Empire State Development

Anita W. Laremont
Senior Vice President - Legal
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June 18, 2007

Honorable Eliot Spitzer
Governor
State of New York
Executive Chamber
The Capitol
Albany, NY 112224

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State of New York
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Albany, NY 12236-0001

Honorable Joseph L. Bruno
President Pro Tempore & Majority Leader
State Senate
The Capitol
Albany, NY 12247

Honorable Sheldon Silver
Speaker
State Assembly
The Capitol
Albany, NY 12248

Re: Comptroller Audit 2005-R-6
Huntington Chamber of Commerce Audit

Gentlemen:

This letter constitutes the required response by the Empire State Development Corporation (ESD) and the Department of Economic Development (DED) to the Office of the State Comptroller's (OSC) final report (the "Report") 2005-R-6 of its audit of the Suffolk-Nassau Chamber of Commerce at Huntington ("SNCC"), formerly known as the Huntington Chamber of Commerce.

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Although ESD and DED (collectively, the "Agencies") are two separate entities, the Agencies are presenting a collective response to the Report.

As stated in our initial response to the Report, the Agencies have complied with the majority of recommendations but found others infeasible due to the nature of legislatively-mandated grants. While the Agencies administer a large volume of these grants each year, grants are awarded at the legislative level and assigned to each Agency, and the Agencies have no discretion in the award process.

Recommendation 1

In Recommendation #1 of the Report, the OSC recommends that DED disallow and seek the recovery of the $85,198 in invalid, unsupported or otherwise inappropriate expenses identified by the OSC audit. Full repayment was received from SNCC on March 15, 2007.

Recommendation 2

In Recommendation #2 of the Report, the OSC recommends that ESD disallow and seek the recovery of the $39,674 in invalid, unsupported or otherwise inappropriate expenses identified by the OSC audit. Full repayment was received from SNCC on March 15, 2007.

Recommendation 3

In Recommendation #3, the OSC recommends that both Agencies require grant recipients to submit both cancelled checks and vendors' invoices in support of their reimbursement requests.

In August 2004, ESD instituted a policy that requires both invoices and proof of payment in support of grant reimbursement requests. Supporting evidence of these requirements was previously submitted to OSC in the form of ESD's Grant Disbursement Agreement ("GDA") template.

DED has instituted new policies surrounding the oversight of its Legislative grant process as of Spring 2007. In addition to requiring copies of both invoices and proof of payment, DED has included in its contract language received from the Attorney General's Office regarding Disclosure and Accountability Certifications.

Recommendation 4

The OSC report recommends that the Agencies require grantees to submit for approval a fully-documented explanation of the allocation methodology used for any administrative expenses included in a grant's budget. All DED and ESD grantees must submit a complete budget and project description for funding that covers associated administrative expenses. Generally, administrative expenses are only granted for up to 10% of the grant and when included in the budget section of the project application. Grantees must note exact uses of the administrative expenses.

In ESD's case, this is verified by the Grantee's certification that the expenditures for which the

grantee is seeking payment and/or reimbursement are Eligible Expenses (as defined in the GDA between ESD and the grantee), and do not duplicate reimbursement or disbursement of costs and/or expenses from any other source.

DED requires that all grantees submit a detailed budget proposal with uses and explanations included. Further explanation and proof of use is required in DED's contract for Legislative Initiatives.

Recommendation 5

In Recommendation #5, the OSC suggests that the Agencies require progress reports describing the extent to which grant objectives have been accomplished and use the reports to identify grants where there is an increased risk of inappropriate reimbursement claims.

In 2005, ESD began requiring grantees to document their progress for projects that receive grant disbursements over time in both interim (quarterly or upon completion of tasks) and final reports. Project managers review these reports to ensure that grantees are making adequate progress on their grant goals. In the event that a grantee is not making adequate progress, the project manager will work with the grantee to either modify the scope of the budget (within the confines of the legislative directive, or with written approval from the sponsoring legislative member) or recommend termination of the project.

DED has worked closely with the Legislative grant recipients and has made the necessary adjustments to the contracts to ensure that the grantee is obtaining the articulated goals. Additionally, DED is in the process of hiring a Senior Internal Auditor, to work along with the Director of Internal Audit, in order to review all contracts currently held by the department. As part of the day-to-day functions of this position, both site visits and desk audits will be performed.

Recommendation 6

Recommendation #6 focuses on the use of risk analysis techniques to identify high-risk grants and suggests that the Agencies schedule audits and site visits for high-risk grants to the extent that agency resources are available for such activities.

The Agencies have considered this recommendation and agree that it would be beneficial to develop a risk analysis model and to conduct site visits to high-risk grants, but, for reasons noted in the response to the Report, have found this recommendation difficult to pursue. Currently, the Agencies are using the evaluation techniques described in the response to #5 to determine which grantees may not be using funds for appropriate project-related expenses. Project managers follow up with such grantees by phone or email and request further documentation when suspicious requests arise. To the extent that resources are made available to the Agencies to perform site visits, the Agencies will increase their efforts in this regard.

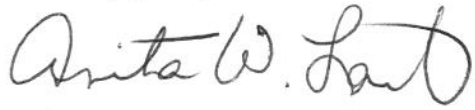
Recommendation 7

In Recommendation #7, the OSC discusses the lack of information flow between DED and ESD. OSC recommends that the Agencies share information about grant recipients and coordinate the oversight of any recipients that are receiving funds from both agencies at the same time.

As noted in the Agencies' response to the Report, personnel in the Agencies' regional offices are aware of both ESD and DED grants that are made to organizations in their service areas. Also, the Agencies did not agree that greater coordination between DED and ESD would have addressed any of the findings outlined in the Report. Moreover, for reasons cited in the response to the Report, the Agencies consider it infeasible to implement an interfacing database for the Agencies in order to help with oversight of multiple grants.

However, ESD has developed a quarterly report of all recently approved legislative grants to be shared with DED. ESD is in the process of upgrading its project tracking system to automate this report and expects the first quarterly report to be generated on June 30, 2007. In the meantime, ESD has provided to DED a list of all legislative grants approved to date this year. The Agencies plan to engage in spot audits of grants to grantees of both Agencies, including auditing grantee certifications. Due to volume and staffing limitations, such audits will be conducted on a limited sampling basis.

Sincerely yours,



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cc: Patrick Foye
Daniel Gundersen
Avi Schick