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STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

August 29, 2007

Ms. Elaine Bartley  
Acting Executive Director  
Natural Heritage Trust  
Governor Nelson A. Rockefeller Empire State Plaza  
Agency Building 1  
Albany, NY 122

Re: Report 2007-F-08

Dear Ms. Bartley:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Natural Heritage Trust (NHT), to implement the recommendations contained in our audit report, Internal Controls over Procurement (Report 2005-S-12).

**Background, Scope and Objectives**

The Natural Heritage Trust (NHT) is a public benefit corporation created in 1968 for the primary purpose of receiving and administering private gifts, devises and bequests of real and personal property donated to further conservation, outdoor recreation and historic preservation.

Our initial audit report, which was issued on February 7, 2006, examined the Internal Controls over Procurement. Our audit found several aspects of NHT's controls over procurement and contracting procedures needed improvement. The objective of our follow-up was to assess the extent of implementation, as of June 30, 2007, of the nine recommendations included in our initial report.

**Summary Conclusions and Status of Audit Recommendations**

NHT's response to the prior audit report indicated that all issues raised by the audit were addressed and we found that NHT officials have made some progress in correcting the problems we identified. However, of the nine prior audit recommendations, only one has been fully implemented, seven recommendations have been partially implemented and one recommendation was not applicable during the scope of our follow-up since the opportunity did not yet present itself for NHT to implement the recommendation.

## **Follow-up Observations**

### **Recommendation 1**

*Assign the functions of initiating a purchase request, preparing purchasing specifications, receiving responses to proposals and evaluating them, authorizing the purchase, and receiving the purchased good or services to as many responsible individuals as practical.*

Status - Partially Implemented

Agency Action - We reviewed purchases to determine if there was a separation of duties in the procurement, receiving and payment for goods and services. We found separation of duties was established for accounts from the Long Island region. The Long Island region has 25 accounts which process \$800,000 in expenditures each year. However, we found a lack of separation of duties in another account which had over \$900,000 in expenditures annually. NHT's acting Executive Director indicated that this account had limited staff available to separate the duties and she would rather have the more senior manager be responsible for the procurement process instead of an individual who may be less familiar with the purpose of the account.

We also reviewed receipt of goods purchased to determine whether an independent person received the items purchased. Our review found no receiving reports on file for 20 of 28 transactions tested. Therefore, we were unable to determine if there was a separation of duties between the individual who ordered the item and the person receiving the item purchased.

### **Recommendation 2**

*Require account holders to make positive confirmation of the monthly account statements.*

Status: - Partially Implemented

Agency Action - In December 2005, NHT began sending account statements asking for positive confirmation on their balances. Since then, NHT has sent out confirmation requests for 145 of the 229 accounts, but has received only 84 responses. Follow-up on the 61 non-responding account holders has been minimal, as NHT records indicate only 8 follow-up letters have been sent. In addition, NHT discontinued sending confirmations to account holders in January 2007, when the individual responsible for the task left NHT. Since there are no negative consequences for account holders who do not verify their balances, they have little incentive to respond to the requests.

Our review of the 84 confirmations received by NHT noted two confirmations which indicated there were discrepancies within their account statements. We contacted these two responders to determine if the discrepancies had been resolved. One individual indicated the discrepancy had been resolved, but errors exist in another account she manages. This individual indicated there were a large number of transactions in the second account, which would lead to frequent discrepancies.

The other individual indicated NHT had not contacted her to resolve the discrepancy, but the account is now no longer used. This second individual also indicated she is responsible for another account that also has discrepancies, but she was not concerned since the discrepancies totaled only about \$5,000 compared to a balance of over \$100,000.

### **Recommendation 3**

*Ensure that all purchases comply with NHT's procurement guidelines, and that all required bid documents are obtained and retained in NHT's files.*

Status - Partially Implemented

Agency Action - Our review of NHT's current guidelines found contradictory information. For instance, the guidelines for purchases in excess of \$5,000 state "Confirming procurements require authorization of the Executive Director or the Treasurer before procurement is made." However, confirming procurements by definition would be after the purchase; therefore, obtaining an authorizing signature prior to the purchase would not be possible. NHT officials agreed that the procurement guidelines need to be clarified.

NHT's procurement guidelines (guidelines) vary depending on the dollar amount and type of purchase. The guidelines specify quotes or bids be obtained prior to the purchases in excess of \$2,500. Our review of purchases in excess of \$5,000 found more complete bid documentation on file for larger dollar purchases. We found complete bid documentation on file for six of the seven purchases in excess of \$15,000. However, our review of purchases between \$5,000 and \$14,999 found documentation of written quotes for only one of the nine purchases reviewed. Our review of the guidelines also noted the competitive bid and quote requirements are more stringent than the current procurement guidelines for New York State agencies. NHT indicated that the dollar limits specified in the guidelines for obtaining quotes and bids need to be updated.

