

LBA Financial Audit Report Summary:

Port Authority, July 14, 2000

Organization

The New Hampshire State Port Authority, an agency of the State of New Hampshire, was established by RSA 271-A:1 to consist of and be governed by a board of eight members. The Governor and Council also appoint a director of the Port Authority who holds office for a five-year term. The director serves as the chief administrative officer of the Port Authority and performs such duties as the Authority may require. The Port Authority is authorized and empowered to appoint and compensate a chief harbor master and harbor masters at Hampton, Rye, New Castle, Portsmouth, Seabrook, and Newington who enforce the directives of the Port Authority, such as the placement of moorings, the assignment of anchorage areas, and the movement of traffic. The Port Authority may appoint assistant harbor masters.

Responsibilities

The Port Authority is charged, along with the Department of Resources and Economic Development, with the responsibility to:

1. Plan for the maintenance and development of the ports, harbors, and navigable tidal rivers of the state to foster and stimulate commerce and the shipment of freight;
2. Aid in the development of salt water fisheries and associated industries;
3. Cooperate with any federal agencies or departments in planning the maintenance, development, and use of the state ports, harbors, and navigable tidal rivers; and
4. Plan, develop, maintain, use, and operate land transportation facilities within a 15 mile radius of the Port Authority headquarters in Portsmouth.

The Port Authority is authorized to contract with and secure the services of a port terminal operating firm, subject to the review and approval of Governor and Council; setting and collecting fees for mooring and slip permits and waiting lists for such permits; and installing and continually maintaining a uniform system for marking the intercoastal waters of the state including the ports, harbors, and navigable tidal rivers not presently marked by the U.S. Coast Guard. The Port Authority became responsible for non-recreational activities at the State-owned commercial fishing piers in Portsmouth, Rye Harbor, and Hampton Harbor by Chapter 55:6 of the Laws of 2000, effective June 16, 2000.

The Port Authority is also authorized to make application to the U.S. Secretary of Commerce for the purpose of establishing, operating, and maintaining foreign-trade zones in the state.

Funding

The Port Authority is funded by appropriations in the General, Special, and Capital Projects Funds. The fiscal year 2000 appropriations combined with supplemental warrants, balances forward, and transfers resulted in spending authority of \$608,692, \$299,141, and \$14,855,869 in the General, Special, and Capital Projects Funds, respectively, at March 31, 2000. Estimated unrestricted and restricted revenues combined with supplemental warrants and balances forward resulted in anticipated fiscal year 2000 revenues of \$578,015, \$164,780, and \$2,181,115 in the General, Special, and Capital Projects Funds, respectively, at March 31, 2000. The following table summarizes the financial activity of the Port Authority, as reported by the Port Authority in the General, Special, and Capital Projects Funds for the nine months ended March 31, 2000.

Summary Of Revenues And Expenditures Nine Months Ended March 31, 2000

	General Fund	Special Fund	Capital Projects Fund	Total
Unrestricted Revenues	\$ 240,001	\$ -0-	\$ -0-	\$ 240,001
Restricted Revenues	<u>107,803</u>	<u>27,347</u>	<u>2,121,020</u>	<u>2,256,170</u>
Total Revenues	<u>\$ 347,804</u>	<u>\$ 27,347</u>	<u>\$ 2,121,020</u>	<u>\$ 2,496,171</u>
Expenditures	<u>\$ 348,447</u>	<u>\$ 1,229</u>	<u>\$ 92,066</u>	<u>\$ 441,742</u>
Other Financing Sources	\$ -0-	\$ 132,708	\$ -0-	\$ 132,708
Other Financing Uses	<u>\$ -0-</u>	<u>\$ 214,500</u>	<u>\$ -0-</u>	<u>\$ 214,500</u>
Excess (Deficiency) Of Revenues And Other Financing Sources Over (Under) Expenditures And Other Financing Uses	<u>\$ (643)</u>	<u>\$ (55,674)</u>	<u>\$ 2,028,954</u>	<u>\$ 1,972,637</u>

The Port Authority also operates a Marketing Fund, an "off-State-books" trust fund, to promote activities at the Port's terminal. Through provisions in the Port Authority's contract with the port terminal operator (contract effective through July 2000), the port terminal operator provides a \$50,000 annual payment to the Marketing Fund.

