The Honorable Richard J. Codey
Acting Governor of New Jersey

The Honorable Richard J. Codey
President of the Senate

The Honorable Albio Sires
Speaker of the General Assembly

Mr. Albert Porroni
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the South Jersey Port Corporation, for the period of January 1, 2004 to May 31, 2005. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair
State Auditor
October 28, 2005
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South Jersey Port Corporation

**Scope**

We have completed an audit of the South Jersey Port Corporation (SJPC) for the period January 1, 2004 to May 31, 2005. The audit included financial activities accounted for in the SJPC's accounting system. In 2004, the SJPC reported $22 million in revenue and $22.5 million in operating expenses and depreciation. The port also incurred $23.6 million in acquisition and construction of capital asset costs. In addition, the State of New Jersey provided approximately $9 million for bond debt and payments in lieu of taxes to the City of Camden, County of Camden, and City of Salem. The SJPC is an independent public authority whose operations are part of the state's reporting entity and are included in the state's Comprehensive Annual Financial Report.

SJPC was created pursuant to Chapter 60, P.L.1968. The act abolished the South Jersey Port Commission and formed the South Jersey Port Corporation. The goals of the corporation are to promote regional economic development for the benefit of the SJPC district, to develop and support waterborne commerce within the SJPC district, and to assist and support the development of business congruent with import and export services. The corporation is governed by a seven member board who are appointed by the Governor.

**Objectives**

The objectives of our audit were to determine whether financial transactions were related to the SJPC, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.
Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation and policies relating to the SJPC. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We read the budget message, reviewed financial trends, and interviewed SJPC personnel to obtain an understanding of the organization and its internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Transactions were judgmentally selected for testing.

Conclusions

We found that the financial transactions included in our testing were related to the SJPC, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses, matters of compliance with laws and regulations, and an opportunity for cost savings meriting management's attention.
Professional services should be competitively acquired.

Professional Services

In 2004, the SJPC expended approximately $1.1 million on professional services which included $710,000 for engineering services, $211,000 for insurance brokerage fees, $120,000 for marketing services, $59,000 for financial services, and $45,000 for auditing services. Although a formal bidding process for construction projects exists, there are no formal policies and procedures in place for the procurement of professional services. The SJPC does not utilize a Request for Proposal (RFP) in its procurement process for professional services. The RFP is utilized by state agencies for the procurement of goods and services including, although not required, a number of professional service contracts.

The SJPC did prepare a Request for Qualifications (RFQ) which was advertised for three of the seven professional services reviewed. However, in two instances the SJPC only requested a proposal from one respondent to the RFQ. Therefore competition for professional services is limited and the SJPC may not be receiving quality services at the best possible price. Where formal bidding is not conducted through an RFP process, proposals should be received from multiple qualified firms to ensure that price and other factors are considered in negotiating professional service contracts.

Our review also noted that formal contracts which specify the scope of services to be performed, deliverables to be received, and fees to be paid often do not exist with the firms selected to perform professional services. Such details are needed to monitor the contracts and ensure that firms have complied with the terms and conditions of the contract prior to final payment.

In another matter, the SJPC appointed a legal firm as General Counsel on April 30, 2002.
A partner in this firm was also added to the payroll on January 28, 2003. This individual was approved for a salary of $30,000 annually for preparation of counsel reports and attendance at board meetings. In addition, the SJPC pays the employer's share of the pension contribution and social security for the individual. However, health benefits are not paid. No prior counsel has been on the payroll. An associate of this firm is also paid for attendance at the monthly board meetings. The firm bills for other legal matters at an hourly rate for the partner and associate; however, no formal agreement exists detailing the rates. The SJPC paid $176,000 to this legal firm in 2004.

**Recommendation**

We recommend that the SJPC develop and implement policies and procedures for the procurement of professional services to ensure competition and that quality services at the best possible price are received. Formal contracts should be executed that outline specific work to be performed, fees, and contract terms. In addition, all bills submitted to the SJPC should be itemized and reviewed for compliance to contract terms and conditions prior to payment. Furthermore, the board should reconsider the need to retain the General Counsel on the SJPC payroll.

