



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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NO. 2004-0587-130

**INDEPENDENT STATE AUDITOR'S
DETERMINATION ON THE
WOOD'S HOLE, MARTHA'S VINEYARD AND
NANTUCKET STEAMSHIP AUTHORITY'S
PROPOSAL TO PRIVATIZE SEASONAL
PASSENGER SERVICE FROM NEW BEDFORD TO
MARTHA'S VINEYARD**

**OFFICIAL AUDIT
REPORT
APRIL 29, 2004**

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INTRODUCTION

Background

Chapter 296 of the Acts of 1993, as amended, 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 \$200,000 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 Chapter 7, Section 54, of the Massachusetts General Laws 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 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 service, 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.

The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (Steamship Authority) is a public authority created to provide adequate transportation of persons and necessities of life for the islands of Nantucket and Martha's Vineyard. The Steamship Authority is proposing the privatization of the traditional passenger ferry service that the Steamship Authority has provided over the past three years during the summer season between the City of New Bedford and Martha's Vineyard. As a result of the privatization process, a private operator submitted a bid to operate the service at a cost below the operating losses the Steamship Authority experienced on this route. The

Steamship Authority estimated the cost savings to be approximately \$1,900,000 over the next two years and indicated that the proposed privatization would:

- Provide travelers to and from Martha's Vineyard with reliable, safe, and more convenient travel options, ensuring that the seasonal traditional ferry service to Martha's Vineyard from New Bedford will continue for at least the next two years;
- Economically protect the Steamship Authority's core lifeline service between Woods Hole and Martha's Vineyard, as the Steamship Authority will be relieved of providing this seasonal service from New Bedford on which it has incurred an aggregate financial loss of \$2,334,000 over the past three years;
- Strengthen the economic ties between the New Bedford and Martha's Vineyard communities;
- Reduce traffic on Cape Cod and, in particular, in the village of Woods Hole; and
- Increase state tax revenue.

On February 5, 2004 the Steamship Authority notified the State Auditor of its intent to award a privatization contract for this activity. As required by law, the notification was accompanied by a certification signed by the Chief Executive Officer of the Steamship Authority and the Secretary of the Executive Office for Administration and Finance, and by documentation subject to review and determination by the State Auditor in accordance with state law and applicable guidelines issued by the State Auditor.

On March 18, 2004 the State Auditor's Office issued a Letter Report to the Steamship Authority stating, in part:

Pursuant to Chapter 7, s. 55 of the Massachusetts General Laws, the Office of the State Auditor hereby notifies the Steamship Authority of its objection to the Authority's plan to privatize the "traditional seasonal passenger ferry service between New Bedford and Martha's Vineyard." This decision is based on our finding that the Authority's proposal has failed to meet the requirements of subsection 7(i) of section 54.

Specifically, the State Auditor's Office concluded that the procurement process followed by the Steamship Authority was flawed and created an unlevel playing field between the winning bidder and other potential bidders. Details to the objection are included in Exhibit E of this report.

On April 9, 2004 the Steamship Authority provided the State Auditor with a Supplemental Submission, which included the completed rebidding process.

Audit Scope, Objectives, and Methodology

The objectives of this review were to determine whether the Steamship Authority complied with Chapter 296 of the Acts of 1993, as amended, the privatization law, including the quality and compliance requirements of the law, and whether the cost of performing the passenger ferry service between the City of New Bedford and Martha's Vineyard by contract would be less than the estimated cost for performing these services in-house with Steamship Authority employees.

To meet these objectives, we examined the written statement of services for these property management functions, the management studies of the present in-house functions, the Request for Proposals (RFP), the summary of bids received, the successful proposal, and the proposed privatization contract. We also examined the cost forms and supporting documentation submitted by the Steamship Authority and compared the estimated cost of contract performance with the estimated cost to perform the services in-house with Steamship Authority employees. We traced and verified all of the cost elements listed in the cost forms to the supporting documentation. We also interviewed Steamship Authority management officials and toured the facilities where the passenger ferry services are presently performed.

DETERMINATION

Based on our review, we have concluded that the Steamship Authority has complied with Chapter 296 of the Acts of 1993, as amended, in reaching its decision to award a privatization contract to provide a passenger ferry service between New Bedford and Martha's Vineyard, a service that has been performed in-house with Steamship Authority employees.

The Steamship Authority has certified and demonstrated that the quality of services to be provided by the contractor is at least equal to or greater than that which has been provided by the Steamship Authority employees, that the designated contractor has no adjudicated record of noncompliance with relevant statutes, and that the cost of having the work performed under contract will be less than the estimated cost of having the work performed in-house with Steamship Authority employees. We therefore approve the Steamship Authority's certification in each of those required areas.

EXHIBIT A

*Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
Privatization of Ferry Service from New Bedford to Martha's Vineyard
Cost Comparison
Two-Year Period Ending December 31, 2005*

In-House Cost Estimate (Exhibit B)	\$ 1,607,115
Contract Performance Costs (Exhibit C)	<u>450,450</u>
Estimated Cost Savings over Two Years	<u>\$ 1,156,665</u>
Estimated Annual Savings	<u>\$ 578,333</u>

EXHIBIT B

Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
Privatization of Ferry Service from New Bedford to Martha's Vineyard
In-House Cost Estimate
Two-Year Period Ending December 31, 2005

