



**LORAIN PORT AUTHORITY
LORAIN COUNTY**

REGULAR AUDIT

FOR THE YEARS ENDED DECEMBER 31, 2005 & 2004



**Auditor of State
Betty Montgomery**



Mary Taylor, CPA
Auditor of State

February 9, 2007

The attached audit report was completed and prepared for release prior to the commencement of my term of office on January 8, 2007. Thus, I am certifying this audit report for release under the signature of my predecessor.

Mary Taylor

MARY TAYLOR, CPA
Auditor of State

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LORAIN PORT AUTHORITY
LORAIN COUNTY

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**Auditor of State
Betty Montgomery**

Board of Directors
Lorain Port Authority
Lorain County
611 Broadway Avenue
Lorain, Ohio 44052

As you are aware, the Auditor of State's Office (AOS) must modify the *Independent Accountants' Report* we provide on your financial statements due to a February 2, 2005 interpretation from the American Institute of Certified Public Accountants (AICPA). While AOS does not legally require your government to prepare financial statements pursuant to Generally Accepted Accounting Principles (GAAP), the AICPA interpretation requires auditors to formally acknowledge that you did not prepare your financial statements in accordance with GAAP. Our Report includes an opinion relating to GAAP presentation and measurement requirements, but does not imply the amounts the statements present are misstated under the non-GAAP basis you follow. The AOS report also includes an opinion on the financial statements you prepared using the cash basis and financial statement format the AOS permits.

A handwritten signature in black ink that reads "Betty Montgomery".

Betty Montgomery
Auditor of State

December 15, 2006

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Auditor of State Betty Montgomery

INDEPENDENT ACCOUNTANTS' REPORT

Lorain Port Authority
Lorain County
611 Broadway Avenue
Lorain, Ohio 44052

To the Board of Directors:

We have audited the accompanying financial statements of the Lorain Port Authority, Lorain County, Ohio, (the Port Authority) as of and for the years ended December 31, 2005 and December 31, 2004. These financial statements are the responsibility of the Port Authority's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require that we plan and perform the audit to reasonably assure whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. The Port Authority processes its financial transactions with the Auditor of State's Uniform Accounting Network (UAN). *Government Auditing Standards* considers this service to impair the independence of the Auditor of State to audit the Port Authority because the Auditor of State designed, developed, implemented, and as requested, operates UAN. However, *Government Auditing Standards* permits the Auditor of State to audit and opine on this entity, because Ohio Revised Code § 117.101 requires the Auditor of State to provide UAN services, and Ohio Revised Code §§ 117.11(B) and 115.56 mandate the Auditor of State to audit Ohio governments. We believe our audit provides a reasonable basis for our opinion.

As described more fully in Note 1, the Port Authority has prepared these financial statements using accounting practices the Auditor of State prescribes or permits. These practices differ from accounting principles generally accepted in the United States of America (GAAP). Although we cannot reasonably determine the effects on the financial statements of the variances between these regulatory accounting practices and GAAP, we presume they are material.

Revisions to GAAP would require the Port Authority to reformat its financial statement presentation and make other changes effective for the years ended December 31, 2005 and December 31, 2004. Instead of the combined funds the accompanying financial statements present for 2005 and 2004, the revisions require presenting entity wide statements and also to present its larger (i.e. major) funds separately for 2005 and 2004. While the Port Authority does not follow GAAP, generally accepted auditing standards requires us to include the following paragraph if the statements do not substantially conform to the new GAAP presentation requirements. The Auditor of State permits, but does not require governments to reformat their statements. The Port Authority has elected not to reformat its statements. Since this Port Authority does not use GAAP to measure financial statement amounts, the following paragraph does not imply the amounts reported are materially misstated under the accounting basis the Auditor of State permits. Our opinion on the fair presentation of the amounts reported pursuant to its non-GAAP basis is in the second following paragraph.

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In our opinion, because of the effects of the matter discussed in the preceding two paragraphs, the financial statements referred to above for the years ended December 31, 2005 and December 31, 2004 do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the Port Authority as of December 31, 2005 and December 31, 2004, or its changes in financial position for the years then ended.

