

2008-09 INTERNAL CONTROL SUMMARY & CERTIFICATION FORM

The Internal Control Summary and Certification Form provides supporting justification for an agency's or authority's level of compliance with the requirements of the Internal Control Act as outlined below. This form requests information regarding specific actions taken, or needed to be taken, by agencies/authorities to comply with each of the Act's requirements as described in Budget Policy and Reporting Manual (BPRM) Item B-350. A completed and signed Internal Control Summary and Certification Form should be submitted by April 30, 2009, via e-mail as an attached PDF file to the Division of the Budget's internal control reporting mailbox at dob.sm.icreporting@budget.state.ny.us.

<i>Empire State Development Corporation</i>	<i>05/01/09</i>	<i>Marisa Lago, CEO</i>	<i>212 803 3700</i>
Agency Name	Date	Completed by (Name)	Phone

A. Establish and maintain guidelines for a system of internal controls for the agency or authority. Internal control guidelines communicate an organization's management and programmatic objectives to its employees and provide the methods and procedures used to assess the effectiveness of its internal controls in supporting those objectives. Internal control guidelines should:

1. State the agency head's support of internal controls to provide staff with an understanding of the benefits of effective controls;
2. Identify the agency's primary responsibilities and the objectives;
3. Explain how internal controls are organized and managed;
4. Define responsibilities of agency management, supervisors and staff;
5. Acknowledge that internal controls adhere to accepted standards; and,
6. Describe the organization's process for evaluating internal controls.

For this requirement, the agency/authority is:

Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement.

Guidelines which address all points above have been distributed to ESD personnel.

B. Establish and maintain a system of internal controls and a program of internal control review for the agency or authority. The system of internal control should be developed using the COSO (Committee of Sponsoring Organizations of the Treadway Commission) conceptual framework adopted in the *Standards for Internal Controls in New York State Government*, and should incorporate COSO's five basic components of internal control: control environment, risk assessment, control activities, information and communication and monitoring.

The program of internal control review shall be a structured, continuing and well documented system designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the agency's or authority's internal controls.

Organizations can adopt a system of internal control review tailored to their needs, size and degree of centralization. The procedures for evaluating the adequacy of that system also vary, but at a minimum should:

1. Identify and clearly document the primary operating responsibilities (functions) of the agency or authority;
2. Define the objectives of these functions so they are easily understood by staff accountable for carrying out the functions;
3. Identify/document the policies and procedures used to execute functions;
4. Identify the major functions of each of the agency's assessable units;
5. Develop process or cycle to assess risk and test controls for major functions;
6. Assess the risks and consequences associated with controls failing to promote the objectives of major functions;
7. Test controls to ensure they are working as intended (see the "Manager's Testing Guide" which can be downloaded from BPRM Item B-350);
8. Institute a centrally monitored process to document, monitor and report deficiencies and corrective actions.

For this requirement, the agency/authority is:

X Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement and specifically address the following points:

1. Describe the process used to review the authority's internal controls.

ESD emphasizes operating in a well-controlled environment as a normal course of business. Annually, each department head is required to identify key risks and corresponding key controls, and to determine and identify control gaps, if any. When the latter are identified, a plan of action is proposed and addressed appropriately. ESD's Internal Control Officer reviews and critiques all risk / control submissions and compiles a Control Enhancements summary for submission to executive management.

2. List all high-risk activities and indicate which were reviewed during 2008-09.

ESD management understands that in the current tight budgetary environment, restrictions on funding available for programs and projects will have somewhat of an impact on ESD's execution of its mission to foster economic development and stability in NYS. Management acts strategically to maximize ESD's impact with resources at its disposal.

Specific High risk activities

- *Disbursement functions - Contracts Administration, Accounts Payable; Administrative Services (procurement and bidding); Cash Management*
- *Subsidiary Operations (MSDC; CCDC; QWDC; BBPDC; HRDTC; USAN; HCDC; ECHDC; 42nd St. DC; GIPEC); Subsidiary Finance Dept.*
- *Treasury - Investments; Debt; Cash Management*
- *Controllers (GL Accounting and Account Reconciliations)*
- *Loans and Grants (grant screening, approval, and submission for disbursement)*
- *Portfolio Management (Grantee compliance requirements enforcement)*
- *MIS Support Functions*

All areas review and document key risks and key controls annually. Also, ESD is audited by a CPA firm annually, and that audit includes a review and test of controls. In addition, Internal Audit audits and tests key controls for a majority of ESD areas within each fiscal year, and considers external auditor coverage when determining its plan of audit. Audit reports are issued to executive management, the Audit Committee, and other responsible managers following each internal audit.

