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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

September 20, 2006

Ms. Maryanne Gridley  
Executive Director  
Dormitory Authority of the State of New York  
515 Broadway  
Albany, NY 12207

Re: Report 2006-F-27

Dear Ms. Gridley:

Pursuant to 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, we have followed up on the actions taken by the Dormitory Authority of the State of New York (Authority) to implement the three recommendations contained in our audit report, *Selected Aspects of the Bond Issuance Process* (Report 2004-S-72).

**Background, Scope and Objectives**

The Authority is a public benefit corporation created by legislation in 1944 to provide financing and construction services to public and private universities, not-for-profit health care facilities and other institutions which serve the public good. The Authority is governed by the State Public Authorities Law, Article 8, Title 4. The Authority issues tax-exempt securities and then lends the proceeds to clients to finance the construction, rehabilitation, and/or equipping of facilities that provide services to New Yorkers. In general, the Authority's clients fall into these categories: higher education, health care, government, and non-profit agencies. The Authority's eleven-member Board of Directors (Board) sets Authority policies, approves each bond sale, and monitors adherence to Authority guidelines. A Board-appointed Executive Director manages the Authority's daily operations. The Authority's mission is to be the public finance and construction partner of choice, providing its customers with low cost, quality sources of capital and facilities delivered on time by a responsive, innovative team of professionals.

The Authority's Office of Public Finance has the primary responsibility for the Authority's project financing function. The Office of Public Finance raises money in the capital markets for Authority clients by determining the feasibility and structure of bond financing and then overseeing bond issuances. In general, the bond issuance process has four major phases, including feasibility review, document development, marketing and closing. The primary purpose of the feasibility review is to ensure that the proposed project is practical and that all relevant financial, statistical, and legal information has been considered. A resolution is then prepared for the Board to formally approve proceeding with the issuance of the bonds. The primary goal of document development is to have the bond documents formally approved by the Board. During the marketing phase of the

process (if the Authority uses a negotiated sale process), the lead underwriter buys the bonds from the Authority at an agreed upon price and then sells them to the secondary market. The lead underwriter is required to send the Authority a good faith deposit when the agreement is finalized. At the closing, the underwriter officially purchases the bonds and the transaction is completed. Authority officials must have effective internal controls in place to ensure that each phase of the bond issuance process is administered properly. As of March 31, 2005, the Authority had bonds and notes outstanding totaling \$31.7 billion.

Our initial audit report, which was issued on August 24, 2005, examined selected aspects of the Authority's bond issuance process. The objectives of our audit were to determine if the Authority had policies and procedures that provide an adequate level of internal control over its bond issuance process and to determine if those policies and procedures were adhered to consistently. Based on our audit, we found that the Authority had policies and procedures to provide an adequate level of internal control over bond issuances, and the Authority complied with those policies and procedures. However, we also found that the Authority did not: appropriately document the rationales for selecting specific lead underwriters; regularly issue RFPs to develop and maintain a current list of pre-qualified bond counsels; and obtain and review documentation related to bids for bond insurance. The objective of our follow-up, which was conducted according to generally accepted government auditing standards, was to assess the extent of implementation, as of August 31, 2006, of the three recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

Authority officials have implemented the three recommendations included in our initial audit report.

### **Follow-up Observations**

#### **Recommendation 1**

*Prepare and maintain appropriate documentation of the criteria, analysis and justification used to select lead underwriters for all Authority bond issues.*

Status - Implemented

Agency Action - The Authority maintains appropriate documentation of the criteria, analysis and justification used to select lead underwriters for Authority bond issues. We reviewed pertinent documentation for three bond issues made subsequent to our initial audit. For each issue reviewed, we determined that the Authority maintained appropriate documentation of the criteria, analysis and justification for the selection of the lead underwriter.

#### **Recommendation 2**

*Establish a timeframe to issue RFPs for bond counsel.*

Status - Implemented

Agency Action - The Authority issued an RFP on October 26, 2004 for the selection of bond counsel. On April 27, 2005 the Board approved the selection of eight firms to serve as bond counsel through December 31, 2006, with the Authority reserving the right to retain these firms for up to three additional years. Further, on July 6, 2006, the Authority's General Counsel issued a guidance memorandum addressing the selection of outside counsel, including bond counsel. According to the memorandum, to help ensure that legal services will be available as needed on a cost-effective basis, the Authority will engage a number of firms for terms of not more than five years.

### **Recommendation 3**

*When bond insurance is used on public issuances, maintain documentation that identifies the names of bond insurance bidders, the amount of their bids and the rationale for selecting the bond insurance company. When appropriate, independently verify the bids with the insurance companies.*

Status - Implemented

Agency Action - The Authority maintains documentation that identifies the names of the bond insurance bidders, the amount of their bids and the rationale for selecting the specific bond insurers. We reviewed pertinent documentation for three bond issues made subsequent to our initial audit to determine if the Authority maintains documentation of insurance bids. For each issue reviewed, the Authority maintained such documentation. Specifically, the Authority received documentation of bids from three to six bond insurers for the issues we selected. The lowest bid was selected in each instance.

Major contributors to this report were William Clynes, Cynthia Herubin and Anthony Calabrese.

We wish to thank the management and staff of the Authority for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason  
Audit Manager

cc: Ms. Lisa Ng, Division of the Budget  
Ms. Gail H. Gordon, DASNY  
Mr. Michael Corrigan, DASNY