

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF STATE GOVERNMENT ACCOUNTABILITY

New York City Department of Health and Mental Hygiene

Contracts for Personal and Miscellaneous Services

Report 2009-N-14



Thomas P. DiNapoli

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State of New York

Office of the State Comptroller

Division of State Government Accountability

November 4, 2010

Thomas Farley, M.D., M.P.H.
Commissioner
New York City Department of Health and Mental Hygiene
Office of the Commissioner
125 Worth Street, Room 331
New York, NY 10013

Dear Dr. Farley:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the New York City Department of Health and Mental Hygiene: Contracts for Personal and Miscellaneous Services. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution; and Article III, Section 33, of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objectives

One objective of our audit was to determine whether the New York City Department of Health and Mental Hygiene (DOHMH) justified the need to contract for personal and miscellaneous services. Another objective was to determine whether DOHMH periodically reassessed its personal and miscellaneous service contracts to identify what work could be deferred, eliminated or reduced in an effort to address fiscal challenges.

Audit Result - Summary

The City Charter, Procurement Policy Board Rules, and City Comptroller Directives establish certain expectations for City agencies regarding decisions to contract out for personal and miscellaneous service contracts (Service Contracts). These guidelines have added significance given the City's increasing fiscal difficulties. In his January 2009 State of the City Address, the Mayor outlined the need to find new efficiencies throughout City government while protecting core City services. For the period July 1, 2008 through November 30, 2009, DOHMH had 212 Service Contracts in place with a total value of \$106 million; 63 of these (about 30 percent) were each awarded for more than \$100,000. Many were multi-year contracts - some providing services over several years.

We reviewed documents related to a sample of 13 Service Contracts, valued at \$28.5 million to determine whether the decision by DOHMH officials to contract for services was in writing and whether there was documentation supporting that decision. We found that DOHMH used a standardized form that identified the reason(s) for contracting out the services for 12 of the sampled contracts. (The form was not required for the remaining contract.) However, DOHMH officials could not provide documentation, such as written analysis, to support these reasons. The absence of documentation showing that alternatives were considered, cost benefits were analyzed, and informed decisions were made leaves taxpayers without adequate assurance that all relevant factors were considered in making the decision to contract out for services. We also determined that DOHMH had not periodically assessed its Service Contracts to identify what work could be deferred, eliminated, or reduced.

In light of the State and City's fiscal challenges, DOHMH officials need to ensure that all expenditures are necessary and cost-effective. To achieve this goal, we believe DOHMH officials should perform a comprehensive review of each of their Service Contracts to determine what

work can be delayed, suspended, postponed or performed in-house. In the absence of such reviews, DOHMH may be missing out on opportunities to further reduce costs and conserve its limited financial resources. We note that if DOHMH achieved an 8-percent savings on the unspent amounts remaining on its existing Service Contracts, it could realize more than \$4.3 million in cost savings.

Our report contains two recommendations for improving DOHMH's efforts to attain savings through justification and reassessment of its Service Contracts.

In response to our draft report, DOHMH officials disagreed with our recommendations and asserted that DOHMH is in full compliance with New York City requirements and guidelines.

Auditor's Comment: Current fiscal challenges mean that City agencies like DOHMH must do more than simply meet minimum requirements. Our recommendations address additional steps that DOHMH should be taking to provide taxpayers with assurance that all expenditures are necessary and cost effective.

This report, dated November 4, 2010, 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 Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Introduction

