



STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

ANDREW M. CUOMO
GOVERNOR

1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

June 9, 2014

Mr. John Buyce
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Dear Mr. Buyce:

The Department of Corrections and Community Supervision (DOCCS) has reviewed the Office of the State Comptroller's Final Audit Report 2013-S-30, *Selected M/WBE Purchases at Various Facilities*. In accordance with Section 170 of the Executive Law, DOCCS's ninety day reply to the audit is attached.

We are complying with the provisions of the Budget Policy and Reporting Manual, Item B-140, by simultaneously forwarding two copies of this response to the Division of the Budget.

DOCCS would like to acknowledge the time and effort of all employees that were involved with this audit and their desire to improve the Department's operation.

Sincerely,

Anthony J. Annucci
Acting Commissioner

Attachment

cc: Governor Andrew Cuomo
Lieutenant Governor Robert J. Duffy
Senator Dean G. Skelos
Senator Jeffrey Klein
Senator Andrea Stewart-Cousins

Senator John A. DeFrancisco
Senator Liz Krueger
Senator Patrick Gallivan
Assemblyman Sheldon Silver
Assemblyman Joseph D. Morelle
Assemblyman Herman D. Farrell, Jr.
Assemblyman Brian M. Kolb
Assemblyman Bob Oaks
Division of the Budget (2)



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OSBOURNE A. MCKAY
DEPUTY COMMISSIONER
CORRECTIONAL INDUSTRIES & ACCREDITATION

June 9, 2014

Mr. John Buyce
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Re: Selected M/WBE Purchases by Various Facilities
Report 2013-S-30

Dear Mr. Buyce:

Thank you for the opportunity to respond to the Office of the State Comptroller's (OSC) Final Audit Report, "Selected M/WBE Purchases by Various Facilities," dated March 7, 2014. First, I would like to thank your staff for their professionalism; and their diligent efforts to review selected Departmental purchases made under the State's M/WBE program.

Below are the Department of Corrections and Community Supervision's (DOCCS) responses to OSC's three issues for further consideration:

1. Does the use of brokers, especially in cases where the substance of the transactions is essentially unchanged from traditional purchasing patterns, reduce the incentive for agencies or facilities to identify and do business directly with other M/WBE firms who might compete for such purchases and contracts?

DOCCS is unable to provide a definitive response to this question as it does not oversee the administration of the New York State M/WBE program. However, our analysis of purchases from the vendor in question, American Indian Woman Incorporated (AIW), illustrated that often their prices were the lowest among those from the other available vendors. It is noted that there were some instances where staff obtained quotes from a vendor that had been previously used, but this is not a departure from the Department's position to abide by State Finance Law, State Procurement Guidelines, and our internal policies as they relate to discretionary purchases.

2. How does the use of M/WBE firms as brokers for transactions advance the overall program goals of promoting access and opportunities for minority and women-owned businesses and in eradicating the barriers that have unreasonably impaired their access to traditional contracting opportunities?


DOCCS recognizes the validity of the question and has therefore shared the results of this audit report with Empire State Development (ESD) with regard to the underlying policy issue that is raised to ensure that we are meeting the intent of the M/WBE program. It would appear that ESD as the administrator of the M/WBE program would be most qualified to provide a definitive response to this question.

3. To what extent should brokers be required to add value to a transaction and how could that value be quantified or measured?

DOCCS again believes that the underlying policy issue raised by this question is best responded to by ESD, the M/WBE program administrators. However, DOCCS is fully committed to following the existing procurement guidelines to ensure that we are getting the best value when procuring goods and services. DOCCS also remains committed to conducting business with New York State businesses, subcontractors, and suppliers.

If there are any questions, please contact Paul Guenette, Director of Internal Controls at (518) 485-1394.

Sincerely,



Osbourne A. McKay
Deputy Commissioner

cc: Anthony J. Annucci, Acting Commissioner
Maureen E. Boll, Deputy Commissioner and Counsel
Daniel Martuscello III, Deputy Commissioner Administrative Services
Robert Kennedy, Assistant Commissioner
Sandra Downey, Director, Division of Budget & Finance
Lucy Buther, Acting Director, Office of Diversity Management
Paul Guenette, Director, Bureau of Internal Controls
Jeff Nesich, Director, Internal Audit Unit