Also, in our opinion, the financial statements referred to above present fairly, in all material respects, the combined fund cash balances and reserves for encumbrances of the Lorain Port Authority, Lorain County, Ohio, as of December 31, 2005 and December 31, 2004, and its combined cash receipts and disbursements for the years then ended on the accounting basis Note 1 describes.

The aforementioned revision to generally accepted accounting principles also requires the Port Authority to include Management's Discussion and Analysis for the years ended December 31, 2005 and December 31, 2004. The Port Authority has not presented Management's Discussion and Analysis, which accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of, the financial statements.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 15, 2006, on our consideration of the Port Authority's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. While we did not opine on the internal control over financial reporting or on compliance, that report describes the scope of our testing of internal control over financial reporting and compliance, and the results of that testing. That report is an integral part of an audit performed in accordance with *Government Auditing Standards*. You should read it in conjunction with this report in assessing the results of our audit.



Betty Montgomery
Auditor of State

December 15, 2006

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

Combined Statement of Cash Receipts, Cash Disbursements, and Changes in Fund
Cash Balances - All Governmental Fund Types
For The Year Ended December 31, 2005

	Governmental Fund Types			Total (Memorandum Only)
	General	Special Revenue	Capital Projects	
Receipts:				
Local Taxes	\$871,740	\$0	\$0	\$871,740
Intergovernmental	163,657	63,539	57,000	284,196
Leases and Rentals	88,480	0	1,183,395	1,271,875
Interest	7,964	0	0	7,964
All Other Income	51,386	6,535	0	57,921
Total Receipts	1,183,227	70,074	1,240,395	2,493,696
Disbursements:				
Current:				
Salaries and Benefits	227,125	15,734	0	242,859
Supplies	9,045	0	0	9,045
Travel, Education, Dues, and Publications	3,098	0	0	3,098
Promotion and Development	69,302	0	0	69,302
Rent and Utilities	112,366	0	0	112,366
Repairs and Maintenance	135,336	0	0	135,336
Insurance	92,795	0	0	92,795
Professional Services	78,281	0	0	78,281
Loan Repayments, City and State	18,202	0	1,254,169	1,272,371
Miscellaneous	72,270	0	0	72,270
Capital Outlay	54,149	71,734	0	125,883
Total Disbursements	871,969	87,468	1,254,169	2,213,606
Total receipts over/(under) disbursements	311,258	(17,394)	(13,774)	280,090
Other financing receipts/(disbursements):				
Transfers-In	170	20,709	0	20,879
Advances-In	39,000	39,000	0	78,000
Transfers-Out	(20,709)	(170)	0	(20,879)
Advances-Out	(39,000)	(39,000)	0	(78,000)
Total other financing receipts/(disbursements)	(20,539)	20,539	0	0
Excess of receipts and other financing receipts over/ (under) disbursements and other financing disbursements	290,719	3,145	(13,774)	280,090
Fund Cash Balances, January 1, 2005	131,958	5,990	21,203	159,151
Fund Cash Balances, December 31, 2005	<u>\$422,677</u>	<u>\$9,135</u>	<u>\$7,429</u>	<u>\$439,241</u>
Reserve for encumbrances, December 31, 2005	<u>\$43,888</u>	<u>\$0</u>	<u>\$885</u>	<u>\$44,773</u>

The notes to the financial statements are an integral part of this statement.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

Combined Statement of Cash Receipts, Cash Disbursements, and Changes in Fund
Cash Balances - All Governmental Fund Types
For The Year Ended December 31, 2004