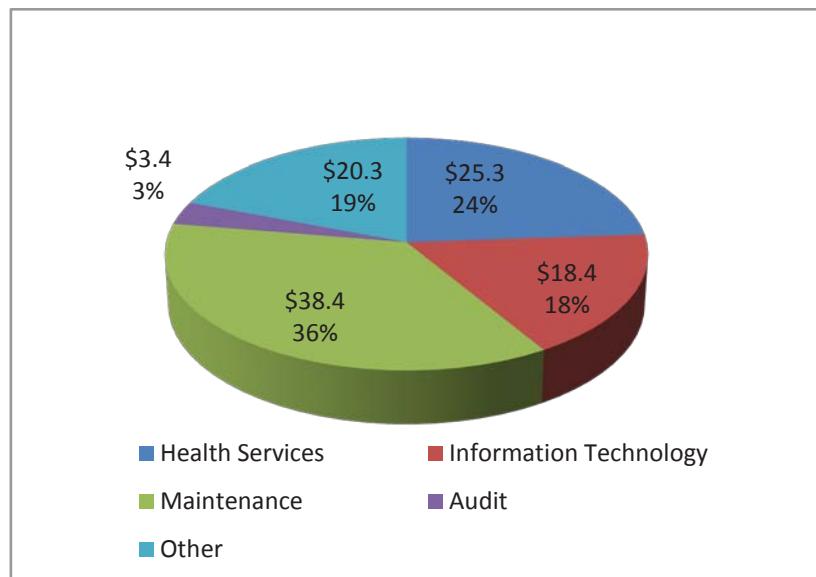
Background

The New York City Department of Health and Mental Hygiene (DOHMH) is responsible for the protection and promotion of the health and mental well being of New York City residents. Its principal mission is to provide health and mental health services as well as services to the developmentally disabled. For the fiscal year ended June 30, 2009, DOHMH had 5,214 full-time equivalent employees and total expenditures of \$1.7 billion, including \$1.3 billion for goods and services.

To help achieve its mission, DOHMH enters into personal and miscellaneous service contracts (Service Contracts). According to a report of registered contracts provided to us by the New York City Comptroller's Office, DOHMH had 212 Service Contracts that were in effect during the period July 1, 2008 through November 30, 2009. The total value of these contracts was \$106 million. About 30 percent (63) of these contracts were each awarded for more than \$100,000, and many were multi-year contracts - some providing services over several years.

These 212 Service Contracts are categorized in the following chart:

**Contracts Awarded
(\$ in millions and % of total)**



The following guidelines set forth expectations for City contracts:

- Section 312 of the City Charter requires that a cost-benefit analysis be prepared before a City agency enters into any contracts for technical, consultant or personal services valued at more than \$100,000 when such contract would result in the displacement of a City employee.
- Section 2-01 of the Procurement Policy Board Rules (PPB Rules) requires that the decision to procure technical, consultant and personal services that cost more than \$100,000 be in writing. PPB Rules further require agencies to consider several factors in making that decision, such as cost-effectiveness, special expertise and the duration of the needed service.
- New York City Comptroller Directive 24 states that agencies should retain documentation used for purchasing decisions, such as material from vendor presentations, agency discussions and memoranda, and any other paper and/or electronic records supporting the purchase decision.

These guidelines have added significance given the City's fiscal challenges. In the Mayor's January 2009 State of the City Address, the Mayor outlined the need to find new efficiencies throughout City government while protecting core City services. Further, in November 2009, the City's Office of Management and Budget (OMB) issued a memo to all agency heads calling for targeted savings of 8 percent of expenditures for most agencies.

Audit Scope and Methodology

One objective of our audit was to determine whether DOHMH justified the need to contract for personal and miscellaneous services (Service Contracts). Another objective was to determine whether DOHMH periodically reassessed its Service Contracts to identify what work could be deferred, eliminated, or reduced in an effort to address fiscal challenges. For the purposes of our audit, Service Contracts are those in which the majority of costs associated with the contracts are for services and labor. We did not include contracts for commodities, capital construction or for the delivery of core program services. Our audit period was July 1, 2008 through June 2, 2010.

To accomplish our audit objectives, we reviewed relevant City guidelines, interviewed appropriate Department and New York City agency staff, and examined contracts and other supporting documentation provided by DOHMH. We selected a judgmental sample of 13 Service Contracts totaling \$28.5 million, each awarded for more than \$100,000, from the 63 contracts open during our audit period.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As is our practice, we notify agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They further affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from Department officials that all relevant information was provided to us during the audit.

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. 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 functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III Section 33 of the General Municipal Law.

