that obligated the Commonwealth to make

² The term “economic development area” refers to the area within the Town of Foxborough consisting of 325 acres, excluding the site of the stadium and the buildings, structures, and improvements thereon.

contract assistance payments for a period not to exceed 25 years in amounts sufficient to defray the debt service obligations that the town incurred as a result of the issuance of these bonds.

Bond Offering

On June 1, 2000, the Town of Foxborough, acting by and through the Authority, issued bonds in the amount of \$69,810,000 through a syndicate of underwriters, including Morgan Stanley Dean Witter, First Albany Corporation, and Salomon Smith Barney. Chase Manhattan Bank serves as the trustee, pursuant to the trust indenture dated June 1, 2000 between the town of Foxborough, acting by and through the Authority and the Chase Manhattan Bank. The bonds are special obligations of the Town of Foxborough, payable solely from the contract assistance payments made to the trustee for the account of the Town of Foxborough by the Commonwealth. In the opinion of the bond counsel, Palmer & Dodge LLP, the obligation of the Commonwealth to make such contract assistance payments to the trustee constitutes a general obligation of the Commonwealth for which its full faith and credit are pledged.

The \$69,810,000 bond offering consisted of \$22,645,000 in 5.75% term bonds due June 1, 2025 to yield 5.82% and \$47,165,000 in serial bonds payable for the period commencing June 2001 through June 2020, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
2001	\$1,305,000	5.00%	4.45%	2011	\$2,270,000	5.75%	5.15%
2002	\$1,480,000	4.60%	4.62%	2012	\$2,400,000	5.50%	5.20%
2003	\$1,550,000	4.625%	4.70%	2013	\$2,535,000	6.00%	5.28%
2004	\$1,620,000	4.70%	4.77%	2014	\$2,685,000	6.00%	5.35%
2005	\$1,695,000	4.75%	4.82%	2015	\$2,845,000	6.00%	5.41%
2006	\$1,775,000	4.75%	4.87%	2016	\$3,015,000	6.00%	5.47%
2007	\$1,860,000	4.875%	4.93%	2017	\$3,195,000	6.00%	5.53%
2008	\$1,950,000	4.90%	4.99%	2018	\$3,390,000	6.00%	5.58%
2009	\$2,050,000	5.00%	5.02%	2019	\$3,590,000	6.00%	5.63%
2010	\$ 520,000	5.00%	5.08%	2020	\$3,805,000	6.00%	5.66%
2010	\$1,630,000	5.75%	5.08%	Total	\$47,165,000		

Interest Payments/Debt Repayments

Since the bonds were issued in June 2000, as of December 1, 2006, the Commonwealth has made a total of \$33,347,681.64 in contract assistance payments, consisting of approximately \$23,922,681.64 in interest payments and \$9,425,000 in debt repayments, to the trustee on behalf of the Town of Foxborough. The contract assistance payments commenced on December 1, 2002 at the annual rates shown on the above schedule, and are payable on June 1 and December 1 of each year until the bonds are repaid. The following is a schedule of contract assistance payments made by the Commonwealth for each year since the bonds were first issued.

<u>Year</u>	<u>Date</u>	<u>Interest Payments</u>	<u>Debt Repayments</u>	<u>Total</u>
2000	12/00	\$1,656,227.89	-0-	\$ 1,656,227.89
2001	06/01	\$1,961,322.50	\$1,305,000	\$ 3,266,322.50
2001	12/01	\$1,928,697.50	-0-	\$ 1,928,697.50
2002	06/02	\$1,928,697.50	\$1,480,000	\$ 3,408,697.50
2002	12/02	\$1,894,657.50	-0-	\$ 1,894,657.50
2003	06/03	\$1,894,657.50	\$1,550,000	\$ 3,444,657.50
2003	12/03	\$1,858,813.75	-0-	\$ 1,858,813.75
2004	06/04	\$1,858,813.75	\$1,620,000	\$ 3,478,813.75
2004	12/04	\$1,820,743.75	-0-	\$ 1,820,743.75
2005	06/05	\$1,820,743.75	\$1,695,000	\$ 3,515,743.75
2005	12/05	\$1,780,487.50	-0-	\$ 1,780,487.50
2006	06/06	\$1,780,487.50	\$1,775,000	\$ 3,555,487.50
2006	12/06	<u>\$1,738,331.25</u>	<u>-0-</u>	<u>\$ 1,738,331.25</u>
<u>Total as of 12/06</u>		<u>\$23,922,681.64</u>	<u>\$9,425,000</u>	<u>\$33,347,681.64</u>

