SUMMARY MINUTES
AUDIT - LEGAL COMMITTEE
MEETING OF FEBRUARY 20, 2013

Mr. Adams chaired the Audit – Legal Committee Meeting of February 20, calling it to order at 8:39 a.m. He noted that a quorum was present – Ms. Hall, Co-Chair, Mr. Conner, Ms. McConnell, Mr. McDermott, Ms. Merrick, Mr. Session, Ms. Wells and Mr. Curto, *ex officio*. Mr. Carter, Mr. Chapman, Mr. Davis, Mr. Griffin, Ms. Lang, Mr. McDermott and Mr. Williams, who were not members of the Committee, were also present. In executive session, Phil Sunderland, Vice President and General Counsel, reviewed the Pending Litigation Report.

The meeting was thereupon adjourned at 10:25 a.m.

[NOTE: The Audit – Legal Committee Report provided at the February 20 Board Meeting included details of the Committee's February 20 Meeting.]

SUMMARY MINUTES
BUSINESS ADMINISTRATION COMMITTEE
MEETING OF FEBRUARY 20, 2013

Mr. Session chaired the Business Administration Committee Meeting of February 20, calling it to order at 11:37 a.m. He announced the presence of a quorum, with the following members of the Committee in attendance, in addition to himself: Mr. Adams, Mr. Carter, Mr. Griffin, Ms. Hall, Ms. Lang, Ms. Merrick, Ms. Wells, Mr. Williams and Mr. Curto, *ex officio*. Mr. Chapman, Mr. Conner, Ms. McConnell and Mr. McDermott were also present.

Recommendation to Award the Foreign Currency Exchange and Business Services Contract at both Airports

Steve Baker, Vice President for Business Administration, introduced Kathleen Verret, Manager of Revenue Development. Ms. Verret reported that the foreign currency exchange service assists international passengers in exchanging their currency and other business services at both Airports. In compliance with the Contracting Manual, Ms. Verret explained that prior to issuing a Request for Proposals (RFP) for contracts exceeding $3 million, staff requests concurrence from the appropriate Committee to solicit for the contract. For this contract, staff had estimated the annual revenue to be slightly more than $1 million, which had not required prior Committee concurrence. Ms. Verret reported that upon receipt of the proposals, all exceeded the $3 million annual revenue threshold. Therefore, staff is now requesting approval to award the contract to International Currency Exchange (ICE). She noted that the RFP had been issued in October 2012 through full and open competition. Additional details regarding the RFP were included in the recommendation paper. The seven-year contract term included a 30 percent Airport Concession Disadvantaged Business Enterprise requirement. Ms. Verret reported that ICE, the highest proponent, had offered a Minimum Annual Guarantee of $30.1 million over the seven-year term, which would begin April 1. Ms. Wells inquired whether an opportunity would exist for staff to help ICE to improve some of its evaluation criteria on which it had scored slightly lower. Ms. Verret said that staff would provide oversight and ensure that ICE would comply with the terms of the contract.

The Committee unanimously approved the recommendation.

Recommendation Paper to Purchase Engineered Material Arresting Systems from Engineered Arresting Systems Corporation at Reagan National

Frank Holly, Vice President for Engineering, reported that the installation of the Engineered Material Arresting Systems (EMAS) is one of the projects whereby the Federal Aviation Administration (FAA) will reimburse the Authority for 75 percent of the total cost. Steve Smith, Deputy Vice President for Engineering, presented the staff recommendation to purchase materials through a sole-source agreement with Engineered Arresting Systems Corporation (ESCO) of New Jersey for the installation of three EMAS in the Runway Safety Areas (RSA) at the ends of Runways 15, 33 and 22 at Reagan National. He noted that the U.S. Department of Transportation (DOT) Appropriations Act for 2006 and FAA Order 5200.8 obligate Airports to comply with regulatory requirements for RSAs by December 31, 2015. Mr. Smith explained that EMAS is designed to help aircrafts with uncontrolled landings. When an aircraft's landing gear sinks into the crushable concrete, it stops the aircraft. Mr. Smith reported that ESCO is the only manufacturer approved by the FAA and eligible for reimbursement under the Federal Grants program.

Mr. Griffin inquired whether the contract included maintenance services. Mr. Smith responded affirmatively, noting that maintenance is not a significant cost and that the Authority would have the primary responsibility for maintenance. Mr. Griffin then inquired about the process used to replace the EMAS in the event an aircraft had to use it. Mr. Smith said that the airline is invariably responsible for the replacement cost of the EMAS; the Authority would recover the cost through the airline. Mr. Session asked if aircraft had overrun runways in recent history. Mr. Smith responded that it had not occurred at Reagan National or Dulles International, but recalled a catastrophic event in 2006 at Midway International Airport in Chicago.

Mr. Session inquired whether the justification for the sole-source contract award is because ESCO is the only manufacturer of the EMAS. Mr. Smith responded affirmatively. Mr. Curto noted that EMAS is also the only FAA-approved source offered under the Federal Grant program.

The Committee unanimously approved the recommendation.

