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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 25, 2004

Mr. David Stackrow
Chairman
Capital District Transportation Authority
110 Watervliet Avenue
Albany, NY 12206

Re: Report 2003-F-51

Dear Mr. Stackrow:

Pursuant to the State Comptroller's authority, as set forth in Article X, Section 5 of the State Constitution, we have reviewed actions taken by officials of the Capital District Transportation Authority (CDTA) as of December 30, 2003, to implement the recommendations contained in our report, *Capital Construction Management Practices* (Report 2001-S-48) issued on August 15, 2002. That audit assessed whether CDTA officials had the skills, business systems and other resources needed to carry out large-scale construction projects, and whether CDTA officials had a comprehensive marketing plan for the Rensselaer Rail Station.

Background

CDTA is a public benefit organization formed by an act of the New York State Legislature in 1970. Its enabling legislation allows for the continuance, further development and improvement of transportation (by railroad, omnibus, marine and air) and other related services within the Capital District, and its operating mission is to transport customers safely and reliably at a reasonable cost. Until the Rensselaer Rail Station construction project, CDTA's primary focus was the delivery of bus transit services. CDTA has a nine-member Board of Directors (Board) who are appointed by the Governor and confirmed by the State Senate, and comprised of three representatives from Albany County and two each from Rensselaer, Saratoga and Schenectady Counties.

In January 1997, CDTA hired an architect and initiated the Rensselaer Rail Station project as a traditional construction project. Later that year, CDTA switched to a fast track construction method and hired a Construction Manager (CM) to draft Requests for Proposals (RFP) and monitor contract execution. CDTA approved contracts and paid bills. Although the Rensselaer Rail Station was originally due to open in July 2000 and later was rescheduled to open in June 2002, construction was still ongoing in July 2002. The Rensselaer Rail Station

opened in late September 2002. The facility's estimated cost increased from \$34 million to more than \$53 million. As of December 30, 2003, CDTA still has been unable to lease 2,900 square feet of office space located on the mezzanine level of the Rensselaer Rail Station. CDTA is the project sponsor for the rehabilitation of the Saratoga Springs Train Station. CDTA officials informed us it is called a train station as this was requested by the community. This project had an expected construction completion date of October 2003 with a budget of \$5,951,310. The revised date for construction completion and opening of the station as of December 23, 2003 is the end of January 2004. CDTA officials state that they have been able to keep the project within budget through the use of value engineering techniques. However, this has apparently resulted in numerous change orders for negative amounts to scale down the aesthetics of the project to prevent cost overruns. For example, CDTA officials changed the roof material to shingle roof with copper accents instead of standing seam metal.

Summary Conclusions

Our prior audit found that CDTA's lack of relevant experience in managing large-scale construction projects, its cash flow problems and its inadequate business systems contributed to the Rensselaer Rail Station project being more than two years late and more than \$19 million over budget. We found that, despite a scheduled June 2002 opening date, CDTA did not have a marketing plan for the new Rensselaer Rail Station and had only one signed tenant as of March 2002. We also found that the Board did not always pre-approve transactions above certain cost thresholds, as required by CDTA procurement guidelines. Further, we found CDTA could not document the extent of project information and detail that was provided to the Board so that Board members could decide how to proceed with the Rensselaer Rail Station project.

In our follow-up review, we found that CDTA officials have improved their capabilities for managing large capital projects. CDTA now requires the project manager to write a project manual. The project manual outlines the duties of project personnel, the criteria for submitting contracts and change orders for Board approval, and a forecasted schedule for project work and project completion. In addition, CDTA developed Project Planning Forms that are used to present information about the project to the Board. Department Heads prepare written proposals and reports summarizing the status of projects as they progress. CDTA has reorganized its corporate structure to improve governance and construction project management.

We also found that CDTA changed its process to improve its ability to account for capital projects funded with multiple grants by maintaining costs under a project number. They also utilize the Municipal Information System (MUNIS) to account for the costs of large capital construction projects that have multiple grants. As a result, CDTA should be able to account for all project costs funded by more than one grant.

In other areas, however, CDTA needs further improvement. Although, CDTA officials have contacted other public agencies regarding how they conduct certain leasing practices, and facilities management type activities, there is no documentation to evidence the transfer of best practices to CDTA leasing practices. As only one other business in the rail industry was contacted, and that was for transitioning purposes, the contacts did not enhance CDTA's knowledge of best practices in the railroad industry.

