

OVERVIEW

Audit of the Convention Center Authority

Report No. 00-08, February 2000

Summary

Act 98, SLH 1999, directed the State Auditor to audit and monitor the progress made by the Convention Center Authority in resolving various outstanding issues and problems. This was to assure the Legislature that these issues will be addressed on or before June 30, 2000—the current sunset date of the authority. This is our third report of the authority since September 1998.

We found that the authority's management controls are generally in place but need to be tightened in two important areas. The authority needs to establish a more rigorous and objective evaluation mechanism to ensure that SMG, the convention center operator, has satisfactorily met the terms and conditions of its contract. The authority needs to give SMG clear objectives, monitor the accomplishment of those objectives, and rigorously evaluate the provider's performance, using a defensible evaluation standard. An evaluation of SMG's performance should measure the extent to which the services provided by SMG fulfill the authority's objectives.

Secondly, the authority needs to establish procedures to ensure that it is in full compliance with the State Procurement Code. We found that two of the six contracts executed by the authority during FY1999-2000 did not adhere to the State Procurement Code. The authority failed in one contract to ensure the equitable treatment of vendors. In another instance the authority exposed the State to unnecessary liability by issuing a contractor a notice to proceed before receipt of a performance bond and before execution of the contract.

Other currently unresolved issues could adversely affect the operations and maintenance of the convention center. The most important issue is the need to retain public oversight. If the authority sunsets without resolution on this issue, the State's interests in a \$200 million facility could be unprotected. In addition, three major punchlist items are still unresolved. Regardless of which agency or jurisdiction assumes oversight responsibilities after June 30, 2000, the public's interest must still be protected and the design/builder must still be held accountable for the conditions of the contract.

We also found two issues outside the control of the authority that place the State at some financial risk. First, the State Procurement Code applies only to state and county agencies and not to contractors reimbursed by the State for their expenses. Such contractors have little incentive to monitor reimbursed expenditures, and there is no apparent incentive for them to obtain the best price when procuring goods and services.

Second, there is a potential risk in a provision established by Act 98, SLH 1999. This act revised Section 206X-10.5, HRS, which governs the Convention Center Capital and Operations Special Fund. It stipulated that "net" rather than "gross" revenues from convention center operations are to be deposited into the special fund.



We believe that the “net revenues” provision creates a potential for SMG or any other center operator to abuse the terms of the contract by concealing the nature and amount of the actual expenditures for any event. State control over contractor expenses is reduced as a result of this provision. Gross revenues rather than net revenues should be deposited into the special fund.

Finally, we found that the authority and SMG have mechanisms in place to receive and respond to the concerns of neighborhood residents and organizations and are monitoring traffic and noise issues.

Recommendations and Response

We recommended that the Convention Center Authority delineate the operator’s specific objectives and responsibilities; define and communicate the level of performance it expects from the operator; and develop and implement an evaluation mechanism that uses clear and consistent measurement criteria. We also recommended that the board of the authority ensure that the authority abides by all aspects of the State Procurement Code. We also recommended that the Legislature determine which agency should assume oversight responsibilities for the convention center. If the Legislature selects an entity other than the Convention Center Authority, an appropriate transition period should be accommodated.

We also recommended that the authority resolve remaining punchlist and warranty items to ensure that all state interests in the convention center are protected and that the design/builder assumes all costs for which it is responsible. If the remaining items are not resolved and the authority sunsets on June 30, 2000, the Legislature should ensure that mechanisms are in place to continue the State’s responsibility to monitor the resolution of the punchlist items.

Finally, the Legislature should consider amending Section 206X-10.5, HRS, by stipulating that gross revenues rather than net revenues be deposited into the Convention Center Capital and Operations Special Fund.

The Convention Center Authority responded that it generally agrees with the report’s findings. The authority reports having already commenced working on the evaluation of SMG to include process and outcome evaluations. The authority also reported that corrective measures to ensure procurement code compliance have already been issued to staff.

The authority also felt that the Legislature should ensure that the authority’s policies, procedures, functions, and safeguards are included should any transfer of oversight responsibilities take place.

An unsolicited response from the director of the Department of Business, Economic Development, and Tourism was received and included in the report as an attachment.

Marion M. Higa
State Auditor
State of Hawaii

Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830