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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 7, 2014

Mr. David Samson
Chairman
Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003-1604

Re: Contracts for Personal and
Miscellaneous Services
Report 2013-F-18

Dear Mr. Samson:

Pursuant to the State Comptroller's authority as set forth in Section 7071 of McKinney's Unconsolidated Laws of New York, we have followed up on the actions taken by officials of the Port Authority of New York and New Jersey (Port Authority) to implement the recommendations contained in our prior audit report, Report 2009-S-54 (*Port Authority of New York and New Jersey: Contracts for Personal and Miscellaneous Services*, issued July 19, 2011).

Background, Scope and Objective

The Port Authority of New York and New Jersey's mandate is to promote and protect the commerce of the bi-state port and to undertake port and regional improvements not likely to be financed by private enterprise or to be attempted by either state alone. It manages a network of aviation, ground transportation infrastructure, and seaport facilities organized in the following five departments: Aviation; Tunnels, Bridges & Terminals; Port Commerce; Port Authority Trans-Hudson (PATH); and Real Estate & Development.

The Port Authority obtains personal and miscellaneous services through two types of agreements: Service Contracts and Call-In Agreements. Service Contracts are usually used for routine service functions such as cleaning, maintenance, and repairs; waste management, as well as project-related services such as construction management. Call-In Agreements cover temporary staffing services and professional, technical and advisory services, etc. According to available records, the Port Authority had 2,029 Service Contracts and Call-In Agreements valued at \$7.0 billion that were open between July 19, 2011 and June 21, 2013.

Our prior audit determined that the Port Authority generally did not have documentation

to justify the need for new or renewed contracts for personal and miscellaneous services. In addition, the Port Authority did not provide documentation to support that it periodically reassessed all of its contracts for personal and miscellaneous services. We also found that the Port Authority's business model does not require the departments requesting these contracts to perform and document an assessment that would establish that outsourcing is the best approach to accomplish the task. Finally, we found that contract personnel are an additional aspect of the work force of the Port Authority, but are not disclosed in the count of personnel necessary to accomplish the Port Authority's work.

The objective of our follow-up was to assess the extent of implementation, as of December 5, 2013, of the five recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Port Authority officials have made progress in implementing the recommendations contained in our prior audit report. Of the five prior audit recommendations, one was implemented, three were partially implemented and one was not implemented.

Follow-Up Observations

Recommendation 1

Require department officials to document, prior to preparing the Memorandum of Justification, Memorandum of Authorization or Board Item, that outsourcing is more beneficial to the Port Authority because of factors such as timing, costs, workload analysis, qualifications, or the nature of the services to be rendered.

Status - Partially Implemented

Agency Action - We reviewed 10 contracts and determined that four of them contained information supporting the need to contract for the services.

Recommendation 2

Justify the current practice of holding staff size at a fixed level and obtaining needed services through Service Contracts or agreements, stating why it is in the best interest of the Port Authority and the public it serves.

Status - Partially Implemented

Agency Action - The Port Authority has maintained its staff at a constant level to address the core level services and developed a 'Position Justification Questionnaire' for new hires. Although the Port Authority has not justified obtaining needed services through Service Contracts or Agreements, it has provided documents to show that it assessed services that were provided under contracts and identified some positions that will be filled by

permanent employees.

Recommendation 3

Demonstrate the true amount of resources needed to operate Port Authority facilities by publicly disclosing the number and cost of individuals it employs under contracts and agreements.

Status - Not Implemented

Agency Action - Port Authority officials stated the Authority's website lists all of the contracts that have been awarded and the amount of the contract. However, this does not address the recommendation, which calls for the Authority to include the number of individuals employed under contracts and agreements. In addition, many of the contracts have been in place for several years, which indicates that they are not a temporary condition.

Recommendation 4

Develop uniform written guidelines for entering into all Service Contracts and agreements that clearly delineate required steps, analyses, and documentation to support the decision to outsource, and specify the retention period.

Status - Implemented

Agency Action - Port Authority has developed written guidelines for entering contracts and agreements. The agency documented details of its formal process including an "Authorization Chart," "Required Steps to Obtain Consultant – Supplemental Expertise Model," and "Required Steps to Obtain Consultant – Flexible Staffing Model." Additionally, the agency has developed procedures and guidelines for entering new contracts subsequent to our 2012 audit, which incorporate some of our recommendations.

Recommendation 5

Instruct managers to periodically reassess all Service Contracts and Call-In Agreements to identify opportunities to defer, reduce, or eliminate contract costs. Document the reassessment.

Status - Partially Implemented

Agency Action - Port Authority provided documentation showing that for the 2014 Budget Year, all Service Contracts and Call-In Agreements are reassessed. The Port Authority, however, does not reassess Engineering Department Contracts.

Major contributors to this report were Robert Mehrhoff, Mark Ren, Daniel Raczynski, Daniel Bortas, and Altagracia Rodriguez.

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 Port Authority for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Carmen Maldonado
Audit Director

cc: R. Sudman, Audit Director
A. Levine, Assistant Director