The remaining payments for the bonds outstanding as of December 1, 2006 are as follows:

<u>Year</u>	<u>Date</u>	<u>Interest Payments</u>	<u>Debt Repayment</u>	<u>Total</u>
2007	06/07	\$1,738,331.75	\$1,860,000	\$3,598,331.75
2007	12/07	\$1,692,993.75	-0-	\$1,692,993.75
2008	06/08	\$1,692,993.75	\$1,950,000	\$3,642,993.75
2008	12/08	\$1,645,218.75	-0-	\$1,645,218.75
2009	06/09	\$1,645,218.75	\$2,050,000	\$3,695,218.75
2009	12/09	\$1,593,968.75	-0-	\$1,593,968.75
2010	06/10	\$1,593,968.75	\$2,150,000	\$3,743,968.75
2010	12/10	\$1,534,106.25	-0-	\$1,534,106.25
2011	06/11	\$1,534,106.25	\$2,270,000	\$3,804,106.25
2011	12/11	\$1,468,843.75	-0-	\$1,468,843.75
2012	06/12	\$1,468,843.75	\$2,400,000	\$3,868,843.75
2012	12/12	\$1,402,843.75	-0-	\$1,402,843.75
2013	06/13	\$1,402,843.75	\$2,535,000	\$3,937,843.75
2013	12/13	\$1,326,793.75	-0-	\$1,326,793.75
2014	06/14	\$1,326,793.75	\$2,685,000	\$4,011,793.75
2014	12/14	\$1,246,243.75	-0-	\$1,246,243.75

2015	06/15	\$ 1,246,243.75	\$ 2,845,000	\$ 4,091,243.75
2015	12/15	\$ 1,160,893.75	-0-	\$ 1,160,893.75
2016	06/16	\$ 1,160,893.75	\$ 3,015,000	\$ 4,175,893.75
2016	12/16	\$ 1,070,443.75	-0-	\$ 1,070,443.75
2017	06/17	\$ 1,070,443.75	\$ 3,195,000	\$ 4,265,443.75
2017	12/17	\$ 974,593.75	-0-	\$ 974,593.75
2018	06/18	\$ 974,593.75	\$ 3,390,000	\$ 4,364,593.75
2018	12/18	\$ 872,893.75	-0-	\$ 872,893.75
2019	06/19	\$ 872,893.75	\$ 3,590,000	\$ 4,462,893.75
2019	12/19	\$ 765,193.75	-0-	\$ 765,193.75
2020	06/20	\$ 765,193.75	\$ 3,805,000	\$ 4,570,193.75
2020	12/20	\$ 651,043.75	-0-	\$ 651,043.75
2021	06/21	\$ 651,043.75	\$ 4,035,000	\$ 4,686,043.75
2021	12/21	\$ 535,037.50	-0-	\$ 535,037.50
2022	06/22	\$ 535,037.50	\$ 4,270,000	\$ 4,805,037.50
2022	12/22	\$ 412,275.00	-0-	\$ 412,275.00
2023	06/23	\$ 412,275.00	\$ 4,515,000	\$ 4,927,275.00
2023	12/23	\$ 282,468.75	-0-	\$ 282,468.75
2024	06/24	\$ 282,468.75	\$ 4,775,000	\$ 5,057,468.75
2024	12/24	\$ 145,187.50	-0-	\$ 145,187.50
2025	06/25	\$ 145,187.50	\$ 5,050,000	\$ 5,195,187.50
Total Expected Future Payments		<u>\$39,300,419.25</u>	<u>\$60,385,000</u>	<u>\$99,685,419.25</u>
Combined Expenses, Including Interest Payments and Debt Repayments, Are Estimated to Be:		<u>\$63,223,100.89</u>	<u>\$69,810,000</u>	<u>\$133,033,100.89</u>

