

Washington State Auditor's Office
Accountability Audit Report

Republic Public Development Authority
Ferry County

Report Date
August 18, 2010

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WASHINGTON
BRIAN SONNTAG
STATE AUDITOR



**Washington State Auditor
Brian Sonntag**

October 11, 2010

Board of Directors
Republic Public Development Authority
Republic, Washington

Report on Accountability

We appreciate the opportunity to work in cooperation with your Authority to promote accountability, integrity and openness in government. The State Auditor's Office takes seriously our role to advocate for government accountability and transparency and to promote positive change.

Please find attached our report on the Republic Public Development Authority's accountability and compliance with state laws and regulations and its own policies and procedures. Thank you for working with us to ensure the efficient and effective use of public resources.

Sincerely,

BRIAN SONNTAG, CGFM
STATE AUDITOR

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Ferry County
August 18, 2010**

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Audit Summary

Republic Public Development Authority Ferry County August 18, 2010

ABOUT THE AUDIT

This report contains the results of our independent accountability audit of the Republic Public Development Authority from June 1, 2006, through May 31, 2010.

We evaluated internal controls and performed audit procedures on the activities of the Authority. We also determined whether the Authority complied with state laws and regulations and its own policies and procedures.

In keeping with general auditing practices, we do not examine every transaction, activity or area. Instead, the areas examined were those representing the highest risk of noncompliance, misappropriation or misuse. The following areas were examined during this audit period:

- Open public meetings/records laws
- Procurement (bidding/prevaling wage)
- Annual audit report submission
- Surplus property
- Financial health

RESULTS

In most areas, the Authority complied with state laws and regulations and its own policies and procedures.

However, we identified a condition significant enough to report as a finding:

- The Authority did not consistently document compliance with laws relating to the Board's open public meetings.

Description of the Authority

Republic Public Development Authority Ferry County August 18, 2010

ABOUT THE AUTHORITY

The Republic Public Development Authority was created in 2003 by the city of Republic. For the purpose of attracting businesses to the Republic area, the Authority's primary task since its inception has been the acquisition of land and building an industrial park.

An appointed, seven-member Board of Directors governs the Authority. The Authority has no employees as the Board Members perform all business functions. The Authority is funded primarily through grants and donations. For fiscal years 2005 through 2010, the Authority operated on average annual budgets of approximately \$61,500.

APPOINTED OFFICIALS

These officials served during the audit period:

Board of Directors:

Dave Betschart (resigned November 2009)
Fred Bremner (resigned May 2008)
Milt Chambers (resigned May 2009)
John Friedrichs (resigned February 2006)
Lyle Gardinier (through 2005)
John Glenwinkel (through 2005)
Jim Hall (resigned January 2009)
Jill Heming (resigned May 2007)
Jayne Jurgensen (resigned May 2008)
Esther Merrill (resigned January 2009)
Ron O'Halloran (through 2006)
Lou Pritchett (through 2005)
Glenna Rupp (through 2007)
Chris Vellinga, (resigned June 2009)
Dan Chaplik (elected November 2005)
Lois Copelan (elected March 2009)
Cliff Couse (elected July 2005)
Marc Keith (elected March 2009)
Kate Meginley (elected May 2007)
Alex Wirt (elected December 2009)

AUTHORITY CONTACT INFORMATION

Address: Republic Public Development Authority
P.O. Box 848
Republic, WA 99166

AUDIT HISTORY

This was our first audit of the Authority. We will audit the Authority on a two-year cycle.

Schedule of Audit Findings and Responses

Republic Public Development Authority Ferry County August 18, 2010

1. The Authority did not consistently document compliance with laws relating to the Board's open public meetings.

Description of Condition

The Republic Public Development Authority has a seven-member Board of Directors, appointed by the Republic City Council. It meets on the first and third Wednesday of each month and holds special meetings when necessary. With a few exceptions, its meetings are subject to the Open Public Meetings Act.

