

ALAN G. HEVESI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 29, 2005

Sharon Carpinello, R.N., Ph.D.
Commissioner
New York State Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Re: Banana Kelly Community Improvement
Corporation Contract C005265
Report 2003-R-3

Dear Dr. Carpinello:

Pursuant to the State Comptroller's authority as set forth in Article 5, Section 1 of the State Constitution, and Article II, Section 8 of the State Finance Law, we have audited the Office of Mental Health's (OMH) administration of Contract C005265 with Banana Kelly Community Improvement Corporation (Banana Kelly), and the effectiveness of OMH oversight efforts to ensure Banana Kelly provided the FRIENDS program services required by this contract. We also audited Banana Kelly's compliance with the terms of Contract C005265, including determining whether billings were adequately documented and family support services were delivered. Our audit scope period was July 1, 1998 through June 30, 2001, the three-year term of Banana Kelly's contract.

A. Background

OMH provides health, education and residential facilities for the therapeutic education guidance and training of persons with psychiatric disabilities. Treatment and support services include vocational training, drug therapy, recreational activity, room, board and clinical services. OMH contracts with numerous not-for-profit organizations to deliver services to clients. One of these contractors, Banana Kelly, provided services to OMH clients in the FRIENDS (Families Reaching In Ever New Directions) program. The FRIENDS program was originally funded by a federal grant received by the Research Foundation for Mental Hygiene, a not-for-profit affiliate of OMH. Subsequently, the State financed the program from State Aid pursuant to the Mental Hygiene Law. The OMH Bureau of Local Contracts was responsible for administering the FRIENDS program.

OMH's contract with Banana Kelly (C005265) required Banana Kelly to provide two service components, Family Support and Youth Leadership, to eligible FRIENDS participants in the Mott Haven Community in the Bronx. Family Support was to include an array of services provided annually to 33 Mott Haven families whose children were determined to have serious emotional disturbance. These services included workshops, activities, education, networking and training for

families to improve the care and community integration of emotionally disturbed children and their families. The Youth Leadership component was to provide at least 15 emotionally disturbed youth per year with an intensive training program to improve their leadership skills, personal development and work-readiness. Banana Kelly program staffing comprised 8, 7 and 6 employees, respectively, during contract years 1998-1999 through 2000-2001. Contract C005265 covered the three-year period July 1, 1998 to June 30, 2001 and totaled \$763,745. Banana Kelly was reimbursed \$753,740 (excluding a \$10,005 disallowance by OMH auditors) for FRIENDS program expenses incurred during the contract period.

During 1999-2000, OMH hired Friends, Inc. to monitor Banana Kelly's fiscal and service performance during 1999-2000 unrelated to the Youth Leadership and Family Support program components. In 2000-2001, as problems began to surface with Banana Kelly's overall operations, OMH expanded the oversight responsibilities assigned to Friends, Inc. to include monitoring Banana Kelly's day-to-day operations. Because of the circumstances described below, OMH did not renew its contract with Banana Kelly. On July 1, 2001, OMH contracted directly with Friends, Inc. to deliver FRIENDS program services to Mott Haven clients.

During our audit scope period, Banana Kelly was part of a complex group of not-for-profit and for-profit entities that functioned as a conglomerate with interests in a wide range of housing, community development and economic activities. Banana Kelly's former Chairperson, management and Board of Directors have been the subjects of an investigation by the New York State Attorney General. The Attorney General's report on this investigation concluded that the Chairperson, who controlled Banana Kelly's business operations and assets, had diverted Banana Kelly funds for personal use and caused the entity to suffer financial losses. In an out-of-court settlement, the Attorney General removed the Chairperson and other Banana Kelly managers in November 2002, and appointed a new Board of Directors. The Attorney General and an independent accounting firm have worked to restructure Banana Kelly's operations and finances. According to Banana Kelly's unaudited financial statements as of March 31, 2003, Banana Kelly has assets totaling more than \$481,000. We initiated this audit in part, to address concerns that Banana Kelly may have misappropriated State funds obtained under Contract C005265. (In their response, OMH officials advised us that none of the funds the Attorney General determined were misappropriated by a former Banana Kelly official were attributed to Banana Kelly's contract with OMH.)

B. Audit Scope, Objectives and Methodology

We audited OMH's administration of Contract C005265 with Banana Kelly for the delivery of FRIENDS program services, as well as Banana Kelly's compliance with the terms of this contract, for the period July 1, 1998 through June 30, 2001. The objectives of our performance audit were to determine whether: OMH reimbursed only those contract costs that were adequately documented, in accordance with contract requirements; Banana Kelly complied with the terms of this contract for the provision of FRIENDS program services; and OMH provided effective oversight of contractor performance.