Reporting Requirements

We provided a draft copy of this report to DOHMH officials for their review and comment. DOHMH officials disagreed with our recommendations and characterized the additional analyses we recommend as unnecessary. Their comments were considered in preparing this final report and are attached at the end of the report, along with our rejoinders to the points they raise.

Within 90 days of the final release of this report, we request that the Commissioner of the New York City Department of Health and Mental Hygiene report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to the Report

Major contributors to this report include Frank Patone, Michael Solomon, Santo Rendon, Keith Dickter, Raymond Louie, and Kamal Elsayed.

Audit Findings and Recommendations

Justification of Service Contracts

We selected a sample of 13 Service Contracts and reviewed available documentation to determine whether the decision to contract for services was in writing and whether there was documentation supporting that decision. DOHMH utilizes standardized forms for contracts above \$100,000 that identify the reasons for contracting out the service - using a check-off box to select among various options, such as cost-effectiveness, special expertise, or lack of personnel. We found these forms for 12 of the contracts selected. According to DOHMH officials, the form was not prepared for the other contract because the services were purchased off an existing government contract. Personnel or expertise not available in the agency was the reason most cited for contracting out the service. However, DOHMH did not provide us with any written documentation or analyses supporting their determinations.

DOHMH officials, as well as a representative of the Mayor's Office of Operations, advised us that in their opinion, completing the check-off box on these standardized forms is sufficient support for the decision to contract out and that no formal documented analysis is required.

We acknowledge that there are times when outside service contracts should be used. However, given the substantial amounts of money involved, it would be a good business practice for officials involved in these decisions to obtain and review documentation supporting the rationale for contracting out services. The absence of documentation showing that alternatives were considered and cost benefits were analyzed leaves taxpayers without adequate assurance that all relevant factors were considered in making the decision to contract out work - and that an economical and effective choice was selected. Furthermore, maintaining written support for these decisions will improve DOHMH transparency.

Reassessment of Service Contracts

In light of the City's fiscal challenges, DOHMH officials need to ensure that expenditures are necessary and cost-effective. To achieve that goal, we believe DOHMH should perform a comprehensive review of each Service Contract to determine what can be delayed, suspended, postponed or performed in-house. DOHMH officials informed us that there had been no comprehensive review performed, and that there were no plans do so in the future. They did indicate that they do actively review, prioritize and make adjustments to contracts depending on budget constraints as well as service needs.

We believe a more comprehensive review of each Service Contract may reveal additional opportunities for savings, especially in light of OMB's call to reduce expenditures by 8 percent. As of November 30, 2009, \$53.8 million remained on the Service Contracts active during our audit scope period. If DOHMH could achieve an 8 percent reduction on the remaining balances of these contracts, \$4.3 million in cost savings could be achieved.

Recommendations

1. Communicate to appropriate staff the need to develop and retain written analyses to justify the need for contracted services.
2. Instruct managers to reassess all Service Contracts periodically, identifying opportunities to delay, suspend, postpone or bring them in-house, and to document these determinations.

Agency Comments



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas Farley, M.D., M.P.H.
Commissioner

October 8, 2010

Thomas P. DiNapoli
New York State Comptroller
110 State Street
Albany, New York, 12236

Dear Comptroller DiNapoli:

We reviewed the draft report concerning the *New York City Department of Health and Mental Hygiene: Contracts for Personal and Miscellaneous Services* (Report 2009-N14). We appreciate the opportunity to respond to the recommendations set forth in the above referenced draft report.

The auditors recommend that DOHMH communicate to appropriate staff the need to develop and retain written analyses to justify the need for contracted services and that DOHMH instruct managers to reassess all service contracts periodically, identifying opportunities to delay, suspend, postpone or bring them in-house, and to document these determinations. We believe these recommendations are unnecessary for the following reasons.

*
Comment
1

DOHMH staff has been made aware of and have consistently adhered to the Procurement Policy Board (PPB) rules concerning the documented justification for contracted services [PPB Section 2-01 Decision to Procure Technical, Consultant, or Personal Services]. Documentation for justification of the sampled contracts provided to the auditors is consistent with applicable requirements and was found acceptable to the New York City Comptroller's Office and the Mayor's Office of Operations. With regards to reassessment of service contracts, the consultant contracts were developed in a way that allows DOHMH to obtain the services when needed and to discontinue the services during tight fiscal periods.