Summary of Status of Prior Audit Recommendations

Of the ten prior audit recommendations, CDTA officials implemented six and partially implemented four.

Follow-up Observations

Recommendation 1

Implement a system to better track and retain project documentation, such as the initial design and project schedules.

Status - Implemented

Agency Action - CDTA officials provided documentation that they prepare a project manual for large capital projects. The project manual assigns duties to individuals working on the project. It outlines the criteria for Board approval of contracts and change orders. It also provides a projected construction schedule for the project. The critical path for the Saratoga Springs Train Station provides an initial completion date for the project. The construction manager uses Primavera Construction software to create the current critical path and it is used to track the progress of the Saratoga Springs Train Station. In addition to the Primavera Construction software, we observed that CDTA uses Microsoft project software for all projects initiated by CDTA. The software outlines each required procedure that must be followed along with completion dates and assigned personnel. It also tracks the critical path for each project that the project manager must follow.

Recommendation 2

Prepare and retain documentation to support the Rail Station critical path and cost increases including a review of cost estimates to explain the remaining \$1.74 million difference between the August 1997 and November 2001 estimates.

Status - Partially Implemented

Agency Action - The construction manager uses Primavera Construction software to track the progress of the Saratoga Springs Train Station. Regarding the Rail Station, CDTA officials accounted for most of the \$1.74 million in increased costs. They advised us that a substantial amount of the increase in costs was attributed to the inflation rate of 6.3 percent. The remaining amount is due to interest expense, but they did not provide documentation to support the amount borrowed, interest rate or length of time.

Recommendation 3

Implement an accounting system to track cost for each capital project.

Status - Implemented

Agency Action - We observed that CDTA uses the Municipal Information System (MUNIS) to account for the costs of capital construction projects that have single and multiple grants for funding. The Saratoga Springs Train Station has been tracked using the MUNIS. All project costs associated with the Saratoga Springs Train Station are assigned to the project. CDTA stated that the Saratoga project was completely on-line by June 2002.

Recommendation 4

Identify and track transactions requiring Board approval by establishing a system that includes the date the transactions are submitted to the Board for approval and the date of the Board's decision.

Status - Implemented

Agency Action - Agenda Action Reports summarize proposals to be presented to the Board and the anticipated date that the Board will take action on the proposal. For example, the Agenda Action Proposal for April 1, 2003 discussed the major construction contract for the Saratoga Springs Train Station. The proposal included a set of 11 Value Engineering changes that were being pursued, which required Board approval. Four of the changes orders were identified as being ready for Board approval and the other seven were to be addressed at a later time. In a subsequent Agenda Action Proposal, dated for June 2003, the four change orders were identified as having been approved by the Board on April 1, 2003. The remaining change orders were proposed for the Board to take action during the meeting of June 11, 2003. In addition to the Agenda Action Reports, CDTA has an Index of Motions/ Resolutions that includes the dates that the Board has taken action on proposals.

CDTA officials provided signed and dated copies of passed Board resolutions for contracts to substantiate how the Authority documents Board approval of contracts that exceed \$100,000. One resolution was for the contract for Construction Management Services at the Saratoga Springs Train Station. The second resolution was for the contract to authorize the Force Account Agreement for Station Lane Improvements.

Recommendation 5

Include initiation and completion schedules for all projects in the five-year plan.

Status - Partially Implemented

Agency Action - There are four projects that are discussed in the frame work for five-year capital planning: Star Vehicles, Star Facilities, Saratoga Springs Train Station, and Rapid Transit Bus Project. The Star Vehicles Project is in the scope and assessment stage. The milestones for this project are noted in the Application for Federal Assistance. As of December 30, 2003, CDTA officials do not consider the Star Facilities a project. The Star Facilities was to be a bus depot for buses that serve disabled customers. There were no initiation or completion schedules established for this project. It is still in the planning stage according to CDTA officials. The Saratoga Springs Train Station schedules can be

reviewed in the Saratoga Springs Train Station Project Manual. The Rapid Transit Bus Project is at the stage where a feasibility study is being conducted. The five-year capital plan is important as it is to be submitted annually to the Board for approval. Information such as initiation and completion schedules of projects is needed to determine the availability of resources.

