

THOMAS P. DINAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 14, 2012

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

Re: Report 2011-F-21

Dear Ms. 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 (OPWDD) to implement the recommendations contained in our audit report, *Hudson Valley DDSO Administration of Preservation Funds* (Report 2008-S-7).

Background, Scope and Objective

OPWDD provides a comprehensive system of care for persons with mental retardation and developmental disabilities. Hudson Valley Developmental Disabilities Services Office (Hudson Valley), one of OPWDD's 13 regional offices, oversees the care provided to approximately 4,500 persons with developmental disabilities in Orange, Rockland, Sullivan and Westchester counties. This care is provided via 131 community-based group homes, 48 family care homes and other program sites. Hudson Valley is assisted by about 110 agencies that operate many of the group homes, as well as other program sites, many of which are operated by not-for-profit voluntary agencies (agencies). Hudson Valley, in accordance with OPWDD policies and procedures, approves the disbursement of Preservation Funds to these agencies for maintenance and renovation projects undertaken on-site to ensure a safe environment for the individuals being served.

For the three fiscal years ended March 31, 2011, Hudson Valley approved the disbursement of \$1.9 million in Preservation Funds to 39 agencies for 318 projects, an average of \$5,975 per project. Due to a current lack of available State funds, OPWDD cannot make such awards to the various Developmental Disabilities Services Offices (DDSOs) for maintenance and preservation projects at the agencies they oversee. Projects that are currently underway are financed by the agencies with funds available to them from other sources. For the two fiscal years ending March 31, 2012, a total of eight projects, with an estimated cost of \$106,412, were in progress at the agencies assisting Hudson Valley. These efforts represented a significant reduction, in the number of projects and the amount of Preservation Funds received from OPWDD, from previous levels. We limited our

follow-up review to projects financed with Preservation Funds.

Inherent in OPWDD's oversight function is to ensure that disbursements of Preservation Funds in the respective regions are made in accordance with OPWDD policies and procedures. OPWDD officials should also verify that recommendations made to correct problems found in the DDSOs' disbursements of Preservation Funds are implemented.

Hudson Valley officials are also responsible for ensuring that the Preservation Funds they authorize for agencies are used appropriately and restricted to program purposes. Our initial report, which was issued on August 13, 2009, examined whether Hudson Valley officials provided effective oversight to ensure that Preservation Funds awarded to not-for-profit agencies were disbursed in accordance with OPWDD policies and procedures. We found that Hudson Valley officials were not effectively overseeing agency use of Preservation Funds to ensure that they were disbursed in accordance with OPWDD policies and procedures. We found little or no evidence that Hudson Valley officials were ensuring that contractors were selected through a competitive bidding process. We also noted that Hudson Valley officials did not always ensure that project work was completed satisfactorily before Preservation Funds were disbursed or that increases in project costs were justified.

The objective of our follow-up report was to assess the extent of implementation, as of May 29, 2012, of the eight recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We found that OPWDD officials have made progress in addressing the matters in our initial audit report, as six recommendations have been implemented, one recommendation is no longer applicable and one recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Provide guidance and assistance to responsible Hudson Valley officials regarding the importance of and the need for consistent enforcement of controls over Preservation Funds.

Status - Implemented

Agency Action - OPWDD took a series of actions to provide guidance and assistance to all DDSOs, including Hudson Valley officials. OPWDD issued new Preservation Fund guidelines which were distributed to the DDSOs. A conference call was held between OPWDD and the DDSOs to discuss the new guidelines. A training session with Hudson Valley officials was held through Metro NY DDSO to provide additional guidance for all agency staff. Finally, on August 24, 2009, the new guidelines were placed on the OPWDD "Capital Drive," the central repository of shared agency information and data that is accessible to all the DDSOs. In addition, a new checklist was created that must be completed for all

projects to document and ensure the consistent enforcement of controls over Preservation Funds. We confirmed each of the above-noted actions.

Recommendation 2

Investigate the circumstances surrounding contract awards to Hudson Valley agencies. If possible fraud is identified, take appropriate action including referrals to law enforcement.

Status - Not Implemented

Agency Action - OPWDD officials told us that they received a complaint citing a similar questionable contract award issue which had been investigated by a CPA firm that was already on-site conducting an audit at the agency named in the complaint. However, Hudson Valley officials did not investigate the questionable contract awards we sited for possible fraud in our initial report and, thus, did not identify any potential fraud for referral to law enforcement.

Recommendation 3

Redistribute Preservation Funding procurement policies and procedures to all pertinent staff and take the steps necessary to ensure that the policy and procedures are fully understood and consistently enforced.

