

*A REPORT BY THE NEW YORK STATE  
OFFICE OF THE STATE COMPTROLLER*

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**Alan G. Hevesi  
COMPTROLLER**



***STATE EDUCATION DEPARTMENT  
IMPLEMENTATION OF THE RESCUE  
PROGRAM***

***2002-S-51***

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**DIVISION OF STATE SERVICES**

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**Alan G. Hevesi**  
**COMPTROLLER**

**Report 2002-S-51**

Mr. Richard P. Mills  
Commissioner of Education  
New York State Education Department  
Albany, New York 12234

Dear Mr. Mills:

The following is our report on the State Education Department's oversight of school districts' implementation of the Rebuild Schools to Uphold Education (RESCUE) Program.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article 2, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

*Office of the State Comptroller*  
*Division of State Services*

September 19, 2003

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# ***EXECUTIVE SUMMARY***

## ***STATE EDUCATION DEPARTMENT IMPLEMENTATION OF THE RESCUE PROGRAM***

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### ***SCOPE OF AUDIT***

**T**here are approximately 700 school districts in the State outside New York City which own or operate more than 8,000 buildings with a reported replacement cost of more than \$70 billion. Districts must preserve this significant investment in capital assets to reduce replacement costs and to provide a safe and healthy environment for students and district staff. For more than 30 years, the State Education Department (Department) has required that districts develop and document plans for maintaining district properties. The Rebuild Schools to Uphold Education (RESCUE) Program, enacted in 1998, continues to require districts to carry out preservation-related tasks, and it also requires districts to prepare an annual "Report Card" for district residents about building conditions. Districts outside New York City spent about \$1.7 billion annually to pay for routine maintenance and repair costs during the 2002-03 fiscal year.

The RESCUE Program requires that each district prepare and submit the following to the Department: a Building Condition Survey (BCS), a survey of district properties due every five years; an Annual Visual Inspection (AVI) report of buildings covered by the BCS; a Five-Year Capital Facilities Plan (Plan); and a School Facility Report Card (Report Card). Each district must also develop a comprehensive maintenance plan for all major building systems. Districts should have completed these tasks by November 2001.

The Legislature allocated about \$1.2 billion in State Building Aid for fiscal year 2002-03, which is available to districts for certain approved capital projects. The Department's Office of Facilities Planning monitors districts' compliance with the RESCUE Program and approves plans and specifications for districts' capital construction projects.

For the period January 1, 1998 through March 31, 2003, we addressed the following questions about the Department's administration of the RESCUE Program and their review of district claims for State Building Aid funds:

- Does the Department effectively oversee compliance with the RESCUE Program?

- Does the Department ensure districts use State Building Aid funds appropriately?

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## **AUDIT OBSERVATIONS AND CONCLUSIONS**

**W**e found the Department has not effectively overseen certain aspects of the RESCUE Program. Consequently, there is significant risk that many districts have not developed adequate long-range facility preservation plans or building condition Report Cards for district residents – two of the Program’s intended goals. We also found that, because of limited Department monitoring, there is significant risk that districts inappropriately include maintenance and other items in capital projects when claiming State Building Aid.

Information we gathered through survey responses (41 districts) and site visits (6 additional districts) revealed that, while most districts had completed the required BCS and AVI, just 8 of the 47 districts (17 percent) had prepared Report Cards; further, only 28 districts (60 percent) had completed Plans, all done in a wide range of formats. The main cause for districts not complying with the RESCUE program is that the Department had not yet provided districts with approved formats for the Plan and Report Card. We also found that Department staff do not verify districts’ compliance with certain aspects of the RESCUE program. As a result, the full benefits of the RESCUE Program have not been attained. (See pp. 5-9)

Districts have a financial incentive to fund ordinary maintenance of their facilities through capital projects, eligible for State Building Aid, rather than through regular facility maintenance programs which is paid for through regular State aid and property taxes. Regular State aid will generally not increase proportionally with increases in maintenance costs. When reviewing a final cost report for a capital project, the Department relies on a districts’ certification that the costs claimed are applicable to the project and are eligible for State Building Aid. Department officials generally do not visit project sites to review projects and their reviews of supporting documentation submitted with the final claims are limited. Consequently, the Department has a limited ability to prevent districts from submitting State Building Aid claims. In fact, officials at some of the districts we visited acknowledged deferring maintenance so they could include the costs in future capital projects. At one district we visited, we identified about \$479,000 in maintenance and other inappropriate costs that were potentially ineligible for the State Building Aid it received. (See pp. 9-14)

