

Thomas P. DiNapoli
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 5, 2009

Ms. Deborah VanAmerongen
Commissioner
NYS Division of Housing and Community Renewal
Hampton Plaza, 38-40 State Street
Albany, NY 12207

Re: Report 2009-F-21

Dear Ms. VanAmerongen:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution; and Article II, Section 8, of the State Finance Law, we have followed up on the actions taken by officials of the Division of Housing and Community Renewal (Division), to implement the recommendations contained in our audit report, *Oversight of Selected Purchasing Practices at Rochdale Village* (Report 2007-S-19).

Background, Scope and Objectives

Rochdale Village, Inc. (Rochdale) is the second largest co-op built under the Mitchell-Lama Law. Located in Queens, New York, it contains 5,860 residential apartments and 2 malls with 71 commercial stores, as well as other real property. A managing agent hired by Rochdale's Board of Directors (Board) oversees Rochdale's day-to-day operations. Rochdale is governed by the Private Housing Finance Law and is subject to oversight by the Division as part of that agency's responsibility for the State's housing program.

Our initial audit report, which was issued on February 8, 2008, examined whether Rochdale procures goods, supplies, and services at competitive prices and in accordance with applicable requirements; and whether the Division of Housing and Community Renewal provides an appropriate level of oversight concerning Rochdale's purchasing practices. We found that Rochdale management lacks assurance that it procures goods, supplies, and services at competitive prices. We found a general lack of cost consciousness on the part of Rochdale management, as demonstrated by the widespread noncompliance with competitive bidding requirements for the \$8.8 million in vendor payments included in our audit scope. Furthermore, we found there was a general lack of oversight by the Division for such expenditures. The objective of our follow-up was to assess the extent of implementation, as of October 6, 2009, of the eight recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Division officials have made some progress in correcting the problems we identified. Many of the report's recommendations concern regulations that govern housing companies

including Rochdale. The Division has drafted and submitted revised regulations to the Department of State for further review. While the Division pursues regulatory change, however, we found that it is not, at times, enforcing the existing regulations. Of the eight prior audit recommendations, three recommendations have been implemented, two recommendations have been partially implemented, two recommendations have not been implemented, and one was not applicable during the follow-up scope period.

Follow-up Observations

Recommendation 1

Determine if the regulations need to be updated to increase the \$1,000 threshold for obtaining competitive bids. Enforce either the existing or the revised requirement.

Status - Partially Implemented

Agency Action - The Division is in the process of updating its regulations concerning purchasing and contracting. The proposed regulations require that "all purchases and contracts ... be awarded on the basis of competitive analysis and bidding to the fullest extent possible. Unless otherwise directed by the Division, no less than three bidders must be solicited by the housing company." To determine whether existing requirements are being enforced, we selected a random sample of 10 purchase orders out of the 1,702 purchase orders in excess of \$1,000 that were issued from July 2008 to May 2009. We found that Rochdale used competitive bidding for seven of those ten purchases.

Recommendation 2

Ensure that Rochdale publicly advertises for sealed bids for purchases estimated to exceed \$100,000.

Status - Not Applicable

Agency Action - According to Rochdale records, no individual purchases exceeded \$100,000 during our review period (July 2008 to May 2009).

Recommendation 3

Assist Rochdale in determining whether use of in-house staff to perform some or all restoration work would be cost-beneficial.

Status - Implemented

Agency Action - The Division assisted in the preparation of a cost-benefit analysis indicating that using in-house staff to perform some restoration work would be cost-beneficial. In April 2008, Rochdale created an in-house staff to perform restoration work. However, Rochdale officials informed us that the group was unable to restore apartments timely and, as a result, the development was losing rental income. As a result, in March 2009, Rochdale disbanded the in-house unit.

Recommendation 4

Clarify whether the threshold amounts contained in the Regulations apply to an individual purchase or to cumulative totals for a specified period of time.

Status - Implemented

Agency Action - The Division's proposed regulations clarify that the \$100,000 threshold applies to cumulative totals over a period of one year, and eliminates the \$1,000 threshold for competitive bidding, as well as the \$30,000 threshold for Division review.

Recommendation 5

Ensure that any commitment, contract or expenditure in excess of \$30,000 undergoes Division approval in compliance with the Regulations.

Status - Not Implemented

Agency Action - Regulation 1728-4.1 part d, requires the Division to approve Rochdale's commitments, contracts or expenditures in excess of \$30,000. We found no such approval for any of Rochdale's 15 purchases, made during July 2008 through May 2009 that exceeded \$30,000. Division officials noted that three of the purchases were considered an emergency. They also indicated that proposed regulations would eliminate the \$30,000 threshold for Division review.

Recommendation 6

Encourage the consolidation of purchases to attract bidders and to help obtain the best prices.

Status - Implemented

Agency Action - The Division has encouraged Rochdale to consolidate its purchases in order to obtain better pricing. However, Division officials explain that financial considerations limit Rochdale's ability, at times, to consolidate. Our review confirmed that, while Rochdale often did not consolidate its purchases, it did pay lower prices during the July 2008 to June 2009 period than it had previously paid for the same items.

Recommendation 7

Provide oversight for the types of vendor payments included in our audit scope.

Status - Not Implemented

Agency Action - Current regulations require Division approval for Rochdale's commitments, contracts or expenditures in excess of \$30,000. As reported in Recommendation 5, we found no such approval for any of Rochdale's 15 purchases, made during July 2008 through May 2009 that exceeded \$30,000. However, the Division's proposed regulations would require Division

approval only for purchases above the \$100,000 threshold – although the Division would have the right to require housing companies to follow alternate review procedures if needed.

Recommendation 8

Ensure the status of purchase orders is accurately reflected on Rochdale's database. Investigate whether missing/voided purchase orders were used and paid. All voided purchase orders should be clearly marked and retained.

Status - Partially Implemented

Agency Action - Neither Division nor Rochdale officials have investigated the status of the 93 missing/voided purchase orders identified in our report. To determine whether more recent purchase orders are being handled properly, we randomly selected 10 of the 61 purchase orders that were voided/cancelled from July 2008 through May 2009. We found all ten were marked "cancelled" and that the status of nine of the ten was reflected accurately on the Rochdale database. The database contained some incorrect information related to one purchase order; however, the invoice had not been paid.

Major contributors to this report were Myron Goldmeer and Menard Petit-Phar.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Division of Housing and Community Renewal for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Cindi Frieder
Audit Manager

cc. Mr. Jon Brown, Director of Internal Audit
Mr. Tom Lukacs, Division of the Budget