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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE BRIDGE
AUTHORITY**

**ACCURACY OF EMPLOYEE
RETIREMENT REPORTING**

Report 2008-S-62

AUDIT OBJECTIVE

The objective of our audit was to determine whether the New York State Bridge Authority (Authority) is complying with the requirements of the Employees' Retirement System (ERS) when it enrolls individuals in the ERS and reports information about their earnings and days worked.

AUDIT RESULTS - SUMMARY

The State Comptroller's Division of Retirement Services carries out the ERS' day-to-day operations, which include enrolling new participants in the ERS and providing employers with guidance that will help them make sound decisions. Both New York State Law and the ERS have established requirements for employers regarding enrolling and reporting employees, as well as elected and appointed officials, to the ERS.

The Authority must enroll all full-time, permanent employees in the ERS; and notify all part-time, temporary, and provisional employees in writing of their right to membership in the ERS and enroll them if they elect to participate. We found the Authority is properly enrolling full-time, permanent employees in the ERS. However, from our test of 25 other Authority employees who were not enrolled in the ERS, we found the Authority had not notified one part-time employee of her eligibility to participate in the ERS. The ERS also requires that only employees, and not independent contractors, be enrolled in the ERS. We found that the Authority is enrolling only employees in the ERS.

The ERS has rules for determining how earnings and days worked should be calculated and reported. Our review found that the Authority is reporting employee earnings accurately to the ERS, but it

incorrectly reported days worked for all enrolled employees in September 2007 due to a software programming error. This same error is likely to have affected the reporting for any of the Authority's 175 or so ERS-enrolled employees who worked during September of any year dating back to 2003.

Our report contains four recommendations to correct the problems identified during our audit. Authority officials generally agreed with our recommendations and are taking steps to implement them.

This report, dated September 11, 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
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Albany, NY 12236

BACKGROUND

The New York State and Local Retirement System (NYSLRS) comprises two different retirement systems: the Police and Fire Retirement System and the Employees' Retirement System (ERS). The ERS provides service and disability retirement benefits, as well as death benefits, to employees of participating public employers in non-teaching positions, exclusive of New York City. As of March 31, 2007, the NYSLRS held cash and investments with a value of more than \$154.5 billion. More than 3,000 participating employers had enrolled about 1 million individuals in the NYSLRS, of whom about 627,000 were enrolled in the ERS.

To qualify for membership in the NYSLRS, an individual must be a paid employee of a participating employer. The employers are required to enroll all permanent full-time

employees in the ERS, and offer participation in writing to part-time, temporary, and provisional employees. Participating employers are responsible for complying with enrollment and reporting requirements contained in the New York Codes, Rules and Regulations and the ERS Employer's Guide.

The Authority, a public benefit corporation created by statute in 1932, operates and maintains five toll bridges that cross the Hudson River (the Rip Van Winkle, near Catskill; the Kingston-Rhinecliff, near Kingston; the Franklin D. Roosevelt Mid-Hudson, at Poughkeepsie; the Hamilton Fish Newburgh-Beacon, linking the cities of Newburgh and Beacon; and the Bear Mountain, located five miles north of Peekskill). As of November 2007, the Authority had 227 employees, of which 178 participated in the ERS.

AUDIT FINDINGS AND RECOMMENDATIONS

Enrollment of Eligible Employees

The Authority is a participating employer in the ERS. According to the ERS Employer's Guide, participating employers must enroll all full-time, permanent employees in the ERS. The ERS refers to this group as mandatory employees. Other employees, such as part-time, temporary, or provisional employees, must be given the option in writing to enroll, although they cannot be required to do so. The ERS refers to this second group as optional employees.

The Authority is required by Section 45 of the New York State Retirement and Social Security Law to notify all optional employees of their right to membership in the ERS, and to obtain a signed acknowledgment from the employees that they were so notified. Additionally, it must retain these signed

acknowledgements. Failure to retain signed acknowledgment forms from optional employees may result in future claims from employees who assert they were not notified of their option to participate in the ERS.

