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OFFICE OF THE STATE COMPTROLLER

March 22, 2010

Mr. Galen D. Kirkland
Commissioner
NYS Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, New York 10458

Re: Report 2009-F-17

Dear Mr. Kirkland:

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 Division of Human Rights (Division) to implement the recommendations contained in our audit report, *Internal Controls Over Selected Financial Operations* (Report 2007-S-25).

Background, Scope and Objective

The State Commission Against Discrimination was created in 1945 to enforce the State's civil rights laws. In 1968 it was renamed the Division of Human Rights (Division). The Division ensures that New Yorkers have equal opportunity in employment, housing, public accommodation, credit and education. It also serves as an alternative to the court system for resolving discrimination claims. The Division has a Central Office in the Bronx and it has nine regional and two satellite offices throughout the State.

Our initial audit report, which was issued on April 10, 2008, examined whether the Division established an adequate system of internal controls over its financial operations. We found that the Division did not have an adequate system of internal controls over its basic financial operations. We identified control weaknesses over equipment inventory, purchasing, disbursements, payroll, accounting and information systems, budgeting and governance. We found the Division's inventory did not list items such as office furniture and did not include all necessary information. The Division did not perform annual physical inventory counts. The Division also did not always maintain the necessary supporting documentation to provide reasonable assurance that purchases were needed and properly authorized and that the goods or services were received. We also found missing and incomplete entries on daily attendance records for administrative employees and that two regional offices did not use any form of record to monitor time and attendance. Input for Division budgetary needs was not maintained and information needed to monitor budgets was not available. Finally, the Division had not established a code of conduct detailing generally applicable procedures and expectations for employees. In June 2008, the Division signed a Memorandum of

Understanding (MOU) with the New York State Division of the Budget (DOB) for the provision of comprehensive financial services to the Division. The objective of our follow-up was to assess the extent of implementation as of February 16, 2010 of the 20 recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Division officials have made some progress toward implementing the recommendations contained in our prior audit report. However, additional improvements are needed. Of the 20 prior audit recommendations, eight recommendations have been implemented, nine recommendations have been partially implemented and three recommendations have not been implemented.

Follow-up Observations

Recommendation 1

Develop and implement a perpetual equipment inventory record that identifies tag number, location, purchase price, and purchase date for all equipment, including electronic equipment.

Status - Partially Implemented

Agency Action - Division officials state they completed a physical inventory of all Division equipment, including electronic equipment, during the summer of 2009. This was the first step intended to develop a comprehensive perpetual equipment inventory system which identifies the tag number, location, primary user, serial number if applicable, and a link to a photograph of the item. Although the inventory record does not indicate a purchase date or price for existing equipment items, Division officials stated that the purchase price and purchase date for all newly purchased equipment items will be recorded in the inventory records for all future equipment purchases. However, we found 50 Dell computers and monitors, received by the Division on April 2, 2009, were still in boxes in a storage room for over 10 months and had not been recorded in the inventory records. Division officials indicated that they would place these computers and monitors on the inventory system once they were issued to Division staff. This practice of delaying entry into the inventory records increases the risk of an undetected theft. Division officials need to place equipment items on their inventory system immediately upon receipt of goods.

Recommendation 2

Establish the minimum dollar value for recording equipment purchases on the perpetual inventory record and establish written procedures for the transfer and disposal of equipment.

Status - Implemented

Agency Action - On February 27, 2008, the Division adopted a policy that established \$1,000 as the minimum value for recording equipment having a useful life of two years or more, on its perpetual inventory system. The Division also established written procedures in its

inventory policy for the transfer and disposal of equipment.

Recommendation 3

Perform annual physical counts of Division equipment.

Status - Partially Implemented

Agency Action - As mentioned under Recommendation 1, Division officials completed an initial physical count of its equipment inventory and, subsequently, created a new comprehensive inventory record during the summer of 2009. To validate the accuracy of Division efforts, we reviewed the newly created inventory records for select equipment items at two Division regional offices and found the sampled equipment items to be properly recorded. However, the 50 unopened computers and monitors held in storage were not identified by the Division, undermining the essential purpose of performing a physical count. To ensure the accuracy of its inventory records and the safe keeping of equipment items, the Division's physical counts need to account for all inventory items, including items in storage, and make appropriate adjustments to its inventory records when needed.

Recommendation 4

Account for the missing equipment noted in this report. If it is determined that items cannot be accounted for, update the electronic equipment inventory list accordingly.