	Governmental Fund Types			Total (Memorandum Only)
	General	Special Revenue	Capital Projects	
Receipts:				
Local Taxes	\$588,403	\$0	\$0	\$588,403
Intergovernmental	86,738	25,687	0	112,425
Leases and Rentals	89,495	0	331,499	420,994
Interest	2,024	0	0	2,024
All Other Income	71,875	0	85,804	157,679
Total Receipts	838,535	25,687	417,303	1,281,525
Disbursements:				
Current:				
Salaries and Benefits	240,908	23,183	0	264,091
Supplies	5,901	0	0	5,901
Travel, Education, Dues, and Publications	3,322	0	0	3,322
Promotion and Development	58,160	0	0	58,160
Rent and Utilities	39,270	0	0	39,270
Repairs and Maintenance	0	0	0	0
Insurance	92,180	0	0	92,180
Professional Services	40,517	0	0	40,517
Property Management	58,324	0	1,778	60,102
ODNR Lease	16,187	0	0	16,187
Loan Repayments, City and State	18,202	0	331,499	349,701
Miscellaneous	140,789	11,510	0	152,299
Debt Service:				
Redemption of Principal	155,000	0	0	155,000
Interest	7,169	0	0	7,169
Capital Outlay	10,532	250	74,052	84,834
Capital Improvements	9,402	983	0	10,385
Total Disbursements	895,863	35,926	407,329	1,339,118
Total receipts over/(under) disbursements	(57,328)	(10,239)	9,974	(57,593)
Other financing receipts/(disbursements):				
Sale of Fixed Assets	0	0	0	0
Transfers-In	9,252	15,868	92,481	117,601
Transfers-Out	(117,601)	0	0	(117,601)
Total other financing receipts/(disbursements)	(108,349)	15,868	92,481	0
Excess of receipts and other financing receipts over/ (under) disbursements and other financing disbursements	(165,677)	5,629	102,455	(57,593)
Fund Cash Balances, January 1, 2004	297,635	361	(81,252)	216,744
Fund Cash Balances, December 31, 2004	\$131,958	\$5,990	\$21,203	\$159,151
Reserve for encumbrances, December 31, 2004	\$9,244	\$0	\$0	\$9,244

The notes to the financial statements are an integral part of this statement.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Description of the Entity

The Lorain Port Authority (the Port Authority) is a body corporate and politic established to exercise the rights and privileges conveyed to it by the constitution and laws of the State of Ohio. The Port Authority is directed by a nine-member Board, appointed for staggered terms by the Mayor of the City of Lorain. The Port Authority provides water safety and recreational programs, promotes economic development and sound waterfront management.

The Port Authority's management believes these financial statements present all activities for which the Port Authority is financially accountable.

B. Basis of Accounting

These financial statements follow the basis of accounting the Auditor of State prescribes or permits. This basis is similar to the cash receipts and disbursements accounting basis. The Port Authority recognizes receipts when received in cash rather than when earned, and recognizes disbursements when paid rather than when a liability is incurred. Budgetary presentations report budgetary expenditures when a commitment is made (i.e., when an encumbrance is approved).

These statements include adequate disclosure of material matters, as the Auditor of State prescribes or permits.

C. Cash and Investments

Certificates of deposit are valued at cost. Investments are included in fund cash balances. Accordingly, purchases of investments are not recorded as disbursements, and sales of investments are not recorded as receipts. Gains or losses at the time of the sales are recorded as receipts or disbursements, respectively.

D. Fund Accounting

The Port Authority uses fund accounting to segregate cash and investments that are restricted as to use. The Port Authority classifies its funds into the following types:

1. General Fund

The General Fund reports all financial resources except those required to be accounted for in another fund.

2. Special Revenue Funds

This fund is used to account for proceeds from specific sources (other than from trusts or for capital projects) that are restricted to expenditure for specific purposes. The Port Authority had the following significant Special Revenue Fund:

Marine Patrol Fund – This fund is used to account for the activity related to the Port Authority's marine patrol program.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004
(Continued)**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

D. Fund Accounting (Continued)

3. Capital Project Funds

These funds are used to account for receipts that are restricted for the acquisition or construction of major capital projects. The Port Authority had the following significant Capital Project Fund:

Advanced Automotive Systems Fund - This fund is used to account for the activity related to the various construction activities for Advanced Automotive Systems facilities.

E. Budgetary Process

The Ohio Revised Code requires that each fund be budgeted annually.

1. Appropriations

Budgetary expenditures (that is, disbursements and encumbrances) may not exceed appropriations at the fund, function level of control, and appropriations may not exceed estimated resources. The Port Authority Board must annually approve appropriation measures and subsequent amendments. The County Budget Commission must also approve the annual appropriation measure. Appropriations lapse at year end.

