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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 5, 2007

Mr. John R. Ryan
Chancellor
State University of New York
State University Plaza
Albany, New York 12246

Re: Report 2007-F-7

Dear Chancellor Ryan:

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 to implement the recommendations contained in our audit report, *Campus Contracting Practices* (Report 2005-S-37).

Background, Scope and Objective

The State University of New York (SUNY) provides higher education to more than 200,000 students at its 34 State-operated campuses. Each campus contracts with individuals and companies for a wide range of goods and services. SUNY's basic procurement objective is to secure the most appropriate materials, supplies, equipment, services, and construction at the lowest available price, consistent with quality requirements and delivery needs that best promote the interests of SUNY.

SUNY campuses are required to comply with SUNY's Purchasing and Contracting Policy, which sets forth comprehensive guidelines for purchasing goods and services. Procurement requirements can vary based on the dollar amount of the contract in question. The Purchasing and Contracting Policy also requires campuses to ensure that certified minority and women owned business enterprises (MWBEs) have an opportunity to participate in the contract award process. SUNY System Administration (SUNY Administration) officials have established campus-wide goals for the utilization of MWBEs. Actual MWBE utilization depends on vendor availability and campus advertisement and solicitations geared to make businesses aware of contract opportunities.

The Office of the State Comptroller's (OSC) Bureau of Contracts and the State Attorney General (AG) review and approve many contracts negotiated by SUNY campuses (although designated campus officials must review and approve all campus contracts). Threshold contracts (or T-contracts) do not require the formal approval of OSC or the AG. These T-contracts are used pursuant to an individual campus' approved threshold amount, which is typically \$50,000, \$75,000, or \$150,000. During the period April 1, 2005 through March 31, 2007, SUNY's State-operated campuses initiated 1,073 contracts for

various goods and services totaling about \$1.56 billion. During this period, expenditures charged to these contracts totaled about \$502 million.

Our initial audit report, which was issued on April 6, 2006, audited the contracting practices of selected SUNY campuses for the period April 1, 2003 through March 31, 2005. Our objectives were to determine if the campuses complied with the Purchasing and Contracting Policy for the procurement of goods and services, and if the campuses received contracted goods and services according to contract terms and prior to contract approval. Our initial audit found that both SUNY Administration and campus personnel were very knowledgeable about the procurement process and that campuses generally adhered to the Purchasing and Contracting Policy.

However, our review of a sample of approved contracts at various campuses found instances where services were provided prior to contract approval. This weakness accounted for most of the exceptions we identified in our campus reviews. In addition, we found that many of the advertisements prepared by the campuses for the bidding and award of prospective contracts did not encourage MWBE participation. For a significant number of the contracts we reviewed, we determined that the campuses did not solicit MWBE participation through advertisements placed in the State Contract Reporter. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation, as of May 3, 2007, of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We determined that SUNY officials have implemented the four recommendations from the initial report.

Follow-up Observations

Recommendation 1

To SUNY Administration:

Formally remind campus contracting administrators that appropriate approvals should be obtained for contracts before goods and services are delivered. Advise campuses to ensure that there is sufficient lead time to obtain the required contract approvals prior to the delivery of goods and services.

Status - Implemented

Agency Action - The State Comptroller's Bureau of Contracts provided training in contract procedures to SUNY campus officials at their annual Purchasing Association conference in April 2006. The training addressed the need to provide sufficient lead time for contract preparation to help ensure that the required approvals can be obtained prior to the provision of services. In addition, SUNY Administration provides each campus with monthly reports of their contracts' status, including contract end dates. One purpose of this report is to remind campus officials to prepare and renew

contracts on a timely basis. Also, SUNY officials are modifying the Purchasing and Contract Policy, with a specific prohibition against the initiation of contract work prior to contract authorization.

Recommendation 2

To SUNY Administration:

Provide additional guidance to SUNY campuses on MWBE requirements, monitoring of such requirements, and SUNY MWBE goals. Require all campuses to encourage MWBE bids/proposals in all applicable Contract Reporter ad solicitations.

Status - Implemented

Agency Action - SUNY's Chancellor formally notified all campuses of the importance of MWBE participation in contracts with the campuses. This notification provided guidance and information sources to help the campuses achieve SUNY's goal of six percent MWBE contract participation (including participation rates of three percent for minorities and three percent for women). The Chancellor further stated that SUNY Administration will monitor MWBE participation on a regular basis, and those campuses that do not achieve their goals will be required to develop action plans to reach them. In addition, as part of its monitoring activities, SUNY Administration provides each campus with a monthly report of campus' MWBE purchases. These actions helped SUNY to reach its overall goal of six percent MWBE participation for the 2006-07 year. Also, for two campus contracts we reviewed during our follow-up, we determined that officials referenced SUNY's MWBE participation goals (percentages) in notices placed in the State Contract Reporter.

Recommendation 3

To SUNY Campuses:

Ensure proper planning of prospective contracts so that appropriate approvals can be in place prior to contractual provision of goods and services.

Status - Implemented

Agency Action - As noted previously, SUNY Administration provides a monthly contract activity monitoring report to each campus. This report includes the end dates of all active campus contracts, and campus officials use the report to improve their contract planning, and thereby, ensure timely contract preparation. In addition, officials are modifying the Purchasing and Contract Policy to emphasize that no SUNY employee may authorize contract work to begin before all the required approvals are received.

Recommendation 4

To SUNY Campuses:

Ensure full compliance with the Purchasing and Contracting Policy, particularly with respect to advertising in the State Contract Reporter and obtaining and retaining documentation of bids/proposals.

Status - Implemented

Agency Action - We determined that campus procedures have been revised to emphasize full compliance with the Purchasing and Contracting Policy, including requirements for advertising in the State Contract Reporter and document retention. Also, for the two recent campus contracts we reviewed, we concluded that campus officials complied with the Purchasing and Contracting Policy with respect to advertising in the State Contract Reporter and obtaining and retaining documentation of bids and proposals.

Major contributors to this report were Arthur F. Smith and Donald Collins.

We thank the management and staff of the State University of New York for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Mr. Michael Abbott (SUNY)
Ms. Lisa Ng (DOB)