Status - Partially Implemented

Agency Action - After completing their physical count and new inventory record, Division officials had not given adequate attention to identifying the missing items identified in our prior report. In response to our inquiries during this follow-up review, Division officials began the process of tracking down those missing items. To date, officials stated that they have found about a third of the 86 missing items and continue their efforts to pursue the remaining items.

Recommendation 5

Comply with State and Division purchasing guidelines, including maintaining all appropriate documentation relating to purchases, selecting vendors, and using either State contracts or normal competitive bidding, when required.

Status - Partially Implemented

Agency Action - In June 2008, the Division signed an MOU with DOB. Under the MOU, DOB was to provide the Division with comprehensive financial services. These services include determining the best method of procurement and the selection of vendors in accordance with all applicable State rules and regulations. DOB is also responsible for keeping complete records of all these financial transactions and for serving as the account administrator for the Division's procurement and travel cards. We believe that DOB's involvement has served to

assist the Division in achieving the recommended results. However, the Division is still ultimately responsible for its operations and should develop monitoring practices to ensure that purchasing guidelines have been followed. We found that the Division was not effectively monitoring purchasing transactions made by DOB to ensure an open and competitive process was followed. For example, the Division could not supply us with evidence indicating a competitive process was followed for three of four sampled transactions.

Recommendation 6

Separate the duties relating to payment of purchases.

Status - Not Implemented

Agency Action - Since June 2008, purchasing duties have been handled primarily by DOB. Since then, the Division submits the vendors' invoices along with evidence of goods or services received to DOB for audit and payment. As a check to ensure DOB has not mishandled any transactions, Division officials developed a system to reconcile requisition and receiving reports maintained by Division staff, with the voucher documents submitted by DOB. However, on July 8, 2009 the Division's electronic summary record of vendor invoices used to validate vouchers DOB charged to the Division was corrupted, ending further efforts to validate the appropriateness of charges to the Division. It is not clear why the Division has not corrected this problem for the past seven months. Without this validation process the Division is not able to verify that all payments made by DOB on its behalf are appropriate. Division officials indicated that they would redirect efforts to continue this validation procedure beginning April 1, 2010.

Recommendation 7

Take purchase discounts when appropriate.

Status - Not Implemented

Agency Action - Division officials maintain that DOB's involvement in the purchasing process makes it more difficult to implement this recommendation. We pointed out that the Division should track the time between receipt of goods and payments to vendors. In this manner, the Division will know whether payments are being made within the discount periods offered by some vendors. To begin this tracking process, Division officials state they will create a new invoice database in April 2010 to coincide with the start of the new State fiscal year.

Recommendation 8

Enter correct object codes into the State Accounting System.

Status - Implemented

Agency Action - In accordance with the MOU, DOB is now entering the object codes into the State Accounting System. Division staff regularly review and reconcile vouchers submitted by DOB to ensure that items purchased are reflected accurately and coded properly. We reviewed several transactions and found items were coded properly.

Recommendation 9

Develop a policy regarding the use of per diem rates for consultants.

Status - Implemented

Agency Action - On February 27, 2008, the Division adopted a policy that provides for the use of the per diem rates as established by State Law and the State Comptroller's Travel Guidelines for authorized consultant travel reimbursements.

Recommendation 10

Verify that goods have been received or that services have been provided before paying vendors.

Status - Implemented

Agency Action - Division officials established procedures to document the receipt of goods and services in the Division's policy adopted on February 27, 2008. Before transferring invoices and other supporting documentation, like packing slips to DOB for audit and payment, the Division verifies that the corresponding goods and services were received. We found receiving reports contained signatures of Division staff indicating that goods were received. These signed receiving reports, along with invoices, are then submitted to DOB for payment.

Recommendation 11

Encourage the use of the State Purchasing Card for small-dollar purchases.

Status - Partially Implemented

Agency Action - Since June 2008, DOB took over responsibility for determining whether a State voucher or the State Purchasing Card (credit card) should be used to make Division purchases. Our review of a sample of small-dollar purchases found that there were some that were not processed through the credit card as recommended. However, we found that use of State vouchers for small-dollar purchases (purchases under \$1,000) have dropped significantly from an average of 358 per month in 2007 to an average of 140 per month in 2009. Division officials state that this drop in use of State vouchers is attributed to their increased focus on using the credit card. We believe the Division can improve upon this outcome by more closely monitoring small-dollar purchases.

Recommendation 12

Update petty cash procedures to better reflect requirements for use of the funds, including the appropriate supporting documentation. Distribute procedures to the appropriate personnel and monitor that the procedures are being followed.