A Port Authority Maintenance Fund, effective January 2000, also an "off-State-books" trust fund, is funded by a \$5,000 annual payment from a lessee of Port property. The Maintenance Fund is intended to be used to provide maintenance of the Port Authority facilities utilized by the lessee, which operates a transportation and sightseeing steamship company.

RSA 271-A:21, effective July 1, 1999, established a Dredging Projects Fund (revised to Harbor Dredging and Pier Maintenance Fund, effective June 16, 2000). During the nine months ended March 31, 2000, there was no activity in this fund.

Due to circumstances that became apparent early in audit fieldwork, as described in the constructive service comments in the report, we determined that it was appropriate for our Office to withdraw from the audit of the financial statements and to bring a report of our findings to the Committee. This unprecedented course of action was taken as a result of our consideration of

auditing standards and also in order to not further delay any appropriate action that may be undertaken to address what we considered to be serious problems in the Port Authority's operations. Our concern about the propriety of Port Authority activities noted during audit fieldwork caused us to meet with the New Hampshire Department of Justice in February and again in July 2000 for both consultation purposes and to advise the Department of Justice of our concerns for possible fraudulent activity occurring at the Port Authority.

CONSTRUCTIVE SERVICE COMMENTS

Internal Control Comments

- Lack Of Oversight By The Port Authority Board Has Allowed An Environment Conducive To Potential Abuse and Mismanagement
- Inadequate Segregation Of Duties Over The Processing Of Expenditures In The Port Authority Office And Lack Of Alternative/Mitigating Procedures
- The Port Authority Has Made Numerous Payments For Personal Items And Other Expenditures That Do Not Appear To Have Furthered State And Port Operations
- The Port Authority Has Failed To Maintain Adequate Accounting Records For Its Marketing Trust Fund
- The Port Authority Has Not Established Adequate Segregation Of Duties Over The Processing Of Expenditures From The Port Authority's Marketing Trust Fund
- The Port Authority Has Not Monitored And Enforced Its Contract Agreements With Regards To Revenues Paid To The Port
- The Port Authority Has Allowed Inappropriate Unrecorded Transactions To Occur
- The Port Authority Has Not Established Effective Controls Over Its Revenue Collection
- The Port Authority Has Not Implemented State-Established And Appropriate Policies And Procedures To Safeguard State Equipment Assets
- The Port Authority Has Not Adequately Documented Payroll Expenditures For Part-Time Employees And Overtime Expenditures For Full-Time Employees
- The Port Authority Apparently Took Steps To Circumvent State Purchasing Rules In Order To Make Purchases Outside Of The State's Purchasing Control System
- The Port Authority Has Not Adequately Controlled The RLF Loan Program Bank Account

State Compliance Comments

- The Port Authority's Revolving Loan Fund Board Has Not Been Properly Established Or Created
- The Port Authority Has Not Submitted Required Annual Trust Fund Financial Statements
- The Port Authority Did Not Submit Its Purchase Of A Computer Database Program To DITM For Its Review

- The Port Authority Has Not Requested Governor And Council Approval To Accept The Gift Of A Boat
- The Port Authority Has Not Filed Capital Budget Status Reports
- The Port Authority Has Not Consistently Filed Annual Dredging Projects Status Reports

Federal Compliance Comments

- The Port Authority Has Issued RLF Loans To RLF Board Members And Other Related Parties
- The Port Authority Drew Federal Grant Funds Early
- The Port Authority Does Not Document That The RLF Program Does Not Substitute For Private Sector Financing
- The Port Authority Does Not Monitor RLF Borrower Compliance With The Davis-Bacon Act
- The Port Authority Has Not Been Consistent In Accurately And Completely Reporting EDA Program Activity
- The Port Authority Has Not Been Consistent In Accurately And Completely Reporting EDA Program Activity
- The Port Authority Does Not Review RLF Program Borrowers For Suspension Or Debarment Status

Management Issues Comments

- The Port Authority Does Not Have A Plan In Place For The Operation Of The Port Terminal After The Expiration Of The Current Contract
- The Port Authority Does Not Have Clear Authority To Establish Rules Necessary For The Operation Of The State's Commercial Piers

Comments For Other Agencies – Department Of Administrative Services

- The Department Of Administrative Services' Oversight Of Port Authority Operations Should Be Improved
- Formal Fraud Deterrence And Detection Program Should Be Established
- Formal Fraud Reporting Policy Should Be Established