

MINUTES OF THE ONE HUNDRED TWENTY-SIXTH MEETING OF THE  
AUDIT AND FINANCE COMMITTEE  
HELD ON JANUARY 26, 2016

Pursuant to a notice dated January 15, 2016, a copy of which is annexed hereto, the one hundred twenty-sixth (126<sup>th</sup>) meeting of the Audit and Finance Committee (the “Committee”) of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (the “Authority”) was convened at 10:30 a.m. on Tuesday, January 26, 2016, at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52<sup>nd</sup> Floor, New York, New York, and in the Authority’s Albany Office located at 17 Columbia Circle, Albany, New York.

The following members of the Committee were present:

Jay Koh, Chair  
Richard Kauffman  
Sherburne Abbott  
Jigar Shah

Also present were John B. Rhodes, President and CEO; Janet Joseph, Vice President for Technology and Strategic Planning; David Margalit, Chief Operating Officer; Jeffrey J. Pitkin, Treasurer; Noah C. Shaw, Esq., General Counsel; Sara LeCain, Esq., Senior Counsel and Secretary to the Audit and Finance Committee; Mark Mitchell, Director of Internal Audit; and various other staff of the Authority.

Mr. Koh called the meeting to order and noted the presence of a quorum. Mr. Koh stated that the meeting notice and agenda were forwarded to the Committee members and the press on January 15, 2016. The first item on the agenda concerned the approval of the minutes of the one hundred twenty-fifth (125<sup>th</sup>) meeting of the Committee, held on September 21, 2015.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee members, the minutes of the hundred twenty-fifth (125<sup>th</sup>) meeting of the Committee, held on September 21, 2015, were approved.

Mr. Koh indicated that the next item on the agenda concerned the appointment of KPMG, LLP (“KPMG”) for an internal controls assessment of contracting and payment processes. Mark Mitchell, the Director of Internal Audit, stated that the Authority would like to enter into an agreement with KPMG to perform non-audit related services at a cost not to exceed \$50,000.

Mr. Mitchell explained that pursuant to the Public Authorities Law, a public benefit corporation may not engage its independent auditors to provide non-audit services without the written approval of its Audit and Finance Committee. KPMG is currently serving as the Authority’s Independent Auditor.

The Internal Audit Plan for fiscal year 2015-16 included an independent internal controls review of the Authority’s contracting and payment processes. As options were assessed, staff considered independence, cost, knowledge and experience, and procurement methodology. Staff determined that the most effective approach for completing the review would be to engage its independent auditors, KPMG, as they are already familiar with the Authority’s processes and procedures.

Under the Authority’s Procurement Guidelines, Operative Policy and Instructions, the Authority may enter into an agreement with an entity for up to \$50,000 without the benefit of a competitive procurement. Since this engagement will cost less than \$50,000, it does not have to be competitively bid.

Lastly, in keeping with New York State Executive Law Article 15-A and 5 NYCRR Parts 140-144, KPMG will be required to subcontract a portion of the work to a certified minority and women-owned business enterprise.

Mr. Mitchell concluded his report by stating that if approved, the Authority will enter into an agreement with KPMG to perform an internal controls review of the Authority's contracting and payment processes for a fee not to exceed \$50,000.

In response to an inquiry from Mr. Kauffman, Mr. Mitchell explained that auditing standards require that whenever internal audit resources do not have the competency to conduct a specified review or when the Members or Officers make a request, assistance is sought from outside firms. As an example, Mr. Mitchell stated that the Authority has sometimes used outside resources for the routine Information Technology assessment in order to benefit from their specialized knowledge and experience.

In response to an inquiry from Mr. Kauffman, Mr. Mitchell stated that there is not a clear and compelling case to solicit any one particular firm specifically for non-audit services. Instead, Mr. Mitchell evaluates the need on a case-by-case basis depending on the competency needed to perform the requested audit.

In response to an inquiry from Mr. Koh, Mr. Mitchell explained that historically, entities had used the same firm to perform internal control assessments and financial statements audits subject to certain safeguards. However, following the amendments to the Public Authorities Law in 2009, that practice changed requiring formal approval by the Committee Members. In this instance, staff determined that leveraging the existing KPMG resources would be beneficial to the Authority. In performing the internal controls assessment, KPMG will establish a "firewall" between the financial statements team and the internal controls assessment team.

Mr. Pitkin stated that the Authority is in the process of putting out a solicitation for independent auditor services as that agreement is in its final year.

