
**Thomas P. DiNapoli
COMPTROLLER**



Audit Objective..... 2

Audit Results - Summary..... 2

Background..... 3

**Audit Findings and
Recommendations..... 4**

Springbrook Bidding Practices..... 4

Internal Controls..... 6

Recommendations..... 7

Audit Scope and Methodology..... 8

Authority 9

Reporting Requirements..... 9

Contributors to the Report 9

Appendix A - Auditee Response.. 10

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF MENTAL
RETARDATION AND
DEVELOPMENTAL
DISABILITIES**

**PRESERVATION FUND
PROCUREMENT
PRACTICES AT
SPRINGBROOK NY, INC.**

Report 2007-S-51

AUDIT OBJECTIVE

Our objective was to determine whether Springbrook NY, Inc., followed required bidding procedures when it spent Preservation Funds provided by the Office of Mental Retardation and Developmental Disabilities.

AUDIT RESULTS - SUMMARY

The State provides Preservation Funds for the maintenance and preservation of structures where services are made available to people with developmental disabilities. The Office of Mental Retardation and Developmental Disabilities (OMRDD) is responsible for distributing these funds to providers.

OMRDD has 13 Developmental Disabilities Services offices throughout the State, including the Broome Developmental Disabilities Services Office (Broome Office) and the Central New York Developmental Disabilities Services Office (Central New York Office). These offices are responsible for overseeing Preservation Fund projects in their areas. Springbrook NY, Inc. (Springbrook) is a not-for-profit provider that obtains Preservation Funds through a contract with the Broome Office and through a contract with the Central New York Office.

In July 2006, OMRDD received an allegation involving improper bidding practices used by specific Springbrook employees to award work for Preservation Fund projects. In reviewing the circumstances surrounding Springbrook's use of Preservation Funds, OMRDD officials decided it was necessary to refer the matter to the Office of the State Comptroller. Because of the nature of the allegations, we arrived at Springbrook without giving officials advance notice. Once there, we obtained copies of all documents on Springbrook's computer network and copies of the computer hard drives for five

Springbrook employees potentially involved in the bidding process. When we reviewed the documents on the computer network, we found blank bid templates with letterheads for seven vendors. [Page 4]

Upon further review of Preservation Fund files, we confirmed that Springbrook did not follow appropriate bidding practices and some of the bids found in its files were not made by the vendors, but rather appeared to be created by Springbrook's former facilities manager, or a subordinate employee at the request of the former facilities manager. These fictitious bids raise questions regarding Springbrook's procurement process for Preservation Fund projects and may be indicative of negligence or fraudulent procurement activities. [Pages 4-5]

From July 1, 2003, through June 18, 2007, Springbrook received funding totaling \$512,513 for 67 Preservation Fund projects. We reviewed the files for all 67 projects and found 60 fictitious bids. Of these 60 bids, 25 appeared to be created by Springbrook's former facilities manager or the subordinate employee using the vendors' bid templates we found on Springbrook's computers. We could not determine who created the remaining 35 fictitious bids. However, since they were identical to those created using the bid templates on Springbrook's computer, we suspect the former facilities manager or the subordinate employee could have created these as well. [Page 5]

The fictitious competing bids were used as competing bids for 36 of the 67 projects (54 percent). These bids were always higher than the bid submitted by the winning bidder. As a result of the fictitious high bids, 1 vendor obtained the work for 17 of the 36 projects; and various other vendors obtained the work for the remaining 19 projects. [Page 5]

Of the 17 projects awarded to 1 vendor, 15 had fictitious bids representing companies the vendor owned. The owner said he was unaware that bids from his other companies were being used in projects he eventually won. However, five of the fictitious bids were faxed from his office. [Page 5]

We also found similar issues with the fictitious bids for other projects. For example, there were five fictitious bid documents for five projects, totaling \$28,704, that were faxed from another vendor's fax machine (the vendor's name was on the heading of the faxed copy). This vendor won all of these jobs. Another vendor, whose template was on Springbrook's computer, was 1 of the losing bidders in 15 of 17 projects. [Page 6]

Had Springbrook management reviewed the bid documentation in any detail, they should have detected these problems and could have taken corrective action. Instead, we found Springbrook management delegated this responsibility to the former facilities manager, the same person who created the fictitious bids and who had complete control over the entire bidding process. Consequently, these conditions contribute to the risk for potential fraud. In addition, Springbrook officials have no assurance that they obtained the best price for these projects because the work was not competitively bid as required.