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## **COMMENTS OF DEPARTMENT OFFICIALS**

Department officials agreed with nearly all of our recommendations and plan to take action to implement them. They agreed in part with recommendation

number 6. Department officials state that they have rejected inappropriate items charged to district claims for State building aid and will continue to do so.

# CONTENTS

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## ***Introduction***

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Background	1
Audit Scope, Objectives and Methodology	2
Response of Department Officials to Audit	3

## ***Implementing the RESCUE Program***

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Districts' Compliance with RESCUE Requirements	6
Recommendations	9
Questionable Charges to State Building Aid	9
Recommendations	14

## ***Appendix A***

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Major Contributors to This Report

## ***Appendix B***

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Comments of Department Officials

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# INTRODUCTION

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## Background

There are approximately 700 school districts in New York State outside of New York City. These districts own or operate more than 8,000 buildings. The State Education Department (Department) reports that these buildings represent about 450 million square feet of space and have a replacement cost of more than \$70 billion. Districts must preserve this significant investment in capital assets to reduce replacement costs and to provide a safe and healthy environment for students and district staff.

For more than 30 years, the Department has required districts to develop and document plans for doing the maintenance needed to extend the life of district educational facilities. In 1971, Section 155.1 of the Commissioner's Regulations (Regulations) required that districts develop and annually update comprehensive long-range plans to identify and prioritize the maintenance, repair or renovation of existing facilities and to appraise the need for new facilities. Regulations also required districts to prepare a five-year capital assets preservation plan. In 1987, the Education Law was amended to require districts to prepare capital assets preservation plans by July 1, 1988, and the Department to develop a similar plan for all districts statewide.

In 1998, the Legislature enacted the Rebuild Schools to Uphold Education (RESCUE) Program, Section 409-d of the Education Law, to further strengthen the commitment to preserve the State's school facilities. Section 409-d of the Law and Sections 155.1 – 155.6 of the related Regulations continue to require districts to plan for the upkeep of district properties and to anticipate facility maintenance needs. They also require districts to report directly to local citizens about building conditions. RESCUE mandates that districts complete:

- a State-reimbursed Building Condition Survey every five years;
- an Annual Visual Inspection of district building conditions;

- a Five-Year Capital Facilities Plan;
- a School Facility Report Card; and
- a comprehensive maintenance plan and implement monitoring processes.

The Legislature also allocated about \$1.2 billion in funds for State Building Aid in fiscal year 2002-03 to help districts pay for their capital projects. State Building Aid is available to districts for certain approved capital outlays, for debt service for instructional buildings and for school bus garages. Routine maintenance and repairs are not considered capital projects, and are not eligible for State Building Aid funds. School districts outside New York City spend about \$1.7 billion annually (derived from State comprehensive operating aid and from local tax revenues) to pay for facility maintenance and operations costs. (Note: the State has made available a limited amount of funding for qualifying maintenance projects [about \$50 million annually] through the Minor Maintenance Aid Program. The Minor Maintenance Aid Program was not within the scope of our audit.)

The Department's Office of Facilities Planning (Office), which is staffed by 18 professional and administrative personnel, is responsible for oversight of the RESCUE Program and for approving plans and specifications for districts' capital construction projects. According to Department officials, the Office approved district capital projects valued at \$1 billion in 1998; in 2001, the Office approved projects whose costs totaled \$3.6 billion.

