

LAC

March 2000

A Review of the Redevelopment Authority's 1999 Lawsuit Settlement With Braswell Services Group

Since 1994, the Charleston Naval Complex Redevelopment Authority (RDA) has been responsible for redeveloping property at the former Charleston Naval Base, which was closed in 1996. Because the Navy still owns the base, the RDA enters into master leases with the Navy and then subleases the properties to other organizations. One of the primary goals of the RDA is to replace the jobs lost by the closing of the base.

Members of the General Assembly asked us to review the administration of the RDA. We are addressing their concerns in this limited-scope audit report and also in a full-scope audit report which will be published later this year. In this report we summarize our review of an October 1997 lawsuit filed against the RDA by a ship repair company called Braswell Services Group, Inc. The lawsuit was settled in December 1999 after the RDA agreed to pay Braswell \$4 million in damages. We answer the following questions:

- What was the primary issue in dispute between the RDA and Braswell?
- Did the RDA have valid reasons for its December 1999 decision to pay Braswell \$4 million to settle the lawsuit?
- Did the RDA obtain the approval required by state law before agreeing to pay Braswell the \$4 million settlement?

HISTORY OF THE LAWSUIT

In a March 1997 agreement, Braswell agreed to drop prior legal actions against the RDA and the State Budget and Control Board regarding the manner in which the RDA awarded subleases for piers and buildings. In exchange, the RDA agreed to give Braswell a sublease for a pier and several buildings at the naval complex "not later than 48 hours after the RDA enter[ed] into a Master Lease with the Navy" for the properties.

In June 1997, the Navy submitted a master lease to the RDA that Navy officials were prepared to sign for the properties sought by Braswell. The RDA, however, never signed the master lease with the Navy or a sublease with Braswell. The RDA stated that it did not sign these leases because Braswell had not obtained or applied for certain environmental permits. Also, the RDA stated that until it signed a master lease with the Navy, it was not required to sign a sublease with Braswell.

Braswell contended that it was entitled to a sublease because the Navy had approved the master lease and that environmental permits were not a prerequisite. In October 1997, Braswell sued the RDA for breach of contract.

FINDINGS

- There is evidence that the RDA complied with a literal interpretation of the March 1997 agreement. However, a reasonable argument can be made that the agreement required the RDA to sign a master lease with the Navy and a sublease with Braswell after the Navy submitted a master lease it was prepared to sign.
- There were valid reasons for the RDA's December 1999 decision to settle its lawsuit with Braswell Services Group out of court, although it is not clear how the RDA determined that \$4 million was an appropriate amount for the settlement.
- The RDA agreed to the \$4 million settlement without obtaining prior written approval of the State Budget and Control Board, as required by the South Carolina Code of Laws.

This document summarizes our full report, *A Review of the Charleston Naval Complex Redevelopment Authority's 1999 Lawsuit Settlement With Braswell Services Group*. Responses from the Redevelopment Authority are included in the full report. All LAC audits are available free of charge. Audit reports and information about the LAC are also published on