### **Recommendation 4**

*Document the justification for sole source purchases and barn grant award selections.*

Status - Partially Implemented

Agency Action - The audit revealed that there continues to be no supporting documentation to justify sole source purchases. We selected seven sole source purchases to evaluate compliance with NHT's procurement guideline documentation requirements. Our review found that, although NHT's guidelines require prior approval by either the Executive Director or Treasurer, no such approvals were obtained. NHT's guidelines also require sole source purchases to include documentation of reasonableness of price; yet none of the seven records included this information. We also found three of the seven purchases lacked documentation explaining the unique nature of the transaction, even though required by NHT's procurement guidelines.

Under the New York State-funded barn grant program, NHT awards funds to help rehabilitate barns throughout New York State. Applications for funding are first evaluated at a regional level against certain criteria. The regions then forward recommendations to the Barn Grant Committee (Committee), which performs a second review and makes the awards.

Our review of the 2005 awards found limited documentation supporting the Barn Grant Committee's decisions. At the start of the 2005 fiscal year, 623 applications were received in regional offices. Based on the regional offices' preliminary reviews, 213 applications were sent to the Committee for further consideration. The Committee reviewed 76 applications in detail and recommended each for funding. No documentation exists which describes the process or criteria used by the Committee to identify the 76 applications for further award consideration. Seventy-two of these projects were ultimately funded based on subsequent site visits. NHT was also unable to provide documentation describing the site visits or the reasons why the other four applications did not receive funding.

Additional barn grant funding became available later in fiscal year 2005. At that time, NHT made a decision to fund an additional 124 applications. NHT explained that these 124 grants did not get the same level of scrutiny as the original 72 awards. These projects were not reviewed by the Committee and site visits were not performed. As a result there was no documentation available to support the decisions to award these 124 additional grants. Based on the earlier award process, it appears that detail review of applications should have been necessary to identify those which were ineligible. NHT officials responded that no payments are made on the awards until site visits confirm the work has been completed.

### **Recommendation 5**

*Ensure that invoices or adequate supplemental documentation is obtained before payment is made and those documents are kept on file.*

Status - Partially Implemented

Agency Action - Most of the transactions we reviewed contained invoices supporting the purchases for payments made by NHT. However, we found invoices for three other purchases totaling \$45,000 lacked sufficient description of items or services provided. These three invoices, instead, only stated amounts to be paid to the vendor.

### **Recommendation 6**

*Ensure that the annual procurement report and NHT procurement guidelines comply with PAL (Public Authorities Law) Section 2879 and OSC's Regulation on Accounting and Reporting for Public Authorities.*

Status - Implemented.

Agency Action - NHT's annual procurement report for 2006-07 meets the requirements for PAL Section 2879. In addition, NHT's procurement guidelines comply with PAL Section 2879 and OSC's Regulation

### **Recommendation 7**

*Report MWBE expenditures to DED as required by Section 15-A.*

Status - Partially Implemented

Agency Action - NHT did file MWBE (Minority- and Women- Owned Business Enterprise) reports with the Department of Economic Development for all four quarters of FY 2006. However, all four quarters were reported between two and eight months late. NHT officials stated that the employee responsible for completing these reports was on extended leave of absence causing the reports to be late.

### **Recommendation 8**

*Re-emphasize the need to utilize minority-and women-owned business contractors when possible.*

Status - Partially Implemented

Agency Action - In responding to the prior audit, NHT officials indicated they would continue to investigate ways to increase the participation of MWBE contractors. We found that, at the time of our initial audit in 2005, NHT revised its procurement guidelines, in part to include a more detailed discussion of MWBE requirements. These guidelines were distributed to staff involved in the procurement process. However, NHT officials were unable to demonstrate other specific actions taken to promote increased use of MWBE contractors and commented that the effort may have lost momentum when the former Executive Director left in 2006. As a result, MWBE participation continues to lag.

### **Recommendation 9**

*Clarify the role, responsibilities, payments, and limitations with sub-contractors that are employed by prime contractors.*

Status - Not Applicable

Agency Action - The Acting Executive Director explained that, since our last audit, NHT has not entered into any contracts that have utilized sub-contractors. Accordingly, no opportunity for implementing this recommendation has yet occurred.

Major contributors to this report were Christine Rush, Kelly Engel and Diane Hardy.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of NHT for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

John F. Buyce  
Audit Manager

cc. Ms. Lisa Ng, Division of the Budget  
Mr. Pete Grannis, Commissioner, Department of Environmental Conservation  
Ms. Carol Ash, Commissioner, Office of Parks, Recreation & Historic Preservation  
Ms. Lorraine Cortes-Vazquez, Secretary of State