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### ***Audit Scope, Objectives and Methodology***

**W**e audited Department efforts to promote districts' preservation of their school buildings and the appropriate use of State Building Aid for the period January 1, 1998 to March 31, 2003. The objectives of this performance audit were to assess the effectiveness of Department oversight of districts' compliance with RESCUE Program provisions, and of districts' appropriate use of State Building Aid funds. To accomplish our objectives, we surveyed 50 randomly selected districts from among the 700 districts in the State, excluding New York City. We also visited another six districts to review their documentation of compliance with RESCUE Program

requirements. We selected these six districts (two city, two suburban and two rural districts) judgmentally so we could obtain reasonable diversity in the districts we visited. Further, we reviewed renovation project documentation that supported the State Building Aid claims for a sample of 25 projects. We also interviewed Department and district personnel and reviewed relevant laws, regulations and Department procedures. This audit did not address RESCUE Program implementation in New York City public schools, since New York City schools' construction and maintenance costs have been the subject of several other formal studies and audits.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those Department and operations included in our audit scope. Further, these standards require that we understand the Department's internal control structure and compliance with those laws, rules, and regulations that are relevant to the Department operations included in our audit scope. An audit includes examining, on test basis, evidence to support transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting audit activities. This approach focuses our audit efforts on those operations we identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use finite audit resources to identify where and how the auditee can make improvements. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

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### ***Response of Department Officials to Audit***

A draft copy of this report was provided to Department officials for their review and comment. Their comments

were considered in preparing this final report and are included as Appendix B.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the State Education Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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## IMPLEMENTING THE RESCUE PROGRAM

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The goals of the RESCUE Program are to promote the health and safety of district students and staff and provide accountability to local taxpayers by compelling districts to be good stewards of the properties they own, and requiring them to report to the public about the condition of those properties. The effective planning and proper maintenance that RESCUE requires also help to reduce districts' asset replacement costs by extending the useful lives of existing facilities. However, while nearly all districts we surveyed had completed the State-funded building condition survey and at least one annual inspection, only 60 percent of districts had prepared capital facilities plans, and only 17 percent of districts had produced the required Report Card. Many districts have not fulfilled all RESCUE requirements, in large part, because the Department has not yet provided the formats districts should use to prepare the Plan and Report Card. The Department also has not monitored the districts compliance with the Plan and Report Card. Since the Program's implementation is limited, we believe the benefits of the program are likely limited as well.

Weaknesses in the Department's execution of the RESCUE Program have contributed to districts' non-compliance with certain RESCUE requirements for the long-term facilities planning, including related facility maintenance priorities. Deficiencies in the long-term facilities planning and maintenance can result in the need for capital projects (that could otherwise have been avoided) that are eligible for State Building Aid. Moreover, there is a strong financial incentive for districts to maintain their facilities through capital projects, which are eligible for State Building Aid, rather than through routine facilities maintenance activities, whose costs are paid from general operating funds. Officials at some of the districts we visited acknowledged deferring maintenance so they could include such costs in future capital projects. Further, at one district where we verified specific renovation project expenditures, we found that about \$479,000 in maintenance and non project related costs were included in the final capital project claim for State Building Aid. To ensure State Building Aid is used appropriately, the Department should clearly define

acceptable State Building Aid expenditures, better monitor such expenditures, and reject claims for costs that were inappropriately charged to capital projects eligible for State Building Aid.

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## ***Districts' Compliance with RESCUE Requirements***

**A**s noted earlier, the Department has required that districts plan for and document the maintenance they do to protect State and local taxpayers' investment in district properties since the 1970s. The RESCUE Program, the Department's most recent update of this requirement, is comprised of the following components:

- **Building Condition Surveys (BCS).** The BCS reports on the condition of most district properties. Although districts must hire professionals (architects and/or engineers) to do the BCS, they are reimbursed by the State at up to 20 cents per square foot for the survey's costs. Districts were required to submit a BCS for each occupied district building (except for new construction, which is exempt) on or before November 15, 2000, and at least every five years thereafter.
- **Annual Visual Inspections (AVI).** Typically, a district's director of facilities and a NYS Code Enforcement official complete the AVI, which focuses on the buildings shown in the BCS. The AVI should determine whether repairs need to be done, or whether more frequent inspections are required to protect the health and safety of staff and students. The initial AVI was due on November 15, 2001. Subsequent AVIs are due each year not scheduled for a BCS.
- **Five-Year Capital Facilities Plan (Plan).** The Plan documents districts' capital projects and repair needs for the next five years, justifies completing such projects, and prioritizes projects based on their urgency. Districts were required to complete a Plan by July 1, 2001, and to update it annually.
- **School Facility Report Card (Report Card).** The Report Card is intended to be an all-inclusive report to taxpayers on the district's response to issues or projects in the BCS, AVI and the Plan. Report Card data can also

be discussed at annual district board of education meetings. Districts were required to prepare a Report Card for each occupied building by January 1, 2001 and each year thereafter.

