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AUDIT: EDC HOARDS \$125 MILLION OF TAXPAYER MONIES

NEW YORK, NY – The New York City Economic Development Corporation (EDC) failed to remit \$125 million to the City, according to an audit initiated in 2008 and just completed by Comptroller John C. Liu. The EDC collected payments on behalf of the City from the 42nd Street Project, a dormant Public Purpose Fund and the sale of City assets, and then inappropriately retained the funds for its own purposes, circumventing the City's normal budgeting and appropriations process.

Comptroller Liu: “First and foremost, our audit exposed \$125 million owed to the City by the EDC. The EDC was charged with collecting this money for the City; they are not entitled to keep it. Anything short of the EDC repaying the amount in full to the City is unacceptable and indefensible, especially as subways, firehouses and hospitals are threatened with closures due to deep budget deficits. The EDC has accumulated enormous control over City assets and funds in recent years. There are plenty of questions and even concern about what exactly the EDC does, as it deals with substantial amounts of City funds and publicly subsidized economic development. This episode only accentuates the need to reign in the EDC.”

Comptroller Liu credited Deputy Comptroller for Audit H. Tina Kim and her team in the Bureau of Audit for presenting the findings and recommendations. The full audit report is available at http://comptroller.nyc.gov/bureaus/audit/audits_2010/04-27-10_FN09-104A.shtm.

Chief among the findings during the period of the audit:

- FAILURE TO REMIT FUNDS BACK TO CITY - EDC failed to remit \$125,513,793 it had collected on behalf of the City, from the 42nd Street Project, a dormant Public Purpose Fund and the sale of City assets to non-City entities.
- INCONSISTENT PROCESS WITH SALE OF CITY ASSETS - EDC had inadequate controls, did not always follow a consistent process and thus problematic practices were created over the disposition of City properties, resulting in potential revenue loss.
- INCOMPLETE OR MINIMUM REVENUE COLLECTION ON BEHALF OF CITY - EDC did not collect the full revenues owed to the City in accordance with its agreements on behalf of the City, including rent and license fees per lease agreements to Payment in Lieu of Taxes (PILOT) payments. Since 2000, EDC has been collecting the minimum amount of PILOT payments without verifying that the calculation was in accordance with the terms of the agreement with the developer.

- IMPROPER REPORTING OF LOAN DISBURSEMENTS FOR SMALL BUSINESSES - EDC improperly recorded loan amounts it disbursed under the Economic Development Administration Revolving Loan Fund (RLF) as expenses. Under the terms of the RLF, EDC is required to make loans to organizations that then provide various loans to small businesses in economically depressed areas of the City. As the City's exclusive agent for the management of RLF, this improper recording resulted in an overstatement of its program costs and understatement of its loan capital base.
- FAILURE TO ENFORCE EMPLOYMENT AND CONSTRUCTION COMPLIANCE REQUIREMENTS - EDC did not take the necessary steps to verify that the data submitted by its clients -- in relation to the number of jobs created or retained, as required and stated in agreements -- is accurate.
- PROBLEMS WITH ADMINISTERING CAPITAL CONSTRUCTION CONTRACTS - EDC lacks appropriate procedures for approving capital expenditures submitted by contractors, which are channeled by the City's Department of Small Business Services and funded under the City's capital budget (for Fiscal Year 2008, EDC administered over \$546 million in capital projects for the City).
- ENERGY DISCOUNTS IMPROPERLY CALCULATED - EDC did not correctly calculate the energy discount it provides to eligible businesses under the Energy Cost Savings Program (ECSP). Review of accounts eligible for the ECSP discount reveals that the EDC did not use the correct rate when applying the discount and also overcredited some accounts while undercrediting others, resulting in EDC giving \$338,928 in excess credit to customers and not recouping \$75,966 from Con Edison.

"In light of these findings, it is clear that the EDC needs to alter and reform some of their practices as they relate to the economic development projects and programs they are responsible for administering," said City Council Economic Development Committee Chairperson THOMAS WHITE, JR.

Comptroller Liu recommended the EDC remit the inappropriately retained funds -- totaling \$125,513,793 -- to the City's General Fund (\$98,297,350 in payments collected from the 42nd Street Project, \$10,682,600 in a dormant Public Purpose Fund, \$16,533,843 in net proceeds from the special sales of City assets).

Other recommendations made by Comptroller Liu to the EDC include:

- Return the proceeds of the sales of City assets to the City.
- Provide for proper classification and enhance the transparency of its revenue amounts due the City.
- Recoup the \$97,079 in rents and license fees due; the excessive ECSP discounts credited; contractor workers' compensation for duplicate payments and unrelated capital project costs.
- Properly record the RLF program administered by lenders as loan receivables to ensure accurate tracking of the amount receivable.
- Implement policy and guidelines to ensure that all contractor submissions are properly reviewed and approved.
- Ensure its project developers and other entities comply with the employment and construction requirements stipulated in their agreements with EDC.

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