



- *Accountability*
- *Transparency*
- *Integrity*

## **Governance Review**

# **Albany County Airport Authority**

**September 24, 2007**

**GR-2007-02**

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## Executive Summary

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**Purpose and Authority:**

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (Act) to review and analyze the operations, practices and reports of public authorities and to assess compliance with various provisions of Public Authorities Law and other relevant state statutes. Our governance review of the Albany County Airport Authority was performed in August 2007 and conducted in accordance with our compliance review protocols which are based on generally accepted professional standards. The purpose of our review was to provide an objective determination of the extent of the Authority's statutory compliance.

**Background Information:**

The Albany County Airport Authority (Authority) was created in 1993 as a public benefit corporation pursuant to Title 32 of Public Authorities Law. The Law authorized the Authority to operate and maintain the Albany County Airport, including the financing and construction of terminal and other capital improvements. The Authority has seven Board members: three appointed by the County Executive and four appointed by the majority leader of the County Legislature, and is managed by a Chief Executive Officer and an executive team comprised of a Chief Financial Officer and General Counsel. Primary sources of capital for programs and projects are Authority revenues, Federal and State grants, and Authority bond issuances. The Authority received approximately \$40 million in revenue for the year ended December 31, 2006, and has total outstanding debt of \$161.5 million.

**Results:**

We found that the Authority appears to be a well-functioning public authority with an informed and involved Board and management team. Overall, the Authority has done an effective job of complying with the requirements of State laws, and is continuing to make progress in complying with the provisions of the Act by revising and adopting additional policies, as necessary. The Authority can continue to improve the accountability and transparency of its operations by annually reviewing and making any necessary revisions to its policies and procedures.

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## **Introduction and Background of the Authority**

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The Albany County Airport Authority (Authority) was established in 1993 as a public benefit corporation pursuant to Title 32 of Public Authorities Law. The Law authorized the Authority to operate and maintain the Albany County Airport (Airport), including facilitating the financing and construction of terminal and other capital improvements. The Authority is responsible for the planning, development, administration, operation, and financial condition of the Airport, and for renting space and assessing user fees on the airlines and businesses providing goods and services to the Airport.

To accomplish its purpose, the Authority entered a 40-year agreement with Albany County (County), effective May 16, 1996, which transferred management and operational responsibility for the Airport from the County to the Authority. As part of this agreement, the County's outstanding debt related to Airport capital improvements was transferred to the Authority. Since 1996, the Authority has made additional structural and capital improvements, including reconstruction of the original terminal, construction of additional terminals, and construction of a parking garage and connecting bridge. These improvements were made possible through the issuance of Authority revenue bonds. As of December 2006, the Authority had total outstanding debt of \$161.5 million, which includes \$6.4 million of debt originally issued by the County.

The Authority's fiscal year begins on January 1, and as of December 31, 2006, the Authority reported \$354 million in assets. Revenue received by the Authority for 2006 was over \$40 million, while operating expenses totaled approximately \$30 million.

The Authority is governed by a seven-member Board: four members are appointed by the majority leader of the County Legislature and three members are appointed by the County Executive, all with approval from the County Legislature. At the time of our review, the Board was comprised of only six members. One member resigned on June 30, 2007, and as of September 2007, a replacement had not yet been identified or appointed.

As of August 2007, the Authority had 28 salaried and 13 seasonal/temporary employees. The Authority's executive management consists of the Chief Executive Officer (CEO), the Chief Financial Officer (CFO) and General Counsel.

The Authority has employed the services of two management companies since October 2005. Macquaire Aviation North America 2, Inc. (d/b/a AvPorts) manages the daily operations of the Airport, such as grounds maintenance and building upkeep, parking, and security operations. Go Albany, Inc. (d/b/a/ Million Air) manages the Fixed Based Operations (FBO) of the airport, such as the fueling, de-icing, and other support services provided to the commercial airlines and general aviation aircraft.

