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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 4, 2016

Matthew J. Driscoll
Commissioner
Department of Transportation
50 Wolf Road
Albany, NY 12232

Re: Railroad Bridge Inspection Program
Report 2016-F-13

Dear Mr. Driscoll:

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 Department of Transportation (Department) to implement the recommendations contained in our audit report, *Railroad Bridge Inspection Program* (Report 2013-S-5).

Background, Scope and Objectives

In an effort to enhance public safety and decrease the risk of railroad bridge failures, State law was enacted in 1994 directing the Department to establish and oversee a Railroad Bridge Inspection Program. The Department issued regulations in 1999 which require each railroad to conduct annual bridge inspections in accordance with formal bridge management plans and inspection procedures developed under the guidance of a licensed professional engineer. The regulations require that the inspection procedures contain the qualifications of the individuals conducting the inspections and that they be submitted to the Department and updated as necessary. The regulations also require each railroad to submit an annual certification that its railroad bridges are safe for the load imposed, and to provide the Department with an inventory of its bridges which should be kept current. The Department currently owns and has maintenance responsibility for 29 railroad bridges and has inspection responsibility for 50 railroad bridges.

Our initial audit report, which was issued on December 9, 2013 and covered the period January 1, 2010 through June 30, 2013, determined whether the Department properly oversaw railroads in the State to ensure they met the bridge inspection requirements. We concluded that the Department was not sufficiently monitoring whether the railroads complied with its bridge and inspection reporting requirements. Specifically, our audit found that:

- Bridge management plans on hand were an average of 10 years old and may no longer have been relevant;
- The Department had incomplete information on the inventory of railroad bridges and their inspections;
- The Department did not actively monitor submission of inspection certifications resulting in late and incomplete submissions;
- The Department did not monitor whether inspections were done on the bridges under its responsibility, resulting in eight inspections that were never done; and
- The Department had not communicated with the Federal Railroad Administration (FRA) to determine if information could be shared.

The objective of our follow-up was to assess the extent of implementation as of July 7, 2016 of the six recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We found the Department has made progress in implementing the recommendations identified in our prior audit report. Of the six prior audit recommendations, one has been implemented, four have been partially implemented and one is no longer applicable. Further, Department officials are awaiting finalization of proposed changes in legislation that, if enacted, would amend the scope of the Department's responsibility and help them complete implementation.

The Railroad Bridge Inspection Program will potentially be impacted by pending legislative Bill S08119 (Bill), which proposes a "Rail Safety Act of 2016." The Bill, if enacted, would amend existing State laws (including the Railroad Law, Transportation Law, Highway Law, and Vehicle and Traffic Law) regarding railroad safety. Specifically, Section 4 of the Bill would align railroad bridge inspection requirements for all railroad bridges, whether publicly or privately owned, with federal regulations requiring each railroad to provide the following to the Department's Commissioner:

- An inventory of every railroad bridge either owned or used by such railroad;
- A bridge safety management program;
- Written bridge management and inspection procedures;
- Copies of inspection reports upon request (within 30 days of requested date);
- A certification that each bridge has been inspected (prior to March 15 of each year); and
- Notification of any changes affecting bridge safety.

As of the date of the report, the Bill has passed both the Assembly and the Senate and is awaiting review and action by the Governor.

Follow-Up Observations

Recommendation 1

Take steps to bring the Program into compliance by updating the bridge management plan information, bridge inventory, and bridge inspection data for each railroad operating in the State.

Status – Partially Implemented

Agency Action – The Department requested and received updated bridge management plan information, as well as bridge inspection certifications, for all but two railroads operating in the State. Despite repeated requests from the Department, one railroad failed to provide a bridge management plan, and another failed to provide a bridge inspection certification. Also, the Department was not able to provide an updated bridge inventory for each railroad operating in the State.

Recommendation 2

Evaluate options for maintaining a bridge database, such as adding the remaining bridges to BDIS or obtaining bridge inventory data from the FRA. Implement the optimal method that meets Program requirements.

Status – Partially Implemented

Agency Action – Department officials indicated that they have scoped and budgeted aspects of incorporating the railroad bridge inspection and inventory databases into the Enterprise Asset Management Program. While progress has been made, the Department is awaiting the approval of the proposed legislative changes before the databases are fully incorporated into the system to ensure the scope is defined in accordance with the amended statutes.

Recommendation 3

Periodically monitor the submission, completeness and accuracy of railroad inspection certifications.

Status – Partially Implemented

Agency Action – The Department has requested and collected all but one inspection certification for 2015. However, the Department is still not requesting diving inspection dates or line segment capacity maps.

Recommendation 4

Ensure each bridge for which the Department is responsible is inspected annually.

Status – Implemented

Agency Action – The Department provided documentation to support the inspection of all 50 bridges for which the Department had inspection responsibility during 2015.

Recommendation 5

Improve communications, both internally and with the railroads, to ensure that timely, accurate and complete information is available to all stakeholders to improve Program operations.

Status – Partially Implemented

Agency Action – The Department was able to provide documentation to show improved and appropriate communication with railroads, the FRA and the Association of American Railroads. However, the Department units that handle various areas relating to the railroads are still using the same informal communication mechanisms that were documented during the original audit to convey relevant information, such as changes in bridge inventories. These informal communication methods could result in one Department unit knowing about changes to the bridge inventory, but failing to provide the updated information to other Department units. Department officials stated that their plans to add the railroad bridge and inspection database to their Enterprise Asset Management System will subsequently provide a formal communication mechanism and ensure changes, such as railroad bridge inventories updates, are timely, accurate and complete and are available to all Departmental stakeholders.

Recommendation 6

Coordinate with the FRA to identify redundancies in Program activities or information. Evaluate opportunities to leverage the work of all parties to streamline operations through information sharing and coordinated monitoring.

Status – Not Applicable

Agency Action – According to Department officials, they contacted the FRA and determined that the FRA does not collect any information from railroads. Therefore, the Department is unable to take advantage of information sharing with the FRA.

Major contributors to this report were Amanda Eveleth, Holly Thornton and Molly Kramm.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank Department of Transportation management and staff for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

John F. Buyce, CPA, CIA, CFE, CGFM
Audit Director

cc: Theresa Vottis, Department of Transportation