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$92 Million in Unapproved Change Orders; $113 Million in Cost Overruns; Incompetent Board: Inspector General's WAPA Audit Exposes Propane Project Fiasco

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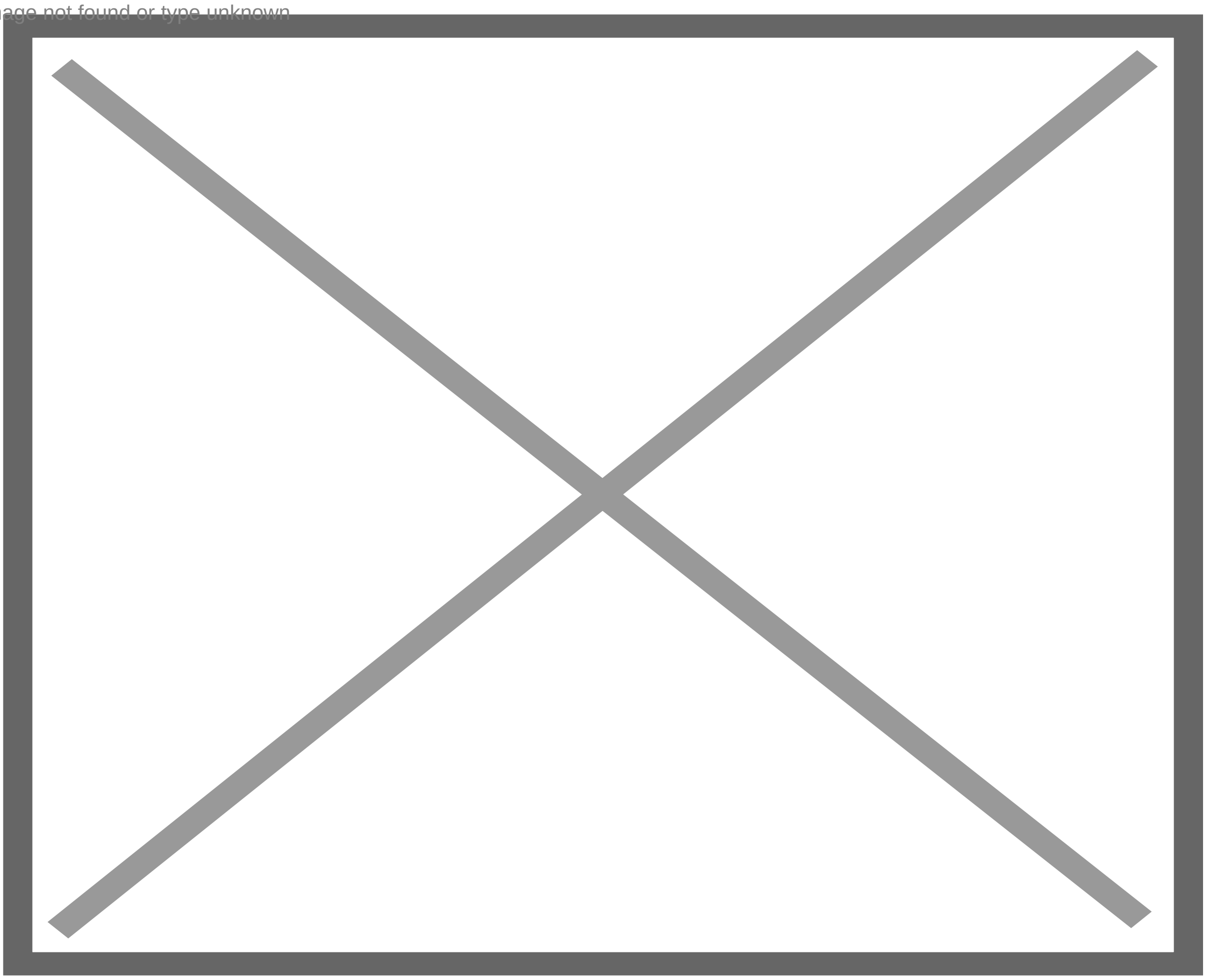


Propane tanks started arriving at WAPA in on Oct. 5, 2014.

