

2014–2015 Annual Report on Audits of State Agencies and Public Authorities

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller



JANUARY 2016

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A MESSAGE FROM COMPTROLLER THOMAS P. DiNAPOLI



One of the responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that taxpayer money is protected and wisely invested. The audits conducted by my staff give us a clear view into whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate waste. This, in turn, helps promote transparency and accountability in New York State government, which benefits each and every one of us.

State government officials are the stewards of the State's assets and the public's trust. Our audits keep all New Yorkers informed on how well agencies and authorities are living up to that responsibility, and whether a call to action is needed.

This annual report summarizes the results of the State government audits my staff conducted for the 2014-15 reporting year. Rest assured we will continue our commitment to helping officials manage government resources efficiently and to protecting taxpayer assets.

I hope you find the information helpful.

Sincerely,

/S/

Thomas P. DiNapoli
State Comptroller



INTRODUCTION

Under the New York State Constitution, the Comptroller serves as the State Auditor. The Division of State Government Accountability (Division) is a component of the Office of State and Local Government Accountability, which is the primary office that carries out the Comptroller's functions as State Auditor.

The Division is responsible for performing audits of State agencies and public authorities. It has more than 200 professional auditors, many of whom hold advanced degrees and professional certifications in the accounting and auditing fields. They include Certified Internal Auditors, Certified Fraud Examiners, and Certified Public Accountants, along with several other professional designations. Each auditor is dedicated to protecting the public interest and promoting government accountability.

FISCAL IMPACT

For the reporting year 2014-15 (October 1, 2014 through September 30, 2015), the Division issued 131 audit reports addressing the operations of State agencies and public authorities. Auditors identified more than \$104 million in actual cost savings at these agencies and authorities. These savings have already been achieved or will be achieved with the implementation of audit recommendations. Auditors also identified more than \$221 million in potential savings. In these cases, more action is usually required to realize the savings (e.g., legislative action or agency follow-up investigations with vendors to determine exact amounts).

The table below provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2014-15. We estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize a total of nearly \$328 million in monetary benefits.

Audit Cost Savings for Reporting Year 2014-15

Fiscal Category	Actual	Potential	Total
Cost Recovery	\$73,207,278	\$67,088,955	\$140,296,233
Cost Avoidance	31,454,672	34,912,436	66,367,108
Revenue Enhancement	15,484	119,395,999	119,411,483
Subtotal	\$104,677,434	\$221,397,390	\$326,074,824
Questionable Transactions			1,811,851
Total Fiscal Impact			\$327,886,675

AGENCY ACCOUNTABILITY

Section 170 of the Executive Law holds audited organizations accountable for their actions to address audit recommendations. Auditees are required to report to the Governor, the State Comptroller, and the leaders of the Legislature and legislative fiscal committees, advising what steps they have taken to implement the Comptroller's recommendations, and if the

recommendations were not implemented, explaining the reasons why. As an added measure to increase agency accountability and better inform policy makers and the public, the State Comptroller also performs follow-up audits to assess auditees' progress in implementing our recommendations. In reporting year 2014-15, the Division issued 22 follow-up audit reports encompassing a total of 112 recommendations. Of the 112 recommendations, 98 (88 percent) have been fully or partially implemented.

AUDITS OF SIGNIFICANCE

During the past year, the Division allotted more resources to audits designed to identify system and control deficiencies and policy noncompliance that render State programs vulnerable to overcharging, improper claims, and abuse. Among our findings:

- **Medicaid Program** – Medicaid is a federal, State, and locally funded government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. New York's Medicaid program has approximately 6.5 million enrollees and Medicaid claims totaling about \$50.5 billion. Of this amount, the State funds approximately \$17 billion (33.25 percent); the remainder is funded by the federal government (49.25 percent) and local governments, such as the City of New York and New York counties (17.5 percent). Fifteen Medicaid audits identified more than \$240 million in actual and potential cost savings to the State, including \$119 million in uncollected drug rebates ([2014-S-41](#)), nearly \$40 million in payments for excessive services ([2013-S-17](#)), and \$35 million in other improper payments ([2014-S-15](#)).
- **Special Education** – The Division issued 19 audit reports assessing preschool special education providers' compliance with the Reimbursable Cost Manual issued by the State Education Department. These audits are part of a continuing series of audits and investigations of the special education sector. In December 2013, Governor Cuomo signed legislation mandating the Comptroller's Office to audit the more than 300 preschool special education providers in this \$1.4 billion program by March 31, 2018. Auditors continued to find widespread noncompliance with the Manual's claims requirements, and identified disallowances totaling nearly \$10.6 million stemming from unsupported and/or inappropriate costs charged to the audited programs, with \$3.2 million ([2012-S-17](#)) and nearly \$1.8 million ([2012-S-64](#)) charged by two providers alone.
- **Tuition Assistance Program** – The Division issued four audits assessing compliance with the Tuition Assistance Program's requirements by the following educational institutions: Barnard College ([2015-T-1](#)), DeVry College ([2014-T-2](#)), LaGuardia Community College ([2013-T-4](#)), and Stony Brook University ([2013-T-2](#)). The audits found a total of \$5.1 million was overpaid to the schools due to incorrect certifications of students' eligibility for State financial aid.

These are just a few examples of the issues auditors addressed. The Office of the State Comptroller also referred potential fraud cases to the appropriate prosecutors and worked with law enforcement staff to pursue convictions of wrongdoers.

ABOUT THE ANNUAL REPORT

As required by law, this annual report summarizes the results of all the State agency and public authority audit reports issued by the Office of the State Comptroller from October 1, 2014 through September 30, 2015. It does not include audits of New York City agencies, local governments, or other entities. The audit summaries in this report are divided into seven areas: Health and Human Services; Education; Transportation; Criminal Justice and Judicial Administration; Government Support Agencies; Economic Development and Housing; and Other State Agencies and Public Authorities. An accompanying volume lists, by State agency or public authority, the audit reports issued during the preceding five-year period – October 1, 2009 through September 30, 2014.

The audit summaries in this annual report provide brief descriptions of the audit results. To obtain any of the audits cited in this report, contact the Comptroller's Office of Public Information at (518) 474-4015 or visit <http://osc.state.ny.us/audits/index.htm>.

HEALTH AND HUMAN SERVICES

Several State agencies are responsible for administering and providing health care and human services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

Department of Health **(DOH)**

Medicaid Program: Questionable Payments for Practitioner Services and Pharmacy Claims Pertaining to a Selected Physician - Dr. Riaz Ahmad, an internal medicine physician located in New York City, has been enrolled as a provider in the Medicaid program since 1995. During the five years ended December 31, 2011, the Medicaid program (including Medicaid managed care plans) paid Dr. Ahmad \$1,039,404 for 24,695 office visits and approximately \$15 million for medications prescribed in connection with those services. We found Dr. Ahmad's medical records frequently did not meet the minimum standards to support his Medicaid claims. Further, DOH determined that they lacked sufficient details to ensure adequate treatment of complex diseases, contained no treatment plans, were illegible, and were not adequate to ensure continuity of care should another physician be required to treat Dr. Ahmad's patients. As a result, there was insufficient assurance that he provided appropriate medical care and that Medicaid payments to him were warranted. We recommended that DOH: review the 19,031 Medicaid claims totaling \$712,250 and recover overpayments as appropriate; review the 5,664 managed care claims totaling \$327,154 and take appropriate corrective action; determine whether Dr. Ahmad's medical records support the prescriptions he wrote and take appropriate corrective action; and determine whether medical sanctions against Dr. Ahmad are warranted. ([2012-S-35](#))

Medicaid Program: Medicaid Claims Processing Activity April 1, 2013 Through September 30, 2013 - The eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and generates payments to reimburse the providers for their claims. During the six-month period ended September 30, 2013, eMedNY processed about 188 million claims, resulting in payments to providers of about \$25 billion. The claims are processed and paid in weekly cycles, which averaged about 7.2 million claims and \$964 million in payments to providers. Auditors identified over \$5.6 million in inappropriate or questionable Medicaid payments, including: \$1,822,467 in payments for pharmacy claims that posed patient safety concerns or were not in compliance with regulations and policies necessary for payment of the claims; \$1,826,725 in overpayments for inpatient claims that providers billed at higher levels of care than what was actually provided; \$1,005,176 in overpayments for claims billed with incorrect information pertaining to recipients' other health insurance coverage; \$666,992 in overpayments for claims involving other insurance adjustment amounts that eMedNY incorrectly processed; and claims with improper payments for hospital services, duplicate billings, and physician-administered drugs. By the end of the audit fieldwork, auditors had recovered about \$2.3 million of the overpayments identified. Auditors also identified providers in the Medicaid program who were charged with or found guilty of crimes that violate health care programs' laws or regulations. DOH terminated 18 of the providers we identified, but the status of six other providers was still under review. We made 15 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claim processing and monitoring controls. ([2013-S-12](#))

Medicaid Program: Improper Payments to a Physical Therapist - Many Medicaid recipients are also enrolled in Medicare ("dual-eligibles"). Under this arrangement, Medicare is the primary payer and Medicaid pays beneficiaries' Medicare deductibles and coinsurance. To improve the accuracy of Medicaid payments for dual-eligible recipients, in December 2009, DOH implemented an automated crossover process whereby Medicare sends crossover claim data electronically to eMedNY, DOH's Medicaid claims-processing system. Prior to the implementation, providers reported Medicare payment information on separate claims to Medicaid, which often resulted in significant Medicaid overpayments when providers misreported pertinent Medicare claim payment data. Nevertheless, providers can still report Medicare

payment information directly to Medicaid instead of using the crossover system. During our audit period, Medicaid paid Mark Amir, owner and operator of Madison Physical Therapy in Brooklyn, New York, \$305,215 in physical therapy crossover claims. We determined Mr. Amir reported incorrect Medicare payment information to Medicaid, resulting in overpayments totaling \$146,225, and did not comply with certain DOH regulations and administrative procedures for Medicaid program participation, calling into question the propriety of the remaining \$158,990 in Medicaid payments. We recommended DOH recover the \$146,225 in Medicaid overpayments for improper crossover claims, and review the remaining \$158,990 in payments to determine if recoveries and/or sanctions are warranted. ([2013-S-15](#))

Medicaid Program: Ambulatory Patient Groups Payments for Duplicate Claims and Services in Excess of Medicaid Service Limits - The Medicaid program reimburses outpatient services using the Ambulatory Patient Groups (APG) payment methodology, which DOH adopted in an effort to pay providers more accurately for their services. DOH phased in its implementation starting with hospital outpatient departments and ambulatory surgery centers on December 1, 2008, followed by freestanding diagnostic and treatment centers and ambulatory surgery centers on September 1, 2009. We found DOH has not established adequate controls to prevent duplicate and excessive Medicaid payments to clinics and outpatient facilities reimbursed by the APG payment methodology. We determined Medicaid made \$32.1 million in actual and potential overpayments to providers for services that exceeded Medicaid service limits. For example, Medicaid limits dental exams to two times per year, yet we found Medicaid reimbursed a clinic for 41 dental exams (totaling \$2,771) for one patient over three years. The clinic's records did not support any of the exam procedures, and in some instances the medical records did not indicate any service was provided. As a result, none of the 41 claims were eligible for reimbursement. Medicaid also overpaid \$7.5 million for duplicate claims (e.g., where a clinic and an individual practitioner both billed Medicaid for the same service). We recommended that DOH review the overpayments we identified and make recoveries as appropriate, and strengthen controls over APG claims processing to address the weaknesses we found. ([2013-S-17](#))

New York City School-Based Health Centers: Security and Controls Over Medications and Related Supplies - DOH oversees administration of New York State's School-Based Health Center (SBHC) Program (Program), which provides a campus-based health care alternative for preschool, elementary, middle, and high school students in low-income, high-risk communities. Services are provided at no out-of-pocket cost to students or their families. SBHCs bill Medicaid and third-party insurance for reimbursement, as appropriate. A multidisciplinary team of medical professionals is available through each center to provide comprehensive primary care and mental health services and to prescribe and dispense medications, which are procured from an independent pharmacy or the sponsoring organization. As of November 2013, 222 SBHCs throughout the State provide medical services to nearly 170,000 students enrolled in the Program, accounting for approximately 700,000 health care visits annually. Sixty percent (129) of the Centers are located on New York City Department of Education campuses and serve 111,814 students at 293 schools. We sampled 11 New York City SBHCs and found they did not follow DOH inventory control regulations for medications and potentially hazardous medical supplies, and did not maintain proper inventory control over student-supplied medications. In addition, the sampled centers' return of expired drugs to the sponsoring pharmacy was not always properly documented by either the center or the pharmacy. We recommended that DOH: require the centers to perform periodic physical inventories of their medications and sensitive medical supplies and reconcile discrepancies as appropriate; document all student-supplied medication transactions, including the type and quantity of the medication received or dispensed, as well as pertinent contacts with parents/guardians; and document the disposition of expired medications. ([2013-S-34](#))

Medicaid Program: Medicaid Overpayments for Certain Medicare Part C Claims - Many Medicaid recipients are also enrolled in Medicare ("dual-eligibles"). Under Medicare Part C (also known as Medicare Advantage), private managed care companies administer Medicare benefits, typically through networks of participating providers whom they reimburse directly for services provided to enrollees. For dual-eligibles, plan providers bill Medicaid directly for the enrollee's Part C cost-sharing liabilities (deductibles, coinsurance, and copayments). From a review of Medicare Part C claims for services rendered to Medicaid recipients enrolled in UnitedHealthcare Dual Complete, we identified 5,571 claims (totaling \$657,308) that either contained unreasonably high patient cost-sharing amounts or indicated

UnitedHealthcare did not cover the service. From a review of a sample of 125 claims totaling \$151,069, we determined Medicaid overpaid 26 providers \$61,711 for 54 claims. Most overpayments occurred because the providers billed claims with incorrect Medicare Part C coinsurance, copayments, or deductibles. Ten providers adjusted and resubmitted their claims to eMedNY, resulting in Medicaid repayments totaling \$23,374. We recommended that DOH: recover the remaining overpayments totaling \$38,337; formally assess the 5,446 higher risk claims totaling \$506,239 that we did not examine in detail and determine if overpayments were made that warrant recovery; and formally instruct providers to bill Medicare Part C claims in accordance with existing requirements to help ensure Medicaid claims are accurately billed. ([2013-S-35](#))

Medicaid Claims Processing Activity October 1, 2013 Through March 31, 2014 - The eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and generates payments to reimburse the providers for their claims. During the six-month period ended March 31, 2014, eMedNY processed about 112 million claims, resulting in payments to providers of about \$25 billion. Auditors identified: about \$3.3 million in inappropriate Medicaid payments, including \$1,335,151 in overpayments for hospital claims for which eMedNY did not properly factor Medicare coverage or a lower level of care into the payment; \$682,022 in overpayments for pharmacy claims that were not in compliance with various regulations and policies; \$416,314 in improper payments for claims that were not subjected to the appropriate claims processing logic in eMedNY; \$360,117 in overpayments for claims with incorrect information pertaining to recipients' other health insurance coverage; \$112,981 in overpayments for nursing home claims for which eMedNY did not correctly deduct the recipients' Net Available Monthly Income; and claims with improper payments for duplicate billings and hospital, clinic, transportation, and eye care services. By the end of the audit fieldwork, auditors had recovered about \$2 million of the overpayments identified. Auditors also identified providers in the Medicaid program who were charged with or found guilty of crimes that violate the laws or regulations governing health care programs. DOH terminated 12 of the providers we identified, but the status of four other providers was still under review. We made 16 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claim processing controls. ([2013-S-50](#))

