



BVI Port Authority – Port Development Projects



Office of the Auditor General
Government of the Virgin Islands
June 2011

Introduction

1. The BVI Port Authority (the Authority) is a statutory body responsible for the development and upkeep of all the territory's seaports. During 2009-2010, the Authority undertook three major projects intended to develop and improve existing port facilities. These were the Cane Garden Bay Dock, the Cruise Ship Tender Dock and the Road Town Cruise Ship Pier Repair Works.

2. This audit seeks to examine the processes through which the contracts were assigned, the efficiency with which the works were performed and the effectiveness of completed projects in meeting the intended objectives.

Methodology

3. The audit entailed examination of the relevant files held by the Port Authority and the Ministry of Communications and Works for each project, interviews with personnel directly involved in the project planning, implementation and completion and visits to the project sites.

4. Some delay was encountered in the review of the Port Authority's files as the system used is not conducive to easy recovery of information.

Powers of the Authority

5. The Authority is governed by the British Virgin Islands Port Authority Act 1990 which stipulates that its primary function is to provide, operate, and maintain all port and harbor services and facilities in the harbours specified in the Act and in any other harbor as the Minister may consider necessary.

6. The Act also makes provision in section 19 for the Minister to give general direction in writing to the Authority on matters which appear to him to affect the public interest. The Minister with respect to the Authority is the Premier.

Cane Garden Bay Dock

7. Works were authorised by the Ministry of Communication and Works without first ensuring that the required funding was available. Several large variations were approved which carried up the overall cost of the project. The project costs were summarily transferred to the Port Authority without any documented consultation or planning justification. No form of tendering was performed for the latter part of this project.

Background

8. In 1995 the Government of the British Virgin Islands constructed an L-shaped jetty in Cane Garden Bay primarily to accommodate fishermen and pleasure boaters in the area. Seven years later in 2002 an onsite inspection of the dock was performed by the District Representative, personnel from the Public Works Department (PWD) and local contractor Meridian Construction. Based on this inspection it was decided that the structure should be demolished due to extensive corrosion and structural deficiencies.

9. The project was put to tender and four submissions were received for the works. These were evaluated by the Public Works Department which recommended that the contract be awarded to Odyssey Venture Group in the amount of \$398,417.50. This recommendation was not accepted by the Ministry and the project was instead awarded, via major contract 2/2005, to Meridian Construction in an amount of \$197,540.

10. Upon completion of the works in 2007 Meridian Construction had received a total of \$384,560.00. The Public Works Department reported that the shore bulk heading work that was included in the project description had not been performed. To correct this, another contract (187/07) in the amount of \$86,020.00 was issued to Meridian Construction. In the end the total amount paid to Meridian on this project was \$470,580.

11. The project was revisited when preparations for the 2009 annual music festival began. The area leading to the gas station behind the dock was unpaved and during high tide or rough seas the right side of the dock was being battered by the waves. The crashing waves caused seawater to settle between the dock and the gas station making it difficult at times for boats to receive service from the gas station. The Public Works Department was asked to prepare quantity surveys for rehabilitation of the site amenities leading to the Dock.

12. Two bills of quantities were prepared. The works for the first part (Phase IB) which was intended to address the shoreline seawater backlash was issued to D & C Construction. After the works were completed, contract 74/2009, dated 21 July 2009, was issued to the contractor in the amount of \$99,876.77 and payment was made in full.

13. The second bill of quantities valued at \$295,849.40 (Phase II) was prepared for rehabilitation of the site amenities and providing an extension of the existing dock. The works included civil works, rock armor groyne, revertment slab, bulkhead beams and pavement bays.

14. D&C Construction performed the works for Phase II under the supervision of the Public Works Department. In July 2009 PWD certified that the works on the dock were completed and requested that the Financial Secretary arrange for payment to be made.

Port Authority's Involvement

15. With no authorized provisions to cover the already completed works, the focus shifted to the BVI Port Authority as a ready source of funding. The Authority's involvement in this project began in July 2009 when it was directed by the Financial Secretary to pay the contractor \$295,849.40 for the works done.

16. In keeping with this instruction, the Authority issued contract #1M/2009 to D & C Construction on 21 July 2009. Full payment was made two days later.