During the audit, we found:

- The Authority could not locate minutes for meetings it held from October 2006 through April 2007 and on September 17, 2008, and March 3, 2010. State law requires the Board to retain minutes for all public meetings, with the exception of executive sessions.
- In 26 instances, meeting minutes did not note adjournment times.
- The Board met six times without a quorum (a majority of members) and voted to approve expenditures. This vote constituted final action, which is not allowed without a quorum in accordance with state law.
- The Board met in executive session on June 3, 2009, to discuss "personnel issues." This information is insufficient to allow us to determine if the session was for an allowable purpose.
- The Board met in executive session on June 3, 2009, to discuss a legal issue; however, an attorney was not present, as required by state law.

Cause of Condition

The Authority's Board of Directors was not aware of Open Public Meetings Act requirements.

Effect of Condition

The Open Public Meetings Act is intended to keep the public informed of business conducted by government. If minutes to open public meetings are not documented or retained, citizens and other interested parties are denied information about the Authority's discussions and official actions.

Recommendation

We recommend the Authority follow all legal requirements relating to open public meetings and records retention by:

- Documenting and retaining all public meeting minutes.
- Conducting business, with the exception of allowable executive sessions, in an open public meeting.
- Documenting that executive sessions are for allowable purposes and an attorney is present at those sessions for legal issues.

Authority's Response

We would like to thank the State Auditor's Office for their thorough and helpful Audit Findings as of May 31, 2010.

In response to the one Condition of the Findings, the RPDA's Board of Directors would like to acknowledge the fact that we were not aware of the Open Public Meetings Act requirements as stated in the various RCW's brought to our attention by the Auditor's Office. However, with the help from your office, we have learned a great deal about the OPMA and will strive to adhere to it in the future. If a situation is in question, we will contact the Auditor's Office for clarification and direction. We hope that this will help both ourselves and the Auditor's Office in the upcoming years.

Again, thank you for your assistance in making the RPDA an even better organization.

Auditor's Remarks

We thank the Authority for its response. We will follow up on this matter during our next audit. We also thank the Authority's Board of Directors for its cooperation and assistance during our audit.

Applicable Laws and Regulations

RCW 42.30.020, Definitions, states in part:

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

RCW 42.32.030, Minutes, states:

The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

RCW 42.30.030, Meetings declared open and public, states:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

RCW 42.30.060, Ordinances, rules, resolutions, regulations, etc., adopted at public meetings--Notice--Secret voting prohibited, states:

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

RCW 42.30.080, Special meetings, states:

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

RCW 42.30.110, Executive sessions, states:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public

knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

RCW 40.14.070(2)a, Destruction, disposition, donation of local government records — Preservation for historical interest — Local records committee, duties — Record retention schedules — Sealed records, states in part:

(2)(a) Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(i) The records are six or more years old;

(ii) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(iii) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency.



ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the state's Constitution and is part of the executive branch of state government. The State Auditor is elected by the citizens of Washington and serves four-year terms.

Our mission is to work in cooperation with our audit clients and citizens as an advocate for government accountability. As an elected agency, the State Auditor's Office has the independence necessary to objectively perform audits and investigations. Our audits are designed to comply with professional standards as well as to satisfy the requirements of federal, state, and local laws.

The State Auditor's Office employees are located around the state to deliver our services effectively and efficiently.

Our audits look at financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits of state agencies and local governments and fraud, whistleblower and citizen hotline investigations.

The results of our work are widely distributed through a variety of reports, which are available on our Web site and through our free, electronic subscription service. We continue to refine our reporting efforts to ensure the results of our audits are useful and understandable.

We take our role as partners in accountability seriously. We provide training and technical assistance to governments and have an extensive quality assurance program.

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Deputy Chief of Staff
Chief Policy Advisor
Director of Audit
Director of Special Investigations
Director for Legal Affairs
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