Medicaid Program: Excessive Medicaid Payments to Federally Qualified Health Centers for Group Therapy Services - With approval from the federal Centers for Medicare and Medicaid Services, DOH amended the Medicaid State Plan in 2008 to allow Federally Qualified Health Centers (FQHCs) to provide group therapy services to Medicaid recipients. FQHCs are organizations such as community health centers and public housing centers that provide primary and preventive care to underserved populations. We found that Medicaid made overpayments totaling \$7.7 million to four FQHCs that billed incorrect reimbursement rates on their claims for group therapy services (approximately \$200/person vs. \$35.16/person as required). We recommended that DOH: review and recover Medicaid overpayments totaling \$7.7 million; clarify to the FQHCs that were overpaid how to properly bill Medicaid for group therapy services; and ensure all FQHCs bill Medicaid the correct reimbursement rate for group therapy services. ([2013-S-51](#))

Medicaid Program: Overpayments to Managed Care Organizations and Hospitals for Low Birth Weight Newborns - Medicaid reimburses providers for newborn services using fee-for-service and managed care payment methods. Under fee-for-service, Medicaid pays providers directly for Medicaid-eligible services. Under managed care, Medicaid pays managed care organizations (MCOs) a fixed monthly capitation payment for each enrolled newborn, and MCOs reimburse their network providers directly for services. MCOs also receive one-time supplemental "kick" payments for inpatient birthing costs for each newborn enrolled. Additionally, MCOs receive a supplemental "low birth weight" payment (ranging from \$68,355 to \$105,108 per newborn) intended to cover the high cost of care low birth weight newborns require. Low birth weight kick payment claims must meet certain requirements (e.g., birth weight, billing date) in order to qualify for payment. During the two-year period ended March 31, 2014, Medicaid paid MCOs over \$126 million for 1,301 low birth weight kick payment claims. Of these, we found claims totaling \$12,378,309 that did not meet billing requirements; by the end of audit fieldwork, auditors had recovered over \$7 million of this amount. We also identified an additional \$949,681 in potential similar overpayments as well as \$548,404 in duplicate fee-for-service and managed care low birth weight newborn claim payments. We recommended that DOH: recover the remaining overpayments (about \$5.9 million); review

the potential Medicaid overpayments and recover where appropriate; implement automated Medicaid payment system edits to properly process low birth weight kick claims; and actively monitor the appropriateness of low birth weight kick payments and routinely review claims for duplicate payments. ([2013-S-57](#))

Medicaid Program: Improper Payments for Controlled Substances That Exceed Allowed Dispensing Limits - The New York State Controlled Substances Act (Act), enacted to combat the illegal use of controlled substances, limits the quantities of controlled substances that pharmacies can dispense when prescriptions are ordered via telephone or fax. We determined that from January 1, 2009 through December 31, 2013, Medicaid overpaid pharmacies \$1,183,601 for 13,705 fee-for-service claims in which quantities of controlled substances exceeded supply limits allowed by the Act, because the eMedNY claims processing system does not contain edits to deny these claims and prevent improper payment. We also identified 3,323 managed care claims for controlled substances in which the quantities dispensed exceeded the limits set by the Act. We found that, similar to DOH, two managed care organizations (MCOs) do not have system edits to prevent the payment of pharmacy claims for controlled substances that exceed supply limits allowed by the Act, and believe there is considerable risk that other participating MCOs likewise do not have such controls. We recommended that DOH: review the improper pharmacy claims and make recoveries, as appropriate; implement eMedNY edits to prevent the payment of pharmacy claims for quantities of controlled substances that exceed supply limits allowed by the Act; instruct MCOs to implement controls to prevent the payment of pharmacy claims for quantities of controlled substances that exceed supply limits allowed by the Act; and formally remind pharmacy providers of the supply limits on controlled substances. ([2013-S-59](#))

Medicaid Program: Improper Fee-for-Service Payments for Pharmacy Services Covered by Managed Care - Medicaid provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. In general, the Medicaid program pays medical providers either directly through the fee-for-service method or through managed care organizations (MCOs). Prior to October 2011, pharmacy benefits were reimbursed through the fee-for-service method because they were excluded from managed care coverage. However, beginning October 1, 2011, most pharmacy benefits were covered by managed care plans, and fee-for-service reimbursement was no longer appropriate for recipients enrolled in managed care. From October 1, 2011 through December 31, 2013, we found Medicaid inappropriately paid 29,289 fee-for-service pharmacy claims totaling \$978,251 on behalf of 18,010 recipients whose pharmacy benefits were already covered by managed care plans. Overpayments occurred because DOH did not update its Medicaid eligibility files with MCO enrollment information in a timely manner, in some cases taking more than six months to enter new enrollee eligibility data. We recommended DOH review the \$978,251 in improper fee-for-service claim payments we identified, recover funds as appropriate, and take corrective action to ensure enrollment information is entered and updated in a timely manner. ([2014-S-5](#))

Medicaid Program: Medicaid Claims Processing Activity April 1, 2014 Through September 30, 2014 - DOH's eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and generates payments to reimburse the providers. During the six-month period ended September 30, 2014, eMedNY processed about 164 million claims, resulting in \$25 billion in provider reimbursements. Auditors found about \$33 million in actual and potential Medicaid overpayments, and identified claim processing control weaknesses that led to many of the problematic payments. DOH officials took prompt actions to correct certain controls, including one that officials estimate will result in an annual savings to the Medicaid program of \$2.4 million. By the end of the audit fieldwork, about \$32.1 million of the improper payments had been avoided or recovered. Auditors also identified providers in the Medicaid program who were charged with or found guilty of crimes that violate the laws or regulations governing health care programs. DOH terminated eight of the providers we identified, but the status of six others was still under review at the time our fieldwork was completed. We made 14 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claim processing controls. ([2014-S-15](#))

Facility Structure, Safety, and Health Code Waivers - Health care facilities in New York State are required to operate in compliance with DOH-issued architectural codes and safety regulations. DOH is the

State agency responsible for enforcing compliance with these codes and regulations and for granting exceptions. Regulations permit the DOH to grant waivers, temporary or permanent, to a facility to allow it to continue to operate while corrections are made or alternative means of compliance are achieved. We found DOH's waiver practices do not effectively ensure that safety and structural risks related to physical plant standards at health care facilities are appropriately addressed. Its internal controls, including monitoring and internal communications efforts, were lacking and led to a backlog of at least 179 unprocessed waiver requests at the time of our audit, some of which dated back to 2003. DOH lacked formal written policies and procedures governing the waiver process, and did not maintain sufficient collective documentation supporting waiver applications, approvals, and monitoring efforts. Although DOH's Nursing Homes Division appeared to properly monitor waivers granted to such facilities, the Hospitals Division had no detailed awareness of the waivers that were granted to the hospitals and clinics it oversees. We made three key recommendations to DOH: establish and maintain formal waiver policies, procedures, and controls, including the assignment of responsibility for monitoring compliance and maintaining adequate documentation; after implementation, periodically evaluate all policies, procedures, and controls to ensure they are functioning as intended and revise as needed; and maintain a complete, accurate, and timely shared waiver database to record all waiver requests, approvals, and denials and document completion of time-limited waivers. ([2014-S-27](#))

Medicaid Program: Medicaid Drug Rebate Program Under Managed Care - Since January 1991, New York State has been able to recover a portion of Medicaid prescription drug costs from drug manufacturers through the Medicaid Drug Rebate Program. The 2010 Affordable Care Act extended prescription drug rebates to cover medications dispensed to enrollees of Medicaid managed care organizations (MCOs). Currently, DOH monitors drug dispensing through MCOs based on claim information, including the National Drug Code (NDC) assigned to each drug, which serves as a universal product identifier for each medication and is the basis for DOH's manufacturer rebate requests. DOH uses information from eMedNY to identify drugs that are eligible for rebate based on the NDC information, calculates the rebates for each, and submits rebate invoices to the drug manufacturers. According to DOH officials, from October 1, 2011 to June 30, 2014, DOH collected approximately \$3.6 billion in rebates from MCO drug encounter claims. We determined that, as a result of ineffective policies and processes as well as untapped rebate opportunities, DOH did not collect as much as \$119.3 million in available rebates for the Medicaid program during the audit scope period. We made 12 recommendations to DOH to obtain the \$119.3 million in uncollected rebates and to improve its claims and rebate processes so as to maximize rebate collections on drugs dispensed to individuals enrolled in managed care. ([2014-S-41](#))

Ensuring Integrity in New York State Medicaid - Medicaid provides health insurance coverage to more than 6 million New Yorkers and is projected to cost a total of \$62 billion from federal, State, and local sources in State Fiscal Year 2016. Recent reforms have injected billions in new federal funds into New York's economy and are changing the Medicaid program to one in which contracted managed care organizations (MCOs) play a much more significant role. In this context, maintaining accountability and strengthening program integrity remain critical. The Office of the State Comptroller (OSC) conducts independent, cost-effective Medicaid audits that safeguard resources for the program. From January 2011 through February 2015, OSC released 73 audit reports that identified \$513 million in improper payments or potential revenue and questioned an additional \$361 million in transactions that would require agency actions to reduce costs or recover funds. OSC audits highlight the need for more effective oversight of MCOs. As the State expects to transition the majority of Medicaid spending, services, and enrollees to managed care by 2016, it is essential that OSC have ready access to MCOs' financial and program data in order to perform its mandated financial oversight functions. This oversight helps to control spending in Medicaid and reduce fraud, waste, and abuse. ([2015-D-1](#))

Review of the American Academy of Pediatrics - The objective of our examination was to determine whether payments made to the American Academy of Pediatrics, District II (AAP), for various immunization initiatives under contracts C028275, C018189, and C022937 were bona fide and made in accordance with the contracts. DOH's Immunization Bureau receives grants from the U.S. Centers for Disease Control and Prevention for outreach activities that provide information on immunizations to pediatric providers and the public. To carry out these immunization initiatives, DOH entered into contracts with the AAP. We found that overall Department officials did not provide appropriate oversight to ensure

the AAP's vouchers included only actual and allowable expenses. The audit resulted in findings of \$252,010 in expenses never incurred, \$9,695 in expenses not allowed under the contracts, and \$235,320 in expenses that cannot be substantiated due to lack of supporting evidence. As a result of our examination, former AAP Executive Director George Dunkel pled guilty in February 2014 to Offering a False Instrument in the First Degree (a class E Felony) and paid \$111,044 in restitution. We made five recommendations to DOH: from the total \$252,010 paid to the AAP for expenses never incurred, recover the remaining \$140,966, which has yet to be paid back to the State (\$252,010 less \$111,044 restitution paid by George Dunkel); recover up to \$9,695 paid to the AAP for expenses not allowed under the contracts where the AAP does not provide sufficient, appropriate evidence to support payment; in the absence of sufficient, appropriate evidence to support legitimacy and relevance to contract objectives, recover \$235,320 in payments for unsubstantiated expenses; ensure DOH staff obtain, sustain, and demonstrate the knowledge, skills, and ability necessary to effectively monitor contracts and ensure future payments are just, due, and owing prior to payment; and require vendors to provide documentation to support expenses billed. ([2015-BSE1-02](#))

Maximus, Inc. - We examined specific expenses relating to DOH's contract C025147 with Maximus, Inc. for services related to the New York Health Benefit Exchange, and issued a series of letters reporting our findings, as follows:

- **Report 2014-STAT-02B** - In a prior letter, we reported to DOH on our examination of specific expenses relating to \$435 million in amendments to contract C025147. We found the services contained in the amendments were not subject to competitive bidding or contract approval by the Office of the State Comptroller. We recommended that DOH address the lack of provisions in the amendments and related task orders to limit the amount Maximus may charge for labor, fringe benefits, overhead, general and administrative expenses, other direct costs, and profit. In this follow-up report, we found DOH had made significant progress in implementing our recommendations. As a result, we project DOH will save nearly \$21 million over the remaining life of the contract, which is scheduled to end in August 2017. ([2014-STAT-02B](#))
- **Report 2014-STAT-02C** - Maximus is charging DOH a fringe benefit rate of 86.33 percent for Systems staff who are operating data centers compared with 47 percent for all other Operational and Systems staff. We found Maximus included the Systems staff in the same cost pool as bonus-eligible executives from the home office, such as Chief Executives and other senior staff. However, Systems staff do not receive bonuses. We performed an analysis and found this billing practice is not appropriate. We recommended DOH have Maximus adjust its billing practice to move Systems staff out of this cost pool. Based on our prior recommendations, DOH negotiated with Maximus to institute a labor rate schedule for all personnel charged to the contract. However, Maximus does not enforce the rates in the schedule for contractors providing temporary labor, and instead passes on to DOH higher labor rates for temporary laborers in the same titles as Maximus staff. We found that if Maximus applied the labor rate schedule for temporary laborers in the same titles as Maximus staff, DOH would have saved more than \$44,000. We recommended that DOH enforce the labor rate schedule for all labor charges and only reimburse Maximus up to the labor rates in the contract. DOH should also recover all temporary labor charges that exceeded the labor rate schedule for all vouchers paid since the rate schedule went into effect. DOH reported that Maximus is performing an overpayment analysis for the May 2014–December 2014 vouchers and will issue a credit on a future invoice. ([2014-STAT-02C](#))
- **Report 2014-STAT-02D** - We found that DOH officials did not follow proper procurement procedures and could have saved at least \$20,000 when they used Maximus to purchase printing and copying equipment for DOH use. DOH could not provide evidence to substantiate that the equipment was obtained through the formal, competitive process required under State procurement laws. We recommended that DOH ensure staff understand and comply with State procurement laws, including procurements conducted through third parties. ([2014-STAT-02D](#))

Unnecessary Medicaid Payments for Children at Voluntary Agencies (Follow-Up) - Many foster care children who are placed in private welfare agencies (known as voluntary agencies) are enrolled in

Medicaid. Based on the State's Daily Child Care Rate, DOH distributes Medicaid funding to the voluntary agencies to pay for medical services provided to the children in their custody. For services not covered by the Daily Rate, health care providers bill Medicaid directly and are reimbursed on a fee-for-service basis. For the five years ended June 30, 2010, Medicaid paid approximately \$990 million on behalf of about 70,000 children placed in voluntary agencies: \$640 million paid under the Daily Rate and the remaining \$350 million paid directly to providers on a fee-for-service basis. In our initial report ([2010-S-47](#)), we assessed whether DOH had adequate policies and procedures in place to ensure proper Medicaid payments for foster care children placed in voluntary agencies. We concluded that DOH could save millions of Medicaid dollars annually by assessing and modifying certain policies and practices that drive the costs of medical care provided to children placed at voluntary agencies. In addition, we determined that Medicaid paid \$83.2 million directly to medical care providers (on a fee-for-service basis) for services and drugs that should have been covered by the Daily Rate. We recommended that DOH formally assess the cost-effectiveness of the Daily Rate reimbursement method and ensure that the Medicaid claims processing and payment system contains the necessary controls to prevent claims from being paid directly to providers when such claims are covered under the Daily Rate for voluntary agencies. In our follow-up, we determined DOH had made progress in addressing the problems we identified. However, further actions were still needed. ([2014-F-5](#))

