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OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE SERVICES

**OFFICE OF MENTAL
RETARDATION AND
DEVELOPMENTAL
DISABILITIES**

**DEVELOPMENTAL
DISABILITIES INSTITUTE
CONTRACTS: SERVICES AND
BILLINGS**

Report 2004-S-82



AUDIT OBJECTIVE

Our objective was to determine whether the Long Island Developmental Disabilities Services Office provided effective monitoring of contractor operations to ensure the Developmental Disabilities Institute, Inc. provided contracted services in compliance with contract terms and expenditures were appropriate and supported by sufficient documentary evidence.

AUDIT RESULTS – SUMMARY

We found the Long Island Developmental Disabilities Services Office (Long Island Services Office) Director did not effectively monitor contractor operations. As a result, we noted instances where contract expenditures were not appropriate and/or were not supported by sufficient documentary evidence. In addition, the contracts generally did not contain clearly defined deliverables, thereby hindering the ability of the Long Island Services Office to monitor contractor performance and compliance with contract terms.

Specific findings include:

- The Long Island Services Office staff did not make site visits to the Developmental Disabilities Institute, Inc. (Institute) to review operations relating to the contracts included in our audit, and did not require the Institute to submit adequate documentation to support expenditures.

In addition, contract deliverables were vague and lacked information such as thorough descriptions of services to be provided and how often services will be provided. This makes it difficult for the Business Officer or the Family Support Unit to verify services and ensure developmentally disabled persons (consumers) are receiving services they need. [Pages 3-6]

- The Institute claimed reimbursement for more consumers than it actually served and submitted for reimbursement of expenses that were not incurred. The Business Officer's limited review of the Institute's claimed expenditures allowed these problems to persist. [Pages 6-7]

Our report contains two recommendations to improve controls over contract services and expenditures. OMRDD officials generally agreed with our recommendations and indicated actions planned or taken to implement them.

This report, dated September 15, 2005, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The New York State Office of Mental Retardation and Developmental Disabilities (OMRDD) provides health, education, and residential facilities for developmentally disabled children, adults, and their families. The purpose of these services is to minimize the impact of the disabilities on the affected persons and enable them to live as independently as possible.

OMRDD operates 14 Developmental Disabilities Services Offices throughout New York State. These offices provide specially designated assistance to individuals with developmental disabilities in partnership with consumers, families, staff, private providers, and local governments. The Long Island Services Office operates 80 program homes and 10 day programs serving consumers in Nassau and Suffolk counties on Long Island. Under the management of its Director, the Long Island Services Office has an operating budget of \$65 million and employs approximately 1,500 people.

The Institute is one of more than 50 contractors the Long Island Services Office has contracted to provide services to residents of Nassau and Suffolk counties. The Institute was founded in 1966 as a not-for-profit organization, and is headquartered in Smithtown, New York. The Institute operates health, education, and residential facilities providing therapeutic education, guidance, and training to developmentally disabled children, adults, and their families. A 15-member Board of Directors acts as the governing body.

We reviewed three contracts during this audit: (1) Family Support Services, (2) Day Training, and (3) Transportation. The Family Support Services contract provides respite

services, such as recreational activities, to consumers that enhance a family's capacity to continue caring for a family member with a developmental disability living at home. The Day Training contract offers vocational services and training to facilitate employment for the consumers served by the Institute. For the Transportation contract, the Institute sub-contracts with two bus companies to transport consumers to and from various program sites. The three contracts represent approximately 98 percent of total contract funding between the Institute and OMRDD. These contracts have been in place for many years, one as much as 15 years, and are renewed yearly.

AUDIT FINDINGS AND RECOMMENDATIONS

Monitoring

The Long Island Services Office Business Officer is responsible for monitoring contractor operations to ensure that contract-related expenditures are supported by sufficient documentary evidence and are appropriate for contract purposes, and that the Institute provides contracted services in compliance with contract terms. However, we found the Business Office has not fulfilled its monitoring responsibilities. Based on our overall assessment of their monitoring activities, we conclude the office does little to monitor the services provided under the three contracts included in our audit. The Business Officer's limited review of the Institute's claimed expenditures is not designed to uncover excessive claims. Rather, it is limited to ensuring the arithmetic accuracy of the claims so expenditures do not exceed budgeted amounts. As detailed later in our report, this lack of monitoring has resulted in excessive and inappropriate expenditures being charged to the contracts. We noted the following monitoring weaknesses.

On-site visits to a contractor are important to review performance and to examine records and other important documentation relating to services provided and expenditures claimed. For example, on-site visits provide an opportunity to determine whether fiscal and program related reports submitted by the Institute are accurate. However, we found the Long Island Services Office staff did not make site visits during our audit period to review Institute operations relating to the contracts included in our audit.