Status - Implemented

Agency Action - OPWDD issued new Preservation Funding guidelines to all DDSOs and took the steps necessary to ensure that the guidelines were understood fully and enforced consistently. (See Agency Action for Recommendation 1.) In addition, to update the staffs of the voluntary agencies and adult care facilities under contract with Hudson Valley, OPWDD officials held a training session regarding the guidelines on November 23, 2009 with the agencies and facilities.

During this audit, we reviewed documentation for the five completed Preservation Fund projects costing a total of \$56,846. We found that the deficiencies cited in the original audit, such as lack of proof of competitive bidding, lack of confirmation of satisfactory project completion, and payment of funds before the project had been completed, had been corrected. We noted that approved checklists had been completed, and that all required documentation was present.

Recommendation 4

Stop reimbursing agencies for projects that did not have prior approval for Preservation Funding. Take corrective action with those agencies that have repeatedly sought such reimbursements to make certain they comply with funding requirements.

Status - Implemented

Agency Action - Hudson Valley officials told us that, since the original audit, no agencies have sought reimbursement before their projects were approved. We examined documentation for the five preservation fund projects done since our last report and verified that each agency received prior approval for Preservation Funding. Hudson Valley officials attribute this result to a decrease in projects for the two fiscal years ending in March 31, 2012, which has allowed them to closely monitor all projects and to implement all the corrective actions taken during this period. Since no deviations were identified, Hudson Valley officials did not have to take any corrective action with the associated agencies.

Recommendation 5

When reviewing agency requests for reimbursements on Preservation Fund projects, ensure that all required documentation (such as copies of bids) has been submitted by the agencies and all bidding and related requirements (e.g., comprehensive bid specifications) have been met.

Status - Implemented

Agency Action - OPWDD officials stated that Hudson Valley uses a checklist to assure all required documentation is maintained and bidding requirements have been met before reimbursement is authorized for any project. When we reviewed the checklist, we determined that the 24 areas it covers address all pertinent issues. In our review of the five completed project files, we noted that checklists had been completed and approved, and all required documentation was present for each project.

Recommendation 6

Periodically review the procurement controls and contract award practices at agencies to ensure that they comply with OPWDD's requirements, and take corrective action when inappropriate practices are identified.

Status - No Longer Applicable

Agency Action - OPWDD officials stated that Hudson Valley did not conduct periodic reviews of the procurement controls because the number of Preservation Fund projects had declined significantly. They pointed out that the number had decreased from 207, when we did the original audit, to 8, for the past two fiscal years ending in March 31, 2012 and that no inappropriate practices have been noted for those 8 projects (five completed and three projects still in progress). According to OPWDD, if and when more Preservation Funding becomes available and the number of projects increases, Hudson Valley will revisit the issue and take corrective action, if required.

Recommendation 7

Remind the agencies of the need to prevent conflicts of interest in the contract award process, and the steps that should be taken when such conflicts arise.

Status - Implemented

Agency Action - To serve as a reminder to be vigilant of any possible conflicts of interest, training in this area was provided to staff and the new guidelines and checklist were issued to all agencies. Hudson Valley officials reported no instances of conflicts of interest since the time of our original audit. Our review of documentation for the five completed projects revealed no conflicts of interest in the award contract process. Thus, no corrective steps needed to be taken.

Recommendation 8

Require Preservation Fund reimbursement requests from voluntary agencies to include documentation showing (a) steps were taken to ensure project work was satisfactorily completed before payment was made and (b) any additional project costs were valid, reasonable, and necessary.

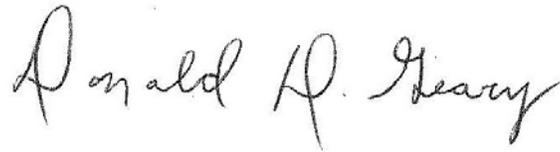
Status - Implemented

Agency Action - OPWDD officials stated that voluntary agencies are now required to submit photos of the completed projects along with their requests for reimbursement. Hudson Valley staff is also required to conduct a site visit before making reimbursement, to inspect the project and determine whether it has been completed satisfactorily. When we reviewed five completed projects, we observed documentation and photos in the project files confirming that the projects had been authorized properly and inspected by Hudson Valley staff to determine whether it has been completed satisfactorily before reimbursement was authorized. We noted that the final cost of \$7,165 for one of the completed projects exceeded the amount in the original contract award by \$569 because the contractor had discovered, once work was underway, that additional work was required to repair deteriorated wood framing. Written justification for the additional work was documented in the project file. On our visits to two completed project sites, we confirmed that the work performed had been completed satisfactorily.

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

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of OPWDD and Hudson Valley for the courtesies and cooperation extended to our examiners during this engagement.

Very truly yours,

A handwritten signature in black ink that reads "Donald D. Geary". The signature is written in a cursive style with a large initial "D" and a long, sweeping tail on the "y".

Donald D. Geary
Audit Manager

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