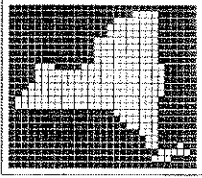


State of the Arts



**NYSCA**

New York State Council on the Arts  
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New York, New York 10010

212-459-8800  
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EXECUTIVE CORRESPONDENCE

DEC 30 2013

OFFICE OF THE STATE COMPTROLLER  
THOMAS P. DINAPOLI  
COMPTROLLER

December 20, 2013

Honorable Andrew M. Cuomo  
Governor of New York  
Executive Chamber  
State Capitol  
Albany, NY 12224

Honorable Thomas P. DiNapoli  
Office of the State Comptroller  
633 Third Avenue, 31<sup>st</sup> Floor  
New York, NY 10017

Re: Office of the State Comptroller's Audit Report 2011-S-6:  
Unnecessary and Potentially Illegal Consultant Contract with Former New York State  
Council on the Arts Executive Director

Dear Sirs:

Pursuant to section 170 of the Executive Law, I write to advise you of the steps the New York State Council on the Arts (NYSCA) has taken to implement the recommendations contained in the Office of the State Comptroller's (OSC) September 26, 2013 Audit Report 2011-S-6, "Unnecessary and Potentially Illegal Consultant Contract with Former New York State Council on the Arts Executive Director" (the Audit Report). The Audit report was addressed to both NYSCA and Empire State Development (ESD).

The Audit Report made three recommendations. The first was addressed to both ESD and NYSCA, the second to ESD, and the third to NYSCA. Accordingly, this letter describes steps taken by NYSCA in response to the first and third recommendations. These steps are consistent with those outlined in the NYSCA's July 29, 2013 response letter to OSC's Draft Audit Report.

**Recommendation No. 1 to ESD and NYSCA:** "Work together to determine whether and to what extent funds were improperly paid and recover funds as appropriate and feasible."

As detailed in its July 29 response letter, NYSCA reviewed OSC's analysis of travel vouchers submitted to NYSCA by its former Executive Director, Heather Hitchens, for expenses related to nineteen day or overnight trips in 2007 and 2008, and for which NYSCA reimbursed Ms. Hitchens \$5,342.86. Having discussed the terms of Ms. Hitchens's contract with ESD, NYSCA determined that these expenses should have been covered by payments under the ESD contract, and on October 29, 2013, NYSCA sent Ms. Hitchens a demand letter seeking to collect that amount.

**Recommendation No. 3 to NYSCA:** "Ensure Council employees are aware of their responsibilities under Public Officers Law, such as:

- Financial Disclosure Statement filing requirements
- Appropriate approval and disclosure of outside activities in accordance with current JCOPE guidance”

It is currently NYSCA’s policy, and has been since January 1, 2011, that NYSCA’s employees and Council members be informed of the requirements of the New York State Public Officers Law. Under Public Officers Law § 73, staff that are policy makers or whose salary meets or exceeds the filing rate specified therein must complete required financial disclosures annually, by a specified filing deadline. This disclosure covers outside employment. NYSCA notifies all staff and Council members who are required to file annual financial disclosure statements, and confirms with the Joint Commission on Public Ethics (JCOPE), which receives these filings, that all NYSCA filings have been completed. If any person required to file has not submitted a financial disclosure statement to JCOPE, the Executive Director of the agency follows up with that person to ensure that his or her statement is filed. As required by the Executive Law, staff who are policy makers under the law must complete training upon the start of employment at the agency, and regular training is required thereafter. Compliance with these training requirements is verified by the Executive Director. In order to ensure consistent compliance with the law, NYSCA has also sought out guidance from and adhered to all guidance provided by JCOPE when questions about ethics and requirements of the Public Officers Law arise.

#### Conclusion

As set forth above and in NYSCA’s Response to the Draft Report letter, NYSCA believes that it has fully addressed the recommendations contained in the Audit Report.

Sincerely,



Lisa Robb  
Executive Director

cc: Honorable Robert Duffy, Lieutenant Governor and President, NYS Senate  
Honorable Jeffrey Klein, New York State Senate President Pro Tempore  
Honorable Dean G. Skelos, NYS Senate Majority leader  
Honorable Andrea Stewart-Cousins, NYS Senate Minority Leader  
Honorable John A. DeFrancisco, NYS Senate Chair, Finance Committee  
Honorable Liz Krueger, NYS Senate Ranking Minority Member, Finance Committee  
Honorable Sheldon Silver, NYS Assembly Speaker  
Honorable Joseph Morelle, NYS Assembly Majority Leader  
Honorable Brian M. Kolb, NYS Assembly Minority Leader  
Honorable Herman Farrell, Jr., NYS Assembly Chair, Ways and Means Committee