In response to our audit, Springbrook officials advised us that they have strengthened internal controls by establishing new policies and procedures to administer the awarding of contracts. [Page 6] We also found that officials at the Broome Office did not detect problems with the bidding, even though there were several red flags, such as multiple bids coming from the winning bidder's fax machine and one vendor repeatedly winning the bids. Broome Office officials advised us

that they have implemented an enhanced pre-approval review process. [Page 6]

Our audit report makes five recommendations to OMRDD and five recommendations to Springbrook. The Office of the State Comptroller's Investigations Unit has referred this matter to the Broome County District Attorney's office for any appropriate action.

This report, dated January 14, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The State provides Preservation Funds to assist agencies with the maintenance and preservation of structures where services are made available to people with developmental disabilities. The money can be used for a variety of work such as renovating kitchens and bathrooms; replacing roofs; replacing boilers, furnaces, and hot water heaters; repairing chimneys; and paving driveways. Projects cost a minimum of \$1,000 and a maximum of \$30,000.

The Office of Mental Retardation and Developmental Disabilities (OMRDD) was created in 1978 and is responsible for distributing Preservation Funds to providers. OMRDD serves and supports individuals and families of individuals with developmental disabilities. It has 13 Developmental Disabilities Services offices throughout the State, including the Broome Developmental Disabilities Services Office (Broome Office) and the Central New York Developmental Disabilities Services Office (Central New

York Office). These offices are responsible for overseeing Preservation Fund projects in their areas.

Springbrook NY, Inc. (Springbrook) is a not-for-profit provider that serves 550 people with developmental disabilities and employs 700 people. Springbrook has two contracts for Preservation Funds. One contract is with the Broome Office and the other is with the Central New York Office. Springbrook has 18 community homes under the jurisdiction of the Broome Office and one home under the jurisdiction of the Central New York Office.

The management of Springbrook and the control of its property and property rights are vested in a Board of Directors (Board). The Board comprises 21 members whose primary role is governance. Specifically, it is the Board's responsibility to ensure that Springbrook achieves its purpose and protects the public's interest. For instance, the Board is responsible for establishing policies and procedures for procurement and other activities necessary to carry out the organization's mission.

In July 2006, the OMRDD received allegations involving improper bidding practices concerning the Springbrook Preservation Fund projects. OMRDD performed an analysis of some of Springbrook's bidding records and found there were projects where it appeared that Springbrook did not follow appropriate bidding practices. In reviewing the circumstances surrounding Springbrook's use of Preservation Funds, OMRDD officials decided it was necessary to refer the matter to the Office of the State Comptroller (OSC). OSC's Investigations Unit and the Division of State Government Accountability worked cooperatively with OMRDD officials during this audit.

Our audit covered the period July 1, 2002, through June 18, 2007.

AUDIT FINDINGS AND RECOMMENDATIONS

Springbrook Bidding Practices

OMRDD requires Springbrook to complete and submit an application form for each preservation project to either the Broome Office or the Central New York Office. Attached to each application must be a detailed scope of work and a list of vendors to be solicited to bid. OMRDD requires that: (1) three competitive bids (they may be telephone quotes) be obtained for projects costing under \$15,000 and (2) written bids from three or more vendors be obtained on projects between \$15,000 and \$30,000.