Recommendation Paper for the Specialized Electronic Systems Operation and Maintenance Services at Dulles International

Chris Browne, Vice President and Airport Manager, reported that the Committee had concurred with the pre-solicitation in May 2012 that included criteria, such as price; management; understanding; and experience of services. Three proposals had been received. Upon evaluation of the proposals, International Display Systems (IDS), Inc. had received the highest technical and pricing scores. The contract term, effective July 1, is a two-year base period with three one-year option periods. The total amount of the five-year contract is $5.7 million. A 25-percent Local Disadvantaged Business Enterprise (LDBE) participation requirement is also included, which is 5 percent more than the incumbent's existing requirement. Mr. Browne reported that the contract is a customer touch point. He said that any video resonant on the Authority equipment throughout the terminals is likely served by the specialized electronic systems operation and maintenance services contract. The most prominent service is the flight information display screens.

Ms. Merrick inquired whether advertising is offered on the types of monitors serviced by the contract. Mr. Browne said that advertising is offered on some of the monitors that do not provide wayfinding or flight information. Ms. McKeough noted that the Authority had a separate contract responsible for digital advertising throughout the terminal.

Ms. Lang inquired about the name of the LDBE firm. Mr. Browne said that he would provide the requested information. Mr. Curto noted that the services were unique to Dulles International and inquired whether a comparable contract existed at Reagan National. Mr. Browne responded that the contract at Dulles International is a much more robust contract because of international travel; much of the information used is provided by the international arrivals facility.

Mr. Griffin inquired about the responsible party to ensure that accurate flight information is provided. Mr. Browne stated that a substantial amount of the information provided, including flight information, is provided by those other than Authority staff. The Authority does not have the ability to correct erroneous information. Rather, Mr. Browne reported that staff consults with airlines and others to ensure that it is updated correctly.

The Committee unanimously approved the recommendation.

Recommendation Paper for a Less than Full and Open Competition of Chemical Water Treatment Services for Dulles International

Mr. Browne reported that the contract award for the sole source procurement would consist of a five-year base and one five-year option for a total cost of $3.8 million. He explained that the risk of failure of a chemical water treatment system would be costly. Staff is responsible for monitoring 37 chemical storage/distribution stations. Mr. Browne reported that the Authority had saved over $43,000 last year because the contractor had regulated water consumption at Dulles International. The contractor provided all of the equipment. Although the system is supported substantially by its contractor, Authority staff has had extensive training and experience with the existing system. Mr. Browne noted that an open competition process for these services would cost at least $600,000. He said that the system is tied to the life cycle of the plant. At the time the plant required significant replacement or refurbishment, staff would consider replacing the chemical water treatment services.

Mr. Session asked if the contract was being awarded as a sole-source procurement because of its cost. Mr. Browne responded that a different vendor would have to dismantle the infrastructure and replace it, retrain Authority staff and put the system at risk; the cost associated with this would be incredibly high. Mr. Session sought assurance that the cost provision was within one of the categorical exceptions for a sole-source contract award, to which Mr. Browne responded affirmatively. Mr. Session noted that an LDBE participation requirement was not included in the contract and stated that he was aware of several small companies that perform waste water treatment services. Mr. Browne said that the Business Administration Office had reviewed the procurement and had determined that an LDBE participation requirement should not be included in the contract. He noted that because the current system is a proprietary system, the contract does not support other subcontractors. He also stated that Nalco had been the incumbent since 2006 when the central plant had been expanded as part of the Authority's capital development program. Mr. Browne reported that a price increase, attributable to the increased cost of chemicals, had occurred. Ms. McKeough noted that the Nalco System did not license other providers to work on its system. Mr. Session said as the Authority moved into its new procurement environment with the revision of the Contracting Manual, he reminded staff of the importance to be as inclusive as possible with respect to all procurements. Mr. Potter said that he agreed with Mr. Session and stated that staff had thoroughly debated the issue and had concluded that the sole-source contract award would be prudent. Mr. Potter said that recommendations would not be made to the Board to award sole-source contracts without careful consideration.

Mr. Carter inquired whether staff had taken into consideration that improved systems may now be available than six years prior. Mr. Browne said that he believed that Nalco is one of the leading systems. Nalco had continued to keep its system updated with new components and software. He said that he was familiar with other companies that offered these types of services, and that Nalco ranked very highly. Ms. Merrick asked about the system's typical life cycle and asked whether staff had budgeted for future maintenance and whether the Authority would consider a non-proprietary system in the event of future extensive repairs. Mr. Browne said that it would be economical to consider such a system when major renovations are needed to the existing system. He noted that the original procurement had been a full and open competitive process when the RFP for the expansion of the central plant had been issued. Mr. Session said that he was not making a judgment but he asked that the staff be mindful to ensure that artificial barriers not be created as a result of contract awards to proprietary systems. He noted that the existing procurement would likely become a 10-year contract as option years were seldom not extended. The Committee unanimously approved the recommendation.

<u>Revised Pre-Solicitation Terms for Custodial Services at Reagan National</u>

Paul Malandrino, Vice President and Airport Manager, reported that the Committee had approved the pre-solicitation terms, which included a 100 percent LDBE requirement, in September 2012. Subsequent review and analysis of the information received from bidders had revealed insufficient competition at the 100 percent LDBE requirement. In an effort to increase competition, staff now recommended that the LDBE participation requirement be revised to 35 percent. Mr. Malandrino noted that all other evaluation criteria, as provided in September 2012, remained the same. The contract would be a two-year base period with three one-year options.

Ms. Hall inquired about the procedure to revise the LDBE participation requirement. Mr. Malandrino responded that a new RFP, including the new LDBE participation requirement of 35 percent, would be issued. He noted that it would be the responsibility of an individual bidder to determine how the LDBE firm would be incorporated into its proposal. Mr. Malandrino said that staff intended to issue the new RFP no later than February 22; present its recommendation to the Committee in May; request that the Board of Directors consider the recommendation in June; award the contract and have the new contractor in place in July.