Improper Managed Care Payments for Certain Medicaid Recipients (Follow-Up) - Many local governments use managed care programs to provide Medicaid services. However, State law specifically precludes certain categories of recipients from participating in managed care programs, including children whose medical care is covered under the foster care daily rate program and individuals who receive services in long-term care settings (e.g., State-operated psychiatric centers and residential treatment facilities). Our initial audit report ([2010-S-66](#)) determined that, for the five years ended June 30, 2010, Medicaid made \$15.6 million in improper managed care payments on behalf of 14,899 recipients who, by State law, were precluded from enrollment in managed care programs. We recommended that DOH investigate the \$15.6 million in improper Medicaid managed care payments and strengthen efforts to oversee and monitor Medicaid managed care enrollments. In our follow-up, we found DOH officials had made progress in addressing the problems we identified, including the recovery of \$6.4 million in improper Medicaid managed care payments. However, further actions were still needed. ([2014-F-7](#))

Improper Payments Related to the Medicare Buy-In Program (Follow-Up) - The federal government established the Medicare buy-in program to assist certain low-income people in paying out-of-pocket Medicare expenses. Under the buy-in program, Medicaid pays the Medicare premiums and sometimes the deductibles and coinsurance of people who meet various eligibility requirements. Determinations of Medicare buy-in program eligibility are made by the New York City Human Resources Administration and the 57 other county departments of social services outside of New York City (local districts). Annual Medicaid payments for the Medicare buy-in program total approximately \$1.3 billion. Our initial audit ([2010-S-76](#)) determined that from March 2006 through February 2011, Medicaid made nearly 260,000 improper payments, totaling about \$26.8 million, for people enrolled in the Medicare buy-in program. We recommended that DOH recover the overpayments, improve its oversight of local districts, and enhance eMedNY system controls to ensure accurate payment of Medicare expenses for individuals enrolled in the buy-in program. In our follow-up, we determined DOH officials had made progress in addressing the problems we identified. However, further actions were still needed as millions of dollars in questionable and improper Medicaid payments continue to be paid for people in the Medicare buy-in program. Since our initial audit, we identified \$9.6 million in additional premium payments for individuals in the buy-in program whose eligibility was not reassessed. We also identified \$569,000 in additional premiums that were paid on behalf of individuals who had died. ([2014-F-12](#))

Overpayments of Certain Medicare Crossover Claims (Follow-Up) - For individuals enrolled in both Medicare and Medicaid, generally Medicare is the primary payer, and Medicaid then typically pays for any remaining balance not covered by Medicare, including deductibles and coinsurance. Under DOH's Medicare/Medicaid claim crossover system, providers submit medical claims for dual-eligible individuals to Medicare. After Medicare processes the claims, they are electronically transferred to the Medicaid claims processing system (eMedNY) for payment of Medicare deductibles, coinsurance, and copayments. Prior to the automated crossover system, DOH relied on providers to self-report accurate information to

eMedNY regarding how much Medicare paid and how much Medicaid owed, which often led to incorrect Medicaid payments. Our initial audit report ([2011-S-28](#)) identified \$10 million in Medicaid overpayments resulting from flaws in eMedNY computer programs designed to process electronic Medicare crossover claims. Auditors additionally identified \$16.4 million in potential overpayments on similar claims because providers submitted their claims directly to Medicaid and bypassed the crossover system and the controls that it affords. We made five recommendations to DOH to review and recover the improper Medicaid payments, and to design and implement controls within eMedNY to properly process and pay crossover claims. In our follow-up, we determined DOH officials had made progress in addressing the problems we identified, including recovery of \$977,343 in Medicaid overpayments. However, further actions were still needed. ([2014-F-17](#))

Overpayments for Services Also Covered by Medicare Part B (Follow-Up) - For individuals enrolled in both Medicaid and Medicare, Medicare is generally the primary payer while Medicaid is a secondary payer (i.e., pays the balance not covered by Medicare, which would otherwise be the financial obligation of the patient). Federally qualified health centers (FQHCs), which provide medical services to underserved areas or populations, receive enhanced reimbursements from Medicaid and Medicare for the Part B services they provide. Our initial audit report ([2012-S-27](#)) identified \$7.3 million in Medicaid overpayments, most of which occurred because providers had overstated the amounts of Medicare coinsurance for Part B services. We also determined Medicaid overpaid \$238,842 because DOH incorrectly designated certain providers as FQHCs. We recommended that DOH review and recover the Medicaid overpayments. In our follow-up, we found DOH has made minimal progress in recovering the \$7.3 million in Medicaid overpayments: \$3,125 had been recovered, but more than \$1 million in potential recoveries were likely lost due to inaction on overpayments for claims more than six years old. Our initial report's two audit recommendations have been partially implemented. ([2015-F-4](#))

Selected Operating and Administrative Practices of the Bureau of Narcotic Enforcement (Follow-Up) - The DOH's Bureau of Narcotic Enforcement (Bureau) is responsible for combating the illegal use and trafficking of prescription controlled substances by: issuing Official New York State Prescriptions to practitioners; issuing licenses to manufacturers, distributors, hospitals, nursing homes, and researchers; providing educational material for parents, educators, and health care professionals; and investigating suspected drug diversion or illegal sales. State regulations require all pharmacy providers, dispensing practitioners, and manufacturers and distributors of controlled substances to electronically submit controlled substance prescription data to DOH. The data collected resides on the Bureau's Prescription Monitoring Program (PMP) Registry. The Bureau uses this data to support investigations into abusive prescribing. In August 2013, subsequent to our original audit, the Legislature approved the new Internet System to Track Over-Prescribing (I-STOP), which, among other provisions, enhanced the PMP by making additional data available while requiring real-time submission of controlled substance prescription information within 24 hours of substance delivery. Our initial audit ([2011-S-19](#)) found several areas, ranging from prevention and deterrence to detection and prosecution, where the Bureau could improve its ability to ensure resources are used effectively to stem drug diversion and abuse, and presented five recommendations to address these. Throughout the course of our follow-up fieldwork to assess DOH's implementation efforts, officials were substantially less than forthcoming in responding to our requests for information. Overall, however, we found the Bureau had made progress in enhancing its PMP data in anticipation of the full implementation of I-STOP, and had revamped some of the routine doctor shopping analyses that it had previously performed, thus allowing for more efficient analysis. Further, DOH strengthened its accountability over returned prescription forms and improved its monitoring of expenditures to some extent. However, the Bureau reviewed only a limited portion of the potential errors and inconsistencies in prescription data identified in the prior audit, and did not clearly establish the broad organizational goals and performance measures necessary to monitor its investigators' performance. Of the five prior audit recommendations, two were fully implemented, two were partially implemented, and one was not implemented. ([2015-F-6](#))

Overpayments of Hospitals' Claims for Lengthy Acute Care Admissions (Follow-Up) - When billing Medicaid for inpatient services, hospitals must indicate patients' "level of care" on claims to ensure accurate processing and payment. Certain levels of care are more intensive and, therefore, more expensive than others. During long hospital stays, patients may transition to lower Alternate Level of Care

(ALC) settings, which typically cost less. To help ensure Medicaid services are appropriate, necessary, and billed correctly, DOH uses a contractor, Island Peer Review Organization (IPRO), to review inpatient claims. Our initial audit report ([2010-S-30](#)) identified \$7.8 million in Medicaid overpayments resulting from hospital claims for higher (and more costly) levels of care when, in fact, patients received lower cost ALC. We recommended that DOH recover the Medicaid overpayments, formally notify hospitals of the correct way to bill inpatient claims for ALC, and modify IPRO's sampling plan to select and review similar claims at high risk of overpayment. Our follow-up review found DOH had implemented our audit recommendations. Additionally, since our initial audit, we identified and provided other claims to DOH that were at risk of overpayment due to incorrect charges for acute levels of care. As a result of these efforts, an additional \$1.4 million in estimated recoveries is expected. ([2015-F-12](#))

Medicaid Program: Improper Payments to a Dentist (Follow-Up) - Our initial audit report ([2012-S-52](#)) determined that, for the period June 1, 2009 through September 30, 2012, Medicaid made \$66,402 in improper dentistry payments to Dr. Prosper Bonsi, DMD. The payments included claims for behavior management services for patients who were not eligible for behavior management and for after-hours office visits for non-emergency services – most of which were in fact provided during normal office hours. We also determined the Medicaid program did not have controls to prevent improper payments for behavior management services and after-hours office visits. We recommended that DOH implement controls to prevent payment of the improper claims we identified, recover the improper payments, and monitor claims submitted by Dr. Bonsi. In our follow-up, we found that DOH has made progress in addressing the problems we identified, including monitoring Dr. Bonsi's claims for behavior management and after-hours office visits as well as implementing eMedNY system edits to prevent improper payments on claims for these services. However, further actions are still needed. Of the initial report's three audit recommendations, two were implemented and one was partially implemented. ([2015-F-3](#))

Office for People With Developmental Disabilities (OPWDD)

2014 Credit Card Review - We reviewed select Procurement Card (PCard) transactions incurred by the Finger Lakes Developmental Disabilities Service Office (DDSO) to Finger Lakes Home Supply (Home Supply) from December 19, 2012 through June 5, 2014. The objective of our examination was to determine whether the DDSO adhered to State purchasing laws, rules and regulations, and guidelines (collectively, procurement requirements) for the purchase of food and household items. We found the DDSO did not adhere to the State Procurement Law when it spent \$1,031,709 on 1,416 PCard transactions with Home Supply on food and household items during the examination period. By not following procurement requirements, the DDSO denied the preferred sources and the existing centralized contractor the opportunity to provide the items. The DDSO also gave Home Supply an unfair advantage in obtaining the State's business. Further, the DDSO did not pay reasonable prices to Home Supply for the food and household items. Officials agreed with the findings and stated they are working with the appropriate entities to establish a contract for procuring the home delivery of food and household items. In the interim period, prior to the contract being established, they will ensure they are paying a reasonable price for all purchases. We recommended DDSO follow procurement requirements when purchasing food and household items. ([2014 Credit Card Review](#))

Office of Children and Family Services (OCFS)

Management of Energy Consumption (Follow-Up) - Energy costs for items such as fuel oil, natural gas, and electricity comprise a major portion of OCFS's budget. Our initial report ([2011-S-4](#)) found that OCFS officials were not effectively managing energy consumption and had not achieved the 35 percent energy reduction goals set forth in Executive Order 111, which we estimate could have saved OCFS approximately \$930,000 in energy costs for 2010. We recommended that OCFS develop and implement a plan to reduce energy consumption, and retain energy usage data for all its facilities so reduction achievements can be measured accurately. Our follow-up review concluded that OCFS had implemented both of these recommendations. ([2014-F-18](#))

Office of Mental Health **(OMH)**

Contract With Shorefront Mental Health Board – Compliance With Prevailing Wage Law - OMH contracted for \$2.3 million with Shorefront to provide janitorial services to six outpatient facilities located in Brooklyn for the period November 1, 2011 to October 31, 2016. This contract was procured under OMH's "Buy OMH" program, which gives preference to contractors employing OMH consumers. Under the New York State Labor Law, public works contractors must pay local prevailing wages to certain employees. We determined Shorefront did not pay its janitorial workers the prevailing wage, estimating that for calendar year 2013 its 26 workers were underpaid a total of at least \$123,224. Shorefront submitted incorrect certified payrolls to OMH, showing it was paying the employees at the prevailing wage rate, when the wages paid were, in fact, substantially below the prevailing wage rate. For a period during our audit fieldwork, employees were paid for fewer hours than they actually worked. For instance, one worker posted 72 hours to his time sheet, but the payroll showed that he was paid for only 22 hours at the prevailing wage rate and 12 hours at the supplemental benefits rate. We recommended OMH enforce the requirement that contractors submit certified payrolls and ensure they are accurate, and work with the Department of Labor to determine whether contractor employees are due back wages for the periods they were underpaid. ([2013-S-62](#))

Assertive Community Treatment Program - OMH's Assertive Community Treatment (ACT) program uses evidence-based practices to provide treatment, rehabilitation, and support services to individuals diagnosed with severe mental illness. Currently, 78 ACT provider teams are licensed by OMH and operate throughout the State to provide services for up to 5,000 recipients. ACT provider teams are required to conduct recipient assessments every six months, develop treatment plans based on assessment outcomes, track progress, and complete mandatory training to ensure effectiveness in delivering services. ACT program teams received over \$74 million in 2014, most of which (89 percent) came through the Department of Health for services provided to Medicaid recipients, with the remainder being funded directly by the State. We found OMH is not effectively overseeing the ACT program to ensure that provider teams are complying with certain important program requirements: provider teams are not recertified timely; program data is not complete or accurate; some program staff do not receive required training; and recipients' treatment plans are not completed on time, with required team leaders' approvals. As a result, program recipients' service needs may not be adequately addressed. OMH has also not established methods to assess the extent to which it is achieving overall program goals. We recommended that OMH: establish controls to effectively oversee the ACT program to ensure provider teams are complying with program requirements and recipients are receiving needed services; improve monitoring; and establish measurements to assess achievement of overall program goals. ([2014-S-25](#))

PSCH, Inc. - We sought to determine whether OMH properly reimbursed PSCH according to the terms and conditions of its contract. We examined \$1.6 million in expenses that PSCH claimed on the Consolidated Fiscal Report (CFR) for July 1, 2012 through June 30, 2013, and found that \$152,680 (10 percent) in costs did not comply with the terms and conditions of the contract. PSCH's Board of Directors and executive staff attended a two-day conference at the Montauk Yacht Club Resort & Marina, and claimed \$31,908 (more than half the total spent on the conference) as administrative expenses, including \$10,723 for alcohol, \$5,064 for guests who were not Board members or executive staff, \$13,378 for rooms and meals post-conference, and \$2,743 for a sunset cruise, tips, and candles given as gifts. Also, PSCH claimed \$22,901 for costs related to the entertainment of its employees at a staff picnic, which is a non-allowable expense under OMH guidelines, and \$97,871 for expenses that were not actual, reasonable, and necessary in the provision of contract services. Among our key recommendations to OMH: ensure PSCH properly modifies its 2012-13 CFR for the \$152,680 in findings we identified; ensure PSCH staff (i) charge expenses in accordance with the Consolidated Fiscal Reporting and Claiming Manual (Manual) and (ii) receive necessary training to recognize costs not allowed by the Manual and to ensure that expenses are necessary, reasonable, and charged to the correct programs and that appropriate supporting documentation is maintained; review all expenses claimed over the life of the contract to determine if they are allowed by the Manual, ensure PSCH properly accounts for expenses, and recover any overpayments. ([2014-0001](#))

EDUCATION

Several State agencies are responsible for providing and overseeing educational services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

Higher Education Services Corporation/Tuition Assistance Program (TAP)

TAP is the largest of the student grant and scholarship programs administered by the Higher Education Services Corporation (HESC). The program provides grants to State residents attending postsecondary institutions in New York State. Most of our audits of TAP are designed to determine whether the institutions comply with program requirements in certifying students as eligible for TAP awards.

