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**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

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**HUDSON RIVER-BLACK
RIVER REGULATING
DISTRICT**

**ACCURACY OF EMPLOYEE
RETIREMENT REPORTING**

Report 2008-S-61

AUDIT OBJECTIVE

The objective of our audit was to determine whether the Hudson River-Black River Regulating District (District) is complying with the requirements of the Employees' Retirement System (ERS) when it enrolls individuals in the ERS and reports information about their earnings and days worked.

AUDIT RESULTS - SUMMARY

The State Comptroller's Division of Retirement Services carries out the ERS' day-to-day operations, which include enrolling new participants in the ERS and providing employers with guidance that will help them make sound decisions. Both New York State Law and the ERS have established requirements for employers regarding enrolling and reporting employees, as well as elected and appointed officials, to the ERS.

The District must enroll all full-time, permanent employees in the ERS, and notify all part-time, temporary, and provisional employees in writing of their right to membership in the ERS; and must enroll them if they elect to participate. We found the District is enrolling employees properly in the ERS. The ERS also requires that only employees, and not independent contractors, be enrolled in the ERS. We found the District is enrolling only employees in the ERS.

The ERS has rules for determining how earnings and days worked should be calculated and reported. We found that the District is accurately reporting employee earnings and days worked to the ERS.

This report, dated September 11, 2008, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
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BACKGROUND

The New York State and Local Retirement System (NYSLRS) comprises two different retirement systems: the Police and Fire Retirement System and the Employees' Retirement System (ERS). The ERS provides service and disability retirement benefits, as well as death benefits, to employees of participating public employers in non-teaching positions, exclusive of New York City. As of March 31, 2007, the NYSLRS held cash and investments with a value of more than \$154.5 billion. More than 3,000 participating employers had enrolled about one million individuals in the NYSLRS, of whom about 627,000 were enrolled in the ERS.

To qualify for membership in the NYSLRS, an individual must be a paid employee of a participating employer. The employers are required to enroll all permanent full-time employees in the ERS, and offer participation, in writing, to part-time, temporary, and provisional employees. Participating employers are responsible for complying with the enrollment and reporting requirements contained in the New York Codes, Rules and Regulations and the ERS Employer's Guide.

The District is a New York State public benefit corporation that regulates the flow of waters in two watersheds in the Adirondack Region - the Upper Hudson River and the Black River - for purposes of flood protection

and flow augmentation. The District is committed to improving the safety, health, and quality of life for New Yorkers who live, work and enjoy leisure time in or near the Hudson River-Black River Area watersheds. A seven-member Board of Directors oversees the District's operations. As of November 2007, the District employed 29 people, all of whom were participating in the ERS.

AUDIT FINDINGS

Enrollment of Eligible Employees

The District is a participating employer in the ERS. According to the ERS Employer's Guide, a participating employer must enroll all full-time, permanent employees in the ERS. The ERS refers to this group as mandatory employees. Other employees, such as part-time, temporary, or provisional employees, must be given the option to enroll, although they cannot be required to do so. The ERS refers to this second group as optional employees.

The District is required by Section 45 of the New York State Retirement and Social Security Law to notify all optional employees in writing of their right to membership in the ERS, and to obtain a signed acknowledgment from the employees that they were so notified. Additionally, the District must retain these signed acknowledgments.

The ERS Employer's Guide also requires that participating employers report earnings and days worked information only for eligible employees. Such information should not be reported for non-employees, such as independent contractors and consultants, because they are not eligible to join the ERS.

Each month, the District reports the earnings and days worked to the ERS for each enrolled employee. The ERS provided us with reports

for the months of September, October, and November 2007. We compared the names on the ERS reports with the payroll registers provided to us by the District for the same months. We found that all employees who appeared on the payroll registers were participating in the ERS and were reported to the ERS. There were no employees who did not enroll in ERS, and for whom the District would be required to obtain a signed employee acknowledgment, as described above. We also reviewed employee titles to determine whether any consultants or independent contractors were erroneously reported as employees. We did not identify any such individuals on the payroll.

Accuracy of Reported Earnings and Days Worked

ERS rules require participating employers to establish a standard workday for each employee title. A standard workday can be as many as eight hours, but no fewer than six hours. We found the District has established a standard workday for all its employee titles. The ERS also has rules for determining how earnings and days worked should be calculated and reported. Generally, the employer should calculate days worked by dividing total hours worked for the month by the number of hours in the standard workday for that position. Days worked include paid sick leave, vacation leave, holidays, and certain other types of leave. Earnings include gross amounts paid during the reporting period, less amounts such as payments for unused sick leave.

To test the District's reporting to ERS of employee earnings and days worked, we selected a judgmental sample of 20 District employees. We compared the days worked and earnings reported to the ERS with the corresponding District payroll registers for the

months of September, October, and November 2007. We calculated the days worked by adding up the hours worked according to the payroll registers for that month and dividing by the standard workday. We calculated the earnings by adding up the amounts earned according to the payroll registers for that month and deducting any amounts not allowed by the ERS. We found no discrepancies between the payroll registers and what was reported to the ERS.

We also reviewed records pertaining to two employees who left the District during the period September through November 2007 to determine if the workdays reported to the ERS were appropriate for the employees' final pay periods. We found that both employees we reviewed were handled appropriately.

The ERS has rules for determining how the days worked by appointed officials should be calculated and reported. We found that none of the District's appointed officials (i.e., its Board members) are enrolled in or reported to the ERS.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the District's enrollment of individuals in the ERS and its reporting of retirement information to the ERS. Our audit covers the period April 1, 2005, through February 7, 2008.

To accomplish our audit objective, we reviewed State laws and regulations addressing employer participation in the ERS, focusing on the requirements for employee enrollment and reporting of earnings and days worked. We also reviewed the District's guidelines in these areas. We interviewed

District officials and staff to identify the policies and procedures in place for enrolling employees in the ERS and reporting information about their earnings and days worked to the ERS.

We obtained a list of all 29 District employees, as of December 2007, and their ERS enrollment status. We also identified all Board members during our audit scope. We also reviewed employee titles to determine whether any consultants or independent contractors were erroneously reported as employees.

To determine whether earnings and days worked information was reported accurately to the ERS, we compared the information on file at the ERS with District payroll registers. We also reviewed District payroll registers for September, October, and November 2007 to determine whether the employees reported to the ERS by the District for those months were, in fact, on the payroll. In addition, the ERS provided us with a list of District employees who were also reported to the ERS by another participating employer.

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. These include operating the State's accounting system; preparing the 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, these functions do not affect our

ability to conduct independent audits of program performance.

AUTHORITY

This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to District officials for their review and

comment. Their comments were considered in preparing this report, and are included as Appendix A.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Greg Petschke, Sharon Salembier, Jennifer Paperman, Ray Barnes, W Sage Hopmeier, Richard Podagrosi, Andre Spar, and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE

STATE OF NEW YORK



Board of Hudson River-Black River Regulating District
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August 4, 2008

Frank Houston
Audit Director
Division of State Government Accountability
123 William St.,
New York, NY 10038

Dear Mr. Houston:

The Regulating District has completed its review of the Draft Report 2008-S-61, Accuracy of Employee Retirement Reporting.

With specific regard to the Draft Report, the District concurs with its findings and recommendations as stated therein.

Please feel free to contact me should you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Ferrara".

Richard J. Ferrara
Chief Fiscal Officer