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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 14, 2014

Mr. Howard P. Milstein
Chairman
New York State Thruway Authority
200 Southern Boulevard
Albany, NY 12201

Re: Travel Plaza Revenues and Capital
Improvements
Report 2014-F-8

Dear Mr. Milstein:

According to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Article II, Section 2803 of the Public Authority Law, we have followed up on the actions taken by officials of the New York State Thruway Authority (NYSTA) to implement the recommendations contained in our audit report, *Travel Plaza Revenues and Capital Improvements* (Report 2008-S-103).

Background, Scope, and Objective

NYSTA has 27 travel plazas where vendors offer fuel and food to travelers under concession contracts. To provide these services, NYSTA contracts with two fuel concessionaires: Sunoco, Inc. (Sunoco) and Lehigh Gas Corporation (Lehigh). Also, it contracts with three food concessionaires: McDonald's Corporation (McDonald's), HMS Host Family Restaurants, Inc. (HMS Host), and Delaware North Companies Travel Hospitality Services (Delaware North).

The concessionaires pay a certain amount of rent each month, based on either their fuel deliveries or food sales for the month, and make certain capital improvements to their facilities over the lives of their long-term contracts. During the 15-month period ending March 31, 2014, the two fuel concessionaires paid NYSTA a combined \$3 million in rent based on reported fuel deliveries of more than 80 million gallons. During this same period, the three food concessionaires paid NYSTA a combined \$12.7 million in rent based on reported gross sales of almost \$129 million.

The contracts with Sunoco and Lehigh began on April 1, 2007 and both expire on March

31, 2017. The contracts with HMS Host and Delaware North both began October 1, 2006 and both expire on December 31, 2019. The contract with McDonald's began on October 1, 1991 and expired December 31, 2009. The McDonald's contract contains renewal provisions which NYSTA has exercised.

Our initial audit report, which was issued on January 15, 2010, examined whether NYSTA adequately ensured that fuel and food concessionaires at Thruway travel plazas are (1) paying their rent on time, (2) paying the full amount of rent due under their contracts, and (3) making the capital improvements required by their contracts. We found that NYSTA's efforts were adequate to ensure fuel and food concessionaires pay the full rent on time and make required capital improvements. We also found some improvement opportunities. We found that a fuel concessionaire underreported its fuel deliveries in one month tested, and as a result underpaid its rent for that month. Furthermore, we found that concessionaires were generally making the required capital improvements. However, there was a risk that one food concessionaire might not meet its spending target by the end of its contract, and one fuel concessionaire was not submitting documentation of its capital expenditures as the work was completed.

The objective of our follow-up was to assess, as of July 17, 2014, the implementation status of the eight recommendations in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found one recommendation in our initial report was no longer applicable. For the remaining seven recommendations, we found six had been implemented and one not implemented by NYSTA.

Follow-Up Observations

Recommendation 1

Improve the monitoring of the concessionaires' rent payments to ensure that any late payments are promptly identified and interest on the payments is promptly billed to the concessionaires.

Status - Implemented

Agency Action - NYSTA has created a tracking spreadsheet to identify when concessionaires' rent payments are late. The spreadsheet also tracks how much interest concessionaires owe on their past due rent. NYSTA staff continually update and monitor the spreadsheet. If they identify any late payments, they promptly bill the concessionaires for the accumulated interest due. Since March 2013, there has been only one late rent payment beyond the allowable grace period. NYSTA promptly billed the concessionaire for the associated interest due related to this payment.

Recommendation 2

Collect the unpaid interest from Lehigh (\$15,026), Delaware North (\$2,619) and HMS Host (\$855).

Status - Implemented

Agency Action - NYSTA invoiced each concessionaire for the interest on late payments identified in our initial audit report and received payment during 2009.

Recommendation 3

Ensure that all future concessionaire contracts include a provision for interest on late rent payments.

Status - Not Applicable

Agency Action - NYSTA has not had occasion to enter into any new concessionaire contracts since our original audit. Nor will it need to until 2022 if the renewal options in its existing contracts are exercised.

Recommendation 4

Collect the \$228 in underpaid rent from Lehigh.

Status - Implemented

Agency Action - NYSTA invoiced Lehigh for the underpaid rent identified in our initial audit report and received payment during 2009.

Recommendation 5

Monitor the accuracy and completeness of the fuel concessionaires' monthly rent payments by periodically testing the fuel inventories at the stations and periodically comparing the stations' fuel delivery records to the concessionaires' monthly fuel delivery reports to NYSTA.

Status - Not Implemented

Agency Action - NYSTA still uses the same procedures for monitoring the accuracy and completeness of fuel concessionaires' monthly rent payments. Under these procedures, NYSTA maintains a perpetual inventory of fuel at each station based upon fuel delivery and reading reports from concessionaires and station operators. Officials believe the existing procedures are sufficient to detect rent underpayments by fuel concessionaires. Furthermore, they believe the cost involved with implementing our recommendation exceeds the potential benefit to NYSTA. During our current review, we had no material findings regarding the accuracy and completeness of fuel concessionaires' monthly rent payments.

Recommendation 6

Require the food concessionaires' monthly sales reports to show the source of sales (e.g., individual restaurants, vending machines, etc.) at each travel plaza.

Status - Implemented

Agency Action - We reviewed recent food concessionaires' monthly sales reports. We found the reports show the source of sales separately, including individual restaurants and vending machines.

Recommendation 7

Monitor the accuracy and completeness of the food concessionaires' monthly rent payments by independently verifying the sales reported by each food concessionaire.

Status - Implemented

Agency Action - NYSTA contracts with an independent auditing firm to evaluate if each food concessionaire pays the proper amount of rent. To make this determination, the auditors compare source sales documentation (i.e., cash register tapes) from select periods to concessionaires' monthly sales reports. Afterward, they recalculate the actual rent due based on the agreed-upon percentage rates of gross sales. NYSTA staff follow up on any differences in rent due versus actual rent paid.

Recommendation 8

Monitor the concessionaires' progress on required capital improvements and obtain paid invoices documenting this work within the time frames specified in the contracts.

Status - Implemented

Agency Action - NYSTA has implemented a reporting system to assist management in monitoring concessionaires' progress on required capital improvements. Based upon our review, this system provides management with adequate information to effectively monitor concessionaires' progress. To help concessionaires meet the requirements, NYSTA periodically shares system reports with them so they can promptly react if progress is too slow. Furthermore, we found that NYSTA now obtains paid work invoices timely from concessionaires.

Major contributors to this report were Mark Ren and Wayne Bolton.

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 NYSTA's

management and staff for the courtesies and cooperation extended to our auditors during this follow-up review.

Yours truly,

Brian Reilly
Audit Manager

cc: Harry Lennon, Acting Director, Audit & Management Services
Ann Currier, Chief Auditor, Audit & Management Services
Division of the Budget