We advised the auditors that the contract amounts do not represent encumbered funds; and there are limits on the extent of contracted services that could be procured under the contract terms. Therefore, contract termination does not result in any savings because no funds were encumbered and spent.

*
Comment
2

We appreciate the courtesy and professionalism of your staff in their performance of this audit. If you have questions or need further information, please contact Sara Packman, Assistant Commissioner for Audit Services, at 212-219-5273.

Sincerely,

Patsy Yang, Dr.PH
Executive Deputy Commissioner

SP/mc

* See State Comptroller's Comments, page 23.

Thomas P. DiNapoli, Comptroller

-2-

October 12, 2010

cc: Thomas A. Farley, MD
Sara Packman
Dan Lehman
Pat Thomas
Frank Patone – OSC Audit Director
Thomas Lukacs – OSC Division of Budget

**RESPONSE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE
(DOHMH) TO THE OFFICE OF THE STATE COMPTROLLER DRAFT AUDIT
REPORT ON CONTRACTS FOR PERSONAL AND MISCELLANEOUS SERVICES
REPORT NUMBER 2009-N-14 (DRAFT REPORT)**

We reviewed the draft report concerning the *New York City Department of Health and Mental Hygiene: Contracts for Personal and Miscellaneous Services* (Report 2009-N14). DOHMH appreciates the opportunity to respond to the recommendations set forth in the draft report.

Recommendation 1: Communicate to staff the need to develop and retain written analysis to justify the need for contracted services.

DOHMH Comment: This recommendation is unnecessary because DOHMH's Agency Chief Contracting Officer (ACCO), through its managers, provides ongoing reinforcement of contracting requirements and ensures that when needed, the Pre-solicitation Review Report form is completed in accordance with the Procurement Policy Board (PPB) rules. DOHMH staff has been made aware and have consistently adhered to PPB rules Section 2-01 - Decision to Procure Technical, Consultant, or Personal Services (Appendix I) concerning the justification for contracting personal and miscellaneous services. The extent of justification for the sampled contracts was consistent with applicable requirements and was found acceptable to oversight agencies — NYC Comptroller's Office and the Mayor's Office of Operations. The auditors were provided the required documentation concerning the justification for contracting services.

*
Comment
1

Recommendation 2: Instruct managers to reassess all service contracts periodically, identifying opportunities to delay, suspend, postpone or bring them in-house, and to document these determinations.

DOHMH Comment: This recommendation is unnecessary because program managers have been periodically reassessing the consultant contracts. In addition, DOHMH consultant contracts are constructed in a manner that the use of services can be discontinued without the contract being terminated. This flexibility allows the Department to obtain the services when needed and to discontinue the services during tight fiscal periods. The auditors were made aware of this during the audit, and this was emphasized at the exit conference. As a result, DOHMH's contracts are structured already to provide the flexibility indicated, and the auditors were also made aware of contracted services that were no longer being utilized currently.

Furthermore, the audit inference that any savings could be attained implies that the contract amounts are for encumbered funds. We advised the auditors that the contract amounts do not represent encumbered funds. The contract amounts were limits on the extent of contracted services that could be procured under the term of the contract. Therefore, terminating a contract does not result in any savings because no funds were encumbered and spent. The implication of any savings by discontinuing these contracts is misleading.

*
Comment
2

In addition to the comments detailed above, I direct your attention to a letter from Marla G. Simpson, Director of the Mayor's Office of Contract Services (MOCS), dated March 31, 2010 (Simpson Letter) previously delivered to the Office of the State Comptroller in response to a Preliminary Draft dated March 22, 2010. The Simpson Letter (Appendix 2) clarifies the applicable laws and regulations, including the PPB Rules that govern procurements of personal and miscellaneous service contracts (Service Contracts) by City agencies, including DOHMH. It states that the Pre-solicitation Review Report which is a mandatory part of all contract registration process for new service contracts does not require the inclusion of any cost-benefit analysis or justification for agency decisions to continue outsourcing particular services, except in limited circumstances, such as whenever City employees are to be directly displaced as a result of the procurement. It is requested that the Simpson Letter be made part of the DOHMH response to be attached as an appendix to the Final Report.