Mr. Carter inquired about the process used to determine that responses to the RFP had resulted in insufficient competition. Mr. Malandrino responded that only two bids had been received. Ms. McKeough reported that prior to issuing the solicitation staff had reviewed the certification database to determine the number of firms that are LDBE certified. She noted that while the solicitation had historically been 100 percent LDBE, staff had recently reported that the growth in passenger activity at Reagan National had created a challenge on the custodial services there. The size of the custodial contract had been expanding along with the increased activity levels at the Airport. As a result of a pre-bid conference, Ms. McKeough said that staff had reviewed the inventory of firms that had expressed interest in the solicitation to determine whether a sufficient amount of certified LDBE firms were eligible to compete. Several companies that are no longer LDBE certified had also provided feedback to Authority staff. Ms. McKeough reported that staff had determined that there may be two potential bidders, which did not represent sufficient competition to be a 100 percent set-aside contract. Mr. Carter noted that his comments were in terms of controlling costs to ensure that the Authority received the best buy for its contract awards. He said that staff is able to rationalize sole source contracts but expressed concern when there were two prospective bidders for the custodial services contract. He also said that he has continuing concern about the percentage of Minority Business Enterprise (MBE) firms that serve as prime contractors that effectively meet their goals using subcontractors. Mr. Carter expressed concern about changing the composition of the contract that had historically been a 100 percent set-aside.

Mr. Davis asked about the composition of the existing contract. Mr. Potter responded that the incumbent is 100 percent LDBE. Ms. McKeough noted that LDBE is not based on race/gender but using local small business size standards. Mr. Potter said that five qualified LDBE contractors had expressed interest in the solicitation. However, at least two firms had responded to the RFP with information that suggested that they are no longer eligible as 100 percent LDBEs. He said that the size of the custodial contracts at both Airports had grown substantially and that companies providing these services had grown and now exceeded LDBE standards. Mr. Carter expressed concern about the Fortune 500 companies that had outgrown the Authority's size standards. He said he had been especially concerned about the level of participation of these firms during Phase 1 of the Metrorail Project. He believed it is important that Authority staff develop a process to allow a significant number of minority firms to compete at a much higher level.

Ms. Lang noted that at least one of the contractors had provided custodial services in the past. Since that firm is no longer eligible as a 100 percent set-aside, she believed it is indicative that the issue needed to be addressed. She then asked whether that same firm could serve as the prime contractor and partner with an LDBE firm. Mr. Potter responded affirmatively. Mr. Davis said that although he understood the concerns expressed regarding the issue, LDBEs could still compete and be awarded with full and open procurements.

Mr. Session believed that the issue represented a larger policy implication. As Ms. McKeough had indicated, the passenger traffic at Reagan National had grown, which had required the incumbent of the custodial services contract to expend additional time and perform more duties. He stated that the Authority needed to review its size standards and determine appropriate requirements for small companies.

Mr. Adams requested a copy of the Authority's size standards and inquired about the requirements to qualify as an LDBE. Ms. McKeough responded that the Authority's LDBE standards were benchmarked to those included in the Small Business Administration (SBA) 8(a). Mr. Adams then inquired how the 35 percent LDBE requirement had been determined. Mr. Malandrino said that the Equal Employment Opportunity Office had reviewed pertinent information to determine the requirement.

Ms. Merrick asked if staff had been pleased with the services for the incumbent contractor. Mr. Malandrino responded affirmatively and noted that the incumbent is presently serving its second option year. Staff had determined that the last option year would not be exercised due to the growth at the Airport. Mr. Potter stated that the incumbent had agreed with Authority staff that the contract needed to be competitively procured. Due to the greater demand which had resulted from the increase in passenger traffic, the contractor was unable to perform the services at the expected level. Mr. Carter asked for clarity regarding the incumbent and inquired whether a new contract was needed as a result of the increased services. Mr. Potter responded affirmatively, noting that the details were consistent with what had been recently shared with the Committee. Mr. Carter suggested that the Authority revise its size standards and not conform to those of the SBA. Mr. Potter stated that no legal requirements link the Authority's size standard policy with the SBA. The Committee Chairman had asked staff to look into the issue.

Ms. Wells asked if more than one firm could provide the services required in the contract. While it had been considered, Mr. Potter said that services provided by more than one contractor would be less efficient with higher costs.

Mr. Curto stated that staff had previously discussed many of the issues raised at the day's meeting with the Committee Chair, who had determined that further review of the standards was warranted.

Mr. Griffin then offered a motion to concur with the revision of the pre-solicitation terms for custodial services at Reagan National. Mr. Carter abstained. Mr. Adams inquired about what would occur if a majority of the Committee Members did not concur. Ms. McKeough explained that it was unlikely that the LDBE participation requirement could remain at 100 percent and that other alternatives would be reviewed.

Ms. Merrick said that she appreciated Mr. Curto's comments, which had been especially helpful for new Members. She noted that an extreme amount of effort had been performed and she thought it important to recognize staff expertise. Ms. Merrick hoped that the Committee would advance the item and concur with the staff recommendation.

Ms. Lang stated that she would concur with the recommendation if staff committed to reviewing a policy change, which it would present back to the Committee.