Offsetting Revenues

In addition to the payment schedule highlighted above, the Act also provided a mechanism for the Commonwealth of Massachusetts to recoup a portion of the expenses that it incurred as a result of the infrastructure improvements that were made to accommodate the new stadium. Section 7(b)(2) of the Act contains a provision that requires payments by various parties to the Commonwealth in the form of administrative fees. Such fees are to be levied by the towns of Sharon, Walpole, Wrentham and Foxborough³, and are to be charged to all parking spaces licensed by these towns. The Executive Office for Administration and Finance (EOAF) determines annually an amount sufficient to collect an aggregate amount of \$750,000 for parking spaces within the economic development area and an aggregate amount of \$400,000 for parking spaces outside the economic development area. Section 7(b)(3) of the Act further provides that the stadium lessee will be

³ Pursuant to Chapter 72 of the Acts of 2000, the Town of Foxborough replaced the Foxborough Industrial Development Financing Authority as the obligor to make payments for the administrative fees required under Section 7(b)(2) of the Act. In addition, although identified in Chapter 16 of the Acts of 1999, the towns of Sharon and Wrentham currently do not have stadium parking spaces, on which the fees are levied.

required to pay to the Commonwealth an additional administrative fee of \$250,000 annually. The total annual administrative fees contemplated by the Massachusetts General Court to be collected by the Commonwealth under Section 7 of the Act are \$1,400,000, which over the 25-year term that the bonds are outstanding would equal \$35 million, or approximately 50% of the interest payments that the Commonwealth is expected to pay as a result of this bond offering.

Administrative Fees Collected

Payment information provided to the OSA by EOAF reflects that the Commonwealth has received the following administrative fees for parking spaces:

<u>Fiscal Year</u>	<u>Receipts</u>	<u>Source</u>
2003	\$750,000.00	Stadium Lessee
"	399,999.66	Town of Foxborough
"	<u>8,750.00</u>	Town of Walpole
Total for FY 2003	\$ 1,158,749.66	
2004	\$750,000.00	Stadium Lessee
"	400,038.60	Town of Foxborough
"	<u>13,850.00</u>	Town of Walpole
Total for FY 2004	\$1,163,888.60	
2005	\$750,000.00	Stadium Lessee
"	399,460.79	Town of Foxborough
"	<u>11,090.00</u>	Town of Walpole
Total for FY 2005	\$1,160,550.79	
2006	\$750,000.00	Stadium Lessee
"	400,013.08	Town of Foxborough
"	<u>10,550.00</u>	Town of Walpole
Total for FY 2006	\$1,160,563.08	

As shown above, the total aggregate administrative fees collected by the Commonwealth pursuant to Section 7(b)(2) equal \$4,643,752.13 through December 1, 2006, and are projected to be \$28,750,000 over the life of the bonds.

As indicated above, Section 7(b)(3) of the Act requires the stadium lessee to make an additional payment to the Commonwealth of \$250,000 annually, commencing December 2001, for as long as the bonds are outstanding. According to records of the Massachusetts Department of Revenue (DOR), the stadium lessee is current with these payments. Total payments received through December 2006 by DOR from the stadium lessee amount to \$1,500,000, and are projected to total \$6,250,000 over the life of the bonds.

Conclusion

Over the full length of the bonds, the total payments made by the Commonwealth to finance the infrastructure improvements made to support the new stadium will approximate \$133 million, of which \$62 million will be used to defray the interest expenses associated with the \$69,810,000 bond offering. To offset some of these expenses, the Commonwealth expects to recoup, in the form of administrative fees, approximately \$35 million from several parties that will benefit from the new stadium - namely the New England Patriots and the Town of Foxborough. Based upon the information provided to the OSA during the course of this review, all payments for administrative fees under Section 7 of the Act have been made in compliance with the provisions of this Act, and the parties are current with their respective obligations.