Barnard College - Founded in 1889, Barnard College is a women's liberal arts college located in Manhattan. Barnard offers bachelor's degrees in nearly 50 fields of the arts, humanities, social sciences, and natural sciences. Annual tuition for full-time students is approximately \$44,300 per year. As of fall 2014, the school's enrollment was about 2,500. For the three academic years ended June 30, 2013, Barnard certified 2,090 awards totaling almost \$3.6 million that were paid to the school on behalf of 572 students. We reviewed a sample of 100 randomly selected awards paid during that period as well as other awards to these students through spring 2015. We determined that Barnard had been overpaid \$106,333 because school officials incorrectly certified students as eligible for State financial aid awards: 11 students who did not meet the good academic standing requirements; six students who did not meet the full-time requirements; two students who had not met matriculation requirements; and one student who had not demonstrated the required academic preparedness. We recommended HESC recover \$106,333 plus applicable interest from Barnard. In addition, the State Education Department should work with school officials to help ensure future compliance with the eligibility requirements cited in the report. ([2015-T-1](#))

DeVry College - DeVry College of New York operates two campuses in Manhattan and one in Queens, offering several programs leading to an associate's or bachelor's degree. As of September 30, 2014, there were 1,209 undergraduate students enrolled at DeVry's New York campuses. For the three academic years ended June 30, 2013, the school certified 3,627 TAP awards totaling almost \$6.4 million that were paid to the school on behalf of 1,689 students. We reviewed a sample of 100 randomly selected TAP awards paid during the three years ended June 30, 2013 as well as other awards to these students through spring 2014, and determined that DeVry had been overpaid \$758,293 because school officials incorrectly certified students as TAP eligible. Incorrect certifications included 14 students who received awards but had not demonstrated their academic preparedness for TAP awards: 12 did not have certificates of graduation, or the recognized equivalent of such a certificate, from a U.S. high school, and two completed online study from a private school located in another state. Four students did not meet the full-time requirements, and three were not in good academic standing. We recommended HESC recover \$758,293 plus applicable interest from DeVry. In addition, the State Education Department and HESC should work with school officials to help ensure future compliance with the eligibility requirements cited in the report. ([2014-T-2](#))

LaGuardia Community College - LaGuardia Community College is part of the City University of New York, and offers more than 50 associate degree programs in many fields, including nursing, business, liberal arts, and computer science. LaGuardia's student enrollment at the time of our audit approximated 20,000, and its annual tuition for New York City residents is about \$4,500. According to HESC, LaGuardia officials certified 24,006 awards on behalf of 12,976 students, totaling \$31.2 million, for the three academic years ended June 30, 2012. We determined LaGuardia had been overpaid \$91,911 because school officials incorrectly certified certain students as TAP eligible. We recommended that HESC recover the \$91,911, plus applicable interest, from LaGuardia for these incorrect certifications. We also

recommended that State Education Department officials work with LaGuardia officials to help ensure future compliance with the TAP eligibility requirements cited in our report. ([2013-T-4](#))

Stony Brook University - Stony Brook University is a university within the State University of New York system that offers 68 undergraduate majors, 80 minors, and more than 100 master's programs as well as 40 doctoral programs and 30 graduate certificate programs. Stony Brook's current enrollment is approximately 24,000 students, and its annual tuition for New York State residents is approximately \$6,200. For the three academic years ended June 30, 2011, Stony Brook certified 39,877 TAP awards totaling \$60.6 million, which were paid to the school on behalf of 12,352 students. We determined Stony Brook had been overpaid \$4,170,880 because school officials incorrectly certified students as TAP eligible. Stony Brook officials indicated that they have taken several measures to improve the propriety of their TAP certification processes. We recommended HESC recover \$4,170,880, plus applicable interest, from Stony Brook. We also recommended that the State Education Department work with school officials to help ensure future compliance with the TAP eligibility requirements cited in the report. ([2013-T-2](#))

State Education Department **(SED)**

Selected Aspects of the Migrant Education Program - The Migrant Education Program, a federal grant program, was created to ensure that all eligible migrant students reach challenging academic standards and graduate with a high school diploma or its equivalent. SED is responsible for administering the Program and ensuring the intended goals are met. To meet this obligation, SED contracted for five State University of New York campuses and four Boards of Cooperative Education Services to establish the Migrant Education Tutorial Services (METS) program teams, which deliver supplemental academic and advocacy services to migrant children throughout the State. For 2012 and 2013, the Program failed to meet three of ten measurable performance outcomes and three of seven broader Program goals pertaining to graduation rates and proficiency in English and mathematics. We found SED did not complete in a timely manner all federally required guidance documents necessary to establish Program goals, monitor METS operations, and measure performance. These delays hampered the availability of timely and relevant performance data that managers should have to effectively oversee the Program. In addition, a significant portion of METS staff face challenges obtaining student performance data due to a lack of linkages with public schools. We recommended that SED develop methods to periodically provide evaluation results both at the METS level and Program-wide to monitor performance against established goals, and establish a method to facilitate the exchange of information between METS programs and school districts. ([2014-S-48](#))

Compliance With the Safe Schools Against Violence in Education Act - The Safe Schools Against Violence in Education Act (SAVE Act) was enacted in July 2000 to address the need to provide a safe learning environment for New York's students in pre-kindergarten through 12th grade. To comply with the SAVE Act, SED developed the Violent and Disruptive Incident Report (VADIR) and a process for collecting annual data from school districts about incidents that occur in schools and on school property. SED uses the data to calculate a School Violence Index (SVI) for each school. Schools at or above a certain SVI threshold for two consecutive years are designated persistently dangerous. SED posts incident data and the list of persistently dangerous schools on its website, and provides assistance to help schools comply with SAVE Act requirements and reduce the number and severity of incidents. We reviewed incident records for seven schools for the 2011-12 school year, and identified 935 unreported VADIR incidents, which represented 29 percent of the 3,175 reportable incidents for six schools whose underreporting we were able to quantify. We identified 82 VADIR incidents that schools misclassified in their internal records, generally in VADIR categories considered less serious. Based on our calculations, the SVI for two schools was above the threshold for SED consideration as potentially persistently dangerous or persistently dangerous. SED did not designate persistently dangerous schools for the 2013-14 school year, despite the SAVE Act requirement that it do so annually. By not designating these schools, SED failed to comply with its own Regulations as well as provisions of the federal No Child Left Behind Act of 2001, which requires it to notify local educational agencies of this designation in time for them to notify parents of the option to transfer their children to a safe public school, if one is available. We recommended that SED: assess risks related to SAVE Act compliance and focus resources on improving the accuracy and

completeness of VADIR reporting; revise existing VADIR guidance to provide more assistance to schools and districts; and comply with provisions of the SAVE Act and its own Regulations requiring SED to annually designate persistently dangerous schools and inform local educational agencies so they can give parents timely notification of the option to transfer. ([2013-S-71](#))

Compliance With the Reimbursable Cost Manual - Preschool special education services in New York are predominantly provided by private providers (both for-profit and not-for-profit) rather than the school districts themselves. These providers must be approved by SED, which annually develops reimbursement rates for programs operated by approved providers based on actual costs reported to SED on annual Consolidated Fiscal Reports (CFRs). Providers' costs must comply with eligibility and documentation requirements established in SED's Reimbursable Cost Manual (RCM), as well as the requirements in the Consolidated Fiscal Reporting and Claiming Manual (CFR Claiming Manual). Chapter 545 of the Laws of 2013 mandates the State Comptroller to audit the expenses reported to SED by every program provider of special education services for preschool children with disabilities at least once by March 31, 2018, subject to the funding made available by the Legislature for such purpose. In the 2014-15 fiscal year, this Office issued 19 such audits, as follows:

- **Aspire of Western New York** - Aspire, located in Western New York, provides a wide range of services to children with disabilities from birth through age 21, including preschool special education services for children between the ages of three and five years. For the year ended December 31, 2012, Aspire reported approximately \$3.8 million in reimbursable costs for the preschool special education programs we audited. We identified \$7,501 in costs that did not comply with SED's requirements for reimbursement, including \$5,262 in consultant services and \$2,239 in other than personal service costs (e.g., entertainment and food expenses), as well as \$32,377 in questionable costs for consultant services that either were not selected through solicitation of competitive bids or lacked sufficient evidence that they were the most economical and/or appropriate. We made several recommendations to SED and Aspire to address the issues we identified, including the recovery of overpayments as appropriate, and to ensure future compliance with the RCM. ([2014-S-36](#))
- **Astor Services for Children & Families** - Astor, a not-for-profit organization located in Rhinebeck, New York, provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2013, Astor reported a total of \$6.4 million in reimbursable costs on its CFR, \$3.3 million of which was for the Preschool Special Class and the Preschool Integrated Special Class (the Programs) we audited. We identified \$39,050 in costs charged to the Programs that did not comply with SED's requirements for reimbursement, including \$25,565 in other than personal service costs that were either not allowed, not properly documented, or not reasonable or necessary and \$13,485 in non-reimbursable fundraising activities. We also identified two teachers and seven teacher's assistants who did not have the required certifications for their job titles. We recommended SED review the disallowances identified by our audit, and make necessary adjustments to Astor's reimbursement rates if warranted, and remind Astor officials of the pertinent SED guidelines that relate to the deficiencies we identified. We recommended Astor ensure that costs reported on its annual CFRs fully comply with SED's requirements. ([2014-S-66](#))
- **Bright Start Pediatric Services, LLC** - Bright Start provides special education services to over 1,700 preschool-age children with learning disabilities from school districts in three counties in western New York. For the fiscal year ended June 30, 2013, Bright Start reported \$442,638 in reimbursable costs for the preschool Special Education Itinerant Teacher (SEIT) program we audited. We identified \$4,798 in costs charged to the SEIT program that did not comply with SED's requirements for reimbursement, including \$4,552 in various other than personal service costs, such as vehicle and food expenses, and \$246 in personal service costs for employee bonuses. We made several recommendations to SED and Bright Start to address the issues we identified, including the recovery of overpayments as appropriate, and to ensure future compliance with the RCM. ([2014-S-34](#))

- **Children’s Center for Early Learning** - The Children’s Center for Early Learning provides special education services to New York City-based children between the ages of three and five years. For the three fiscal years ended June 30, 2009, the Center claimed approximately \$10.7 million in reimbursable expenses for the programs we audited (Programs). According to SED, the Center’s special education operations ended on May 5, 2014. We identified \$797,438 in reported costs that should not have been reimbursed: \$741,942 in salary and related personal service expenses for costs chargeable to Center affiliates, for time not worked, and for other undocumented personal service costs; and \$55,496 in non-personal service costs that were either undocumented, not properly allocated between programs, or not Program-appropriate. In addition, the Center made interest-free loans to related parties using Program funds. We recommended that SED: review the disallowances addressed in our report and adjust the Center’s CFRs and tuition reimbursement rates for the audit scope period as appropriate; work with Center officials to help ensure that only allowable costs are included on any CFRs prepared after our scope period; and direct Center officials to disclose all “less-than-arm’s-length” transactions on any CFRs prepared after the scope period and before ceasing operations. We recommended the Center ensure that costs reported on any CFRs prepared after the scope period comply with RCM requirements. ([2011-S-21](#))
- **Circle of Friends** - Circle of Friends, a for-profit organization with locations in Ravena and Delmar, New York, provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2013, Circle of Friends claimed about \$1.1 million in reimbursable expenses for the preschool special education programs we audited. We found that, generally, the costs reported by Circle of Friends on their CFR were properly calculated, adequately documented, and allowable according to the RCM. We did note \$604 in non-reimbursable costs that were either undocumented or unnecessary. We made several recommendations to SED and Circle of Friends to address the issues we identified, including the recovery of overpayments as appropriate, and to ensure future compliance with the RCM. ([2014-S-32](#))
- **Clinical Associates of the Finger Lakes** - Clinical Associates of the Finger Lakes (CAFL) is a privately owned institution located in Victor, New York that provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2012, CAFL reported \$1.2 million in reimbursable costs on its CFR for the preschool Special Education Itinerant Teacher (SEIT) program we audited. Of this amount, we identified \$72,401 in costs that did not comply with SED’s requirements for reimbursement, including \$54,751 in various other than personal service costs (e.g., property-related costs, vehicle expenses) and \$17,650 in personal service costs. We recommended that SED review the disallowances we identified and make any necessary adjustments to CAFL’s reimbursement rates, and remind CAFL officials of the pertinent SED guidelines that relate to the deficiencies we identified. We recommended CAFL ensure costs reported on its annual CFRs fully comply with SED’s requirements. ([2014-S-61](#))
- **Dynamic Center Inc.** - Dynamic is a SED-approved special education provider located in Florida, New York that provides preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2012, Dynamic reported approximately \$1.1 million in reimbursable costs on its CFR for the SEIT Program. We found Dynamic reported \$420,953 in non-reimbursable costs for the SEIT Program for the year ended June 30, 2012. This included \$316,020 in personal service costs and \$104,933 in other than personal service costs that were either unsupported, not related to the SEIT program, personal in nature, incorrectly calculated or allocated to the SEIT Program, or otherwise not allowable per the RCM. We identified several record-keeping weaknesses corresponding to the expenses reported by Dynamic on its CFR. We made several recommendations to SED and Dynamic to address the issues we identified, including the recovery of overpayments as appropriate, and to ensure future compliance with the RCM. ([2014-S-3](#))

- **Early Childhood Education Center** - Early Childhood Education Center (ECEC), a not-for-profit organization with locations in Albany, Guilderland, and Troy, New York, provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2012, ECEC reported about \$2.8 million in reimbursable costs for the special education programs we audited. We identified \$3,501 in costs that did not comply with SED's requirements for reimbursement, including gifts, food, and travel expenses. We made several recommendations to SED and ECEC to address the issues we identified, including the recovery of overpayments as appropriate, and to ensure future compliance with the RCM. ([2014-S-35](#))
- **Functional MDS** - Functional MDS provided Special Education Itinerant Teacher services and integrated therapeutic preschool special education programs (collectively referred to as Programs) for about 190 disabled children between the ages of three and five who live in Queens, Brooklyn, Manhattan, and the Bronx. According to SED officials, MDS ceased providing SED-funded special education programs as of September 2014. For the fiscal year ended June 30, 2011, MDS claimed approximately \$3.5 million in reimbursable costs. For this period, we identified \$794,219 in reported costs that did not comply with RCM requirements for reimbursement, including \$198,888 in executive compensation and \$62,866 in compensation to agency administrative support employees improperly allocated to the Programs and \$373,200 in compensation to personnel who did not work for the Programs. We recommended that SED review the recommended disallowances identified in this audit, make the appropriate adjustments to MDS's CFRs and reimbursement rates as appropriate, and recover the disallowances, as appropriate. In addition, we recommended that MDS ensure that costs reported on its annual CFRs comply with RCM requirements. ([2014-S-1](#))
- **Cost Reporting of Programs Operated by Gateway-Longview, Inc.** - Gateway, located in Buffalo, New York, is a not-for-profit organization that provides supportive, educational, housing, and substitute care services for children, youth, and families. Gateway receives funding from multiple sources including SED, OCFS, OMH, and DOH. These agencies have issued manuals and guidelines to provide direction on reimbursable costs. For the three fiscal years ended June 30, 2011, Gateway received about \$68.6 million in revenue from government sources. For our audit period, we disallowed a total of nearly \$2.4 million in ineligible costs, including costs lacking required documentation and/or sufficient details of the charges. We found Gateway routinely entered into business transactions with companies affiliated with members of Gateway's Board of Directors without competitive bidding or evidence that transactions were fair and reasonable. The cost of these related-party transactions totaled \$7,042,903. We disallowed \$1,999,744 for the amounts charged to the programs. We also disallowed \$378,946 in expenses (including \$64,110 in payments for car and cell phone allowances for Gateway's former Chief Executive Officer and other officials) that lacked documentation, were not program-related, and were for ineligible items. We also questioned certain actions involving Gateway's Board of Directors that pertain to the related-party business arrangements, as well as \$792,704 in interest costs on loans to cover operating losses. Among our recommendations: SED, OCFS, OMH, and DOH should follow up on the inappropriate and unsupported expenses we identified, revise the reimbursement rates for Gateway and seek restitution as appropriate, and direct Gateway to ensure that board members avoid conflicts of interest and annually file written disclosures of any business involvement with Gateway or related parties. ([2012-S-17](#))
- **Hear 2 Learn PLLC** - Hear 2 Learn is a privately owned institution located in Syracuse, New York that provides preschool special education services to children with disabilities from birth through age five. During the 2012-13 school year, Hear 2 Learn provided Special Education Itinerant Teacher (SEIT) services to 105 children with learning disabilities from 15 school districts in two central New York counties. For the fiscal year ended June 30, 2013, Hear 2 Learn reported approximately \$2.7 million in reimbursable costs on its CFR, of which \$340,876 was for its SEIT program. We identified \$20,851 in costs charged to the SEIT program that did not comply with SED's requirements for reimbursement, including \$10,957 in other than personal service costs and \$9,894 in personal service and associated fringe benefit costs that were either non-

reimbursable, incorrectly reported on the CFR, or not properly documented. We recommended SED review the disallowances we identified and make any necessary adjustments to Hear 2 Learn's reimbursement rates. We recommended Hear 2 Learn ensure costs reported on annual CFRs fully comply with SED's requirements. ([2014-S-74](#))