As Chairman of the Committee, Mr. Session suggested that staff review all procurements to determine the extent that SBA standards are linked to Authority procurements. He believed that the Authority's size standards are too restrictive and that they need to be increased to be more inclusive. At that time of the discussion, Mr. Session stated that he would concur with the recommendation providing that staff would review the standards for future procurements. At that time, Mr. Williams suggested that the Committee direct staff to review the standards.

Ms. Lang then offered an amendment to the existing motion that staff conduct due diligence and provide the Committee a recommendation to increase the size standards for the contract under consideration. Mr. Griffin accepted Ms. Lang's amendment to his initial motion.

At this time, Mr. Session suggested that the item be deferred to the March Committee Meeting to allow staff adequate time to address the size standards and provide information to Mr. Adams regarding bifurcation of the contract.

Mr. Griffin then withdrew his initial motion.

Mr. Williams inquired whether deferral of the agenda item would impose problems for staff. Mr. Potter said that staff would comply with the Committee's direction, but noted that the existing scope of work exceeded the services for which the contractor had initially bid. He also noted that the contract would expire on July 1.

Mr. Carter inquired whether the incumbent's contract included a provision to provide for increases in services. Ms. McKeough said that while the contract included such a provision, it would be considered a sole-source contract award as staff would be directly negotiating an increase in the scope and cost of the contract without full and open competition.

Mr. Curto believed that the Committee should conduct an analysis on size standards and present it to the Committee. He noted that the Authority's evolving LDBE program has been incredibly successful. Mr. Curto recommended proceeding with the staff recommendation at the day's Meeting and request that a full briefing on broader issues in March.

Mr. Davis stated that the size standard issue be presented to both the Committee and Board for consideration.

Mr. Session suggested that staff conduct its due diligence and that the Committee defer the item until March.

Mr. Carter noted that he viewed the amendment to the incumbent's contract to increase the scope and cost as a change order. He stated he realized that the Authority had a successful track record for LDBE participation and that his comments were not intended to dispel staff's hard work and commitment; the discussion had been an effective exercise.

Ms. Merrick asked staff to develop ideas to amend the requirements of the DBE and LDBE Programs. She suggested that the Committee concur at the day's Meeting with the staff recommendation.

As Committee Chairman, Mr. Session stated that he preferred to defer the item until March. In the interim, staff would conduct its due diligence. Mr. Williams offered a motion to defer the item to March with instructions to staff as proposed by the Committee Chairman.

The Committee concurred that the agenda item be deferred until March.

In summary, Mr. Potter stated that staff would address issues pertaining to the solicitation discussed at the day's meeting to include: multiple contract awards; amendment to the current contract; alternatives regarding size standards threshold for the Committee and Board consideration.

Mr. Adams stated that his recommendation was not to indict staff with respect to the work it had been performed, but to fully explore options of a historical 100 percent set-aside, which was being decreased to a 35 percent LDBE participation requirement.

Status on the Draft Fourth Edition of the Contracting Manual

Andy Rountree, Vice President for Finance and Chief Financial Officer, reported that no formal action was needed at the day's meeting. Staff would present the Contracting Manual for approval in March. Mr. Rountree noted that the Board had approved the issuance of the Third Edition of the Contracting Manual in October 2012. Shortly after that approval, the Department of Transportation Office of Inspector General (OIG) had issued its report, which included recommendations specifically related to the Contracting Manual. In December 2012, staff had presented the draft Fourth Edition of the Contracting Manual, and the Committee had authorized staff to begin its due diligence and solicit public comments from the Authority's federal partners by January 18. Mr. Rountree reported the Federal Aviation Administration and General Accountability Office had confirmed that they had no comments on February 5 and 7, respectively. OIG and the Federal Transit Administration (FTA) had provided constructive comments in late January and early February. FTA comments were primarily focused on ensuring that requirements related to procurements using federal funds are clearly identified throughout the Manual and recommended inclusion of various forms and reference to the forms to aid in documentation in the Manual.

OIG comments were primarily focused on providing more details about items that addressed its initial concerns. Mr. Rountree said that staff had evaluated the comments and had concurred that they should be incorporated into the Manual. While staff had hoped to present the draft Manual for consideration at the day's meeting, additional time was needed for quality control purposes. Mr. Rountree reported that the draft Fourth Edition of the Contracting Manual would be considered at the March Business Administration Committee and Board of Directors Meetings.

Quarterly Acquisition Report

Mr. Rountree noted that he was joined by Rick Myrah, Acting Procurement Manager. Mr. Rountree said that staff had provided the initial Quarterly Acquisition Report in December 2012, which had been limited to only forecasted solicitations for the first quarter of 2013. At the day's meeting, he would present the entire Quarterly Acquisition Report for the second quarter (for April through June 2013), which included 1) a forecast of upcoming solicitations; 2) disclosure of all contracts issued by the Authority in the past quarter; and 3) reporting of all Authority employees with contracting officer approval under delegated authority. Mr. Rountree then reviewed the Report and noted that detailed lists were attached to the Report.

Small Business Contracting Summary as of December 31, 2012

Mr. Baker stated that the day's Summary represented the first report since the Enterprise Resource Planning (ERP) program had been put in place, whereby staff reported on the entire year for small business participation for the DBE and LDBE programs. Staff had reviewed contracts from January 1, 2012, to December 31, 2012 reporting the Authority's performance in terms of contracting for commitments and payments to contractors. The report provided a summary of contracts exceeding $100,000, which represented approximately 86 percent of the total contract value commitments. Mr. Baker hoped that future reports would include a summary of all of contracts presented to the Board on a quarterly basis.