- **Monitoring Procedures.** The RESCUE Program also requires districts to monitor the safety and condition of all occupied school buildings by creating a health and safety committee, and by developing a comprehensive maintenance plan for all major building systems to ensure these systems are in good repair.

To determine the extent of district compliance with RESCUE requirements, we sent survey questionnaires to 50 randomly selected districts. Survey questions addressed district maintenance practices in general and their compliance with specific RESCUE provisions. We received completed questionnaires from 41 of the 50 districts: 1 district elected not to participate (it had recently merged with another district), and 8 districts did not respond.

In addition to surveying districts, we also visited six judgmentally selected districts (Syracuse, Westmoreland, Lake Placid, Glens Falls, Greenville and Oneida) to gauge district knowledge of, and compliance with RESCUE Program requirements. The results shown below represent RESCUE compliance levels at 47 districts, both as reported by districts in their survey responses (41 districts), and as observed by auditors during site visits (6 districts):

- 45 (96 percent) districts had either completed a BCS, or obtained a Department waiver granting them more time to meet the requirement (2 districts);
- 46 (98 percent) districts had done an AVI;
- 28 (60 percent) districts completed a Plan;
- 8 (17 percent) districts completed the Report Card;
- 25 (53 percent) districts had comprehensive maintenance plans; and
- 47 (100 percent) districts had established health and safety committees.

At the districts we visited, we found all six districts had done a BCS and at least one AVI, and that these documents were complete and prepared in a format prescribed by the Department. However, only 28 of 47 districts had completed a

Plan. Moreover, there was a wide variation in the nature and quality of these plans, which ranged from detailed documents that followed regulatory guidelines closely, to single page write-ups. Further, only one of the districts we visited (Syracuse) had attempted to complete a Report Card. The Syracuse Report Card provided significant detail and was consistent with regulatory requirements. Thus, 40 percent of the districts we tested had not developed even the most basic Plan, and 83 percent of districts had not produced any kind of Report Card. These requirements were supposed to be met by July 1, 2001 and January 1, 2001, respectively. When districts do not comply with these RESCUE requirements, the Department has limited assurance that district officials are doing effective long-range facilities planning, or that residents have sufficient information about the condition of their districts' school buildings.

We concluded that the main reason for this noncompliance is the Department's delay in finalizing the formats that districts should use to complete the Plan and the Report Card. Some District officials told us they were waiting for the Department to provide them with the proper format for both the Plan and the Report Card so they could complete them according to Department requirements. Although officials at the districts we visited were generally knowledgeable about RESCUE Program requirements, and reported that they checked the Department's website and other sources for regulatory updates, they need specific Department guidance to produce a Plan and Report Card that conform to Department regulations. We also found that Department staff generally do not visit or otherwise verify districts' compliance with the certain aspects of the RESCUE Program.

At the Department level, Office personnel told us they spend most of their time approving capital projects and do not have the resources to monitor compliance with all RESCUE Program requirements. Office officials reported that their capital projects review and approval workload increased dramatically over the last five years, in large part because the Legislature passed an incentive in 1998 that increased by ten percent the amount of State Building Aid most districts could obtain for eligible projects. Whereas, Office staff approved capital projects valued at \$1 billion in 1998, according to Department officials, these staff approved about 2,000 projects valued at \$3.6 billion in 2001.

The Office did track districts' submission of the BCS, which was due to the Department by November 15, 2000. According to Office records, only 20 districts had not yet submitted a BCS as of November 27, 2002. Officials also indicated they had received at least one AVI from most districts. However, the Office does not have a formal analysis regarding which districts have submitted an AVI and which districts have not.

Office officials also reported that they have been working on a draft version of the format for the Plan and the Report Card, but have not finalized them for distribution to the districts. Department officials stated they are also developing a format for a statewide comprehensive maintenance plan that districts can use to monitor their major building systems.

