

ALAN G. HEVESI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 28, 2005

Mr. Daniel D. Hogan
Commissioner, Office of General Services
Corning Tower
Empire State Plaza
Albany, New York 12242

Re: Executive Mansion Trust
Report 2005-S-9

Dear Mr. Hogan:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II Section 8 of the State Finance Law, and Section 54.13(2) of the Arts and Cultural Affairs Law, we audited the Executive Mansion Trust's (Trust) internal controls over financial operations. The objective of our performance audit was to determine whether the Trust has established an adequate system of internal controls over its basic fiscal operations. Our review covered the period January 1, 2004 through December 31, 2004.

A. Background

The Executive Mansion (Mansion) was originally built in 1856 by an Albany businessman. In 1875, Governor Samuel Tilden rented the property as his official residence and two years later the State purchased it. The Mansion, the home of 29 New York governors, has been remodeled several times including facade changes, the addition of a third floor, and floor space expansions.

The Trust was created in 1993 for the purpose of preserving, improving and promoting the Mansion as a historical and cultural resource. The Trust is empowered to accept gifts, operate the Mansion museum, acquire artifacts and furnishings, and perform various other services for the Mansion.

Trust members include: the Commissioner of the Office of General Services (OGS); the Commissioner of Parks, Recreation and Historic Preservation; the Commissioner of Education; the Chairman of the New York Historical Society; and a private citizen, appointed by the Governor, with experience in the field of history, architecture, art, design or museum services. The Commissioner of OGS serves as chairperson of the Trust. Section 54.05(7) of the Arts and Cultural Affairs Law indicates that the Trust shall continue until terminated by law.

B. Audit Scope, Objective and Methodology

The objective of our performance audit was to determine whether the Trust has established an adequate system of internal controls over its basic fiscal operations, including accounting and information systems, budgeting, cash disbursements, equipment, payroll, purchasing, and revenue. The scope period for this audit was January 1, 2004 through December 31, 2004. To accomplish our audit objective, we met with OGS officials and visited the Mansion. We also reviewed the State appropriations to the Trust and related disbursements since April 1, 2003.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to assess those operations which are included in our audit scope. Further, these standards require that we understand the Trust's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records, and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally- and statutorily-mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

We found that the Trust is completely inactive and has never taken steps to pursue the purposes for which it was created. Further, we conclude at least one other pre-existing public benefit corporation would have the ability to assume the responsibilities of the Trust within its existing structure. As a result, we recommend the Trust be dissolved.

As with many other State buildings, OGS is primarily responsible for the management and upkeep of the Mansion. In 1993, the Legislature created the Trust, principally as a means of accepting donations for the Mansion's direct benefit. The legal framework governing State finances does not permit the State to accept donations that are restricted for specific purposes. As a result, the Trust was established as a means through which citizens could donate funds or property specifically for the benefit of the Mansion and ensure they were used as intended. For several years prior to that time, OGS officials indicate there had been a privately-constituted, not-for-profit corporation operating for a similar purpose. However, OGS officials indicate that legislation was enacted

creating the Trust to ensure that State government officials could control how donated funds might be expended in times of a gubernatorial transition.

OGS officials state that the Trust exists only in statute, because its members have never met to discuss Trust business, no donations have ever been received and the Trust has no records. We also noted that Section 54.13(3) of the Arts and Cultural Affairs Law requires the Trust to submit an annual report of its operations and accomplishments to the Governor, Comptroller and other State officials, but no such report has ever been prepared. Expenses for the daily operation of the Mansion are paid from OGS appropriations.

The potential exists for a gubernatorial transition as a result of each election cycle; the next opportunity for which occurs after the 2006 elections. OGS officials feel that even though the Trust has never been utilized, its current status should be continued since it provides a ready mechanism to manage future fundraising that could be necessary in the event of a transition. They also note that, in times of fiscal constraint, it is conceivable that such fundraising could become necessary to finance routine repairs and restoration of this 150-year-old structure. While we agree that there is value in a mechanism to help manage the efficient operation of the Mansion, we do not agree that the Trust needs to be that apparatus. Another pre-existing entity could readily perform these functions.

The Natural Heritage Trust (NHT) is a public benefit corporation created in 1968 to further conservation, outdoor recreation and historic preservation in New York State. NHT's operations are governed by Article 55 of the Arts and Cultural Affairs Law and, similar to the Trust, is directly accountable to the Governor. With the Governor's approval, NHT is authorized to accept conditional gifts of money or property and to use those assets to undertake any work to manage, preserve, restore, maintain or improve any real or personal property under either its jurisdiction or that of a requesting agency. The Commissioner of Parks, Recreation and Historic Preservation - a member of the Board of the Trust - is also an ex-officio member of NHT's Board, as are the Secretary of State, the Commissioner of Environmental Conservation and the Chairperson of the State Council of Parks and Outdoor Recreation.

We therefore conclude that, since the Trust is not active and its purpose for creation can be performed by NHT, an active entity, the Trust should be dissolved and its responsibilities transferred to NHT.

Recommendation

Work with Legislative officials to formally transfer the responsibilities of the Executive Mansion Trust to the Natural Heritage Trust and enact legislation to discontinue the existence of the Executive Mansion Trust.

A draft copy of this report was provided to OGS officials for their review and comment. OGS officials responded that the Executive Mansion Trust was created despite the existence of the Natural Heritage Trust, indicating that the Legislature intended to create a separate entity to accomplish its goal. They also observed that there is a possibility there could be Trust activity resulting from a future gubernatorial election or the Mansion's 150th anniversary in 2006. However,

if the Legislature were to take action to discontinue the Trust, OGS officials indicated they would work with the successor entity, as required. OGS' complete response is included as Appendix A.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Trust shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and if not implemented, the reason therefor.

Major contributors to this report were John Buyce, Gene Brenenson and Charles Johnson.

We wish to express our appreciation to the management and staff of the Office of General Services for the courtesies and cooperation extended to our auditors during this examination.

Very truly yours,

Frank J. Houston
Audit Director

cc: Robert Barnes, Division of the Budget
John F. Cape, Division of the Budget



DANIEL D. HOGAN
COMMISSIONER

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
OFFICE OF GENERAL SERVICES
MAYOR ERASTUS CORNING 2ND TOWER
THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA
ALBANY, NEW YORK 12242

ROBERT J. FLEURY
FIRST DEPUTY COMMISSIONER

September 9, 2005

Frank J. Houston
Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street – 21st Floor
New York, NY 10038

Dear Mr. Houston:

We are writing in response to your draft audit report (2004-S-9) on the Executive Mansion Trust (Trust).

The Trust was created by the Legislature to allow for a repository of funds donated for the preservation, improvement and promotion of the Mansion as an historical and cultural resource. It was created despite the existence of the Natural Heritage Trust, indicating that the Legislature intended to create a separate entity to accomplish its goal.

To date the Trust has been inactive; however, there is the possibility with each election cycle, or perhaps with the coming sesquicentennial of the Mansion, there might be new interest that could generate activity. If the Legislature were to take action to transfer responsibilities and discontinue the existence of the Trust, we would work with the successor entity as required.

We wish to thank the Comptroller for his attention to such issues and for the valuable resources dedicated to investigating the internal controls over the Executive Mansion Trust.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Fleury".

Robert J. Fleury

