
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**STATE OF NEW YORK
BANKING DEPARTMENT**

**QUALITY OF INTERNAL
CONTROL CERTIFICATION**

Report 2008-S-113

AUDIT OBJECTIVE

Our objective was to determine whether the State of New York Banking Department (Banking) submitted a quality internal control certification to the Division of Budget by April 30, 2008.

AUDIT RESULTS - SUMMARY

We determined Banking did submit a quality internal control certification to the Division of the Budget by April 30, 2008. The certification addressed all the requirements of the Budget Policy and Reporting Manual Item B-350 including detailed responses to questions in the internal control summary and Internal Control Task Force recommendations. In addition, we found adequate support to confirm the information in the certificate was accurate.

This report, dated September 25, 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

Internal controls are the integration of the activities, plans, attitudes, policies, and efforts of the people of an organization working together to provide reasonable assurance that the organization will achieve its objectives and mission. While the overall purpose of internal control is to help an organization achieve its mission, internal control also helps an organization to promote orderly, economical, efficient and effective operations, and produce quality products and services consistent with the organization's mission;

safeguard resources against loss due to waste, abuse, mismanagement, errors and fraud; promote adherence to laws, regulations, contracts and management directives; develop and maintain reliable financial and management data, and accurately present that data in timely reports.

The Division of Budget's Budget Policy and Reporting Manual Bulletins B-350 and B-1177 require the head of each covered State agency and public authority to certify compliance with the State's Internal Control Act by April 30 of each year by submitting a Certification and Internal Control Summary of the internal control activities undertaken during the previous year. The current requirements in the BPRM B-350 internal control certification has been updated with a list of agencies required to establish and maintain an internal audit function and also requires agencies identify specific actions taken to implement each of the recommendations in the Internal Control Task Force report "*The New York State Internal Control Act Implementation Guide: Strengthening Compliance with the Act and Standards.*" These recommendations include specific guidance for agencies, the Internal Control Task Force, NYS Division of Budget and the NYS Comptroller's Office. The recommendations were developed to provide agencies with an improved level of assurance that an appropriate set of controls are in place within the agency and are functioning properly. Recommendations directed toward agencies relate to internal control coordination, implementation, education and training as well as internal audit organization, staffing, processes, and continuing education.

The Banking Department was established in 1851 with a chief officer known as the Superintendent. Its mission is to allow the financial industry to expand and prosper through judicious regulation and vigilant

supervision, to educate and protect consumers while promoting economic growth and ensuring that the financial system is safe and accessible to all. The Banking Law requires Banking to examine the condition and affairs of all institutions subject to its supervision at prescribed intervals and to issue periodic reports of condition.

Banking has both a Director of Internal Audit (DIA) and Internal Control Officer (ICO). The DIA provides guidance and assistance to the ICO during the Internal Control certification process but does not perform any operational functions. In addition, each operating division appoints an Internal Control Coordinator (ICC) who is responsible for the coordination of the divisional internal control review including staff training on internal controls. The ICC works in conjunction with its division management and staff in the risk assessment process which includes providing correction action plans for those risks identified with weak controls or no controls in place. The ICO reviews all the reports and risk assessment documents to compile a list of high impact/high likelihood risks with no controls in place and then a list for those that remain high impact/high likelihood considering the controls in place for Banking as a whole. The ICO also periodically meets with the Superintendent of Banks during this entire process to provide updates and discuss issues/ideas in reference to internal controls.

AUDIT FINDINGS

Quality of Internal Control Certification

The Division of Budget (DOB) requires agencies to certify compliance with the State's Internal Control Act annually by submitting an internal control certification, which includes both an internal control summary report as well as a signed

certification to attest that they met required internal control provisions.

In order to determine if Banking submitted a quality certification, we reviewed the certification to see if they followed the certification instructions outlined in the Budget Policy and Reporting Manual Item B-350, and followed the internal control requirements outlined in the NYS Internal Control Act Implementation Guide and the Internal Control Task Force Recommendations in the Standards for Internal Control in New York State Government which are the basis for the certification. In addition, we determined a quality certification should show evidence an agency responded to all the questions, provided explanation and detail when required, and answered the questions accurately. We also reviewed supporting documentation of the certification provided by Banking to determine if the information reported was accurate.

We determined Banking did submit a quality internal control certification to DOB by April 30, 2008. The certification addressed all the requirements of the Budget Policy and Reporting Manual Item B-350 including detailed responses to questions in the internal control summary and Internal Control Task Force recommendations. In addition, we found adequate support to confirm the information in the certificate was accurate.

We chose Banking for audit because they had not submitted their internal control certifications with DOB in several years. Instead they submitted a plan each year stating steps they planned to take to be able to certify. Banking officials explained that this was because they had trouble filling the DIA position for several years. The prior DIA served as both the ICO and DIA but left in May 2004. A new DIA was hired in January

2008. In addition, recent guidance from both OSC and DOB requires that there be a separation between the ICO role and the Internal Audit function. As a result, the Director for Administration was given the additional function of ICO in September 2007.