- **Institutes of Applied Human Dynamics** - The Institutes of Applied Human Dynamics (Institutes) is a not-for-profit organization that provides full-day preschool special education programs and half-day preschool special education programs, collectively referred to as SED Programs, to disabled children between the ages of three and five years. Institutes provides preschool services at its St. Mary's facility located in the Bronx, New York. During the 2012-13 school year, Institutes served 80 students. For the fiscal year ended June 30, 2013, Institutes reported about \$2.3 million in reimbursable costs on its CFR. For the three fiscal years ended June 30, 2013, we identified \$456,292 in reported costs that did not comply with RCM requirements, including \$386,469 in personal service costs and \$69,823 in other than personal service costs. We recommended that SED review the recommended disallowances resulting from this audit, make the appropriate adjustments to the Institutes' CFRs and reimbursement rates, and work with Institutes officials to help ensure their proper reporting of reimbursable costs. In addition, we recommended that Institutes ensure that costs reported on annual CFRs comply with RCM requirements. ([2014-S-39](#))
- **Metro Therapy, Inc.** - Metro Therapy provides Special Education Itinerant Teacher (SEIT) services to children between the ages of three and five years residing in New York City and Nassau and Suffolk counties. During the 2010-11 school year, Metro Therapy taught 284 students through services rendered in the students' homes, schools, or neighborhood community centers. For the three fiscal years ended June 30, 2011, Metro Therapy reported about \$7.1 million in reimbursable costs on its CFRs. We identified \$833,949 in non-reimbursable costs, including \$357,063 in excessive allocations of salaries and fringe benefits to the SEIT program, \$185,512 in compensation paid to five individuals who did not provide services to the SEIT program, and \$116,069 in excessive compensation for the Executive Director and Assistant Executive Director. We recommended that SED: review the recommended disallowances; adjust Metro Therapy's CFRs and revise its tuition reimbursement rates as appropriate; and work with Metro Therapy officials to help ensure their proper reporting of reimbursable costs. In addition, we recommended that Metro Therapy ensure that reimbursable costs reported on the CFRs comply with RCM requirements. ([2012-S-164](#))
- **Milestone School for Child Development** - The Milestone School for Child Development is a Brooklyn, New York-based for-profit organization that provides full-day preschool special education center-based and integrated programs to disabled children between the ages of three and five years throughout Brooklyn and neighboring boroughs. During the 2012-13 school year, Milestone serviced about 110 students. For the fiscal year ended June 30, 2013, Milestone reported approximately \$3.8 million in reimbursable costs for its SED programs. Our audit scope period focused primarily on fiscal year 2012-13; however, we expanded our review to include certain items claimed on the CFRs for fiscal years 2010-11 and 2011-12. For the three fiscal years ended June 30, 2013, we identified a total of \$801,859 in reported costs that did not comply with RCM requirements, including \$285,455 in personal services costs and \$516,404 in other than personal service (OTPS) costs. Among the disallowances we identified: \$196,160 in unsupported rent expenses; \$188,447 in various other unsupported OTPS costs; \$149,815 in unsupported fringe benefit costs; \$105,632 in overallocated compensation costs for three employees who also worked at Milestone affiliates; and \$63,310 in OTPS charges that were not actually incurred. We recommended that SED review the recommended disallowances and make the appropriate adjustments to Milestone's CFRs and reimbursement rates, and work with Milestone officials to help ensure their compliance with RCM provisions. We also recommended that Milestone ensure that costs reported on future CFRs comply with all RCM requirements. ([2014-S-37](#))
- **Summit Educational Resources** - Summit provides a wide range of services to children with disabilities from ages three through 21, including preschool special education services to children

with developmental disabilities in 38 school districts in three western New York counties. For the fiscal year ended June 30, 2013, Summit reported approximately \$4.25 million in reimbursable costs for its preschool special education programs. Of this amount, we identified \$28,176 in other than personal service costs that did not comply with SED's requirements for reimbursement, including \$26,754 for consultant services and \$1,422 in various other costs that were ineligible for reimbursement. We also questioned an additional \$34,357 in costs for consultant services and information technology procurements that were not obtained through competitive bidding practices. We recommended that SED review the disallowances and questionable costs identified by our audit and make any necessary adjustments to Summit's reimbursement rates, and work with Summit officials to ensure they understand and comply with the RCM and the Consolidated Fiscal Reporting Manual. We also recommended that Summit ensure that costs reported on its annual CFRs fully comply with SED's requirements. ([2014-S-49](#))

- **Sunshine Developmental School** - Sunshine Developmental School provides special education and integrated therapeutic preschool programs for about 600 children between the ages of three and five years in the New York City boroughs of Brooklyn, Queens, and the Bronx. For the three fiscal years ended June 30, 2011, Sunshine Developmental reported costs related to its preschool special education programs (Programs) of about \$27 million. We identified \$1,776,434 in unsupported and/or inappropriate costs charged to the Programs we audited, including personal service costs totaling \$1,392,542 and non-personal service costs totaling \$383,892. We recommended that SED review the disallowances we identified and, considering any previous SED disallowances, adjust Sunshine Developmental's CFRs and tuition rates as appropriate, and work with Sunshine Developmental officials to help ensure that only eligible costs are included on their CFRs. We also recommended that Sunshine Developmental ensure that costs reported on any CFRs prepared after the scope period comply with RCM requirements. ([2012-S-64](#))
- **The Child School** - The Child School provides special education services to New York City children between 6 and 21 years of age. For the three fiscal years ended June 30, 2011, the Child School claimed about \$26 million in reimbursable expenses for the special education programs we audited. We identified \$992,765 in reported personal service and other than personal service costs that were ineligible for reimbursement (e.g., excessive salary expenses, excessive pension costs, bonuses not supported by formal performance evaluations, a less-than-arm's length contract for building maintenance and cleaning services, non-program-related and/or inadequately documented "Other" expenses; costs for vehicles purchased and leased for the Executive Directors). We recommended that SED review the disallowances identified in our report, adjust the Child School's CFRs and tuition reimbursement rates for the audit scope period as appropriate, and work with school officials to ensure they understand and comply with the RCM and the CFR Claiming Manual. In addition, we recommended that the Child School ensure that costs reported on the CFRs prepared after the scope period comply with the RCM requirements. ([2012-S-67](#))
- **Whispering Pines Preschool, Inc.** - Whispering Pines is a SED-approved, for-profit special education provider of center- and home-based services to infants, toddlers, and preschool-age children in nine counties. Whispering Pines has three sites (Delanson, Cobleskill, and Amsterdam, New York). For the two fiscal years ended June 30, 2012, Whispering Pines reported about \$6.1 million in reimbursable costs on its CFRs for three rate-based programs. We determined Whispering Pines claimed \$146,972 in ineligible costs for the three rate-based programs for the two years: \$71,397 in personal service costs consisting of salary and fringe benefits paid to the Director's husband and bonuses paid to some personnel; and \$75,575 in non-personal service costs, including \$33,688 in ineligible or unnecessary vehicle and equipment costs, \$25,644 in ineligible interest expense, \$3,798 in unnecessary contracted services, and \$12,445 in other non-reimbursable costs. We recommended that SED review the disallowances resulting from our audit, adjust Whispering Pines' CFRs and tuition reimbursement rates as appropriate, and remind Whispering Pines officials of the pertinent SED guidelines that relate to the deficiencies we identified. We also recommended that Whispering Pines ensure that costs

reported on its annual CFRs fully comply with SED's requirements, and communicate with SED to get clarification as needed. ([2013-S-48](#))

- **Whitestone School for Child Development** - Whitestone, located in Queens, New York, is a not-for-profit organization that provides a full-day preschool special education program to disabled children between the ages of three and five years. For the fiscal year ended June 30, 2013, Whitestone reported approximately \$2.3 million in reimbursable costs for the programs. For the three fiscal years ended June 30, 2013, we identified \$154,563 in reported costs that did not comply with RCM requirements, including \$115,296 in personal services costs (e.g., payroll expenses, employee bonuses) and \$39,267 in other than personal service costs (e.g., student recruitment costs, vehicle expenses). We recommended that SED review the disallowances identified in this audit and make the appropriate adjustments to Whitestone's CFRs and reimbursement rates, and work with Whitestone officials to help ensure their proper reporting of reimbursable costs. We also recommended that Whitestone ensure that costs reported on its annual CFRs comply with RCM requirements. ([2014-S-38](#))

State University of New York (SUNY)

Selected Procurement and Contracting Practices - SUNY consists of 64 colleges throughout the State and a central administrative office (System Administration) in Albany. SUNY's non-personal services expenditures are more than \$3 billion annually. System Administration is responsible for establishing policies that comply with applicable State procurement laws, rules, and regulations. The Education Law grants SUNY increased flexibility in obtaining goods and services, both through less stringent purchasing and procurement requirements and through higher dollar thresholds for specific purchasing requirements. System Administration generally allows campuses to operate their procurement functions autonomously, but has issued procurement guidelines that campuses are expected to follow to ensure goods and services are obtained at reasonable, competitive prices. SUNY officials have generally established good internal controls over procurement and have effectively communicated these procedures to the campuses. Our tests at seven campuses and System Administration found, however, that they do not consistently follow some procurement policies. For example, of 924 procurements we reviewed, 97 in the \$500 to \$250,000 range, totaling more than \$1.1 million, lacked required documentation to demonstrate that the price was reasonable. In some cases, campuses need to be more compliant, but in other areas – such as the current limits on procurement card transactions – SUNY should consider revising its policies to be more in line with actual business practices, which could allow greater focus on higher-cost and higher-risk transactions. We also identified some campus practices that go beyond SUNY's requirements to manage costs and could serve as best practice examples for other SUNY colleges. We recommended that SUNY: remind campuses of the need to comply with important procurement policies, including, but not limited to, documenting that prices are reasonable; update the procurement card policy related to cardholders' transaction limits to be more consistent with campus needs and business practices; and enhance efforts to encourage campuses to identify, share, and adopt common best practices to manage costs and ensure efficiency. ([2014-S-19](#))

City University of New York (CUNY)

School of Professional Studies: Procurement Card and Travel Card Purchases - The CUNY School of Professional Studies (SPS) was founded in 2003 to meet the educational needs of working adults, organizations, and employers. The school's enrollment includes more than 2,200 students in its credit-bearing programs and more than 10,000 non-credit registrants. From fiscal years 2009 to 2013, SPS's revenues increased from \$7.94 million to \$17.54 million and its expenses increased from \$8.11 million to \$16.55 million. When procuring goods and services, SPS is required to follow prescribed State requirements. In addition, CUNY uses the State's Procurement Card (P-Card) and Travel Card Programs to expedite small-dollar and travel-related purchases. CUNY imposes certain restrictions of the use of these cards, as established in its purchasing guidelines. For the period April 1, 2009 to June 13, 2013,

SPS made 2,107 P-Card purchases totaling about \$2.4 million and 211 Travel Card charges totaling about \$123,000. We determined SPS charged over \$500,000 in advertising services to its State-issued P-Cards instead of contracting for these services, as CUNY purchasing guidelines require. In addition, SPS used a P-Card to purchase a total of \$283,701 in printing services from one vendor instead of soliciting competitive bids for printing services in excess of \$5,000, as required by the New York State Printing and Public Documents Law. Further, a State-issued Travel Card was used inappropriately to purchase several meals from New York City restaurants for employees not on travel assignments, to pay for office holiday parties, and to pay for lodging and airfare totaling \$6,546 for seven persons, five of whom were not SPS employees. We recommended that CUNY SPS comply with State and CUNY procurement guidelines, and ensure that P-Cards and Travel Cards are used only for appropriate transactions and that P-Card monthly audits are conducted timely and appropriately. ([2013-S-39](#))

Controls Over Bank Accounts - As of December 1, 2013, the CUNY School of Professional Studies (CUNY SPS) reported it had four bank accounts – for Tuition and Fees, School Depository, Tax Levy funds, and the CUNY SPS Foundation – at two financial institutions. We found a lack of separation of duties in the handling of CUNY SPS finances, poor internal controls over bank accounts held in the school's name, and inadequate formal policies to open and close bank accounts. As a result, a former Director of Business and Fiscal Operations at CUNY SPS had complete control over all aspects of the school's finances and bank accounts, and was able to obtain and sign checks for significant dollar amounts and use them to open two unauthorized bank accounts in the name of CUNY SPS. As of the end of our audit fieldwork, \$23,500 remained missing from a CUNY SPS account. (2014-S-78)

York College: Time and Attendance Practices for Public Safety Staff - CUNY's Central Administration (CUNY Central) provides general oversight of CUNY operations, including monitoring academic development, and other activities at its individual colleges. At York College (York), located in Jamaica, Queens, the Department of Public Safety (Department) is responsible for the enforcement of all college rules, as well as State and local laws, throughout the school's eight buildings. The Department consists of a director, campus Public Safety officers, and campus security assistants, as well as contract security officers. In 2013, the Department had 42 Public Safety employees, at an annual payroll cost (including outside contractors) of about \$2,071,000; of this amount, \$330,500 (16 percent) was overtime pay. We determined CUNY Central had not provided sufficient guidance and oversight to the colleges with respect to time and attendance controls, including those for overtime. Further, neither CUNY Central nor York had adequate internal controls over time and attendance for Public Safety officers, which likely resulted in the payment of unauthorized and/or excessive overtime costs. Officials did not verify hours worked by Department staff; officers altered their time cards by writing over the machine-generated time stamps; and officers were sometimes paid for time not worked. In addition, the Department's scheduling practices – specifically, staffing an overnight shift on an overtime basis rather than as a regular shift – resulted in significant amounts of overtime for certain employees. We recommended that CUNY Central develop and implement formal comprehensive policies and procedures for Public Safety officer timekeeping and overtime, and provide oversight to ensure compliance. We also recommended that York: develop and implement formal comprehensive policies and procedures for Public Safety officer timekeeping, and actively monitor compliance; prepare an overtime budget for the Department, and compare with actual overtime; ensure the Department plans its overtime needs based on efficient use of all staff; and minimize overtime costs by establishing regular shifts or using contracted officers when the shifts are anticipated for an extended period. ([2013-S-65](#))