## ***Compliance Review Objectives***

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (Act) to conduct reviews and analyses of the operations, practices, and reports of public authorities to assess compliance with provisions of the Act, Public Authorities Law, and other statutes. Our governance review was conducted to provide an objective determination of the Authority's compliance with applicable provisions of the Act and Public Authorities Law.

## ***Compliance Review Scope and Methodology***

Our compliance review was conducted in August 2007, and covered selected Authority operations for the period January 2006 through August 2007. Our review focused on the effectiveness of the governing Board and Authority management. Specifically, we reviewed:

- Board duties and committee involvement
- Board member training
- Policies and procedures required under the Act and Public Authorities Law
- Policies and procedures indicative of good governance practices
- Internal controls over procurement and contracting, cash and investments, and asset management
- Independent financial audits
- Adherence with reporting requirements

In addition to reviewing financial and organizational documents and records, we interviewed executive and senior staff, attended a Board meeting, and performed other testing we considered necessary to achieve our objectives. Our report contains recommendations to ensure the Authority's compliance with the Public Authorities Law, and recommendations for improving corporate governance practices. The results and recommendations of our compliance review were discussed with Authority management and their comments have been considered and are reflected within this report where appropriate.

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## Compliance Review Results

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### *Governance and Oversight*

#### Board Duties

**Section 2824 of Public Authorities Law indicates that public authority board members should execute direct oversight of senior management in the administration of the authority and understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the authority.** Further, good governance principles dictate that public authority board members act in good faith and in the authority's best interest, and perform their oversight function consistent with the mission of the public authority and the public's interests. In addition, authorities should conduct business in an environment that fosters transparency and enhanced public disclosure, focuses on accountability, and supports external oversight.

We generally found the Authority Board to be actively involved in the oversight of most aspects of Authority operations—including working toward full compliance with the Act and Public Authorities Law. We reviewed Board meeting minutes for the period January 2006 through June 2007 and attended the August 2007 Board meeting. Though the Authority's enabling legislation only requires the Board to meet at least four times per year, the Board meets almost on a monthly basis. In the 20-month period we reviewed, the Board met 17 times and a quorum was present at all 17 meetings.

Authority management generally provides Board members with an agenda and necessary meeting materials one week in advance to allow members to prepare for the meeting, formulate questions, and make decisions about various Authority operations. From the minutes reviewed and meeting attended, it appears that there is active discussion of relevant issues regarding the Authority's financial position, performance data, and capital and construction projects. We observed instances where Board members would request additional information before moving to vote on an item and where agenda items would be deferred until subsequent meetings so that sufficient information was available.

In addition, Authority management makes sure that Board members are well informed of their duties and Authority operations by providing newly appointed Board members with an orientation handbook that contains a copy of the by-laws, the current adopted budget, the Comprehensive Annual Financial Report (CAFR), a property inventory with a description of the property and the current occupant, the most recent meeting agenda binder, the last six months of meeting

minutes, the Authority's enabling legislation, and the relevant sections of Public Authorities Law.

We found that Authority management prepares monthly reports containing various statistical data on Authority operations, such as comparisons of budgeted to actual revenues and expenditures, and these reports are presented to the Board. During the meeting we attended, Board members appeared well-informed about the financial position of the Authority, and raised appropriate questions regarding deviations in budgeted revenue and expenditure data.

**Good governance practices suggest that public authority board member duties and responsibilities should be clearly defined, so that board members understand their roles and are better able to effectively perform their governance responsibilities consistent with the mission of the public authority.** We found that the Authority has established by-laws clearly identifying the responsibilities and duties of members, officers, and committee members. Further, the by-laws specifically prohibit the granting of loans or the extension of credit to any member, officer or employee of the Authority. Within our scope period, the by-laws were updated and amended twice, indicating that Board members are aware of their duties and appropriate governing principles.