However, Springbrook requires three written bids be obtained for all Preservation Fund projects regardless of the costs. Springbrook is required to retain a record of these bids. If, for any reason, the lowest bidder is not chosen, Springbrook must document the reasons and justify the choice of another bidder.

The allegations regarding improper bidding practices related to specific Springbrook employees. Because of the nature of the allegations, we arrived at Springbrook without giving officials advance notice. Once there, we requested and obtained critical information pertaining to the bidding of Preservation Fund projects. Specifically, we obtained copies of all documents on Springbrook's computer network and copies of computer hard drives for five Springbrook employees potentially involved in the bidding process. We reviewed the documents on the computer network and found blank bid templates with letterhead for seven vendors.

We determined that Springbrook did not follow appropriate bidding practices and some of the bids found in its files were not made by the vendors, but rather were provided by Springbrook's former facilities manager or by a subordinate employee at the request of the former facilities manager. These fictitious bids cast significant doubt on Springbrook's procurement process for Preservation Fund projects and create the potential for fraudulent transactions.

To reinforce the importance of their procurement policies, OMRDD and Springbrook should distribute their procurement policies to all pertinent providers and staff, respectively, and take steps to ensure that the policy is fully understood.

Fictitious Bids

The facilities manager is responsible for soliciting bids for all projects. From July 1, 2003, through June 18, 2007, Springbrook received funding totaling \$512,513 for 67 Preservation Fund projects. Of the 67 projects, 63 were under the jurisdiction of the Broome Office and 4 were under the jurisdiction of the Central New York Office. We reviewed the files for all 67 projects and found 60 fictitious bids, 25 of which appeared to be created by Springbrook's former facilities manager or the subordinate employee using the vendors' bid templates we found on Springbrook's computers. We could not determine who created the remaining 35 fictitious bids. However, since they were identical to those created using the bid templates on Springbrook's computer, we suspect the former facilities manager or the subordinate employee could have created these as well.

All of the 25 fictitious bids found on Springbrook's computers matched hard copy documents found in the Preservation Fund

project files. Interviews with the 7 vendors whose company letter heads were used to bid on these projects verified that the 25 bids were not real.

The fictitious bids were used as competing bids in 36 of the 67 projects (54 percent) and were always higher than the winning bidder (34 at the Broome Office and 2 at the Central New York Office). We also found one project was awarded to a vendor that was not the lowest bidder and no documentation could be provided to justify why this occurred. There were no discrepancies with the remaining 30 projects.

Of the 36 projects that had fictitious bids:

- 17 were awarded to the same vendor. These projects totaled \$80,389 and were all under the Broome Office's jurisdiction.
- 19 were awarded to various other vendors. These projects totaled \$155,316. Two of the projects had fictitious bids that were dated after the work was completed. Two of the 19 were under the Central New York Office's jurisdiction; the remaining 17 were under the Broome Office.

Vendor Selection

In reviewing the 17 of the 36 projects that had fictitious bids and were awarded to one vendor, we found that this vendor also owned 2 other companies that bid on projects. One of these companies bid on 15 of the 17 projects the vendor won, resulting in the vendor bidding against itself. We also found that one of these two companies has not been in business since 1999; yet we found bids in the Preservation Fund files as recently as April 5, 2006. The owner of these companies said he was unaware that bids from his other

companies were being used in projects he eventually won. However, five of the fictitious bids were faxed from his office. We note that another five fictitious bids used in these projects were also faxed from his office, but they were not from companies he owned.

In addition, we found the following issues relating to vendors other than those previously mentioned:

- Six fictitious bid documents created for one vendor used the same bid estimate amount and five of the six (totaling \$28,704) came from the fax number of the winning bidder.
- A vendor whose template was on Springbrook's computer was 1 of the losing bidders in 15 of 17 projects. These fictitious bids were submitted for work not performed by the vendor (e.g., bids for plumbing work were submitted for this vendor, but it does not perform this type of work).

Based on the results of our review of vendor selection, we conclude Springbrook officials should carefully assess the appropriateness of any active or potential contracts with vendors who participated in unscrupulous procurement activities.