The Long Island Services Office should have assurance the Institute's contract-related expenditures are accurate and reflect only those services and expenses that were incurred according to contract terms. Therefore, the Business Officer should require that such expenditures be supported by sufficient documentary evidence. The Institute prepares its claims for reimbursement on quarterly fiscal reports. Information on these reports includes personal service and other than personal service costs associated with the contract. However, we found the quarterly fiscal reports consist of only a summary of expenses. Documentation is not attached to the reports to support the expenditures claimed, and the Business Officer or staff do not make site visits to verify expenses.

The Long Island Services Office needs an accurate, verified number of the consumers served, including the types of services provided, under each contract to ensure contract payments are appropriate. For the Family Support Services contract, the Family Support Services Unit requires the Institute to prepare and provide quarterly programmatic reports, which provide detail on services and number of consumers served. Such reports can also be used to compare the number of consumers claimed on the quarterly fiscal

reports. The programmatic reports are to be used as a monitoring tool to determine if services are satisfactorily provided to the contracted number of consumers. However, the Long Island Services Office does not require the Institute to provide such reports for the other two contracts. In addition, we requested the Family Support Services Unit to provide us with copies of the Family Support Services programmatic reports they received from the Institute for our audit scope. We found the Family Support Services Unit did not routinely receive these programmatic reports from the Institute. The office had three incomplete reports (e.g. lacking appropriate approval, report not completed) in its possession when it should have had seven complete reports. Requiring that programmatic reports be submitted for all three contracts could be an important means for the Long Island Services Office to determine whether the number of consumers claimed for reimbursement by the Institute is correct, and services were satisfactorily provided.

In addition, the Long Island Services Office's ability to effectively monitor the contracts was seriously hindered because contract deliverables were vague and lacked detail. Generally accepted business practices require the terms of contract deliverables to be clearly defined and understood by the parties to the contract. For example, contract terms such as thorough descriptions of services to be provided, how often services will be provided, documentation required to support those services, and payment terms, should be known to the parties. Contract terms identified the target number of consumers to be served. However, we found detailed written contract deliverables relating to services to be provided were not available to the Long Island Services Office or Institute employees who were responsible for

administering the contracts. We found Appendix D of the contracts - the section of the contract renewal that describes the services to be delivered - was vague and lacked detailed contract deliverables to measure performance against. For instance, Appendix D of the Transportation contract read, "Coordinate the transportation services to eligible consumers within Nassau and Suffolk counties." This description does not identify items such as what type of transportation services will be provided, the frequency of service (hourly, daily, weekly, etc.), service locations, number of units of service needed for each transport, how many consumers will be served on each transport, or a description of the documentation required to support the transportation services.

We requested the Long Island Services Office provide us with copies of the original contracts in order to obtain more specificity on contract deliverables. We were told these contracts go back many years and the original contracts could not be located. The Long Island Services Office Director has not taken a strong role in ensuring the terms of contract deliverables are sufficiently detailed. Without explicit contract terms, the Long Island Services Office cannot effectively monitor contractor performance and, therefore, has less assurance consumers are receiving services they need.

In addition, although contract terms identified the target number of consumers to be served, we found that the target numbers were not realistic. The Institute receives advance payments for the first two quarters of each contract year based on the contract's targeted number of consumers. In effect, 50 percent of the contract payments are received up front based on target numbers. Target numbers should be realistic so the State will not be owed money if target numbers are not met.

We found the Institute did not serve its targeted number of consumers for the Training and Family Support contracts. Specifically, the Family Support contract's target number of consumers was 20, yet only one was served, and the Day Training contract's target number was nine, yet only two were served.

An Institute Program Director stated the Institute's estimate of how many consumers were expected for these programs fell short because many consumers qualified for similar program services offered under other Medicaid programs, which offer more services than the contracted Institute programs. The Director stated the Institute is trying to rectify an internal communication weakness in order to have more realistic target numbers. However, the Director was also aware that the available pools of potential consumers had been declining over the years based on the number of consumers registered for the programs in previous years. Despite this, Institute Program Directors chose to keep target numbers high.

By contracting to serve more consumers than are ultimately served, the Institute receives larger advances. If the Institute does not meet its target number, the State is owed money. In fact, Business Office officials told us this occurred on the 2003 Day Training contract. In this situation, the officials told us the Institute was overpaid and funds from the 2004 contract were decreased.