**Section 2824(1) of Public Authorities Law requires Board members to execute oversight of senior management, establish policies regarding salary and compensation of senior management, adopt a code of ethics, establish a whistleblower protection policy, and adopt a defense and indemnification policy.** Consistent with the requirements of Section 2824, the Board has adopted a policy regarding salary and compensation for executive management. The Board has also adopted a code of ethics, a defense and indemnification policy, and a whistleblower protection policy as part of its bylaws. Although the Authority has a whistleblower protection policy, this policy does not include procedures for reporting potential misconduct, and for ensuring that employees will be protected from retaliation. Authority management indicated that they will work on drafting formal procedures that address whistleblower protection and reporting potential misconduct and submit them for Board review.

#### Committees

**Section 2824(4) of Public Authorities Law requires authorities to establish an audit committee and a governance committee.** The audit committee is to be responsible for recommending a certified independent accounting firm, establishing the independent auditor's compensation and providing direct oversight of the execution of the authority's independent audit. The governance committee is to be responsible for reviewing corporate governance trends, keeping the Board informed of best practices in governance, updating the authority's corporate governance principles and advising appointing authorities on the skills and experiences required of potential Board members. The formal

establishment of the audit and governance committees helps a public authority to improve oversight and accountability within the organization and assist the board of directors in making better decisions.

We found the Board has established an Audit Committee, and this committee has developed a charter that adequately addresses the committee's responsibilities. The Audit Committee met several times during the period covered by our review and also met independently with the auditing firm during the most recent independent audit. In addition, the Audit Committee was directly involved with the recent selection of a new independent audit firm, after the previous audit firm had been used for five consecutive years.

The Board has also established a Governance Committee, and this committee has met and discussed compliance with the Public Authorities Law and the Act. As a result, the Board was proactive in amending the Authority's bylaws and personnel handbook to include policies necessary to comply with the Act. In addition, the Governance Committee along with Authority management began utilizing a compliance checklist to document their efforts towards achieving compliance under the Act. This checklist summarizes the compliance requirements applicable to the Authority, and also documents the date the Authority fulfilled each compliance requirement.

However, we noted that the Governance Committee has only met once since it was established in May, 2006. In addition, at the time of our review the Governance Committee had not yet adopted a charter to guide the operations and activities of the Committee, although a draft charter has been developed and is expected to be adopted at a future meeting. Authority management indicated that the Governance Charter will be adopted by the Governance Committee, and that it will recommend to the Governance Committee to meet more frequently, as necessary.

### Training

**Section 2824(2) of Public Authorities Law requires all individuals appointed to the board of a public authority to participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to the Board.** At the time of our review the Authority had six Board members, and all of them had served on the Board for at least one year. Four of the Authority Board members have attended the required State-approved training, while two Board members have not. And although two Board members did not attend within the one-year timeframe, Authority management demonstrated that they made a best-faith effort to bring all members into compliance with the training requirement. Additionally, Authority management provided us with documents indicating that both of these Board members have registered for a training session in November 2007.



## Financial Disclosure

**Section 2825(3) of the Public Authorities Law requires board members, officers, and employees of local public authorities to follow financial disclosure policies established by the county board of ethics for the county in which the local public authority has its primary offices.** Since the Authority is located in Albany County, it is subject to Albany County Local Law No.8, which requires all policy making officials and members of County policy making boards, paid or unpaid, to file financial disclosure statements for the previous calendar year by May 15<sup>th</sup>. Though the Authority does not have a formal policy or procedures in place to ensure financial disclosures are submitted, we did find that the Authority notifies appropriate employees and Board members that they are required to submit financial disclosures. We found that all Authority employees required to submit financial disclosures did so by the required due date. Authority management reminded the Board of this requirement in three separate board meetings before the 2005 disclosures were due (in 2006), and another reminder was given to the Board before the 2006 disclosures were due (in 2007). However, we found two of the Board members did not submit the financial disclosures for 2005, and two different Board members did not submit the financial disclosures for 2006. During our review, Authority management again discussed this requirement with appropriate Board members, and all four board members have since submitted their financial disclosures to the County Board of Ethics.