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**Health Benefits**

The SJPC provides eligible employees and their dependents a group health insurance plan with minimal cost to the employee. Benefit claims are processed by a health care administrator.

A comparison of the various state health benefit plans with the plan offered by the SJPC revealed that health care costs could be reduced. In calendar year 2004, the cost of participating in the state's New Jersey Plus health benefit plan
Only eligible employees and their dependents should receive coverage.

Recommendation

Management should adhere to its vacation payment policies.

would have been $359,000 less than the SJPC’s plan. The current contract expires in October 2005 and health plan alternatives should be considered. The board has authorized its insurance broker to research the state plan and determine if it is a viable alternative.

Our review also disclosed that one individual, who did not qualify as a dependent or employee as defined in the SJPC group health plan manual, had been enrolled in the health plan since August 1997. Management indicated they were not aware of adding this individual to the plan and upon notification through this audit they terminated coverage effective May 2005. Costs incurred on behalf of this individual amounted to $2,577 for calendar years 2004 and 2005 through May 2005.

We recommend that the SJPC continue their analysis in considering other health benefit plans in the upcoming contract renewal to reduce costs. The corporation should also periodically review health plan expenditures to ensure that payments relate to eligible SJPC employees and their dependents.

Compensation and Vacation Leave Payments

The SJPC’s Personnel and Administration Regulation 7.6 requires employees to take at least 10 vacation days in the year in which such vacation is earned. Regulation 7.5 provides that the maximum vacation days an employee may carry over into the succeeding year is equal to the number of vacation days the employee earns in the current year. In addition, SJPC allows employees to receive cash payment for unused vacation days. Non-union administrative staff are paid 100 percent of their salary rate for the first five unused vacation days and 66 2/3 percent for any remaining days.
The daily rate used in this compensation is based on the salary in effect July 1st of the year in which such vacation is earned. These policies have been in effect since 1975.

In December 2000, a prior board approved a package to compensate an executive level employee for accumulated vacation time. This package consisted of a payment for 767 unused vacation days dating back to 1975 totaling $260,285. Provisions were not made in the payment package to ensure that ten vacation days per year were used or otherwise not compensable, and that only the first five days per year were compensable at 100 percent of salary. We found proper salary rates were used for each year covered by the payment package; however, 256 non-compensable days were included and another 376 days were compensated at 100 percent of the salary rather than 66 2/3 percent required by policy. As a result, the employee was overcompensated $127,000 based on existing vacation leave policies. We recognize that Personnel and Administration Regulation 1.1 provides the board with the authority to deviate from regulations when “a situation warrants special consideration,” but question whether this transaction was fair to the SJPC workforce and whether it was in the best interest of the state.

Management should reconsider the need for a paid board secretary.

The board appointed a retired employee of the SJPC as Board Secretary at the December 2002 meeting. The board approved an annual salary of $15,000 for the position which includes preparing board agenda information and certifying board minutes. These functions were performed by this individual while employed by the SJPC in prior years. No additional compensation was granted at that time. Our review also noted that board minutes have been prepared by an employee of the SJPC, not the Board Secretary.
Recommendation

We recommend that the SJPC adhere to its policy when paying unused vacation days. We also recommend the SJPC reconsider the need for a paid board secretary.

The SJPC should adhere to its purchasing policies.

Purchasing Policies

Management is responsible for establishing and enforcing internal controls that safeguard assets from loss or unauthorized use. Proper segregation of duties, compliance with established policies, and maintenance of accurate and complete documentation are necessary to assure the proper use of resources. Currently, conditions exist which weaken this assurance and increase the risk that errors or misapplications of funds could occur and not be detected in the normal course of business.

SJPC policy assigns all purchasing functions and responsibilities to the purchasing department, which consists solely of the purchasing agent. However, common practice is to allow another individual outside the purchasing department to process most purchases. This individual can determine need, obtain quotes, select the vendor, and receive the goods. The lack of segregation of duties presents a potential for loss because there is no independent verification that the goods ordered were received prior to payment.