*
Comment
1

* See State Comptroller's Comments, page 23.

Appendix 1

**Section 2-01 DECISION TO PROCURE TECHNICAL,
CONSULTANT, OR PERSONAL SERVICES.**

The decision to procure technical, consultant, or personal services that will cost in excess of \$100,000 shall be made in writing by the ACCO in accordance with this rule.

Factors to be considered in making such decision shall include whether using procurement is:

- (a) desirable to develop, maintain, or strengthen the relationships between non-profit and charitable organizations and the communities where services are to be provided;
- (b) cost-effective; or
- (c) necessary to
 - (1) obtain special expertise,
 - (2) obtain personnel or expertise not available in the agency,
 - (3) provide a service not needed on a long-term basis,
 - (4) accomplish work within a limited amount of time, or
 - (5) avoid a conflict of interest.

Appendix 2



OFFICE OF THE MAYOR
OFFICE OF CONTRACT SERVICES
253 Broadway – 9th Floor
New York, New York 10007
(212) 788-0010 Fax (212) 788-0049

MARLA G. SIMPSON
Director

March 31, 2010

Joan Williams
Examiner-in-Charge
Office of the State Comptroller
Division of State Government Accountability
123 William Street
New York, NY 10038-3804

Re: Report Number 2009-N-12

Dear Ms. Williams:

As the City's procurement oversight agency, the Mayor's Office of Contract Services (MOCS) hereby submits this letter for your consideration. As per your invitation last week to the Department of Youth and Community Development (DYCD) to submit any relevant "additional information or documentation," we believe that it is important to correct certain misinterpretations as to the applicability of specific Procurement Policy Board (PPB) rules that are described in your preliminary draft report.

Pursuant to Executive Order 121 (copy attached), MOCS exercises the Mayoral approval powers set forth in the City Charter, local law and PPB rules, and also provides staffing and administrative coordination to the PPB.

With respect to your review of DYCD, you obtained documentation concerning 23 procurement actions through which DYCD obtained services valued at more than \$11.4 million, all of which were in effect during at least part of the period July 1, 2008 through November 30, 2009. Your preliminary draft report correctly describes those actions as "generally for technical assistance, accounting, and cleaning services." However, not all of the 23 procurement actions were actually subject to the classifications set forth in the referenced rules and regulations. Rather, some of the actions were simply task orders under contracts procured by other agencies, and some are services contracts that do not contemplate personal service and are not covered by rules or procedures pertaining to consultant services. As described below, these distinctions have a material consequence on the applicability of some of the PPB rules that your preliminary draft report goes on to reference.

Your preliminary draft report cites Section 2-01 of the PPB rules. By its terms, Rule 2-01 applies only to the procurement of "technical, consultant and personal services." This phrase is a term of art in City procurement practice, and refers to contracts for which the City selects the vendor based upon an evaluation of the specific employees who will render the services and in some sense contracts



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for the expertise or skilled judgment of those employees. Contracts that are not of this type are not governed by Rule 2-01 in any respect. Within the group of contracts that you examined (see table appended to this letter), nos. 1, 21, 22 and 23 fall outside (entirely) the purview of Rule 2-01. No. 21 is for the purchase of use of a proprietary records system owned by that non-profit vendor; as per the sole source documentation provided with that contract, DYCD had no other means for obtaining this software. Such purchases do not trigger any analysis pursuant to Rule 2-01. No. 1 on the spreadsheet is what the City terms as a "standardized services" contract; it is for payroll processing services, and does not contemplate personal services. Likewise, nos. 22 and 23 are standardized services contracts for janitorial/cleaning services. Again, in no sense are these treated as personal services. Thus, in none of these cases would City rules or procedures have required an analysis pursuant to Rule 2-01.

