



Claire McCaskill

Missouri State Auditor

December 2006

Hyannis Port Road
Transportation Development
District



Office Of
Missouri State Auditor
Claire McCaskill

December 2006

The following problems were included in our audit of the Hyannis Port Road Transportation Development District.

The Hyannis Port Road Transportation Development District (the district) was established on July 16, 2004, and is located in an unincorporated area of Jefferson County. Its related development is the Gravois Dillon Plaza. The district was formed for the purpose of improving traffic flow into and out of the development. The district's qualified voters approved the imposition of a 1 percent sales tax on all taxable transactions within the district effective November 1, 2004. The costs of the district's transportation projects were originally estimated at approximately \$564,000, with the costs of construction and other related costs being paid initially by the owner/developer. The transportation projects were completed in July 2005.

On September 29, 2005, the board approved a resolution approving and certifying transportation project costs totaling \$599,289, to be reimbursed to the owner/developer and authorized a revenue note to that party. Subsequently, the district made a payment of \$197,091 on the note to partially reimburse the owner/developer for the costs incurred. Also, the board passed a resolution repealing the district's sales tax, effective November 1, 2005. At the time these actions were taken, the owner/developer was still owed about \$402,000 in unreimbursed transportation costs.

On September 11, 2006, the board approved a resolution formalizing its intent to: dissolve the district, request the required audit, and subsequently submit to its voters a ballot question to abolish the district. The State Auditor's Office has performed an audit of this TDD as required by state law.

Our audit indicates the district's assets exceed or meet its outstanding liabilities. However, before proceeding with the abolishment of the district, the board should ensure a written agreement is entered into formalizing the owner/developer's intent to forgive or write-off the district's liability for any unreimbursed transportation project costs.

Our audit also noted bid documentation for the construction contract related to the district's projects was not maintained by the records custodian. The board minutes also do not indicate whether a board member who was a party to the construction contract abstained from voting when costs were certified and approved for reimbursement. Additionally, the district did not solicit requests for proposals for some professional services and did not submit annual financial reports to the State Auditor's Office for 2005 or 2004, as required by state law.

All reports are available on our website: www.auditor.mo.gov

YELLOW SHEET

STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

Tonia Shelton, Chairman
and
Board of Directors
Hyannis Port Road Transportation Development District
Hillsboro, MO 63050

Section 238.275, RSMo, requires the State Auditor to audit a transportation development district prior to the question of abolishment being submitted to a vote. On September 11, 2006, the Board of Directors of the Hyannis Port Road Transportation Development District approved a resolution of its intent to dissolve the district and request an audit as required by statute. The State Auditor was subsequently notified of this resolution.

To satisfy our statutory obligation, we have audited the financial status and related activity of the district. The scope of our audit included, but was not necessarily limited to, the period January 1, 2006 to September 30, 2006, and the years ended December 31, 2005 and 2004. The objectives of this audit were to:

1. Evaluate the financial status of the district and determine whether the district may be abolished pursuant to law.
2. Review the receipts, disbursements, and cash balances of the district.
3. Review compliance with certain legal provisions.
4. Report our findings to the district's Chairman and Board of Directors.

Our methodology to accomplish these objectives included reviewing the district's accounting and bank records and other pertinent documents and interviewing various district officials or representatives.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying Management Advisory Report presents our findings arising from our audit of the Hyannis Port Road Transportation Development District.



Claire McCaskill
State Auditor

November 17, 2006 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits: Thomas J. Kremer, CPA
Audit Manager: Gregory A. Slinkard, CPA, CIA
In-Charge Auditor: Robert L. McArthur II

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

HYANNIS PORT ROAD
TRANSPORTATION DEVELOPMENT DISTRICT
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

We have audited the Hyannis Port Road Transportation Development District (TDD) to comply with the State Auditor's responsibility under Section 238.275, RSMo. This Management Advisory Report presents the findings arising from our audit of the district.

1. TDD's Financial Status

Our audit of the Hyannis Port Road Transportation Development District indicates the district's financial condition is such that it may be abolished, as it appears the district's assets exceed or meet its outstanding liabilities. However, before proceeding with the abolishment of the district, the board should ensure a written agreement is entered into formalizing the owner/developer's intent to forgive or write-off the district's liability for any unreimbursed transportation project costs.