Richard Gordon, Manager of the Equal Opportunity Department, provided a brief explanation of the department's purpose and goals. For fiscal years 2012 to 2014, Mr. Gordon explained that the DBE goal for both Airports on construction and design projects is 25 percent; the LDBE goals are 20 percent for goods and services and 25 percent for construction projects.

Mr. Gordon informed the Board that 3,100 contracts had been awarded in 2012, and 105 had commitments over $100,000. The report provided information about 105 contracts, which represented about 86 percent of the total contract value. For aggregate achievement for LDBEs in construction, there were $26 million in contracts awarded with an LDBE commitment of $14 million, or 53 percent. Payments on those contracts at the end of the year had totaled $8 million, or approximately 30 percent, with LDBE payments of $5 million, or 18 percent of contract award. The numbers reported represented LDBEs performing at prime and subcontractor level.

For DBE construction contracts, one contract totaled $1.49 million, with DBE participation of 25 percent ($0.37 million); at the end of the year, total payment on that contract was approximately at 99 percent, and 24 percent of the DBE award.

For LDBE goods and services contracts, there were $60 million in contract awards, with LDBE contract awards at $11 million, or 19 percent. The Authority fell short of reaching the 20 percent goal primarily because it had a significant amount of procurements where large contracts had no certified eligible LDBEs that could provide the goods or services so the solicitations were advertised without the requirement. Payments on those contracts at the end of the year had been $29 million, approximately 49 percent, with LDBE payments of $2 million, or 4 percent of contract award.

On Phase 1 of the Dulles Corridor Rail project, $2.1 billion contracts had been awarded with a DBE award of $0.3 billion, or 13 percent. Payments on those contracts at the end of the year had been $1.7 billion, or approximately 82 percent, with DBE payments of $0.2 billion, or 10 percent of contract award.

Mr. Gordon reported that the Authority had exceeded the DBE participation goal, based on the federal funding in the project. For Phase 1, $900 million had been received for federal funding. At the end of the reporting period, the Authority had received $300 million in commitments and had paid out over $200 million.

Mr. Session asked if the ERP system had the capability to get more granular in terms of commitments by jurisdictions and by the award of contracts based on race and gender. Mr. Baker responded affirmatively in regards to jurisdictions and explained that it could be provided, noting that it was not identified in the report because the information represented only 86 percent of contracts – not the entire amount. He explained that when staff provided the Board with details about 100 percent of contracts, jurisdictional information would be included. Mr. Baker noted that the ERP system did not collect gender or ethnicity information.

Mr. Session asked if the quarterly acquisition forecast enhanced the Equal Employment Opportunity Department's outreach abilities. Mr. Gordon responded affirmatively, noting that the quarterly forecast would help the office plan and identify opportunities where difficulties may exist in meeting requirements.

Mr. Baker reminded the Committee that the report represented information for 2012 only. He noted that there may be contracts that were entered into prior to 2012 and that although payments are being made to provide an accurate report, staff had selected January 1, 2012 as its starting point.

Ms. Merrick commended Mr. Baker and Mr. Gordon on their work. She inquired about the reasons the Authority had exceeded the goals for Phase 1 of the Metrorail project and whether the same reasoning could be applied to find a new custodial contractor. Mr. Baker explained that the Authority did well in exceeding the goals of Phase 1 because the Metrorail project had begun at the time when a substantial amount of other construction projects were underway throughout the region. There were concerns about capacity and goals had been set low as a result. At the time construction had begun, a lot of the capacity had been freed up when many of the construction projects had ended and the construction workforce are now a part of Phase 1. Mr. Baker stated that staff was not surprised that the Authority had exceeded the goals, which is why the goals for Phase 2 are higher; it reflects the availability in the region that did not manifest at the time the goals were set for Phase 1.

Ms. Merrick stated that she thought it would be beneficial for the Board to receive an overview of the DBE outreach plan so that it could gain an understanding of the plan and provide additional resources for outreach.

Disadvantaged Business Enterprise 2012 Achievements for Concessions

Mr. Gordon reminded the Board that the DBE program also covered airport concession programs, known as Airport Concessions Disadvantaged Business Enterprises (ACDBE). As with the DBE program, DOT required the Airports to establish a three-year goal for the ACDBE program and for 2012 to 2014, the goals are separate for each Airport. One goal is for all concessions, except car rental; the other is for car rental concessions. For non-car rental concessions, Reagan National had a 29 percent goal and Dulles International had a 22 percent goal. For car rental concessions, both Reagan National and Dulles International had 10 percent goals. For non-rental car concessions, the Authority achieved 30.8 percent of its goal at Reagan National and 26.6 percent of its goal at Dulles International. The car rental concessions at both Airports did not meet the ACDBE goals and reported less than 1 percent of achievement.

Nationally, many car rental companies do not meet their goals. The car rental goal is based on anything car rental companies can buy to run their businesses, which also includes the purchase and lease of cars. The Authority has found that the challenge is getting the car rental companies to meet that goal by doing businesses with DBE companies that are certified with the Authority. Mr. Gordon provided an example – while rental car companies may purchase cars from DBE firms in Michigan, it was included as part of the Authority's goals because the Michigan DBEs are not certified with the Authority. In good faith, the car rental companies are required to encourage the companies they deal with to obtain Authority certification. The Authority also requires car rental companies to report all participation with minority-and women-owned business so that it can be aware of minority participation, regardless of whether it is with Authority certified companies. The Authority has determined that while many rental car companies do exceed the minority-and women-owned business participation, the challenge is to get those firms certified with the Authority. It is an issue that most airports deal with and lots of discussion with DOT has occurred.

