



STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

February 5, 2007

Mr. Gerald T. McQueen  
President and Chief Executive Officer  
New York Convention Center Operating Corporation  
655 West 34<sup>th</sup> Street  
New York, NY 10001-1188

Re: Report 2006-F-49

Dear Mr. McQueen:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5, 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 the New York Convention Center Operating Corporation to implement the recommendations contained in our audit report, *Internal Controls over Contracting and Procurement Practices* (Report 2004-S-21).

**Background, Scope, and Objective**

The New York Convention Center Operating Corporation (Corporation) was established in 1979, as a public benefit corporation, to operate and maintain the Jacob K. Javits Convention Center. Operating revenues are derived from charging for event-related services and space rentals; additional revenue is derived from revenue contracts for advertising and concessions. For the fiscal year that ended on March 31, 2006, the Corporation reported total operating revenues of \$135.3 million, including \$107.5 million for event-related services, \$22.9 million from hall rentals, and \$4.9 million from other sources - primarily concession contracts and advertising. Its operating expenses during the same year totaled \$129.5 million, and its purchasing records show that the Corporation issued 902 purchase orders valued at \$13.9 million during that time. Under its Procurement Contract Guidelines, the Corporation must select contractors from as broad a spectrum of providers as is practical, consistent with the quality of services and reasonableness of price.

Our initial audit report, which was issued on August 23, 2005, examined the Corporation's internal controls over contracting and procurement practices to determine whether the controls were adequate. Our report found that most aspects of the Corporation's internal controls over its procurement and contracting functions were effective. The report also identified areas in which improvements could enhance these controls. For example, we found that contracts for personal services were not always awarded through a competitive process; the annual procurement report presented to the Board of Directors (Board) was incomplete and it was not shared with the required

State agencies; there were significant deficiencies in the Corporation's receiving function; and, in some instances, contractors did not submit disclosure forms as required by Governor's Executive Order 127. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation, as of November 27, 2006, of the 11 recommendations included in our initial report.

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

We found that Corporation officials have made progress in correcting the problems we identified. However, additional improvements are needed. Of the 11 prior audit recommendations, 7 recommendations have been implemented and 4 recommendations have been partially implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Take steps to ensure that the Board is provided with a complete and accurate annual report, as required by the Corporation Guidelines and Public Authority Law.*

Status - Partially Implemented

Agency Action - We verified that the March 31, 2006, annual procurement report now includes all sections required by the Public Authorities Law. We tested the report's completeness by tracing a judgmental sample of five transactions from the report to the Corporation's database of procurement transactions. We also traced five judgmentally-selected database transactions to the 2006 procurement report. In addition, we compared the total number and value of purchase orders issued by the Corporation with similar amounts cited in the annual report and accounted for any significant differences. These tests confirmed the completeness of the 2006 report.

However, we noted that, while the total value of the purchases listed in one report section is accurate, the individual dollar amounts do not line up correctly with the corresponding contractors. Corporation officials indicated that an error had occurred when the report details were sorted. As a result, the Board was presented with a report containing inaccurate information. Corporation officials are aware of this issue and are taking steps to issue a corrected report.

#### **Recommendation 2**

*Submit the annual report approved by the Board to the State entities specified in the Public Authorities Law.*

Status - Implemented

Agency Action - To substantiate that the Corporation did submit the March 31, 2006, annual procurement report to the agencies specified in the Public Authorities Law, we contacted those agencies and/or reviewed the signed United States Postal Service return receipts.

**Recommendation 3**

*Submit to the Board all procurement contracts requiring Board approval.*

Status - Implemented

Agency Action - We judgmentally selected ten high-value purchases from the March 31, 2006, annual procurement report and examined them to determine whether appropriate Board approvals had been obtained. We found that Corporation officials had obtained Board approval for the seven contracts for which it was required by the Corporation's procurement guidelines.

**Recommendation 4**

*Take steps to ensure that the minimum number of quotes or bids is received, and that purchase orders are authorized properly in accordance with the policies and procedures of the Corporation's Procurement Department.*

Status - Implemented

Agency Action - We selected a judgmental sample of five transactions from the Corporation's disbursement register for the period of January 1, 2006 to October 31, 2006. We found that relevant procurement procedures were followed.