To accomplish these objectives, we reviewed the terms of Contract C005265, as well as OMH's contract with Friends, Inc. (C005319). We also evaluated the internal controls of OMH, Banana Kelly and Friends, Inc. as well as other internal processes related to contract operations. Our evaluation was based on meetings with OMH, Banana Kelly and Friends, Inc. officials and/or

staff, on reviews of applicable laws, rules and regulations and on relevant agency and contractor records. We also reviewed reports of the Attorney General's investigation of Banana Kelly and reports from the independent accounting firm that restructured Banana Kelly's operations and finances. We tested the contractor's available support for all claimed payroll expenses, the largest reimbursement category, by reviewing related payroll registers and corresponding transfers to the payroll account. Further, we reviewed contractor and Friends, Inc. records to identify documentation that would support that Banana Kelly delivered the program services required by the FRIENDS program contract.

We conducted our audit in accordance with Government Auditing Standards Generally Accepted in the United States of America. Such standards require that we plan and perform our audit to adequately assess those OMH and contractor operations within our audit scope. Further, these standards require that we understand OMH and Banana Kelly's internal control structure and compliance with those laws, rules and regulations relevant to 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 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

Our audit found that, over the three-year contract period, OMH paid Banana Kelly more than \$422,000 for FRIENDS program payroll costs. We found that, for fiscal year 2001, most payroll records were missing. For fiscal years 1999 and 2000, employee W-2s and time cards were missing. For all three fiscal years, there were virtually no employee cancelled checks. OMH lacks assurances that it paid only for services that were delivered because OMH was unable to provide documentation that it reviewed and verified the accuracy and legitimacy of Banana Kelly's claimed payroll expenses. In addition, we found little evidence that Banana Kelly delivered OMH-approved services to eligible youth and families, and submitted required monthly reports. For example, virtually none of Banana Kelly's enrolled participants had documentation to support their eligibility for the program, and documentation of services and activities was often missing, or consisted of photocopied forms. Further, Banana Kelly submitted fewer than half the required monthly reports, which were supposed to detail monthly activities. As a result, Banana Kelly may not have delivered mandated services to Mott Haven clients because neither OMH nor Friends, Inc. adequately monitored Banana Kelly's performance. OMH officials advised us that, after unsuccessfully attempting to obtain a refund from Banana Kelly, OMH has referred the matter to the State Attorney

General's Office. OMH should also require that Friends, Inc., its current FRIENDS program contractor, provide adequate documentation of its compliance with contract requirements.

1. Contractor Billings

OMH should reimburse contractor program expenses that are supported, accurate and appropriate. However, in examining Banana Kelly's claimed expenses for this contract, we found that the documentation supporting Banana Kelly's payroll expenses, which represent 56 percent of the contractor's claimed expenses, was either missing or was based on contradictory data. As a result, OMH reimbursed this contractor for more than \$422,000 in payroll costs that are not properly supported, and may not be legitimate program expenses. This potentially inappropriate reimbursement occurred because Banana Kelly management had no controls in place over payroll costs charged against the contract, and because OMH did not monitor Banana Kelly's conformance with OMH's recordkeeping requirements, in a timely manner.

The terms of Contract C005265 state that Banana Kelly must maintain appropriate documentation of expenses claimed in performing contract services. Since payroll represented the most significant reimbursed expense, we restricted our review of documentation to contractor records that supported payroll expenses during the three contract years. To determine whether Banana Kelly could support the accuracy and legitimacy of its claimed payroll expenses for the FRIENDS program, we reviewed documentation provided by contractor officials. This documentation included payroll registers; personnel files; timecards; yearly reports of earnings; W2 forms; cancelled payroll checks; and Employee Earnings Records (EER) maintained on an internal information system. We also reviewed employee payroll ledgers and general ledgers.

Our examination of this documentation disclosed that a number of payroll registers and general ledgers, some EER and annual report information, and most W-2 forms were missing. Further, almost all cancelled payroll checks were missing. In comparing the information that was available, as shown in Table 1, we found numerous discrepancies between amounts reported on documents that should corroborate one another. For example, Banana Kelly's payroll register, which was the basis for the reimbursement claim, showed five Family Support employees were paid \$75,853 in 1998-1999, while the EER showed payments totaling \$68,496, a difference of \$7,357. In another example, the 1999-2000 payroll register showed that two Youth Leadership employees were paid a total of \$53,969. However, another Banana Kelly document (EER) showed these same employees were paid \$97,009. The files contained no cancelled checks for these two employees.