Recommendation 6

Develop standardized project planning forms to collect information that will be presented to the Board when it considers a proposed project. Maintain these forms, as well as any other information the Board uses in its' deliberations, with Board minutes. Project planning forms should address, at a minimum, the following:

- *staff experience and expertise with the type and size of capital projects being planned;*
- *construction method used;*
- *funding sources, reimbursement methods and cash flow; and*
- *impact on other ongoing or planned projects.*

Status - Partially Implemented

Agency Action - The Standard Project Planning Form (SPPF) addresses the staff experience and required expertise, the funding sources and cash flows of the project, and the impact of other ongoing projects or planned projects. The form does not address the construction method that will be used to complete projects. Although CDTA officials stated that they would not utilize the Fast Track Construction method in future construction projects, there are numerous construction methods. CDTA officials indicate that it was an omission not to have the construction methodology in the form and plan to include this information in the form.

Recommendation 7

Develop marketing or action plan for prompt completion of leasing activities for the Rail Station and establish procedures that require the development of marketing plans for future facility leasing projects.

Status - Implemented

Agency Action - CDTA officials engaged a broker to lease the remaining space at the Rensselaer Rail Station. CDTA officials provided documentation that the broker developed a plan of action for marketing the space, which included advertising the space on various websites, showing the space to interested parties, and eventually offering the space at a reduced rate. Additionally, for the Saratoga Springs Train Station, CDTA officials created a fact sheet about the available space but, did not receive any indication of interest. Some tenants of the Rensselaer Rail Station were offered concessionaire space at the Saratoga Springs Train Station. All of the retail space at the Saratoga Springs Train Station was rented except for space slotted for a future gift shop and ticket sales for a scenic train. This space has limited appeal as it can only be rented out temporarily until the scenic

train ride is set up. According to current estimates this entire process will take about two years.

Recommendation 8

Contact other public authorities that are engaged in railroad and leasing businesses to solicit information on best practices for leasing and maintaining the Rail Station.

Status - Partially Implemented

Agency Action - CDTA officials contacted public agencies regarding their leasing and maintaining activities. However, they did not document the results of the calls or best practices. In addition, they contacted one business in the rail industry. However, the issues dealt with station transitioning and did not address best practices within the railroad industry.

Recommendation 9

Do not use Federal and State grant funds to pay for the fit up of tenant space.

Status - Implemented

Agency Action - CDTA plans to use mortgage taxes that are a local tax and that CDTA receives every year to pay a loan of \$2 million to cover the costs at the Rensselaer Rail Station. The funds received from the mortgage taxes has exceeded the amount anticipated by CDTA officials since many homeowners have refinanced. In our prior audit we state that CDTA plans to spend about \$500,000 on capital improvements for the Postal Service Lease. The actual cost of tenant fit up for the Post Office was over \$1.2 million, representing a cost overrun of 140 percent. We note that the current lease agreement that CDTA has with the Post Office will not recover the total cost of the fit up because there is no lease provision to address this condition. As a result, CDTA officials would need to renegotiate the lease to raise the rent to cover the actual fit-up costs. In addition, such a provision would be warranted in future lease agreements where CDTA incurs tenant fit-up costs to allow CDTA to recoup the actual cost of the tenant fit up costs as part of the rent. CDTA officials advised they will not use New York State or Federal tax proceeds to pay for tenant fit-up costs at the Rensselaer Rail Station. However, there is a need for them to address the use of a local tax for this purpose. CDTA officials advised that they do not expect to pay tenant fit-up costs at the Saratoga Springs Train Station.

Recommendation 10

Eliminate the contract provision to reimburse concessionaires for capital investment cost after ten years.

Status - Implemented

Agency Action - We obtained copies of the revised leases that show that the reference to the 10-year clause has been removed from the tenants' leases.

Major contributors to this report were Gerald Tysiak, Myron Goldmeer, Kathleen Hotaling and Nadiuska Piedra.

We appreciate your response to this report within 30 days, indicating any actions planned or taken to address the unresolved matters discussed in this report. We also thank the management and staff of Capital District Transportation Authority for the courtesies and cooperation extended to our auditors during this review.

Very truly yours

Carmen Maldonado
Audit Director

cc: Deirdre Taylor