New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Selected Financial Management Practices

New York State Olympic Regional Development Authority

Report 2013-S-18

July 2014

Executive Summary

Purpose

To determine whether the New York State Olympic Regional Development Authority (ORDA) has established adequate controls over the following financial management functions: cash and grant management, revenue and collection activities, procurement and contracting, payroll, and financial planning and budgeting. The audit covers from April 1, 2010, through September 26, 2013.

Background

ORDA operates the Whiteface and Gore Mountain Ski Centers, and the Olympic facilities in Lake Placid. In November 2012, it assumed management responsibility of the Belleayre Ski Area in Highmount, New York, from the New York State Department of Environmental Conservation (DEC). The Public Authorities Law requires ORDA to develop and implement a plan to maximize year-round utilization of its facilities for local economic benefit of the community, and to minimize the costs of maintenance to the State and local governments. ORDA's personal service costs totaled $58.3 million from April 1, 2010, through March 31, 2013, comprising about 45 percent of its overall operating costs.

Key Findings

- ORDA needs to improve its financial management practices, particularly cash management. During the three fiscal years ended March 31, 2013, ORDA has used a line of credit (LOC) to cover its basic operating costs including payroll. In some cases, other State agencies have paid ORDA's bills, including $1.5 million of capital lease payments ORDA could not pay since December 2008.
- Although ORDA prepares four-year financial plans as required by the Public Authorities Reform Act of 2009, from fiscal 2008-09 through 2012-13 it over-projected revenues by $7.1 million and under-projected expenditures by $18.3 million. Furthermore, ORDA's fiscal 2010-11 budget had a net $800,141 deficit even though Section 2613 of the Public Authorities Law requires ORDA to submit a budget without an operating deficit.
- ORDA has a $2.109 million accounts receivable related to accounts of the Empire State Development Corporation (ESDC) and the Lake Placid Regional Winter Sports Committee, a not-for-profit organization. Of this amount, $1.7 million was originally promised in 2009 by a local not-for-profit organization from a grant it would receive from ESDC. The grant was delayed because the organization had not filed all of the required annual reports. Although the organization has subsequently filed the reports, the State Division of the Budget (DOB) has not released the funds. ORDA officials advised that without the $1.7 million, it incurred operating expenses which had to be paid from its LOC and that it was awaiting collection of this amount to pay down its interest-bearing debt. ORDA advised it received the $1.7 million on April 8, 2014.
- We reviewed a judgmental sample of 29 procurements totaling $8.2 million to determine if ORDA followed its procurement procedures. We identified 11 procurements totaling $427,000 that were not competitively bid. ORDA did not provide sufficient documentation as required by its purchasing policy to support why the contractor was selected or why a competitive process was not used.

Key Recommendations

- Develop a more accurate method for estimating expense and revenue amounts used in the multiyear financial plan to ensure that the budgets are balanced, operating expenses are closely scrutinized during the year, and estimates are reviewed to determine that they are still valid. Maintain support for budget assumptions and calculations as required by Office of the State Comptroller regulations.
- Conduct a top-to-bottom review of ORDA's organization and spending to identify cost-containment opportunities.
- Contact DOB to determine the status of its accounts receivable due from ESDC.
- Award contracts on a competitive basis to the extent possible. Fully document any waivers permitting non-competitive procurements including the reason(s) for the decision.

State of New York
Office of the State Comptroller

Division of State Government Accountability

July 9, 2014

Mr. Patrick Barrett
Chairman
New York State Olympic Regional Development Authority
2634 Main Street
Lake Placid, NY 12946

Dear Mr. Barrett:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is our audit report entitled *Selected Financial Management Practices.* The 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The Olympic Regional Development Authority (ORDA) is headquartered in Lake Placid, New York. It is responsible for operating and maintaining the Olympic facilities developed for the 1980 Winter Olympics, including the Olympic Center, the Olympic Jumping Complex and the Olympic Sports Complex in Lake Placid and the Whiteface Mountain Ski Center. In 1984, it assumed responsibility for operating and maintaining the Gore Mountain Ski Center in North Creek, New York, from the New York State Department of Environmental Conservation (DEC). In November 2012, it assumed responsibility from DEC to operate and manage Belleayre Mountain Ski Area, in Highmount, New York. ORDA's venues include a museum, training facilities, restaurants and banquet facilities, and other amenities providing access to various year-round recreational activities.

ORDA officials indicate that ORDA generates an economic benefit for the region and the State. To support their statement, they cited a 2008 study issued by the State University of New York at Plattsburgh that determined ORDA's economic contribution to the local economy based on 2006 information was about $ 271.8 million in that year. In May 2013, another organization, the Regional Office of Sustainable Tourism (ROOST), issued a report based on visitors in 2012 that concluded ORDA's economic contribution in Essex County was $100.7 million. This vital economic role, coupled with ORDA's financial situation, underscores the importance of ensuring ORDA's operations are efficient and effective.

ORDA is governed by a 12-member Board of Directors, which includes the Commissioners of DEC, the Office of Parks, Recreation and Historic Preservation, and the Department of Economic Development. The other nine board members are appointed by the Governor with the advice and consent of the State Senate, with six representing specific geographic areas. Section 2606 of the Public Authorities Law (PA Law) stipulates ORDA must develop and implement a plan to maximize year-round utilization of its facilities for local economic benefit of the community, and to minimize the costs of maintenance to the State and local governments. In addition, it is required to maintain its assets in a state of good repair and account for its capital expenditures. Furthermore, the Public Authorities Reform Act of 2009 requires it to develop four-year financial plans, at a minimum, to help support its policy and program decisions.

On an accrual basis, ORDA has significant losses each fiscal year. From April 1, 2010, through March 31, 2013, ORDA had losses each year, totaling $45 million over the three fiscal years. On a cash basis, ORDA's losses are significantly lower, totaling $4.2 million over same period - the difference attributable to non-cash items such as depreciation, accounts receivable, and post-employment benefits due its employees.

Section 2619 of the PA Law requires ORDA to establish a sinking fund to provide for capital improvements and major repairs to the Olympic facilities, and requires a deposit of 25 percent of net operating profits each year. However, during our audit period, ORDA had no profits from operations and had no balance in the sinking fund. Instead, ORDA is dependent on the State and other public entities for capital contributions and grants.

ORDA had a total personal service cost of $22.2 million for fiscal year April 1, 2012, through March 31, 2013. As of March 31, 2013, ORDA had 284 full-time and 1,363 seasonal employees.

ORDA supplements its ticket revenue with corporate sponsorships, which include cash payments and in-kind products or services. For the three fiscal years ended March 31, 2013, ORDA had 43 different sponsorship arrangements that generated $928,174 in total cash revenue and over $2.3 million of in-kind products or services. In return, it generally provided tickets for skiing or events held at its venues, advertising, and stays at a three-bedroom condominium it leases in Lake Placid.

Since November 26, 1997, ORDA has maintained a line of credit (LOC) with different private financial institutions. ORDA's records show it used its LOC, borrowing a total of $28.9 million between April 1, 2006, and June 18, 2013, and repaying $26.7 million in the same period. In addition, ORDA has used capital lease agreements to purchase major equipment for its ski centers. Since June 2007, it entered into seven capital lease-purchase agreements totaling $15.2 million, of which $10.5 million was outstanding as of March 31, 2013.

Audit Findings and Recommendations

Cash and Grant Management

The majority of ORDA's operating revenue is earned in the last five months of its fiscal year, from November through March. This along with ORDA's lack of adequate cash reserves and need to borrow in anticipation of grant funding cause it to borrow from a Line of Credit (LOC) to meet its financial obligations. For example, ORDA borrowed $900,000 from its LOC on February 1, 2013, to pay its annual State Retirement System bill. In addition, it borrowed $130,000 on October 25, 2011, to cover its payroll costs. It borrowed another $100,000 for payroll on June 4, 2013, despite reporting that the 2013 ski season was highly successful.

