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COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 30, 2016

Mr. Howard Zemsky
President & CEO
Empire State Development
633 Third Avenue
New York, NY 10017

Re: Oversight of International Offices
Report 2016-F-1

Dear Mr. Zemsky:

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 Empire State Development to implement the recommendations contained in our audit report, *Oversight of International Offices* (2012-S-7).

Background, Scope, and Objectives

At the time of our prior audit, Empire State Development's (ESD) International Division was responsible for promoting international trade and investment initiatives to improve global competitiveness for New York State companies. The International Division helped businesses increase exports and expand visibility of their business in the global marketplace, and developed and maintained a network of partners worldwide to attract foreign direct investment and create jobs for New Yorkers. This was accomplished through contracts with foreign representatives who assisted businesses in these activities. In October 2014, ESD's International Division was restructured as the result of the Governor's Global NY initiative. Under Global NY, the restructured International Division still has contracts with foreign representatives to increase exports and attract foreign direct investment to create jobs for New Yorkers. Currently, it has contracts totaling \$2.7 million with foreign representatives operating in Canada, Israel, China, and the United Kingdom.

Our initial audit report, issued on June 28, 2013, examined whether ESD monitors the effectiveness of its international offices and manages payments to foreign representatives to ensure they are made only for authorized contract purposes. The audit report concluded that, while ESD had made significant improvements in managing payments to foreign offices, it did not have an appropriate performance monitoring system in place to evaluate foreign offices' activities against contract requirements. For example, we noted that monitoring documents provided by ESD were inconsistent with contract performance requirements and only contained

a single year's worth of data, and appeared to have been created solely as a result of the audit to show specific success stories or produced by the foreign representatives at the request of an ESD official after the onset of our audit.

The objective of our follow-up was to assess the extent of implementation, as of July 7, 2016, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

ESD made some progress in addressing the issues we identified in the initial audit report; however, further action is needed. Of the two recommendations contained in the prior audit report, one has been implemented and the other has been partially implemented.

Follow-Up Observations

Recommendation 1

Monitor the performance of foreign representatives to ensure that international offices are meeting contract requirements and are operating to the benefit of New York companies and economy.

Status – Partially Implemented

Agency Action – ESD has taken additional actions to monitor its contracts with foreign representatives since our original audit. However, these efforts do not satisfactorily address the major underlying reasons for the audit recommendation, nor do they accomplish the improvement goals that ESD cited in its September 25, 2013 90-Day Response to the Comptroller, the Governor, and Legislative leaders. At the time of our original audit, ESD did not track foreign representatives' activities against contract requirements. Instead, performance reporting and monitoring efforts appeared to be informal and ad hoc at best. While ESD has since increased its monitoring efforts, management still cannot demonstrate that all the contract requirements are being monitored. Despite our repeated requests, and the important role these foreign contractors have in attracting additional international business investment and creating jobs in New York, management could not provide evidence that ESD monitors whether the contractors' efforts have increased export sales, developed successful investment projects, and created jobs.

The contracts each set performance benchmarks that require foreign direct investment to occur at five to ten locations in New York each year and ten jobs be created at each location. Also, the contracts' benchmarks require that export sales be increased on a yearly basis and that trade shows be conducted to further these opportunities. In addition, the contracts also contain certain other required benchmarks for activities that contractors must accomplish, including servicing a certain number of businesses to promote international trade, phone call prospecting to potential investment targets, and developing a certain number of qualified foreign direct investment leads. Further, the

contracts require the foreign representatives to administer a trade events program, as well as to submit monthly and annual International Business Activity Reports (Reports) to ESD.

During the initial audit, officials agreed that improvements and greater consistency were needed, both in monitoring the contracts with foreign representatives and in tracking performance. To this end, ESD informed us that it had started implementing a new Client Resource Management System (CRMS) to better track contractor performance. The 90-Day Response indicated that CRMS would provide “an online and robust vehicle for reviewing international activity based on management identified metrics” including: investment by foreign offices and sectors, sales, work orders, technical assistance, and outreach. However, although almost three years have passed since our original audit, we found the system still had rather limited capabilities.

During our follow-up review, officials indicated that the CRMS had been implemented in early 2015 and, subsequently, has been used for analysis and tracking purposes. In April 2016, ESD denied our initial request to observe the CRMS in operation and to demonstrate its capabilities. After several requests, auditors were allowed to observe the system in July 2016 in the presence of ESD officials. We found the system lacked the ability to track most, if not all, of the contract requirements. Instead, CRMS was actually capturing only data on foreign investment leads and export assistance applications; it did not capture data on actual export sales, foreign investment, or job creation.

At the onset of our review, we requested copies of any internal reports, or output from any other method, that ESD used to monitor contractor progress. In response, besides allowing us to observe the functionality of CRMS, officials provided the monthly and annual Reports that foreign offices submitted from 2013 onward. They also provided “Global NY Dashboard” spreadsheets from 2015 and a spreadsheet tracking the submission of required monthly Reports. We reviewed Global NY Dashboard spreadsheets and observed that, although they quantified certain performance metrics (such as investment leads generated and total export assistance requests), they did not clearly track the individual performance of each foreign office. As a result, they were of limited value in evaluating individual contractor performance.

Additionally, we reviewed the monthly and annual Reports submitted by foreign offices for each office’s last full contract year. Although each office’s Reports varied in format, they appeared to contain all the required information. However, it was not easily discernible whether or not some offices met required performance targets. For example, only two offices included in their annual Reports a table directly comparing the contract requirements to their actual performance. In these instances, we could clearly see that the offices had met some targets but did not meet others, including benchmarks for successful investment projects, job creation, and increased export sales. ESD officials asserted that they use a separate spreadsheet to monitor performance metrics such as export sales; however, they denied our request for a copy of that spreadsheet.

When we discussed the implementation status of this recommendation with officials, they stated that, in their opinion, ESD had taken all required steps and fully implemented it. Officials asserted that we dismissed other monitoring mechanisms besides CRMS and indicated that ESD is constantly monitoring the international offices' performance, not only through its review of the monthly and annual Reports, but also through monthly teleconferences with the foreign representatives. According to officials, the combination of all their monitoring mechanisms allowed ESD to adequately track foreign offices' compliance with contract requirements and targets.

While ESD officials acknowledged that, in certain cases, specific documentation may not exist showing the progress to date, they contended that such instances were addressed during routine meetings with international offices. However, despite multiple requests and opportunities throughout the course of our review, ESD was either unable or unwilling to provide auditors with any documentary evidence to indicate that these other purported performance monitoring efforts had occurred or that any feedback was provided to foreign contractors as a result of these activities.

Recommendation 2

Ensure that foreign representatives are only reimbursed for actual and necessary expenses incurred in the operation of international offices.

Status – Implemented

Agency Action – In our initial audit, we reported that ESD could support the reimbursement payments it had made to foreign office representatives with a few minor exceptions. During our current review, we found ESD's reimbursement controls over payments to foreign representatives functioned as intended. We reviewed 10 payments totaling \$315,850 and covering each of Global NY's offices. We determined that, for each payment, the expenses were reasonable and adequately supported.

Contributors to this report were Walter Irving, Mark Ren, Scott Heid, and Charles Lansburg.

We would appreciate your response to this report within 30 days, indicating any additional actions planned to address the unresolved issue discussed in this report.

Very truly yours,

John F. Buyce, CPA, CIA, CFE, CGFM
Audit Director

cc: Division of Budget
Benson Martin, Empire State Development