The V.I. Office of the Inspector General has publish its findings after probing for over a year the V.I. Water and Power Authority's contract with VITOL for the infamous propane conversion project that was supposed to bring relief to Virgin Islands ratepayers facing at the time skyrocketing fuel prices.

The audit delineates practices by a water and power authority that fumbled greatly in its stated goal to lower the power costs of customers when in July 2013 it embarked on a propane conversion project whose original cost was $87 million, but final total exceeded $200 million.

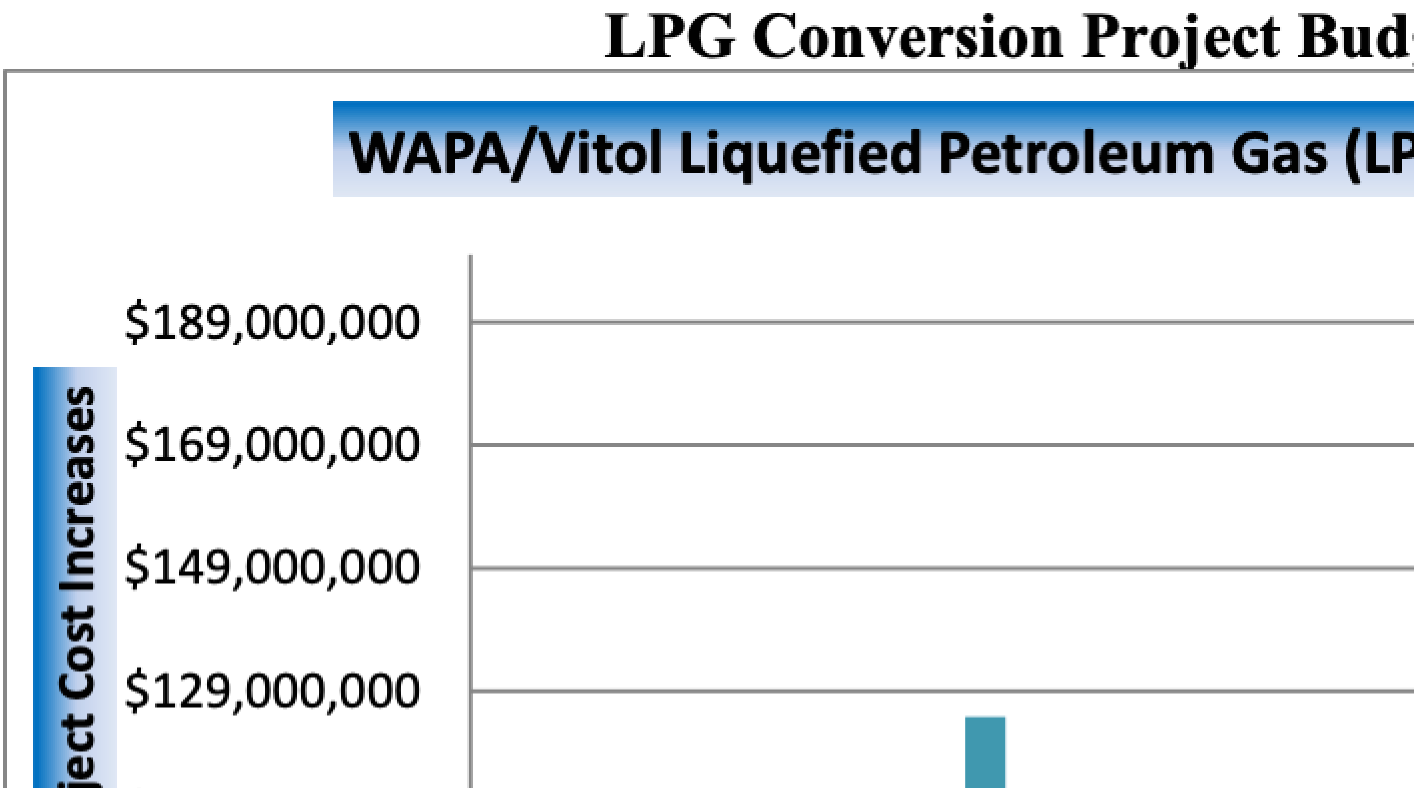
From a management team that oftentimes ran a clandestine operation opaque to even WAPA board members, to building a $2.2 million truck rack system without prior approval, the audit uncovers high levels of incompetence at the authority — from management to the WAPA board itself — during the years it was consumed by the propane conversion project. At the time, the authority was led by Hugo Hodge, Jr.

