
Authorities Budget Office Policy Guidance



No. 11-01

Date Issued: February 1, 2011

Supercedes: 07-03

Subject: Compliance Review Process

Statutory Citation: Section 6(1)(a) of Public Authorities Law

Provisions: The Public Authorities Accountability Act and the Public Authorities Reform Act empower boards of directors to take the steps necessary to promote effective management, improve accountability and oversight, encourage transparent and full disclosure, and establish a culture of ethical behavior and personal responsibility. The Authorities Budget Office (ABO) was created, in part, to assess and enforce the compliance of public authorities with these requirements and to review, analyze, and report on their operations, budgets and practices.

Authorities Budget Office (ABO) Policy Guidance: The ABO is committed to enforcing the requirements of the Acts and other applicable provisions of State law in a fair and balanced way. Its goal is to achieve broad compliance with the intent of the Acts, to identify and address factors that inhibit compliance, and to promote high quality performance consistent with the mission and purpose of the authority.

The ABO's responsibility is to ensure that all public authorities, regardless of size and resources, follow the model governance principles contained in the Acts and operate as efficiently and effectively as possible. Accordingly, its compliance assessments will focus on:

- **Governance Reports.** The purpose of these reviews is to provide an objective determination as to whether the authority has adopted the governance principles codified in the two Acts and in other applicable State laws.
- **Operational Reports.** These reviews are objective assessments of an authority's actual adherence to its adopted governance principles and policies, and how well its actions and activities contribute to achieving its statutory mission and performance objectives.

- **Limited Scope Reports.** These reviews are narrow and targeted assessments of specific operating or procedural issues, practices or activities that could compromise the effectiveness of the authority.

Compliance reviews will provide directors and officers with useful information to assist them manage the financial, operating and business risks associated with public authorities. The reviews will also provide information to the public and other government officials on the governance practices, operations and performance of public authorities.

The ABO will conduct its compliance reviews in accordance with internal protocols developed specifically for these reviews, which are based on generally accepted professional standards. These standards address issues such as the independence, competence, professional judgment, and training of ABO staff; quality control over the review process, the planning, supervision, and documenting of information for the compliance review; and the specific elements that must be included in the compliance review report.

The ABO will notify public authorities sufficiently in advance of a compliance review in order for the authority to have time to prepare and to maximize the efficiency of the process.

The components of the compliance review will consist of the following:

Entrance Conference: The ABO will hold an entrance conference with the authority's executive management to discuss the review process and its proposed scope.

Review Stage: This is the analytical phase and generally will take the most time to perform. During this stage, members of the ABO's compliance team will examine and assess relevant financial, operational, and procedural documents of the authority and interview appropriate board members, management and staff. The review stage will generally take place on-site at the authority, but may also take place in other locations.

Discussion Draft: This preliminary written document provides the authority with the results and conclusions of the compliance review. It is shared with authority management for its review and to address any factual errors or misinterpretations made by the compliance team. Management is expected to circulate the draft to the board for its comments. A written response from the authority to the draft report must be signed by the board chair. As necessary, the board's response will be reflected in a revised final draft.

Exit Conference: After authority management and the board of directors have had sufficient time to review the discussion draft and prepare comments, an exit conference may be scheduled. At the exit conference, the review team and

authority officials will discuss the contents of the discussion draft and the authority's comments and feedback. Based on the exit conference, the ABO may make revisions in advance of the final report, and any revisions will be discussed with authority management. An exit conference may not be held for all limited scope reviews, at the discretion of the ABO.

Final Report: The ABO will issue a final compliance report to the head of the authority. The authority's management is responsible for responding to the compliance issues and recommendations outlined in the report. The authority is expected to adopt policies and procedures that adequately address the concerns raised in the report and that advance the authority toward compliance with its statutory obligations. Subsequent to the release of the report, the ABO, as part of its technical assistance, training, and oversight responsibilities, will be available to work with management on developing and implementing appropriate corrective actions and will monitor progress toward compliance.

If the final report concludes that the authority is out of compliance with one or more reporting requirements, that board actions are inconsistent with its fiduciary responsibilities, or that management has not adopted or adhered to appropriate policies and procedures, the issuance of the final report will constitute an official warning by the ABO. The failure to adequately address these deficiencies could lead to additional enforcement actions being taken by the ABO.

As a general rule, the ABO will also distribute final compliance reports to officials having a direct interest in the results of the review team's work. Such officials could include representatives of the Governor, the chairman and ranking minority member of the Senate and Assembly standing committees on corporations, authorities, and commissions, the chairman and ranking minority member of the appropriate oversight committees, and local officials and appointing authorities. Copies of final compliance reports are also distributed to the media. Compliance reports will not contain information specifically exempted from disclosure by state or federal statute, or such information which if disclosed would constitute an unwarranted invasion of personal privacy or interfere with law enforcement investigations or judicial proceedings. When a compliance report is issued, the report will be made available to the public on the Authorities Budget Office website (<http://www.abo.state.ny.us>).