New Jersey Public Broadcasting Authority

July 1, 1997 to October 9, 1998

Richard L. Fair
State Auditor
Enclosed is our report on the audit of the New Jersey Public Broadcasting Authority for the period July 1, 1997 to October 9, 1998.

If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair
State Auditor
January 7, 1999
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New Jersey Public Broadcasting Authority

Scope

We have completed an audit of New Jersey Public Broadcasting Authority (authority) for the period July 1, 1997 to October 9, 1998. Our audit included the financial activities accounted for in the state’s General Fund. We also included the financial records of the Foundation For New Jersey Public Broadcasting (foundation), the fund raising entity for the authority, for the period July 1, 1997 to June 30, 1998. Effective September 1, 1998 and in accordance with N.J.S.A. 52:27C-84, the Authority is in but not of the Department of State.

Total expenditures of the authority during the audit period were $16 million. In addition, the foundation expended $2 million. The prime responsibility of the New Jersey Public Broadcasting Authority is to provide noncommercial public and educational television and radio broadcasting services to New Jersey’s citizens. Revenues of the authority totaled $9.5 million during our audit period and the major components of revenue were monies received from the foundation, the Corporation for Public Broadcasting, equipment and facility rentals, and media production services.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the agency’s programs, were reasonable and were recorded properly in the accounting systems. We also tested for resolution of significant conditions noted in our prior audit report.

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, administrative code, circular letters promulgated by the State Comptroller, and policies of the agency. Provisions that we considered significant were documented and compliance with those requirements was verified by interview and observation and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and 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 controls and compliance attributes. Sample transactions were randomly and judgmentally selected.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the agency and walked through the system to determine if the corrective action was effective.

Conclusions

We found that the financial transactions included in our testing were related to the agency’s programs, were reasonable and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses and matters of compliance with laws and regulations meriting management’s attention. We also found that the agency has resolved the significant issues noted in our prior report.
Foundation should comply with governing legislation.

Foundation for New Jersey Public Broadcasting - Personnel

N.J.S.A. 48:23-13 authorized the authority to establish a nonprofit, educational and charitable organization known as the Foundation for New Jersey Public Broadcasting. The foundation is to be devoted to the sponsoring of activities and the raising of funds for the support and promotion of the authority and its purposes. In addition, the statute which authorizes the foundation to be governed by a board of directors, states that no employee of the authority shall serve on the foundation’s board of directors. We found that the Executive Director of the authority serves as the President of the foundation without voting privileges or compensation and that the Deputy Director for the authority’s finance and administration unit serves as the foundation’s Assistant Treasurer without compensation. Both have check signature authority as well as the authority to hire foundation employees and authorize contractual agreements for the foundation. This dual service can contribute to conflicts of interest.

Recommendation

We recommend that no authority employees serve on the Board of Trustees for the Foundation for New Jersey Public Broadcasting, or be involved in the daily operations of the foundation.

Unremitted Funds

All funds raised should be provided to New Jersey Public Broadcasting Authority.

The foundation’s accounting records as of June 30, 1998 reported a balance of $1.65 million owed to the authority. As of June 30, 1998 the foundation had sufficient funds available in investments and demand accounts to satisfy this obligation. As of August 31, 1998 the foundation had not satisfied this obligation. In accordance with N.J.S.A. 48:23-17 “All funds received by the Foundation for New Jersey Public Broadcasting, other than those necessary to pay for the expenses of the foundation, shall be used exclusively for the support and promotion of the New Jersey
Recommendation

We recommend that the foundation comply with the statute and remit all funds timely to the authority.

Controls

The use of the “hold check” option should be limited.

The authority processed a total of $3.3 million and $2.6 million in payments to vendors for fiscal years 1997 and 1998 as of February 28, 1998. Of the payments processed, excluding employee payroll checks and payments to on-air talent, the authority utilized the “hold check” option 24 percent and 31 percent for each of the respective fiscal years. Treasury Circular Letter 94-17 states that “Checks should not be requested to be held as a normal course of action.” The circular letter lists 11 reasons for requesting the hold check option. The authority’s justifications for utilizing the “hold check” option did not comply with the reasons noted in the circular letter. Management’s routine use of this option places the checks at risk for potential loss.

Accounts receivable billings and record keeping need improvement.

