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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 21, 2011

Ms. Courtney Burke
Commissioner
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

Re: Report 2011-F-2

Dear Commissioner Burke:

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 have followed up on the actions taken by officials of the Office for People With Developmental Disabilities to implement the recommendations contained in our audit report, *Oversight of Criminal History Record Checks for Employees of Voluntary Agencies and Registered Providers* (Report 2007-S-112).

Background, Scope and Objective

The Office for People With Developmental Disabilities (OPWDD) provides residential, day, and family support services to approximately 126,000 New Yorkers with developmental disabilities. OPWDD provides services through its 13 regional Developmental Disabilities Service Offices as well as through its 675 voluntary agencies (Agencies). Services include counseling and rehabilitation services. The Agencies are assisted by 278 registered providers (Providers) that deliver services such as consumer transportation and staffing.

The New York State Criminal History Record Check Law (Law) requires that all prospective employees, volunteers, and operators of Agencies and Providers hired by OPWDD who will have regular and substantial unsupervised or unrestricted physical contact with the developmentally disabled undergo a criminal history record (background) check. The background checks are to be performed before prospective employees are hired. Applicants with a history of violence, abuse or sexual assault are not allowed to work directly with the consumer population. OPWDD requires that each Agency and Provider request the background checks from its Criminal Background Check Unit.

Our initial audit report, which was issued on June 4, 2009, found Agencies and Providers generally complied with the Law, and that OPWDD oversight procedures were adequate to detect instances of noncompliance. However, we noted improvements in OPWDD's oversight procedures would minimize the length of time instances of noncompliance remain undetected, and help prevent

individuals from being hired without the requisite background checks.

The objective of our follow-up was to assess the extent of implementation as of June 3, 2011 of the two recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that OPWDD officials have made some progress in addressing the matters in our initial audit report, as one recommendation has been implemented and one recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Consider the benefits of reducing the time intervals between reviews to minimize the length of time potential instances of noncompliance would go undetected.

Status - Implemented

Agency Action - After the issuance of our initial audit report, OPWDD officials considered changes to the methodology for reviews of Agencies for compliance with criminal background requirements. OPWDD decided to institute a risk-based system in 2010 for determining the frequency with which it will visit providers to assess compliance with OPWDD requirements, including criminal background checks. Under this system, Agencies are assigned points for weaknesses in certain risk areas identified during OPWDD reviews. These risk areas include viability, internal controls, governance, corporate compliance, citations for criminal background check weaknesses. An Agency with a score of 75 points or higher is placed on a list of agencies for review. OPWDD management believes that this new risk-based approach for scheduling reviews rather than scheduling reviews based on a set time interval is the most effective scheduling process considering their limited resources.

Recommendation 2

Include Providers in OMRDD's compliance reviews.

Status - Not Implemented

Agency Action - According to OPWDD officials, due to limited staffing resources and the good record of compliance by Providers with criminal background requirements, they could not support an expansion of their current oversight practices.

Major contributors to this report were Santo Rendon, Dick Gerard and Richard Canfield.

We thank the management and staff of the Office for People With Developmental Disabilities for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Michael Solomon
Audit Manager

cc: Mr. Vincent Sleasman, External Contact Coordinator
Mr. Thomas Lukacs, Division of the Budget