17. A review of the project indicates that a number of important controls were ignored or overridden in this process. These include:

- i. implementation of a project without adequate financial planning to cover the scope of the works,

- ii. the absence of a public tender for major contract works
- iii. no evidence that a tender waiver was requested and approved for the works undertaken.

18. Although the structure was referred to as a ferry dock, it is not being used as such and there are no immediate or pending plans to have it used in this capacity.



Use of the Facilities and Costs

19. The completed dock includes two parking areas, better access to the gas station, more space and convenience for the marine public and for the major events that occur in the area on a yearly basis.

20. Phase II of the dock is deemed to be structurally sound and it is felt that it can potentially house a two story building and function as a port of entry. Presently, however the facilities are primarily used by pleasure boaters and fishermen.

21. The total cost of the dock was \$961,188.02 as shown in the table below.

Cost of the Cane Garden Bay Dock

Contract #	Contractor	Scope of Work	Amount
2M/2005	Meridian Construction	The construction of new ferry dock with shore bulkhead. The work also includes demolition of the existing dock.	384,560.00
216/06	Hodge’s Trucking Services	Proposed Civil works at the Cane Garden Bay Jetty. Registration Section: West Central	44,983.40
98/07	Daniel Cline	Proposed Bulk heading to the Cane Garden Bay Ferry Dock Facility, Registration Section: West Central, Block#2438 Dimensions Sheet Piling	49,898.16
187/07	Meridian Construction	Concrete Encapsulation of Old dock connecting bridge to old dock, Barge Ramp, extend main dock & install extra rub rail for the completion of the Cane Garden Bay Jetty Registration Section: West Central, Block#:2438B	86,020.19
74/09	D & C Construction	Rehabilitation of site amenities leading to the Cane Garden Bay Ferry Dock -Phase 1B	99,876.77
1M/09	D & C Construction	Rehabilitation of site amenities leading to the Cane Garden Bay Ferry Dock -Phase II	295,849.50
Total Cost of the Cane Garden Bay Dock			961,188.02

Cruise Ship Tender Dock

22. *The Cruise Ship Tender Dock is a multi-million dollar project that was executed without the application of the tender process for contractors or any evidence of competitive submissions.*

23. The new cruise ship tender dock in Road Town was envisioned as a multifunctional facility which would address the chaos caused by passengers arriving by tenders on waterfront drive; serve as a potential back-up facility for local shuttle ferries and cruise ship ferries; and accommodate boats of different sizes requiring docking facilities.

24. In January 2008, The Authority engaged CH2M Hill International Ltd. to provide engineering services for the extension of the Road Town Cruise Ship Pier. By late that same year the project had been renamed the Road Town Cruise Ship Pier & Containment Wall. This subsequently evolved into the project for the Cruise Ship Tender Dock and Repairs to the Existing Pier.

25. The Cruise Ship Tender Dock project was divided into two phases. Phase I for the construction of a 250 foot dock and Phase II for construction of the breakwater.

Professional Preparatory Services

26. Preparation for this project began in 2008 with several agencies and companies involved in development and implementation.

27. Dawson Wells Consulting Engineers on 24 March 2009 received approval from the Authority to proceed with the design of the dock. A geotechnical investigation along with a hydrographic investigation was conducted to assist the engineers in their work.



28. The cost estimates for Phases I and II were \$2,000,000.00 and \$1,400,000.00 respectively. Dawson Wells would receive 5.5% of the total cost of the project.

29. Kraus Manning Inc. was engaged in June 2009 as the project managers. Their role was defined in a proposal and letter of engagement submitted to the managing director of the Authority.

30. The initial agreement stated a period from 26 June 2009 to 26 February 2010 at a cost of \$328,500. The engagement was extended by three months which resulted in a submission for additional costs of \$41,000 from the project managers.

31. Odyssey Venture Group Limited was awarded the works for both phases of the project. On 16 September 2009 the Authority signed a one page short form agreement with the contractor for \$3,440,987.20 covering Phases I and II of the project. The one page agreement which contained the basics of engagement in nine brief points was deemed sufficient by the parties to cement this multimillion dollar project.

