

H. CARL McCALL
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 6, 2002

Mr. Charles Gargano
Chairman/Chief Executive Officer
Empire State Development
30 South Pearl Street
Albany, New York 12245

Re: Report 2001-F-59

Dear Mr. Gargano:

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 reviewed actions taken by officials of the Department of Economic Development (Department) as of September 17, 2002 to implement the recommendations contained in our report, *Tourism Promotion Program (Report 98-S-42)* issued on January 7, 2000. In that audit we examined the Department's administration of the State's tourism promotion program for the period January 1, 1996 through November 30, 1998 to determine whether the Department was administering the program in compliance with Articles 4 and 5-A of the Economic Development Law (Law), and whether the program was effectively promoting and generating tourism.

Background

Article 4 of the Law empowers the Department to plan and conduct a program to attract tourists and visitors, and to encourage and coordinate the efforts of other public and private sector organizations in promoting the State. The Department's Marketing, Advertising and Tourism Division (Division) coordinates the State's tourism efforts. The Division's budget was about \$11 million for its I♥NY campaign in the 1998-99 fiscal year.

Article 5-A of the Law authorizes the Department to administer a matching funds program to assist local not-for-profit tourism promotion agencies (TPAs) plan and execute county and regional tourism programs to benefit the local economy. There are 50 TPAs in all: 46 represent individual counties and 4 represent more than one county. In applying for matching funds, a TPA must include a budget for the programs the funds will support, and state the amount of local monies available to pay for the programs. The Division approves TPA applications and allocates funding based on the rules stated in its Matching Funds Guidelines (Guidelines). The Legislature appropriated local

assistance matching funds totaling about \$12.1 million during the three-year period ended March 31, 1999.

Summary Conclusions

In our prior audit we reported that the Department used essentially the same process for managing this program since it began in 1977 when the local matching funds appropriation was only \$600,000 while the State funding for local tourism programs has more than quadrupled. Subsequent to our audit, the Division changed its method of allocating funds to the TPAs to discourage TPAs from overstating their budgets in order to increase their fund allocation. The new allocation formula also provides an additional bonus for TPA advertising on a regional instead of local level. However, the Division insists that the TPAs do not need to submit annual financial statements prepared in accordance with GAAP principles as required by law. The Division requires quarterly and annual expenditure reports and associated detail documentation that accompanies them for review by Division staff. The Division believes that the level of supporting documentation submitted by the TPAs is sufficient to ensure that they have adequate matching funds and spend the funds in accordance with their budget.

In response to our recommendation that the Division work with TPAs to develop program performance standards and outcome measures, including measures tailored to specific regions, the Division created a committee consisting of TPA representatives that, as of our follow-up review, is still working on establishing uniform performance measures.

On September 17, 2002, we met with ESD officials to discuss our preliminary conclusions regarding the implementation status of the four recommendations in the prior report. At this meeting ESD officials advised us that they had additional information that should be considered in making a final determination. ESD officials provided us with additional information and documents that were considered in preparing this report.

Summary of Status of Prior Audit Recommendations

Of the four recommendations contained in the prior audit report, two were partially implemented and two were not implemented.

Recommendation 1

Require that TPAs submit annual financial statements to the Division that are in accordance with generally accepted accounting principles, as required by Law. Compile TPA financial statements and present appropriate summary information in the Division report to the Legislature.

Status – Not implemented

Agency Action – Division officials maintained their position that annual financial statements prepared in accordance with generally accepted accounting principles are not necessary. They are of the opinion that the reports prepared by the TPAs provide sufficient details about the program expenditures. They advised that information regarding expenditures beyond the

amount of the match that are required to be reported at the program year-end is included in the “financial breakout” section of the final report.

Auditor’s Comment – On September 17, 2002, at a meeting to discuss these preliminary findings with ESD officials, we mentioned that they should reassess their position regarding the financial statements prepared in accordance with GAAP because, as indicated, they are required by Law.

Recommendation 2

Determine what level of detail expenditure documentation TPAs must submit quarterly to allow the Division sufficient information for oversight and funding decisions.

Status – Not implemented

Agency Action – Division officials reaffirmed their position that they disagree with the recommendation. Division officials indicated that the current level of detail provided by the TPAs is sufficient to effectively monitor their use of matching funds.

Auditor’s Comment – At a meeting on September 17, 2002, ESD officials informed us that the format of the quarterly form (form) was revised since our prior audit to include additional detailed expenditure information; however, copies of the forms provided to us did not reflect any revisions when we compared them with the ones previously used.

Recommendation 3

Reevaluate the methodology for allocating matching funds to TPAs to ensure a more equitable distribution of program appropriation:

- *Require TPAs to submit reasonable program budgets.*
- *Review the TPAs historical spending patterns and consider adjusting future local assistance payments to TPAs that consistently and significantly overstate their budgets.*
- *Identify more effective ways (i.e. incentives) to encourage TPAs to focus on regional campaigns.*

Status – Partially Implemented

Agency Action – ESD changed the methodology for allocating funds in 2001. The new formula has added the incentive of increased regional bonus amounts to encourage the TPAs to advertise more as regions, rather than localities. They cited New York State Fair as an example of the cooperative promotional efforts of 11 regions and I♥NY.

Auditor’s Comment – At a meeting on September 17, 2002, ESD officials indicated that they had documentation to show that action was taken to implement this recommendation. They provided documentation to demonstrate that the regional advertising funds for two TPAs for

the period of 2002-2003 were increased. However, ESD did not provided any explanation or evidence that this formula may discourage TPAs from overstating their requests since there is no evidence of allocating the funds based on their historic spending.

Recommendation 4

Work with TPAs to develop performance standards and indicators; use and report program outcomes to monitor the success of individual and statewide tourism promotion efforts.

Status – Partially Implemented

Agency Action – After the May 2001 TPA meeting, a performance measure committee (Committee) comprised of TPA representatives and the matching fund director was established. The 2000-2001 program final report included new performance measures created by the Committee. The performance measures are based on the entire county’s tourist effort, not only those related to the matching funds program and are based on the most recent sales tax figures from TPA counties such as Eating/Drinking, Hotel and Retail sales tax. However, we believe that such sales tax is subject to other factors including holiday shopping season or fluctuation due to changes in the economy and may not provide objective measurement of the tourism promotional and advertising efforts. In their March 4, 2002 response, ESD indicated that the Committee is still in the process of developing the uniform performance standards.

Auditor’s Comment – During our meeting of September 17, 2002, ESD officials did not provide any additional information about progress made by the Committee toward development of uniform performance standards.

The major contributors to this report were Dominick Vanacore, Santo Rendon, William Lichtenberg, and Alina Mattie.

We would appreciate your response to this report within 30 days, indicating any additional actions planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of Empire State Development for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Carmen Maldonado
Audit Director

cc: Deirdre Taylor, DOB
Anita Laremont, ESD