3. Identify the significant deficiencies revealed during the 2008-09 review process. Outline the actions taken, or planned, to eliminate deficiencies, highlighting the most important improvements made during the year.

While internal audits do identify issues requiring management's attention, no deficiencies deemed significant were identified in 2008/09. In addition, the annual internal control documentation process identified no high risk issues in need of corrective action, other than the need for ESD to finish development of, and fully test, a comprehensive disaster recovery plan for the Corporation. Finally, the external audit team issued a clean opinion regarding ESD internal controls as of last fiscal year end, March 31, 2008.

4. Describe the monitoring system installed by the agency to verify that corrective actions are taken. Discuss the extent to which IT systems are used to track corrective actions.

Internal Audit tracks corrective actions taken in response to audit report comments, and also monitors and evaluates actions deemed appropriate to be taken regarding internal control enhancements arising from the annual review process by managers.

5. Summarize specific actions the agency has taken to install a compliance testing program. Describe actions taken during 2008-09 to verify test results and expand the testing program.

Internal Audit's professional team of 4 highly experienced auditors conducts extensive and appropriate levels of testwork in each of its audits.

6. Describe measures instituted to sustain the effectiveness of the internal control program during 2008-09. Include information on reorganizations and other revisions in the program to enhance operations.

Internal Audit conducts a significant level of ongoing audits and reviews, focused on key risks and controls. No significant reorganizations have taken place in 2008/09, although such will come into play in 2009/10 as certain ESD and DED functions are consolidated. Managers are aware to monitor control adequacy and areas for possible improvement, and as noted, annually formally evaluates and documents key risks and controls, subject to screening and evaluation by the ESD Internal Control function.

7. Describe efforts agency/authority management has taken to coordinate and integrate the documentation and reporting of activities the Office of the State Comptroller's *Standards for Internal Controls in New York State Government* recognize as supporting a good internal control system: evaluation, strategic planning and internal audit.

"Evaluation" and "internal audit" have been addressed above. Management performs ongoing strategic planning. A strong system of Internal control is considered to be of paramount interest in such efforts.

8. Describe efforts agency/authority management has taken to effectively communicate information within the organization. Information should be communicated to management and other employees who need it in a form and within a time frame that helps them to carry out their responsibilities. Communication is not an isolated internal control component. It affects every aspect of an organization's operations and helps support its system of internal control. The feedback from this communication network can help management evaluate how well the various components of the system of internal control are working.

Executive management has taken steps to effectively communicate information within the organization, both through e mail correspondence and press releases and periodic meetings. Feedback is encouraged and policy and procedural changes are communicated to employees as appropriate.

ESD's management team is highly seasoned and has in most cases been with the organization for extended periods of time, and as such understands the necessary interactions to allow ESD to operate efficiently and effectively and in a well-controlled environment.

- C. **Make available to each officer and employee of the agency or authority a clear and concise statement of the generally applicable management policies and standards with which the officer or employee of such agency or authority shall be expected to comply along with detailed policies and procedures the employees are expected to adhere to in completing their work.** The statement should set the tone at the top. It should be issued periodically and emphasize the importance of effective internal controls to the agency or authority and the responsibility of each officer and employee for effective internal controls.

Managerial policies and procedures for the performance of specific functions are articulated in administrative manuals, employee handbooks, job descriptions and applicable policy and procedure manuals. While it is not necessary for all employees to possess all manuals, employees should be provided with, or have access to, applicable policies and procedures for their position.

For this requirement, the agency/authority is:

X Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement.

Applicable management policies and standards with which officers and employees of ESD are to comply, and policies and procedures that employees adhere to, are appropriately available to ESD personnel. Executive management also periodically circulates statements that reinforce the "tone at the top", with emphasis on the importance to ESD of effective internal controls and the responsibility of personnel for such internal controls.

Managerial policies and procedures for the performance of specific functions are articulated in administrative manuals, employee handbooks, job descriptions and applicable policy and procedure manuals which are appropriately made available to employees.