Given its cash situation, ORDA relies on outside contributions and loans to cover cash shortages. Consequently, ORDA's outstanding LOC balance on June 18, 2013, was over $3.4 million, and it reported balances at the end of fiscal years 2007-08 through 2012-13 ranging from $2 million to almost $4.6 million. Because ORDA has continued to maintain LOC balances, it has incurred $531,518 in interest and fees between January 2008 and June 2013.

When discussing ORDA's cash situation, ORDA officials indicated their organization is unlike most public authorities because it has very cyclical revenue streams. They emphasized ORDA earns nearly 85 percent of its annual revenues over a five-month period of winter business. They also indicated that revenues are largely dependent on uncontrollable factors such as weather and tourism trends.

While many factors contribute to ORDA's cash situation, we believe management and the Board of Directors (Board) can take certain steps to improve ORDA's cash and grant management, as follows.

The Empire State Development Corporation (ESDC) awarded ORDA a $15.2 million "Working Capital Grant" (Grant) on September 20, 2006 (expiring on December 31, 2012). The Grant was intended to eliminate over $10 million of private debt, along with other liabilities, that ORDA incurred between October 1998 and April 2005. In addition, ORDA was supposed to establish a reserve fund to address any future operational deficiencies. In February 2007, ORDA used the Grant funds to pay off $9.8 million in private loans and capital leases, and $1.2 million in LOC borrowings. In addition, it used $2.4 million of the balance in 2007 and 2012 to pay operational costs including utilities, employee health insurance, and outstanding Workers' Compensation and Retirement System bills.

Also, in fiscal 2012-13, ORDA received a $5 million appropriation from the New York Works Program (NY Works). The appropriation also specifies that $1 million of this amount was for use at the Belleayre Ski Center.

The Board passes resolutions whenever LOC bank agreements expire. These resolutions define the renewal parameters for the next LOC, including why it is needed and the amount. Generally, the Board resolutions indicate ORDA needs a LOC to stay current with vendor accounts payable obligations from capital projects and operations of venues. During the past several years, ORDA has used its LOC usually to address cash flow challenges that stem, in part, from seasonal fluctuations in operational revenue and anticipation of grant funding. ORDA indicated that the Director of Finance generally initiated each use with the President/CEO's knowledge and consent.

We found ORDA's procedures for using its LOC do not ensure each charge is sufficiently documented and promptly repaid. Since February 2007, ORDA has tracked whether LOC charges are operational or capital related, but it did not document IF the President/CEO approved each charge or why available cash balances could not cover the charges. For example, ORDA did not document whether its bank balances were too low and/or monies were being held to pay bills with a higher priority. Furthermore, ORDA does not have a system to track the specific anticipated grant each LOC charge was associated with and the funding source of each repayment. Therefore, it cannot account for whether LOC drawdowns for specific anticipated grants were promptly repaid after reimbursement was received.

The Board resolutions also give ORDA's Chief Executive Officer (CEO) authorization to "take the necessary steps" to renew the LOC. The Board does not specify the criteria for selecting the bank and interest rate limits. Since fiscal 2006-07, there have been eight renewal agreements with banks for LOC accounts. ORDA did not award these agreements competitively, and did not document the decision-making involved until it selected the bank it began using in July 2013. ORDA's officials indicated that several years ago numerous banks were contacted to negotiate possible loan terms. However, only one of these banks would give ORDA a LOC because of ORDA's potential financial difficulties. ORDA kept renewing its LOC with this bank until 2012. At that point, ORDA contacted various banks to increase the LOC and decrease its interest rate.

In the future, officials indicated ORDA will document each LOC charge with a formal memo that shows the President/CEO's approval. They also indicated they will document LOC uses more stringently in relation to specific grants or State funds to better ensure the LOC is repaid for charges related to specific funding sources. Because ORDA did not track LOC charges associated with specific grants and the repayment funding source, it cannot provide breakdowns indicating what portions of the LOC balance and accumulated interest relate to operations or grant reimbursements. To minimize LOC interest and fees, officials should ensure ORDA promptly pays down the LOC when it receives grant reimbursements or when extra cash becomes available.

Revenues

ORDA should strive to maximize all revenue-generating opportunities. ORDA officials indicated they have taken numerous steps to increase revenue through capital improvements and by implementing new ways of using facilities year-round. We believe ORDA could take certain other actions that may increase its revenue. This includes taking additional steps to ensure its corporate sponsorships are beneficial and that outstanding accounts are collected.

Sponsorships

Sponsorships are marketing arrangements between businesses and ORDA. The businesses pay – either in cash or with in-kind donations of goods and services – in order to be identified as sponsors at ORDA events and venues and in ORDA publications. Sponsors' names are listed on ORDA's Website and on the electronic sign at ORDA's Olympic Center in Lake Placid. Sponsors provide items such as vehicles, beer, wine, soda, paper goods, and hotel rooms. Sponsors may receive special consideration such as exclusivity (e.g., an exclusive beverage contract). Sponsors may also receive tickets to ORDA events and use of facilities, including the use of a condominium apartment at Lake Placid, which ORDA leases for this purpose.

We reviewed seven sponsorship agreements valued by ORDA at $2.828 million during the three fiscal years ended March 31, 2013. Of this amount, $2.094 million is for in-kind goods and services, and $734,000 is for cash. We found ORDA had received all the cash payments specified in these agreements.

Regarding in-kind donations, the largest valued sponsorship is with a vehicle manufacturer. ORDA provided records which show the value of this agreement at $1.76 million over the three years reviewed. Under this agreement ORDA receives use of up to 12 vehicles, which must be returned when replaced or at the end of the agreement. We valued these vehicles based on the monthly lease value and arrived at a total of $219,627 over the three years. ORDA actually booked income of $270,000 from this agreement. Since ORDA does not own these vehicles, we believe that a more representative value is the lease value of the vehicles. In return, ORDA provides tickets to its venues plus advertising and condominium use estimated at $381,000 per year. It appears ORDA is giving up much more than it receives, and we believe ORDA needs to re-evaluate this sponsorship agreement.

The remaining $334,000 balance is for other goods, of which ORDA could not account for $57,043 of in-kind products it received from the sponsors. Officials stated that items such as beer, wine, and soda are routinely given away by sponsors at events but are not tracked. Furthermore, ORDA claimed it used $36,000 in hotel stays received from a sponsor but declined to provide information documenting who stayed in the rooms to demonstrate that the use was for ORDA business purposes.

We also found three of the seven sponsors had received more stays at the ORDA-leased condominium than called for in their agreements, including one that received 45 excess stays during our audit period. In total, the three sponsors received an additional 54 nights, valued at $13,500, over their agreed allotment of 74 for the three fiscal years ended March 31, 2013. Further, ORDA officials did not request or receive $12,000 of free beverages due ORDA through one sponsorship agreement at Gore. Once we brought this to ORDA's attention, officials advised that they would request the free product going forward and use it at other venues.

When responding to our preliminary findings, officials indicated that ORDA used the in-kind goods received from sponsors for business purposes. In addition, they indicated ORDA has implemented a more stringent tracking system to manage and account for the distribution of in-kind goods received. Regarding the excess condominium stays, officials acknowledged certain sponsors had received excess stays but claimed this practice helps ORDA maintain strong working relationships with these sponsors which cannot be quantified. We question this practice because it could lead that to favoritism and these excess stays are not considered by ORDA when it calculates the economic benefit of sponsorship agreements.

ORDA officials indicated they do not have written procedures regarding developing sponsorships and they do not use formal Requests for Proposal (RFP) or other competitive means to obtain sponsors. Officials advised that they prefer to use sponsors associated with the Olympics or U.S. Olympic Committee (USOC). ORDA indicated that using an agreement with USOC may limit its ability to seek competition for sponsorships, since it may have to approach USOC for approval to use other sponsors. Contrary to this statement, we noted that ORDA's Website offers various sponsorship opportunities, and invites businesses to inquire, which appears to be a competitive process.

