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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

August 13, 2004

Mr. Robert King  
Chancellor  
State University of New York  
State University Plaza  
Albany, New York 12246

Re: Report 2004-F-6

Dear Mr. King:

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 University of New York (SUNY) to implement the recommendations contained in our audit report *Institute for Entrepreneurship: Financial Practices, Program Results and Ongoing Operations* (Report 2001-S-46).

**A. Background, Scope and Objectives**

SUNY created the Institute for Entrepreneurship (Institute) in 1993. However, the Institute was dormant until August of 1998 when it received its first grant. As an affiliate of SUNY's Empire State College (College), the Institute was expected to support small business and entrepreneurial efforts through research and through development of academic, certificate and degree programs. Through June 30, 2001, the Institute's available funding consisted of about \$8 million: \$4.7 million from federal grants, \$2.2 million from State grants, \$442,000 in donations and contributions and almost \$675,000 in State appropriations from the College. Of the \$8 million available, about \$5.3 million was expended between August 1998 and June 2001.

On July 6, 2001, as a result of alleged financial irregularities involving the Institute, SUNY officials asked the Institute's Executive Director to resign. At the same time, SUNY officials asked the Office of the State Inspector General to conduct an investigation into the affairs of the Institute. The Institute is currently dormant, pending the results of on-going litigation. The activities of the Institute were transferred to the SUNY Small Business Development Center (SBDC).

Our initial audit report, which was issued on October 23, 2002, examined the Institute's financial practices and program results to determine whether the Institute used its funds appropriately; was successful in achieving program goals and objectives; and was viable to continue operations in the future. Our report identified that Institute officials failed to uphold the public trust

resulting in the considerable use of Institute funds in an improper, questionable, wasteful and/or extravagant manner. Moreover, the Institute had achieved only minimal program results and was not viable to continue operations under the structure created by its Executive Director. The objective of our follow-up, which was conducted in accordance with Generally Accepted Government Audit Standards, was to assess the extent of implementation as of April 7, 2004 of the sixteen recommendations included in our initial report.

**B. Summary Conclusions and Status of Audit Recommendations**

We found that SUNY officials have made significant progress in implementing the recommendations, where still applicable. Of the 16 audit recommendations, four recommendations have been implemented, three recommendations were partially implemented, and nine recommendations are not applicable.

**C. Follow-up Observations**

**Recommendation 1**

*Pursue either the former Executive Director or use of the liability insurance of the Board of Directors of the Institute as a means for obtaining recovery of State grant monies used for improper expenses.*

Status - Implemented

Agency Action - The State has collected \$100,000 from a liability insurance policy for certain improper expenses made by the Institute. In addition, the Attorney General has filed a civil lawsuit against the former Executive Director and his brother to recover improperly expended Institute funds and damages totaling \$800,000.

**Recommendation 2**

*Consider legal action to recover from the former Executive Director (who was also a former Institute Board member) the improper Institute expenses arising from his inappropriate actions.*

Status - Implemented

Agency Action - Legal actions have been taken against the former Executive Director and his brother. Specifically, as previously noted, the Attorney General initiated litigation seeking damages in the amount of \$800,000. This litigation was pending disposition at the time of our follow-up.

### **Recommendation 3**

*Clarify SUNY policy and practices with respect to the establishment, monitoring and supervision of 501 (C) 3 corporations that are to operate as entities independent of SUNY in furtherance of SUNY goals. Establish effective governance and accountability structure for such corporations.*

Status - Partially Implemented

Agency Action - In April 2003, SUNY's Board of Trustees adopted Guidelines for Campus-Related Alumni Associations, Foundations, and Auxiliary Service Corporations, operating in support of the overall campus mission. These Guidelines were developed as a result of the work of a Task Force established by the Chancellor to clarify the role of campus-related organizations. SUNY System Administration officials are working with staff from the Office of the State Comptroller to develop a model agreement for use with campus-affiliated entities to implement provisions of the guidelines. Once the model agreement is approved, SUNY officials will take steps to monitor such corporations.

### **Recommendation 4**

*Determine where independent 501 (C) 3 corporations have been established at SUNY campuses and, where such corporations exist, determine that these operate in accordance with SUNY policy and practices and exhibit effective governance and accountability.*

Status - Partially Implemented

Agency Action - SUNY's Office of the University Controller assembled an inventory of known campus-affiliated organizations, including independent 501 (C) 3 corporations. Officials indicated that the guidelines (as cited in the agency action to Recommendation 3), when implemented, will facilitate the monitoring of such organizations.

### **Recommendation 5**

*Alert the SUNY Research Foundation to the existence of independent 501 (C) 3 corporations that may be involved in the administration of Foundation grants.*

Status - Partially Implemented

Agency Action - SUNY System Administration officials stated that the SUNY Research Foundation administers state and federal grants for University-related programs, pursuant to a 1977 agreement. Official further stated that the Research Foundation assisted the Office of the State Comptroller in its original audit of the Institute, and was therefore made fully aware of the existence of this 501 (C) 3 corporation. Although steps were not taken specifically to identify additional 501(C) 3 corporations, SUNY officials stated that the Research Foundation is aware of what organizations are involved in the administration of federal and State grants.

### **Recommendations 6 through 13**

*These eight recommendations concerned the continued operation of the Institute. For example, recommendation 6 recommended that the Institute take steps to make sure that its leadership creates a strong internal control environment.*

Status - Recommendations six through thirteen are Not Applicable at this time.

Agency Action - In February 2002, all members of the Institute's Board of Directors resigned. The Institute is now a dormant corporation and, consequently, has no employees or operations. As noted previously, all responsibility for the remaining activities of the Institute was transferred to the SBDC. According to SBDC officials, there were no programs to absorb and the general goals and objectives of the Institute became the responsibility of SBDC's Office of Entrepreneurial Education.

### **Recommendation 14**

*Expedite implementation of the reorganization plans announced by SUNY for the Institute.*

Status - Implemented

Agency Action - The Institute is currently dormant, pending the results of the on-going litigation (as referenced with respect to agency actions for Recommendations 1 and 2). As noted previously, the activities of the Institute were transferred to the Office of Entrepreneurial Education, which is within SUNY's SBDC.

### **Recommendation 15**

*Develop a staffing plan that is commensurate with the workload for the reorganized Institute.*

Status - Not Applicable

Agency Action - In February 2002, officials transferred responsibility for the activities of the Institute to the SBDC's Office of Entrepreneurial Education. As noted previously, the Institute is now a dormant corporation and, consequently, has no employees or operations.

### **Recommendation 16**

*Either reassign the position loaned to the Division for Women, or stop funding the position.*

Status - Implemented

Agency Action - According to SUNY System Administration officials, the position loaned to the Division for Women has been terminated and is no longer a part of the SBDC's Office of Entrepreneurial Education.

Major contributors to this report were Brian Mason, Bill Clynes, and Alexander Marshall.

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 SUNY for the courtesies and cooperation extended to our auditor during this process.

Very truly yours,

Steven E. Sossei  
Audit Director

cc: Robert Barnes, Division of the Budget  
Andrew Edwards, University Counsel  
C. Kevin O'Donoghue, University Auditor