Banana Kelly's Documentation of FRIENDS Program Payroll Expenses 1998-1999 - 2000-2001							
Contract Year		No. of Staff	Per Fiscal Year			Per Calendar Year	
			Payroll Register	General Ledger	EER	W-2 Forms	Banana Kelly Annual Report
1998-1999	Family Support	5	\$75,853	\$97,208	\$68,496	\$72,578	\$79,911
	Youth Leadership	3	\$35,790	\$38,460	\$43,168	\$50,501	\$50,520
1999-2000	Family Support	5	\$75,910	\$89,711	\$55,079	\$98,151	\$105,542
	Youth Leadership	2	\$53,969	\$53,969	\$97,009	\$64,022	\$64,936
2000-2001	Family Support	4	Missing	Missing	\$75,032	\$86,268	Missing
	Youth Leadership	2	Missing	Missing	\$18,654	Missing	Missing
Total		21	\$241,522	\$279,348	\$357,438	\$371,520	\$300,909

Supporting documentation for individual employee salaries was similarly inconsistent. One Family Support employee was listed on the payroll register as earning \$23,385 in 1999-2000, but the same person's name appeared on the general ledger as earning \$25,693 and on the EER with listed earnings of just \$1,538 during this year. The W-2 form, and Banana Kelly's annual report showed that payments to the same employee in 1999-2000 were \$37,193, and \$40,001, respectively. This employee's file contained no cancelled paychecks.

In addition to the contradictions we identified in payroll data, we also found significant absences in critical payroll documentation. In reviewing payroll records for all 21 Banana Kelly employees in both the Family Support and Youth Leadership programs for the 3-year contract period, we found that payroll registers were missing for six employees for fiscal year 2000-2001, and W-2 forms were missing for two employees for all three years. Further, we were provided just 18 of the 420 cancelled checks covering employee costs. Given the discrepancies and missing records noted, we concluded that OMH reimbursed Banana Kelly for payroll costs that may not be accurate or legitimate program costs.

2. Contract Performance

The contract required Banana Kelly to provide the Youth Leadership and Family Support components of FRIENDS program services to eligible children and adolescents with serious emotional disturbance, and to qualifying Mott Haven Community families. OMH hired Friends, Inc. to monitor Banana Kelly's performance of contracted program services in 1999-2000 and 2000-2001.

The terms of Contract C005265 required Banana Kelly to demonstrate that it delivered the appropriate FRIENDS program services to eligible clients by:

- documenting that FRIENDS program clients met OMH's program eligibility criteria;
- documenting the delivery of specific services for each program component; and
- submitting monthly reports of program activities to FRIENDS, Inc. and to OMH.

Our examination of Banana Kelly's available records revealed that virtually no case folders had documentation to show that Youth Leadership and Family Support participants during this three-year contract met the eligibility criteria for the FRIENDS program. Further, much of the required documentation of services was missing. When service documentation was present, it was often of a questionable nature, since the very same commentary appeared in folder after folder. We also found that Banana Kelly had submitted less than half the required monthly reports due to Friends, Inc. and to OMH. Thus we found little evidence that OMH payments to Banana Kelly were used to provide contracted services to eligible clients, or, indeed, to any clients. We believe Banana Kelly continued to receive payments despite these conditions because neither OMH nor Friends, Inc. effectively monitored this contractor's service delivery. We discuss the details of Banana Kelly's contract performance in the following sections of this report.

a. Program Eligibility

For children and family caregivers to participate in the FRIENDS program Youth Leadership and Family Support services, the child in question must meet certain eligibility criteria. According to OMH Program and Contract Guidelines, eligibility for participation in the FRIENDS program is restricted to youth who:

- have serious emotional disturbances;
- are between 5 and 21 years of age;
- reside in the Mott Haven community; and
- require services from multiple child-serving systems (e.g., mental health, juvenile justice, child welfare and/or education systems).

Banana Kelly staff were to document the child's eligibility for Youth Leadership, and the family's participation in Family Support, in the child's case folder. To determine whether participants met the four eligibility criteria, we reviewed the documents in the client folders for each of the two programs. The Youth Leadership program required an enrollment of 45 youths (15 in each year). Our review of the available records identified only 19 cases belonging to the Youth Leadership program. We were unable to locate the remaining 26 case files. Only 1 of the 19 files contained documentation that met the four eligibility criteria. The Family Services Support program required an enrollment of 99 families (33 per year). Of the 99 case files belonging to the program, only one had documentation that met the four eligibility criteria.

b. Program Services

Banana Kelly was required to provide each Youth Leadership participant with individualized services, which were supposed to meet the needs identified in the youth's Individual Service Plan. The various services Banana Kelly agreed to provide were listed in a program work plan approved by OMH. Banana Kelly was to document the delivery of these services in monthly Progress Notes in each child's case folder. Each Progress Note should contain five or six entries of activities that occurred throughout the month. These entries would document the youth's participation in program functions and support groups, as well as the youth's attendance at group activities and workshops. Progress Notes would also indicate Banana Kelly actions, such as home visits made by staff.

