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October 17, 2014

RoAnn M. Destito
Commissioner
New York State Office of General Services
41st Floor, Corning Tower
Empire State Plaza
Albany, New York 12242

RE: NYS IG 0174-002-2013

Dear Commissioner Destito:

My office received a complaint alleging that the Office of General Services (OGS) failed to act in accordance with workplace violence policies after an altercation in the workplace occurred between [REDACTED] and [REDACTED] employees of the Design and Construction Group. Specifically, [REDACTED] alleged that OGS failed to protect him from workplace violence; to offer him medical attention following the altercation; to advise him of his rights to prosecute his alleged attacker; and to provide him with stress debriefing or post-traumatic stress counseling. In addition, [REDACTED] reported that OGS management treated him as a co-combatant in his altercation with [REDACTED] and that OGS's adherence to the terms of an Order of Protection ultimately issued to him was not sufficient.

OGS Workplace Violence Policy directs employees to immediately report to a supervisor any incidents of threatening, intimidating, or violent behavior in the workplace. The policy mandates that employees must document the incident by completing a Workplace Violence Incident Report form ("WVIR") and submitting it to a supervisor as soon as possible. The supervisor must complete the appropriate section on the WVIR and immediately forward it to the appropriate program manager or deputy commissioner. The program manager or deputy commissioner then must review the

WVIR and submit it to the director of human resources within two work days of the reporting of the incident. The human resources office is charged with initiating a formal investigation.

If an injury occurs as a result of workplace violence, the supervisor must assist the injured employee in obtaining medical attention, and advise the employee to notify the Accident Reporting System, a mechanism that enables New York employees to report work-related injuries and illnesses and facilitates access to workers' compensation benefits. If the employee is unable to notify the Accident Reporting System, the supervisor must do so. In addition, supervisors must notify employees involved in incidents of workplace violence of the services offered by the OGS Employee Assistance Program.

According to the OGS Workplace Violence Policy, and in accordance with New York State Labor Law, all OGS employees are required to be trained in the agency's workplace violence prevention policy. This training should include measures that employees can take to stop and prevent workplace violence. In addition, employees should be provided with annual retraining in workplace violence prevention and mitigation policy.

Any violation of the terms of OGS Workplace Violence Policy may lead to discipline under applicable union bargaining agreements and Section 75 of the Civil Service Law. The policy also dictates steps to be taken to assess the presence of workplace violence risk factors in the workplace in an effort to reduce the number of incidents that occur.

Our investigation revealed a history of bantering and sarcastic exchanges between [REDACTED] and [REDACTED] at work. These exchanges escalated into a physical altercation on October 19, 2012, when, according to [REDACTED], [REDACTED] "flew into a rage," put his hands around [REDACTED] neck, and threw him against a filing cabinet. [REDACTED] reported that he punched [REDACTED] in the head, causing a small cut.

[REDACTED] immediate supervisor, Associate Heating and Ventilating Engineer [REDACTED] intervened and brought the incident to the attention of his supervisor, Acting Director of the Design and Construction Group, [REDACTED]. According to numerous witnesses, [REDACTED] spoke with [REDACTED] and [REDACTED] that day and obtained assurances from them that they could continue to work together. [REDACTED] sent the two employees back to work, wrote a memorandum to his file documenting the incident, but took no further action. OGS Director of Labor Relations [REDACTED] informed our office that he learned of the altercation more than a week after it took place when he heard rumors that a fist fight had occurred. He never received a copy of [REDACTED] memorandum. [REDACTED] conducted an investigation into the matter, which included interviews of numerous OGS employees and interrogations of [REDACTED] and [REDACTED], both of whom were issued Notices of Discipline and suspended as a result the incident.

██████████ of his own volition, reported the altercation to the New York State Police, which resulted in a summons being issued to ██████████ on May 17, 2013. ██████████ subsequently pleaded guilty to harassment in the 2nd degree, a violation. In conjunction with the plea, the Albany County Court issued an Order of Protection for the benefit of ██████████. This resulted in ██████████ being assigned to a different work floor and only incidental contact between ██████████ and ██████████ at work.

Our investigation revealed that ██████████ failed to provide ██████████ and ██████████ with the required forms on the day of the incident and did not inform them of the services offered by the OGS Employment Assistance Program. ██████████ also failed to report the incident to his immediate supervisor. This investigation further uncovered that, contrary to OGS policy and State Labor Law, ██████████ had not received workplace violence prevention training.

Accordingly, I recommend that OGS implement a program to ensure that all employees receive Workplace Violence Training upon commencing employment and yearly thereafter, with an acknowledgment by employees that they have received the training. Additionally, I recommend that OGS take action to ensure that all managerial staff be trained in the proper policies and procedures to be followed when instances of workplace violence occur. Further, a centralized repository of training records should be maintained. These actions should be consistent with the steps described in your February 27, 2014 letter responding to the Uniform Guidelines training provided by my office.

Please provide information concerning your review and actions, including copies of any revised policies, within 45 days from the date of this letter. If you require further information about our investigation, please contact Deputy Inspector General Audrey Maiello Cunningham at 518-474-1010.

Sincerely,

Catherine Leahy Scott
Inspector General