STATE OF NEW YORK
DEPARTMENT OF LABOR
Office of the Inspector General
Governor W. Averell Harriman State Office Building Campus
Albany, New York 12240

February 18, 2005

Mr. William P. Challice
Audit Director
Office of the State Comptroller
Division of Management Audit & State Financial Services
123 William Street, 21st Floor
New York, New York 10038

Dear Mr. Challice:

The Department of Labor (Department) has reviewed audit report 2004-F-13 issued by the Office of the State Comptroller on January 10, 2005, which evaluates the actions taken by Department officials as a result of your staff's prior audit report 2001-S-68, *Enforcement of the Prevailing Wage on Public Construction Contracts.*

Of the nine original recommendations that were made in the 2001 audit report, your staff found that Department officials have fully implemented three recommendations and partially implemented one recommendation and the remaining five audit recommendations were not implemented. Given this fact, this letter will address only the six recommendations not fully implemented.

Recommendation #1:

Develop an action plan for reducing the backlog of open complaint investigations.

Department Response:

The Department's Bureau of Public Work (Bureau) has formulated a proposed action plan for reducing the backlog of open complaints. While not veering from our commitment to fully utilizing all tools and fully enforcing the protections of law for all workers, we hope to address complaints of a clearly non-willful nature in a more expeditious manner. This will allow Bureau staff to pursue the more egregious violators which consume more investigative resources and have a much greater negative impact on the workers, competing employers, public entities and the state of public construction in New York State. The draft action plan is being edited and will then be reviewed by Department administration and, if approved, will then be implemented.

Recommendation #2:

Improve the management reporting system for complaint investigations so that the information on the system is accurate, complete, up to date and sufficiently detailed to be of use in monitoring the progress of complaint investigations. Take corrective action when the system is not updated accurately, promptly or correctly.

Department Response:

Recently, the Worker Protection staff has been able to reconfigure Bureau case status information from mainframe applications into a new server driven database. This has allowed for immediate reports and analysis of cases status in a variety of crucial ways beforehand unavailable to Bureau staff and management. With the new reports, the Bureau has been able to get a more accurate portrayal of the number of complaints in all categories and ensure more prompt system data.

Recommendations #3 and #4:

Analyze caseloads and staffing needs to develop reasonable benchmarks for investigator productivity.

Use the productivity benchmarks to develop specific goals for reducing delays in the complaint investigation process. Use the management reporting system to monitor the performance of the District Offices in meeting these goals, and take corrective action when the goals are not met.

Department Response:

The Bureau's position, that the nature of the investigation business makes it difficult to establish a useful performance measurement system, remains unchanged. However, it should be noted that the addition of the recent case status reports has made more effective monitoring and analysis of the complaint investigation process possible.

Recommendation #5:

Identify areas of the investigation process that need to be re-engineered, and identify legislative requirements that need to be changed to facilitate the investigation process.

Department Response:

The Department is finalizing revisions to the Bureau's investigative procedures manual. Once approved, the final document will be distributed to all Investigative staff. In addition, as already stated , the Department has not identify any legislative requirements that need to be changed to facilitate the investigative process because it is the Department's position that additional legislation will not help staff conduct investigations.

Recommendation #7:

Separate among different employees the duties related to the funds held for restitution payments.

Department Response:

As subsequently stated, the Department's position is that effective procedures have been implemented to address the original recommendation. The Bureau's response to this recommendation was to insure that both the District Investigator and Senior Investigator sign the order to change monetary information.

In order for a restitution to be performed, the district office is required to submit several forms. The initial entry of all claimants is downloaded to the mainframe at the district level. For any changes to this initial entry, a PW-711 with the changes required is sent to Albany where the Senior Investigator in charge of the monetary system reviews the form and passes it to the Keyboard Specialist for input in the mainframe. All changes are submitted with the District Investigator and Senior Investigator initialing the change. This becomes an order to perform the changes. When a change has been performed on the mainframe, several daily reports show this change occurring. Additionally, the weekly warrant produces a report showing the total of all changes performed by all districts on a weekly basis.

The only instance where a change to an employee's record is performed without an order from the district is when an affidavit is received from a claimant in the Central Office. The Senior Investigator overseeing the monetary system makes the required change based on the affidavit and staples the affidavit to the form. In this instance, the change is to the address of the claimant and also, on rare occasions, to correct the spelling of a name. This also is based on the returned affidavit.

All transactions performed on the mainframe have corresponding daily and weekly printouts issued.

If you have any questions concerning this response, please contact me at (518) 457-9016.

Sincerely,

Karen C. Stackrow

Karen C. Stackrow
Director of Internal Audit

cc: L. Angello
D. Ryan
M. Hines
K. Papandrea
J. Tracy
R. Lillpopp
B. Sanvidge
R. Bailie