**Recommendation 5**

*Plan in advance for procurements to ensure that all purchases that can be competitively bid are actually awarded through that process, and the level of service required is properly determined.*

Status - Implemented

Agency Action - We selected a judgmental sample of five transactions made during the period of April 1, 2005, through March 31, 2006, and classified by the Corporation as noncompetitive, to determine whether the Corporation could have planned ahead for these purchases. For each of the sampled noncompetitive transactions, we determined that the Corporation had handled the situation appropriately and had followed procedures. Three cases involved emergency or critical situations that could not have been anticipated. The other two contracts were with sole source vendors.

### **Recommendation 6**

*When a contract can not be awarded through a competitive bidding process, ensure that the contract is awarded consistent with the quality of services required, at a fair and reasonable price. Maintain documentation to support the process by which the contractor is selected and the basis for the amount of the contract.*

Status - Partially Implemented

Agency Action - We judgmentally selected for review ten high-value contracts - each exceeding \$100,000 - from the March 31, 2006 procurement report. Nine of the 10 vendors we tested had been selected competitively. For the remaining one, which was a sole source award, we found no documentation that the Corporation had determined whether the services would be provided at a fair and reasonable price. Corporation officials explained that their engineers had in fact reviewed the reasonableness of the contractor's price, but could not provide documentation of that review.

As part of another sample test involving noncompetitive purchases, we did find documentation that the Corporation had determined that the services and products would be received at a fair and reasonable price.

### **Recommendation 7**

*Maintain written documentation for consultant services provided.*

Status - Partially Implemented

Agency Action - We judgmentally selected five consultant invoices from the Corporation's disbursement register for the period January 1, 2006, to October 31, 2006. Four invoices contained sufficient details of the work provided. The fifth, for \$18,527, included a \$17,833 charge for consulting fees. Corporation officials could not provide documentation on the services provided for this charge.

### **Recommendation 8**

*Take steps to ensure that all procurement contracts requiring Board approval are submitted to the Board timely.*

Status - Implemented

Agency Action - We judgmentally selected for review ten high-value purchases from the March 31, 2006, annual procurement report. We conclude that Board approval was obtained timely for the seven contracts for which it was required.

**Recommendation 9**

*Obtain disclosures required by the provisions of Executive Order 127.*

Status - Partially Implemented

Agency Action - Based on our review of ten judgmentally-selected high-value purchases from the March 31, 2006, procurement report, we conclude that the Corporation is making a stronger effort to ensure that its vendors complete and submit "Disclosure of Contacts" forms, as required by Governor's Executive Order 127. Corporation files contained completed forms for six of the ten vendors reviewed; two others had been awarded contracts before the disclosure form was required. Disclosure forms had not been obtained from the remaining two vendors.

**Recommendation 10**

*Take steps to strengthen internal controls in the receiving area including separation of duties.*

Status - Implemented

Agency Action - The Corporation has strengthened its shipping policies and procedures, which now deal with the weaknesses cited in our original audit findings. Furthermore, a receiving supervisor was hired on October 6, 2005. The qualifications for this position included a bachelors degree in business or equivalent work experience; a minimum of three years of work experience in purchasing; and knowledge of purchasing, inventory controls, and computer applications.

**Recommendation 11**

*Ensure that all shipping documents are attached to the vouchers prior to payment.*

Status - Implemented

Agency Action - Based on our review of five judgmentally-selected transactions from the Corporation's disbursement register for the period January 1, 2006, through October 31, 2006, we found that the Accounts Payable Unit had verified the vendor prices and the quantity received by comparing the vendor invoices with the corresponding purchase orders and receiving reports. Four of these five transactions had been made for goods and materials; however, there was no vendor shipping document for three of the four. In these cases, we confirmed that the receiving supervisor had used an "alternate packing slip" form that indicated the quantity ordered and noted whether the shipment was complete, thus ensuring that the Corporation paid only for the goods actually received.

Major contributors to this report were Cindi Frieder, Gene Brenenson, and Jeremy Mack.

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 Corporation for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Cindi Frieder  
Audit Manager

cc: Edward B. MacDonald, Chief Financial Officer and Senior Vice President  
Paul E. Francis, Division of the Budget