TRANSPORTATION

Several State agencies and public authorities are responsible for maintaining and regulating various types of transportation systems in New York State. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Transportation **(DOT)**

Collection of Special Hauling and Divisible Load Overweight Permit Fees - DOT is responsible for regulating the movement of oversize and overweight vehicles and loads on the State highway system through a permitting process. Collectively, special hauling permits – issued by DOT’s Central Permits Bureau (Bureau) as well as its regional offices – and divisible load overweight permits, issued only by the Bureau, help ensure a safe and efficient transportation system for the traveling public and protect the integrity and reliability of the State’s highways and bridges. From April 1, 2012 through September 30, 2014, DOT records indicate the Bureau issued about 75,000 divisible load overweight permits valued at approximately \$40 million, as well as about 229,000 special hauling permits totaling approximately \$13 million. For the same period, the regional offices issued about 31,000 special hauling permits, with reported fees totaling about \$3 million. Although DOT accurately charged and collected the correct fee for each transaction we tested, we found significant and pervasive weaknesses in internal control at the regional office level that decrease assurance that all permits are appropriately recorded and that correct fees are collected and deposited. These deficiencies include poor accountability for permits issued and fees collected, a lack of segregation of duties for permit transactions, and minimal oversight by both the central and regional offices. Several regional offices are also at increased risk because they have devised systems to informally hold supplies of pre-signed checks provided by select repeat customers in an effort to make their application experiences easier and faster. We recommended that DOT: improve internal controls over permits issued by regional offices by separating key duties and functions, improving accountability over all permits, and increasing oversight over permit transactions; and explore additional options for payments made at the regional level so as to eliminate responsibility for pre-signed checks submitted by select customers. ([2014-S-52](#))

Collection of Lease and Permit Revenues (Follow-Up) - DOT issues temporary permits allowing the holder to use DOT land that is otherwise not in continual use. DOT is responsible for billing and collecting the amount due on those permits. When a permit holder is more than 30 days past due, DOT adds a penalty and interest on the unpaid balance. According to its records, DOT received \$4 million in permit fees (including \$7,336 in interest) during the 2014 calendar year. As of December 31, 2014, unpaid lease and permit fees totaled approximately \$6.3 million, of which \$5.6 million was over 720 days past due. Our initial report ([2012-S-6](#)) determined DOT was not collecting all unpaid lease and permit fees. At the time of our audit, DOT was owed \$6 million in lease and permit revenues, including \$2.4 million between two and six years past due and another \$1.4 million at least six years past due. Of 45 permits with past due balances we reviewed, DOT had not taken action on eight permits with a total amount outstanding of \$417,000. Of the 61 permits we identified that could have been referred to the Office of the Attorney General, DOT had referred only two. We found DOT needed to improve communications between and guidance given to the units that issue permits and that bill permit holders, and made three recommendations in support of this. In addition, we recommended DOT refer delinquent accounts to the Office of the Attorney General, as required. In our follow-up, we found DOT had implemented each of the four recommendations in our initial report. ([2015-F-1](#))

Review of Real Property Holdings for Disposal (Follow-Up) - DOT is responsible for more than 113,000 miles of highways and tens of thousands of acres of property throughout the State, including property currently not being used or purchased for projects that were later cancelled or changed. DOT generally sells its surplus property through public auction, sealed bids, or private sales, though it may

transfer property to another State agency or municipality for public benefit. DOT's Property Executive Review Group must review properties identified for disposition and formally recommend them as surplus before they can be sold. Our initial report ([2010-S-48](#)) determined DOT was not reviewing its real property holdings to identify properties for sale or disposal. We identified 18 potential surplus properties with an estimated value of \$7.1 million that may no longer have been needed for transportation purposes and could have been disposed of or sold to generate revenue for the State. In addition, when DOT leased out property, it may not have maximized revenue because it did not review property permit fees on a regular basis. We recommended that DOT: regularly review real property holdings to determine whether they should be designated as surplus and disposed of; modify its electronic property management system to include essential information such as value, usage, and restrictions, and periodically review the information to prioritize properties that could be surplus for review and potential disposal; require the regional offices to regularly review real property holdings to determine whether they should be designated as surplus and disposed of; develop and implement methods to inform the public and potential buyers about excess property available for sales inquiries; and monitor compliance with DOT procedures to review permits and update them as appropriate. In our follow-up, we determined that DOT had implemented each of the five recommendations from our initial report. ([2015-F-2](#))

Metropolitan Transportation Authority **(MTA)**

MTA-NYC Transit Medical Assessment Centers - The MTA has six operating constituent agencies, two of which – MTA Bus Company (MTA Bus) and New York City Transit (Transit) – provide bus service. In 2008, the MTA established its Regional Bus Operations (RBO) to consolidate maintenance and transportation operations of MTA Bus and Transit into one operating unit. Transit policy requires medical assessments for a broad selection of its employees, and MTA Bus has adopted similar policies for its employees. For RBO employees, these medical examinations and assessments are done at one of Transit's five Medical Assessment Center (MAC) locations or, when testing is needed after regular business hours, at a 24-hour lab located in downtown Brooklyn. Initially, rather than using the MACs, MTA Bus used a contractor to provide medical examinations and assessments for its employees. We conducted this audit to determine whether the MACs performed medical examinations for Transit and MTA Bus employees in an economical manner. On a unit cost basis, we determined that the MACs were not more costly than the contractor; however, we also identified opportunities for increased efficiencies in the MAC program. Specifically, there were widely varying practices regarding the amount of time employees were authorized to use for MAC visits among the 22 bus depots we visited. An employee could be paid as much as \$360.22 at a depot that paid for a workday at overtime rates or as little as \$86.28 at a depot that paid for three hours at regular pay. In addition, employees were not always assigned to the closest MAC, costing about \$151,000 in additional time during our audit period. We recommended the MTA formally review the varying depot policies pertaining to time and attendance related to employees' MAC visits and, as warranted, establish policies to ensure that time allotments for MAC visits are reasonable; and review depot assignments to designated MACs and adjust as warranted. ([2013-S-33](#))

Headquarters and Capital Construction Travel and Entertainment Expenses - The MTA has six constituent agencies, including MTA Capital Construction (MTACC), which is responsible for the planning, design, and construction of major MTA projects, as well as a Headquarters (MTAHQ), which provides administrative support services for the six constituent agencies. In its All-Agency Travel Policy Directive, the MTA established travel and business expense guidelines that pertain to MTAHQ as well as the constituent agencies. From January 1, 2011 to October 2, 2013, MTAHQ and MTACC spent \$1,217,483 on travel and another \$85,568 on entertainment. We determined MTAHQ and MTACC have opportunities to strengthen controls over travel and entertainment, which could help reduce certain costs. For example, MTA could have saved \$9,326 if federal lodging rate limits had been applied. In addition, certain travel transactions lacked proper prior approvals, statements of purpose, or other required supporting travel documentation. Also, we identified weaknesses in certain controls pertaining to the use of MTA corporate travel and procurement cards. We recommended that MTA: revise its All-Agency Travel Policy Directive to require that its travel agent and employees request federal lodging rates, and when unsuccessful in obtaining such rates, to document those efforts; advise supervisors who approve employee travel to verify that lodging rates are consistent with federal rate limits; and establish controls to ensure that travelers

obtain proper prior approvals and submit travel justifications and supporting documentation, as required by the MTA travel policy directive. ([2013-S-47](#))

Long Island Rail Road: Selected Travel Expenses - The Long Island Railroad (LIRR) is an MTA constituent agency responsible for providing high-efficiency commuter rail service between New York City and points throughout Long Island. The MTA issues policies, procedures, and rules for its staff to follow, including its All-Agency Travel Policy Directive (Directive) covering business and travel expenses. In addition, the LIRR has established a supplemental travel policy that covers the use of cash advances, mileage when an employee is in official travel status, and mileage reimbursement for a personal vehicle when an employee is not in official travel status. We determined the MTA's Directive does not clearly state all the requirements or procedures the staff need to follow with regard to travel-related transactions, which caused the LIRR to incur greater expenses than necessary. In addition, LIRR employees did not return unused cash advances within the required time frame established in the LIRR travel policy, and LIRR officials did not perform any cost-benefit analyses for personal vehicle usage, as required. Among our recommendations to MTA: revise the Directive to require that the MTA's official travel agent and employees request federal lodging rates and, when unsuccessful in obtaining those rates, to document those efforts; perform cost-benefit analyses to ensure that personal vehicle use is in the best interest of the agency compared with other options (e.g., rental vehicle); and develop a formal system to track employee travel advances. ([2013-S-77](#))

NYC Transit, MTA Bus Company, and MTA Bridges and Tunnels: Selected Aspects of Travel Expenses - The MTA comprises six constituent agencies – New York City Transit (Transit), MTA Bus Company (MTA Bus), MTA Bridges and Tunnels (B&T), Long Island Rail Road, Metro-North Railroad, and MTA Capital Construction – and a Headquarters, which provides administrative support. In its All-Agency Travel Policy Directive, the MTA established certain travel and business expense stipulations, including the provision that “State or Government discount rates should be secured whenever possible.” Since July 2009, MTA has contracted with a firm to act as the official travel agent for the MTA and its constituent agencies. The contract stipulates that the travel agent will book lodging at the lowest applicable and available rates. MTA agencies are required to use MTA's travel agent for all travel arrangements, except in certain situations (e.g., when more economical group lodging rates are otherwise available). During our review period, Transit, MTA Bus, and B&T spent a total of about \$2.1 million for travel and entertainment. We determined Transit, MTA Bus, and B&T did not always attempt to secure the lowest lodging rates and incurred expenses that exceeded U.S. General Services Administration (GSA) lodging rates by a total of about \$135,000. Among our key recommendations to the MTA: revise the All-Agency Travel Policy Directive to require its travel agent and MTA employees to request GSA or U.S. Department of State (DOS) lodging rates, and when unsuccessful in obtaining such rates, to document their efforts; formally direct officials who approve claims for travel reimbursements to verify that lodging rates are consistent with GSA and DOS rate limits, or ensure that unsuccessful efforts to obtain these rates are adequately documented; and actively monitor compliance of the MTA's travel agent with contract terms regarding the use of government rates for lodging. ([2013-S-79](#))

Contract Participation of Minority- and Women-Owned Business Enterprises - In support of Executive Law (Law) requiring State agencies and public authorities to promote the participation of minority- and women-owned business enterprises (MWBEs) in their contracts, State agencies and public authorities must establish annual goals for MWBE participation, make a “good faith” effort to achieve their goals, and report quarterly on their level of participation to Department of Economic Development (DED). A 2011 OSC audit ([2010-S-9](#)) of MTA's MWBE reporting found the MTA: had not shown its goals were reasonable; consistently fell short of reaching its goals; did not accurately report the results of its efforts; and overstated the extent of MWBE participation in its procurements. In that report, OSC made recommendations to improve MTA's compliance with the Law. MTA agreed with the recommendations and stated it had taken steps toward corrective actions. Despite the MTA's agreement with the recommendations and assurance of corrective actions, in this audit we found that many of the conditions identified previously still exist. In particular, weaknesses in controls over MWBE reporting continue and have resulted in inaccurately reported MWBE utilization numbers as well as an increased risk of fraud. The unreliability of MWBE utilization data results in a questionable baseline for managing a critical program and assessing performance. Until management takes decisive steps to address these

weaknesses, neither the public nor MTA management can depend on this data as a reliable source of information. We found MTA's Department of Diversity and Civil Rights (DDCR) uses self-reported information from prime contractors to support the MWBE subcontractor utilization data it reports to DED. However, DDCR often could not support amounts reported to DED as MWBE participation. Of our sample of 128 payments totaling \$42.7 million, more than half were either unsupported or inaccurately reported. Furthermore, based on prime and subcontractor responses to our request for confirmation of reported payments, of 142 payments totaling \$38.7 million, more than half – accounting for \$24.7 million – did not match the amounts DDCR reports. We made five recommendations to MTA to ensure all reported payments made to MWBEs are documented and support that an MWBE performed the work and was paid for such work. ([2014-S-6](#))

New York City Transit Trash Can Free Stations Pilot Program - New York City Transit (Transit) provides rapid transit services and has a fleet of more than 6,300 subway cars, which operate along 660 miles of track, 24 hours a day, seven days a week. Transit's Department of Subways (Subways) engages in several activities to maintain station cleanliness. Subways' Station Environment and Operations (SEO) is responsible for station cleaning, station maintenance, and refuse collection for Transit's 468 subway stations throughout Brooklyn, the Bronx, Manhattan, and Queens. Transit sought to improve customers' subway experience by reducing the overflow of trash bags on platforms, thereby also reducing the rodent population. In response, in October 2011, SEO began the "Trash Can Free Stations Pilot Program" at selected stations. The Pilot Program was launched at two stations initially and later expanded to 37 additional stations. We found there were significant limitations in Transit's efforts and methods to evaluate the progress of the Pilot Program. Consequently, it was unclear whether the Pilot Program sufficiently achieved its stated goals to improve customers' experience and reduce the rodent population and whether it should have been expanded. Transit did not post outreach notices explaining and promoting the Pilot Program in many of the selected stations. We recommended that MTA: review the results of the Pilot Program, assess performance against its purposes, and determine whether to continue the Pilot Program; consult with the MTA Board regarding impact on riders; and prominently post notices at all stations selected for the Pilot Program announcing the change and periodically remind customers of the stations with no trash cans. ([2014-S-29](#))

New York City Transit: Train On-Time Performance - New York City Transit (Transit) provides rapid transit services in New York City (excluding Staten Island) 24 hours a day, 7 days a week according to established schedules for each of the subways' 20 interconnected lines and three shuttles. Transit's Department of Subways (Subways) considers a train on time when it is not canceled or abandoned en route and when it arrives at the end terminal not more than five minutes after its scheduled arrival time. Subways establishes annual on-time performance (OTP) goals; for calendar years 2013 and 2014, the goal was 91.9 percent. Subways' Department of Rapid Transit Operations reports train delay percentages for each line, delays by category, and OTP statistics to management and the MTA Board's Transit and Bus Committee on a two-month delay. In addition, Subways collects information of its daily operations pertaining to delays and distributes it the next day to its district managers and Transit support units. Based on our review of Subways' reports, we found actual OTP in 2013 and 2014 was well below the goal of 91.9 percent: for 2013, weekday and weekend OTP averaged 80.5 percent and 85.4 percent, respectively; and for 2014, weekday and weekend OTP averaged 74.0 percent and 81.2 percent, respectively. On balance, there has been a persistent decline in OTP during the period. For the period March 2013 through March 2014, Subways reported 498,889 total delays. We found that, in most cases, Subways took appropriate actions to address individual incidents as they occurred. However, Subways lacked a formal process to assess the underlying causes of the delays and develop comprehensive corrective action plans to help minimize them. We recommended that MTA: identify the underlying causes of recurring train delays; develop corrective action plans to proactively address them; and require monthly feedback from Subways managers on the actions taken to address recurring categories of train delays. ([2014-S-56](#))

