

DATE: September 10, 2013

TO: Mark Ojakian

FROM: Catherine Smith

RE: Amistad/Line Items

Background

- Over the past 20 years, the State of Connecticut has invested a total of almost \$9 million related to the Freedom Schooner Amistad: over \$2 million for dredging and docking facilities in New Haven prior to the construction of the ship, \$2.5 million for construction of the ship; \$725,000 for repairs to the ship; and \$3.5 million in operating subsidies to the non-profit Amistad America.
- DECD funded the initial construction of the ship in 1999-2000, and has provided working capital for repairs to the ship, but has had no role in the decision making about operating support to Amistad America. Amistad America is funded annually via a legislatively directed line item, currently in the amount of \$379,000. DECD administers a pass-through of these funds to Amistad America, but has no authority to impose conditions on the funding or to withhold payment for non-performance.
- As part of the funding of the construction of the ship, DECD placed a lien on the ship for a 10-year period following the completion of construction, the terms of which required the Amistad to be in Connecticut waters for six months of the year. The lien was released in October, 2010.
- For the past several years, Amistad America has operated at a loss, due to a combination of the ending of federal earmarks, which were its principal source of funding, and a failure of the bowsprit in an accident at sea, which prevented the ship from earning revenue in the two years during which it was under repair. At the peak of federal earmarks, Amistad America received \$2.2 million in federal funds, 80 percent of a \$2.7 million total budget.
- During the period of operating losses, Amistad America has accrued several hundred thousands of dollars in bad debt in accounts payable and payroll payable, but has managed to keep the boat essentially lien-free. It radically scaled back its expenses to operate on a breakeven basis, and hired counsel to avoid bankruptcy and workout its bad debt.
- Amistad America sought and received authorization for extensions to file audits with OPM and 990's with the IRS for fiscal years 2009 to 2013. The OPM extensions mirrored those provided by the IRS. All extensions have now expired, with the consequence that the IRS revoked Amistad America's 501(c)3 status.

Current Status and Expected Actions from Amistad America

- DECD conducted due diligence on the Amistad America contract during June, July and August 2013, meeting with key Amistad America staff and partners and reviewing financial and program data.
 - As part of the FY 14 line item contact with Amistad America, \$80,000 has been diverted to OPM, who has engaged Cohn Reznick to complete the 2009 to 2013 audits by November 2013. Amistad America's accounting firm, T. M. Bixbee will file 990's for 2009 to 2013 in the next 60 days with the goal of reinstating Amistad America's 501(c)3 status.
 - Amistad America is also negotiating with its unsecured lender, TD Bank, to convert to a mortgage secured by the boat, grossing up the loan to clear its bad debt, with the goal of clearing its bad debt within the next 60 days.
 - Amistad America has entered into a partnership with Ocean Classroom Foundation for the marine operations of the ship, including marine insurance, crewing and routine maintenance. Ocean Classroom has similar partnerships under which it operates several other state replica tall ships. A new contract among Amistad America, Ocean Classroom Foundation and the TV series *Cross Bones*. In this first season of filming, *Crossbones* insisted that the Amistad be in Puerto Rico on September 1. It is the intent of both Amistad America and *Crossbones* that in future years filming will commence in November rather than September to avoid the hurricane season in the Caribbean and to allow a full four months of summer programming with the ship in Connecticut waters. Amistad America has formally committed in writing as part of its FY 14 line item application to have the Freedom Schooner Amistad in Connecticut waters for the months of June, July, August and September.
 - Amistad America has developed a new partnership with the anti-human trafficking group *Love 146* which they believe will make Amistad America more attractive for individual and foundation funding, and help make its educational programming richer and more relevant. Amistad America's new Executive Director, Hanifa Washington, has strong capabilities in educational programming and is developing a compelling array of programs for summer 2014 in Connecticut that is detailed in Amistad America's FY 14 line item application.
 - Through a combination of the state line item, the *Crossbones* contract, restructuring its debt, continuing to control expenses, and earning income through port calls, deck tours and other means, Amistad America projects positive net operating revenue this fiscal year.

Next Steps

- We are awaiting completion of the audit (due in November). Within the confines of our authority, we will continue to work with Amistad America to ensure they have stable financials.

Recommendations

- We have learned much from digging into and understanding the issues and problems that have arisen in this case. There are some internal processes/ issues we plan to review with OPM to ensure more timely and effective oversight of the line-items within our current authority.
- However under current law, there are no requirements we can impose on line-item recipients –other than ensuring they get a clean audit. Therefore, we have few remedies for lack of performance, or even concerns about operational issues. It is our understanding that even requiring the organizations to supply any information other than financial audits cannot be mandated. We are not aware if the legislature asks line-item recipients for any annual reporting on use of funds and primary activities as a condition for further funding.
- Therefore, we recommend that additional statutory oversight capability should be given to any state agency that has responsibility for overseeing line items.
 - We recommend that the state pursue putting statutory authority to place mission-based performance conditions and metrics on legislatively directed line items. This is particularly important when the line item grant represents a large percentage of the total budget of the line-item recipient. We then could also ask for other analysis or specific reporting.
 - If key metrics are not adhered to, the overseeing agency could deny or delay payment until satisfactory information is obtained.
 - Annual reporting to the legislature on the performance of the line items would be provided.
- Finally, we suggest that any relevant organization funded by line item in the budget also be required to work with the DECD Office of Tourism or Arts (or if in another agency the relevant state department) to ensure they are aware of and working with the state in the promotion of its overall mission and programs. In this way, the state will retain a closer relationship with the organization and will be aware of the primary activities of the funded organization and the organization will participate in state-sponsored efforts to improve the economy.