Based on the number of individuals who received FRIENDS program services over the three years of the contract, Banana Kelly staff should have prepared a total of 1,188 Progress Notes, which should have been present in clients' case folders. In reviewing client records, however, we found that case folders contained just 453 (38 percent) valid Progress Notes of the 1,188 Progress Notes that were due. The remaining 735 Progress Notes were either missing entirely (439) or consisted of photocopies of the same document in many different case folders (296). As an example, during the month of June 2000, 26 folders contained the following duplicate entries:

6/01/00	Called to remind family of activities for the month of June.
6/09/00	Called to remind family of afternoon support group on 6/12/00.
6/12/00	Called to remind family of Family Connection on 6/15/00 and Family Support Conference at Hunter College on 6/16/00.
6/15/00	Called to remind family of Narcotics Freedom Workshop on 6/20/00.
6/19/00	Called to remind family of Healthy Heart Workshop on 6/22/00.
6/29/00	Mailed calendar for the month of July.

The duplicated forms contained no specific details (such as client name, preparer name or date of preparation), and did not state whether the staffer had spoken with a family member or what happened as a result of such conversations. In our opinion, photocopies of Progress Notes with the very same dates and entries do not constitute adequate evidence that Banana Kelly provided any services to the affected youths and their families.

The approved work plan also listed specific Family Support activities Banana Kelly was to provide. These activities included events such as monthly Family Connection activities, Support Groups for Parents and Skill Development Groups. Banana Kelly staffers were required to document families' participation in Family Support by maintaining program logs, attendance sheets, activity narratives, calendars, flyers, etc. The contract specified attendance targets each of these Family Support functions should meet. For example, the attendance target for Family Connection activities was five to seven families. Banana Kelly staff were to bring attendance sheets to all activities, have participants sign the sheets, and maintain the filled-in sheets in the appropriate activity binder. However, our review of attendance rosters revealed that some claimed Family Support activities were not documented, and others did not meet attendance targets.

For example, during the contract period, Banana Kelly reportedly provided a total of 72 Workshops, as required by the approved work plan. However, we found that Banana Kelly actually held just 58 Workshops, and that attendance sheets were used for only 37 of the 58 Workshops. Further, attendance sheets at 8 of the 37 Workshops showed that attendance at these Workshops did

not meet OMH's attendance target. Therefore, 43 of the 72 Workshops (60 percent) were not held, were not documented by attendance sheets, or were too poorly attended to meet OMH targets.

Regarding the delivery of services, the Youth Leadership program could only document in 10 out of the 19 folders that contractual services were provided. Regarding the delivery of Family Support services, we found that there was documentation in 63 of the 99 folders that services were provided.

c. Program Monitoring

OMH is responsible for monitoring its contractors to make sure they perform contracted services and comply with the contract's requirements. OMH made provisions for a monitoring function in its contract, which required Banana Kelly to submit monthly reports of program activities. However, to provide additional oversight for Banana Kelly's contract performance, OMH contracted with Friends, Inc. (the Banana Kelly subcontractor that was already providing Youth Leadership and Family Support services to clients for the duration of the three-year contract) to monitor Banana Kelly's compliance with other than Youth Leadership and Family Support services during 1999-2000. In 2000-2001, Friends, Inc. had its responsibilities expanded to include oversight of Banana Kelly's day-to-day operations. Although Friends, Inc. was monitoring components of the FRIENDS program that were separate from those which it directly administered, this relationship created the appearance of a conflict of interest. Further, we found serious deficiencies in both program operations and monitoring, leading us to conclude that this relationship was ineffective.

Monitoring performed by OMH and/or Friends, Inc. included the features listed below.

- Monthly Reports: Banana Kelly was required to submit the monthly reports to both OMH and Friends, Inc., effective July 1, 1999. Friends, Inc. was to use the reported data, which included all the Youth Leadership and Family Support program services delivered during the previous month, to regularly monitor service delivery.
- Program Reviews: To verify that Banana Kelly was consistently meeting the needs of youth and family enrollees and fulfilling the terms of its contract, Friends, Inc. was to perform program reviews twice a year, and state review results in formal written reports to OMH. Reviews would include the examination of case folders and Individual Service Plans to confirm that services met OMH expectations.
- FRIENDS Program Database: Friends, Inc. was to establish and maintain a database of the eligible children and families receiving Youth Leadership and Family Support services, and track changes in enrollment in these program components.