2. Estimated Resources

Estimated resources include estimates of cash to be received (budgeted receipts) plus unencumbered cash as of January 1. The County Budget Commission must also approve estimated resources.

3. Encumbrances

The Ohio Revised Code requires the Port Authority to reserve (encumber) appropriations when commitments are made. Encumbrances outstanding at year end are carried over, and need not be reappropriated

A summary of 2005 and 2004 budgetary activity appears in Note 3.

F. Property, Plant, and Equipment

The Port Authority records disbursements for acquisitions of property, plant, and equipment when paid. The accompanying financial statements do not report these items as assets.

G. Accumulated Leave

Employees are entitled to cash payments for unused vacation and compensatory time (hourly employees only) upon leaving employment. Unpaid vacation and compensatory time are not reflected as liabilities under the cash basis of accounting used by the Port Authority.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004
(Continued)**

2. EQUITY IN POOLED CASH AND INVESTMENTS

The Port Authority maintains a cash and investments pool for all funds use. The Ohio Revised Code prescribes allowable deposits and investments. The carrying amount of cash and investments at December 31 was as follows:

	2005	2004
Demand deposits	\$38,758	\$127,234
Total deposits	38,758	127,234
Repurchase agreement	400,483	31,917
Total investments	400,483	31,917
Total deposits and investments	\$439,241	\$159,151

Deposits: Deposits are either insured by the Federal Depository Insurance Corporation or collateralized by the financial institution's public entity deposit pool.

3. BUDGETARY ACTIVITY

Budgetary activity for the years ending December 31, 2005 and December 31 2004 follows:

2005 Budgeted vs. Actual Receipts

	Budgeted Receipts	Actual Receipts	Variance
General	\$1,185,863	\$1,183,397	(\$2,466)
Special Revenue	90,783	90,783	0
Capital Projects	1,248,511	1,240,395	(8,116)
Total	\$2,525,157	\$2,514,575	(\$10,582)

2005 Budgeted vs. Actual Budgetary Basis Expenditures

	Appropriation Authority	Budgetary Expenditures	Variance
General	\$1,012,580	\$936,566	\$76,014
Special Revenue	96,603	87,638	8,965
Capital Projects	1,269,595	1,255,054	14,541
Total	\$2,378,778	\$2,279,258	\$99,520

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004
(Continued)**

3. BUDGETARY ACTIVITY (Continued)

2004 Budgeted vs. Actual Receipts			
Fund Type	Budgeted Receipts	Actual Receipts	Variance
General	\$859,493	\$847,787	(\$11,706)
Special Revenue	41,554	41,554	0
Capital Projects	783,189	509,784	(273,405)
Total	\$1,684,236	\$1,399,125	(\$285,111)

2004 Budgeted vs. Actual Budgetary Basis Expenditures			
Fund Type	Appropriation Authority	Budgetary Expenditures	Variance
General	\$1,034,951	\$1,022,708	\$12,243
Special Revenue	41,619	35,925	5,694
Capital Projects	701,938	407,329	294,609
Total	\$1,778,508	\$1,465,962	\$312,546

4. PROPERTY TAX

Real property taxes become a lien on January 1 preceding the October 1 date for which the Directors adopt rates. The State Board of Tax Equalization adjusts these rates for inflation. Property taxes are also reduced for applicable homestead and rollback deductions. The financial statements include homestead and rollback amounts the State pays as Intergovernmental Receipts. Payments are due to the County by December 31. If the property owner elects to pay semiannually, the first half is due December 31. The second half payment is due the following June 20.

Public utilities are also taxed on personal and real property located within the Port Authority.

Tangible personal property tax is assessed by the property owners, who must file a list of such property to the County by each April 30.

Lorain County is responsible for assessing property, and for billing, collecting, and distributing all property taxes on behalf of the Port Authority.

