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OFFICE OF THE STATE COMPTROLLER

September 24, 2009

Ms. Carole Huxley  
Interim Commissioner  
New York State Education Department  
State Education Building - Rm. 111  
89 Washington Avenue  
Albany, New York 12234

Re: Report 2009-F-19

Dear Commissioner Huxley:

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 followed up on the actions taken by officials of the State Education Department (SED) to implement the recommendations contained in our audit report, *School District Compliance With RESCUE Act Provisions For Building Assessment and Planning* (Report 2007-S-24).

**Background, Scope and Objectives**

SED's Office of Education P-16 (Office) strives to involve public school officials and residents in decisions affecting the physical condition of school district facilities. The Office provides certain oversight to the State's 696 school districts and 37 Boards of Cooperative Educational Services (BOCES) districts (collectively referred to as "districts"). The districts must comply with the State Education Law and the Regulations of the Commissioner of Education. The districts own or operate more than 9,000 buildings including approximately 4,500 instructional buildings. Excluding facilities within the New York City public school system, school buildings throughout the State are (on average) about 53 years old.

In 1998, SED notified the Governor of concerns about the quality and safety of public school buildings. Pursuant to SED's concerns, Section 409-d of the State Education Law was amended to authorize the Commissioner of Education to establish and monitor a Comprehensive Public School Building Safety Program. The main objective of the program was to ensure the proper maintenance of school buildings and to protect the health and safety of students and staff.

In conjunction with the Comprehensive Public School Building Safety Program, the legislature passed the Rebuild Schools to Uphold Education (RESCUE) Act (also in 1998) that requires districts to perform certain prescribed facility preservation and planning activities. The

Commissioner of Education developed corresponding regulations requiring districts to develop and document plans for maintaining district properties. In addition, districts are required to complete regular inspections and evaluations of their school buildings, submit certain reports to SED, and maintain other reports at the district. Each required document is intended to help ensure that districts take sufficient steps to monitor the condition of their buildings, preserve their buildings, and thereby, ensure the health and safety of building occupants.

Specifically, the Commissioner's Regulations require the districts to prepare and update the following:

- Building Condition Survey (BCS) - a report identifying the results of an inspection of each occupied district building. Districts are required to submit a BCS for each occupied district building to SED every five years;
- Annual Visual Inspection (AVI) - a report of the results of a visual re-inspection of the condition of the district's buildings identified in the BCS;
- Five-Year Capital Facilities Plan - documents the districts' capital projects and repair needs for the next five years, and prioritizes projects based on their urgency. The Plan is required to be updated annually;
- School Facility Report Card (Report Card) - summarizes the results of the BCS and AVI, and includes the safety ratings of all the district's building; and
- Comprehensive Maintenance Plan - addresses all major building systems (i.e. electrical, HVAC, plumbing, etc.), within a district's properties, and is a tool for districts to monitor and ensure their systems are in a state of good repair. The Comprehensive Maintenance Plan should be updated annually;

The OFP is responsible for the overall oversight of the RESCUE program. The RESCUE Act requires districts to submit copies of their BCSs and AVIs to the SED's Office of Facilities Planning (OFP). The districts are not required to submit their Five-Year Capital Facilities Plans, Comprehensive Maintenance Plans, and Report Cards to OFP.

Our initial audit report, which was issued on April 10, 2008, determined whether districts have complied with the building assessment and planning requirements of the RESCUE Act. Our report concluded that a significant proportion of the districts we reviewed did not fully comply with the building assessment and planning requirements of the Act. For many districts, the non-compliance was material. We further concluded that SED's OFP needs to strengthen its efforts to monitor districts' compliance with the Act. The objective of our follow up was to assess the extent of implementation, as of August 28, 2009, of the twelve recommendations included in our initial report.

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

SED officials have made considerable progress in addressing most of the matters we identified. However, additional actions are needed. Of the twelve prior audit recommendations, five recommendations have been implemented, three recommendations have been partially implemented, and four recommendations have not been implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Annually review a sample of districts to monitor compliance with RESCUE-required documentation, including documents the districts are not required to submit to OFP.*

Status - Implemented

Agency Action - In 2008, OFP officials conducted site visits, which included reviews of RESCUE-required documentation, at four school districts. The site visits included reviews of all RESCUE-related documents, including those the districts were not required to submit to OFP. OFP officials found that the four districts properly prepared all of the required documents. In 2009, OFP officials visited six school districts and reviewed RESCUE documents in conjunction with training workshops. Officials further noted that staffing limitations and budget restrictions have precluded additional site reviews of RESCUE compliance at other districts at this time.

#### **Recommendation 2**

*Centralize all RESCUE guidance documents and information into one link within the OFP website.*

Status - Implemented

Agency Action - The homepage for OFP's website now has a tab for a Forms and Manuals page which is linked to a page that includes pertinent OFP forms and checklists. This page contains the templates and instructions to complete the BCS, the AVI, the School Facilities Report Card and the Comprehensive Maintenance Plan. This page also includes a link to information and forms pertaining to the Five-Year Capital Facilities Plan.