Status - Implemented

Agency Action - On June 27, 2008, the Division issued updated detailed procedures to identify those circumstances when petty cash should be used. These procedures included steps for requisitioning goods, authorizing petty cash purchases, and describing the type of evidence required to support petty cash transactions. These policies are available to all staff on the Division's intranet. Division officials also review petty cash transactions and sign-off on transaction to verify procedures are followed. We reviewed a sample of petty cash vouchers for the month of July 2009 and found that all supporting documents were appropriate.

Recommendation 13

Separate the custodial, bank reconciliation, and check-signing functions of the petty cash fund.

Status - Implemented

Agency Action - The Division has adequately separated these petty cash functions. A Principal Account Clerk at the Division is the custodian of this fund. DOB replenishes the fund for petty cash disbursements that are appropriately documented. A Finance Specialist reconciles the petty cash account and also monitors agency compliance with petty cash procedures. Petty cash checks are now signed by the Division Deputy Commissioner or First Deputy Commissioner.

Recommendation 14

Develop and distribute time and attendance record keeping procedures to comply with the requirements of the Manual. Monitor compliance with the procedures.

Status - Partially Implemented

Agency Action - Our initial audit found that logs, calendars and other authorized forms used by supervisors to monitor staff attendance were either incomplete or not utilized. During our follow-up review we found that Division officials have developed procedures for time and attendance, including procedures for addressing staff incurring excessive sick leave. However, Division officials could not demonstrate that they had taken steps to ensure supervisors, throughout all regions, maintained complete and accurate supervisory records of staff attendance practices.

Recommendation 15

Maintain an accurate listing of assigned work locations for regional office employees.

Status - Implemented

Agency Action - Division officials have developed an accurate listing of regional office employees. We selected a sample of staff from four regional offices, as reflected on the Division's payroll cost centers, and compared it to the Division's staff directory. We found only minor differences, which were adequately justified by Division officials. For example, the Division's directory had not been updated for two recent staff transfers.

Recommendation 16

Obtain written documentation indicating whether the use of excessive sick leave is warranted.

Status - Partially Implemented

Agency Action - The Division's Personnel Officer reviewed sick leave accruals for all staff and issued memos on February 11, 2010 to supervisors identifying 21 staff with relatively low sick leave balances. The memo directs the supervisors to assess whether there is good reason for the usage of sick leave for the respective staff and to counsel staff for poor performance if deemed appropriate. We informed Division officials that when they find inappropriate and excessive use of sick leave, they should require staff to submit medical documentation for continued use of sick leave, until it is demonstrated that abusive use of sick leave has ceased.

Recommendation 17

Perform periodic assessments of the accuracy and integrity of accounting and information systems.

Status - Partially Implemented

Agency Action - Division officials reportedly review all charges on a monthly basis to validate the propriety and accuracy of all transactions processed by DOB. However, one of the key validation measures involves matching Division authorized invoice data with DOB expenditure payment data, which was temporarily ceased in July 2009 due to a corrupted file maintained by the Division. Division officials stated that this validation procedure will be reinstated beginning April 1, 2010.

Recommendation 18

Solicit and maintain input from managers when compiling the Division's budget.

Status - Partially Implemented

Agency Action - The Division's regional managers are not invited to offer their input when budgets

re initiated each year. That responsibility is handled by the Division's central office senior management. However, the Regional Deputy attends monthly meetings with central office senior management, wherein discussions involving the operating budget and performance issues are addressed. Division officials state that the Regional Deputy voices the budgeting concerns of the regional managers at these meetings. In addition, the Division's Deputy Commissioner for Administration and Finance advised us of plans to consider regional managers' and directors' feedback in developing the Division's 2010-11 budget proposals.

Recommendation 19

Prepare reports detailing variances between budgeted and actual costs.

Status - Not Implemented

Agency Action - Division officials state that the Division's budget has remained relatively flat for several years reflecting little movement or flexibility while demands for services continue unabated. To their credit, Division officials recognize the importance of establishing an operating budget and monitoring adherence to those budgets. As such, Division officials state that they plan to initiate the process of monitoring actual versus planned expenditures starting with development of the Division's 2010-11 budget proposals.

Recommendation 20

Establish and distribute a code of conduct.

Status - Implemented

Agency Action - The Division established a Code of Conduct for its employees to follow on January 14, 2008, and updated it on June 12, 2009. We confirmed that selected employees had signed a document acknowledging they had received a copy of the code of conduct.

Major contributors to this report were Santo Rendon, John Lang, and Margarita Ledezma.

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 the management and staff of the Division for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Donald D. Geary
Audit Manager

cc: Thomas Lukacs, Division of the Budget
Stephen Rolandi, Deputy Commissioner
Larry Wizman, Audit Liaison