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STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 7, 2011

Alexander Roth
Executive Director
Natural Heritage Trust
Empire State Plaza
Agency Building 1
Albany, NY 12238

Re: 2010-S-37 - New York State Barns Grant
Program

Dear Mr. Roth:

We audited the Natural Heritage Trust's (Trust) Barn Grant Program (Program) for the period January 1, 2000 through October 12, 2010. The objectives of our audit were to determine whether grant funds were used appropriately, to determine whether certain conflicts of interest existed within the program, and to assess the propriety of the Trust's classification of its Barns Program Coordinator (Coordinator) as an employee. In addition, we followed up on the status of the Trust's efforts to return certain excess Program funds to the State as we recommended in a previous audit of Environmental Protection Fund grants awarded by the Office of Parks, Recreation and Historic Preservation.

A. Background

The Trust is a public benefit corporation created in 1968 under Article 55 of the New York State Arts and Cultural Affairs Law to receive and administer gifts, grants and contributions to further public programs of parks, recreation, conservation and historic preservation. The Trust is directed by a four-person Board of Directors consisting of the Chairperson of the State Council of Parks, the Commissioner of the Office of Parks, Recreation and Historic Preservation, the Commissioner of the Department of Environmental Conservation, and the Secretary of State.

The purpose of the Program is to restore and preserve barns and related agricultural buildings in New York State. The Program, which began in 2000, has been funded primarily through appropriations from the State's Environmental Protection Fund (EPF) to the Office of Parks, Recreation and Historic Preservation (Parks) totaling about \$12.3 million. Parks in turn

contracts with the Trust to administer the Program by awarding specific grants to individual barn owners throughout the State. The Trust hired a Coordinator to run and oversee the program.

The Program has not received EPF appropriations since the 2005-2006 fiscal year and individual grants were last awarded in 2005. During its life, the Program awarded 473 grants totaling more than \$10.7 million. Over time, some grants were rescinded or withdrawn, leaving 426 grants totaling over \$9.8 million on the Trust's records as of June 30, 2010. Of these 426 projects, 92 were active and 334 were closed. Although awards for the 334 closed projects totaled over \$7.1 million, the Trust spent only about \$6.9 million on these projects because some finished under budget and others were closed out as inactive. The Trust awarded about \$2.7 million for the 92 active projects, of which \$1.8 million had been spent as of June 30, 2010.

B. Results of Audit

Our audit showed that the Trust and individual grantees have used Program funds appropriately. We visited 47 project sites and, in each case, found work was completed within the scope of the project. Additionally, 43 of the grantees stated they had a positive experience with the Program. We reviewed grant files for the 41 closed projects in our sample. None showed evidence of unrelated costs billed to the projects and 36 (88 percent) contained documentation which fully supported all of the work completed. Because the Trust does not require grantees to document expenses until the projects are closed out, we were not able to examine cost records for the other projects in our sample, which were still active and in process.

During our prior audit of Parks' awarding of Environmental Protection Fund grants (Report 2008-S-148), we identified over \$1.1 million in available Program funds that the Trust had originally allocated to grants which were now either inactive, finished under budget, cancelled or adjusted downward. We recommended these funds be returned to the State Treasury as a refund of appropriations, because the Program was ending and no future grants were going to be awarded. The Trust returned about \$357,000 to Parks by the time that audit was completed in 2009. Since then, the Trust has closed or reduced additional projects totaling about \$213,000, but has not yet refunded this money to the State. The Trust should be continuously monitoring the Program's account to identify excess funds, which should then be promptly returned to the State Treasury.

During the same prior audit, we noted that the Coordinator owned a private barn restoration company, which is a potential conflict of interest. As part of this audit, we reviewed grant files and interviewed grantees to ensure that no less-than-arm's-length transactions occurred involving grant funds under the Coordinator's control. We found no indication the Coordinator directed or performed work on any of the grantees' barns. In fact, several grantees stated the Coordinator made frequent visits during their project's life and was helpful in scoping the project and working with contractors.

In addition, because the Coordinator has an unusual working relationship with the Trust, wherein he works mainly from his home with little direct supervision, we examined whether the Trust had correctly classified the Coordinator as an employee as opposed to an independent contractor. After speaking with Trust officials, and reviewing relevant employment

documentation and guidelines, we determined the Trust's classification of the employee was appropriate.

Recommendation:

1. *Routinely monitor the Program's accounts to identify funds which should be refunded to the State Treasury. Return the \$213,000 and all future unspent funds to the State Treasury promptly.*

C. Audit Authority and Methodology

The audit was based on 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. To accomplish our objectives, we met with Trust personnel to gain an understanding of the Program. We also reviewed grant files, interviewed grantees, and examined award and payment data. In addition, we reviewed and conducted site visits at a sample of 50 projects selected from a population of 426 projects. We judgmentally selected 23 grants based on risks we identified during the survey portion of our audit, and selected the other 27 randomly from the remaining population. However, we were only able to visit 47 of the 50 barns. We were unable to contact or schedule visits with two grantees in our sample and subsequently were unable to view the barns in detail. In one other case, the barn project was terminated due to the death of the grantee and the eventual collapse of the barn for which the grant was awarded. In each case, we reviewed the scope of work contracted between the State and the grantee, and compared it with our observations during site visits and supporting documentation for the projects.

We conducted our audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform our audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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.

Major contributors to this report include Frank Houston, Walter Irving, Joel Biederman, Heather Pratt, Rick Podagrosi, Andre Spar, and W Sage Hopmeier.

We provided a draft copy of this report to Trust officials for their review and comment. Trust officials agreed with our recommendation and indicated they plan to complete a final

accounting, close out all grant projects and return all unspent funds to the State well before the contract ends on December 31, 2011. Their response is attached at the end of this report.

Within 90 days of the final release of this report, we request that the Executive Director of Trust report to the Governor, the State Comptroller, and the leaders of the legislature and fiscal committees, advising what steps were taken to implement our report recommendations, and where recommendations were not implemented, the reason therefor.

We wish to thank the Trust's management and staff for the courtesies and cooperation extended to our examiners during this audit.

Very truly yours,

John F. Buyce, CPA
Audit Director

cc: Andy Beers, Chair
Thomas Lukacs, Division of the Budget



March 15, 2011

John Buyce, Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Buyce,

Thank you for the opportunity to review and comment on the draft audit report 2010-S-37, entitled "New York State Barns Grant Program." The Trust is pleased that your audit found program funds are used appropriately, Trust program staff act independently from the grantee and private contracting process, and that program staff are correctly classified as Trust employees.

Your draft audit report contains one recommendation regarding unspent program funds. We agree with your recommendation. The contract between the Trust and New York State to administer the Barns Grant Program ends on December 31, 2011. At this time, the Trust is completing a final accounting and closeout of all grant projects and will return all unspent funds to New York State well in advance of the contract end date.

We thank you and your staff for the detailed review of the program.

Sincerely,

A handwritten signature in black ink, appearing to read "AJR", is written over a light blue horizontal line.

Alexander J. Roth
Executive Director

Cc: Trust Audit Committee