The ERS Employer's Guide also requires that participating employers report earnings and days worked information only for eligible employees. Such information should not be reported for non-employees, such as independent contractors and consultants, because they are not eligible to join the ERS.

Each month, the Authority reports the earnings and workdays to the ERS for each enrolled employee. The ERS provided us with reports for the months of September, October, and November 2007. We compared the names on the ERS reports with the payroll registers provided to us by the Authority for the same months. The employees who appeared on the ERS reports also appeared on the payroll registers. We also reviewed Authority personnel files for certain employee titles to determine whether any consultants or independent contractors had been reported erroneously as employees. We did not identify any such individuals on the payroll.

We also compared the October ERS report with the Authority's payroll registers for the same month and identified 50 Authority employees who appeared on the payroll register, but not on the ERS report. We selected a judgmental sample of 25 of those employees and found the Authority had the required acknowledgement forms on file for all but one of them, who was a part-time employee.

The ERS also provided us with a list of Authority employees who were reported as working for another ERS-participating employer during our scope period. Although most individuals who are reported by more

than one employer have either changed jobs during the period or worked part-time at a second job, reporting by multiple employers could also indicate that a reported employee may actually be a consultant. Our analysis of this information, however, did not disclose any irregularities. We, therefore, conclude that the Authority is enrolling only valid employees in the ERS, not independent contractors or other ineligible individuals.

Recommendation

1. Notify all optional employees of their right to membership in the ERS and obtain and retain signed acknowledgement of this notification.

(Authority officials agreed with our recommendation and indicated that the one missing acknowledgement has been obtained and filed.)

Accuracy of Reported Earnings and Days Worked

ERS rules require participating employers to establish a standard workday for each employee title. A standard workday can be as many as eight hours, but no fewer than six hours. We found the Authority has established a standard workday for all its employee titles. The ERS also has rules for determining how earnings and days worked should be calculated and reported. Generally, the employer should calculate days worked by dividing total hours worked for the month by the number of hours in the standard workday for that position. Days worked includes paid sick leave, vacation leave, holidays, and certain other types of leave. Earnings include gross amounts paid during the reporting period, less amounts such as payments for unused sick leave.

Every month the Authority generates a report that it submits electronically to the ERS. The report contains the earnings and calculated workdays for each Authority employee enrolled in the ERS for that month. This data derives from the Authority's payroll system. To test the accuracy of the Authority's report, we selected a judgmental sample of 20 of the 177 employees reported to the ERS in October 2007. For each employee in our sample, we compared the gross earnings reported to the ERS for the months of September, October, and November 2007 with the corresponding Authority payroll registers. We calculated the days worked by adding up the hours worked according to the payroll registers and dividing by the standard workday.

We found that the earnings figures reported to the ERS matched the payroll records. However, the workdays reported to the ERS for the month of September 2007 were incorrect for each enrolled employee, because days worked in September were never reported to the ERS, while days worked in August were reported twice. We determined that the Authority overreported a total of 192 days for the 20 employees in our sample.

We brought this issue to the attention of Authority officials, who traced the problem to a system programming error. Furthermore, Authority officials indicated that the software application parameters related to this calculation had not been updated since 2003. Therefore, it is likely that the same error has occurred in each of the four previous years and could have affected all employees on the payroll during September of each year. This incorrect reporting can affect the calculation of benefits when these employees retire and, therefore, it needs to be corrected.

We also tested the Authority's reporting of earnings and days worked for employees who

were on extended leave. We identified four employees who were either on leave without pay or on leave with partial pay between September and November of 2007. We compared the days worked reported to the ERS for the relevant period with the payroll registers from the Authority. We found that only two of the four employees had been reported correctly to the ERS. Due to the previously-discussed system error, the other two employees' reported workdays were incorrect for September 2007: one employee was overreported by 16.28 days and the other by 2.22 days.