The audit commenced in Oct. 2019 and concluded in Dec. 2020. It was requested by the V.I. Public Services Commission which sought a review of Vitol's justification for expanding the scope of work and almost doubling the project's cost, according to the O.I.G.

"WAPA’s management did not follow WAPA’s established procedures for contracts and change orders," reads the audit. "In addition, WAPA’s contract negotiations lacked transparency. Furthermore, WAPA officials created an apparent conflict of interest when they engaged the professional services of a firm that also worked for Vitol during a similar time period. Finally, WAPA did not achieve its goal to convert the number of power-generating units it needed to burn Liquid Petroleum Gas (LPG), and did not ensure that its rented units could burn LPG as stipulated in rental agreements."

The audit also stated, "As a result, the project’s total cost has exceeded $200 million, including the board’s construction cost limit of $160 million, $10,228,191 in other professional services rendered to bring the project to substantial completion, $31,613,305 in operation and maintenance fees, $138,500 in accounting fees, and $2.2 million for a truck rack system. Not included in this cost are added fees that may have resulted from late payments that led to a third contract amendment.

"Additionally, $92 million in change orders were not approved, and over $2 million was paid for professional services without the Board’s approval. Further, WAPA was left with three of five converted units to burn LPG; WAPA invested $10 million to convert two units that were removed from service; and, WAPA incurred over $43 million in rental cost for units that could not burn LPG."



Project Costs

The audit found that WAPA failed to monitor project costs. "Although an executive director indicated to the board that the project's cost was being monitored for reasonable or actual cost, interviews with WAPA’s Project Management Team showed that they were not monitoring project’s costs. We found that WAPA management knew about Vitol’s revised budgets; however, they did not evaluate the cost associated with the proposed increases," reads the audit.

"WAPA's in-house management team included the executive director, a financial advisor, project managers, and the general counsel. We found that no team member had assumed the responsibility for monitoring the project’s costs from interviews conducted. For example, the chief financial officer who served as the financial advisor for the project stated that he had no role in the Project after the contract was signed. The chief operating officer who served as the head project manager stated that his responsibilities involved the environmental aspect of the project to include permitting and evaluation, coordinating and interfacing any issues that WAPA had about the Project, and reporting those issues to Vitol. Also, the director of project management, who served as the project coordinator, stated that he supervised WAPA’s engineers and inspectors charged with monitoring the progress of the work. He, in turn, reported to the executive director and the head project manager. Finally, the then-general counsel stated that her involvement in the project was assisting WAPA’s external law firm with the request for proposal process, participating in contract negotiations, and drafting Vitol’s contract.

"Therefore, while WAPA’s Board was given the impression that the project's cost was being tracked for at a minimum, reasonableness, they were not. The project's cost was not assessed until the Project was substantially completed when WAPA contracted with an accounting firm to evaluate the cost."

Project Planning

On project planning, the O.I.G. found that WAPA did not fully exercise due diligence. Instead, the authority focused more on project progress than cost. The WAPA board also played a role in the runaway costs as it failed to ensure that it "mitigated WAPA’s financial risk when they approved the project without detailed engineering plans," according to the audit. "Instead, they allowed a design and construct as-you-go project. Also, they did not ensure that a cost-benefit analysis was done to routinely assess if and when the project's cost started to negatively affect its benefits."

"The board and management pursued the project in a manner to suggest that the savings to WAPA and its customers would justify its cost, when projected cost had not been fully established," the O.I.G. audit found. "The board relinquished the control of the project to Vitol and WAPA’s project management team without putting added controls in place to ensure that WAPA’s financial interest was protected."