5. CONDUIT DEBT

The Port Authority has issued two series of Port Development Refunding Revenue Bonds and two series of Industrial Development Revenue Bonds in the aggregate outstanding principal amount of \$13,435,000 and \$14,095,000 at December 31, 2005 and December 31, 2004, respectively, for facilities used by private corporations. The Port Authority is not obligated in any way to pay debt related charges on the bonds from any of its funds, and therefore, they have been excluded entirely from the Port Authority's debt presentation. There has not been and there is not currently any condition of default under the bonds of the related financing documents.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004
(Continued)**

6. LOANS

Loans outstanding at December 31, 2005 and December 31, 2004 were as follows:

	<u>Principal Outstanding</u>		<u>Interest Rates</u>
	<u>12/31/05</u>	<u>12/31/04</u>	
EDA Title IX Loans	\$ 776,264	\$ 829,489	3.0 to 5.75%
Business Development Revolving Loans	612,165	654,806	3.0 to 3.25%
CDBG Section 108 Loans	<u>770,200</u>	<u>1,432,425</u>	4.25 to 8.5%
Total	<u>\$2,158,629</u>	<u>\$2,916,720</u>	

The above loans relate to the Advanced Automotive Systems (AAS) project. The terms of the agreement with AAS requires rental payments equal to the principal and interest due on the loans. The loans will be repaid in monthly installments, including interest, over a period up to 20 years.

Amortization of the above debt, including interest, is scheduled as follows:

<u>Year ending December 31:</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2006	\$ 151,417	\$ 80,961	\$ 232,378
2007	157,178	75,207	232,385
2008	163,164	69,222	232,386
2009	169,393	62,994	232,387
2010	175,866	56,515	232,381
2011-2015	1,206,757	143,666	1,350,423
2016-2017	<u>134,854</u>	<u>5,071</u>	<u>139,925</u>
Total	<u>\$2,158,629</u>	<u>\$493,636</u>	<u>\$2,652,265</u>

7. RETIREMENT SYSTEMS

The Port Authority's certified Marine Patrol Officers belong to the Police and Fire Pension Fund (OP&F). Other employees belong to the Ohio Public Employees Retirement System (OPERS). OP&F and OPERS are cost-sharing, multiple-employer plans. The Ohio Revised Code prescribes these plans' benefits, which include postretirement healthcare and survivor and disability benefits.

The Ohio Revised Code also prescribes contribution rates. For 2005 and 2004, OPERS members contributed 8.5 percent of their gross salaries. The Port Authority contributed an amount equaling 13.55 percent of participants' gross salaries. The Port Authority has paid all contributions required through December 31, 2005.

8. RISK MANAGEMENT

The Port Authority has obtained commercial insurance for the following risks:

- Comprehensive property and general liability;
- Vehicles;
- Public officials and employees liability;
- Faithful performance bonds.

The Port Authority provides health insurance to full-time employees through Lorain County.

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Auditor of State Betty Montgomery

INDEPENDENT ACCOUNTANTS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS REQUIRED BY *GOVERNMENT AUDITING STANDARDS*

Lorain Port Authority
Lorain County
611 Broadway Avenue
Lorain, Ohio 44052

To the Board of Directors:

We have audited the financial statements of the Lorain Port Authority, Lorain County, Ohio, (the Port Authority) as of and for the years ended December 31, 2005 and December 31, 2004, and have issued our report thereon dated December 15, 2006 wherein we noted the Lorain Port Authority followed accounting practices the Auditor of State prescribes rather than accounting principles generally accepted in the United States of America. We also noted the Lorain Port Authority uses the Auditor of State's Uniform Accounting Network (UAN) to process its financial transactions. *Government Auditing Standards* considers this service to impair the Auditor of State's independence to audit the Port Authority because the Auditor of State designed, developed, implemented, and, as requested, operates UAN. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Port Authority's internal control over financial reporting to determine our auditing procedures to express our opinion on the financial statements and not to opine on the internal control over financial reporting. Our consideration of the internal control would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts material to the financial statements we audited may occur and not be timely detected by employees when performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider material weaknesses. In a separate letter to the Port Authority's management dated December 15, 2006, we reported another matter involving internal control over financial reporting we did not deem a reportable condition.