- D. Designate an Internal Control Officer (ICO), who shall report to the head of the agency or authority or to their designee within the executive office, to implement and review the internal control responsibilities established pursuant to this Item. The designation of the ICO should be communicated to all employees.**

The ICO works with appropriate personnel within the agency or authority to coordinate the internal control activities and to help ensure that the internal control program meets the requirements established by BPRM Item B-350. Although the ICO evaluates the adequacy of the internal control reviews performed by agency or authority staff, program and line managers are primarily responsible for conducting reviews to assure adherence to controls and analyzing and improving control systems. The ICO should be an individual with sufficient authority to act on behalf of the agency head in implementing and reviewing the agency's internal control program. This individual should have a broad knowledge of agency operations, personnel and policy objectives.

For this requirement, the agency/authority is:

X Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement.

The ICO is also the Internal Audit Director of ESD. ESD has established this coupling of responsibilities and views them as cost-effective and not incompatible, as the ICO/IAD's makes recommendations as to control enhancements but does not mandate those changes, instead expecting executive management to evaluate the recommendations and implement as deemed appropriate. As a check and balance, the IAD also reports its recommendations to ESD's Audit Committee (comprised of non-ESD personnel, including the NYS Superintendent of Banks) and would alert to them to significant recommendations it deemed were not addressed properly.

This has not proven to be necessary because, as a practical matter, ESD values a strong internal control environment and has proven to implement recommendations appropriately. IAD also will periodically perform follow ups on the status of key recommendations, and reports same to the Audit Committee and management.

Please see prior responses in this document with regard to internal control evaluation and testing. The ICO and Internal Audit evaluate the adequacy of the internal controls in conjunction as appropriate with authority staff, program and line managers. The ICO has been designated with sufficient authority to act on behalf of ESD in implementing and reviewing the agency's internal control program, and has 6 years with ESD, providing a strong and broad knowledge of ESD operations, personnel and policy objectives.

- E. Implement education and training efforts to ensure that officers and employees have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques.**

Agencies and authorities should identify staff requiring internal control training and the depth and content of that training. Such education and training should be on-going with specific courses directed at line staff, middle managers and executive management. For organizations that have established internal audit functions, training and education should be offered on the appropriate role of the internal auditor within the organization's internal control system.

For this requirement, the agency/authority is:

X Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement.

ESD has updated and developed internal control training documents to reinforce internal control concepts to line staff and managers. Given Internal Audit's wide interactions with many personnel in the organization, there is a good understanding of Internal Audit's role within the organization and its role in evaluating internal controls.

ESD anticipates conducting training during the quarter ended June 30, 2009.

Most department managers had previously participated in internal controls training and were provided with clear guidance on how to complete their annual internal control evaluation for this certification, and one on one interactions as needed to properly conduct this exercise.

- F. Periodically evaluate the need for an internal audit (IA) function. If an IA function exists, it should be maintained in compliance with generally accepted professional auditing standards. Agencies on the Division of the Budget's list of agencies required to establish IA functions – and those choosing to have an IA function – are required to comply with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (see BPRM Item B-350 Section III "IA Responsibilities").

As outlined in BPRM Item B-350, agencies and authorities are required to periodically evaluate the need to establish, maintain or modify an IA function utilizing the *Internal Audit Evaluation Criteria* (Attachment C).

Agencies concluding that an IA function is warranted should submit their evaluation to DOB as outlined in BPRM Item B-350. Periodically thereafter, agencies with IA functions should review current operations to determine whether the function should be altered or maintained.

Agencies concluding an IA function is not warranted should periodically reevaluate the need for such a function using Attachment C, especially when organizational, operating, fiscal, program, legal, or personnel changes occur which affect the agency's exposure to risk or which could otherwise change the results of the initial assessment.

Pursuant to BPRM Item B-350, agencies required to have – and those entities choosing to have – an internal audit unit should comply with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*. Therefore, IA units should comply with the guidance outlined below regarding organizational placement, independence and reporting.

1. Directors of Internal Audit (DIA) should report functionally to the agency head or audit committee and may report administratively to the designated executive deputy (or equivalent position). If the executive deputy has line or staff duties, the DIA should report directly to the agency head.
2. A current organizational chart should be available that identifies the placement of the IA unit, the individual that has responsibility for overseeing the internal audit activity, and other organizations/activities under its purview.
3. The IA function should be independent of the ICO, but should work closely with the ICO. Limitations should be established on IC activities where those duties overlap. Agencies should identify impairments to the independence of the DIA that may be created where the DIA is performing the ICO function. Furthermore, IA units should not assume operating responsibilities, perform management functions, make management decisions or assume other monitoring roles (e.g., Information Security Officer).
4. Internal audit staff should complete an annual independence statement identifying actual/potential impairments to independence and notifying the DIA whenever a new actual/potential impairment arises.