However, we noted that Banana Kelly did not submit any program reports to OMH during the 1998-1999 contract year. Review of Friends, Inc. documents revealed that, during the 1999-2000 and 2000-2001 contract years, Banana Kelly submitted just 14 (58 percent) of the 24 monthly reports due for Youth Leadership services, and only 11 (46 percent) of the 24 monthly reports due for the Family Support services. Without these reports, it would be difficult for OMH or Friends, Inc. to effectively monitor Banana Kelly's performance. We also found that the activity information included on the reports that were submitted was inconsistent with data documented on calendars and

attendance sheets. However, since neither OMH nor Friends, Inc. enforced compliance with reporting requirements, or verified the accuracy of reported activities in a timely manner, Banana Kelly's failure to consistently deliver and/or document program services was not detected or corrected.

We found that Friends, Inc. had prepared all eight of the biannual Program Reviews required for the Youth Leadership and the Family Support components for the 1999-2000 and 2000-2001 years. Friends, Inc. issued two Program Reviews in February and in June for both years. However, Friends, Inc. did not provide us with information to support the conclusion it reached in all the Reviews that Banana Kelly's performance had achieved 90 percent compliance with contract requirements. Further, we question the validity of these Program Reviews because write-ups in the 2000-2001 Program Review were almost verbatim copies of write-ups for corresponding months in the 1999-2000 Program Review. For example, both the February 2001 and June 2001 Program Reviews stated that a legal workshop "will be held in April." Friends, Inc. staff had apparently copied this prior notation directly into the June report without revision. Thus, the Program Reviews Friends, Inc. produced had virtually no utility for monitoring purposes; they did not report any deficiencies in Banana Kelly's performance, even though a cursory examination of the case folders would have revealed the programmatic problems we found during this audit. In fact, the Program Reviews served to provide unwarranted assurance that Banana Kelly was delivering the services in accordance with contract terms.

We also found that information on the FRIENDS program database that Friends, Inc. was contracted to maintain was too limited to track participants' progress or to determine how many of which kinds of services they had received. The database contained incomplete eligibility information. For example, in some cases, this data did not include the child's age or complete address, both of which are essential for confirming eligibility. Further, database searches did not show whether listed individuals met the eligibility criteria; at what dates participants began or stopped receiving services; and which children were registered in the programs. A Friends, Inc. official explained that the system did not track participants' use of services during the period; instead, the system noted only whether a participant attended at least one meeting during the calendar year. Since this database could not be used to effectively monitor Banana Kelly's contract compliance and program delivery, Friends, Inc. could not use the database information to support its conclusions about Banana Kelly's contract performance.

As noted earlier in this report, OMH did not renew its contract with Banana Kelly. Further, while we recommend that OMH recover any inappropriate payments of State contract funds from Banana Kelly, we acknowledge that recouping funds from this financially distressed entity may be difficult. As noted, OMH has referred this matter to the Attorney General. However, OMH has since hired Friends, Inc. to provide the same FRIENDS program services previously contracted to Banana Kelly. Since the examples we state in this report indicate that Friends, Inc. provided ineffective and unreliable oversight of Banana Kelly's performance, OMH should make significant efforts to ensure Friends, Inc. actually provides, and fully documents compliance with its existing contract with OMH and with any future contracts awarded by OMH.

Recommendations

1. *Continue to follow-up with the Attorney General on the recoupment of funds paid to Banana Kelly for undocumented or inappropriate expenses and services.*
2. *Closely review the performance of Friends Inc., both as a subcontractor of Banana Kelly and a contractor of OMH. Reassess OMH's utilization of Friends, Inc. for the FRIENDS program.*

We provided a draft copy of this report to OMH officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. In addition, State Comptroller's Notes to OMH's comments are included as Appendix B. OMH officials agreed that Banana Kelly did not adequately document their compliance with certain contract requirements, including the filing of various fiscal and program reports. However, it believes Banana Kelly's lack of compliance occurred despite OMH's monitoring and oversight efforts. OMH officials agreed with Recommendation 1, and indicated that Recommendation 2 was no longer applicable because OMH has terminated its contract with Friends, Inc.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Mental Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and its fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Frank Patone, Barry Mordowitz, Zenaida Bhuiyan, Altagracia Rodriguez, Anny Velez and Nancy Varley.

We wish to thank OMH management and staff for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

William P. Challice
Audit Director

cc: Robert Barnes, Division of Budget



Sharon E. Carpinello, RN, Ph.D., Commissioner

Capital District Psychiatric Center – Unit R

75 New Scotland Avenue
Albany, New York 12208

November 29, 2004

William P. Challice
Audit Director
Division State Services
State Audit Bureau, 21st Floor
Office of the State Comptroller
123 William Street
New York, NY 10038

Dear Mr. Challice:

The Office of Mental Health has reviewed draft audit report 2003-R-3 entitled, Administration of Contract C005265 with Banana Kelly Community Improvement Corporation. Our comments to the findings and recommendations contained in the report are enclosed.