During our review, the SJPC lacked written policies or procedures for petty cash, expense reimbursements, and corporate credit card usage. Guidelines should be established for spending limits, documentation requirements, and allowable items. In 2004, the SJPC expensed $41,000 through corporate credit cards, $7,200 through petty cash, and $4,500 through expense reimbursements. The CEO reviews and approves all reimbursements and payments including his own. The lack of guidance over spending through petty cash, expense reports, and corporate credit cards should be established for some level of accountability and accountability.
cards may result in the inefficient use of SJPC funds.

In 2004, meal and travel expenses totaled $19,500 and $13,000, respectively. Proper support documentation identifying the purpose of meals was not available in most instances. In addition, we found that travel expenses involving overnight stays were not approved in advance. Subsequent to our review, one employee reimbursed the SJPC $1025 for meals.

**Recommendation**

We recommend that the SJPC adhere to its purchasing procedures and segregate the conflicting duties noted above. If technical expertise is needed on certain purchases, individuals in the SJPC can assist the purchasing agent in placing the order. The SJPC should also develop and implement policies and procedures over petty cash, expense reports, and corporate credit card usage. These policies should include allowable expenses, dollar limits, authorization requirements, and proper documentation including identification of attendees and the purpose of meals and travel.

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**Revenue**

During 2004 the SJPC received and serviced over 400 ships and processed over $22 million in revenue transactions. Two executive level employees negotiate contracts and have the authority to issue credits. Vendors seeking redress may be granted credits based upon undisclosed and insufficiently documented negotiations. The SJPC has no policy addressing at what point the board is to be advised of these credits. Furthermore, the billing department is able to credit invoices in dispute prior to the invoices being recorded in the accounting system. Thus, the original receivable amounts may never be recorded in the accounting system. Although
we found that the majority of revenues tested were based on expected collections, policies involving the issuance of vendor credits and posting of receivables to the accounting records need to be prepared.

**Recommendations**

The SJPC should develop policies and procedures to address the issuance of vendor credits and recording of receivables. The reason credits are issued should be thoroughly documented and guidelines should be established as to when the board needs to be notified. Also, vendor invoices should be posted to the accounts receivable ledger before any corrections are made or credits are issued.
October 26, 2005

Mr. James B. Patterson
Assistant State Auditor
New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor
PO Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Patterson:

I am in receipt of the Office of Legislative Services (OLS) audit report of the South Jersey Port Corporation covering the period of January 1, 2004 to May 31, 2005. Please find enclosed the Port Corporation’s written response to this audit.

If I can be of further assistance, please contact my office at 609-989-8500.

Thank you.

Very truly yours,

Jonathan S. Gershen,
SJPC Board of Directors Member
Audit Committee Chairman

encls.
Introduction

The SJPC is replying to findings and recommendations made by the State Auditor. The findings are rather benign, but we think this lengthy reply is needed to describe the disturbing ordeal from which they emerged. State leaders and the public should know the history of this audit. The audit claims to have been conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, but we will demonstrate that it was not.

This audit covers 2004 and part of 2005. For context, 2004 was a record-breaking year for the SJPC. Fueled by dynamic growth in world trade and booming demand for the building materials and steel that come across our berths, net revenues were up by 72 percent over 2003. This year is even better. This record is being achieved despite the collapse of two of the four berths at our Beckett Street Terminal. Beckett Street was built under Franklin Roosevelt. Our other Camden facility, the Broadway Terminal, was built as a shipyard, not a port, in the era of Theodore Roosevelt.

Also, during 2004-2005, the SJPC was building major expansions for its key products, fruit, cement, cocoa, steel, and plywood, installing a port security system, and planning a new port in Paulsboro.

We offer this brief summary so the reader will understand that the SJPC is not an office-bound bureaucracy, but a hard driving, full-time, muscular operation, an important reality which, we felt, escaped the auditors. A ship waiting to be unloaded could cost the line $35,000 per day. To keep its reputation in the shipping world, the SJPC does what it takes to get that ship unloaded on time and, if an oil slick on the river or an ice storm causes a delay, it sends someone to Holland or South America to repair the relationship. The SJPC is highly regarded by the Coast Guard, DEA, and Homeland Security Department for its toughness in controlling violations of immigration, drug smuggling, and homeland security laws.

Our executives are hands-on. When a fire broke out in a plywood warehouse at 2:30 am on Palm Sunday, the CEO arrived on the scene and, given smoke-goggles by the fire department, himself manned the forklift in the dark to clear the rows of heavy pallets of plywood so the firemen could reach the source of the fire.

