

H. CARL McCALL
STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 20, 2002

Mr. Edward Cox
Chairman
State University Construction Fund
State University Plaza
353 Broadway
Albany, New York 12201

Re: Report 2002-F-37

Dear Mr. Cox:

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 reviewed the actions taken by the State University Construction Fund (Fund) as of October 4, 2002 to implement the recommendations contained in our audit report, *Selected Construction Contracting Practices* (Report 2000-S-34). Our report, which was issued on July 9, 2001, assessed whether the Fund had adequate controls in place to ensure that construction contracts were properly awarded and whether the Fund adequately evaluated change orders to ensure that they were justified.

Background

The State University Construction Fund (Fund), governed by a three-member Board appointed by the Governor, was created in 1962 as a public benefit corporation established within the State University of New York (SUNY). The Fund is responsible for implementing SUNY's \$2.148 billion, multi-year capital plan. The Fund's main purpose is to provide academic buildings and other facilities for SUNY. The Fund develops a general description and an initial budget amount for each construction project. The Fund employs an architect (consultant) to assist in the planning, design, and bid and award of the project. The contract award must be made to the lowest bidder who is qualified to perform the work and is considered reliable and responsible. Other responsibilities of the Fund are: to reduce the time between determination of need and actual occupancy of such facilities; to expedite the construction, acquisition, reconstruction and rehabilitation or improvement of such facilities; and to ensure the facilities are ready when scheduled under SUNY's multi-year capital plan. For the period August 1, 2001 to August 31, 2002, the Fund awarded 47 projects totaling \$88.3 million.

Summary Conclusions

In our prior audit, we found that overall the Fund had adequate controls in place to ensure that construction contracts were properly awarded and that change orders were adequately justified. However, we noted the need for improvement in certain aspects of the Fund's construction contracting practices.

In our follow-up review, we found that the Fund was successful in implementing our prior audit recommendations.

Summary of Status of Prior Audit Recommendations

The Fund has implemented all three recommendations.

Follow-up Observations

Recommendation 1

For all construction projects, ensure that sufficient written documentation is developed and maintained to support Fund decisions, revised budget amounts and project changes. Ensure that the Board has the timely opportunity to fully evaluate and question the appropriateness of a capital expenditure.

Status - Implemented

Agency Action - The Fund has instituted the process of maintaining written documents to support Fund decisions. The Fund has issued a revised "Project Cost Reporting Guide" which requires that "any substantial change in scope needs to be approved before formal submission of the final Schematic/Design Manual Phase Report." Additionally, separate cost estimates are required for the approved changes.

According to Fund officials, the Fund has instituted a change in procedures for Trustee Resolutions that provides adequate time to evaluate and question the appropriateness of a capital expenditure. These changes include revisions to the resolution format providing additional detailed information on the capital expenditure and presentation by Fund Management of each resolution submitted for Board approval.

Recommendation 2

Reassess the design review process to identify how operations can be improved to minimize the risk for change orders pertaining to design omissions.

Status - Implemented

Agency Action - The Fund has instituted procedural changes designed to reduce "omission - type"

change orders. Fund Program Directives have been rewritten with emphasis on construction areas prone to “omission - type” change orders. Division 15 (Mechanical) has been expanded from seven Program Directives in the 1999 edition to 16 Program Directives in the 2002 edition. Further, a new Program Directive 1A-8, Constructability Review, has been issued which requires constructability reviews on all projects and provides a ninety-three point agenda checklist covering construction areas prone to “omission - type” change orders.

Recommendation 3

Develop formal written requirements, which provide minimum standards for a consistent process to review the lowest bidder’s experience and qualifications. This should include, at a minimum, how many outside references the consultant should contact and what documentation is required in support of the letter of recommendation.

Status - Implemented

Agency Action - The Fund has developed formal written requirements to provide consistency by consultants in the review of the lowest bidder’s experience and qualifications. Program Directive 1A-7 has been revised to detail low bidder reviews by consultants. Additionally, the Fund has revised its award package process, now requiring that each coordinator complete a “Responsibility Determination” checklist confirming completion of all areas of the low bidder review.

Major contributors to this report were Alexander Marshall, Melissa Little, Arthur F. Smith and Michael Solomon.

We also thank the Fund for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Jerry Barber
Audit Director

cc: Donald Dunn
Wayne Diesel
Deirdre Taylor