ORDA did not formally analyze whether the proposed terms were beneficial before reaching sponsorship agreements. We believe ORDA should perform and fully document a formal cost/benefit analysis for each of its corporate sponsorship agreements to determine if it receives fair value exchange with its sponsors. In response to our preliminary findings, officials advised that ORDA's Board approved new procedures in June 2013 that require a formal cost/benefit analysis before each new sponsorship agreement is executed.

Accounts Receivable

As of August 2013, ORDA had 67 accounts receivable, which had a total balance of $2.916 million, where $2.354 million in balances were more than 90 days overdue. We reviewed all 67 accounts. ORDA officials advised several debtors provided assurances that accounts would be made current. These accounts totaled $750,091. ORDA further indicated that $56,746 owed for more than one year would be written off.

The remaining $2.109 million was related to accounts of the Empire State Development Corporation (ESDC) and the Lake Placid Winter Sports Committee, a not-for-profit organization.

Of this amount, $1.7 million was originally promised in 2009 by a local not-for-profit organization from a grant it would receive from ESDC. However, ESDC has held up payment of this grant because the not-for-profit organization did not file its annual reports. While the organization has now filed these reports, the State Division of the Budget (DOB) has not released these grant funds. Another $271,850 was due from the Lake Placid Winter Sports Committee from 2009 and 2010. At our closing conference, ORDA officials advised that without this grant, it incurred operating expenses which had to be paid from its LOC and that it was awaiting collection of this amount to pay down its interest bearing debt. (In response to our draft audit report, ORDA officials indicated they received the $1.7 million from DOB on April 8, 2014.)

Auditor's Comments: We are pleased that the funds were received shortly after we issued our draft report.

Another $123,781 is owed by ESDC for the construction of the Lake Placid Convention Center. We were advised this amount is not collectible, but ORDA has not written it off. The remaining $13,000 was charged to ESDC's account but has not been paid.

Further, ORDA should take more proactive collection measures when it provides venue vouchers and tickets to area businesses to sell on its behalf. The businesses sell the vouchers and tickets at a discounted value and keep an agreed upon amount with the balance due to ORDA. In one case, Belleayre had an agreement with an area ski shop during fiscal 2012-13 to sell discounted tickets redeemable on specific days. Belleayre issued 1,500 ticket vouchers to this ski shop, and ORDA received payment for only 1,173 tickets totaling $35,190. However, ORDA did not bill the shop until after the purchasers actually redeemed the tickets at Belleayre. ORDA did not require the ski shop to return the unsold tickets or to pay ORDA its share of tickets sold which may not have been used. Also, ORDA did not attempt to account for why 327 tickets were not redeemed. By not doing so, ORDA cannot determine whether the ski shop gave ORDA all the monies it collected for tickets that were purchased but never redeemed.

ORDA should have a routine cyclical credit and collection process where it determines whether accounts receivable are collectible, sends accounts for collection where necessary, writes off uncollectible accounts, and determines whether to continue to extend credit to others. ORDA did not maintain evidence that staff had periodically reviewed whether accounts receivable were collectible. In response to our findings, management indicated ORDA will implement a formal, documented quarterly review process to better ensure it collects and properly classifies past due accounts. Failing to take proactive measures to collect accounts receivable may contribute to ORDA not having sufficient cash reserves to pay its bills.

Employee Advances

ORDA reported having $38,373 in outstanding employee advances at the end of fiscal 2011-12. ORDA attributed these amounts to the following:

Workers' Compensation Employee Advances	$36,307
Employee Travel Advances	1,475
1989 Salary Advances	591
Total	**$38,373**

ORDA officials indicated that the $36,307 relating to Workers' Compensation claims was from prior to 2007 and have been carried forward on the financial statements since then. There was no analysis of this account to determine the cause of the receivable and whether it should be collected or written off. At its June 25, 2013, meeting, the Board determined that this amount should be investigated and dealt with appropriately according to the findings of that investigation. Similarly, the 1989 salary advances has been carried forward without examination. The $1,475 in outstanding employee travel advances was for three employees. With our assistance, ORDA is in the process of resolving these travel advances.

ORDA should periodically review and verify the employee advances account to ensure timely action is taken to collect and/or close out open items, and to take collection action where necessary. The result of these accounts not being reviewed is that amounts due to ORDA are not collected timely and then eventually become uncollectible.

Financial Planning

Considering ORDA's continued struggles to maintain fiscal balance in the midst of rising costs and declining State appropriations, it is imperative that it employ cost saving and sound planning strategies moving forward. As such, we believe ORDA should develop, and regularly update, a realistic and detailed multiyear financial plan aimed towards building its cash reserves. It should also establish ongoing monitoring that tracks the status and impacts of financial plan actions.

Since most of ORDA's revenue is collected in the winter months, this underscores the need for ORDA to budget its monthly needs upfront and save profits during peak periods. While ORDA develops four-year budgets, they are not an effective tool for managing spending and controlling borrowing because they do not accurately estimate revenues and expenditures. During fiscal years 2008-09 through 2012-13, ORDA's budgets over-projected revenues by $7.1 million and under-projected operating expenses by $18.3 million compared to actual results.

(ORDA replied to our draft audit report that its revenues were over projected $3.6 million and expenses were under-projected $15.4 million during the same period of time. The response also states that preparing the budget is a challenging feat in light of the need to prepare a "flat" budget per the request of state budget makers. All budget support, including assumptions, documentation, and projections, is maintained by the Director of Finance.)

Auditor's Comments: We reviewed our work papers and maintain that the amounts in our audit report are correct for operating revenues and expenses. However, even using ORDA's amounts its estimates were off by several million dollars in both revenues and expenses. This matter was reported to ORDA officials in our preliminary findings so their statement that they are "unaware of what documentation was reviewed to come to such figures" is not accurate. In its response, ORDA also states it has documents to support its budget. However, when asked for such documentation during the audit, the Director of Finance told us there was no documentation to support the budget for any of the three fiscal years reviewed.

Furthermore, ORDA's fiscal 2010-11 budget had a net $800,141 deficit even though pursuant to Section 2613 of the PA Law ORDA is required to submit a budget without a deficit to the Town of North Elba Park District for its approval each year. We asked management to provide support for the revenue and expense data on ORDA's budgets, including the assumptions they used when developing the figures. The Comptroller's regulations (2 NYCRR Part 203) require that agencies develop budgets and that they retain the support for their assumptions. However, ORDA management responded that they do not maintain documentation to support their budget figures.

Given its cash situation, it is important for ORDA to scrutinize all operating expenses to identify any non-mission critical spending that could be reduced or eliminated. In fiscal 2008-09, ORDA prepared a financial plan (Plan) at the Governor's request which indicated it was in the process of assessing its organizational structure and spending. Although the Plan mentioned some possible cost-saving measures, it did not provide detailed steps for achieving long-term solvency.

During its quarterly meetings, ORDA's Board reviews internal profit/loss statements (Statements) generated by the Finance Director. We reviewed these Statements for the three fiscal years ended March 31, 2012, and noted that more than half of ORDA's venues lose money, and only Gore, Whiteface and the ORDA Store had profits. We also noted that ORDA does not allocate indirect costs (ranging from $6 million to $7.9 million annually during the three years) to venues when calculating their profitability. While minutes from a February 2009 Board meeting show that members discussed the need to do a thorough profitability assessment of all ORDA venues, including the indirect costs associated with each, there is no evidence that this occurred. Management indicated ORDA has not formally performed a top-to-bottom organizational structure and spending review to identify cost-containment opportunities.

At our closing conference, ORDA's management advised that it is well aware that some of its venues continually operate at a loss. However, they consider ORDA "a family," and the profitable units carry the unprofitable units. Nevertheless, we urge ORDA to revisit its position on venues which repeatedly lose money.

In response to our preliminary findings, officials indicated that it is unrealistic that a multiyear plan or an ongoing budget could help ORDA resolve its annual financial struggles. They indicated that they develop annual budgets and multiyear plans annually based on direction from DOB along with prior performance. While no simple fix may exist, we believe ORDA could take proactive measures to better prepare for its future cash needs. This includes developing more realistic and supportable multiyear plans aimed toward building sufficient future cash reserves. Without sufficient cash reserves, any unforeseen circumstance, such as a delay in government appropriations and grants or equipment breakdown, may severely inhibit ORDA from meeting its financial obligations.