### **Recommendations**

1. Provide districts with the finalized format for the Plan and Report Card so districts can fulfill the RESCUE Program requirements.
2. Enhance existing procedures for monitoring district compliance with the RESCUE Program in the areas related to the Plan, the Report Card and the AVI. These procedures should include:
  - Asking districts to post programmatic compliance information on their websites;
  - Visiting or otherwise verifying districts' compliance, particularly at districts where the risk of noncompliance is greatest; and
  - Formally tracking the submission of required reports to identify noncompliant districts.

(Department officials agree with recommendations 1 and 2.)

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### ***Questionable Charges to State Building Aid***

**B**uilding aid is available to a district for Department-approved capital projects. Generally, State Building Aid reimburses districts for a majority of their capital projects' costs. In some

instances, State Building Aid reimburses districts for more than 80 percent of their projects' costs. Projects eligible for State Building Aid must be in instructional buildings or school bus garages, involve work in all or most of a building and cost \$10,000 or more, excluding incidental costs (such as furniture and computers). Eligible project costs may include new buildings, additions, reconstruction of facilities and many other costs, such as professional fees, that are related to project design and implementation. However, maintenance and repairs performed to keep property in good working condition are not eligible for State Building Aid. Districts should instead fund these costs out of annual State comprehensive aid and local tax revenues. Some districts may also be eligible for State Minor Maintenance Program aid. Since districts have a financial incentive to pay for as many property-related costs as possible with reimbursable State Building Aid dollars, there is a significant risk that districts use State Building Aid, rather than operating aid or Minor Maintenance Program funds, to pay for facility maintenance items. Further, as noted previously in this report, only 53 percent of the districts we surveyed and visited had comprehensive maintenance plans for major building systems. We believe that the lack of such maintenance plans increases the risk that districts will request and use State Building Aid to keep facilities in good working order.

When capital projects are initiated, the Department reviews a district's proposal and item descriptions to assess eligibility for State Building Aid before issuing a building permit. During construction, districts commonly submit (for Department approval) change orders (project plan modifications) and incidental costs, which the Department reviews based on districts' project descriptions. However, Department officials told us they do not visit districts to verify the authenticity of the change orders and incidental costs or to assess their eligibility for State Building Aid.

At the conclusion of a capital project, the Department determines the total amount of project costs eligible for State Building Aid by reviewing the final cost report, a comprehensive list of project costs. However, since the Department does not require that final cost reports include detail information that explains an item's relevance to the capital project, or justifies its eligibility for State Building Aid, change order and incidental cost descriptions are sometimes vague or lacking altogether. The Department relies on the districts' certification that reported

costs are applicable to the project and are eligible for State Building Aid. Generally, officials do not visit project sites to review projects or related documentation.

To determine the extent to which districts inappropriately include the costs of maintenance and repair work in capital projects, and to gauge the effectiveness of the Department's review process, we did the following audit steps:

- we reviewed a stratified sample of 25 final cost reports, as submitted to the Department;
- we visited 2 of the 25 districts to verify the appropriateness of project change orders and incidental costs; and
- we asked officials at the 6 districts we visited (to test for compliance with the RESCUE Program) how they generally finance maintenance and repair work.

To select a sample of final cost reports to review, we asked Department officials for a list of all district renovation projects, completed during the period 1998 - 2002, whose costs totaled more than \$500,000. From a list of 408 projects, we used audit software to select a random sample of 25 projects costing a total of \$57.2 million. Our stratified sample comprised projects whose costs ranged from \$550,797 to \$10,354,357. Department officials provided us with the expenditure documentation for project change orders and incidental costs for each of these 25 projects that it had on file.