The auditors observe correctly that the State subsidizes the SJPC’s debt service by millions of dollars a year. But, not knowing ports, they fail to say that the SJPC is the only public port on the Atlantic Coast, and maybe in the whole country, that defrays even part of its capital cost with operating profits. All of our competitors, Pennsylvania, Delaware, Maryland, and Virginia, get their capital funds as grants from the State government.

The State also pays for in lieu of tax payments to our host governments, exactly as provided by the State Legislature when it created the SJPC in 1968.
As a final introductory point, the SJPC is audited each year by independent, external auditors. These audits are always clean, as the State auditor confirms. And, the weaknesses in internal controls observed by the auditors in management letters to the Board have been minor and always corrected promptly.

This State Auditor report is the third version presented to the SJPC.

**The Auditors shared pre-mature conclusions with others before checking their facts.**

The first one, presented in August, was the product of a four-person audit team working since January. It was recalled and rewritten by a second audit team because it was riddled with mistakes and unsupported conclusions. The State Auditor was on the verge of issuing an incompetent report in part because the team adopted an unprofessional relationship with some SJPC staff, in part because it was incompetent and lazy, and in part because it did not follow its own stated procedures.

The entry audit conference with the Audit Committee of the SJPC Board was a sham, delayed until the audit was well underway and, as we shall see, its conclusions were already reached.

The knowledgeable SJPC executive staff were treated as targets and kept from reviewing the findings. So mistakes went uncorrected. The Exit Audit Conference with the SJPC Audit Committee was also sham. The Committee was given only a sketchy summary of only some of the findings and its comments on these findings were largely ignored. Most importantly, well before the Exit Conference, rumors had already reached the SJPC that the State Auditor had uncovered scandals at the SJPC, rumors that could have originated only with the State Auditor from hasty, unchecked conclusions based on the work of an incompetent, unprofessional crew.

**The Fictitious Loan**

One issue discussed at this Exit Conference figures into our later discussion of how this audit ran amok. The audit manager asserted that the SJPC had made an illegal loan. The Audit Committee explained that the transaction was not a loan, but a standard landlord improvement to an SJPC-owned building being leased to a tenant. The tenant was paying rent for the building and additional rent for the improvements, which the SJPC would own. The audit manager still insisted that the loan was made to a different company located offsite. The leased building could be seen from the meeting room window and the improvements could have been inspected at the end of a very short walk. Thus, the illegal loan finding was dropped in the first written version of the audit and converted to a finding that the rent payments had been late. Upon further analysis, this lateness finding was removed in the second version of the audit. But, as we shall see, the fictitious illegal loan did not go away.

Shortly before its publication date in August, the first written version of the audit was presented to the SJPC so it could add comments. Instead, the SJPC insisted upon and was given, for the first time, a true exit conference where it could rebut specific findings.
The auditors criticized the Board’s oversight and the efficiency of the Port without attending even one Board meeting or interviewing anyone in the port community.

The Audit Committee objected to uninformed and unsupported negative generalizations about the efficiency of the port operation, the oversight by the Board, and the oversight by the State. The Committee pointed out that the audit team had not interviewed any Board member, attended any Board meeting, or reviewed the voluminous Board meeting agenda books that the members study before each meeting. As to state oversight, the audit team could easily have learned that three State officials attend Board meetings, that they review and approve all agenda items before the meetings and all Board actions afterward prior to the Governor’s approval of the minutes. The auditors had no idea how efficiently the port operates and had made no effort to find out. They did not interview longshoremen, stevedores, shipping lines, tenants, the Coast Guard, any of its 300 customers, competitors, trucking lines, or anyone else knowledgeable about the port.

*These uninformed generalizations, among others, were dropped in the second version of the audit.*

**The Auditors did not read the Bond Resolution, which governs the SJPC’s finances.**

The first specific finding was that the SJPC’s operating income went up from $1.8 million in 2003 to $3.1 million in 2004 with the suggestion that this could reduce the State’s future obligations. This comment revealed that the audit team was unaware of the SJPC’s Bond Resolution, the covenants it has with bondholders that govern its finances. Apparently, the audit team was not familiar with the very basics of how bond-financed agencies work. The Audit Committee tried to explain it and pointed the team to the Bond Resolution at the first exit conference, but was ignored.

