

RESPONSE TO REQUEST
FOR ADDITIONAL REVIEW

COMPETITIVE BIDDING OF CONTRACTS
SOUTH ACCESS ROAD CONTRACT WITH
THE MICHIGAN DEPARTMENT OF TRANSPORTATION
DETROIT METROPOLITAN WAYNE COUNTY AIRPORT

PREPARED FOR
THE DETROIT METRO AIRPORT REVIEW COMMITTEE
AND THE
SUBCOMMITTEE ON AIRPORT REVIEW OF THE
STANDING COMMITTEE ON COMMERCE

August 29, 2001

The Honorable Glenn D. Steil, Chair
Detroit Metro Airport Review Committee
Michigan Senate
1020 Farnum Building
Lansing, Michigan

The Honorable James L. Koetje, Chair
Subcommittee on Airport Review of the
Standing Committee on Commerce
Michigan House of Representatives
N1093 Anderson House Office Building
Lansing, Michigan

Dear Senator Steil and Representative Koetje:

This special report is in response to the June 6, 2000 letter from the Joint Legislative Select Committee on the Wayne County Detroit Metropolitan Airport requesting a more detailed review of the Detroit Metropolitan Wayne County Airport. This special report contains our responses to questions in the general issue area of competitive bidding of contracts related to the contract with the Michigan Department of Transportation for the construction of the South Access Road.

Specifically, the Joint Legislative Select Committee asked us to determine whether the Wayne County Commission approved this contract at its May 30, 2000 meeting or at some other time. The Joint Legislative Select Committee also asked us to ascertain why the Airport neglected to obtain Wayne County Commission approval until a substantial amount of time had passed since completion of the tunnel construction.

Our procedures were of limited scope. Therefore, our review should not be considered an audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

We are available to present this special report to the Detroit Metro Airport Review Committee and the Subcommittee on Airport Review of the Standing Committee on Commerce upon request. If you have any questions or concerns regarding this review, please contact me.

AUDITOR GENERAL

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** All exhibits of the Wayne County Detroit Metropolitan Airport Preliminary Review Reports are available by contacting the Office of the Auditor General in writing and specifying the exact exhibits that you would like to receive. Your written request, with your name and address, must be sent to: The Office of the Auditor General, 201 N. Washington Square, 6th Floor, Lansing, Michigan, 48913.*

OVERVIEW OF THE SOUTH ACCESS ROAD CONTRACT WITH MDOT

Wayne County originally entered into contract No. 98-5058 with the Michigan Department of Transportation (MDOT) on May 20, 1998 (see Exhibit A). The purpose of the contract was to fix the rights and obligations of the parties (Wayne County and MDOT) in agreeing to the following improvements at the Detroit Metropolitan Wayne County Airport:

- a. The construction of a new tunnel for the South Access Road under Runway 9L-27R, with approximately 718 meters of roadway construction in the tunnel and the Taxiway Fox Bridge connecting back to the north end of the Midfield Segment. Included in the construction is the replacement of Runway 9L-27R over the tunnel, approximately 279 meters of retaining wall, water main and hydrants, fire sprinkler system, electrical systems for tunnel ventilation and lighting, communication systems, runway lighting systems, drainage systems, and appurtenance relocations, as may be required.
- b. The removal and replacement of a section of Runway 9L-27R approximately 77 meters long and 65 meters wide, drainage systems, spare wall finish tiles, spare tunnel fan, spare lighting fixtures, conduit, pavement replacement, and turf restoration items, as required.

The contract authorized MDOT to administer on behalf of Wayne County all phases of the project, including advertising and awarding of the construction contract for the project or portions of the project. MDOT's sole reason for entering into the contract was to enable Wayne County to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the *United States Code*.

According to the contract, Wayne County was eligible to receive up to \$16,000,000 in federal funds from the Federal Demonstration Funds. The remaining project cost, \$26,994,690, was to be Wayne County's portion of the cost. The estimated total costs for the project were \$42,994,690. Wayne County Commission approval of this May 20, 1998 contract with MDOT was obtained on May 7, 1998 by Commission Resolution No. 98-298 (see Exhibit B).

Wayne County subsequently entered into an amendatory contract (No. 00-5063) with MDOT on June 8, 2000 (see Exhibit C). The amendatory contract provided for a change in the type and amount of federal funds to be applied to the eligible items of project cost in the original contract. The amendatory contract provided for federal funds from two federal programs: Federal Demonstration Funds and the High Priority Projects Program. The amount of eligible federal funds increased from \$16,000,000 to \$37,313,023. Wayne County's remaining portion of project costs (to be paid with Wayne County funds) was reduced from \$26,994,690 to \$10,154,597. Revised estimated total costs for the project were increased to \$47,467,620. Wayne County Commission approval of the June 8, 2000 amendatory contract with MDOT was obtained on May 30, 2000 by Commission Resolution No. 2000-339 (see Exhibit D).