Our review of these final cost reports identified expenditures at 10 of these 25 capital projects which, based on item descriptions, were potentially ineligible for State Building Aid. For one of the ten projects, we could not clearly determine whether incidental costs and change orders appeared to be within the project's scope because the Department could not provide us with a description of the project. For the other nine projects, we identified the following questionable expenditures: NEXTEL radios; computers and computer equipment; wardrobes; roof patching; carpeting; appliance and boiler repairs; plumbing work (leaking pipes); motor parts; phone and cellular service; furniture; and equipment. The costs of the questionable items ranged from \$385 to \$71,167, and totaled \$1,403,569. We believe the Department should have

questioned these expenditures as potentially ineligible for State Building Aid for a variety of reasons. In some cases, the description was too vague to identify the item's relevance to the project; in other instances, the item described did not coincide with the overall project description; and in still other cases, the items described (such as boiler/roof repairs, motor parts, and leaking pipes) could be classified as maintenance or repair items and paid through general operating or Minor Maintenance Program funds (as opposed to State Building Aid).

To further verify whether specific capital project expenditures were relevant to the project and eligible for State Building Aid, we visited the Hermon-Dekalb and Ithaca Districts, sites of two of the above nine projects. We selected these districts to visit because, based upon our review of their final cost reports, their projects included the highest number of, or the most questionable, incidental costs and change orders. At Hermon-Dekalb, we identified 34 questionable expenses (32 incidental costs and 2 change orders) with a total cost of \$222,731; at Ithaca, we found 68 questionable expenses (55 incidental costs and 13 change orders), which cost a total of \$780,465. In some instances, a single incidental expense and/or a change order comprised expenditures for multiple items.

During our visit to the Hermon-Dekalb District, we physically reviewed questionable items charged to incidental expense and found that nearly all of the expenditures appeared appropriate. Our review of documentation to substantiate the cost and project relevance for 30 of the 32 incidental expenses and the 2 change orders found only one instance (a faulty roof vent) in which the documentation did not support the item's description in the final cost report.

At the Ithaca District, however, we identified a significant number of expenditures for which the District likely claimed State Building Aid reimbursement inappropriately. Specifically, we reviewed supporting documentation for 21 questionable incidental expense items and change orders. Of these 21 items, we identified 16 (totaling \$479,283) that were not within the scope of the project approved by the Department for State Building Aid. In fact, most of the change orders were for maintenance and improvements in the Ithaca District's administration building, a facility separate from the school building where the approved work was performed. In general, administrative offices are not eligible for State Building Aid

unless they are part of a school building. We also asked Ithaca officials to identify several of the items they charged to the project and claimed for State Building Aid. However, officials were unable to locate nine personal computers, and another six items were in parts of the school building that were unrelated to the approved renovation project. Based on our review, we conclude that the Ithaca District likely charged significant facility and program maintenance costs to the capital project to obtain State Building Aid for them.

In addition to verifying project expenses and reviewing documentation, we also asked district officials whether they incorporate maintenance items into capital projects. We asked this question at the districts we visited to test for RESCUE Program compliance, as well as on the RESCUE Program questionnaire. Officials at all 6 of the districts we visited, and officials at 10 of the 41 districts that responded to our survey, told us they do include maintenance items in capital projects. Officials gave the following as examples of such items:

- Repairs to or replacement of a roof, window or carpet;
- Purchase of boilers, classroom furniture and various district equipment; and
- Painting, plumbing, electrical, heating/ventilation, flooring and masonry work.

Finally, officials at the six districts we visited indicated that they generally use State Building Aid, as they view necessary, to pay for certain maintenance items. For example, officials at three districts stated that they roll large dollar maintenance items (e.g., anything over \$40,000 at one district, and a boiler at another district) into a capital project. Officials at another district told us that a repair/replacement is typically put off until the commencement of a capital project if it does not need immediate attention.

As a result of our visits, tests of documentation and interviews with district officials, we conclude that there is significant risk that districts incorporate costs, that are either unrelated to a project or ineligible for State Building Aid, into capital projects funded with State Building Aid. Districts can do this because the Department performs little verification testing and has not required that districts submit detailed descriptions needed to

determine whether change orders and incidental expense costs are eligible for State Building Aid.