	<u>Cost</u>	<u>Adjustments</u>	<u>Estimate</u>
Personnel Costs	\$ 1,410,532	-	\$ 1,410,532
Materials and Supplies Costs	222,546	-	222,546
Other Direct Costs:			
Rent	50,000	-	50,000
Depreciation	186,600	-	186,600
Maintenance	1,023,000	-	1,023,000
Utilities	43,600	-	43,600
Insurance	138,716	-	138,716
Other Costs	323,557	-	323,557
Contingency*	35,004	-	35,004
Indirect Costs:			
Departmental	-	-	-
Executive Office	-	-	-
Central Services	-	-	-
	<u>\$ 3,433,555</u>	<u>-</u>	<u>\$ 3,433,555</u>
 Total In-House Costs	 \$ 3,433,555	 -	 \$ 3,433,555
Less: Est. Operating Revenues	<u>(1,527,124)</u>	¹ <u>\$ (299,316)</u>	<u>(1,826,440)</u>
Net In-House Costs	<u>\$ 1,906,431</u>	<u>\$ (299,316)</u>	<u>\$ 1,607,115</u>

* The union representing the Authority's unlicensed vessel employees has filed charges with the Massachusetts Labor Relations Commission alleging that the Authority engaged in a prohibited practice by not maintaining the same crew complement for the M/V Schamonchi in 2003 with which it manned the vessel in 2002.

Footnotes, See Exhibit D

EXHIBIT C

Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
Privatization of Ferry Service from New Bedford to Martha's Vineyard
Contract Performance Costs
Two-Year Period Ending December 31, 2005

	Per <u>SSA</u>	Audit <u>Adjustments</u>	Adjusted Contract Performance <u>Costs</u>
Contract Price	\$ 478,000	-	\$ 478,000
Contract Administration	-	-	-
Transition Costs:			
Other Transition Costs	-	-	-
(Gain)/Loss on Disposal of Assets	(510,000) ²	702,934 ²	192,934
(Gain)/Loss on Other Revenue (Parking)	<u>(220,484)</u>	<u>-</u>	<u>(220,484)</u>
Total Contract Costs	<u>\$ (252,484)</u>	<u>\$ 702,934</u>	<u>\$ 450,450</u>

Footnotes, See Exhibit D

EXHIBIT D

*Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
Privatization of Ferry Service from New Bedford to Martha's Vineyard
Notes for In-House Cost Estimate and Contract Performance Costs
Two-Year Period Ending December 31, 2005*

NOTES:

- (1) The Auditor increased the in-house revenues to reflect the increases in fares that the Steamship Authority is granting the contractor as documented in Submission documents Tab 4, Appendix E.

If the contractor will have the ability to generate additional revenue from a proposed fare increase, the same fare increase must be factored into the in-house cost estimate.

- (2) The Steamship Authority indicated that the Schamonchi has an appraisal value of \$860,000 and estimated that it can be sold for between \$500,000 to \$700,000. In determining the gain or loss on the disposal of the ship, we used the conservative amount of \$500,000 as the resale value of the ship. The additional \$10,000 comprises the resale value of various equipment no longer needed with the privatization of the ferry service.

The \$702,934 represents the book value of the ship as of November 2003. For the fiscal year ended December 31, 2003, the Steamship Authority officially adopted Governmental Accounting Standards Board (GASB) 34, which incorporates Generally Accepted Accounting Procedures (GAAP) as the standard for maintaining records and presenting financial statements. Therefore, the Steamship Authority, to be consistent with its financial statement presentation, must consider the book value (the actual cost less depreciation) of the ship at the time of the sale in order to determine the actual gain or loss on the disposal of this asset.

EXHIBIT E***March 18, 2004 State Auditor's "Letter of Objection"***

March 18, 2004

Fred C. Raskin, Chief Executive Officer
The Steamship Authority
P.O. Box 284
Woods Hole, MA 02543

Dear Mr. Raskin:

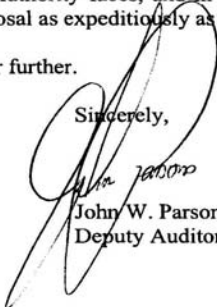
Pursuant to Chapter 7, s. 55 of the Massachusetts General Laws, the Office of the State Auditor hereby notifies the Steamship Authority of its objection to the Authority's plan to privatize the "traditional seasonal passenger ferry service between New Bedford and Martha's Vineyard." This decision is based on our finding that the Authority's proposal has failed to meet the requirements of subsection 7(i) of section 54.

Specifically, this office has concluded that the procurement process followed by the Authority was flawed and created an unlevel playing field between the winning bidder, New Bedford Traditional Ferry Company ("NBTF") and other potential bidders who declined to submit a bid. This decision is reached after our review and discussions with the Office of the Inspector General, the Commonwealth's primary regulatory authority in the area of procurement. They have concluded, like us, that the Authority's failure to reveal to all potential bidders certain provisions of a licensing agreement between the Authority and New England Fast Ferry ("NEFF") denied significant procurement information to all potential bidders except one, NBTF, an affiliate of NEFF. This information, that the Authority was prepared to subsidize the traditional ferry service up to \$250,000 a year over a two-year period was, in our opinion, essential information that should have been revealed publicly in the Authority's request for proposals. While we agree that the Authority did reveal certain information relative to the fact that they had lost significant money in the prior years operating the service themselves, at no point was an actual subsidy amount ever disclosed or even discussed. Our objection is not to the issue of the subsidy, nor to the Authority's attempt to encourage NEFF to submit a bid for the traditional ferry service, but specifically to the fact that this information was not provided to all potential bidders.

This office is acutely aware of the timeframe that the Authority faces, and in the event of a rebid and resubmission, will make every effort to evaluate the proposal as expeditiously as possible.

Please contact this office if you wish to discuss the matter further.

Sincerely,



John W. Parsons, Esq.
Deputy Auditor