To test the Authority's reporting of earnings and days worked for employees added to and removed from the payroll, we identified one employee who was added to the payroll and one who was removed from the payroll between September and November 2007. We compared the days worked reported to the ERS for the relevant period with the payroll registers from the Authority. We found no discrepancies between the payroll registers and what was reported to the ERS.

Lastly, the ERS has rules for determining how the days worked by appointed officials should be calculated and reported. We found that none of the Authority's appointed officials is compensated or enrolled in the ERS.

Recommendations

2. Verify that the system errors identified by this audit have been corrected and the system for reporting days worked is functioning properly.

(Authority officials agreed with our recommendation and stated that the error has been corrected and the system is functioning properly.)

3. Correct the reported workday errors resulting from the programming error by filing the appropriate adjustments with the ERS.

(Authority officials agreed with our recommendation and indicated they are in the process of filing the appropriate adjustments with ERS.)

4. Monitor the data reported to the ERS to ensure accurate reporting.

(Authority officials agreed with our recommendation and indicated that the data is monitored.)

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the Authority's enrollment of individuals in the ERS and its reporting of retirement information to the ERS. Our audit covers the period April 1, 2005, through February 8, 2008.

To accomplish our audit objective, we reviewed State laws and regulations addressing employer participation in the ERS, focusing on the requirements for employee enrollment and the reporting of earnings and days worked. We also reviewed the Authority's guidelines in these areas. We interviewed Authority officials and staff to identify the policies and procedures in place for enrolling employees in the ERS and reporting information about their earnings and days worked to the ERS.

We obtained Authority payroll registers for the months of September, October, and November 2007. We also identified Board members and other appointed officials during our scope. To determine whether the

individuals who were not enrolled in the ERS had been notified appropriately of their eligibility for enrollment, we reviewed personnel files for selected employees. We also reviewed files for individuals in certain employee titles to determine whether any consultants or independent contractors had been reported erroneously as employees.

To determine whether earnings and days worked information was reported accurately to the ERS, we compared the information on file at the ERS with Authority payroll registers for September, October, and November 2007. We also reviewed these payroll registers to determine whether the employees reported to the ERS by the Authority for those months were, in fact, on the payroll. In addition, the ERS provided us with a list of Authority employees who were also reported to the ERS by another participating employer.

During the course of our audit, we selected various samples of employees for review. All of these samples were judgmental samples and they were selected on the basis of potential risk.

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

This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Authority officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the New York State Bridge Authority 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 Frank Houston, John Buyce, Greg Petschke, Sharon Salembier, Jennifer Paperman, Ray Barnes, W Sage Hopmeier, Richard Podagrosi, Andre Spar, and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE



NEW YORK STATE BRIDGE AUTHORITY

July 16, 2008

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Mr. Frank J. Houston, Audit Director
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Dear Sir/Madame:

Thank you for the opportunity to comment on your draft audit report 2008-S-62 regarding the Bridge Authority's accuracy of employee retirement reporting. We have addressed each of the four recommendations as follows:

Recommendation 1 – Notify all optional employees of their right to membership in the ERS and obtain and retain signed acknowledgement of this notification.

The Authority has been complying with this recommendation since 1992. The one unfound notification acknowledgement was misplaced and the employee has filed a replacement.

Recommendation 2 – Verify that the system errors identified by this audit have been corrected and the system for reporting days worked is functioning properly.

The system programming error identified by the audit was corrected and the system for reporting days worked is functioning properly.

Recommendation 3 – Correct the reported workday errors resulting from the programming error by filing the appropriate adjustments with the ERS.

We are currently in the process of filing the appropriate adjustments with the Employees' Retirement System.

Recommendation 4 – Monitor the data reported to the ERS to ensure accurate reporting.

The data is monitored to ensure accurate reporting.

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We would like to thank you and your staff for your guidance.

Sincerely,


GEORGE C. SINNOTT
Executive Director

JRS/lr