We visited 8 community homes to review 43 of the 67 projects completed with Preservation Funds. We verified that the work was completed for 37 of the 43 projects (86 percent) but could not verify that the work was completed for the remaining 6 due to the nature of the work (e.g., well work, septic system repairs/installation). Although our testing indicates that the work contracted for was completed, Springbrook officials cannot be assured that they got the best price for the service performed because these projects were not competitively bid, as required. In

addition, responsible vendors may have been discouraged from submitting legitimate bids for Springbrook projects.

Considering these questionable circumstances, Springbrook officials should strengthen controls over vendor selection to help prevent and/or detect future questionable occurrences, and take corrective action when necessary. Springbrook can improve its chances for obtaining an increased number of legitimate bids and for awarding contracts to credible vendors by expanding its vendor list. Additional oversight by OMRDD staff will be necessary to ensure that improvements to Springbrook's procurement system are in place and operating properly.

The OSC Investigations Unit has referred this matter to the Broome County District Attorney's office for any appropriate action.

Internal Controls

Top-level Springbrook officials (the Executive Director and the Chief Financial Officer) said they were unaware of the bidding problems occurring at their agency. Although Springbrook management had bidding procedures in place, they did not take necessary steps to ensure that the controls were working as intended. Consequently, management did not detect these problems.

For example, the Chief Financial Officer did not periodically review the work of the former facilities manager. Consequently, the former facilities manager had complete control over the bidding process and was able to create fictitious bids without detection. Further, we determined that Springbrook's Chief Financial Officer became aware of the existence of potential improprieties with the bidding of Preservation Fund projects shortly after the termination of the facilities manager. However, the Chief Financial Officer did not

take any action to determine the extent and magnitude of these improprieties; nor is there evidence that he brought these matters to the attention of higher-level Springbrook officials. In response to our audit, Springbrook officials advised us that they have strengthened internal controls by establishing new policies and procedures to administer the awarding of contracts. We recommend that Springbrook's executive management also determine any necessary actions that should be taken with respect to the Chief Financial Officer based on his lack of supervisory oversight of this matter.

We also reviewed projects for the period July 1, 2002, to June 30, 2003, just before the former facilities manager was hired. We did not find any evidence of fictitious bids for this period. Similarly, we did not find any evidence of fictitious bids after he was dismissed.

Officials at the Broome Office also did not detect problems with the bidding. Upon completion of each preservation project, Springbrook must submit a voucher with a copy of the bids and other pertinent information to these offices for payment. Officials should have raised questions when the same vendor was awarded 17 projects. Further, employees should have suspected bid documents were fictitious when the losing bids contained the fax headings from the winning bidder's office. Yet officials did not identify this problem until the allegations of impropriety were brought to their attention. Broome Office officials advised us that they have implemented an enhanced pre-approval review process. For example, the Broome Office now requires written bids for all projects to be signed by the vendor submitting the bids.

Recommendations

To OMRDD:

1. Distribute the procurement policy to all pertinent Office and Springbrook staff and take steps necessary to ensure the policy is fully understood.
2. Require Springbrook to develop and utilize an expanded vendor listing to promote true competition when awarding contracts.
3. Ensure that Springbrook complies with the State's and its own procurement regulations and correct any noted deficiencies.
4. Require Springbrook and its Board of Directors to develop and implement adequate internal controls regarding the selection of vendors for Preservation Fund projects. Periodically review the controls to make sure they are in place and operating properly.
5. Require the Broome and Central New York Offices to more closely review all bids from Springbrook and periodically review the awarding of Preservation Funds.

To Springbrook:

6. Distribute the procurement policy to all pertinent staff and conduct training to ensure the policy is fully understood.
7. Assess the integrity of all vendors identified as having conducted unscrupulous procurement activities and determine the appropriateness of

commencing or continuing any contract arrangements with them.