The Hyannis Port Road Transportation Development District (the district) was established on July 16, 2004, by a circuit court order pursuant to a petition filed by the owner/developer of the property within the proposed district. The district's Board of Directors (the board) and officers include the owner/developer, various associates, and the general contractor on the project. The qualified voter(s) of the district (the property owner/developer), approved the imposition of a one percent (1%) sales tax on all transactions which are taxable within the boundaries of the district, effective November 1, 2004.

The TDD is located in an unincorporated area of Jefferson County, along Highway 30 (Gravois Road) where it is intersected by Caroline Road and Dillon Road. The related development, the Gravois Dillon Plaza, includes retail, restaurant, grocery, banking and other service establishments. The district has a fiscal year end of December 31. The TDD has elected not to have separate financial audits of the district conducted beyond any audits performed by the State Auditor's Office pursuant to Chapter 238, RSMo.

The district was formed for the purpose of relocating and improving Hyannis Port Road and constructing Jacqueline Road to connect Hyannis Port Road to Caroline Road, improving traffic flow into and out of the district. The costs of these transportation projects were originally estimated at approximately \$564,000, with the costs of construction and other related costs incurred on behalf of the district being paid initially by the owner/developer. The transportation projects were completed in July 2005.

Jefferson County, the public entity with jurisdiction over these projects, approved and accepted the completed projects in September 2005. Pursuant to a maintenance agreement, responsibility for the future maintenance of the related roads rests with the owner/developer and a local subdivision association.

On September 29, 2005, the board approved a resolution approving and certifying transportation project costs totaling \$599,289, to be reimbursed to the owner/developer and the board authorized the issuance of a revenue note to that party. Subsequently, the district made a payment of \$197,091 on the note to partially reimburse the owner/developer for the transportation project costs incurred. Also, the board passed a resolution (subsequently approved by the district's voters) repealing the district's sales tax, effective November 1, 2005. These actions were taken as a result of the board's plans to abolish the district. At the time these actions were taken, the remaining balance of unreimbursed transportation project costs due the owner/developer totaled approximately \$402,000.

On September 11, 2006, the board approved a resolution formalizing its intent to: dissolve the district, request an audit as required pursuant to Section 238.275, RSMo, and subsequently submit to its voters a ballot question to abolish the district. The State Auditor's Office was advised of this resolution on September 27, 2006.

The State Auditor's Office has performed an audit of this TDD as required by Section 238.275, RSMo. That statute requires the state auditor to audit the district to determine the financial status of the district, and determine whether the district may be abolished pursuant to law. That law also states the district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, if its liabilities exceed its assets, or while the district is insolvent, in receivership or under the jurisdiction of a bankruptcy court.

The following table presents the financial activity and cash balances of the district from its establishment through September 30, 2006:

	Period January 1, 2006 to September 30, 2006	Year Ended December 31, 2005	Year Ended December 31, 2004
RECEIPTS			
Sales taxes	\$ 863	226,349	18,150
Total Receipts	<u>863</u>	<u>226,349</u>	<u>18,150</u>
DISBURSEMENTS			
Accounting and administration	0	1,887	0
Payment on revenue note	0	197,091	0
Total Disbursements	<u>0</u>	<u>198,978</u>	<u>0</u>
RECEIPTS OVER (UNDER) DISBURSEMENTS	863	27,371	18,150
BEGINNING CASH	<u>45,521</u>	<u>18,150</u>	<u>0</u>
ENDING CASH	<u>\$ 46,384</u>	<u>45,521</u>	<u>18,150</u>

Based on our audit of the district, it appears the district's cash balance of \$46,384 will be sufficient to pay any remaining costs to abolish the district. The fiscal 2006 budget message disclosed that the district anticipated incurring approximately \$35,000 in additional legal and other administrative expenses associated with dissolving the district. The estimated monies remaining after paying these costs would then be paid to the owner/developer as the final payment on the note. According to district representatives, the owner/developer has verbally agreed that upon this final payment, the owner/developer will forgive or write-off any remaining unreimbursed transportation project costs that party incurred. The district's legal counsel indicated the owner/developer and TDD board were willing to do this and take steps to abolish the district to get a major retail establishment to locate in the development.