ORDA's Board and management should collectively have the skills, knowledge and experience to do a better job of estimating revenues and expenditures. Issues such as the weather and the State's budget have been and will continue to be part of ORDA's business environment. It is important that ORDA officials develop a formal plan that can be implemented when conditions change that impact ORDA's operations.

Recommendations

1. Establish and follow procedures for the LOC which, at a minimum:

    - Define requirements for selecting a LOC bank and documenting the associated decision making,
    - Document why available cash balances could not cover the LOC charges,

- Document approvals for each use, and report each use to the Board,
- Ensure the LOC is promptly repaid, and
- Track the outstanding balances that should be repaid from specific grant reimbursements.

2. Establish and follow procedures for the corporate sponsorships which, at a minimum:

   - Develop consistent evaluation procedures to determine whether a sponsorship is beneficial for ORDA, and retain documentation of the evaluation,
   - Track to ensure all in-kind trade items due to ORDA through sponsorship agreements are received and used for an ORDA business purpose, and

     (ORDA officials replied to our draft report that it agrees that the tracking of in-kind goods needs to be more stringent and implemented a formalized process through the ORDA Corporate Development Group.)

   - Track ORDA's sponsorship responsibilities to ensure ORDA does not compensate sponsors beyond the terms of their agreements.

3. Ensure all accounts receivable are reviewed periodically (e.g., quarterly) to determine if older accounts are still collectible or should be written off. Retain documentation of these reviews and any amounts that are written off.

4. Contact DOB to determine the status of its accounts receivable due from ESDC.

   (ORDA officials replied to our draft audit report that the $1.7 million was received.)

5. Ensure that employee advances are reconciled and any amounts due are recovered in a timely manner. If an employee does not account for or return the advance, take action to recover the amount due.

6. Develop a more accurate method for estimating expense and revenue amounts used in the multiyear financial plan to ensure that the budgets are balanced, operating expenses are closely scrutinized during the year, and estimates are reviewed to determine that they are still valid. Maintain support for budget assumptions and calculations as required by the New York Code Rules and Regulations.

7. Conduct a top-to-bottom review of ORDA's organization and spending to identify cost-containment opportunities.

8. Review profitability by venue and consider adjusting operations at venues which repeatedly lose money.

Expenditures

We found ORDA could take certain steps to improve accountability for its expenses and better manage spending. Specifically, it needs to improve its payroll reporting practices. We also found that it used restrictive practices in some of its procurements, which undermined the intent of true competition. In other instances, it remained in unprofitable agreements, spent beyond its means, and did not use outside funding as intended. To better ensure it can continue meeting its financial obligations, it should address these issues.

Payroll

Based on a sample of 30 employees, we found that ORDA accurately reports actual salaries paid to the State's Public Authorities Reporting Information System (PARIS) as required**.** We also found it generally reported payroll information timely. However, we found ORDA did not properly report base salaries for hourly workers and did not separately report employees' holiday pay to PARIS as required.

State public authorities are required to annually report specific information about all staff to PARIS. This includes their base yearly and actual salaries paid regardless of whether they work the entire year. When calculating each hourly employee's base yearly salary, authorities are expected to multiply the hourly pay rate by the actual number of regular hours an employee worked during the year. Starting December 2010, public authorities have also been required to report all overtime, performance bonuses, extra pay, and any other compensation received by each employee as reported on their W-2 tax statement. PARIS automatically calculates employees' total compensation paid by adding the reported extra pay fields, including holiday pay, to salary paid.

During our testing, we found ORDA did not use the correct method for calculating hourly employees' base yearly salaries. When calculating employees' yearly base salaries, ORDA groups them under specific job categories, and then multiplies a set number of hours by the job category wage rate. Under this method, two employees in the same category will have the same base yearly salary regardless of the hours they actually worked.

We tested whether ORDA properly reported 30 sampled employees (16 full-time and 14 part-time) to PARIS. While ORDA correctly reported their total wages paid, it did not separately report any of their holiday pay as required. Based on ORDA's payroll records, 25 of the sampled employees received holiday pay totaling approximately $30,834 for 1,008 hours worked in fiscal 2012-13, including two employees who earned $5,385 and $4,179, respectively, in holiday pay. The PARIS Handbook states that for total compensation the amount calculated should match the employees' W-2 amount.

In addition, when reviewing ORDA's payroll practices, we noted ORDA did not have a policy stating which employees are required to work holidays, and what documentation is required. Management indicated ORDA will update its procedures and better document preapproval of holiday work. Further, they indicated PARIS requirements are sometimes confusing. Even so, they indicated ORDA will strive to meet them in the future. Without adequate information about base salaries and extra pay, ORDA may have a more difficult time when budgeting and managing payroll spending. Also, State decision makers may lack sufficient data to make informed planning and policy decisions.

We also found ORDA had 25 names that appeared on the payroll twice. We reviewed personnel information and concluded that for 13 of these pairs, there were two different people on the payroll. For 12 other pairs, the listings were for the same person, usually when a person moved from a part-time position to a full-time position (or vice versus). In 23 of the 25 cases, there were two entries in the PARIS database. To improve clarity, ORDA should only report an individual once in the position held at the end of the fiscal period reported.

Procurement and Contracting

We reviewed a judgmental sample of 29 procurements totaling $8.2 million to determine if ORDA followed its procurement procedures. We identified 11 procurements totaling $427,000 that were not competitively bid. Although ORDA's purchasing policy requires a record documenting the decision to waive competition, none was provided. We also found ORDA did not have any controls over the modifications to contract amounts and terms.

In one case, a contractor was awarded a two-year contract that paid $53,040 in each year. The contract ended in 2009. ORDA officials renewed this contract annually thereafter without seeking competition or negotiating the cost of the additional services into the contract. ORDA paid this contractor an additional $1.8 million between April 1, 2010, and March 31, 2013, for services outside the scope of the contract. These additional services should have been separately bid. ORDA officials told us at the closing conference that when the contract expired in 2013, the new contract was awarded through a competitive process, which selected the same contractor. They also indicated that the new contract requires that any work outside the scope of the contract be competitively awarded according to ORDA's procurement procedures.

We reviewed the contracts for ORDA's food and beverage concessions at Gore, Whiteface, Mt. Van Hoevenberg, the Olympic jumping complex, and Lake Placid facilities, as follows:

- July 2004 five-year contract
- July 2009 two-year extension agreement
- July 2011 ten-year competitive contract

We found the 2011 contract was competitively bid; however, we question the clause in the 2009 extension agreement requiring ORDA to make $500,000 in leasehold improvements which in previous contracts were the responsibility of the contractor. We noted that the 2004 contract required the contractor to make up to $1.125 million in leasehold improvements, fully amortized by June 2009. The 2011-21 ten-year contract required the contractor to make up to $3 million in leasehold improvements. Board minutes from May 2009 include a discussion of the $500,000 investment and noted that ORDA did not have the funds to invest. The minutes indicated that ORDA would have to borrow funds, but claimed the improvements were needed to improve revenues from the concessions. ORDA did not have any documents to support the improvements that were made. We question ORDA's judgment in that it had no funds to make this investment, and that such investments should have continued to be the contractor's responsibility.

Furthermore, ORDA negotiated solely with this same contractor to take over Belleayre ski rental equipment concessions for the 2013-14 ski season. Belleayre previously managed the ski rental function directly with its own employees. ORDA did not seek or consider any other proposals. On October 11, 2013, ORDA amended the ten-year contract to give the contractor responsibility for managing Belleayre's ski rental concessions.