The authority through its Business Initiatives Unit provides various video, audio, and facility services for a fee to other state agencies and private corporations. Upon completion of the service, the Business Initiatives Unit informs the Authority’s Business Office that the service has been completed and the billing and collection function can be initiated. On a fiscal year basis, the Business Office maintains an account receivable subsidiary record for the billings. Our audit disclosed that the billing for services and subsequent posting of collections need to be improved. We identified receipts of $630,000 that were not posted to the accounts receivable records. The incomplete record keeping impairs the Business Office’s ability to monitor the collection of these billed services.

We also noted that they do not perform follow-up procedures to ensure collection. As of January 31,
1998 the authority was due $257,000 from state and private clients. This receivable is comprised of outstanding billings from fiscal years 1996, 1997 and 1998.

Procedures for purchasing goods and services need strengthening.

Treasury Circular Letter 96-23-GSA, specifically states “If the items required are stocked at the State Distribution Center or are available through DEPTCOR or CNA, neither Delegated Purchase Authority (DPA) nor term contracts may be utilized to procure those items.” Term contracts are to be used if items are not available at DEPTCOR or the Distribution Center. Only then should DPA be used. We found that the authority did not comply with the circular letter regarding the use of Delegated Purchase Authority in 48 percent of the disbursements ($1.7 million) during fiscal year 1998 through February 1998. The authority did not check availability or purchase items from the Distribution Center. Nor did they use term contracts. In our sample of $179,000 we found that the authority could have saved approximately $8,000 if term contracts were utilized. Additional monies could have been saved had the authority purchased goods through the distribution center or DEPTCOR.

Bid requests should be obtained.

We also noted that the authority does not follow the purchasing procedures when a contract vendor is not available. The Circular Letter 96-23-GSA includes specific instructions as to the types of bids necessary to purchase goods and services not currently under contract. They did not seek telephone or written purchasing bids. By requesting bids, the authority may have saved additional money.

Recommendation
We recommend that the authority:

- Comply with Treasury circular letter 94-17.
- Institute procedures to post all payments to the accounts receivable subsidiary records and institute follow-up collection procedures for unpaid receivables.
- Comply with Treasury Circular Letter 96-23-GSA.

The Authority should comply with employee handbook, and OMB’s Circular Letter 97-18, employee versus independent contractor.

Employee Time Reporting and Independent Contractors

The authority provides each of its employees with the NJN Employee Handbook, which informs the employees of the policies regarding their employment. This handbook states that all employees, student interns and volunteers are required to submit weekly time sheets to their immediate supervisor no later than Monday following the week worked. In a test of three pay periods, our audit disclosed 114 incidents where employees did not submit the required time sheets. The lack of time sheets puts the validity of the payroll expenditures in jeopardy and restricts the authority personnel office’s ability to monitor employee leave time on a current basis. However, as of the close of our field work, management was in the process of developing an operating procedure requiring the timely submission of time sheets.

We also found two authority employee time sheets being approved by a contract vendor who is serving as an acting director of the Authority’s Business Initiatives Unit. Based on the criteria stipulated in Department of the Treasury Circular Letter 97-18, this contractor should have been classified as an employee. In accordance with the common law factors as outlined in the circular letter, a worker who is required to comply with the authority’s instructions about when, where and how he or she is to work is
ordinarily an employee. Failure to properly classify an employee could result in the authority being liable for the employees’ taxes and benefits.

**Recommendation**

We recommend that the authority enforce the time reporting policy and reclassify certain contractors to comply with Treasury Circular Letter 97-18.

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**Fixed Assets**

Reporting requirements for generally accepted accounting principles requires specific asset data to be reported in the General Fixed Asset Account Group (GFAAG) within the Comprehensive Annual Financial Report (CAFR). Treasury Circular Letter 94-05-OMB sets forth the requirements of an adequate fixed proper reporting requirements for GFAAG assets.

All assets above $20,000 need to be reported to the Department of the Treasury, Office of Management and Budget (OMB) on an ongoing basis as they occur. Final submission of the required documentation must be submitted to OMB prior to July 31 for inclusion in the annual CAFR. The authority has only submitted the documentation for three assets purchased from 1990 to the present. We compared the separate inventory listings to the GFAAG listing and discovered that $10 million in assets were not included. We also discovered though conversations with authority personnel that 42 of the 119 items on the GFAAG listing need to be removed due to retirement.

