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August 28, 2014

RoAnn M. Destito
Commissioner
New York State Office of General Services
Corning Tower
Empire State Plaza
Albany, New York 12242

Re: NYS IG 0152-002-2011

Dear Commissioner Destito:

My office investigated a complaint referred by the Office of General Services (OGS) advising that OGS's internal audit unit had found questionable documentation submitted by the [REDACTED] Corporation ([REDACTED]) on two state emergency contracts in western New York.

[REDACTED], an environmental remediation firm located in Depew, performed asbestos abatement work at the Department of Corrections and Community Supervision's Wende Correctional Facility (contract EA262) in 2008 and the Office of Mental Health's Western New York Child Psychiatric Center (contract EA797) in 2009. Our investigation revealed that [REDACTED] overcharged the state by inflating its costs on both contracts. Specifically, on the Wende Correctional Facility project, [REDACTED] overcharged \$1,666.94 in state and federal unemployment insurance costs and \$78.60 in workers' compensation costs; on the Western New York Child Psychiatric Center project, [REDACTED] overcharged \$2,040.05 in unemployment insurance costs and \$1,139.54 in workers' compensation costs. Payment that [REDACTED] received from the state on both projects included the overcharges.

In a letter to my office dated July 3, 2013, [REDACTED] attorney admitted the firm had overcharged the state for unemployment insurance on both contracts, consistent with the amounts presented. The letter, however, did not address the overcharging of workers' compensation costs. We subsequently interviewed [REDACTED] president of [REDACTED], who

did not contest the overcharges, but claimed they were not intentional and that he wanted to rectify the situation.

We referred our findings to the Erie County District Attorney's Office for consideration of criminal charges. After discussions with [REDACTED] attorneys, the district attorney's office declined prosecution based on lack of sufficient evidence of criminal intent. Therefore, we are referring this matter to your agency and recommend that you take appropriate action, including seeking repayment of the overcharged funds.

Because both projects involved asbestos abatement and [REDACTED] claimed costs for the transport and disposal of asbestos, we examined if these activities were properly conducted. My office, with the assistance of the United States Environmental Protection Agency, reviewed documents and interviewed witnesses regarding the handling of asbestos on the projects. Our review found no evidence of illegal transport or disposal of asbestos materials.

It is requested that within 45 days you advise this office of any actions or decisions taken in response to the above recommendation. If you have any questions regarding this matter, you can contact Audrey Maiello Cunningham at (518) 474-1010.

Sincerely,

[REDACTED]
Catherine Leahy Scott
Inspector General