### **Recommendations**

3. Modify State Building Aid guidelines to clarify what constitutes acceptable State Building Aid expenses; give examples of expenditures that districts should not incorporate into capital projects.
4. Improve the processes used to assess the propriety of change orders and incidental expenses that districts incorporate into capital projects by, among other things:
  - doing a detailed examination of such items to ensure project applicability; and
  - requiring districts to provide detail adequate to justify an item's relevance to a capital project and eligibility for State Building Aid.
5. Develop processes to identify districts that incorporate ineligible costs in capital projects receiving State Building Aid. These processes may include sampling techniques to better focus on those districts with the highest risk for submitting ineligible costs for reimbursement.
6. Reject items inappropriately charged to capital projects on district claims for State Building Aid.

(Department officials agree with recommendations 3 through 5 and have taken steps to implement those recommendations. Regarding recommendation 6, Department officials state that they have rejected claims for inappropriate items and will continue to do so. They will identify additional categories of aid and advise districts of other possible funding sources.)

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## MAJOR CONTRIBUTORS TO THIS REPORT

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August 29, 2003

Mr. Steven E. Sossei  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Dear Mr. Sossei:

I am responding to your letter of July 31, 2003 regarding the Office of the State Comptroller's Draft Audit Report 2002-S-51 on the State Education Department's Oversight of School Districts' Implementation of the Rebuild Schools to Uphold Education (RESCUE) Program. Our comments on the recommendations are provided below.

**Recommendation #1**

Provide districts with the finalized format for the (5-year Capital) Plan and the Report Card so districts can fulfill the RESCUE program requirements.

**The Department agrees with this recommendation.**

Department staff shared the final drafts of these documents with outside constituents in summer 2003 and are reviewing their comments. It is anticipated that distribution to the field will occur by fall 2003.

**Recommendation #2**

Enhance existing procedures for monitoring district compliance with the RESCUE Program in the areas related to the Plan, the Report Card and the AVI. These procedures should include:

- asking districts to post programmatic compliance information on their websites;
- visiting or otherwise verifying districts' compliance, particularly at districts where the risk of noncompliance is greatest; and
- tracking formally the submission of required reports to identify noncompliant districts.

**The Department agrees with this recommendation.**

The Department will encourage districts to post programmatic compliance on their websites. Staff visits will generally be restricted to the Big 5 cities of New York, Yonkers, Syracuse, Rochester and Buffalo where facilities building condition survey data indicates the greatest need and whose facilities serve over 40% of the State's public school students.

The Department will track the submission of required reports and will post non-compliance data on the Department website.

**Recommendation #3**

Modify State Building Aid guidelines to clarify what constitutes acceptable State Building Aid expenses; give examples of expenditures that districts should not incorporate into capital projects.

**The Department agrees with this recommendation.**

The Department is in the process of revising the published guideline, *State Building Aid for Public School Districts and BOCES*. The revisions will include examples of the types of work that are both acceptable and unacceptable to be reimbursed under the State's Building Aid criteria. A fall 2003 distribution is expected.

**Recommendation #4**

Improve the processes used to assess the propriety of change orders and incidental expenses that districts incorporate into capital projects by, among other things:

- doing a detailed examination of such items to ensure project applicability; and
- requiring districts to provide detail adequate to justify an item's relevance to a capital project and eligibility for State Building Aid.

**The Department agrees with this recommendation.**

The Department will conduct a detailed examination of change orders to ensure they comply with building codes.

We will strengthen the data collected to justify an item's relevance to a capital project and its eligibility for Building Aid.

**Recommendation #5**

Develop processes to identify districts that incorporate ineligible costs in capital projects receiving State Building Aid. These processes may include sampling techniques to better focus on those districts with the highest risk for submitting ineligible costs for reimbursement.

**The Department agrees with this recommendation.**

The Department will use the data collected in Recommendation #4 to improve the oversight for the above recommendations.

**Recommendation #6**

Reject items inappropriately charged to capital projects on district claims for State Building Aid.

**The Department agrees, in part, with this recommendation.**

While the Department agreed with this recommendation in our June 6, 2003 reply to Arthur Smith, it should not be concluded that we accept inappropriately charged items. Indeed, we do reject items inappropriately charged to capital projects. We will identify additional categories of aid streams to advise districts of other possible funding sources. These will be incorporated into the building aid guidelines.

If you have any questions, please contact Carl Thurnau at (518) 474-5906.

Sincerely,



Richard H. Cate

cc: Carl Thurnau