Mr. Carter suggested that staff explore creating a category for MBEs to provide more opportunities for them. Mr. Baker explained that the Authority's local program is race and gender neutral so the data it has compiled on the MBEs is based on companies that had the option to identify themselves; however, the federal program required disclosure of that information. Mr. Potter also noted that the Authority would have to conduct its own disparity study if the Authority wanted to have its own MBE program.

Mr. Session provided additional background on rental car concessions. He explained that it had been a national discussion since the conception of the ACDBE program; it continued to be a concern.

The meeting was thereupon adjourned at 1:27 p.m.

SUMMARY MINUTES
DULLES CORRIDOR COMMITTEE
MEETING OF FEBRUARY 20, 2013

Mr. Davis chaired the February 20 Dulles Corridor Committee Meeting, calling it to order at 11:07 a.m. Mr. Adams, Mr. Chapman, Mr. Conner, Mr. Griffin, Ms. Hall, Ms. McConnell, Mr. McDermott, Ms. Merrick, Mr. Session, Ms. Wells, Mr. Williams and Mr. Curto, *ex officio*, were present. Mr. Carter and Ms. Lang, who are not members of the Committee, were also present.

Dulles Corridor Metrorail Project Monthly Cost Summary and Project Update. Pat Nowakowski, Executive Director of the Metrorail Project, reported that $37.2 million had been spent on Phase 1 in December 2012, bringing total expenditures up to $2.292 billion. The total project budget remained at $2.905 billion.

About $380.9 million in contingency funds had been used through November 2012; approximately $1.1 million in contingency funds had been used in December 2012. Contingency use through December 2012 had been $382.0 million, with $80.3 million unobligated. Mr. Nowakowski reported that the substantial completion date remained August 2013.

Mr. Davis requested that Mr. Nowakowski provide a review of the entire list of contingencies, item-by-item, within the next couple of weeks. He inquired whether the remaining contingency funding is sufficient, to which Mr. Nowakowski responded that staff continued to forecast that the contingency funding would be sufficient.

The update also included key procurement milestones for Phase 2. Mr. Nowakowski noted that the Phase 2 procurement, which had been open to all firms and teams interested in participating, had begun in July 2012 with the issuance of a Request for Qualifications Information (RFQI). In October 2012, staff had reviewed the qualifications of the interested teams before compiling a shortlist of the top five qualified teams. A draft Request for Proposals (RFP) had then been issued to the top five teams. Mr. Nowakowski noted that the overall procurement process for Phase 2 is ultimately a low-bid process, whereby the five firms' technical proposals would be evaluated on a pass-fail basis. Authority staff had conducted a series of individual collaboration meetings with each of the five qualified teams to provide assistance to develop their proposals. At each of the meetings, the team had presented its dry-run proposal. Staff had used the input gathered from these collaboration meetings to clarify the contract terms and issue a final RFP. Mr. Nowakowski stated that the teams had been very creative in addressing the Phase 2 project and that he looked forward to receiving the proposals in March. Once the proposals are accepted, Mr. Nowakowski explained that each team would submit its price proposal in a sealed envelope. The contract award, anticipated in May, would be presented to the team that submitted the lowest bid. Mr. Nowakowski assured that all final bids would be of high quality. While formal Board approval is not required to award the contract, staff would advise the Board of the results.

Mr. Session asked about the details of the stipend that would be awarded. Mr. Nowakowski responded that the $1.5 million stipend would be awarded to the four non-successful offerors providing each had submitted an acceptable, finished technical proposal, separate from a price proposal.

Mr. Session asked if the possibility of a protest had been considered in the procurement schedule. Mr. Nowakowski responded affirmatively. Mr. Davis requested staff provide the Board more information on the requirements associated with a protest. Mr. Nowakowski stated that he believed that it would be more likely for a protest to occur as a result of a team's technical proposal determined unacceptable, which had been the purpose of the collaboration meetings.

Mr. Carter inquired about the number of interested teams who had responded to the RFQI. Since the information was not for public disclosure, Mr. Nowakowski was unable to respond to the inquiry.

Mr. McDermott asked what would occur in the unlikely event that the lowest bidder had not provided all of its required information. Mr. Nowakowski explained that all teams would be required to submit a successful technical proposal prior to its submittal of a price proposal.

Mr. Carter inquired about the amount of a performance bond. Mr. Nowakowski responded that it is $750 million, which represented approximately 50 percent of the engineer's estimate.

<u>Pre-Solicitation Terms to Lease Office Space for the Dulles Corridor Metrorail Project, Phase 2</u>. Mr. Nowakowski requested the Committee's concurrence for staff to solicit project office space for Phase 2. The Phase 1 Project Team is located in 42,000 square feet of office space in Tysons

Corner. The Project Team is co-located in the same complex as the Design Build team, which facilitates good coordination between the parties. The lease for this space will expire in February 2014. The Phase 2 Project Team would prefer to be near where the Phase 2 construction alignment and would like to co-locate with the design-build team. A discussion regarding co-location of space was discussed in the collaboration meetings with each of the five teams. All teams expressed a preference to co-locate in a space with the Project Team. A five-year lease is expected to cost approximately $9 million, and staff has requested that it include two one-year options that could increase the cost to $13 million. The Authority is currently soliciting for a real estate broker to assist in this procurement to negotiate the lease transaction. Mr. Nowakowski assured the Board that the solicitation complied with all federal and Authority procurement regulations. The lease proposal will undergo review by a technical evaluation committee, which will consider the financial and lease terms, building features, parking, conference space, build out expenses and location. Prior to execution of the lease, staff would present the final recommendation to the Committee and Board for approval.