**Recommendation**

We recommend that the authority comply with Treasury Circular Letter 94-05. They should inform Treasury as to all previous purchases and remove all retired assets.
Auditee’s Response
January 4, 1999

Response to OLS Audit Letter
July 1, 1997 to October 9, 1998

Foundation for New Jersey Public Broadcasting - Personnel

The Foundation has at all times complied with this requirement of N.J.S.A. 48:23-14. The Auditor is correct in stating N.J.S.A. 48:23-14 provides that no employee of the New Jersey Public Broadcasting Authority (the "Authority") shall serve as a member of the Foundation's Board of Trustees (referred to in this statute as "board of directors"). At no time, however, has the "President" of the Foundation, who is the Authority's Executive Director, been selected or elected as a trustee of the Foundation, specifically because of the statutory and By-Laws' prohibitions. As required by N.J.S.A. 48:23-14 and the Foundation's By-Laws, a majority of the Foundation's trustees (referred to in this statute as "directors") are selected by the members of the Authority, and the remainder are elected by the Foundation's Board of Trustees.

Although the Foundation's President is a Foundation "officer," the President is not a Foundation "trustee." The Foundation's By-Laws do not require the President or any other officer of the Foundation to be a "trustee." (See By-Laws Article IV.) Similarly, the New Jersey Nonprofit Corporation Act under which the Foundation is organized does not require officers of New Jersey nonprofit corporations to be trustees. (See e.g. N.J.S.A. 15A:2-9, 15A:3-1(a)(10), 15A:615 and 15A:6-16.) As provided in Section 4 of Article IV of the Foundation's By-Laws, the President is the Foundation's Chief Executive Officer and is generally responsible for the overall management of the Foundation. As such the title "President," although an officer of the Foundation, is more akin to a title referring to operational responsibility. In any event, it does not mean the President is a Foundation "trustee" (with or without voting privileges).

The Auditor is also correct that the Authority's Executive Director serves as President of the Foundation, serving ex officio, as provided by section 2 of Article IV of the Foundation's By-Laws. To the best of our knowledge, section 2 of Article IV has been in the Foundation's By-Laws since the initial draft was prepared by the New Jersey Attorney General's Office and since adopted by the Foundation's initial Board of Trustees. The Authority approved this arrangement. It was established to allow the Authority to maintain direct oversight over the management and operations of the Foundation, thereby strengthening the link between the two organizations particularly at the operational level. Providing for the Foundation President and Authority Executive Director to be the same person allows for better communications between the two organizations, reduces expenses and increases operational efficiency. In addition, separation and independence exists at the levels of the two Boards, i.e. the Foundation's Board of Trustees and the Authority's Board, each of which has its own membership and Chair, providing for checks and balances between the two organizations sharing a chief executive officer.

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1 Section 9 of Article IV of the Foundation’s By-Laws contains a similar statement.
Similarly, the Assistant Treasurer position was created to strengthen the operational ties between the Foundation and the Authority, and to improve the efficiency of their respective financial operations as well as reduce expenses. This arrangement provides the necessary checks and since the Foundation's Treasurer (who is also a foundation trustee) oversees the work of the Assistant Treasurer of the Foundation.

In addition, although both the President and Assistant Treasurer are authorized to sign Foundation checks, hire Foundation employees and sign Foundation contracts, these activities are subject to the requirements of the Amended and Restated Memorandum of Understanding, effective July 1, 1995 (and before that, the Memorandum of Understanding), the Foundation's By-Laws and the periodic review by the Foundation's Board of Trustees. These limitations serve to prevent the occurrence of any significant adverse effect from any possible "conflict of interest." Further, we would like to point out that neither the President nor the Assistant Treasurer receives compensation from the Foundation. In any event, although the Foundation is a separate nonprofit corporation independent of the Authority, the Foundation's purposes are to raise funds to support the Authority. With its core purposes so closely aligned to the Authority's purposes, the Foundation concludes that it is unlikely that any significant, true "conflicts of interest" will exist as a result of the present arrangements concerning its President and Assistant Treasurer.

Accordingly, the Authority concludes that it is in its best interests to maintain these two positions as they are presently. The current arrangement enables the Authority to best pursue its purposes in providing non-commercial public and educational television and radio broadcasting to New Jersey's citizens (by providing operational and financial services more efficiently and at less expense and improving communications and strengthening it's affiliation with the Foundation). The Foundation concurs in this conclusion, particularly in light of its purposes: namely, the sponsoring of activities and the raising of funds for the support and promotion of the Authority and its several purposes.