ORDA officials claimed the change was necessary because Belleayre's ski rental equipment was in poor condition, and ORDA was unable to upgrade it without outside help. Under the contract amendment, the contractor is required to invest up to $1.3 million at Belleayre, including upgrading the ski rental equipment. Given its long-standing working relationship with this vendor, we believe ORDA should ensure any contract modifications and/or extensions involving this contractor are cost-effective, in the best interest of the Authority and at arm's-length, by seeking competition before making such arrangements. Without an open, competitive process for procuring revenue-generating concessionaire services, ORDA may not obtain the most profitable arrangements possible. We note that ORDA's Procurement Guidelines, Operative Policy and Instructions state that contracts may be awarded on a non-competitive basis only where the CEO or his designee makes a written determination that the timely procurement of the goods or services precludes selection of a contractor pursuant to a competitive process or the contractor has unique or exceptionally scarce qualifications or experience. We were not provided a written determination that a waiver was appropriate in this circumstance.

We also reviewed the contract with the Belleayre Conservatory (Conservatory) which ORDA continued to honor when the Department of Environmental Conservation transferred Belleayre to ORDA in November 2012. The Conservatory promotes and manages concerts at the ski center. Based on the existing contract terms, ORDA is responsible for setting up the stage and providing security for shows. ORDA also has to provide the Conservatory with free office space year-round (including paying for utilities and maintenance) and maintain the grounds. The Conservatory recruits and pays for the entertainment, arranges for the installation of the tent covering the stage and the show sound, lighting, and seating. During the 2013 Belleayre concert series that ended in August 2013, one auto show and 13 concerts took place. The Conservatory charged admission for these shows, but shared none of this revenue with ORDA. ORDA officials expressed concerns about this arrangement. ORDA officials advised us the Conservatory had already recruited the various musical artists and publicized the events for 2013 when ORDA took over, so it was not practical to end the contract. ORDA should continue to pursue a fair arrangement with the Conservatory which, at a minimum, covers ORDA's costs associated with these events.

ORDA also has contracts with Olympic athletes to promote ORDA and the Lake Placid region. Among other things, the contracts specify the athlete must wear ORDA's logo at winter sporting events and make personal promotional appearances. In return, the athletes receive financial compensation and can use ORDA's facilities for training. ORDA awarded $148,500 to athletes during the three fiscal years ended March 31, 2013.

ORDA publicizes that it sponsors athletes; however, it does not have formal criteria for selecting who will receive ORDA support. Management told us candidates must be from (or currently reside in) the region; compete in a winter Olympic sport; be a member of a national World Cup team; and achieve notable accomplishments at competitive events. Each candidate must submit a letter of interest and interview with ORDA management. ORDA senior management makes the final selection decision and determines the amounts for each of the agreements. By not publicizing the availability of funding and not having formal award criteria, these contracts are less transparent than those awarded under ORDA's ordinary procurement procedures. ORDA officials replied to our preliminary findings that they should not publicize athletic funding opportunities because it only sponsors elite athletes. They further believe the benefit ORDA receives from these arrangements is greater than what it spends.

Regarding procurements, ORDA officials advised us that moving forward, they will thoroughly review all procurements to ensure procurement procedures are properly followed.

Capital Leases

PA Law Section 2611(13) requires ORDA to obtain Public Authorities Control Board (PACB) approval before contracting with any public corporation for paying debt through a lease-purchase agreement for capital improvements. As part of its review, PACB assesses whether a public authority's funds or revenues can cover proposed liabilities before they are incurred. However, ORDA did not seek PACB approval for any of the seven capital lease-purchase agreements it entered into since 2007. In addition, ORDA did not seek competition when obtaining these leases as required by its Procurement Policy.

Among these agreements was a $5.6 million, 15-year lease-purchase agreement with the Power Authority of the State of New York (NYPA) for energy-efficient snowmaking compressors at Gore and Whiteface. The Office of General Services (OGS), as the lease administrator, makes the monthly lease payment to NYPA on ORDA's behalf. Since the lease started in December 2008, OGS paid NYPA $1.5 million of lease payments for ORDA. However, ORDA has not reimbursed OGS and is currently OGS's largest account receivable.

In response to our preliminary findings, ORDA officials indicated that PACB approval was not required. We disagree, and ORDA would benefit by following the approval requirements of this provision. The PACB review serves as an independent check of ORDA's ability to take on additional debt. If ORDA had sought PACB approval for the NYPA lease-purchase agreement, it might not have been allowed to incur this debt given its cash situation.

State Capital Appropriations

Under Section 93 of the State Finance Law, DOB approval must be sought before State capital appropriations can be reallocated to capital projects other than those originally approved. However, we found ORDA spent over $437,000 of NY Works funding on seven unapproved projects and did not provide evidence that the appropriate approvals were sought before doing so.

ORDA has set up unique codes to track spending on each of its capital projects. However, it did not tie the project codes to specific funding sources during our scope period. Therefore, it could not easily account for its use of NY Works funding. Starting in fiscal 2013-14, officials indicated they more rigorously track how ORDA uses State capital funding. ORDA also indicated that NY Works funding was used for unexpected emergencies instead of what was originally authorized. However, we noted that over half of the unapproved spending was not for emergencies. For example, ORDA used $232,000 of NY Works funding to renovate a lodge restaurant and retail shop at Gore and to construct an observation deck at Whiteface without documenting that the appropriate approvals were obtained prior to redirecting funds to these other projects.

During ORDA's fiscal 2011-12 and 2012-13 financial audits, ORDA's independent accounting firm recommended it develop a formal capitalization policy which defines the criteria for classifying items as capital assets. We concur with their conclusion. Such a definition should include a minimum dollar amount and useful life (e.g., five or seven years). Generally, items which do not meet an agency's definition of capital assets are considered operating expenses. While ORDA has set up unique codes to track individual projects, we noted certain project disbursements funded by the NY Works did not appear to be eligible capital costs. To illustrate, we found disbursements totaling $5,994 for advertising, $16,087 for fuel, and $30,000 for bobsled repairs contained within these project codes. Without a formal capital cost definition, there is an increased risk State capital funding may not be spent as intended.

Recommendations

9. Adhere to PARIS payroll reporting guidelines for calculating annualized base salaries and separately reporting holiday pay.

10. Implement a policy stating which employees are required to work holidays, and what documentation is required. Compensate non-represented employees who work holidays by granting compensatory time.

11. Award contracts on a competitive basis to the extent possible. Fully document any waivers permitting non-competitive procurements including the reason(s) for the decision.

    (ORDA officials agreed with this recommendation and indicated they will take action to implement it.)

12. Obtain PACB approval before entering into any lease-purchase agreement for capital improvements.

13. Ensure State capital appropriations are used for their authorized purpose and that the appropriate approvals are sought when funds are reallocated to other projects.

14. Formally define what qualifies as a capital cost and obtain Board approval for the definition.

Audit Scope and Methodology

We audited ORDA to determine whether it has established adequate controls over the following financial management functions: cash and grant management, revenue and collection activities, procurement and contracting, payroll, and financial planning and budgeting. The audit covers the period April 1, 2010, through September 26, 2013. Our detailed testing of transactions covered from April 1, 2010, through September 15, 2013. However, for the discussion of ORDA's finances, it was necessary to expand the audit period to include State fiscal year 2007-08.

We obtained an overview of ORDA's financial management practices through inquiry, analytical procedures, observations, and the inspection of records and reports. In this process, we reviewed and analyzed various financial-related information (including ORDA's recent audited financial statements and PARIS reports), and tested selected transactions for compliance with established procedures and statutory requirements. In addition, we interviewed ORDA officials and staff regarding the processes and controls.

We reviewed bank statements, tracking spreadsheets and other relevant financial documentation, Board meeting minutes and transcripts, and other records. In addition, we judgmentally sampled 30 employees (16 full-time and 14 part-time) of the 284 full-time and 1,363 seasonal employees to test whether ORDA properly reported their earnings to PARIS during the period April 1, 2012, through March 31, 2013. We also reviewed employment records and timesheets for 25 individuals listed more than once on the annual reports that ORDA submitted to PARIS during the three fiscal years ended March 31, 2013. Also, we reviewed a sample of 29 contracts to determine if ORDA could document if the selected vendor was the most economical and/or appropriate available.

