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July 30, 2009

Mr. John L. Buono
Chairman
New York State Thruway Authority
200 Southern Boulevard
P.O. Box 189
Albany, NY 12201-0189

Re: Report 2008-F-22

Dear Mr. Buono:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the New York State Thruway Authority to implement the recommendations contained in our audit report, *Debt Issuance Costs and Services* (Report 2004-S-36).

Background, Scope and Objective

The New York State Thruway Authority (Authority) is a public benefit corporation established in 1950 by Article 2, Title 9, Section 352 of the Public Authorities Law (Law) to finance, construct, reconstruct, improve, develop, maintain or operate a thruway system, together with incidental facilities for the public. The Authority is managed by an Executive Director who reports to a seven-member Board of Directors (Board). The Authority is responsible for operating the State's 641-mile Thruway system, the longest toll highway system in the United States. The New York Canal Corporation, a subsidiary public corporation of the Authority, was created by the Legislature in August 1992 to accept jurisdiction and control over the State Canal System from the State.

The Authority's authorizing legislation provides for the ability to issue negotiable debt to finance capital projects for the Thruway and Canal Systems which are secured by tolls, revenues and other Authority earned income. The Authority is also authorized to undertake financing activities for non-Authority transportation projects in the State.

Our initial audit report, which was issued on August 24, 2005, examined the Authority's policies and procedures for obtaining underwriting and other necessary services and determined whether the Authority received these services at the most reasonable cost; whether it properly documented and accounted for the actual costs incurred for the debt sale transactions; and whether it documented its choice of method (negotiated or competitive) to use for debt sales.

The audit found that the Authority has guidelines for selecting pre-qualified firms for debt issuance and generally complies with those guidelines. However, these guidelines do not describe how the Authority should assign specific debt sale work to firms or identify documentation the Authority should keep to support selection decisions. A few firms managed more of the Authority's debt sales and earned a larger portion of the fees than other firms. Since the Authority did not document how these firms were selected, Authority officials cannot demonstrate that the selection process is objective and achieves the most reasonable cost. Further, the Authority did not document its basis for consistently choosing the negotiated sale method for all debt sales during the audit period. We also found that the Board had authorized the Executive Director to execute personal service contracts for more than one year for amounts up to $150,000 and to approve very significant increases to these amounts.

The objective of our follow up was to assess the extent of implementation as of April 1, 2009 of the nine recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Authority officials have made some progress in correcting the problems we identified. However, additional improvements are needed. Of the nine prior audit recommendations, one recommendation has been implemented, three recommendations have been partially implemented, four recommendations have not been implemented, and one recommendation is no longer applicable.

Follow-up Observations

Recommendation 1

Develop written procedures that outline the criteria to be used when assigning underwriters and bond counsel to each debt issuance. Similar written procedures should be developed in the event that more than one financial advisor is used in the future.

Status - Not Implemented

Agency Action - The Authority has not changed its policies or procedures to outline criteria to be used when assigning underwriters and bond counsel. The only change the Authority has made to its debt issuance procedures is to encourage the hiring of Minority and Women Business Enterprises as stated under the Governor's Executive Order 10 issued June 26, 2008.

Recommendation 2

Document the reasons why particular firms were assigned to work on each debt issuance.

Status - Partially Implemented

Agency Action - The Authority documented why firms were assigned for two issuances and decided this process was not adding value to the process. The Authority instead uses a rotation to ensure all the major firms receive work. Authority officials stated that they consider the major firms to be a well-rounded group and therefore a rotating system is the most effective in issuing debt. Officials stated they have attempted to rotate the counsel assignments among the firms in the special bond counsel pool, which go through a competitive request for proposal process. Although a strict rotation is not always possible for reasons such as delays in the processing of the contract, the officials feel that rotation is the fairest method to assign work and results in very low total issuance costs.

The Authority conducted 11 bond sales from July 2006 through September 2008. We reviewed the bond counsels used and found that one counsel was assigned five sales, another was assigned four, and a third was assigned the remaining two. The underwriting for the 11 bond sales was distributed among six firms, with only one firm underwriting as many as three sales.

