



# The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF THE  
UNIVERSITY OF MASSACHUSETTS BUILDING  
AUTHORITY  
JULY 1, 2007 TO JUNE 30, 2008

OFFICIAL AUDIT  
REPORT  
JANUARY 27, 2009

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The University of Massachusetts Building Authority was created by Chapter 773 of the Acts of 1960. The Authority is authorized by statute to finance and oversee the design and construction of dormitories, dining facilities, and certain other buildings within the university system.

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a review to analyze the Authority's financial and program activities for the period July 1, 2007 to June 30, 2008 to determine if they are operating efficiently and effectively and in compliance with applicable laws, rules, and regulations. The audit included a review of: 1) administrative expenses, 2) contract administration and project oversight, 3) revenue management, 4) debt service, and 5) the Authority's most recent Independent Public Accountant's report. We also determined whether appropriate corrective action had been taken regarding the issue disclosed in our prior audit report.

Based on our review, we have concluded that, except for the issue discussed in the Audit Results section of this report, during the 12-month period ended June 30, 2008, the Authority maintained adequate controls and complied with applicable laws, rules, and regulations for the areas tested.

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#### **PRIOR AUDIT RESULTS PARTIALLY RESOLVED - NONCOMPETITIVE BIDDING AND AWARDING OF CONTRACTS FOR FINANCIAL AND LEGAL SERVICES**

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Our prior audit report noted that the Authority obtained its financial and legal services without using a competitive procurement process and that no written contracts had been executed with the firms providing these services. As a result, there was inadequate assurance that the highest quality professional services were obtained at the lowest possible price and limited assurance that the services delivered were those the Authority procured and paid for. We recommended that the Authority adopt and implement written competitive bidding policies and procedures for the selection of all professional services and execute written contracts for these services.

Our follow-up review found that the Authority competitively solicited most professional services, which totaled over \$2.4 million in fiscal year 2008, but did not develop written policies regarding obtaining and contracting for these services. We also noted that the Authority generally did not execute written contracts for these professional services.

## INTRODUCTION

### *Background*

The University of Massachusetts Building Authority (UMBA) was created by Chapter 773 of the Acts of 1960. The Authority was created to provide dormitories, dining commons, and other buildings and structures for use of the University of Massachusetts, its students, staff and their dependents, and other entities associated with the university as specified in its enabling legislation, as well as entities whose activities are approved by the trustees of the university as furthering the purposes of the university.

In addition to financing projects, the main functions and responsibilities of the Authority are the planning and construction of projects it is asked to undertake by the University Trustees; the setting and collecting of rates, rents, fees, and other charges with respect to its projects; debt service administration; maintenance and operation of its projects as provided for in the enabling legislation; its trust agreements with private banks that act as the “bond trustee;” and its contracts for financial assistance, management, and services with the Commonwealth, acting by and through the trustees of the university.

The contracts generally provide that, once the projects are constructed and made available for use by the university, the trustees will furnish personnel, facilities, supplies, and materials to perform for the Authority all services relating to the projects, including renting and leasing of all accommodations; preparing and serving food and beverages; purchasing and maintaining all necessary dining commons' supplies and equipment; billing and collecting rents, fees, rates, and other charges in the amount determined by the Authority and approved by the trustees of the university; furnishing utilities to the projects; operating, cleaning, and maintaining the projects; and accounting for the services provided by the university.

The contracts also require the trustees of the university to bill and collect all revenue derived from the projects of the Authority, and to remit such funds to the Bond Trustee for the account of the Authority, on the dates and in the amounts specified in instructions given by the Authority. Such funds may be applied as provided for in the enabling legislation, and in the applicable bond resolution, trust agreement, and contract.

The Authority is subject to public bidding laws with respect to construction activities and the purchase of goods and services, with the exception of professional services. The Authority is able to undertake a project only upon a request made by the trustees of the university and upon written approval from the commissioner of administration.

The Authority has four employees: an Executive Director, Assistant Director and Chief Financial Officer, Director of Capital Planning, and an Office administrator. Their activities include, but are not limited to, overseeing the planning of all Authority projects; engaging and supervising all Authority designers, contractors, and other vendors and consultants; managing all contracts entered into by the Authority; and performing the other responsibilities relative to the day-to-day administrative activities of the Authority.