#### **Recommendation 3**

*Remind districts of their responsibility to prepare and submit RESCUE documentation to OFP, whether or not such reports are prepared by the districts or their consultants.*

Status - Implemented

Agency Action - OFP officials attended BOCES superintendents meetings in early 2009 and distributed lists of schools who had not submitted their AVI reports for 2008 to SED by the January, 2009 deadline. After distributing the lists, OFP officials requested the BOCES superintendents to contact their constituent school districts and remind them to submit their AVIs to the OFP. OFP officials also contacted certain districts to remind them to submit their reports. As a result of the contacts by the BOCES superintendents and OFP officials, district compliance increased from about 60 percent to nearly 75 percent (about 100 additional districts) through February, 2009. After OFT project managers made additional district contacts, all but seven districts had submitted their AVIs to SED, through June 2009. OFP officials also noted that SED's website is used to remind districts of their RESCUE responsibilities. The website includes pertinent RESCUE Act regulations, the required documents, and the corresponding due dates for preparing them and submitting them to SED (when required).

#### **Recommendation 4**

*Track district attendance at RESCUE training sessions. Follow up with districts that do not send representatives to the training and provide them with pertinent guidance and/or materials, as appropriate.*

Status - Partially Implemented

Agency Action - Attendance is taken at training developed specifically for district facilities managers. However, according to OFP officials, they do not identify and follow-up with districts, which did not send representatives to the training, to provide such districts with pertinent guidance and materials.

#### **Recommendation 5**

*Establish written procedures for coordinating and monitoring the RESCUE program, including procedures for periodically verifying that the districts prepare and maintain all required forms.*

Status - Not Implemented

Agency Action - OFP officials stated that they have not established written procedures for coordinating and monitoring the RESCUE program, mainly due to lack of resources and the comparatively lower priority placed on doing so at the time of our follow-up review. OFP officials also indicated that OFP project managers have worked on RESCUE program matters for many years, and consequently, they are familiar with all of the procedures necessary to administer the program.

#### **Recommendation 6**

*Apply edits to the electronic AVI form to notify the sender when information is keyed in incorrectly, when required information is missing, and to notify the sender that the information was transmitted*

*correctly. In addition, consider using edits to identify erroneous information, such as illogical dates.*

Status - Partially Implemented

Agency Action - OFP officials advised that edits have been applied to the electronic AVI form to notify the sender when dates are illogical and required information is missing. However, no edits have been applied to notify the sender that the information was transmitted correctly. OFP officials stated the software currently in use has been modified as much as possible to perform basic data reasonableness checks. Officials further indicated that they will continue to work with SED's information technology staff to make system improvements where possible and as information technology priorities permit.

### **Recommendation 7**

*Review the information reported on AVIs and BCSs timely and contact districts when discrepancies and questions arise.*

Status - Implemented

Agency Action - OFP project managers review, research and revise incorrect data reported on AVIs by comparing the list of buildings on the AVI to the Fire Safety database. When project managers identify data discrepancies, they contact school district officials to resolve the discrepancies and then correct the database, as needed. OFP officials stated that they do not have the staff to review all district BCSs for accuracy and clarification of questions. Thus, project managers review a district's BCS when a district applies to OFP for approval of a capital project.

### **Recommendation 8**

*Formally notify district Boards of Education when districts do not submit required RESCUE Act reports.*

Status - Not Implemented

Agency Action - OFP official advised that they do not formally notify district Boards of Education when districts do not submit required RESCUE Act reports. According to OFP officials, district superintendents should notify their respective Boards when RESCUE Act reports have not been submitted as required.

### **Recommendation 9**

*Review submitted AVI information for late and questionable dates.*

Status - Not Implemented

Agency Action - OFP officials advised us that they have not reviewed AVI information for late and questionable dates due to staffing limitations.

**Recommendation 10**

*Consider expanding the use of BOCES superintendents to notify districts when they do not submit AVIs in a timely manner.*

Status - Implemented

Agency Action - As previously detailed for Recommendation no. 3, OFP officials attended BOCES superintendents meetings, where they distributed lists of districts/schools that had not submitted their AVI reports to SED on time. OFP officials also requested the BOCES superintendents to contact their affiliated school districts to remind them to submit their reports. Further, as a result of these contacts, district compliance increased significantly, and by June, 2009, only seven districts Statewide had not submitted their AVIs to SED (also as previously detailed in this report).

**Recommendation 11**

*Develop and implement an integrated management information system that contains RESCUE-related building data that is timely, complete, and accurate.*

Status - Partially Implemented

Agency Action - OFP officials indicated that, as part of the new State Aid Management System (SAMS) design, OFP plans to merge the two databases it currently uses - the Fire Safety database and the Project Management Information System database. Officials stated that they meet routinely with the SED's systems development contractor to help design the RESCUE-related parts of the new SAMS system. Through this process, OFP officials have redesigned certain parts of several RESCUE-related forms. The redesigns included the types and formats of information needed, and they ensured conformance with other modules of the SAMS system that have been completed. A trial test of the RESCUE-related portion of SAMS is scheduled for the spring of 2010.

**Recommendation 12**

*Periodically request the districts to provide a current list of their occupied buildings and any anticipated changes to the listing, including changes in status (occupied or unoccupied).*

Status - Not Implemented

Agency Action - Since our initial audit, OFP officials advised that they have not requested school districts to provide a current list of occupied buildings. Officials noted that program managers identify changes in the buildings on an ongoing basis through their analysis of the AVI data. In addition, when the aforementioned work on SAMS is completed, school OFP officials indicated that district administrators will be required to review and update the status of their districts' buildings on the new system files.

Major contributors to this report were Karen Bogucki and Donald Collins.

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 SED for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Brian E. Mason  
Audit Manager

Cc: Ms. Theresa Savo, SED  
Mr. James Conway, SED  
Mr. Thomas Lukacs, DoB