Staten Island Railway: On-Time Performance - Staten Island Railway (SIR) operates one train line between Tottenville and the St. George Terminal, where customers can connect with the Staten Island Ferry to Manhattan. SIR trains run 24 hours a day, seven days a week. Organizationally, SIR reports to New York City Transit's (Transit) Department of Subways (Subways). SIR's schedule is designed to accommodate the Ferry, which is operated by the New York City Department of Transportation. A SIR

train is considered on time if it arrives at its destination not more than six minutes after the scheduled arrival time. SIR's on-time performance (OTP) is calculated as trips arriving on time divided by total scheduled trips; its OTP goal is 95 percent. On balance, SIR's OTP approached or exceeded its standard of 95 percent. However, we also noted that SIR doesn't completely report the timeliness of trains to the MTA Board's Transit and Bus Committee (Committee) and the public, omitting certain train delays – including those caused by the Ferry – which are thus excluded from OTP statistics. We observed that sometimes trains were held at the St. George Terminal beyond scheduled departure times to accommodate passengers disembarking from the Ferry, and trains headed to the Ferry were given priority over scheduled outbound departures, causing such outbound trains to be delayed. We recommended that MTA revise the definition of SIR OTP on its website to clearly indicate that certain data is excluded from published OTP calculations and percentages, and maximize transparency and accuracy of data pertaining to actual OTP by reporting OTP statistics that include the Ferry to the Committee and the public. ([2015-S-56](#))

Subway Service Diversions for Maintenance and Capital Projects (Follow-Up) - New York City Transit (Transit) is responsible for completing capital projects and maintaining subway tracks to ensure that trains run safely. This work sometimes requires Transit to temporarily close down either all or a portion of a subway line (called a diversion). When possible, Transit diverts subway service to another subway line or uses shuttle buses to transport the public from one subway station to another. Our initial report ([2010-S-34](#)) determined that while Transit has a number of policies and procedures for managing and controlling subway diversions, more needed to be done. Specifically, we found that diversion costs were not adequately monitored, and daily work on diversions often started late and ended early. As a result, Transit could not justify why diversion costs exceeded budgets, and unproductive time associated with the late starts and early end times ranged from 10 to 27 percent. In addition, the public was not adequately informed about diversions, shuttle bus service was not planned using current ridership data, and the budget for diversion advertisements to communicate information about planned service changes appeared to be too low for a ridership of 2.3 billion annually. Our follow-up review found that Transit officials have made some progress in correcting the problems we identified. However, additional improvements were needed. Of the five prior audit recommendations, two were implemented, two were partially implemented, and one was not implemented. ([2014-F-10](#))

Contracts for Personal and Miscellaneous Services (Follow-Up) - Between January 1, 2005 and October 16, 2008, the MTA awarded an average of 700 personal and miscellaneous services contracts each year, expected to cost almost \$3 billion. It is therefore critical that the MTA has appropriate requirements for evaluating the need to contract for services. Our initial report ([2008-S-158](#)) determined that while the MTA's constituent agencies are required to determine whether services can be provided in-house before proceeding to contract, the agencies were not required to maintain documentation supporting this determination, and such documentation was often not prepared. Without documentation, there is no assurance that contracts for personal and miscellaneous services are always the most cost effective option. In addition, the MTA did not have a requirement to periodically assess whether existing personal and miscellaneous service contracts were still needed or whether they could be suspended or scaled back to help reduce costs. We made four recommendations for improving requirements for contracting for personal and miscellaneous services and for providing documentation to support compliance with existing requirements. In our follow-up, we determined the MTA had made some progress in implementing our recommendations. However, further improvements were needed. Of the four prior audit recommendations, two were partially implemented, one was not implemented, and one is no longer applicable. ([2014-F-11](#))

New York State Canal Corporation

Infrastructure and Maintenance - The New York State Canal Corporation (Corporation), a subsidiary of the New York State Thruway Authority (Thruway Authority), was created in 1992 to operate and maintain the New York State Canal System (Canal System). The Canal Law requires the Corporation to maintain the Canal System in good condition. The Corporation's Canal Structure Inspection Manual-95 has established inspection requirements and frequency standards, including in-depth inspections (Inspections) – both above and below water – of structural safety and integrity on a two-year cycle. Of the 2,065

structures the Corporation is required to inspect, 747 are deemed “critical” (e.g., dams and locks). We found that while the Corporation does perform routine operational and reliability checks of the Canal System’s critical structures, it has not performed the two-year Inspections of a significant number of these structures. In fact, some structures that the Corporation’s infrastructure management system identifies as critical have not had an Inspection in many years – and some not at all. The Corporation’s process for determining Inspection and maintenance priorities is inconsistent, and the basis for decisions is sometimes unclear. In numerous instances, we found no evidence that the Inspection results were considered when determining maintenance priorities. Thus, there is a risk that structures most in need of repair were not given priority. Despite the low rating of many of its critical structures, funding shortages have greatly inhibited the Corporation’s ability to address its priority maintenance needs, especially after the damage inflicted by major storms in recent years. We recommended the Corporation: conduct Inspections of any high- and intermediate-importance structures that have never had Inspections or where significant time has elapsed since the last Inspection; improve the clarity and effectiveness of the Inspection scheduling process for high- and intermediate-importance structures; and work with the Thruway Authority to develop a realistic, long-term, detailed strategic and financing plan aimed at improving the overall condition of the Canal System’s infrastructure while also dealing with emergency response. ([2014-S-45](#))

Port Authority of New York and New Jersey **(Port Authority)**

Management and Control of Employee Overtime Costs (Follow-Up) - The Port Authority was established in 1921 to promote and protect the commerce of the bi-state port and to undertake port and regional improvements not likely to be financed by private enterprise or to be attempted by either state alone. The Port Authority’s operating budget for 2010 was \$2.48 billion, including payroll costs for 6,977 staff. During 2010, the Port Authority paid \$85.7 million in overtime to 5,360 employees. Our initial report ([2009-S-87](#)) determined that the Port Authority generally did not effectively manage and control employee overtime costs, and we noted numerous examples of overtime payments in excess of \$75,000 annually to individuals whose salary base was at least \$75,000. We also found overtime transactions that lacked the proper prior approvals and justification. In addition, the Port Authority did not meet the 20 percent overtime reduction goal established in its 2010 budget to the Governors of New York and New Jersey. Finally, the Port Authority did not meet its informal benchmark requiring its departments not to exceed 15 percent of base salaries in overtime. Our follow-up found the Port Authority officials had made some progress in addressing the issues identified in our initial report. Of the four prior audit recommendations, one was implemented, two were partially implemented, and one was not implemented. ([2014-F-3](#))

Vehicle and Heavy Equipment Purchase Program (Follow-Up) - To purchase new vehicles and heavy equipment, Port Authority employees are required to follow certain procedures and document purchases on an annual Automotive Equipment Purchase Program. For the three years ended December 31, 2009, the Port Authority authorized the purchase of 616 vehicles and/or pieces of heavy equipment totaling \$48.2 million. Our initial report ([2009-S-32](#)) found that the Port Authority generally did not follow required procedures to ensure that the acquisition of vehicles and heavy equipment was justified. In a random sample of 75 items purchased for \$8.2 million, the Port Authority provided documentation for only two items totaling \$192,279. In addition, the Port Authority included funds for vehicle and equipment rentals in its annual Purchase Program. We also found that the car service contract amounts were excessive compared with the amount the Port Authority actually spent. We recommended certain improvements to strengthen the planning and oversight of vehicle and equipment purchases. In our follow-up, we determined that Port Authority had made some progress in addressing the issues identified. However, additional improvements were needed. Of the eight recommendations in our prior report, two were implemented, three were partially implemented, and three were not implemented. ([2014-F-2](#))

Rochester-Genesee Regional Transportation Authority **(RGRTA)**

Fuel Purchases - RGRTA’s eight regional subsidiaries provide public transportation services in Genesee, Livingston, Monroe, Orleans, Seneca, Wayne, and Wyoming counties. We conducted this audit to

determine whether RGRTA is purchasing the correct type of fuel, paying the proper amount for fuel, receiving the correct amount of fuel, and keeping accurate records of fuel supply and distribution. We found that RGRTA generally had adequate controls and accountability over fuel procurement, delivery, storage, and usage. However, we identified certain weaknesses in some of the subsidiaries' fuel purchasing and monitoring practices. Further, we found that RGRTA spent approximately \$11,000 more than necessary on fuel for two subsidiaries. We made several recommendations that would enable RGRTA to strengthen its subsidiaries' fuel purchasing and monitoring practices. In addition, we recommended that RGRTA re-evaluate subsidiary fuel agreements to determine if more competitive rates are available. ([2014-S-20](#))

Performance Incentive Program - Since 2005, RGRTA has had a Performance Incentive Program to reward its employees for meeting performance goals. We conducted this audit to determine whether the program used reasonable criteria to measure employee performance and whether incentive awards are warranted and justified. We found that the program focused on collective rather than individual performance and directed the bulk of incentive awards to upper management. Further, RGRTA awarded its executives larger incentive awards than those paid by other upstate New York transportation authorities. Based on our comparison of these authorities' ridership and financial statistics, we identified no compelling reason for RGRTA's higher incentive payments. We recommended that RGRTA establish performance measures for program award eligibility that are clearly differentiated from employees' normal job duties and are tied to individualized effort, not collective performance, and ensure that program policy decisions are supported by appropriate comprehensive research and empirical data, including analysis of operating trends and comparison with other transportation organizations. ([2014-S-2](#))

CRIMINAL JUSTICE AND JUDICIAL ADMINISTRATION

Several State agencies are responsible for the administration and support of New York State's criminal justice system and its unified court system. The following summarizes the results of our audits during the past year at these State agencies.

Division of State Police

Seized Assets Program - During the course of an investigation or an arrest, law enforcement agencies may seize assets (e.g., cash, personal and real property, vehicles) that are suspected of being used to conduct criminal activity, are the proceeds from a criminal activity, or were purchased with the proceeds of a criminal activity. Within the Division of State Police (Division), the Asset Seizure Unit is responsible for ensuring proper processing and tracking of asset seizure cases, even when another law enforcement agency takes custody of the seized assets. If a judicial or administrative process determines the seized assets should be forfeited, the participating law enforcement entities share the net proceeds, which are distributed based on local, State, and federal laws and guidelines as well as any formal agreements. Funds received from forfeited assets are to be used to enhance law enforcement efforts. As of September 2013, the Division was tracking 5,047 pending seized assets valued at \$2.012 billion. We found the Division did not properly account for or track seized assets, resulting in limited assurance that the Division receives its correct share of proceeds. In addition, the Division had custody of more than \$700,000 in seized assets classified as abandoned, which should have been turned over to the OSC's Office of Unclaimed Funds. Furthermore, individual troops did not always report asset seizures to Division Headquarters. We made several recommendations to ensure the Division obtains the proper share of any proceeds from forfeited assets and that Division records accurately reflect up-to-date information about all seized assets. ([2013-S-46](#))

Office of the Nassau County Public Administrator
(NCPA)

Selected Financial Management and Administrative Practices - Court-appointed Public Administrators are responsible for administering the estates of individuals who die intestate (without a will) and leave either no known heirs or heirs who are not qualified or willing to administer the estate. The Public Administrator liquidates estate assets, pays estate expenses, and distributes any residual value to estate beneficiaries. Any unclaimed funds are remitted to New York State after the statutory time period. Each Public Administrator maintains a suspense account to pay estate-related expenses not covered by the Public Administrator's appropriated county budget and prior to liquidating estate assets. The suspense accounts are funded by a fee set by the Surrogate's Court on the closing value of each administered estate. As of December 31, 2013, the NCPA reported a caseload of 168 open estates with an estimated gross value in excess of \$44 million. We found the NCPA did not have documentation to support the hiring and compensation of employees paid through the suspense account, as otherwise required by governing regulations and guidelines. The average monthly balance in the NCPA's suspense account dropped from \$241,214 in 2010 to \$74,442 in 2013 – a decrease of \$166,772 (69 percent). Although the NCPA publicly advertised for vendors annually, it did not prepare the required list of preferred vendors until 2013. Additionally, several vendors did not complete the required Application to Provide Services. The NCPA also did not maintain written documentation justifying the selection of particular vendors as required by the governing guidelines. Further, certain estate assets were put up for sale without the documented formal prior approval of the Surrogate's Court pursuant to statute. We recommended that NCPA: document the justification for the hiring of, and related payments to, employees financed by the NCPA suspense account; determine ways to minimize expenses associated with the suspense account; update the outside vendor list annually, justify the placement of each vendor on the list, and use only vendors that have properly applied; and prepare each annual report to the State Comptroller as required. ([2013-S-37](#))

Unified Court System
(UCS)

Legal Aid Society - We sought to determine whether payments UCS made to the Legal Aid Society of New York City (Legal Aid) from April 1, 2012 through March 31, 2013 were appropriate under the terms and conditions of the contract. The Attorneys for Children Program (AFC Program) provides legal representation and associated support services to minors residing in ten New York counties. To carry out the AFC Program in the New York City region, for the period January 1, 2010 through December 31, 2014, UCS entered into a \$236,512,842 contract with Legal Aid. Legal Aid comprises a Civil Practice, a Criminal Practice, and a Juvenile Rights Practice (JRP). The JRP administers the AFC Program through the contract with UCS. During our examination period, UCS paid Legal Aid quarterly advances totaling \$39,450,972 (100 percent of the amount budgeted for the annual period). We reviewed select payments totaling \$5,448,384 UCS made to Legal Aid for salaries, equipment, and real estate rentals and found Legal Aid spent these AFC program funds appropriately. However, UCS overpaid Legal Aid \$412,184 for fringe benefit expenses that were not actual and allowable under the terms and conditions of the contract. Legal Aid did not appropriately reconcile fringe benefits at year end, moved funds in every non-personal services budget category without providing UCS with the required notification, and moved \$546,803 from non-personal services budget categories to personal services budget categories without obtaining the required prior written approval from UCS. UCS officials did not timely identify these inappropriate and/or unreconciled expenses or the unapproved movement of funds between budget categories. Had UCS exercised the appropriate level of scrutiny over the AFC Program, officials may have increased the likelihood of identifying the inappropriate expenses. We recommended that UCS: recover \$412,184 overpaid to Legal Aid for fringe benefit expenses during the examination period; determine the amount of actual fringe benefit expenses Legal Aid incurred since the inception of the contract in 2010 and recover any additional overpayments; ensure Legal Aid performs sufficient reconciliations as required by the contract; modify the budget and reconciliation reports to ensure transparency and accountability for contract funds; ensure Legal Aid obtains prior approval from UCS before interchanging funds between budget categories; promote an environment that emphasizes the importance of internal controls and professional skepticism by monitoring to ensure Legal Aid is meeting the terms and conditions of the

contract; and consider reviewing terms and conditions of other contracts with Legal Aid to determine if payments for fringe benefit and administrative expenses were appropriate. ([2012-0076](#))

GOVERNMENT SUPPORT AGENCIES

Some State agencies and public authorities provide services that support the operations of State and local governments. These activities involve billions of dollars annually. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Civil Service **(Civil Service)**

New York State Health Insurance Program

Under the New York State Health Insurance Program (NYSHIP), Civil Service administers health insurance programs for active and retired State, local government, and school district employees and their dependents. The primary such program is the Empire Plan (Plan), which costs the State and local governments about \$6.5 billion each year. Civil Service contracts with United Healthcare to process medical claims, with Empire BlueCross BlueShield (Empire) to process hospital claims, and with CVS Caremark to process prescription drug claims for the Plan.