***Audit Scope, Objectives, and Methodology***

Our audit, which covered the period July 1, 2007 to June 30, 2008, was conducted in accordance with applicable generally accepted government auditing standards for performance audits, as issued by the Comptroller General of the United States, and included procedures and tests that we considered necessary to meet those standards. The objectives of our audit were to analyze UMBA's financial and program activities for the period July 1, 2007 to June 30, 2008 and to determine if they were operating efficiently and effectively and in compliance with applicable laws, rules, and regulations. The audit included a review of: 1) administrative expenses, 2) contract administration and project oversight, 3) revenue management, 4) debt service, and 5) the Authority's most recent Independent Public Accountant's report to determine whether the report identified any issues requiring further review. We also determined whether appropriate corrective action had been taken regarding the issue disclosed in our prior audit report.

To achieve our objectives, we reviewed (1) the Authority's enabling legislation, Chapter 773 of the Acts of 1960 and applicable Massachusetts General Laws; (2) accounting records, financial statements, and the report of a private accounting firm; (3) procurement documents; (4) construction pay estimates and invoices; (5) university revenue and assessment data; (6) minutes of Board of Trustees meetings; and (7) bond documents and trust agreements. Based on our review, we have concluded that, except for the issue discussed in the Audit Results section of this report, during the 12-month period ended June 30, 2008, the Authority maintained adequate controls and complied with applicable laws, rules, and regulations for the areas tested.

## AUDIT RESULTS

### PRIOR AUDIT RESULTS PARTIALLY RESOLVED - NONCOMPETITIVE BIDDING AND AWARDING OF CONTRACTS FOR FINANCIAL AND LEGAL SERVICES

Our prior audit report noted that the Authority obtained its financial and legal services without using a competitive procurement process and that no written contracts had been executed with the firms providing these services. As a result, there was inadequate assurance that the highest quality professional services were obtained at the lowest possible price and limited assurance that the services delivered were those the Authority procured and paid for. We recommended that the Authority adopt and implement written competitive bidding policies and procedures for the selection of all professional and service purchases. In addition, we recommended that the Authority utilize written contracts for professional services.

Our follow-up review found that, although the Authority had not developed written procurement and contracting policies for obtaining and administering professional services, the Authority did actually competitively solicit (generally through requests for proposals) most professional services and did execute written contracts in some instances. The following table summarizes the implementation of competitive solicitation and utilization of written contracts:

<u>Service Provider</u>	<u>Competitive Bidding</u>	<u>Written Contract</u>	<u>Amount</u>
Bond Counsel	Yes	No	\$ 420,000
Bond Underwriter	Yes	No	1,234,053
Financial Advisor	Yes	No	85,000
Independent Public Accountant	Yes	Yes	76,132
Legal (General Counsel)	No	No	574,852
Insurance Advisor	Yes	Yes	48,000

The Authority informed us that it utilized requests for proposals in response to our prior audit recommendation and to test the market for pricing, value, and availability of services. However, the Authority feels that because it is under no statutory requirement to utilize competitive solicitations or written contracts for professional services, it would like to maintain some flexibility in this area. The Authority further stated that the terms of its requests for proposals, along with subsequent discussions and negotiations, give both parties a common understanding

of the services to be delivered and the payment terms without executing a formal written contract.

***Recommendation***

We acknowledge that the Authority has made progress in procurement and contracting for its professional services; however, we believe that the development of written policies and procedures in these areas would further ensure that the Authority obtains the best value and that the services delivered are those that the Authority requested. The policy could list circumstances and documentation standards for exceptions to the general principles of competitive procurements and written contracts.

***Auditee's Response***

*As was agreed during the review and as stated in the report the Authority is under no legal obligation to use competitive procurement for its consulting relationships. We do believe, however, that the process is "best practices" and, as your report noted, we have used a competitive process over the past several years to obtain most of our professional services. We will discuss with the Members of the Authority whether the current policy of procurement needs to be improved at our next meeting.*