We reviewed seven corporate sponsorship agreements to determine if ORDA provided and received all items and services included in those agreements. Further, we reviewed ORDA's system of tracking these in-kind items to determine if all items received by ORDA were used for business purposes.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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

The 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 ORDA officials for their review and comments. Their comments were considered in preparing this final report and are attached in their entirety at the end of this report. Our rejoinders to certain ORDA comments are included in this report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Olympic Regional Development 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 why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments

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May 9th, 2014

Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, New York 12236

Ms. Maldonado,

Attached you will find a formal written response for the draft findings report issued on April 7, 2014 concerning your review of New York State Olympic Regional Development Authority's Financial Management Practices. In our response we have included comments with respect to detailed findings included in the report as well as responses to recommendations provided by the Office of the State Comptroller.

If you have any questions, please do not hesitate to contact me at the address below.

Sincerely,

Padraig Power
Director of Finance
New York State Olympic Regional Development Authority
2634 Main Street
Lake Placid, New York 12946

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ORDA management has reviewed the draft report issued by the State of New York Office of the State Comptroller regarding NYS ORDA's Financial Management Practices.

With regard to the key recommendations of the draft report, ORDA provides:

(1) As spelled out in greater detail below, ORDA goes through an arduous process to determine the most accurate revenue/expense numbers possible; however, certain weather and operating conditions may affect the overall outcome of any given fiscal year. That said, ORDA is constantly evaluating the methods used and will continue to do so;
(2) ORDA agrees with this recommendation and is continually looking for cost-containment opportunities within the framework of its business and the economy;
(3) ORDA had been in constant contact with all appropriate parties regarding the monies owed by ESDC and has obtained the funds; and
(4) ORDA has and continues to award contracts on a competitive basis in accordance with its procurement guidelines and protocols.

More detailed and appropriate responses and statements are documented below to address all areas of concern and recommendations.

Audit Findings & Recommendations

A. Cash and Grant Management

ORDA management has reviewed the findings and recommendations related to the ORDA cash and grant management review performed for the audit scope and period. Based on review and internal discussions, responses are as follows pertaining to the sections detailed in the preliminary report.

The line of credit that ORDA has maintained since 1997 is in place to supplement seasonal cash flow issues and other fluctuations in State and local funding. Both the Director of Finance and the President/CEO have authority to access the line of credit as dictated by the Board of Directors. Any updates, changes, or extensions to the line of credit have been presented and approved by the ORDA Board of Directors throughout the life of the agreement.

Any use of the line of credit is substantiated on the transfer and account documentation and is approved by the Director of Finance. Going forward, for any use of the line of credit, a formal memo will be documented along with CEO approval and maintained with the account information. These line of credit uses will be documented more stringently as it relates to specific grants or state funds so as to monitor the reimbursement and subsequent repayment of the line of credit.

With regard to obtaining, renewing, and updating the line of credit, it's important to understand that originally, this agreement was not put out to bid. Numerous banks were contacted to negotiate possible terms, but many

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lending institutions would not extend credit to an organization such as ORDA with potential financial difficulties and struggles. Nevertheless, due to a long term outstanding relationship with a private lender, ORDA was able to secure a manageable line of credit. Throughout the life of the agreement, it was renewed annually with Board approval up until 2012. At this point, various banks were contacted in an effort to increase the line of credit as well as decrease the interest rate. Documentation was provided to the Office of the State Comptroller's audit team evidencing communication with various banks for a new agreement and the solicitation of these offers. In one instance, one institution offered a line of credit contingent upon another financial institution providing a matching line of credit. Unfortunately, no other bank was willing to offer terms in accordance with the original institutions' contingencies. Ultimately, ORDA was able to obtain a line of credit with an alternative lender.

* Comment 1

B. Revenues

ORDA management has reviewed the findings and recommendations related to the review of ORDA revenues and associated sections performed for the audit scope and period. Based on review and internal discussions, responses are as follows pertaining to the sections detailed in the preliminary report.

Sponsorships

When reviewing the sponsorship agreements and procedures at ORDA, it's important to understand that these agreements are mutually beneficial contracts that not only provide our sponsors with exposure, but they also provide ORDA significant marketing, financial, and operational benefits. Unlike most traditional vendor contracts, the value of sponsorship agreements are often defined by fluctuating and subjective industry practices as opposed to tangible figures. Consequently, the inherent value of any given sponsorship agreement is very difficult to delineate as much of it is measured by consumer views, economic conditions, and other variable factors at the time the agreement was negotiated.

Regarding the ORDA sponsorship with a vehicle manufacturer, ORDA receives 12 vehicles annually for business use; without these vehicles the organization would incur extensive expenses in acquiring replacements along with other associated costs such as depreciation, registration, maintenance, and insurance. The valuation of these vehicles is subjective and is booked appropriately based on management review and annual third-party audit reviews. To suggest lease valuations based upon three-year leases is questionable because, as noted above, the vehicles are replaced on an annual basis with current and/or next year models. In fact, the very notion that these should be booked at lease value at all is purely speculative and based on no factual information provided to management by the Office of the State Comptroller. In exchange for these vehicles, ORDA provides tickets to venues, advertising, and overnight stays to the sponsor that not only have little to no "actual" cost to the organization.

* Comment 2

With regard to untracked in-kind products received from sponsors, ORDA management agrees that tracking of these in-kind goods needs to be more stringent and detailed and has implemented a formalized process through the ORDA Corporate Development group. Specifically pertaining to the $36,000 in hotel stays that is due to

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* See State Comptroller's Comments, Page 32.

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ORDA, management provided documentation detailing that each use was for an ORDA employee or other business specific need. All stays were approved as a business need by ORDA management. Regarding the condominium stays, ORDA management disagrees with the valuation basis used by the Office of the State Comptroller as the organization leases the property on an annual basis so the cost is incurred regardless of use. Stays are provided to sponsors strictly for business needs and are used to build strong partnerships and foster relationships.

*
Comment
3

Regarding the lack of procedures surrounding sponsorship development, ORDA acknowledges it does not issue a formal RFP. ORDA asserts that an RFP process to obtain sponsors actually contradicts the very nature of sponsorship arrangements. Sponsorships, for the sponsored entity, are more of a sales/marketing initiative than a purchasing process. While both parties ultimately realize benefits, obtaining sponsors involves "selling" sponsors as to why we are worthy of their investment. As such, there are several ways in which we seek out and obtain sponsors. We offer venue advertising packages to the local business community which goes out in an annual mailing in the spring to well over 250 local and regional businesses. As for corporate sponsors, we first identify the major categories that typically have expendable sponsor dollars (auto, carbonated beverage, malt beverage, bank, financial planning, etc.). We then seek useful leads through partners, contacts with marketing and advertising agencies, and cold calls (the least desirable of the processes) to approach potential sponsors. Once contact is made we try to set up an initial meeting to understand a company's goals and objectives with a sponsorship program. From there a formal proposal is developed and presented to the company for consideration.

*
Comment
4

When discussing sponsorships, it is essential to that all parties understand that ORDA's contractual agreement with the United States Olympic Committee stipulates that their partners have a right of first refusal with ORDA on any and all sponsor packages. Many times it is best to work with USOC partners as many of the National Governing Bodies of Sport, which hold events on our venues, also have similar partnerships. This doesn't limit ORDA's ability to seek alternative sponsors but rather provides a potential relationship building across multiple platforms. Additionally, this only pertains to categories that are filled with the USOC family of partners and we are free to solicit companies in categories that are not filled.

Accounts Receivable

In response to findings associated with the accounts receivable management at ORDA, management agrees that a formal process should be in place providing documentation for regular review and resolution of long-term outstanding balances and moving forward this will be implemented and documented. Although the current process is not formally documented, there is an ongoing review performed by the Accounts Receivable Manager and the Director of Finance. Further, at year-end the Director of Finance reviews all outstanding receivables to determine collectability and need for potential write-offs.