Recommendation 3

Periodically verify the accuracy of the Final Pricing Book allotment tables.

Status - Partially Implemented

Agency Action - Authority officials state they have started to verify the information included in the Final Pricing Book allotment tables, but have not documented this review.

Recommendation 4

Revise current procedures for obtaining Board approval of service contracts that exceed one year and are valued at $150,000 or less. Ensure the Executive Director obtains Board approval for increasing contracts by amounts greater than $150,000.

Status - Partially Implemented

Agency Action - The Authority's procedures require Board approval for contracts over $150,000 or amendments that make the value of the contract exceed $150,000. However, it has not revised procedures for obtaining Board approval of service contracts that exceed one year and are valued under $150,000. The Public

Authorities Law requires the approval of the Board by resolution for service contracts that exceed one year.

Recommendation 5

Improve Authority accountability for contractor selections, by obtaining Board pre-approval of contracts whenever feasible, and ratify contracts by formal resolution at least quarterly rather than annually.

Status - Not Implemented

Agency Action - The Authority disagrees with the recommendation because it believes that its current process ensures sufficient accountability and compliance with applicable requirements. The Authority's Board pre-approves personal service contractor selection and the terms and conditions for contracts that exceed $150,000. Furthermore, the Board receives a quarterly report from the Executive Director of personal service contracts below $150,000 which he has approved under the authority delegated to him by the Board. Annually the Board receives, and accepts by resolution, a report of all personal service contracts.

As indicated in our initial audit some contracts could be in effect for nearly a year prior to being ratified at the Board's annual meeting. Further, the Board is simply ratifying contracts management has already executed. The decision to maintain the same process does not improve Authority accountability for certain contracts.

Recommendation 6

Determine an actual issuer expense amount for each debt sale to evaluate whether estimated expenses are reasonable or should be increased during future debt sales.

Status - Implemented

Agency Action - For the seven bond sales in 2006 and 2007, the Authority underestimated issuer costs by approximately $64,000 (an average of $9,100 per bond). However, in 2008 the Authority overestimated issuer costs by approximately $16,800 for four bond sales (an average of $4,200 per bond). The Authority's Investment Officer, who started in August 2006, stated that he now has a better understanding of estimating issuer costs by referring back to prior similar bond sales as guidance. Also, the Authority now documents issuer costs by individual bond sale instead of by bond program as was done in the past.

We reviewed one of the eleven bond sales since 2006 and verified that the Authority is documenting issuer costs by bond sale instead of bond program. We also verified the accuracy of the Authority's calculation of issuer costs based on information submitted by staff involved in the bond sale.

Recommendation 7

Verify that personnel listed in the contract actually work on the contract or document approval of changes to personnel listed in the contract.

Status - No Longer Applicable

Agency Action - Contracts are now written to show workers' titles rather than individual names. Therefore any individuals under the same title are interchangeable under the contracts.

Recommendation 8

Develop written policies and procedures for the Board's approval that require the method of sale be evaluated for each debt issuance transaction to determine the most appropriate method.

Status - Not Implemented

Agency Action - Because Authority officials believe that the factors favoring negotiated sales are constant, the negotiated method is the only option the Authority has ever chosen. Therefore, the Authority has not developed policies and procedures to evaluate the appropriate method for individual sales.

Recommendation 9

Document and quantify the financial, market, and transaction-specific and issuer-related conditions that support management's choice of sales method and document the assessment of risks associated with each method. This document should be submitted to the Board for review and approval by resolution.

Status - Not Implemented

Agency Action - The Authority disagrees with the recommendation because it believes that its current process provides sufficient accountability, transparency and disclosure. The Authority has determined that negotiated sales are in the best interest of the Authority. Furthermore, the Authority Board approves each debt transaction and is routinely provided with extensive detailed information of each proposed debt transaction before they are asked to approve them at theAuthority's public board meetings.

Major contributors to this report were Joel Biederman, Brandon Ogden, Jeffrey Dormond, and Lauren Bizzarro.

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

Very truly yours,

Carmen Maldonado
Audit Director

cc: Thomas Lukacs, Division of the Budget