*This finding was dropped in the second version of the audit.*

The Audit contained at least 6 other erroneous findings that were later dropped.

The audit found that the SJPC’s marketing consultants were paid by the month and that “the value of the services could not be identified because of limited supporting documentation.” The audit team did not ask the consultants or the Port management to produce work product and documentation, which was available. The supporting documentation was not limited; the auditors’ efforts were.

*This finding was dropped in the second version of the audit, but, like the fictitious loan mentioned above, it did not go away.*

The audit found that the CEO routinely consults with a financial advisor even though the corporation has a Director of Finance. The auditors did not mention that the Director of Finance also routinely consults with the financial advisor, who has specialized knowledge, and that almost every bonding authority relies upon financial advisors for advice on bonding and capital project finance.

*This finding was dropped in the second version of the audit.*

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October 26, 2005
The audit found that the external auditor was paid $10,000 above the stated fee in its engagement letter and “an itemized billing was not provided” for the additional charges. In fact, the Board-approved, itemized billing was available and in order. The auditors had not made the effort to check their facts.

This finding was dropped in the second version of the audit.

With respect to the health insurance plan, the audit found that the SJPC had not claimed $140,000 to which it was entitled. The SJPC staff showed the auditors the contract provision, which the auditors had overlooked, which demonstrated that there was no such unclaimed $140,000.

This finding was dropped in the second version of the audit.

The audit found that the SJPC paid three security guards $3,100 for unearned vacation days in 2004 upon their termination. The staff spent a great deal of time recomputing and verifying the correctness of these records and discussing them with the second audit team, possibly more time than the $3,100 under discussion was worth.

This finding was dropped in the second version of the audit.

The audit took great length to describe what it deemed to be two separate transactions, the essence of which was that the staff acted without authority to settle outstanding receivables for less money than the Board had authorized. With documents already provided to the auditors, the staff once again explained that the two separate transactions were actually parts of the same transaction with a Korean shipping line, that the auditors had not checked the documents, and that the settlement came out at or slightly above the authorized amount.

This finding was dropped in the second version of the audit.

These above findings do not include those that were carried into the second version of the audit before they were dropped or and those that were carried into the third, present version under discussion here, some of which should also have been dropped. We will get to them later to complete the portrayal of the report that the State Auditor was prepared to issue. First, with the caliber of the audit work now partially displayed, we wish to discuss another serious repercussion of the premature, inaccurate, and unvetted conclusions of the audit’s early stages.

At the August exit conference to review the first version of the audit, the SJPC Audit Committee expressed its revulsion that rumors had been spread about the SJPC based upon conclusions formed and broadcast around the State by the State Auditor, which would have been unethical and unprofessional even if they had not been incompetent and wrong.
The very next day, one of the Corporation’s marketing consultants was met by State troopers delivering a subpoena and questioning him about his work for the SJPC. His partner was also subpoenaed. The audit team had never bothered to ask for evidence that they earned the payments received from the SJPC before it made serious accusations about them. Nor did they ask the SJPC executives who direct the work of the marketing team to produce available work product files. Then, the subpoenas were leaked to the press, damaging their financial well being and smearing their reputations and that of the SJPC.

At the second Exit Audit Conference, the SJPC Audit Committee asked the auditors, out of simple human decency and professional responsibility, to review their work on this matter and to make any corrections that the review suggested were appropriate. This they have not done.

Besides the marketing contract, the subpoena to the SJPC focused on loans made by the SJPC. The SJPC does not make any loans, so we assume that this inquiry was occasioned by the fictitious loan described above which apparently had been referred for criminal investigation before the auditors checked their facts with the SJPC and realized their mistake.

_They dropped the charge from their audit. Apparently, they did not correct the record with the investigators._

With considerable effort, the SJPC promptly and fully cooperated and complied and supplied the many cartons of requested records.

**More Mistakes in the Second Audit**

Now, we turn to the second version of the audit, presented to the Audit Committee in draft form by a second audit team at the end of September. The second audit team was professional and fair. It removed four more findings when the SJPC supplied documentation that they were wrong.