8. Award contracts only after soliciting proposals from legitimate prospective vendors.
9. Strengthen the internal control structure regarding the selection of vendors to prevent and/or detect future occurrences, and take corrective action as appropriate.
10. Determine any necessary actions that should be taken with respect to the Chief Financial Officer based on lack of oversight of the bidding activities of the former facilities manager.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited to determine whether Springbrook NY, Inc., followed required bidding procedures when it spent Preservation Funds provided by OMRDD for the repair and maintenance of consumer homes. This audit covered the period from July 1, 2002, through June 18, 2007.

To accomplish our objective, we reviewed all 67 of Springbrook's Preservation Fund projects funded between July 1, 2003, and June 30, 2007. We obtained the project files from the local Developmental Disabilities Services offices and Springbrook. OSC investigators and/or auditors interviewed Springbrook employees, Broome Office employees, and eight vendors involved with the projects. We reviewed OMRDD's and Springbrook's Preservation Fund bidding and payment requirements, policies, and procedures. We also reviewed documentation compiled by OMRDD regarding Springbrook's bidding practices.

We obtained copies of all documents on Springbrook's computer network and copies of the computer hard drives for five Springbrook employees we believed were involved in the bidding process. In addition, we reviewed 11 Preservation Fund projects awarded between July 1, 2002, and June 30, 2003, prior to the hiring of the former facilities manager who created the fictitious bids.

In addition, we visited eight community homes to ensure that the projects paid for with Preservation Funds were completed. We went to seven homes covered by the Broome Office and the one covered by the Central New York Office. For the Broome Office homes, we selected the seven homes to visit that had the greatest number of projects completed during our audit period. At each home, we verified that the project's scope of work was completed.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed 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.

REPORTING REQUIREMENTS

A draft copy of this report was provided to OMRDD and Springbrook officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. OMRDD officials indicated steps they were taking to implement the recommendations addressed to them. Springbrook officials agreed with the recommendations addressed to them. In addition, OMRDD officials indicated that

they would monitor that Springbrook complies with the recommendations addressed to it.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of OMRDD shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include William Challice, Al Kee, Ed Durocher, Nadine Morrell, Michael Cantwell, Mark Ren, Heather Pratt, Andrew Davis, Jim Edge, Andrew White, Tom Johnson, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE

Eliot Spitzer
Governor



Diana Jones Ritter
Commissioner

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE
ALBANY, NEW YORK 12229-0001
(518) 473-1997 • TDD (518) 474-3694
www.omr.state.ny.us

November 8, 2007

Mr. William P. Challice
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Challice:

The Office of Mental Retardation and Developmental Disabilities reviewed the Office of the State Comptroller's draft audit report (Report No. 2007-S-51) entitled: Preservation Fund Procurement Practices at Springbrook, NY, Inc.

Our responses to the recommendations contained in the report are attached for your consideration.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "D. Ritter".

Diana Jones Ritter
Commissioner

Attachment

cc: Mr. Chmura
Mr. Gleason
Ms. Kagan
Ms. McDonnell
Mr. Picker
Mr. Smits



Providing supports and services for people with developmental disabilities and their families.



OMR 26.04 (3/07)

The Office of Mental Retardation and Developmental
Disabilities (OMRDD) Response to the Office of the State Comptroller's
(OSC) Draft Audit Report Entitled: Preservation Fund Procurement
Practices at Springbrook NY, Inc.
2007-S-51

1. Distribute the procurement policy to all pertinent Office and Springbrook staff and take steps necessary to ensure the policy is fully understood.

Broome and Central NY DDSOs will distribute the procurement policy to DDSO fiscal staff. Broome DDSO Community Fiscal Supports staff will be available for questions from Springbrook staff, if applicable, to ensure policies are understood. This will be monitored by the DDSOs' Deputy Directors. Broome and Central NY DDSOs Community Fiscal Supports staff will monitor all bids, including Springbrooks, to ensure each bid is in compliance with the procurement policy.