The board also approved the project to move forward without detailed engineering plans, which the audit found "increased the uncertainty of the project’s cost." According to the audit, typically a front end engineering design, or FEED study is performed before the start of engineering, procurement, and construction. However, the WAPA board gave approval for the FEED study and construction to proceed at the same time.

"We found that the board did not pursue the project in a manner that protected WAPA’s financial interest," reads the audit. "Based on the board minutes and interviews of Board members, they expected the project’s cost to increase after Vitol completed the FEED study. However, they did not have a collective expectation or projection for the anticipated increase in cost. As a result, as the cost exceeded $150 million, some Board members expressed that they faced their worst-case scenario."

Project Guidelines

The authority also failed to follow its own procedures and guidelines for contract procurement. The audit found that "(i) these procedures were not always adhered to regarding Vitol’s build-own-operate-transfer (BOOT) agreement with WAPA; (ii) WAPA’s involvement in the contract negotiation lacked transparency; and, (iii) WAPA officials created an apparent conflict of interest when a law firm used by WAPA also performed services for Vitol."

WAPA disregarded its own contracts office when executing the original $87 million contract. "We found that WAPA officials moved Vitol’s $87 million contract through the process of final execution without involving the Contracts Office," reads the audit. "In an interview, the then-Contract Administration Manager stated that “the Contracts Office was left out of the process after the Board approved awarding the contract to Vitol.”

Conflict of Interest

The O.I.G. audit found that WAPA officials "did not vet its external Law Firm for a conflict of interest. The law firm that has provided professional services to WAPA for over 20 years was a lobbyist for Vitol from July 1, 2010, to June 28, 2013. While providing lobbying services for Vitol, the law firm was involved in the project’s request for proposals process, the Evaluation Committee’s review of proposals, and represented WAPA during contract negotiations.

"Specifically, in April 2013, the law firm reviewed respondents’ proposals, participated in the Committee’s meetings, and assisted the Committee in preparing its summary and recommendations report. The Committee issued the report that same month and recommended that WAPA pursue further negotiations with Vitol and one other company, and the Law Firm was copied on the Committee’s report," according to the audit.

Failure of Units Conversion Effort

According to the audit, WAPA converted five of eight power-generating units they initially planned to convert to use LPG. Of the five units converted, WAPA dismantled one unit and removed another from service, replacing them with rented units, the audit says. The authority did not ensure that some rented power units burned LPG as stipulated in the rental agreements. WAPA officials also had differing opinions on whether the dismantled unit should have been replaced or repaired.

"These conditions occurred because: (i) of the seven units contracted, one was not overhauled and therefore, not eligible for conversion; (ii) another unit experienced mechanical issues during conversion and was abandoned and is now used for spare parts; (iii) one sustained damages after conversion and was deemed unusable; (iv) one failed after conversion; and, (iv) WAPA officials decided to replace the damaged unit with rented units without doing a cost-benefit analysis to repair versus replace the unit," reads the audit.

It added, "As a result: (i) WAPA was left with three out of five converted units to burn LPG; (ii) WAPA incurred $43,570,000 in rental costs and increased fuel costs when some rented power generating units could not burn LPG; and, (iii) WAPA’s ability to recoup its estimated investment of $10 million to convert two units was negatively impacted when one unit was dismantled, and another unit failed."

Project Completion

According to the audit, Vitol was required to provide WAPA with written notices of substantial and final completion of the constructed and converted facilities. WAPA would in turn issue a certificate confirming that Vitol met the conditions for substantial and final completion. "We noted that Vitol notified WAPA that they achieved substantial completion of the Richmond Power Plant in November 2016, and the Randolph Harley Power Plant in January 2017, which WAPA confirmed," reads the audit. "Vitol, to date, has not notified WAPA that they had achieved final completion of the constructed and converted facilities."

The O.I.G. made several recommendations to the WAPA board, including in the areas of project planning, management oversight and reporting, project cost monitoring, board inaction, WAPA’s procurement policies and guidelines, and the conversion of power-generating units.