In response to an inquiry from Mr. Koh, Mr. Pitkin explained that the independent auditors can assess the process, and make recommendations for improvements, but may not assist in developing specific methods of implementation.

In response to an inquiry from Mr. Koh, Mr. Mitchell stated that the timing of the internal controls assessment is appropriate because of the Authority's recent upgrade to PeopleSoft 9.2. Mr. Margalit added that management feels an independent review at this time would assist the Authority as it continues to make improvements.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee members present, the following resolution was adopted.

Resolution No. 412

RESOLVED, that the President and CEO is authorized to engage the firm of KPMG LLP to perform non-audit services in the form of an internal controls review for the Authority.

Mr. Koh indicated that the next item on the agenda concerned proposed amendments to the Internal Audit Plan for Fiscal Year 2015-16 ("Internal Audit Plan"). Mr. Koh called on Mr. Mitchell to discuss the item.

Mr. Mitchell explained that the Committee approved the Internal Audit Plan in September of 2015. However, Mr. Mitchell proposes that the Internal Audit Plan be modified by discontinuing Internal Audit's independent assessment of the management of the data warehouse project.

The project is being implemented in phases, and Internal Audit provided an interim report at the conclusion of Phase I of the project. Since then, there has not been any meaningful involvement by Internal Audit.

Mr. Mitchell explained that the project leadership team requested that Internal Audit hold off performing any review work while the project underwent changes. At the time that the Internal Audit Plan was proposed, management envisioned re-engaging Internal Audit to monitor and assess the management of the project. Subsequently, however, the Authority's Chief Operating Officer, David Margalit, involved the Authority's Operational Transformation and Lean team in the management and oversight of the project. Based upon Mr. Mitchell's knowledge of that team's

capabilities, it is appropriate to transition from having Internal Audit providing oversight and monitoring to having those responsibilities revert back to others at the Authority.

Mr. Mitchell is not proposing that any additional work be performed in place of this activity because Internal Audit was using the services of an outside contractor to perform the work.

Mr. Mitchell stated that management concurs with this, and requested that the Committee also provide their concurrence.

In response to an inquiry from Mr. Koh, Mr. Mitchell explained that work is progressing on the remaining items included in the Internal Audit Plan and the Committee will receive a report on all work performed as part of the Annual Internal Audit Report at the April Committee meeting.

The Committee concurred with the proposed amendments to the Internal Audit Plan.

Mr. Koh indicated that the next item on the agenda concerned a report from the Director of Internal Audit, on his recent activities. Mr. Mitchell stated that a Payroll Audit was conducted to evaluate the effectiveness of the internal controls in place to ensure that the Authority properly identifies and accounts for those who are on its payroll; withholds earnings for payroll taxes; pays wages earned and taxes withheld; and records payroll-related transactions in the General Ledger.

Mr. Mitchell explained that because the Authority uses an outside service provider for timecard recordkeeping, payroll processing and tax payments, Internal Audit reviewed the service provider's Service Organization Controls, "SOC 1," Reports on the Suitability of the Design and Operating Effectiveness of Controls for work flows used by the Authority. Internal Audit found that the reports did not contain any control exceptions.

The Internal Audit team then evaluated the Authority's controls that are required in order to complement the service provider's controls. All the payments examined were based on authorized time records and were paid to bona fide individuals. The payroll calculations re-performed (including gross salary, net wages, and payroll taxes withheld and to be paid), were

properly computed, paid, and recorded in the General Ledger. The design and the implementation of the Authority's payroll process controls are adequate and effective; they provide reasonable assurance that financial and reporting objectives should be met as a result of effectively managing their associated risks.

Internal Audit provided management with one potential opportunity to improve controls, and for one type of circumstance suggested management obtain external tax guidance.

Regarding controls, Internal Audit examined system access to ensure there was an adequate segregation of duties. Though Internal Audit did find adequate segregation between the Human Resources and Finance functions, within the Finance department there is an opportunity to further segregate user rights among its employees. Currently, in the event that staff with primary payroll processing responsibility are unavailable, Finance ensures that the team will meet the strict deadlines inherent in the payroll process by affording administrative rights to a number of team members. Ordinarily, administrative rights are greatly limited and processing rights are afforded to a larger number of people. The Finance department's practice of having supervisors and staff double check computations compensates for multiple people having administrative rights; however, further restricting rights would be a meaningful way to reduce the level of payroll processing risk. Management concurs with this, and they will be reviewing and further restricting user rights.

