

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 5, 2007

Mr. Astrid Glynn  
Acting Commissioner  
NYS Department of Transportation  
50 Wolf Road, 6th floor  
Albany, NY 12232

Re: Administration of Contract D259485  
Concrete Applied Technology Corp.  
Report 2006-R-3

Dear Mr. Glynn:

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 audited the Department of Transportation's (Department) administration of Contract D259485. Our audit covered the period March 26, 2004 through October 28, 2006.

**A. Background**

The Department's mission is to ensure that those who live, work and travel in the State have a safe, efficient, balanced and environmentally sound transportation system. The State's transportation network includes a State and local highway system that handles over 100 billion vehicle miles annually, encompassing over 110,000 highway miles and 17,000 bridges. Maintaining this elaborate system is a major undertaking costing billions of dollars each year. The Department often enlists the assistance and expertise of private contractors to achieve its mission.

On March 1, 2004, the Department entered into Contract D259485 with Concrete Applied Technology Corp. (CATCO) for the concrete and asphalt reconstruction of Union and Walden Avenues, and construction of a new pedestrian bridge, in the Town of Cheektowaga. The contract, which covers the period March 26, 2004 through October 31, 2006, was budgeted and awarded for \$27.1 million. Final contract completion costs, including change orders, totaled \$28.2 million. The Department's Amherst (Region 5) field office was responsible for overseeing the work performed by CATCO on this contract.

**B. Audit Scope, Objectives and Methodology**

We audited the Department's administration of Contract D259485 for the period March 26, 2004 through October 28, 2006. The objectives of our audit were to address the following questions:

- Did CATCO provide the services specified in the contract?
- Were contract-related payments supported by appropriate documentation?

To accomplish our objectives, we examined contract-related files and interviewed officials at the Department's Amherst field office and at the Department's Region 5 headquarters in Buffalo. We also met with contractor representatives and consulted with OSC's Bureaus of Contracts and State Expenditures. We selected a random sample of 7 of 49 payments to verify the work reportedly performed by the contractor. Each payment contained multiple items. We then randomly selected ten items per payment, and traced them to the Department's daily inspection reports to determine whether the required deliverables were actually provided by the contractor. We also made physical observations of the completed project.

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 the operations of the Department that are within 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 operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting 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 our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the mandated State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, they do not affect our ability to conduct independent audits of program performance.

**C. Results of Audit**

The contract specifications called for pavement reconstruction to the intersection of Union and Walden Avenues in Cheektowaga, including safe and hygienic underground drainage, and the building of a pedestrian bridge. The contract required a final completion date of October 31, 2006. We found that the contract specifications were completed within established time frames. In fact, the roadwork aspect of the project was completed and accepted by the Department on February 2, 2006.

However, since the Town of Cheektowaga had not yet built the trails the pedestrian bridge was intended to be a part of, the bridge was not yet open at the time of our fieldwork.

We found sufficient documentation in Department files to support the sampled payments made to CATCO. File documentation included assertions of work completed by the contractor, and approvals of these assertions by Department representatives as noted in their “daily” reports.

The contract also required road closings to be for as short a time as possible while construction was proceeding to minimize inconveniences to the surrounding community’s business owners and commuters. To achieve this objective, the contract provided for incentive payments for limiting these closures, and penalties if the closures were excessive. The Department paid CATCO incentives totaling \$135,000 as a result of the timely completion.

We provided a draft copy of this report to Department officials for their review and comment. Department officials advised us that, since they had virtually no concerns with the report and since it did not contain any recommendations, the Department had no formal response to the draft.

Major contributors to this report include Frank Patone, Ed Durocher, Todd Seeberger, Lynn Freeman, Kathleen Garceau, Wajhia Abrar, and Paul Bachman.

We wish to thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

William P. Challice  
Audit Director

cc: Lisa Ng, Division of the Budget