

ALAN G. HEVESI  
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 2, 2005

Mr. James W. McMahon  
Director  
New York State Office of Homeland Security  
633 Third Avenue  
New York, NY 10017

Mr. Glenn S. Goord  
Commissioner  
NYS Department of Correctional Services  
State Office Campus – Building 2  
Albany, NY 12226

Mr. Chauncey C. Parker  
Commissioner  
Division of Criminal Justice Services  
4 Tower Place  
Albany, NY 12203

Maj. Gen. Thomas P. Maguire, Jr.  
The Adjutant General  
Division of Military and Naval Affairs  
330 Old Niskayuna Road  
Latham, NY 12110

Mr. Wayne E. Bennett  
Superintendent  
Division of State Police  
State Office Campus – Building 22  
Albany, NY 12226

Re: Use of Homeland Security Funds  
Report 2004-S-15

Dear Messrs. McMahon, Parker, Bennett, Goord and Maguire, Jr.:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we audited the Use of Homeland Security Funds. Our audit covered the period April 1, 2002 through October 15, 2004.

**A. Background**

On October 10, 2001, Governor Pataki issued Executive Order Number 113.34 establishing the position of State Director of the Office of Public Security. Chapter 1 of the Laws of 2004 created the State Office of Homeland Security (Office), which in part, assumed all of the duties and responsibilities of the Office of Public Security. This cabinet level office reports directly to the Governor. The Office has the authority and responsibility to oversee, coordinate and direct State resources related to the detection, identification, response, prevention and recovery from a terrorist act or threat in New York State. The Office is the designated State lead agency for identifying U.S.

Department of Homeland Security grant funds to support State Homeland Security efforts, and also serves as the State's point of contact for implementation of these efforts. The Division of Criminal Justice Services (DCJS) is designated as the State Administrative Agency. The State Weapons of Mass Destruction (WMD) Task Force, which is headed up by the Office, is an interagency group that conducts Federally-required preparedness assessments, purchases equipment and coordinates the distribution of equipment and grant funds to localities through DCJS.

State Homeland Security spending through March 31, 2004 totaled approximately \$146 million. For the two-year period April 1, 2002 through March 31, 2004, the majority of expenditures of State Homeland Security funds were made by three State agencies: the Division of Military and Naval Affairs (DMNA), which spent \$42.2 million; the Division of State Police (DSP), with spending of \$41.9 million; and the Department of Correctional Services (DOCS), which spent \$25.7 million. State Homeland Security appropriations are used to pay for personal service expenditures and for certain non-personal service expenditures (food, lodging, etc.) related to personal services. The expenditures are geared towards strengthening building security and protecting State assets, based on intelligence received from the Federal government. For example, DMNA assigns soldiers to task forces that provide security for nuclear power plants and New York City infrastructure. DSP provides Homeland Security coverage at posts statewide, including posts in border areas (such as the Northern Border Initiative). To enhance capabilities statewide, DSP hired an additional 220 troopers, including previously retired troopers. DOCS helped staff security posts for State buildings, including the State Capitol, and around the reservoirs that comprise the New York City Watershed. DOCS' Homeland Security coverage ended January 31, 2004, at which time DSP assumed responsibility for this coverage.

For Federal Homeland Security grants received by the State, we focused this audit on \$49.5 million DCJS spent for equipment purchases between April 1, 2002 and March 31, 2004. The source of the \$49.5 million in funds was five Federal Homeland Security grants (1999 State Domestic Preparedness Equipment Program; 2001 State Domestic Preparedness Equipment Program; 2002 State Domestic Preparedness Program; 2003 State Homeland Security Grant Program (SHSGP); and 2003 SHSGP Part II) which together totaled an award of \$122.7 million. Of the Federal money that remained from these grants (about \$73.2 million), some funds were provided to and spent by New York City on equipment; other funds were provided to each county statewide to pay for exercises, training, planning and administration; and still other funds were used to pay overtime costs for enhanced security. This audit did not address expenditures of Federal Homeland Security funds by New York City.

The United States Department of Homeland Security issued a report in June 2004 titled, *A Report from the Task Force on State and Local Homeland Security Funding*. This report stated that some best practices in Homeland Security are beginning to emerge. One best practice discussed in this report is New York State's use of Federal funds to purchase and equip Mobile Emergency Response Caches (also known as WMD Trailers), a decision made at the State level. Over 150 caches have been deployed throughout the State using a risk-based distribution formula. The caches include personal protective, detection and decontamination equipment used to support the response to weapons of mass destruction incidents. Through centralized purchasing, the State was able to equip municipal jurisdictions with resources they needed, and also provide for a level of standardization in these resources from one jurisdiction to the next.