## ***Management Practices***

### Annual Report

**Section 2800(2) of Public Authorities Law requires authorities to prepare an annual report disclosing information related to their operations, management, and finances.** The Authority appropriately reports its financial and operational information in the Comprehensive Annual Financial Report, and also prepares reports on a detailed real property schedule listing the location and value of all leased properties as well as detailed inventory schedules of personal property owned by the Authority.

### Transparency

**Section 2800(2) (b) of Public Authorities Law requires Local authorities to make information accessible to the public to the extent practicable through the use of the authorities' Internet web site.** We found that the Authority's web site provides all of the required information under this part of the law. The web site provides important information on the Authority's mission, current activities, financial reports, and current year budget. In addition, the Authority's Comprehensive Annual Financial Report, which includes the results of the most recent independent audit, is posted on the Authority's web site, as well as the Authority's public meeting schedule, applicable legal notices, requests for proposals and requests for bids, and commercial development sites available for lease.

### Internal Control Assessment

**Section 2800(2) of Public Authorities Law requires authorities to assess and report on the effectiveness of their internal control structure and procedures.** Authority management appears to have a good understanding of the need for internal controls and the existing control structure at the Authority. Authority management has reported that there is a comprehensive internal control framework in place, and was able to adequately describe the controls in place over specific business operations. In addition, Authority management has documented the basic internal control procedures followed by staff, and has developed a procedures manual that provides the procedures to be followed by staff for those areas of greater risk. Authority management has also demonstrated steps it has taken to strengthen the controls in place in those instances where weaknesses were identified. However, authority management could further improve its oversight of controls by developing a formal process for evaluating the effectiveness of the controls that are in place, and presenting the results of this evaluation to the Board.

## Required Guidelines

**Section 2896 of Public Authorities Law requires public authorities to adopt guidelines regarding the use, awarding, monitoring, and reporting of contracts for the disposal of real property.** We found that the Authority's guidelines for property disposition comply with the requirements of the Act. The Authority has established three sets of guidelines regarding the use of Airport property— one for the leasing of property, one for the acquisition of property surrounding the Airport, and one for the disposal of property.

According to the Authority's leasing guidelines, lease rates should be commensurate with similar or equivalent space in the area surrounding the airport, taking into consideration appropriate value for access and/or proximity to the airport. We reviewed one lease contract that was entered into during our scope period to verify that it complied with the guidelines, and found that the rate charged was competitively priced and consistent with the provisions of the Authority's leasing guidelines.

**Section 2824(1) of Public Authorities Law requires board members to establish written policies and procedures, including policies on the procurement of goods and services.** We found that the Authority has formally adopted procurement guidelines that outline the requirements regarding the selection of contractors for procurement contracts, and that these guidelines also provide procedural controls intended to prohibit improper lobbying. However, we found that these procurement guidelines are not reviewed annually, but are only reviewed when there is a proposed change to the guidelines. According to Authority management, the guidelines have not been revised since they were created in January 1995.

We selected two contract procurements to determine whether the Authority complied with its established guidelines. Both contracts were for professional services, and each was over \$25,000. According to the Authority's procurement guidelines, professional services contracts that are over \$25,000 require that more than three written quotes be obtained through a request for proposal or request for quotation process. For one contract, the Authority appropriately followed its procurement guidelines, but for the other, no written quotes were obtained, and neither requests for proposal nor requests for quotation were solicited. The contract was brought before the Board for review and discussed at two separate Board meetings, but there was no written explanation in the Authority's records to justify the deviation from the Authority's established guidelines. We did review additional material for the latter contract to verify that the contracted services were appropriately provided and the cost did not appear unreasonable.