Prior to abolishment of the district, the board should enter into a written agreement with the owner/developer formalizing that party's intent to write-off the remaining liability related to any unreimbursed transportation project costs. Having done so, the board can then proceed with the abolishment of the district in accordance with Section 238.275, RSMo.

WE RECOMMEND the Board of Directors enter into a written agreement with the owner/developer formalizing that party's intent to write-off the remaining liability related to any unreimbursed transportation project costs. After such agreement has been prepared and signed, the board can proceed with abolishing the district in accordance with law.

AUDITEE'S RESPONSE

The District will enter into a written agreement with Gravois/Dillon, L.L.C. (the "Developer"), pursuant to which the Developer will acknowledge its intent to write off all outstanding principal of and interest on the District's up to \$565,000 Transportation Revenue Note, Series 2005 (the "Note").

2. Expenditures and Financial Reporting
--

Bid documentation for the construction contract related to the district's projects was not maintained by the records custodian. In addition, the board minutes do not indicate a board member who was a party to the construction contract abstained from voting when the related costs were certified and approved for reimbursement. Also, the district did not solicit requests for proposals for some professional services and did not submit annual financial reports to the State Auditor's Office for 2005 or 2004, as required by statute.

A. The contract with the general contractor, who also serves on the district board, for construction of the district's projects was signed in April 2004, prior to the establishment of the district. The initial contract amount was approximately \$397,000, with change orders ultimately increasing the amount paid pursuant to this contract to about \$438,000. These costs were included in the costs certified

and approved for reimbursement to the owner/developer as noted in MAR No. 1 above. The following concerns were noted during our review of these contracted expenditures:

- According to district's legal counsel, this construction contract was competitively bid; however, documentation of the bids obtained and the contractor selection process was not received and maintained by the records custodian. As a result, the district had no evidence that the bidding process related to this construction contract was handled properly.
- The \$438,000 in construction costs were included among those the board certified and approved for reimbursement to the owner/developer in September 2005. The board minutes do not indicate the applicable board member (the general contractor) who was a party to the construction contract abstained from voting on this issue.

Competitive bidding is necessary to ensure a political subdivision receives fair value by contracting with the lowest or best bidder and complete documentation should be maintained of the bid process. In addition, discussions and decisions concerning any related party transaction(s) should be thoroughly documented to provide assurance the situation was handled properly.

- B. The district did not solicit requests for proposals for professional services, including project engineering and legal services. These services were solicited by the owner/developer prior to the establishment of the district.

During the planning phase and construction of the transportation projects, the district's owner/developer paid about \$23,700 for engineer services and \$57,300 for legal services. These costs were included in the costs certified and approved for reimbursement to the owner/developer as noted in MAR No. 1 above. The legal services were billed at rates ranging from \$110 to \$365 per hour for paralegal and attorney services. During our review of invoices, we noted that most of the legal services billed the district were charged at rates between \$110 and \$260 per hour.

Soliciting proposals for professional services helps provide a range of possible choices and allows for a better-informed decision to ensure necessary services are obtained from the best qualified service provider at the lowest and best cost.

- C. The district did not submit annual financial reports to the State Auditor's Office for either 2005 or 2004. Section 105.145, RSMo, requires political subdivisions to file annual financial reports with the State Auditor's Office.

Because this district is in the process of being abolished, we make no recommendations to the Board of Directors related to the above matters.

AUDITEE'S RESPONSE

- A. *The District's custodian of records requested a copy of the construction contract, the bid tabulations and invitations to bid related to the Transportation Project financed by the District. The Developer provided these documents to the District's custodian of records on Thursday, December 14, 2006.*

- B. *There is no requirement under Missouri law that the District solicit proposals for professional services. However, the District acknowledges that soliciting such proposals may, under certain circumstances, enable the District to ensure that professional services are obtained from the best qualified service provider at the lowest and best cost.*

- C. *The District acknowledges that it did not submit annual financial reports to the State Auditor's Office for 2004 or 2005.*