2. Require Springbrook to develop and utilize an expanded vendor listing to promote true competition when awarding contracts.

Broome and Central NY DDSOs administrations will request from Springbrook a current vendor listing to ensure that the list has been expanded to promote true competition.

3. Ensure that Springbrook complies with the State's and its own procurement regulations and correct any noted deficiencies.

Broome DDSO Community Fiscal Supports Unit will request a copy of Springbrook's procurement procedures. Broome DDSO staff will audit Springbrook's procedures against the State's regulations and will notify Springbrook for resolution of any deficiencies. The results will be shared with the Central NY DDSO Interim Director. In addition, the DDSO will request procurement procedures from other voluntary agencies to ensure the accuracy of their procedures with State regulations.

4. Require Springbrook and its Board of Directors to develop and implement adequate internal controls regarding the selection of vendors for Preservation Fund projects. Periodically, review the controls to make sure they are in place and operating properly.

The Broome DDSO Administration will meet with Springbrook Administration and its Board of Directors to discuss the process to

meet the recommendations of the OSC report. In addition, Broome DDSO will request Springbrook's procedure for selection of vendors for Preservation Fund Projects, Internal Control Processes, as well as training of Springbrook staff on their roles in the process.

5. Require the Broome and Central New York offices to more closely review all bids from Springbrook and periodically review the awarding of Preservation Funds.

Broome and Central NY DDSOs' staff will closely review all bids from Springbrook. Audits of their procurement policy compliance will be conducted by Broome and Central NY DDSOs, including a review of documents submitted by Springbrook for bids and payment. The Deputy Directors for Broome and Central NY DDSOs will monitor reports from staff.

In addition, the management of the Broome and Central NY DDSOs will monitor that Springbrook has complied with items 6 – 10 included in the report. "Lessons learned" from this experience will be part of training provided by the Broome DDSO for other Providers. The training will occur at the Voluntary Executive Directors' Quarterly Meetings chaired by the DDSO management team.



December 4, 2007

William Challice
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Challice,

This letter is in response to the draft audit report (2007-S-51), Office of Mental Retardation and Developmental Disabilities (OMRDD) Preservation Procurement Practice at Springbrook NY, Inc.

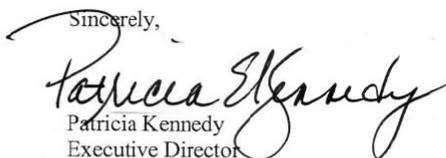
I would like to address the recommendations and Springbrook's response to those recommendations.

- All staff were trained in Springbrook's procurement policy.
- A listing of vendors is being promulgated that meets all requirements of the bidding practices of Springbrook and all other policy and procedures of Springbrook.
- Vendors will also be evaluated on an annual basis for the timeliness, integrity and responsiveness to the unique requirements and responsibilities at Springbrook.
- The internal control structure is strengthened with definitive policies, checking of prospective vendor's and consistent bidding practices. In addition, we are seeking to fill a Director of Facilities position that will report directly to the CEO.
- The Chief Financial Officer received a disciplinary warning and a corrective action plan that addresses the need for oversight of all financial functions within the organization. This action and plan is shared with the Executive Committee of the Board.

Springbrook's administrative staff and Board of Directors seriously reviewed all practices present and past in regard to Preservation grant monies. We found that the people we serve benefited greatly from the program as shown by our homes to this day.

The only infractions found were during the tenure of our former Director of Facilities who bore direct responsibilities for the fictitious bids and bidding practices. The Director of Facilities was terminated prior to this investigation.

No bidding infractions were found prior to the hire of the former Director of Facilities or subsequent to his termination. No current employee benefited from the fictitious bids.

Sincerely,

Patricia Kennedy
Executive Director

cc: Patricia McDonnell, Broome DDSO

2705 State Highway 28 • Oneonta, New York 13820 • Phone: (607) 286-7171 • Fax: (607) 286-7166

www.springbrookny.org