Internal Audit's other suggestion regarding tax advice was the result of learning that during the period audited, a half dozen of the Authority's interns were international students. The structure of the U.S. Tax Code for interns who are international students is different from those residing in the U.S. Internal Audit also suggested re-evaluating whether federal and state taxes, as well as Federal Insurance Contributions Act ("FICA") withholdings and Federal Unemployment Tax Act ("FUTA") withholdings, were correctly withheld.

Internal Audit suggested that Finance seek advice from tax experts and with their assistance, review and assess whether the international students had filled out their federal and

state withholding certificates correctly, and whether federal and state taxes, as well as FICA and FUTA, were correctly withheld for the six interns who were international students.

Finance concurred with that suggestion and found that the international students should have claimed only one exemption on their W-4s. They also obtained tax advice that states that Finance had properly interpreted the six interns' FICA treatment. The Finance department also obtained recommendations from the tax experts on ways to make minor process improvements when hiring international students, which Finance will be implementing.

Mr. Mitchell concluded his report by stating that although there are other audits from this year's Internal Audit Plan that have not been completed, Internal Audit is on track to have all proposed work completed by the fiscal year end.

In response to an inquiry from Mr. Koh, Mr. Rhodes indicated that the Authority currently has 335 employees. In light of that number, Mr. Koh commended staff on the results of the payroll audit.

In response to an inquiry from Mr. Kauffman, Mr. Mitchell explained that in this instance the opinion of "adequate and effective" controls is equivalent to an A-. Mr. Pitkin added that this provides reasonable, but not absolute, assurance that the controls were correctly designed because audits do not re-review every single transaction, but rather, a sample.

In response to an inquiry from Mr. Kauffman, Mr. Mitchell stated that "effective" is the highest opinion the organization can receive from Internal Audit.

In response to an inquiry and a comment commending the examination of Information Technology controls as part of the audit from Mr. Koh, Mr. Mitchell stated appreciation for the comment and said that the practice is a result of recognizing the inherent reliance organizations today have on automated controls, and the review found that the Authority was adequately addressing the way it currently secures its payroll data.

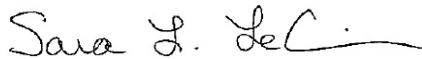
Mr. Koh stated that the last agenda item concerned other business. Mr. Koh called upon Mr. Pitkin to report on the item.

Mr. Pitkin stated that in November 2015 the Authority received a notice from the Office of the State Comptroller (“OSC”) that they had scheduled an audit of the NY-Sun Initiative. Staff had an opening conference with the OSC auditors on December 8, 2015. They indicated that the objectives of their audit were to look at geographic equity of the program, whether projects were done on time, and whether the program was meeting its goals. They intend to review NY-Sun program incentives offered since 2014. They anticipate 4-5 months to complete the audit, at which time they will provide a draft audit report for review and comments.

Management will keep the Committee updated on the progress of the audit and any issues that arise.

There being no further business, upon motion duly made and seconded, and by unanimous voice vote, the meeting was adjourned.

Respectfully submitted,



Sara L. LeCain  
Secretary to the Committee



**NYSERDA**

**ANDREW M. CUOMO**  
Governor

**RICHARD L. KAUFFMAN**  
Chair

**JOHN B. RHODES**  
President and CEO

**NOTICE OF MEETING AND AGENDA**

January 15, 2016

TO THE MEMBERS OF THE AUDIT AND FINANCE COMMITTEE:

PLEASE TAKE NOTICE that the one hundred twenty-sixth (126<sup>th</sup>) meeting of the AUDIT AND FINANCE COMMITTEE of the New York State Energy Research and Development Authority (“Authority”) will be held at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52<sup>nd</sup> Floor, New York, New York, and in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York, on Tuesday, January 26, 2016, commencing at 10:30 a.m., for the following purposes:

1. To consider the Minutes of the 125<sup>th</sup> meeting held on September 21, 2015.
2. To consider and act upon a resolution approving the appointment of KPMG, LLC for an internal controls assessment of contracting and payment processes.
3. To consider an amendment to the Internal Audit Plan for fiscal year 2015-16.
4. To receive a report from the Director of Internal Audit on recent internal audit activities.
5. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at either of the above locations. In order to expedite the entry procedures established by the building management, any members of the public planning to attend the meeting at DASNY’s office should notify DASNY’s receptionist at 212-273-5000, 24 hours in advance of the meeting, and must be prepared to show valid photo identification upon arrival at One Penn Plaza.

Video conferencing will be used at both locations and the Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nyserda.ny.gov/About/Board-Governance/Board-and-Committee-Meetings>.

Sara L. LeCain  
Secretary to the Committee

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