Ms. Wells asked how the $9 million lease terms compared to the per square footage cost of the existing lease. Mr. Nowakowski stated that staff estimated that the newly-leased office space would result in a lower per square foot price.

Mr. Carter stated that he would like Disadvantaged Business Enterprise (DBE) participation requirement included in the procurement. Mr. Nowakowski said that appropriate Authority staff had approved the solicitation without such a requirement. Mr. Session inquired whether a DBE requirement could be required for the solicitation for a broker to assist staff with the transaction for the office space. Mr. Potter stated that staff would determine whether a DBE participation requirement could be included in the broker solicitation, which is underway.

Mr. Adams inquired about available space at Dulles International. Mr. Nowakowski stated that staff had considered the Airport as a first alternative; however, there is insufficient space to accommodate the design-build and management team. Mr. Adams then inquired about constructing a facility on the Airport and repurposing it when Phase 2 was complete. Mr. Nowakowski explained that there was not adequate time. The Committee concurred with the pre-solicitation terms.

Preliminary December 2012 Financial Report – Dulles Corridor Enterprise. Andy Rountree, Vice President and Chief Financial Officer, reported that Toll Road revenues year-to-date had been $101.6 million, at 94.9 percent of budgeted revenues, up 7.3 percent from the same period in 2011. The 99.9 million toll transactions for the period had been down 1.6 percent, and electronic payments had increased by 3.7 percent to a total of 77.4 percent, which is approximately 98 percent of the latest forecast of the expected number of transactions.

Mr. Rountree noted that the report is only preliminary as the year-end audit had not yet concluded. The final audited financial statement would be presented to the Committee in May.

Mr. Davis inquired whether the decrease in transactions is indicative that less people presently used the Toll Road than the prior two years. Mr. Rountree replied affirmatively, noting that there had not been a significant decline.

Mr. Rountree reported that Toll Road expenditures of $24.4 million year-to-date had decreased 7.4 percent from the year before, and had reached only 89.9 percent of budgeted expenditures. This equated to approximately $2 million savings in the operation of the Toll Road compared to what had been forecasted

January 2013 Financial Report – Dulles Corridor Enterprise. Mr. Rountree reported that Toll Road revenues year-to-date had been $10.1 million, at 7.9 percent of budgeted revenues at one month (8.3 percent) through the budget year, up 22.9 percent from the same period in 2012. The 7.9 million toll transactions for the period had been down 1 percent, and electronic payments had been up 5 percent for a total of 81.5 percent.

Mr. Rountree reported that Toll Road expenditures of $1.9 million year-to-date had decreased 13.4 percent from the year before, and had reached 6.8 percent of budgeted expenditures, at 8.3 percent through the budget year.

Mr. Rountree explained that the large increase in revenues thus far could be attributed to a .25 cent increase at the mainline and at the ramps. He noted that the 2012 increase had raised tolls only at the mainline.

Mr. Davis asked Mr. Rountree to comment on toll violations. Mr. Rountree explained that the 1 percent violation rate that had been reported and highlighted by the media did not represent the net violation rate. He noted that a large proportion of violations are billed and collected, but still reflected in the "toll violation" rate. Over a period of time, some of the unpaid and billed tolls get paid and a hefty administrative fee is assessed for the billing of the tolls. Ms. McKeough noted that no reciprocity agreements existed in the Washington region and such agreements are very rare in the United States; however, the issue is being reviewed by the industry.

Ms. Merrick asked how the Authority's collections compared to the industry collection rates. Mr. Potter characterized the collections as best in its class and noted that staff is committed to exploring the possibility of collaborating with adjacent road systems in regards to shared tolling technology.

The meeting was thereupon adjourned at 11:36 a.m.

SUMMARY MINUTES
FINANCE COMMITTEE
MEETING OF FEBRUARY 20, 2013

Mr. Conner chaired the February 20 Finance Committee Meeting, calling it to order at 1:28 p.m. A quorum was present – Mr. Carter, Mr. Chapman, Mr. Davis, Mr. Griffin, Ms. Lang, Mr. McDermott, Ms. Merrick, Mr. Session, and Mr. Curto, *ex officio*. Mr. Adams, Ms. Hall, Ms. McConnell, Ms. Wells and Mr. Williams were also present.

Appointment of Senior Book-Running Manager and Co-Senior Manager for Series 2013 Airport System Revenue Bonds

Mr. Conner reviewed the decision-making process that had occurred in 2012. In February 2012, the Authority had issued a Request for Proposals (RFP) to refresh the underwriting syndicate for the Aviation and Dulles Corridor enterprises. Provisions had been made so that firms selected could provide services for both enterprises. Mr. Conner reported that the Authority had received 38 responses to the RFP. The Financial Advisors and finance staff had conducted interviews for Senior Manager. He noted that although the syndicate had been chosen for the first two bond deals, official Board action had occurred for only one deal. At the day's Meeting, Mr. Conner recommended that the official action be taken for the second bond deal, which may occur as early as May. It would possibly be a refunding only transaction or also include a new money opportunity. Mr. Conner then offered the recommendation to appoint Siebert Branford Shank and Wells Fargo as co-senior managers. Andy Rountree, Vice President for Finance and Chief Financial Officer, said that the day's action would allow the Authority to take advantage of potential savings for the next deal, which would likely be a refunding transaction with a net savings value of $20 million, as Mr. Conner had described. Mr. McDermott recused himself. The Committee thereupon approved the recommendation.