Your preliminary draft report correctly recognizes that agencies such as DYCD are required to submit Pre-solicitation Review Reports and/or Recommendations for Renewal to MOCS for approval. Indeed, it is the responsibility of my office to prescribe the specific pre-solicitation forms and procedures to be used by DYCD and all Mayoral agencies; a copy of the applicable form is attached hereto. This form is a mandatory part of all contract registration packages for new services contracts, and at no time has my office ever required the Rule 2-01 compliance section to be completed for the types of contracts referenced above – nor has any such interpretation been made by the Office of the City Comptroller, at any time since this rule took effect.

The preliminary draft report cites Rule 2-01 as the basis for the Pre-solicitation Review Report requirement. However, that requirement is not in Rule 2-01. It is in fact set forth in Rule 2-02. As shown in the text of Rule 2-02, except in limited (specified) circumstances, the Pre-solicitation Review Report does *not* require the inclusion of any cost benefit analysis or justification for agency decisions to continue outsourcing particular services. As noted above, when Rule 2-01 applies, there is a cost effectiveness determination for technical, consultant or personal services, but this does not apply with respect to other types of services. This is also consistent with City Charter Section 312, which requires a cost benefit analysis whenever City employees are to be *directly* displaced as a result of a proposed procurement of technical, consultant, or personal services. But this analysis is not required when there are no City employees currently performing the same (exact) services as are proposed to be included in the contract, nor when the services are of a different nature (not personal services). And it is certainly not required when agencies decide to continue to outsource services that may once have been performed by City employees, but are no longer so performed at the time of the contract action in question. The requirement in Rule 2-02(d)(4) for a statement "of the basis for the decision to contract out for services (if applicable)" thus refers to the very limited circumstances when these other provisions are triggered. Such a statement would not be applicable where the services had been previously outsourced, which is the case, for example, with the auditing services reviewed here.

The preliminary draft report refers to DYCD's representations concerning seven (7) of the procurement actions as being "piggy-back" actions, and states that PPB Rules nonetheless require that a Pre-solicitation Review Report or Recommendation for Renewal Report be completed for each Service Contract, including these seven actions. That is not correct. I have confirmed that Nos. 4 and 5 on the table are intergovernmental procurements, wherein DYCD purchased services off contracts that DYCD does not itself hold, i.e., contracts procured by the New York State Office of General Services (OGS), and that Nos. 16 through 20 are merely task orders that DYCD processed, under City contracts that are held *not* by DYCD, but rather by the Department of Information Technology and Telecommunications (DoITT).



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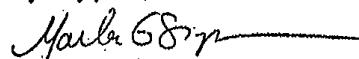
With respect to intergovernmental (OGS) procurements, Section 316 of the Charter provides that the procurement provisions of the City Charter (i.e., Chapter 13), including the PPB rules, which are authorized by Charter Section 311, do not apply. PPB Rule 3-09 sets forth very limited submission requirements for intergovernmental procurements, and those do not include the submission of either a Pre-solicitation Review Report or Recommendation for Renewal within the meaning of Rules 2-02 or 4-04. Copies of the relevant submission forms, fully setting forth all of the legal requisites for agencies' decisions to use OGS contracts, are attached hereto.

Similarly, for Nos. 16 through 20, an agency's use of a task order, which is a document that allows it to draw down services on a citywide procurement contract held by DoITT, does not trigger any submissions under Rule 2-02 or 4-04. Such procurement actions by the user agencies, such as DYCD here, are governed instead by Rule 3-14 and, if applicable Rule 3-03(j). These actions (task order submissions) have never been treated as requiring the types of analyses referenced in your preliminary draft report, either by MOCS or by the City Comptroller.