In response to our findings, the Long Island Services Office indicated it plans to visit agencies at least once every two years for the Family Support Services contract, and routinely for the Day Training contract. In addition, the Long Island Services Office officials indicated that they will require more detailed contract deliverables for all contracts,

which will enable them to better monitor the contracts. For example, officials indicated they will require the Transportation contracts to specify the number of trips to be provided, the cost per round trip, and the number of consumers projected to be served. In addition, Office officials indicated that they will work with the Institute to ensure appropriate target numbers are incorporated into the contract deliverables.

Recommendation

1. Management in the Office of Mental Retardation and Developmental Disabilities should ensure the Long Island Services Office effectively monitors contractor operations. This includes, but is not limited to:
 - making periodic site visits to the Institute to review operations relating to the three contracts,
 - requiring the Institute to submit sufficient documentary evidence to support contract expenditures,
 - requiring the Institute to submit programmatic reports for all three contracts,
 - requiring that contracts contain clearly-defined contract deliverables to adequately measure contractor performance, and
 - ensuring the Institute bases contract target numbers on historical figures of consumers served.

Contract Expenditures

We found the Institute served fewer consumers than the number reported for reimbursement on its quarterly fiscal reports for the Day Training and Family Support Services contracts. For example, the Institute claimed eight consumers were served in 2003 on the Day Training contract. However, our

review of the Institute's consumer attendance sheets shows only two consumers were served during this time. State payments on this contract totaled about \$59,000. As a result, we believe the Institute overcharged on the contract. However, because the contract deliverables do not define the cost per unit of service, we could not place a dollar amount on the potential overpayment. Similar to 2003, we found the Institute did not serve as many consumers as were claimed in 2004.

Similarly, for the Family Support Services contract, we found the Institute served only one consumer in the first month of 2004. The Institute closed the program in February of that year, but submitted two quarterly fiscal reports (first and second quarters of 2004) charging the program more than \$28,000 (20 percent of the \$140,000 annual contract, which was budgeted to serve 20 consumers). Again, it appears an overpayment was made, but because of the vagueness of the contract deliverables, we could not place a dollar amount on the potential overpayment.

Institute officials claim information on the number of consumers served by the Day Training and Family Support Services contracts was communicated by telephone from its program facility to the main administration office and, therefore, they could not pinpoint how the errors occurred. However, we observed the Institute consistently misrepresented the number of consumers claimed on its quarterly fiscal reports from period to period for these two contracts.

We also identified inappropriate practices regarding personal service expenses on the Institute's Day Training contract. As a part of the Institute's Day Training program, private organizations employ Institute consumers as vocational trainees. Payment from the private

organizations, in the form of payroll checks, is forwarded weekly to the Institute for disbursement to consumers. These expenses should not be charged against the contract because reimbursement is received from the private organizations, yet we determined some expenses were charged anyway. We determined some payroll expenses for 18 vocational trainees were charged against the Day Training contract (approximately 9 percent of the total contract in 2003). In addition, these 18 trainees were not covered by the contract, and therefore there was no basis for charging their expenses to this contract. Business Office officials told us that the Institute will no longer charge this expense against the contract.

In addition, we determined approximately \$102,000 of the \$1.4 million in other than person service expenses charged on the Transportation contract during our audit period were inappropriate. For the life of the contract, the Institute has charged recurring monthly expenses. The recurring expenses are outdated and do not reflect actual costs. For instance, charges to vehicle operating leases of \$1,410 were made every month during our audit period, yet this expense is no longer legitimate. The Institute does not incur vehicle operating lease expenses because the Institute contracts with two bus companies to fulfill the terms of the contract. Other examples of recurring expenses include charges of \$688 and \$330 every month during our audit period for equipment repairs and employee travel, respectively, yet these expenses are not incurred. The Institute's Controller agrees the recurring expenses are inappropriate and documentation does not exist to support them. We asked the Institute's Chief Financial Officer why the Institute allowed these expenses to be charged against the contract; we were told the Institute did not know this was a problem until the fall of 2004

when it began looking into the contract's budget and the Chief Financial Officer started asking for backup for expenses on the contract. The Chief Financial Officer said the Institute is working with the Long Island Services Office to adjust down the 2004 and 2003 contract payments.

Recommendation

2. Management in the Office of Mental Retardation and Developmental Disabilities should oversee the Long Island Services Office to ensure expenditures are appropriate and supported by sufficient documentary evidence and recover all overpayments.

AUDIT SCOPE AND METHODOLOGY

We did our performance audit according to Government Auditing Standards. We audited the Long Island Services Office's administration of contracts for the period January 1, 2003 through December 24, 2004. We reviewed the three largest contracts the Institute had with OMRDD, which totaled \$1.6 million per year for calendar years 2003 and 2004. To accomplish our objective, we met with OMRDD, Long Island Services Office, and Institute officials to confirm and enhance our understanding of contract requirements and payment related terms. We used auditing software to analyze the validity of employee, consumer and vendor social security numbers, arms-length transactions and other potentially inappropriate relationships among Institute employees and vendors, appropriateness of employee hours, and anomalies in Institute expenditures, such as duplicate payments. We reviewed quarterly fiscal and programmatic reports and related supporting documentation such as payroll registers, personnel files, time sheets, vendor invoices, and attendance sheets.