5. At a minimum, DIAs should hold quarterly meetings with agency executive management and the audit committee, where applicable, to report on audit results. Final reports should be distributed to the agency head, executive deputy, auditee, ICO, and the audit committee.
6. The DIA should assure that agency audit staff have the skills, knowledge and ability to perform the audit work required, and that the size of the audit staff is appropriate given the size and complexity of the organization.
7. IA units should take steps to ensure sufficient audit resources are available given the size and complexity of the organization. This can be accomplished by exploring in-sourcing, outsourcing and sharing audit services.

For this requirement, the agency/authority is:

X Fully Compliant

Provide a thorough explanation of the specific actions your agency has taken, or are needed, to comply with this requirement by providing the following information:

1. A current organizational chart identifying the placement of the IA unit, the name and title of the IA director, other organizations/activities under the IA function's purview and the name and title of the person to whom the IA director reports.

ESD's (and JDA's) Internal Audit Director (IAD) is Thomas Brennan, SVP and Audit Director, who also serves as ESD's Internal Control Officer. Thomas reports administratively to the President of ESD and reports directly to ESD's independent Audit Committee.

2. A description of how the internal audit director's credentials, education and experience meets minimum qualifications established in BPRM Item B-350.

ESD's Audit Director is a CPA with an MBA in Finance and an undergraduate BS in Accounting. He has over 30 years of audit experience, including 5 years of large CPA firm experience and over 20 years of internal audit managerial experience with large organizations, including having served as ESD Audit Director for 6 years.

3. A description of how continuing professional education requirements are met by the director and each staff member.

Staff are highly seasoned; as noted above, the Director has extensive audit experience, and 2 other staff members are CPAs with numerous years of experience at ESD, while the 3rd additional staff member has less audit experience, but over 15 years of total experience at ESD in a variety of capacities. All 3 staff members have Bachelors degrees in Accounting. Suitable, cost-effective training is undertaken on an ongoing basis.

4. A description of how quality assurance review requirements are being met.

All annual audit plans are formulated by the Internal Audit Director and presented to the Audit Committee and executive management. Oversight of the Internal Audit function by the IAD is strong, as a) the scope of each audit is determined by the IAD in conjunction with the assigned auditor, b) all workpapers are reviewed by the IAD; and c) all drafted audit reports are reviewed and edited by the IAD, and responses evaluated for adequacy by the IAD and staff.

The IAD plans to formally document an audit self assessment during 2009, and will assess whether a QAR would subsequently be feasible from a cost standpoint in a very tight cost environment. In that regard, the possibility of a state audit director-level peer coming to conduct such an exercise will be explored in 2009/10.

5. A description of how the IA function ensures that it does not compromise its independence if it is also responsible for other functions (i.e., internal control, information security or other duties).

As previously noted, the IAD also serves as Internal Control Officer, and this has been the case for the past 4 annual certification cycles, including this one. Documentation underlying the annual control certification has been substantially enhanced as compared to documentation compiled while ESD previously had an ICO other than the IAD.

ESD also sees this combination of ICO and IAD duties as being more cost-effective than maintaining these roles under separate individuals, a significant consideration in this very tight cost environment. ESD does not view this as compromising the independence of the IA function, for reasons outlined in the response to point D above.

2008-09 INTERNAL CONTROL CERTIFICATION

Empire State Development Corporation

Agency/Authority Name

Marisa Lago, CEO

Agency Head/Chairperson Governing Board

633 3rd Avenue, 37th Fl., New York, NY 10017

212 803 3700

Agency/Authority Address

Telephone Number

Thomas Brennan

212 803 3579

Name of Internal Control Officer

Telephone Number

tbrennan@empire.state.ny.us

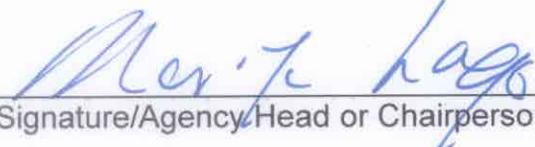
Email Address of Internal Control Officer

I hereby certify the agency or authority is:

X Fully Compliant (Full compliance with all provisions)

With the New York State Governmental Accountability, Audit and Internal Control Act.

This certification is supported with detailed justification of actions taken and/or outlines specific actions needed to address areas of partial compliance or noncompliance as described in the preceding Internal Control Summary.



Signature/Agency Head or Chairperson Governing Board

5/11/09

Date