**Section 2925 of Public Authorities Law requires all authorities to establish investment guidelines to govern the investment practices of an authority.**

**These guidelines are to detail instructions to officers regarding the investing, monitoring and reporting of funds of the Authority, require an independent audit of investments be done annually, and are to be reviewed and approved annually.** We found the Authority has established comprehensive investment guidelines detailing the Authority's investment policy and instructions to officers and staff regarding the investing and monitoring of Authority funds. For example, these guidelines address collateralizing of deposits, permitted investments, and also identify authorized financial institutions. However, the Authority's guidelines do not include instructions on how the investments of the organization are to be reported, do not include a requirement that investments are to be audited annually, and do not require that the guidelines are to be annually reviewed and approved by the Board. Authority management indicate that monthly reports on investments are provided to the Board, in the format and manner requested by the Board, and that investments are a significant component of the Authority's assets, and therefore are included in the annual audit of the financial statements. Management also indicated that the guidelines are only reviewed when there is a proposed change.

#### Policies and Procedures

**Good governance practices dictate that an Authority will have policies and procedures governing the operations and proper use of Authority resources.** We found that the Authority has appropriately established time and attendance policies to guide employee behavior and work expectations, and has established an Internet usage policy which states that Authority employees can use the Internet only for official Authority business. Further, the Authority has established a records retention schedule that complies with legislative and regulatory requirements.

The Authority does have a vehicle use policy that specifies the appropriate uses of Authority vehicles. However, at the time of our review we noted that the policy lacked guidelines regarding personal use of Authority vehicles. We discussed this with Authority management, and the policy was promptly amended to include provisions which require employees to maintain mileage use logs when taking vehicles off Airport grounds in conformance with Federal Internal Revenue Service reporting guidelines. According to the policy, the logs will be submitted to the Authority's Finance Department at the end of the year to determine whether use of the vehicle would constitute supplemental income under Federal tax laws. The Finance Department will issue the appropriate tax forms to employees, if necessary.

#### Budget Report

**Section 2801 of Public Authorities Law requires authorities to submit budget information to several entities. This includes information on operations and capital construction, the proposed receipts and**

**expenditures for the next fiscal year, the estimated receipts and expenditures for the current fiscal year and the actual receipts and expenditures for the last completed year.** We found that the Authority's adopted budget report is a comprehensive document that complies with all of the substantive reporting requirements under Section 2801 of Public Authorities Law. The report provides information on the projected, budgeted, and actual revenues and expenditures for all Authority operations. The budget report also provides a brief description of all programs and estimated costs in the Authority's five-year capital plan. The Authority has established a budgetary cycle that provides specific timeframes for completing the annual budget.

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## **Compliance Issues Summary**

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### **Training**

Two of the current six Authority Board Members have not attended the required State-approved training within one year of their appointment, as required under Section 2824(2) of the Public Authorities Law.

### **Financial Disclosure**

Board members did not consistently submit their financial disclosure statements for 2005 and 2006 in accordance with the timeframes established in Albany County Local Law, which is required under Section 2825(3) of Public Authorities Law.

### **Investment Guidelines**

The Authority's Investment Guidelines do not include instructions for reporting funds, or provisions for an annual independent audit of investments, and the Guidelines are not reviewed and approved annually, as required by Section 2925 of the Public Authorities Law.

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## **Good Governance Recommendations**

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1. Authority management should improve the whistleblower protection policy by including procedures for reporting instances of misconduct and provisions for protecting employees from retaliation.
2. The Governance Committee should meet more frequently to ensure all compliance and corporate governance issues are addressed in a timely manner.
3. The Governance Committee should establish a Committee Charter to guide their operations and activities, and have the charter adopted by the Board.
4. The Authority should develop and adopt formal procedures for financial disclosure to ensure full and consistent compliance by all employees and Board members.
5. The Authority should develop procedures for assessing and documenting the effectiveness of its internal control structure.
6. The Board should review and revise as necessary the procurement guidelines at least annually.
7. Authority management should document and obtain Board approval for all deviations from the Authority's procurement guidelines, when applicable.
8. The Authority should revise its investment guidelines to include instructions for reporting investments, provisions for an annual audit, and requirements for annual review and approval.