Financial Advisors' Report – Aviation Enterprise

Guy Nagahama of Jefferies noted that Ken Gibbs had reviewed the accomplishments for 2012 and provided a broad outline of the financing needs for 2013 at last month's Committee Meeting. He reported that a limited amount of new money would be required to complete the Capital Construction Program (CCP). The primary focus would be refunding opportunities in the current economic environment. Based on current rates and the amount of callable bonds, Mr. Nagahama reported that a future transaction finalized in July would generate at least $25 million net value savings. With the limited new money needs and the potential refunding opportunities, finance staff and financial advisors had recommended delinking the new money from the refunding, which would allow the refunding to be priced in late spring. They would also continue to monitor the CCP expenditures with a potential new money transaction in the fall of 2014. If new money was not requested, Mr. Nagahama said that the refunding would be expedited; the feasibility report would not require updating. In order to pursue a new money and refunding bond sale in June, the Finance Committee and the Board of Directors would consider the transaction at the April and May meetings, respectively.

Financial Advisors' Report – Dulles Corridor Enterprise

Bryan Grote of Mercator Advisors, LLC provided the Transportation Infrastructure Finance and Innovation Act (TIFIA) update stating that the Letter of Interest (LOI) is still being reviewed by the Department of Transportation (DOT). He reported that the Financial Advisors are working with staff and the Authority funding partners to provide additional information requested by DOT, including the details of the structure and credit worthiness of the three loans to be secured by the Dulles Toll Road, Fairfax and Loudoun Counties. Mr. Grote stated that once the LOI is approved, DOT will request a detailed finance plan and preliminary credit rating opinion letter from one of the rating agencies. He noted that DOT had received 28 LOIs from project sponsors around the country seeking assistance from TIFIA with an estimated cost of $41million.

Ms. Merrick asked if TIFIA money is being tracked separately from the sequestration. Mr. Grote stated that last year's Office of Management and Budget (OMB) report had revealed that sequestration would not affect TIFIA loans.

Ms. Merrick inquired about the likelihood of a decision before Secretary LaHood left office. Mr. Grote stated that the request for additional information is a positive sign that the Authority is under active consideration. He noted that it would be helpful to the Authority if the process could be advanced while Secretary LaHood is still in office because of his participation in negotiations last year.

Mr. Curto asked if any of the other projects seeking TIFIA assistance had been characterized as model projects. Mr. Grote said no; he is not aware of any organizations that have been invited to submit an application.

Doreen Frasca of Frasca & Associates, LLC stated that the plan of finance included three open items: the $300 million Full Funding Grant Agreement (FFGA) from the Commonwealth, which helps with the amount of debt to be issued; the amount of TIFIA as a secured loan; and 3) the construction costs to complete the finance plan at a 4.25 percent rate or less.

Budget Reprogrammings for the Fourth Quarter of 2012

Mr. Rountree reported on the budget reprogrammings that occurred in the last quarter of 2012 for non-capitalized items at Reagan National. He stated that the reprogrammings were for services totaling $1.4 million; no action was required by the Committee or the Board.

Quarterly Investment Committee Report

Mr. Rountree reported that the Total Portfolio for the quarter, which ended December 31, 2012, had been $1.68 billion, representing a decrease of $57 million from September 30, 2012. The Aviation portfolio had decreased by $170 million; the Dulles Corridor portfolio had increased by $112.5 million. Mr. Rountree reported that ongoing operations, such as construction spending, the principal and interest payment made October 1, 2012 and the issuance of the FFGA notes had contributed to the influx of changes for the quarter.

Preliminary December 2012 Financial Report – Aviation Enterprise

Mr. Rountree noted that Chris Wedding, Assistant Controller, was also present. He reported that the preliminary version of the financial report is unaudited, noting that a settlement with the airlines would occur to determine the actual cost billed to the airlines. This adjustment would be reviewed as the PricewaterhouseCoopers' (PwC) audit progressed. Mr. Rountree stated that the audited final report would be presented in May. The preliminary year-to-date revenue is $643 million, an increase of 6.4 percent compared to last year. Year-to-date expenses had totaled $581 million, an increase of 1.9 percent compared to the prior year.

Mr. Rountree reported that operating income was $61.8 million year-to-date on a preliminary basis, compared to the prior year, at $34 million. He noted that debt service coverage is carefully monitored; the final numbers would be presented once the audit was completed. Debt service coverage was estimated at 1.27 before settlement through December 2012, compared to 1.37 in December 2011. Mr. Rountree was hopeful that the minimum debt service coverage for 2012 would be 1.31.

Ms. Hall asked if staff had provided PwC all the documents that had been requested, to which Mr. Rountree responded that to the best of his knowledge, information had been provided; audit requests would continue throughout the audit.

January 2013 Financial Report – Aviation Enterprise

Mr. Rountree reported that year-to-date revenues had totaled $56 million, an increase of 9 percent compared to the prior year. Expenses year to date had totaled $48.1 million, which represented an increase of less than 1 percent compared to the prior year. Operating income for January had totaled $8.4 million compared to the prior month of $4 million. Debt service coverage for January was 1.36.

The meeting was thereupon adjourned at 1:56 p.m.