**Response to Remaining Findings**

This brings us to the comments we wish to make about the findings that remain in the final version of the audit.

The audit recommends that the SJPC dispense with the services of a retired employee who organizes and manages the Board’s monthly meetings at a fee of $15,000 per year (with no benefits). This finding was made by the first audit team. The SJPC Audit Committee finds this recommendation to be peculiar. The first auditor team did not look into the actual work of the individual, never attended a Board meeting to gauge his work, and disregarded the detailed presentation by the Audit Committee of the skilled functions he performs and the value of the arrangement to the Board. We do not know, but we suspect that the recommendation stems from gossip from a staff member using the audit team to repay a personal grievance against this individual. Be that as it may, the
Audit Committee will review the services provided to determine if there is a more economical way of providing them.

The audit still contains a finding and recommendation about the SJPC health insurance plan, which we argued at the second exit conference, convincingly we thought, was without merit. To repeat the argument, in 1999, the Board ordered a cost comparison of the State health plan against its own health plan in preparation for union negotiations in 2000. Because the State health plan at the time required a large “buy-in” premium, the Board determined that its health plan would be less expensive. That health plan was built into a five-year labor contract expiring at the end of 2005.

The audit found that the State’s health plan would have been $359,000 cheaper in 2004, falsely implying that this amount could have been saved. Since that number originated in the first version of the audit, in which almost nothing else was correct, we have no reason to be confident in its accuracy. In fact, we now have reason to believe it is wrong. In any case, at best, this amounts to a finding that, with the benefit of hindsight, the decision of the Board in 2000 was wrong. However, to reach even that conclusion, the auditors would have had to compare the costs in each year of the five-year contract, including the initial buy-in, a comparison they admitted they had not made. When presented with this argument, the first audit team conceded the point. They said that what was important was not the history but the recommendation that the Board make such a comparison before negotiating the next union contract. The Audit Committee pointed out that the Board had already ordered such a comparison in a recorded 2004 Board resolution before the audit team arrived on the scene, so that the audit would be recommending that the Board take an action that it had already taken.

This argument was repeated to the second audit team, by which time the Board had already filed to join the State health plan to hold its place there pending the outcome of the cost comparison and final negotiation. So, except perhaps as a pretense to include a relatively big number in the audit, the Audit Committee has no idea why this meaningless finding persists or what the recommendation means.

The audit finds that the Board selects its professional consultants without annual RFQ’s. For example, the Maritime Engineer has been with the port since its inception in 1970. Also, the professional consultants do not always work under a formal contract, although the Board resolutions specifying the terms of their appointments amount to contracts. The Board, which includes the presidents of two large engineering companies, believes that it selects consultants of high caliber and that it efficiently controls their production and costs. But, it will give the recommendation serious attention and make any called-for improvements.

The audit finds that the outside counsel to the corporation has been put on the payroll for his attendance at meetings. The Board entered into this arrangement in the belief that it was saving money on its total legal bills by doing so and has an analysis showing a savings of $45,000. It accepts the recommendation to review the arrangement.
The audit finds that the Corporation’s expenses on travel and meals are without the proper documentation in most cases and that travel with overnight stays are not approved in advance. We disagree. Our independent auditor found no such weakness in internal controls over such expenditures. The auditor takes credit for an employee reimbursing the SJPC for $1,025 of meals due to its review. We believe that the meals in question were legitimate expenses and that the reimbursement was unnecessary and made through an excess of caution by the employee after being hounded for months with a slew of false accusations.

Persistence of False Findings

In the same vein, the audit finds that the Board’s policy decision in 2000 to pay the unused vacation time of the CEO was against Board policy – a masterpiece of illogic in its very statement.

This finding has changed three times in the three versions of the audit, but always in a way that ignored or contorted the facts to keep some form of the finding in the audit. We believe that this is a bureaucratic, not a true auditor’s, decision, because without this finding and the spurious finding about health benefits, the audit would be left with nothing to show for the rumors spread at the premature, whispered announcement of its birth, except for $2,577 in improper costs incurred because a former employee put an ineligible person on the health plan.