The Office of Mental Health appreciates the Office of the State Comptroller's efforts to recommend improvements to our local provider operations.

Many thanks for your continued help and cooperation.

Sincerely yours,

A handwritten signature in black ink that reads "Kenneth P. Lawrence".

Kenneth P. Lawrence
Assistant Director
Bureau of Investigation and Audit

Enclosure
cc: R. Barnes

**OFFICE OF MENTAL HEALTH
RESPONSE TO OFFICE OF THE STATE COMPTROLLER
DRAFT AUDIT REPORT 2003-R-3
ADMINISTRATION OF CONTRACT C005265 WITH BANANA KELLY
COMMUNITY IMPROVEMENT CORPORATION**

Overall OMH Comments

As noted on page 2, the Office of Mental Health agrees with the first of OSC's two recommendations and OSC's second recommendation is no longer applicable because OMH has terminated its contract with Banana Kelly. OMH also agrees that Banana Kelly did not adequately document their compliance with certain contract requirements, including the filing of various fiscal and program reports. However, as described throughout this section of the response and in Attachment A, Banana Kelly's lack of compliance occurred despite OMH's monitoring and oversight efforts.

OMH believes that OSC should edit the report to put in context the small percentage of Banana Kelly's expenditures which were made for its mental health programs. Banana Kelly (with its 18 related for-profit and not-for-profit affiliates) had as its primary mission the rehabilitation of low income housing in the Bronx. The Attorney General reported that Banana Kelly and its various affiliates owned 25 residential buildings which housed over 2,000 tenants. Moreover, while the Attorney General's report concluded that a Banana Kelly official had diverted certain funds for personal use, none of those funds were attributed to Banana Kelly's contract with OMH.

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Note
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OMH also believes certain OSC comments in the draft report are incorrect and should be edited for accuracy. For example, the section entitled "Results of Audit" states that \$422,000 of payroll costs paid to Banana Kelly "... were completely undocumented, or were supported by a variety of conflicting payroll records." The term "completely undocumented" should be deleted from the report, because the "Contractor Billings" section of the report specifies that OSC identified IRS W-2 forms totaling \$371,520 (or nearly 90 percent of those payroll costs). Moreover, the draft report indicates there were additional payroll costs for the Youth Leadership Program which were recorded on Banana Kelly's Employee Earnings Records, although corresponding W-2 forms were missing.

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Notes
1 & 2

The "Results of Audit" section states: "... OMH did not review and verify the accuracy and legitimacy of Banana Kelly's claimed payroll expenses." That statement is incorrect and should also be deleted. In addition to the program oversight described in Attachment A, OMH provided fiscal oversight through its New York City Field Office, Contracts and Claims Unit, and Audit Unit. For example, OMH auditors conducted two on-site audits of Banana Kelly's books and records in 1999. Based on inadequate and incomplete records for payroll and other expenses, and due to various fiscal and programmatic concerns, OMH terminated its contractual relationship with Banana Kelly and subsequently demanded repayment of amounts advanced pursuant to the contract. When Banana Kelly failed to comply, OMH referred the matter to State Attorney General's Office for collection. All of those actions were taken before OSC initiated its audit.

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Note
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- 2 -

The “Results of Audit” section also incorrectly states that: “Banana Kelly may not have delivered mandated services to Mott Haven clients because neither OMH nor Friends, Inc. adequately monitored Banana Kelly’s performance.” The report also indicates “. . . OMH officials agreed that Banana Kelly did not provide the required services.” Those statements are not correct and should be deleted from the report. As described in Attachment A, required services were provided, and were verified by OMH staff. Attachment A also contains additional information on OMH’s oversight and monitoring efforts, and provides information for OSC’s use in correcting or clarifying other statements made in the draft report.

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Notes
1, 2, 3, 8 &
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OMH Response to OSC Recommendations

OSC Recommendation No. 1 – Continue to follow-up with the Attorney General on the recoupment of funds paid to Banana Kelly for undocumented or inappropriate expenses and services.

OMH Response to OSC Recommendation No. 1:

OMH will continue to follow-up with the Attorney General’s office on the recoupment of funds paid to Banana Kelly.

OSC Recommendation No. 2 – Closely review the performance of Friends Inc., both as a subcontractor of Banana Kelly and as a contractor of OMH. Reassess OMH’s utilization of Friends, Inc. for the FRIENDS program.

OMH Response to OSC Recommendation No. 2:

OMH discontinued its contractual relationship with FRIENDS, Inc. in November 2004.