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.

AUTHORITY

The audit was performed according to the State Comptroller's authority under Article V, Section 1, of the State Constitution; and Article II, Section 8, of the State Finance Law.

REPORTING REQUIREMENTS

We provided a draft copy of the matters contained in this report to OMRDD officials for their review and comment. OMRDD officials generally agreed with our

recommendations and indicated actions planned or taken to implement them. For example, each contract will now include specific performance goals, based on historical patterns; OMRDD will more stringently review and analyze agency expenditure patterns to insure that costs reported are accurate, appropriate and supported by proper documentation; and OMRDD officials are working with the Long Island Services Office and the Developmental Disabilities Institute to recover overpayments. A complete copy of OMRDD's response is included as Appendix A.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of OMRDD shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising of the steps that were taken to implement the recommendations it contained, and/or the reasons certain recommendations were not implemented.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include David R. Hancox, Sheila Emminger, Stuart Dolgon, Adrian Wiseman, Andrea Inman, John Ames, Joseph Giaimo, Dennis Graves, Kimberly Bott, Paul Bachman and Bob Backus.

APPENDIX A – AUDITEE RESPONSE

George E. Pataki
Governor



Thomas A. Maul
Commissioner

**STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES**

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August 5, 2005

Mr. David R. Hancox
Audit Director
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Hancox:

The Office of Mental Retardation and Developmental Disabilities (OMRDD) has reviewed the Office of the State Comptroller's draft audit report regarding OMRDD oversight of Developmental Disabilities Institute Contracts: Services and Billings (Report No. 2004-S-82). OMRDD's response to the recommendations is attached.

Thank you for the opportunity to respond.

Sincerely,

Lisa M. Kagan
Associate Commissioner

LMK/JG

Attachment



Providing supports and services for people with developmental disabilities and their families.



OMR26.04 (05/01)

Office of Mental Retardation and Developmental Disabilities (OMRDD)
Response to the Office of the State Comptroller's
Draft Audit Report No. 2004-S-82
Developmental Disabilities Institute Contracts: Services and Billings

Recommendation #1:

Management in the Office of Mental Retardation and Developmental Disabilities should ensure the Long Island Services Office effectively monitors contractor operations. This includes, but is not limited to:

- making periodic visits to the Institute to review operations relating to the three contracts,
- requiring the Institute to submit sufficient documentary evidence to support contract expenditures,
- requiring the Institute to submit programmatic reports for all three contracts,
- requiring that contracts contain clearly defined contract deliverables to adequately measure contractor performance, and
- ensuring the Institute bases contract target numbers on historical figures of consumers served.

Response:

We have taken steps to insure that OMRDD's Long Island Developmental Disabilities Services Office (DDSO) institutes procedures to be able to more effectively monitor contracts under their control. This includes taking a more active role in the oversight of contracts by both the Long Island DDSO and OMRDD's Central Office as well. At the beginning of each contract period, we now require that each contract include specific performance goals, based on historical patterns. These goals must be reasonably attainable and are to be measured throughout the contract period. Contract monitoring is to take place in the form of site visits, as appropriate, and through the submission of detailed programmatic and expenditure reports on a regular basis during the contract term. Additional background information regarding the vendor will also be provided through the Vendor Responsibility and Vendor Profile forms as well as the Contract Certification document submitted with the contract.

Recommendation #2:

Management in the Office of Mental Retardation and Developmental Disabilities should oversee the Long Island Services Office to ensure expenditures are appropriate and supported by sufficient documentary evidence and recover all overpayments.

Response:

Effective with the 2005 contracts, OMRDD will more stringently review and analyze agency expenditure patterns to insure that costs reported are accurate, appropriate and supported by proper documentation. Documentation must be specifically linked to the contract performance goals, including numbers of consumers served and types of services provided, before payment will be approved.

In addition, we are also working with the Long Island DDSO and the agency on the recovery of all overpayments. Current and planned actions include:

- Finalizing the value of the overpayments on each of the three contracts. The day training contract has been canceled, and the only further activity on this contract will be recovery of the overpayment.
- Once the value of the overpayments has been confirmed, working with the agency to develop a repayment schedule.
- Assignment of OMRDD auditors to review prior years of all three contracts and recovery of any overpayments from those years.