**Unremitted Funds**

As a result of our review, we conclude that the Foundation has complied with N.J.S.A. 48:22-17. This statute states that "all funds received by the Foundation for the New Jersey Public Broadcasting Authority, other than those needed to pay for the expenses of the Foundation, shall be used exclusively for the support and promotion of the New Jersey Public Broadcasting Authority and its several purposes." The total of $1.65 million due to the Authority at June 30, 1998 is scheduled to be paid by the end of fiscal 1999. In the exit meeting, we discussed the need for the Foundation to retain a fund balance. In our view, a fund balance (that is, less than two months of the budgeted operating expense) is reasonable, prudent and critically needed, due to the possibility that one or more of the revenue streams may not reach its budgeted goal.

All of the Foundation's funds are used for the "support and promotion" of the Authority, whether actually paid to the Authority, used by the Foundation for its operations and activities, paid to third parties for the benefit of the Authority or retained by the Foundation. Even though retained by the Foundation, such funds are being used for the benefit of the Authority. Neither N.J.S.A. 48:22-17 nor any other part of the Foundation's enabling act requires payment, transfer or remittance to the Authority of funds received by the Foundation, but that they shall be used exclusively to support and promote the Authority. This is precisely how the Foundation uses all of its funds.
Controls - "Hold Checks"
We agree that the use of the "hold check" option should be limited. The analysis prepared by the State Auditors stated that NJPBA used the "hold check" option for 24% and 31% of transactions during FY 1997 and FY 1998, respectively. It was noted that these percentages are based on the dollar amounts of the checks and not the number of checks issued. After reviewing the Auditor's analysis, we were able to identify additional independent contractor payments that should be excluded from the total. We also identified seven large vendors (for which we feel that "hold checks" were justifiable under the reasons as outlined in circular Letter 94-17.) When we excluded both of these groups of checks, the percentages of "hold checks" declined to 3% for each year, a level that we consider within acceptable limits.

Controls - Accounts Receivables
The NJPBA acknowledges the findings of the State Auditors that indicated several shortcomings (in part due to personnel turnover), in the way accounts receivables have previously been managed. The NJPBA is currently addressing all aspects of the accounts receivable process to identify areas of weakness. Once this process has been completed, new written procedures for billing and recording cash receipts will substantially improve practices in these areas. Modification of operating procedures will provide timely and accurate aging schedules, which will provide the basis for timely follow up and collection procedures. The NJPBA recently added a controller who, as part of his overall responsibilities, will oversee implementation of the corrective measures.

Controls - Procedures for purchasing goods
We respectfully disagree with the auditors' finding that states that "the Authority did not check availability or purchase items from the Distribution Center, nor did they use term contracts." We use the Distribution Center on a regular basis. As an example, almost all of our supplies are purchased from DEPTCOR. Contract vendors are used for special orders. Also, as a second example, our Education Department uses a term contract for the printing of teacher manuals.

We also respectfully disagree with the finding that states "they did not seek telephone or written purchasing bids." While this process may not have occurred 100% of the time, regulations are followed as per the Direct Purchase. Authorization (DPA) Circular Letter PC-23H.

Employee Time Reporting and Independent Contractors
We acknowledge that at the time of the State Auditors audit period we were not adequately enforcing the time sheet policy. We have subsequently modified our policy and have been enforcing the modified policy, which has resulted in a dramatic positive result.
**Independent Contractors**
As we indicated to the State Auditors, we are doing what is necessary to determine what steps that NJPBA must take to assure that NJPBA is in compliance with the rules governing whether individuals are independent contractors or employees. To secure the required information, we met with the Office of Management and Budget prior to the State Audit, and have subsequently met with the Department of Treasury, the Office of Management and Budget, the Attorney General’s Office, Special Counsel, Authorities Unit and the Division of Pensions and Benefits.

**Fixed Assets**
We agree that under the provisions of Treasury Circular Letter 94-05 all assets acquired above $20,000 need to be reported to the Office of Management and Budget. We are now developing the procedures to comply with 94-05 in the future, and we are also determining a process by which we can properly inform OMB of past purchases and equipment retirements. It should be noted that the audited Financial Statements for all the years from 1990 to the present did include all of the asset additions.