Attachment A

**OFFICE OF MENTAL HEALTH
RESPONSE TO OFFICE OF THE STATE COMPTROLLER
DRAFT AUDIT REPORT 2003-R-3
ADMINISTRATION OF CONTRACT C005265 WITH BANANA KELLY
COMMUNITY IMPROVEMENT CORPORATION**

A. Background

1. The original source of funding for the FRIENDS program was a federal grant received by the Research Foundation for Mental Hygiene (RFMH), a not-for-profit affiliate of OMH. Subsequently, the State financed the program from State Aid pursuant to Mental Hygiene Law Part 41.

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Note 1
2. Banana Kelly did not subcontract with FRIENDS, Inc. Banana Kelly provided Family Support Services (FSS) and Youth Leadership Services (YLS) for the FRIENDS "System of Care", first under a contract with RFMH, then under a contract with OMH. OMH terminated its contract with Banana Kelly for Family Support Services and Youth Leadership Services in June, 2001, at which time OMH amended an existing contract with FRIENDS, Inc., to have FRIENDS provide the FSS and YLS on its own.

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Notes 1 & 2
3. Responsibility for monitoring Banana Kelly activities resided in staff hired to develop and coordinate the System of Care services. These staff were located in offices in the Mott Haven neighborhood of the Bronx, the catchment area for the FRIENDS System of Care. Until FRIENDS was incorporated, these individuals were employees of RFMH; post-incorporation, they were employees of FRIENDS, Inc.
4. OMH had a contract with the Banana Kelly Community Improvement Association (Banana Kelly)(Contract # C005265) for the period of July 1, 1999 through June 30, 2001.

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Note 4

B. Audit Scope, Objectives, Methodology

1. On February 5, 2004, OMH staff were advised in writing by staff of FRIENDS, Inc. that FRIENDS, Inc., staff had apprised OSC auditors of the necessity of reviewing FRIENDS "intake point" files in order to properly assess the eligibility of individuals served by Banana Kelly. FRIENDS representatives reported that OSC staff did not follow through with this recommendation.

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Note 5

2. It is not clear from the draft report whether OSC staff interviewed supervisory staff of the FSS and YLS at Banana Kelly who might have provided additional information to OSC staff regarding various issues identified during the audit.

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Note
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C. Results of Audit

1. Eligibility: The determination of eligibility for the FRIENDS System of Care was originally the responsibility of Banana Kelly. As the System of Care evolved, a decision was made by the FRIENDS System of Care Management Team that the staff of the central coordinating body should have responsibility for this function. As a result, two Access Coordinator positions were created within the FRIENDS System of Care offices. It was the responsibility of the Access Coordinators to determine eligibility and maintain documentation of eligibility within the FRIENDS central files. Families who were eligible for the FRIENDS System of Care were **automatically eligible** for FSS and YLS. Changes in circumstances which would have negated a youth's eligibility for services (e.g., aging out, moving out of the catchment area) would have been evident to the staff of any of the FRIENDS System of Care providers, including Banana Kelly, during the normal course of providing services. Had such circumstances arisen, the providers would have advised the Access Coordinators, who would have then discharged the youth from the FRIENDS System of Care.
2. The oversight role of OMH in the FRIENDS System of Care Demonstration Project was substantially different than OMH's oversight role in most program areas. The development of a new system of care in Mott Haven for children and adolescents with serious emotional/behavioral issues, which was the purpose of the federal grant for the FRIENDS Demonstration Project, required the regular presence of OMH staff in the Mott Haven offices of the staff of the Central Coordinating body. OMH oversight of the project was decidedly more "hands on" in this demonstration project, and relied heavily on personal participation in and observation by OMH staff of the day-to-day activities of the project. OMH staff participated in both Management Team meetings, attended by all System of Care providers, and in regular meetings between individual providers and FRIENDS staff during which the performance of each provider was scrutinized. OMH believes that such personal observation was more effective than more typical oversight mechanisms, such as written reports or periodic site visits. While written reports from the various providers in the FRIENDS System of Care were required, and regular attempts were made to ensure that the reports were provided, OMH was not as concerned with failure to provide some of the reports as would otherwise have been the case, since OMH staff were aware of the day to day activities of the program.