With regard to the funds owed to ORDA from ESDC in the amount of $1.7 million, this amount has been fully collected as of this response date (5/9/2014). The funding was approved by the NYS Division of Budget and funneled through the Statewide Financial System and disbursed to ORDA on April 8, 2014. Concerning the remaining balances owed from ESDC of $123,781 and $13,000, details are as follows:

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- The balance of $123,781 was determined as uncollectible and an adjusting entry was made as part of year-end procedures to correct this and has been appropriately adjusted in the general ledger.
- The balance of $13,000 was not to sponsor a trip to the Vancouver Olympics; rather it was to help develop a welcome and marketing center for athletes, sponsors, and families to promote future international events in Lake Placid. This was not billed to ESDC, but rather to the Lake Placid Regional Winter Sports Commission and remains outstanding.

* Comment 5

With regard to the findings associated with venue tickets and vouchers provided to local business and ski shops, clarification is needed to support this finding. All ORDA ski mountains partner with local businesses and ski shops to promote that particular mountain and increase venue attendance as well as regional tourism. The program in place allows ski shops to sell vouchers at a discounted price determined by ORDA management for redemption at the ski facility. According to the OSC draft, the ski shop keeps the "difference between the face and discount value". This assertion is patently false on all accounts. ORDA provides paper vouchers that have a pre-determined price built into them determined by management. For all vouchers that are redeemed at the ski facility for a lift ticket, ORDA then bills the ski shop for that value. The vouchers are only valid for one ski season, so if they are not redeemed at the mountain, then they are not billed to the ski shop and therefore carry no future value whatsoever. The voucher has no value until it is redeemed at an ORDA facility and accordingly there is no justification for billing the ski shop for a voucher not redeemed. If a customer were to purchase a voucher from the ski shop, and not redeem it at the mountain, it is the customer's responsibility to then pursue refunds from the ski shop as ORDA has not provided a service. Note that this is a common practice throughout the ski resort industry.

* Comment 5

C. Financial Planning

ORDA management has reviewed the findings and recommendations related to the review of ORDA financial planning practices and associated sections performed for the audit scope and period. Based on that review and internal discussions, the following are responses to the sections detailed in the preliminary report.

When assessing the financial position and the financial management practices of ORDA it is important to evaluate all factors related to the nature of the business under which ORDA operates. Together with the support needed and required by the state, and the impact the organization has on both the local region and the state as a whole. ORDA is not the typical state authority in terms of lines of business and revenue streams. ORDA operates through a very cyclical revenue stream that is dependent on uncontrollable factors such as weather and tourism trends. With that in mind, it's critical to realize that nearly **eighty-five percent** of annual revenues are earned over a 4 month period of winter business. Consequently, along with the unpredictable factors of weather and seasonal tourism, it's unrealistic to think that an on-going budget or multi-year plan could resolve the financial struggles the organization encounters on an annual basis. Budgets and multi-year plans are developed annually based on direction from the state (which is based, in most part, upon the appropriation the State decides to offer) along with prior year's performance and expectations of a profitable winter season.

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The budget figures stated by the Office of the State Comptroller during the years 2008-09 through 2012-13 relating to over budgeted revenues and under budgeted expenses, ORDA management is unaware of what documentation was reviewed to come to such figures. Based on ORDA calculations of year end profit/loss statements, over the same time period, revenues were over-projected $3.6 million (report stated $7.1 million) and expenses under-projected $15.4 million (report stated $18.3 million). This over-projection of revenues averages roughly $700,000 over-budgeted annually which is roughly 2% of total annual revenues earned. Regarding under-budgeted expenses annually, this is best understood by the need for "flat" budgets per the request of state budget makers. This is a challenging feat with annual increases in overhead costs that are difficult to control by ORDA management such as retirement, workers compensation, and health insurance. Additionally, "flat" budgets have been an ongoing scenario again made difficult by the fact that ORDA recently acquired a third ski mountain from the Department of Environmental Conservation (Belleayre) with an annual expense budget of nearly $5.5 million. All budget support including assumptions, documentation, and projections is maintained by the Director of Finance.

* Comment 6

Annually, ORDA managements meet to discuss venue operations and to reassess projects, revenue streams, and expense management to optimize the financial position of the organization. These meetings are held formally and informally between the venue managers and the ORDA CEO/President and the Director of Finance. The organization is continually looking for areas in which there are additional revenue generation and expense savings opportunities. Documentation of these meetings is not always maintained as often times these are brainstorming and business management sessions. Regarding operation of venues that continually lose money, it's ORDA's viewpoint that all venues fall under the "ORDA Umbrella" and for those that lose money, the venues that generate a profit substantiate some of that cost. Furthermore, ORDA has a mandated responsibility with the State of NY and the Town of North Elba to maintain, update, and operate state and town owned facilities based on the funding these entities provide regardless of the profitability. Nevertheless, continued efforts by management seek to improve the financial standing of all venues but are subject to investment and maintenance costs that are not always readily available.

* Comment 6

D. Expenditures

ORDA management has reviewed the findings and recommendations related to the review ORDA expenditures and associated sections performed for the audit scope and period. Based on review and internal discussions, responses are as follows pertaining to the sections detailed in the preliminary report.

Payroll

Regarding PARIS payroll submission, although the payroll figures reported to PARIS do not match in terms of the annualized salary versus the actual wages paid, ORDA contends that the PARIS handbook does not provide clear guidance on these reporting requirements. The PARIS handbook details that base annualized salary should be stated as "yearly" salary regardless of whether the person worked the entire year, but the next statement states that hourly employees should be stated as an hourly rate multiplied by regular hours worked (which, by definition excludes overtime). To further confuse the situation, the expectation appears to be that

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salary information is based on the fiscal year, yet total compensation (calculated by the PARIS system), per the PARIS handbook, should match W-2's. This expectation appears to contradict the fact that ORDA's fiscal year ends March 31 which makes this task unrealistic. Moving forward, ORDA will continue to strive to comply with PARIS reporting requirements and will seek guidance where necessary to achieve the most comprehensive, accurate reporting possible.

Concerning the holiday work policy, management agrees to update our policies and procedures surrounding the holidays worked, the documentation needed, and the appropriate approval levels. Regardless, it's critical to understand that as a resort business, ORDA operates year round across all national holidays which are the busiest dates for our business. That being said, decisions have been made to include more detailed information in our Policy Handbook to substantiate holidays worked and management oversight of these days.

Procurement and Contracting

ORDA has reviewed the 11 procurement findings identified in the preliminary audit report and has the following responses:

- Five of the procurements were for specialty or sole source products specifically related to the ski industry and additional quotes are unobtainable. Moving forward, ORDA will require that sole source purchases be documented fully on purchase requisitions.
- For two of the procurements, ORDA management provided the audit team with evidence that the contract was entered into the NYS Contract Reporter for bidding purposes. No other bid responses were received and therefore the contract was awarded to the only interested party; there was no further documentation to provide.
- One of the procurements relates to an emergency situation due to a fire at an ORDA venue prior to Christmas week. The services provided from the contracted party needed to be done immediately to avoid operational and revenue interruption and the bidding process was bypassed due to the circumstances. This was explained in detail to the audit team.
- Another contract involves the distribution of ORDA brochures and travel guides. This is a service that is selected based on specific regions and outlets that the organization decides to advertise in. Due to geographic limitations, there are a finite number of distributors for selected regions, and this particular contract is with the selected vendor of choice of the organization for the North Country.
- One of the procurements relates to capital improvements being made to an ORDA venue in conjunction with the concessionaire. The concessionaire alone had responsibility over the project and dictated which vendors would be used for supplies and materials. ORDA was responsible for the purchase of the equipment but only at the request of the concessionaire. The expense was later reimbursed to ORDA by the concessionaire.
- Concerning the findings associated with one contract and the associated bidding process, ORDA management has addressed this internally as the current contract expired in 2013. The contract was put through a formal bidding process and details were included to ensure that all additional advertising work outside the scope of the contract would be put out to bid through ORDA procurement guidelines.