The Official Statement for the General Airport Revenue Bonds, Series 1998A and 1998B (see Exhibit E), indicated that, in addition to the Midfield Terminal complex and existing terminal renovation projects, Wayne County intended to complete additional Capital Improvement Program (CIP) projects, including the South Access Road project (final phase). The Official Statement's plan of finance indicated that Wayne County expected the Federal Highway Administration to provide approximately \$46,384,000 million in additional federal grants to assist in the financing of the construction of the final phase of the South Access Road project. The plan of finance also indicated that any shortfall in such funding would be paid with passenger facility charge (PFC) revenues, or the proceeds of additional bonds, subject to airline weighted majority approval. The plan of finance reported that Wayne County had Federal Aviation Administration authority to impose and use \$38,620,000 of PFC revenues for the South Access Road project.

According to the Airport's February 28, 2001 Cash Status Report for the South Access Road, \$122,771,292 had been spent on the entire South Access Road project. However, the subsequent CIP Status Report (March 31, 2001) showed that only \$115,138,000 had been spent on the entire South Access Road project. The Airport stated that it expects the entire South Access Road project spending to total \$144,000,000, \$115,200,000 (80%) from the Federal Highway Administration and Build Michigan III funds and \$28,800,000 (20%) from Wayne County's local match funded by PFCs.

According to documents provided by the Airport, as of February 28, 2001, \$47,509,558 (\$34,446,639 in federal funds and \$13,062,920 in PFCs) had been spent on the tunnel portion of the project that encompassed the MDOT agreement. The most recent CIP

Status Report (March 31, 2001) showed that only \$47,121,000 had been spent on the tunnel portion of the project.

SCOPE OF REVIEW

Our procedures were of limited scope. Therefore, our review should not be considered an audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

COMMENTS

Request:

Please determine whether the Wayne County Commission approved this contract at the May 30, 2000 meeting or at some other time. In addition, please ascertain why the Airport neglected to obtain Commission approval until a substantial amount of time had passed since the completion of the tunnel construction.

Procedure:

We obtained and reviewed the contract and amended contract between Wayne County and MDOT pertaining to construction of the South Access Road. We examined documentation of Commission meetings on the contract between Wayne County and MDOT for construction of the South Access Road. We reviewed applicable CIP Status Reports.

Comment:

We determined that the Commission approved the original May 20, 1998 contract on May 7, 1998 and the subsequent June 8, 2000 amendatory contract on May 30, 2000. The Airport had not neglected to obtain Commission approval until a substantial amount of time had passed since the completion of the tunnel construction. Rather, construction is ongoing and is not yet completed, and the Airport obtained Commission approval of both the original and amendatory contracts with MDOT.

As described in the overview, the Airport's documentation showed that the original contract (No. 98-5058) with MDOT dated May 20, 1998 (Exhibit A) was approved by the Commission on May 7, 1998 (Exhibit B).

The Airport's documentation also showed that a subsequent June 8, 2000 amendatory contract with MDOT (see Exhibit C) was also separately approved by the Commission on May 30, 2000 by Commission Resolution No. 2000-339 (see Exhibit D). Thus, it was the June 8, 2000 amendatory agreement, not the original May 20, 1998 MDOT contract, that was approved during the May 30, 2000 Commission meeting.

The CIP Status Report does not show that the project was completed in 1999. Rather, the project was 87% complete as of March 31, 2001. The original May 20, 1998 contract was approved contemporaneously on May 7, 1998, as was the June 8, 2000 amendatory agreement (see Exhibit C), which was approved by the Commission on May 30, 2000 (see Exhibit D). Based on the Airport's documentation of this contract, construction under this contract was ongoing and had not been completed. Thus, a substantial amount of time had not passed since construction completion until the time when the Airport obtained Commission approval.

Airport Response:

On August 1, 2001, we provided the Airport with a draft copy of this report. We asked that the Airport provide its response no later than August 7, 2001. However, it was not until August 15, 2001 that the Airport informed us that it would have no response.

Scope Limitation:

Our ability to complete this detailed review in accordance with *Government Auditing Standards* was impeded by the Airport's practice of placing an Airport observer in certain interviews that we conducted with Airport employees and private contractors during our fieldwork. Not having had the opportunity to conduct these interviews without this impediment, we could not assess its effect on the results of this detailed review.

We had advised the Director of Airports on two occasions that this practice tends to suppress candid and open responses, inhibiting the free flow of information. We also considered this practice to be inconsistent with the spirit and intent of the Joint Legislative Select Committee's May 10, 2000 resolution, which compelled the Airport to provide us immediate, direct, complete, and unrestricted access to any and all records and persons necessary to complete our detailed review. Despite this, the Airport continued to insist on the presence of Airport observers during the period of our fieldwork on this special report.

Subsequent to the time of our fieldwork on this special report, the Airport abandoned its practice of placing an Airport observer in the interviews we conducted.