Compliance and Other Matters

As part of reasonably assuring whether the Port Authority's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express an opinion. The results of our tests disclosed an instance of noncompliance or other matter that we must report under *Government Auditing Standards* which is described in the accompanying schedule of findings as item 2005-001. In a separate letter to the Port Authority's management dated December 15, 2006, we reported other matters related to noncompliance we deemed immaterial.

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Lorain Port Authority
Lorain County
Independent Accountants' Report on Internal Control Over
Financial Reporting and on Compliance and Other Matters
Required by *Government Auditing Standards*
Page 2

We intend this report solely for the information and use of the audit/finance committee, management, and the Board of Directors. It is not intended for anyone other than these specified parties.

A handwritten signature in black ink that reads "Betty Montgomery". The signature is written in a cursive, flowing style.

Betty Montgomery
Auditor of State

December 15, 2006

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**SCHEDULE OF FINDINGS
DECEMBER 31, 2005 AND 2004**

FINDING NUMBER	2005-001
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NONCOMPLIANCE FINDING – MEETINGS OF PUBLIC BODIES TO BE PUBLIC

Ohio Rev. Code Section 121.22(F) states, in part, that every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

On May 17, 2005, the Board of Directors held a special meeting to discuss the "Port/City Purchase Option". The special meeting notice was dated May 13, 2005, and was addressed to the Board of Directors, the Mayor/Administration for the City of Lorain, Lorain City Council, and the media. As such, the Port Authority was in compliance in the proper notification of the public meeting.

Our review of the minutes of the special meeting of May 17, 2005 noted the passage of a Board motion to accept the City's current purchase option offer. We also noted other items were discussed and acted upon which appear to have exceeded the scope of the published purpose of the special meeting and could be seen as a violation of Ohio Rev. Code Section 121.22(F). *Hoops v. Jerusalem Twp. Bd. of Trustees* (Apr. 10, 1998), Lucas App. No. L-97-1240, unreported. The additional items discussed and acted upon was the approval of a motion to enter into an executive session to discuss a contract audit, and the approval of motions to obtain a performance audit and a contract audit and the termination of legal counsel.

Ohio Rev. Code Section 121.22(G) states, in part that except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

**LORAIN PORT AUTHORITY
LORAIN COUNTY**

**SCHEDULE OF FINDINGS
DECEMBER 31, 2005 AND 2004
(Continued)**

FINDING NUMBER	2005-001
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NONCOMPLIANCE FINDING – MEETINGS OF PUBLIC BODIES TO BE PUBLIC (Continued)

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

(7) In the case of a county hospital operated pursuant to Chapter 339 of the Revised Code or a municipal hospital operated pursuant to Chapter 749 of the Revised Code, to consider trade secrets, as defined in Section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

Adjourning to an executive session to discuss a contract audit does not meet one of the purposes listed in Ohio Rev. Code Section 121.22(G).

Ohio Rev. Code Section 121.22(H) states that a resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

As such, the motion to obtain a contract audit could be ruled invalid should it be challenged in a court of law. Additionally, the motions approved to obtain a performance audit and to terminate the Port Authority's legal counsel could also be ruled invalid should they be challenged in a court as a violation of Ohio Rev. Code Section 121.22(F).

We recommend the Board of Directors of the Port Authority familiarize themselves with the requirements of Ohio Rev. Code Section 121.22, also known as the Ohio's Sunshine Law.

Official's Response:

We did not receive a response from officials to this finding.

**LORAIN PORT AUTHORITY
LORAN COUNTY**

**SCHEDULE OF PRIOR AUDIT FINDINGS
DECEMBER 31, 2005 AND 2004**

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; <i>Explain</i>
2003-001	Finding for recovery of payment of unearned sick leave	Fully corrected	
2003-002	5705.41(D) failure to properly encumber funds	No	Partially corrected, repeated as a management letter comment
2003-003	5705.10 negative fund balances	Fully corrected	
2003-004	5705.41(B) expenditures plus encumbrances exceeding appropriations	Fully corrected	



Mary Taylor, CPA
Auditor of State

LORAIN PORT AUTHORITY

LORAIN COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
FEBRUARY 22, 2007**