With both a DIA and ICO in place, Banking has put emphasis on internal controls this past year and developed an internal control review process. However, their certification states there are a couple of actions they have made progress on but have not completed. Specifically, in Banking's certification it indicates that additional efforts are under development to improve their monitoring efforts. Banking officials state that they will develop a tickler system for corrective actions to ensure completion. In addition, Banking's certification states that in the past year there were no formal internal audits conducted given the vacancy in the DIA position. However, in January a DIA was hired and the Internal Audit Department is recruiting for additional staff while a risk-based audit plan is awaiting the approval from the Superintendent. We encourage Banking to continue their emphasis on internal controls and to complete the two actions noted in their certification as under development.

Certification

The internal control summary report asks agencies to respond to a series of questions regarding the agency's internal control system and also requests information on the specific actions taken by the agency to implement the recommendations made by the Internal Control Task Force. Most of the questions require the agency to provide detailed responses. Banking did provide detailed responses to all questions as required. For example, Banking correctly followed the instructions provided by DOB utilizing the

roadmap and the clarification provided to questions eight and nine to answer all questions including specific action plans for the recommendations made by the Internal Control Task Force. Specifically, one of the recommendations addressing risk assessments stated:

Internal control programs should establish minimum and maximum timeframes for periodically reviewing its organizational structure and inventory of functions.

Banking's response to this recommendation was: "The inventory of functions will be reviewed annually as an integral part of the Internal Control Certification review process. Executive management reviews organizational structure as the need arises during the year. In addition, this issue is considered as the Department prepares for its budget request annually."

In another example, the question was:

List all high-risk activities and indicate which were reviewed during 2007-08.

Banking's response to this question: "In our risk review the Banking Department rated its risk in terms of the impact on the Department and the likelihood of occurrence, unmitigated and mitigated. As a result, we have a picture of our risks before and after considering the influence of internal controls. The attached table outlines the high-risk areas, first absent mitigation, then with controls factored in. You will see that a total of 60 risks were identified as being *High Impact* and *High Likelihood, Unmitigated*. The number drops to three *High Impact* and *High Likelihood, Mitigated* risks when we consider the mitigating controls in place."

Supporting Documentation

We found Banking had adequate documentation to support their certification.

The certification states the ICC works in conjunction with its division management and staff to identify risks in the functional areas. As part of the process, each division identifies their mission statement/business objectives and submits this with their completed risk assessment. The ICO is to review and compile the information from all fifteen divisions to arrive at an overall picture of Banking's risks. The ICO did review and compiled the information for all 15 divisions and this was attached to the certification submitted to DOB. We also reviewed each risk assessment form for all 15 divisions and found that each identified high risk areas (i.e. mitigated or unmitigated) in terms of impact and likelihood of occurrence. In addition, we also found that each division identified their mission statement/business objectives.

Additionally, the Superintendent's announcement to staff outlines his strong commitment to the internal control process and certification. The ICC is responsible for employees' internal controls training in addition to a power point that is available to employees in an informational file on the network called Bridge. This file also contains information on travel, executive presentations, and various forms to name a few. Another data base which is available to employees in Lotus Notes is called the General Administrative Manual. This contains the Internal Control Principles and Standards.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the quality of Banking's 2007-08 B-350

Internal Control Certification. To do our audit we interviewed agency officials to learn about their control activities and reviewed all documentation of internal controls provided by Banking to support their certification.

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 who 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 management 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

Draft copies of this report were provided to Banking officials for their review and comment. Their comments were considered in preparing this report and are included as Appendix A.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include David R. Hancox, Walter Irving, Melissa Little, Thalia Melendez, Sally Perry and Constance Walker.

APPENDIX A - AUDITEE RESPONSE



STATE OF NEW YORK
BANKING DEPARTMENT
ONE STATE STREET
NEW YORK, NY 10004-1417

RICHARD H. NEIMAN
Superintendent of Banks

September 17, 2008

David R. Hancox, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

RE: 2008-S-113 – Quality of Internal Control Certification

Dear Mr. Hancox:

I have received the audit report entitled Quality of Internal Control Certification. This report confirms that the Department submitted a quality Internal Control Certification that addressed all requirements, included detailed responses and was based on accurate information.

The audit report notes that the Department is working to develop a system for following up on corrective actions resulting from the Internal Control process and is developing a risk based audit plan. Progress has been made in these areas since the completion of the audit. I have approved the audit plan and several internal audits are underway. I continue to monitor efforts in this important area.

I acknowledge and appreciate the efforts of the Office of the State Comptroller in performing this audit.

Sincerely,

A handwritten signature in cursive script that reads 'Richard H. Neiman'.

Richard H. Neiman
Superintendent of Banks