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3. There were also numerous opportunities for OMH staff to directly observe Banana Kelly staff in the provision of services and to discuss the efficacy of such services with both supervisory and line staff, including the Banana Kelly Parent Advisors. It should be noted that the Parent Advisors, committed and hard-working parents of children with serious emotional/behavioral issues, who were hired to provide family support services to FRIENDS clients and families, were not as careful about documenting their activities, because they were not "professionals" who are more aware of documentation requirements. OMH staff nonetheless received a great deal of information on an ongoing basis about services and supports delivered by the FRIENDS providers, including Banana Kelly. There is no doubt on the part of OMH staff, contrary to the OSC report, that Banana Kelly did provide the services for which it had contracted. Sometimes the quality of the services was less than could be desired, but the services were provided.
4. Contractor Billings
As the OSC staff were advised, in September 2003 OMH sent Banana Kelly a letter demanding that the Consolidated Cost Report, which was past due, be submitted, or, in the alternative, that the agency reimburse OMH for the funds provided during the contract period. Extensions of time were subsequently granted on two separate occasions, to a final date of January 10, 2004. The case was subsequently referred to the Attorney General's office for collection of the funding.
5. Contract Performance
 - a) Documentation of eligibility: See C1, above.
 - b) Documentation of services.
 - 1) Progress notes. OSC has stated that progress notes were inadequate in some instances. In order for OMH to determine whether such was the case, it would be helpful for OSC to identify the staff who were responsible for the inadequate notes and to provide a description of any discussions which OSC staff had with either FRIENDS or Banana Kelly staff regarding the notes. OMH was aware of the problem regarding photocopied progress notes, via a written communication from the former Executive Director of FRIENDS, Inc., but OMH was told that there was a problem with only one Banana Kelly employee. If the problem extended to other employees, OMH would appreciate any additional information on this subject that OSC staff have gathered.

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- 2) OMH is of the belief that what should be measured in regards to workshops is whether appropriate individuals attended the workshops, rather than on the actual number of individuals who attended. Second, FRIENDS System of Care staff provided OMH with performance reports which appeared to demonstrate that Banana Kelly had adequately performed its responsibilities in these areas.

6. Program Monitoring.

- a) Monthly Reports: See C2, above.
- b) Program reviews: FRIENDS provided all required program reviews of Banana Kelly to OMH.
- c) Database: It would be helpful if OSC could identify the database referenced in the report since several were used. In addition, it would be helpful if OSC were to identify the FRIENDS, Inc. staffer who provided the information regarding the database.

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State Comptroller's Notes

1. We modified our report to reflect OMH's comments.
2. OMH officials claim they did in fact review the accuracy of Banana Kelly's claimed payroll expenses. However, we have not been supplied with any formal documentation evidencing these reviews and/or recommending corrective action.
3. Progress notes are used to record the delivery of services. We found only 453 valid Progress notes on file, although 1,188 were required. Without any such documentation, it is uncertain whether required services were provided. In addition, attendance records were available for about half of the required workshops and many of them showed that attendance was below the contractual target.
4. As stated in our report, the contract period was from July 1, 1998 through June 30, 2001.
5. According to OMH officials, the audit team did not ask for the relevant files that should have been reviewed to determine client eligibility. Throughout the course of our fieldwork, and during our various discussions of interim findings, we informed the OMH, Banana Kelly and Friends audit liaisons of what we were looking for, and the documents/files we reviewed to come to our conclusion. At these discussions, we asked for any additional information available that might affect our conclusion(s). This audit reflects all of the information made available to us as a result of these discussions and requests, and we are unaware of any notice to review intake files. Additionally, upon reviewing OMH's response, we contacted the two agencies that reportedly had these intake files. Neither agency provided any files. One of the agencies told us they never had intake files, and the other said the intake files they had were over five years old and could not be readily located. Instead, they gave us a listing of clients and asserted that each was eligible for the Program.
6. OMH officials state that it is not clear from our report whether the audit staff interviewed supervisory staff of the FSS and YLS at Banana Kelly. At the opening conferences with Banana Kelly, and Friends, Inc., we were introduced to their respective Executive Directors and Program Liaisons. These individuals served as our primary liaisons, and were contacted directly, as well as other individuals, who were referred to us by them.
7. OMH officials state that it was the responsibility of the contractor's "Access Coordinators" to determine client eligibility and maintain documentation thereof. They state further that ineligible clients would have been evident to contractor staff and ultimately discharged from the Program. However, no documentation was supplied to us to refute the eligibility exceptions noted in our report.
8. OMH officials stated that their oversight of contract operations consisted mainly of regular on-site observations, and they did not rely heavily on written documentation to support their monitoring efforts. OMH provided several timesheets for one OMH employee with such reported oversight responsibilities for the Friends program. However, without formal

- documentation, it is impossible for us to assess the quantity or quality of oversight provided.
9. OMH officials assert that due to their lack of formal training, the Program's "parent advisors" did not properly document service deliverables. However, OMH was privy to continuous feedback from contractors which assured them that service deliverables were provided. Since the contract requires documentation of services, informal verbal assurances do not provide an acceptable substitute.
 10. All of the information necessary to support our findings was submitted to OMH, Banana Kelly and Friends Inc, prior to the preparation of this report. However, if that information is not still available, we will provide it once again.