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June 23, 2011

Ms. Phyllis A. Wellington, President
G.E.M. Health Care Agency, Inc.
49 West Merrick Road, Suite 201
Freeport, NY 11520

Re: Limited Audit of G.E.M. Health Care Agency, Inc. 2007, 2008 and 2009 Compliance with the Nassau County Living Wage Law

Dear Ms. Wellington:

A limited compliance audit was performed on contract numbers CQSS07000162 and CQSS09000139 between G.E.M. Health Care Agency (“GEM”) and Nassau County. The objective of this audit was to determine whether GEM was in compliance with the Nassau County Living Wage Law (“Law”) and the related Rules.¹ The period of review covered calendar years 2007, 2008 and 2009. To accomplish our objectives, we reviewed GEM’s pertinent books and records and interviewed personnel.

Based on our limited audit, our findings and recommendations are as follows:

Audit Finding

Compensated Time Off

We reviewed GEM’s calculations of compensated time off due to employees on a test basis to verify its accuracy and if the employees had been paid for leave earned.

¹ “Nassau County Living Wage Law,” Nassau Co. Misc. Laws, Title 57 (2007) § 3(b). The Law and Rules can be found on the Comptroller’s website at: <http://www.nassaucountyny.gov/agencies/Comptroller/LivingWage/index.html>.

For calendar year 2007, we noted the following:

1. We found that GEM had unintentionally excluded earned accrued hours for the first week of the 2007 calendar year in the total compensated accrued hours due its employees because of an error in the formula for summarizing the accrued hours due for each employee. We found that \$452.10 was not included in the total due to employees. We reviewed GEM's records and noted that some of the underpayments had been paid and that 21 employees were still due a total of \$410.98.
2. GEM did not make payments for compensated time off to employees who were employed for less than six months because GEM believed that employees must work six months before they were entitled to be paid for any compensated time earned. Therefore, if employees were terminated before six months of employment, they were not paid. Two terminated employees were not paid a total of \$328.48.
3. Nine employees who had not completed six months of service as of the 2007 year-end were not included in GEM's 2007 payout. The balances due were not carried forward into 2008. We found that these employees were not paid and were owed a total of \$1,030.49.

For calendar year 2008, we noted the following:

1. As of year-end 2008, six employees had compensated time off balances totaling \$514.80. GEM explained that these employees had worked less than six months as of the 2008 year-end and were not eligible to be paid at that time. The balances due were not carried forward into 2009, resulting in an underpayment of the employees' compensated time off.
2. Six employees who had been terminated were not paid the total balances due in leave time, which totaled \$484.20 because GEM had not carried forward balances due to the employees at the end of the prior year.

For calendar year 2009, we noted the following:

1. Nine employees were not paid a total of \$201.41 due in 2009 as a result of clerical errors or the short term duration of the employees' tenure at GEM.
2. Three employees who had not completed six months of service as of the 2009 year-end were not paid a total of \$349.12. The balances due had not been carried forward to 2010 as a future payment due to these employees.
3. Three employees from 2009 and one from 2008 were due \$187.06.² These employees had remaining balances due because of math errors and incorrect information.

² The amount due includes one employee for 2008, amount due is \$5.57.

4. Our test of the vacation payments made to the employees found that the dollar value of vacation paid as recorded on GEM's employees compensated days off worksheets did not always accurately reflect what had actually been paid per the payroll records. We tested eleven employee vacation payments and noted six employees' vacation payments did not agree with their payroll records. In some cases, the amount paid per the payroll records was less than what had been indicated in the worksheets. This error resulted in two of the six employees being underpaid by less than two dollars each.

Audit Recommendations:

GEM should:

- a) pay the monies due the employees and provide proof of payment to this office;
- b) implement procedures to ensure employees' compensated time off balances due but which have not been paid at each year-end, are carried forward to the following year's worksheet used to calculate compensated time off ; and
- c) verify that the 2009 vacation amounts recorded as paid on the individual employee compensated days off calculation worksheet agrees to the actual payroll records. Where differences are noted, determine if this resulted in an underpayment to the employees, and if so, pay any monies due.

Review of Wages

Our test of wages found that the employees were paid the proper Living Wage rate for the covered hours.

Please be advised that as part of the scope of this audit, we will perform a follow-up review to determine if findings in this report have been addressed and all underpayments have been paid in a timely manner.

The issuance of a final Audit Report that includes findings of non-compliance constitutes the first written notice of a violation of the Law. As such, if the employer does not take corrective action to cure any breach within thirty (30) days of receiving the final Audit Report, the County has the right to pursue any/all rights and remedies under the applicable laws or under the referenced contract(s) including, but not limited to, imposing fines and/or penalties outlined in the Law.

Our audit protocol offers the auditee the opportunity for an Exit Conference to discuss any findings, recommendations or any issues you may wish to clarify and for the auditee to provide a written response to the audit report. This written response will be included as an appendix to the final report that will be published on the Comptroller's website.

The matters covered in this report have been discussed with the officials of GEM during the course of this audit. GEM was offered, but declined to hold an exit conference. On February 24, 2011 our Office submitted a draft report to GEM for comment. GEM provided its comments on April 12, 2011. GEM's comments and our responses to those comments have been included as an appendix to this final report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joy M. Watson".

Joy M. Watson
Deputy Comptroller
Audit and Special Projects

JMW: AS

From: Karen Workman [mailto:clpjm@aol.com]
Sent: Monday, April 11, 2011 4:28 PM
To: Wells, Alfred E
Subject: GEM HEALTH CARE AGENCY

Dear Mr. Wells,

This email serves as notification that GEM Health Care Agency accepts the findings noted in the draft Living Wage Audit Report, and will begin paying the monies owed upon receipt of the Final Report. We do not require an Exit Conference to discuss the findings.

If further information is required, please feel free to contact me.

Thank you,

Karen Workman

*Office Manager
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Freeport, NY 11570
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Auditor's Follow-Up Response:

Within 30 days of receipt of this report, we recommend that GEM provide proof of payment to the employees who were underpaid to the Comptroller's Office. As recommended, GEM should also verify that the 2009 vacation amounts, recorded as paid on the individual employee compensated days off calculation, agree with the actual payroll records. If GEM determines that this review resulted in any additional underpayments, payment should be made to those employees also. The results of this review and proof of payment should be provided to the Comptroller's Office within 30 days of receipt of this report.