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COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 22, 2010

Dennis Mullen
President and Chief Executive Officer
Empire State Development Corporation
633 Third Avenue
New York, NY 10017

Re: Report 2009-F-49

Dear Mr. Mullen:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution; and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the Empire State Development Corporation (Corporation) to implement the recommendations contained in our audit report, *Recycling Program* (Report 2008-S-137).

Background, Scope and Objective

In April 2008, the Governor issued Executive Order 4 (EO 4) on *Establishing a State Green Procurement and Agency Sustainability Program*. EO 4 created the Interagency Committee on Sustainability and Green Procurement (Committee) comprised of the heads of 12 State agencies and public authorities. EO 4 requires each State agency, public benefit corporation, such as the Corporation, and authority to designate a Sustainability and Green Procurement Coordinator and develop a comprehensive Sustainability and Environmental Stewardship Program (Program). EO 4 builds upon the requirements of EO 142 (which it superseded) in that each public corporation's Program must provide for source separation of its waste to maximize the amount of paper, metal, glass and plastic that is recycled. Technical assistance for agencies is available from the Office of General Services (OGS) and Department of Environmental Conservation, as well as the Environmental Facilities Corporation, and the New York State Energy Research and Development Authority. Beginning March 1, 2009, State agencies, public benefit corporations and authorities were required to submit an annual report to the Committee that will, in turn, provide a summary report to the Governor.

The Corporation, with its co-headquarters in New York City (NYC) and Buffalo, employs about 358 employees and has five regional offices, three of which are located within buildings operated by OGS. The majority of Corporation employees are stationed at both headquarters. The remaining employees work in various regional or shared office spaces throughout the State. OGS is responsible for the recycling programs at the buildings they operate.

Our initial audit report, which was issued on February 27, 2009, examined whether the

Corporation had a recycling program that was in compliance with applicable State and local laws and Executive Orders. Our report found that the Corporation had implemented a recycling program that was substantively in compliance with applicable governance. The Corporation instituted a program to recycle paper, metal, plastic computers and cardboard. However, the Corporation was not recycling glass within its offices. We also found the Corporation had provided education on recycling consistent with EO 142, but needed to update and retrain its employees to reflect the new requirements under EO 4. In addition, the Corporation assigned a Sustainability and Green Coordinator, as required. The objective of our follow-up was to assess the extent of implementation as of March 3, 2010, of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Corporation officials have made some progress in correcting the problems we identified. However, additional improvements are needed. Of the three prior audit recommendations, two recommendations have been implemented and one recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Revise the recycling program to ensure offices are recycling glass.

Status - Not Implemented

Agency Action - The Corporation operates offices all over the State, including Albany and New York City, as well as regional and satellite offices on Long Island, in White Plains, Newburgh, Troy, Plattsburgh, Watertown, Binghamton, Elmira, Syracuse, Rochester and Buffalo. These locations are primarily leased office space. Therefore Corporation employees are not the facility managers and can not control all aspects of their individual recycling operations. The Corporation does, however, recycle glass at its 14 facilities located in office buildings owned and managed by the New York State Office of General Services. However, Officials informed us that the Corporation does not yet recycle glass at its main office located in New York City (NYC), primarily because NYC currently does not have a viable market for recycled glass. Corporation officials stated that securing a market outlet for glass in NYC is a priority for them.

Recommendation 2

Retrain employees on the established recycling program in accordance with EO 4.

Status - Implemented

Agency Action - On May 15, 2009, the Corporation e-mailed a recycling power point presentation to all of its regional directors describing the components of its recycling program and recycling activities necessary to comply with EO 4. The presentation directed all Corporation employees to recycle paper products, corrugated cardboard, glass, plastic,

aluminum and steel containers. The directors were instructed to ensure all staff knew about the recycling requirements by sharing the presentation with them.

Recommendation 3

Implement internal control activities to assure the accuracy of data reported on future annual reports.

Status - Implemented

Agency Action - Based on data gathered in 2008 and 2009, the corporation has established a methodology to gauge the amount of refuse it produces, which it currently estimates at 27 tons of trash and 20 tons of recyclables per year. Officials now use these figures as a baseline for performance reporting and plan to periodically monitor the amount of refuse generated by employees as a means to evaluate progress in waste reduction measures.

Major contributors to this report were Karen Bogucki and Kathleen Hotaling.

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 the Corporation for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Edward J. Durocher, CIA
Audit Manager

cc. Ms. Anita Laremont, ESDC Vice President and General Counsel
Mr. Thomas Lukas, Division of the Budget