**B. Audit Scope, Objectives and Methodology**

For the period April 1, 2002 through October 15, 2004, we audited various State agencies' use of State and Federal Homeland Security funds. The objectives of our performance audit were to determine whether controls at DMNA, DSP, and DOCS provide reasonable assurance that State Homeland Security funds are spent for their intended purposes, and whether controls at DCJS provide reasonable assurance that Federal Homeland Security funds are spent for their intended purposes.

To accomplish our objectives, we interviewed Office, WMD Task Force, DCJS, DMNA, DSP, and DOCS officials. We sampled payroll transactions at DMNA, DSP, and DOCS to determine if employees were paid for Homeland Security activities and if payments were properly authorized and documented. We visited five DSP Homeland Security posts and we reviewed the purchase of DSP trooper vehicles. We reviewed the Federal criteria for the purchase of equipment promulgated by the Office for Domestic Preparedness (ODP). We verified equipment purchased to the supporting documentation and determined if it was allowable according to the Federal criteria. We contacted an official from ODP to determine if equipment purchases met the Federal criteria. In addition, we selected a judgmental sample of 15 WMD trailers Statewide that contained equipment purchased with the Federal funds. We visited the trailers and inventoried a judgmental sample of five equipment and five supply items in each trailer. We judgmentally sampled three bomb squads to visit and inventoried high value equipment that they received. We made observations about the adequacy of certain equipment items.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards. Such standards require that we plan and perform our audit to adequately assess agencies' operations included in our audit scope. Further, these standards require that we understand the agencies' internal control structures and their compliance with those laws, rules, and regulations that are relevant to the agencies' operations in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying other auditing procedures 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 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 identified certain areas in which controls over the use of Homeland Security funds needed to be improved. These findings and recommendations were provided to agency officials during the conduct of the audit. The details of our findings and recommendations are not included herein due to the sensitivity of the information. A follow-up audit will be made of the detailed findings and recommendations to assess the extent to which our recommendations have been implemented.

### **Recommendation**

To Office, DCJS, DMNA and WMD Task Force Officials:

*Implement the recommendations detailed during the audit for strengthening controls.*

Draft copies of this report were provided to officials from each of the agencies for their review and comment. Officials agree with our recommendation and are taking steps to improve internal controls over the use of Homeland Security funds. Their comments have been considered in preparing this final report, and are included as Appendix A.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Director of the Office of Public Security, the Commissioner of the Division of Criminal Justice Services, the Superintendent of the Division of State Police, and the Adjutant General of the Division of Military and Naval Affairs shall report to the Governor, the State Comptroller and leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor. This report makes no recommendation to the NYS Department of Correctional Services, and, therefore, no response was required.

Major contributors to the report include Richard Sturm, Brian Lotz, Donald Geary, Michael Cantwell, ShaDina Currie, Theresa Nellis, Chrystean Keil, John Karwacki, Carole LeMieux, Ira Lipper, Roseline David, Mark Radley, Jeffrey Marks and Nancy Varley.

We wish to thank the management and staff of the various agencies and counties we visited 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 the Budget



James W. McMahon  
Director

**NEW YORK STATE  
OFFICE OF HOMELAND SECURITY**  
5 Empire State Plaza  
Suite 2170  
Albany, NY 12223-2170

March 31, 2005

Honorable Alan G. Hevesi  
Comptroller  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Dear Comptroller Hevesi:

This is a joint response to your audit on the Use of Homeland Security Funds, Report 2004-S-15, and reflects the comments and positions of the New York State Office of Homeland Security, the Division of Criminal Justice Services, the Division of State Police, the New York State Department of Correctional Services and the Division of Military and Naval Affairs.

We are pleased that the audit found the overall efforts related to homeland security spending, both on payroll and equipment and supplies, to be well managed. Clearly, our actions, and the soldiers, troopers and officers supporting them, are important in protecting the citizens of our State.

We would like to thank the auditors for confirming that our efforts to protect New York State are generally going as planned. As with any such effort, there is room for improvement and we strive for ways to more effectively perform this vital function. Be assured that we will address the areas for improvement brought out by the audit.

Sincerely,

A handwritten signature in black ink that reads "James W. McMahon".

James W. McMahon  
Director