32. During the construction of the dock variations were made to the project scope that increased the costs by \$186,605.00. The most costly changes were the procurement of 4,000 cubic yards of granular fill for backfilling sheet piles at \$160,000.00 and the lengthening of the breakwater which cost an additional \$75,000.00. A variation was also approved to remove the dolphin piles from the project resulting in a reduction of \$60,000.00.



33. Minor delays caused the completion date to be pushed back from 3 February 2010 to 3 April 2010.

34. The Tender Dock expenses as listed below were \$4,484,228.42.

Cost of the Tender Dock

35. It is notable that for a project costing over four million dollars there were no tendering activity, no substantial contracts and no records as to how the sole contractor was selected for the works.

Contractor	Scope of Work	Amount
Odyssey Venture Group Ltd	Provision of all labor, plant, materials, consumables, management and supervision required to complete Tender dock, Variations and Breakwater	\$3,779,106.74
Kraus Manning Inc	Project Management Team - Progress reports to be remitted to the BVI Port Authority every 2 weeks or there about.	\$561,861.68
Dawson Wells Consulting Engineers	Design the tender dock for 5.5% of total cost of Phase I and Phase II \$3,400,000	\$143,260.00
Total Amount Paid		\$4,484,228.42
Odyssey Venture Group Ltd	Balance Outstanding	\$101,162.61
Total cost of the Tender Dock		\$4,585,391.03

Cruise Ship Pier Repairs

36. The repairs on the Cruise Ship Pier consisted of the removal and salvage of existing cylindrical fenders, replacing existing fenders with dual cone fender systems and repairs to the existing concrete structure. These works were divided into two parts; concrete pier repair work and fender replacement works with separate completion dates.

37. Kraus Manning Inc. performed as the project managers for the Cruise Ship Pier Repairs but the files do not contain any documentation providing the terms and cost of this assignment. There appears to be an assumption by the Authority that this aspect of the works was being undertaken by Kraus Manning Inc at no additional charge.

38. The files indicated that an advertisement for bids was prepared in June 2009 by CH2M Hill but no evidence was found or provided to indicate that the process was completed.

39. James Todman Construction Ltd signed an undated agreement with the Port Authority (notarized on 28 August 2009) for the refurbishment of the cruise pier in an amount of \$1,528,833.00.

40. The contractor began works in September 2009, which was two months after the scheduled commencement date, and close to the beginning of the cruise tourism season. The works were repeatedly disrupted because health and safety concerns required that all construction activity to cease when cruise ships were in port. As a result the target dates set for the repairs were constantly being adjusted.

Schedules and Milestones	Dates
Anticipated Notice to Proceed	July 30, 2009
Substantial Completion of the Concrete Pier Repair Work: 113 calendar days, but not later than...	November 30, 2009
Final Completion and Payment for the Concrete Repair Work: 141 calendar days, but not later than...	December 18, 2009
Substantial Completion of the Fender Replacement Work: 225 calendar days, but not later than ...	March 12, 2010
Final Completion and Final Payment for the Fender Replacement Work: 253 calendar days	

41. As at 16 February 2011 a total of \$1,905,142.87 was paid to James Todman Construction Ltd. The Authority's records indicate that there is still an amount of \$119,550.13 to be paid to the contractor. This would result in an amended contract sum of \$2,024,693.00. The Director of the Authority explained that variations were required because the defective areas were greater in size than originally anticipated and that further inspections revealed additional areas for repair.

Conclusion

42. The public tender process is intended to provide the Government and public agencies with a measure of confidence that value for money is being achieved on major public projects as bids are evaluated for the best cost and fit. The process also provides transparency and reduces the likelihood of improper or irregular assignments. This process was for the most part disregarded on multimillion dollar projects undertaken by the Authority during the period under review.

Recommendations

1. All major projects should be put to public tender to ensure full transparency and to promote the attainment of value for money.
2. The Port Authority needs to develop and document a clear process for awarding contracts on small and large projects.
3. Where a decision has been made to waive the tender process, the reasons for this should be fully documented along with the authority through which the decision was made.
4. All major engagements should be accompanied by a comprehensive written contract document stipulating the agreed costs, terms and obligations.
5. Instructions received from the Government with respect to section 19 of the British Virgin Islands Port Authority Act should be issued by the Minister in writing as stipulated in the Act.

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