The remaining eleven procurement actions listed in the table (Nos. 2, 3 and 6 through 15), are governed by Rule 2-01, as your preliminary draft report indicates. However, it is incorrect to treat them as governed by Rule 2-04. That rule applies, by its terms, only to contracts for "client services." Under this definition, for example, DYCD's contracts with non-profit entities for the direct provision of after-school programming to New York City children are covered by Rule 2-04. But DYCD's contracts for the evaluation of those programs (nos. 2 and 3) or for technical assistance to non-profit providers (nos. 16 through 20) are *not* client services contracts, and as such, are not governed by Rule 2-04; thus there is no specific legal requirement for an annual or pre-renewal evaluation of those contracts under that rule. The only applicable evaluation provision for such contracts is set forth in Rule 4-01.

I appreciate the opportunity to present this information to your office, in order to clarify the procedural requisites applicable to the DYCD contracts that your office is reviewing. MOCS has certified the compliance with those procedural requisites pursuant to City Charter Section 327(a) and Executive Order 102. My staff and I stand ready to assist you in any manner you may wish as you complete your review of the DYCD contracts, as well as the similar reviews now underway with respect to other City agencies.

Very truly yours,



Marla G. Simpson

Cc: William M. Kamen, DYCD
Russell Ann Nobles, DYCD
George Davis, III, Mayor's Office of Operations
Howard Friedman, NYC Law Department

| Count | Vendor Name | Contract # | Amount | Purpose |
|-------|--|-------------|-------------|--|
| 1 | Corporate Staff Services, Inc | 20070029487 | \$2,234,000 | Payroll processing services |
| 2 | Policy Studies Associate | 20090027076 | \$1,497,000 | OST evaluation services |
| 3 | Policy Studies Associate | 20060008383 | \$1,496,770 | OST evaluation services |
| 4 | Information Builders, Inc | 20080003708 | \$872,448 | Technology services |
| 5 | Information Builders, Inc | 20060023244 | \$315,364 | Technology services |
| 6 | TATC Consulting Inc | 20080017392 | \$645,475 | OST technical assistance |
| 7 | Dadia Valles Vendiola, LLP | 20090019065 | \$585,192 | Audit services |
| 8 | Wei Wei & CO, LLP | 20090009381 | \$503,907 | Audit services |
| 9 | Partnership for After School Education | 20100017757 | \$400,000 | OST technical assistance services - training for front-line staff |
| 10 | Partnership for After School Education | 20090005944 | \$330,047 | OST technical assistance services for elementary school providers |
| 11 | Partnership for After School Education | 20090006048 | \$168,732 | OST technical assistance services for middle/high school providers |
| 12 | Partnership for After School Education | 20080011045 | \$100,000 | Technical assistance for service learning providers |
| 13 | The After School Corporation | 20080011124 | \$300,000 | Technical assistance for service learning providers |
| 14 | The After School Corporation | 20090029777 | \$285,000 | Technical assistance for service learning providers |
| 15 | The After School Corporation | 20100017797 | \$270,000 | Technical assistance for service learning providers |
| 16 | Spherion Atlantic Enterprises | 20080024129 | \$249,308 | Technology services |
| 17 | Spherion Atlantic Enterprises | 20080024098 | \$199,620 | Technology services |
| 18 | Spherion Atlantic Enterprises | 20080012154 | \$198,368 | Technology services |
| 19 | Modis, Inc | 20080024153 | \$181,504 | Technology services |
| 20 | Modis, Inc | 20080024147 | \$172,650 | Technology services |
| 21 | Literacy Assistant Ctr | 20090035998 | \$135,000 | Web-based adult student record system |
| 22 | Maiday - Maiday Cleaning Svcs | 20080041562 | \$121,487 | Cleaning services |
| 23 | Maiday - Maiday Cleaning Svcs | 20090034200 | \$121,486 | Cleaning services |

State Comptroller's Comments

1. We considered these factors when performing our audit. However, beyond the standard forms and checklists that comprise the minimum requirements of these procedures, no additional documentation or analysis was provided to support DOHMH's contract assessment and decision processes. We believe such documentation and analysis is necessary to ensure that alternatives have been appropriately considered.
2. Regardless of whether funds are encumbered or not, reducing the scope of existing contracts would allow resources appropriated to fund Service Contracts to be devoted to other priorities.