* Comment 7

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With regard to findings associated with ORDA's food and beverage concessionaire contract, the 5 year contract in place at that time allowed for an additional extension of 5 years. In 2009 ORDA was at a point in its agreement with the concessionaire to either renew for 5 years or go another direction. ORDA was considering self-operating food, rental and retail. In order to do this ORDA was contractually obligated to pay out stranded capital investments that the concessionaire made that were not fully amortized. That amount was approximately $600,000. ORDA ultimately opted not to self-op but requested a one year extension on the concession contract. The concessionaire would not agree, but after exhaustive negotiations agreed to do a two year extension only if ORDA agreed to invest up to $500,000 in food and beverage improvements. ORDA was faced with having to pay out almost $600,000 to the concessionaire if it ended the agreement anyway. These improvements would bring increases in revenues to ORDA. Regarding OSC assertion that the 2011-21 contract allowed for $3,000,000 in capital improvements, they fail to include that the contract called for an additional $2,000,000 in year 5 of the agreement as well as other monetary inclusions such as sponsorship, marketing and maintenance repair/capital reserve fund.

For the concessionaire contract pertaining to the rental operations at Belleayre Mountain, ORDA did not seek other proposals pursuant to an opinion from legal counsel on the provisions in the existing concessionaire contract. In response to the opinion that ORDA should have looked into "seeking other competition before making such arrangements" ORDA management developed and considered a cost analysis of a self-operation which ultimately was not feasible. The operation required an up-front investment of nearly $500,000 to update, repair, and build the necessary aspects of the rental department to meet ski industry safety standards. As a result of this analysis along with the long-standing working history with the concessionaire managing rental operations at the other two ORDA ski mountains, the decision was made that this was the best operational decision possible. As a result ORDA received $1,300,000 towards capital investments at Belleayre provided by the concessionaire.

* Comment 8

In response to finding associated with athlete sponsorship, ORDA currently has criteria for sponsorship consideration as outlined in the audit report. Additionally, ORDA requires that the athletes have reached a consistent level of competition on the world cup level; the athlete have residency in the region; the athlete be knowledgeable of and able to represent the Olympic Authority, its venues and Olympic history of the area, and the athlete provide a letter of interest with a resume to ORDA. Selection of sponsored athletes is made by ORDA senior management. The value of these sponsorships greatly outweighs the cost based on the success of ORDA athletes and the attention this garners the organization and the region. In the 2014 Sochi Winter Olympic alone, silver and bronze medals were won by two ORDA athletes and many others had great individual success. Moving forward, ORDA has updated and formalized the policies and procedures surrounding the solicitation and selection of sponsor athletes.

Capital Leases

In response to findings associated with capital leases and PACB approval, ORDA management disagrees with these findings based on guidelines listed on the Office of the State Comptroller (OSC) and Division of Budget (DOB) website. Furthermore, all ORDA capital leases are reviewed and vetted through the appropriate legal

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channels. Based on documentation supporting the capital leases, the ORDA legal counsel determined that "Borrowings with private corporations, whether through a loan or lease purchase agreement, are not subject to PACB approval. Importantly, the Authority's power to borrow from private sources is not restricted." Since all ORDA borrowings are restricted to private institutions, PACB approval would not be required.

* Comment 9

Based on these findings and research, ORDA concludes that the capital leases entered into were done so in accordance with State, DOB, and PACB guidelines.

State Capital Appropriations

Regarding the findings associated with ORDA capital spending procedures, the organization follows guidelines and produces appropriate reports in conjunction with NYS Division of Budget annual requests. All capital needs are assessed and submitted to the DOB on an annual basis and are assigned general categories for spending. These are reviewed and approved by the DOB prior to the disbursement of funds. Internally, tracking of these funds is done by unique, specific GL tracking codes to appropriately report all monies spent. On occasion, funds are spent in other areas than originally requested due to ongoing changes in aging infrastructure and machinery that are often times unplanned. Emergencies and priorities arise through the normal course of business for which capital spending is necessary. Due to these every-changing circumstances ORDA management submits generalized rather than project specific requests in order to spend capital funds where management deems necessary.

As to the specific findings stated by the Office of the State Comptroller regarding disbursements being non-capital in nature, ORDA management disagrees with this opinion. Throughout the audit proceedings, capital invoice listings were provided to audit staff for review, however, at no time were specific invoices selected and reviewed to investigate the nature of the disbursements. Based upon conversations with audit staff, findings were determined simply by the name of vendors rather than specific invoice details. For example, the audit report states that capital funds were spent on fuel; but upon inspection, documentation may show that the purchases were for replacement fuel tanks, or even fuel to operate machinery performing capital projects. Nevertheless, ORDA management agrees that tracking of capital spending needs to be more robust and communicative with the DOB, and has already implemented a more detailed tracking system moving forward. In addition, ORDA management will implement and formalize a capitalization policy to ensure that all necessary information pertaining to capital projects and assets falls within noted criteria and is recorded appropriately.

* Comment 10

E. Conclusion

The New York State Olympic Regional Development Authority, a critical component of the economic vitality of northern NYS, hereby submits the above responses to the audit report findings as discussed, reviewed, and agreed upon by upper management. ORDA management will take the necessary steps in the upcoming months to address and correct all areas of concern as noted above. If further clarification or documentation is needed to close the above mentioned matters, please contact the Director of Finance at your earliest convenience.

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State Comptroller's Comments

1. Although ORDA officials documented that they had contacted various banks to obtain a new LOC, there was no formal solicitation document, such as an RFP, which would set forth in writing the services required and result in a formal response from interested vendors.
2. We continue to believe that the value of the vehicles provided by the sponsor should be based on the annual cost to lease these vehicles. ORDA does not own the vehicles and is merely allowed to use them for a period of time. In fact, ORDA's "Sponsorship-Vehicle Valuation in General Ledger" shows that it assigned a monthly value of $750, which an ORDA official told us is the leased value of the vehicle for one month. Based on this information, ORDA booked $7,500 for one month for ten vehicles. This totals $270,000 over three years. We question ORDA's comments that "In exchange for these vehicles, ORDA provides tickets to venues, advertising, and overnight stays to the sponsor that not only [sic] have little to no "actual" cost to the organization." We believe there is a value to the tickets, advertising and overnight stays because ORDA is giving away the use of its facilities which are paid for and maintained with revenues earned by ORDA as a public authority. For example, ORDA has to pay for the condominium.
3. The auditors were not provided documentation that the $36,000 of hotel stays was for ORDA employees or other business purposes. In fact, ORDA officials refused to provide any information about the individuals that actually stayed at the hotel or the specific reason.
4. Sponsorship agreements are contracts, and, as such we examined the records to determine what ORDA and the sponsor were required to provide. The terms of the contract and the value of the goods and services the sponsor has to provide are developed by ORDA officials. The audit results show that the sponsor received more value than ORDA. In addition, ORDA could not justify why they did not seek competition for a contract with a sponsor when the agreement expired in July 2011.
5. We revised the report based on information in the response to our draft report.
6. Contrary to ORDA's response, no documentation was provided to support the statements. The amounts in the audit report are based on ORDA's operating budgets, annual reports, and annual certified financial statements. These documents were obtained from ORDA during the audit. In addition, we issued preliminary findings on this topic to ORDA officials and their response provided information which was used in the preparation of the draft audit report.
7. While ORDA provided a brief reason why contracts are not always competitively bid, situations such as emergency procurements or where only one vendor responds must be documented in ORDA's procurement files at the time it occurs. The files should also contain all required approvals.
8. ORDA is a public benefit corporation managed for the benefit of the taxpayers. As such, procurements should be made in an open and competitive manner. However, in responding ORDA mentions a "long-standing working history with the concessionaire…." which should not override the requirement to give other vendors an opportunity to compete for business.
9. All of the lease purchase agreements are not with private corporations. In fact, Section

2611 (13) only applies to ORDA and requires PACB approval of borrowings with public corporations. Therefore, our conclusion is correct because the lease purchase agreement is with NYPA.

10. The response to the draft report does not accurately capture the changes made to this issue from the preliminary findings reports to the draft report. Specifically, we initially reported that $1.4 million of expenses were not capital. ORDA provided documents and the amount was revised to $76,172 which we maintain were not capital expenses.