



DASNY

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Governor

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Chair

GERRARD P. BUSHELL, Ph.D.
President & CEO

June 30, 2017

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Governor of the State of New York
NYS State Capitol Building
Albany, NY 12224

The Honorable Liz Krueger
Ranking Minority Member, Senate Finance Committee
Legislative Office Building, Room 808
Albany, NY 12247

The Honorable Thomas P. DiNapoli
New York State Comptroller
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The Honorable Bob Oaks
Ranking Minority Member, Assembly Ways and Means Committee
NYS Capitol, Room 444
Albany, NY 12248

The Honorable Senator John J. Flanagan
Temporary President, New York State Senate
NYS Capitol Building, Room 330
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The Honorable Assemblyman Carl E. Heastie
Speaker of the New York State Assembly
Legislative Office Building, Room 932
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The Honorable Jeffrey A. Klein
Coalition Leader of the New York State Senate
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The Honorable Andrea Stewart-Cousins
Democratic Conference Leader, New York State Senate
Legislative Office Building, Room 907
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The Honorable Brian M. Kolb
Minority Leader, New York State Assembly
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The Honorable Catharine Young
Chair, Senate Finance Committee
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The Honorable Herman D. Farrell, Jr.
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Ladies and Gentlemen:

On April 4, 2017, the Office of the State Comptroller (OSC) issued the final report of its audit of the Dormitory Authority of the State of New York's (DASNY) compliance with prevailing wage requirements on construction contracts for the period of January 1, 2014 through June 17, 2016. This letter constitutes my report as President and Chief Executive Officer to advise as to the steps taken by DASNY to implement the recommendations contained in OSC's final report.

The recommendations contained in OSC's final audit report are set forth below. DASNY has taken actions to address the recommendations as follows:

OSC Recommendation #1:

- *Ensure Authority project managers and/or field representatives periodically verify prevailing wage postings on job sites. Require verifications of wage postings to be documented.*

Legal Requirement:

NYS Labor Law §220 subd. 3-a[a][ii] provides that it is the obligation of the contractors and subcontractors to post the prevailing wage information on the job site, and the NYS Department of Labor (DOL) to monitor compliance with this obligation.

DASNY Pre-Audit Controls:

- To facilitate compliance, DASNY requires its Project Managers and Field Representatives to verify postings at the job site, and believes that job site postings are occurring in most cases. In cases where postings do not occur, it is likely because of physical limitations at some of DASNY's smaller project sites (e.g., lack of contractor or DASNY field office where the contractor can post signage visibly). In these cases, Project Managers and Field Representatives will work with the contractors to find alternate locations to post wage schedules, such as on a job box for tools or on a wall inside the work area.

Post-Audit DASNY Actions:

- In June 2016, the Managing Director of DASNY's Construction Division sent an email correspondence to all DASNY field site staff reminding them of field site signage requirements. Periodic reminders will be sent to field staff going forward.
- On March 17 and 24, 2017, the Managing Director of DASNY's Construction Division as well as DASNY's General Counsel conducted training sessions for DASNY's Construction Division to, among other things, remind them of field signage requirements and to reinforce that DASNY Project Managers and field staff are required to verify postings of prevailing wage information at all job sites.

OSC Recommendation #2:

- *Require Labor to provide the Authority with periodic reports which sufficiently detail the nature and results of the Investigator's monitoring efforts regarding Authority construction projects. Request and obtain adequate supporting documentation to ensure the Authority receives the services it pays for as prescribed by the Agreement.*

Legal Requirement:

Under existing law (NYS Labor Law §220 subd. [6], [7] and [8]), investigative jurisdiction for prevailing wage violations is vested exclusively in the NYS Department of Labor (DOL) and not DASNY. (The City Comptroller has jurisdiction over prevailing wage violations at City-owned projects.)



DASNY Pre-Audit Controls:

For over 15 years, DASNY and DOL have had a written agreement to fund the cost of a dedicated DOL Inspector for prevailing wage matters to ensure that DOL has adequate resources to investigate prevailing wage claims at DASNY's construction sites statewide. This approach respects both DOL's investigatory jurisdiction and statutory mandate to enforce prevailing wage requirements, as well as DASNY's need to ensure compliance, minimize delays and complete projects (to the extent practicable) on time and at an acceptable cost to the public.

With full recognition of DOL's exclusive jurisdiction in these matters, DASNY's Office of Internal Affairs manages this investigatory relationship with the DOL by maintaining contact with the DOL Investigator and his/her supervisor. As noted in the preliminary audit findings, this oversight includes a monthly reporting procedure to keep DASNY abreast of critical information.

Post-Audit DASNY Actions:

- o DASNY has amended its contractual agreement with the DOL to provide for enhanced reporting in the form of regular audit reports. Changes to the agreement include the following under the "Enhanced Enforcement" section:

In addition, DOL will provide audit reports to DASNY on a regular basis, regarding activities of the dedicated DOL personnel assigned under this agreement. Those reports will be used to allow DASNY to determine, as provided in II above, whether DASNY funds have been used solely for the costs of employing appropriate personnel related to the program.

- o DASNY representatives have also personally met with their DOL counterparts to discuss increased communication and reporting going forward and DASNY and DOL look forward to enhanced communications in this area. DASNY and DOL intend to meet on a regular basis to discuss mutual issues of concern.

Should you have any questions or need any additional information, please contact:

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Thank you.

Sincerely,

Gerrard P. Bushell, Ph.D.
President and CEO

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