The facts are these. The SJPC has a personnel manual specifying how many days of unused vacation may be carried forward. The manual provides for exceptions to be made by the Executive Director. In the case of the Executive Director, the Board must approve such exceptions. Beginning in 1975, the Executive Director did make such exceptions for the then-Deputy Executive Director, who became Executive Director in 1988. Thereafter, the Board approved the same exception. Each time, the Board’s approval was approved, in turn, by the Governor. Each year, an independent auditor reviewed the calculation of the amounts and the valid authority under which the amounts were determined. Each year, the liability for unused vacation time was shown on the audited balance sheet of the corporation.

Some time before 2000, the Board was moved to pay off this liability, not by the initiative of the Executive Director, but by the State, in its effort to clear such liabilities on both sides of the river to further its intended port unification. The CEO would have been owed the full amount at any time he retired.

The payment was for the audited amount owing as determined over a 25-year period by repeated decisions of the SJPC as provided for in its personnel policy manual. To say that the CEO was vastly overpaid, as the first audit did, was patently wrong and ill motivated. To say that the CEO was overpaid, albeit by a much lower amount, as the second version did, was patently wrong and ill motivated. To say that the CEO was paid the correct amount according to the Board’s policy decisions, but overpaid under guidelines that the Board specifically changed, as the current audit does, is illogical on its face and ignores the facts. There is simply no basis for this finding, which is based on an
archly worded recounting of the history. Our independent auditors have confirmed that the payment was made in accordance with Generally Accepted Accounting Principles.

Rather than judging the transaction as auditors, the State Auditor sanctimoniously questions whether it was fair to the SJPC workforce, thousands of whom owe the existence of their jobs to the enterprise created by the 50-year career of the CEO and the succession of volunteer Board members, or whether it was in the best interest of the State. The “transaction” is not in question. What the auditor is really second-guessing is 25 years of decisions by a succession of SJPC Boards, concurred in by three Governors, based upon contemporaneous knowledge of facts unknown to the auditor, who answered that question affirmatively.

The audit points to control weaknesses in certain purchasing procedures and in the use of corporate credit cards, petty cash, and expense reimbursements which “may result in the inefficient use of SJPC funds.” No specific example of any inefficient use of funds was disclosed. The SJPC’s independent auditors found no internal control weaknesses in these procedures. Nevertheless, the Board has taken steps to tighten the controls.

Finally, the audit has a section called “Revenue” discussing vendor credits and contracts negotiated by two executive level employees. In the original version of the audit, this discussion derived from the erroneous analysis of the Korean shipping line settlement, described above among the flawed findings that were dropped. In that version, the executives were accused of writing off receivables, as well as making contracts. Only the Board can write off receivables or enter contracts.

The credits referred to are corrections made when invoices were issued with mistakes. The credits are disclosed and documented. The staff was not given an explanation or examples of the problems or of the changes the auditor was actually recommending. The SJPC was given reason to believe that the entire, muddled finding would be dropped so there was no opportunity to explore it. The Audit Committee will consider the recommendation after the auditors explain the finding more clearly.

Conclusion

We understand the value and importance of outside auditors. In this case, something went wrong – very wrong. A large amount of public money, by the auditors, the SJPC staff, and other executive branch personnel, has been spent over ten months, producing almost nothing. The reputations of a good organization and several individuals have been smeared by feckless, negligent behavior. An agency which deserves recognition for turning decrepit old facilities into a thriving engine of commerce and jobs, has been tied down as Gulliver by the Lilliputians.

So the leadership of the State, focused as they must be on increasing the oversight of government operations, should also consider how to protect the State against a case like this in which the auditors, rather than those being audited, go astray.

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Our account of the audit shows that some officials in the State Auditor’s office prepared an incompetent, biased audit report, approved it for publication, evaded procedures designed to protect the auditors and the audited agency from mistakes, leaked hastily drawn, erroneous conclusions and caused them to be transmitted to criminal investigators without the corroboration of professional procedures, and maintained faulty conclusions in the final audit for reasons that go beyond the dictates of accurate auditing.

Our account also shows that, within the State Auditor’s office, some officials extended themselves to recognize and to correct prior mistakes out of a professional concern for accuracy and fairness.