

THOMAS P. DINAPOLI  
COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 30, 2016

Mr. John Degnan  
Chairman  
Port Authority of New York and New Jersey  
4 World Trade Center  
150 Greenwich Street  
New York, NY 10048

Re: Inspecting Highway Bridges and  
Repairing Defects  
Report 2015-F-19

Dear Mr. Degnan:

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 to implement the recommendations contained in our prior audit report, *Inspecting Highway Bridges and Repairing Defects* (2012-S-34).

**Background, Scope and Objective**

The Port Authority of New York and New Jersey (Authority) was created in 1921 under the authority of Article I, Section 10 of the United States Constitution. Its 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. The Authority's Aviation and Tunnels, Bridges and Terminals departments are responsible for inspecting highway bridges.

The Authority is responsible for inspecting its highway bridges and repairing any defects found. When inspections identify bridge deficiencies, these are identified as Red, Yellow, or Safety by the New York State Department of Transportation (Department) within its Bridge Inspection Manual (Manual). If a serious ("Red Flag") structural defect is identified during an inspection, the Authority must notify the Department within one week. The Authority has six weeks to take appropriate action (i.e., close the bridge, repair the defect, or take alternative action to ensure the bridge is safe to use). Less serious safety defects may also be identified during inspections, and are classified as either "Yellow" or "Safety" Flag conditions. A Yellow Flag condition is defined as a potentially hazardous condition which, if left unattended beyond the next anticipated inspection, would likely become a clear and present danger. A Safety Flag is defined as a condition presenting

a clear and present danger to vehicle or pedestrian traffic, but there is no danger of structural failure or collapse. If Red or Safety Flags are so serious that immediate attention is needed, they are identified as “Prompt Interim Action” (PIA). When a PIA condition is found, the Authority must take appropriate interim protective and/or corrective action within 24 hours. Any repairs of flagged conditions must be certified by a licensed professional engineer. Between May 2014 and June 2015, there were 26 repair conditions, including 1 Red, 3 Yellow, 16 Safety with PIA, and 6 Safety conditions.

Beginning July 1, 2010, public authorities that own and inspect bridges were allowed to develop their own flagging procedures. However, if they do so, they are required to have formal procedures which designate flag classifications similar to those used by the Department. Further, public authorities are required to report flags timely and have mechanisms to address them in a satisfactory and timely manner. The Authority has its own flagging procedures, but does not use the term “flag” for defects identified during inspections. Instead, the Authority classifies defects as Immediate Conditions (similar to a Red Flag), Priority Conditions (similar to a Yellow Flag), and Safety Conditions (similar to Safety Flags). Thus, for this report, we refer to inspection results as “conditions.”

Our prior audit report found that the Authority did not follow the Department’s requirements for classifying, reporting, and repairing bridge defects. Instead, it followed its own methods, but did not always comply with the Department’s requirement for an annual interim inspection if the repairs are not completed. Further, we noted that 10 of the 17 Safety Conditions sampled were not repaired for more than two years, including three that were open for five years.

We issued our initial report on May 19, 2014. The objective of our follow up was to assess the extent of implementation, as of June 1, 2016, of the four recommendations included in our initial report.

### **Summary Conclusions and Status of Audit Recommendations**

We found that Authority officials made progress in correcting the problems we identified. Of the four prior audit recommendations, two were implemented, one was partially implemented, and one was not implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Follow all of the Manual’s requirements for addressing flag deficiencies such as interim inspections of Priority Conditions that remain open for more than one year.*

Status - Partially Implemented

Agency Action - Authority officials stated they enhanced the Immediate Action Repair procedures for documentation, notification, immediate condition certification, and tracking of

immediate repairs. To assess these enhancements, we reviewed the 26 conditions that the Authority identified between May 1, 2014 and June 30, 2015, including 1 Immediate Condition, 3 Priority Conditions, 6 Safety Conditions, and 16 Safety Conditions with PIAs. Based on our review, we determined that:

- Interim inspections were done for the 1 Immediate Condition, as required;
- Interim inspections were not required for the 3 priority conditions because they were not open for more than one year when we reviewed the files in May 2015; and
- 7 of the 16 Safety with PIAs did not have interim inspections. According to Authority officials, they did not conduct interim inspections because they rescinded the Safety Flags after completing temporary repairs. According to Inspection Unit officials, a repair cannot always be made immediately because the Authority might have to obtain a contract for the work. For example, two of the conditions indicated “Hole through deck,” for which permanent and immediate repairs were recommended. However, file information indicated that “temporary repair with steel plates” was made on October 21, 2014, the date the defects were observed. Moreover, as of September 30, 2015, records indicated that permanent repairs had not been made. On June 8, 2016 (subsequent to the closing conference), Authority officials provided us with documents showing that permanent repairs, including contracted work, were underway.

### **Recommendation 2**

*Notify the Department about all modifications from the Manual and obtain the Department’s formal approval for each one.*

Status - Implemented

Agency Action - Authority officials met with Department officials on November 1, 2013, to discuss modifications from the Manual. The Authority provided us with minutes of that meeting. We reviewed the minutes and found that the Department approved the Authority’s modifications.

### **Recommendation 3**

*Establish specific time frames for repairing Safety Conditions.*

Status - Not Implemented

Agency Action - The Authority disagreed with this recommendation and therefore did not take any action. Authority officials indicated that its Non-Structural Safety Repair conditions are equivalent to the Department’s Safety flags, which do not have any specific time frames for repair. However, while not required by the Department, the use of formal time frames is consistent with a good performance management system and can help improve

the efficiency and effectiveness of a program.

**Recommendation 4**

*Follow the Department's Manual for reporting conditions.*

Status - Implemented

Agency Action - Authority officials agreed to comply with the Department's request to report any Red (Immediate) conditions and PIAs to the Department.

Contributors to this report were Abe Fish, Christine Chu, and Orin Ninvalle.

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 of New York and New Jersey for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Carmen Maldonado  
Audit Director

cc: A. Levine, Director, Internal Audit