UnitedHealthcare: Improper Payments for Medical Services Designated by Modifier Code 59 - NYSHIP provides health insurance coverage to more than 1.2 million active and retired State, participating local government, and school district employees and their dependents. Civil Service contracts with UnitedHealthcare (United) to process and pay medical and surgical claims for services provided to Empire Plan members. United's payments to medical providers are based, in part, on procedure codes billed on claims that indicate the medical services performed. United will not pay for certain procedure codes billed in combination with other procedure codes unless the provider includes a modifier code on the claim to further describe the services performed. Modifier 59 is used to indicate that a provider performed a procedure that was distinct or independent from another procedure performed on the same day for the same patient. From September 1, 2012 to August 31, 2013, United paid over \$82.3 million for about 1.3 million services with modifier 59. For 13 (5.3 percent) of the 245 claims we tested, a distinct or independent service was not provided despite the service's designation of modifier 59, resulting in overpayments totaling \$39,345. Using statistically valid methods, we estimate, with a 90 percent confidence level, that United overpaid between \$1.6 million and \$5.2 million during the one-year period ended August 31, 2013 because providers improperly applied modifier 59 to their claims. We recommended that United: formally remind providers on the proper use of modifier 59 for claims preparation and submission; recover the \$39,345 in overpayments identified by our audit; and, as priorities and resources permit, review the claims of higher-risk providers and recover any overpayments identified. ([2013-S-82](#))

Empire BlueCross BlueShield: Selected Payments for Special Items for the Period April 1, 2011 Through June 30, 2011 (Follow-Up) - Empire processes Plan claims for hospital services in accordance with agreements it negotiates with member hospitals. Payments for hospital services generally are based on standard fee schedules. However, hospitals may be entitled to additional payments for special items (such as implants, drugs, and blood) that are not covered by the standard fee schedules. Many of Empire's agreements with member hospitals limit charges for special items, while agreements with other hospitals do not have such limitations. From April 1, 2011 to June 30, 2011, Empire paid over \$31 million for 19,032 claims for special items. In our initial report ([2011-S-42](#)), we determined Empire did not have adequate controls to ensure special items were paid according to contract limitations. As a result, Empire made a net overpayment of \$119,141 on 33 claims from hospitals that had contracts with Empire that

limited the amounts that could be charged for special items. We recommended that Empire: recover the net overpayment of \$119,141 for the improperly paid claims; ensure that all agreements with hospitals contain language that specifies the basis of reimbursement for special items; and develop and implement a system of internal controls to ensure that payments for special items are made according to agreements and supported by appropriate documentation. In our follow-up, we determined Empire had made considerable progress in implementing the recommendations in our initial audit report. ([2014-F-6](#))

Office of Information Technology Services
(ITS) (Formerly New York State Office for Technology)

Security and Effectiveness of the Department of Labor's Unemployment Insurance System - Established in November 2012 to consolidate and merge State agencies and streamline services, ITS is responsible for providing centralized information technology services to State agencies. The objective of this audit was to determine whether the Department of Labor's (Labor) Unemployment Insurance System is secure, operating effectively, and available to continue critical processing in the event of a disaster or mishap that disables normal processing. We found that the Unemployment Insurance System data has not yet been classified, as required by current Security Policy, even though 80 of the 83 unemployment insurance applications in use by Labor have been deemed mission critical. In addition, ITS did not have a Service Level Agreement in place governing responsibilities and services provided to Labor. We also found that although mainframe programming changes are logged, there is no indication of when these changes have been implemented, thereby reducing accountability. We recommended that ITS: complete the process of classifying the unemployment insurance data; complete and sign the new Service Level Agreement as soon as possible; and maintain a completion date of all patches/changes applied to Labor software to ensure the integrity of the unemployment insurance data. ([2014-S-9](#))

Security and Effectiveness of Division of Criminal Justice Services' Core Systems - ITS organized approximately 40 executive State agencies into nine clusters based on the type of service provided. The Division of Criminal Justice Services (DCJS) is one of eight agencies that make up the Public Safety Cluster. To determine whether DCJS's core systems are secure, operating effectively, and available to continue critical processing in the event of a disaster or mishap, we evaluated a range of system controls, including compliance with security standards, access management, change management, and system uptime. We identified several critical areas in need of improvement, including system availability, access controls, disaster recovery planning, business continuity planning, data classification, operating systems and software management, and change management. We also found that ITS has not always established adequate controls over its processes and procedures during the transition. We recommended that ITS: establish a Cluster process for granting, modifying, removing, tracking, and monitoring access privileges; establish a comprehensive process to inventory and monitor DCJS data, operating systems, and software assets; and establish Cluster-level backup and recovery policies. ([2014-S-24](#))

ECONOMIC DEVELOPMENT AND HOUSING

Several State agencies and public authorities seek to promote commerce, economic development, and affordable housing. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Economic Development
(DED)

Review of the Local Development Corporation of Laurelton, Rosedale, and Springfield Gardens - Our objective was to determine whether payments made to the Local Development Corporation of Laurelton, Rosedale and Springfield Gardens (LDC) under contract M050231 were for appropriate expenses. On April 28, 2014, DED made a \$16,250 advance payment to the LDC. On June 9, 2014, the

LDC claimed the remaining \$48,750 of the contract amount. To receive the second claim, the LDC needed to demonstrate that the entire \$65,000 in expenses was incurred during the contract period for work relevant to the contract objectives, and was for expenses not previously paid from another funding source. The LDC was able to substantiate only \$4,284 in expenses under the contract. As a result, we rejected LDC's claim for \$48,750. Consequently, the LDC has retained \$11,966 in advance funds for unsubstantiated expenses (\$16,250 advance less \$4,284 in supported expenses). We recommended DED recover from the LDC \$11,966 in advances as appropriate and ensure future requests for payment under contract M050231 are supported by sufficient, appropriate evidence. ([2015-BSE1-01](#))

Travel Card Transactions - We sought to assess the timeliness of reconciling credit card transactions against expense reports and the appropriateness of select travel card transactions at DED. The New York State Travel Manual requires travelers to submit expense reports timely to provide the information necessary to reconcile the travel card bill and dispute potentially fraudulent charges. When travel card charges remain unreconciled for more than 30 days, there is an increased risk of fraudulent or inappropriate transactions not being addressed appropriately. We found many DED travelers did not reconcile their credit card transactions timely. At the start of our examination (October 2014), DED had nearly \$90,000 in travel card charges that remained unreconciled by 46 employees for 31 to 618 days. As a result, DED Finance Office managers were unable to detect and stop inappropriate travel practices timely. In addition, we found DED Finance Office managers did not consistently hold employees accountable for unreconciled charges. Subsequent to our initial inquiries regarding the unreconciled charges in April 2014, Finance Office managers closed the International Director of Marketing's travel card account because he did not reconcile credit card charges for periods up to 588 days. However, they did not take the same action for Assistant Counsel, who – in addition to having \$9,634 in charges that remained unreconciled for periods up to 595 days – also owed \$105 back to the State for charging more on his travel card than he was entitled to receive in accordance with travel reimbursement rates. DED officials agreed with our recommendations. They stated DED will continue to implement procedures and processes to improve the timely submission of travel vouchers, has assigned staff to train travelers who continue to have issues with timely submission, and will also continue to review outstanding charges and hold employees accountable for their travel card charges. In addition, DED officials stated that unreconciled charges have dropped from \$90,000 at the time of our examination to just over \$14,000. We recommended that DED: complete the reconciliation process for the remaining unreconciled charges and bill employees for any overages; continue to develop and implement a process to ensure employees reconcile travel card charges consistent with the time frame in the New York State Travel Manual and promptly repay any moneys due to the State; and consistently hold employees accountable for unreconciled travel card charges. ([2015-BSE5-001](#))

Development Authority of the North Country **(DANC)**

Oversight of Procurements and Loan Programs - DANC is a self-supporting public benefit corporation overseen by a 13-member Board of Directors. DANC was created in 1985 under Article 8, Title 29 of the Public Authorities Law to provide infrastructure services and economic development in Jefferson, Lewis, and St. Lawrence counties. DANC operates a solid waste management facility, a fiber-optic network, and a water/sewer facility, and provides services to customers at Fort Drum and in surrounding counties. DANC has partnered with an energy company to create a gas-to-energy plant that converts methane, a by-product of waste, into electricity. In addition, DANC administers several State-funded loan programs that promote job creation and affordable housing. DANC spent \$21.6 million and \$15.2 million for all procurements during fiscal years 2012-13 and 2013-14, respectively. During our audit period, DANC also received payments on a total of 70 loans it had awarded for various purposes, including affordable housing, business development, and tourism enhancements. The outstanding balance on these loans was almost \$35 million as of December 31, 2014. Generally, we found that DANC officials have provided appropriate oversight for procurements and the loan programs, having established policies and procedures and maintained sufficient monitoring systems. However, we did identify some areas where DANC could improve its operations, specifically in terms of procurement reporting and determining reasonable cost. We recommended that DANC: establish procedures to ensure complete and accurate annual procurement reporting; to the extent possible, correct prior year Procurement Reports in the PARIS

online reporting system to promote greater accountability and transparency and to ensure that accurate information is available to the public and decision makers; and establish and enforce procedures to analyze the reasonableness of cost associated with all applicable procurements, and retain documentation supporting these efforts as an integral part of the procurement record. ([2015-S-3](#))

Empire State Development Corporation **(ESD)**

Marketing Service Performance Monitoring - ESD plans and conducts programs to promote travel, tourism, and business investment in the State in order to create a vigorous, growing economy; foster new job opportunities; increase revenues to the State and its municipalities; and achieve stable and diversified local economies. In support of these programs, in December 2011 ESD awarded a contract to BBDO USA LLC (BBDO), for an amount not to exceed \$50 million, as its non-exclusive, full-service advertising, marketing, branding, media, and communications agency. By September 2014, ESD had executed four amendments to this contract, bringing the total contract amount to \$211.5 million. Of this, \$36.5 million was specifically targeted to promote tourism and business in the wake of Hurricane Sandy, and the remaining \$175 million was available to be spent at ESD's discretion. We found ESD has an appropriate system of internal controls in place to ensure that it receives the advertising services for which it paid, and that those services are appropriately priced in keeping with the terms of its contract with BBDO. However, these controls focus on the specific services that are provided rather than on the results that are achieved. ESD did not quantify what it expects to achieve from its advertising efforts, and thus did not have an appropriate system to monitor, measure, and evaluate the extent to which any accomplishments or outcomes resulting from these efforts compared with expectations. ESD was unable to evaluate the extent to which its \$211.5 million planned investment contributed to achieving the purposes of the underlying programs or whether it was cost-effective. In fact, ESD officials rejected the idea that advertising programs should be measured against the results achieved by the underlying programs they aimed to benefit, except in the broadest terms. ESD did track certain measures that officials believe are indicative of possible program impact (e.g., website traffic, attendance at certain tourism attractions, business leads). However, officials consider any reported improvement in these measures, as well as other factors – such as the extent to which people perceive New York to be a good place for business development or to visit – as evidence that advertising programs are a success. ESD officials did not consider ways to account for any other factors that may influence these measures or assess whether the State received an appropriate return on its investment in these marketing services. We recommended that ESD: develop strategic plans that include performance measures for monitoring the extent to which marketing efforts have a positive impact on desired outcomes; set specific targets, goals, and benchmarks for evaluating performance outcomes and use these measures to monitor program performance; regularly evaluate the program outcomes associated with marketing efforts; and use this information to periodically adjust program goals, strategies, and resource allocations. ([2014-S-10](#))

Homes and Community Renewal **(Community Renewal)**

Administration of Tenant Complaints - Community Renewal consists of all the State's housing and community renewal agencies, including the Division of Housing and Community Renewal (Division), which is responsible for the supervision, maintenance, and development of affordable low- and moderate-income housing in New York State. The Division's Office of Rent Administration (Office) is responsible for administering New York State's rent laws. According to Office records, it received 19,653 tenant complaints (e.g., rent overcharges, decreased landlord services) during the audit period, of which 17,716 were resolved by March 6, 2014, and 5,883 were open as of May 15, 2014, including complaints received before and after our three-year scope period. We observed that it took an average of 6.7 months for complaints to be assigned to an examiner, with rent overcharge complaints taking an average of 14.8 months to be assigned. Of the tenant complaints resolved during the audit period, 31 percent took longer than a year to resolve, 8 percent took over two years, and some took as long as four years. We determined officials have not established criteria for how long it should take to assign, address, and/or resolve tenant complaints, and have not performed any recent staffing or productivity analyses to determine whether current staffing levels are adequate and whether existing employees are performing

efficiently. We recommended that Community Renewal: establish criteria for the amount of time it should take to assign, address, and resolve tenant complaints, and document the reasons why cases are not resolved within the prescribed time frames; investigate the circumstances surrounding long-term open cases and take steps to resolve them; and conduct an examiner staffing/productivity analysis and reassign Office staff as appropriate to align with complaint caseloads and complexity. ([2013-S-72](#))

Affordable Home Ownership Development Program - The Program, administered by the New York State Affordable Housing Corporation, a unit of Community Renewal, was established to promote homeownership for low- and moderate-income individuals and families and to stimulate the development, stabilization, and preservation of New York communities. Individual grants of up to \$40,000 per dwelling can be provided to eligible existing and/or prospective homeowners for new construction, home improvements, or acquisition and repair projects. Municipalities or community-based not-for-profit organizations (grant managers) contract with the Corporation and are responsible for determining recipient eligibility and disbursing grant funds. Recipients' annual income and liquid assets must be below the limits stipulated in the contracts between the Corporation and the various grant managers. In recent years, the Legislature has appropriated \$25 million annually for this Program. Most of the 69 Program recipients we reviewed met the Program's prescribed income and liquid asset eligibility criteria. However, two recipients had liquid assets that exceeded eligibility limits, and thus they were not eligible for their grants, which totaled \$67,000. We also questioned an award of \$28,000 to another Program recipient because it was unclear if the recipient exceeded the established annual income limit. We recommended that Community Renewal: provide training to grant managers on assessing applicant eligibility, particularly related to liquid asset and annual income limits; continue to periodically review grant managers' award files to verify applicants' compliance with Program eligibility requirements; take actions with grant managers who do not ensure full compliance with prescribed requirements; and clarify requirements for determinations of applicants' annual incomes, including reasonable estimates of variable income such as bonuses. ([2013-S-31](#))

Oversight and Monitoring of the Public Housing Modernization Program at the New York City Housing Authority - Community Renewal's Division of Housing and Community Renewal administers the Public Housing Modernization Program, which provides grants to public housing authorities to be used for major repairs. Since 1980, about \$308 million in State funding has been awarded to 31 public housing authorities through the Program. Of that amount, \$142.4 million was allocated for projects managed by the New York City Housing Authority (NYCHA). Under the 2010 "Omnibus Amendment to the Public Housing Modernization Contracts," \$42 million of NYCHA's Program funds were committed to its Marlboro Houses project, and an additional \$8.2 million was intended for certain non-Marlboro capital projects. At the time of the Amendment, the Division had approved Program funding for 77 NYCHA projects. We found the Division's monitoring of NYCHA's Program-funded projects to be weak. At the outset of our audit, Division officials did not have accurate and up-to-date management information regarding the status of NYCHA's projects. For example, five projects (totaling about \$4.6 million) that Division officials identified as completed were actually still in progress and eight of the ten projects identified as in progress were, in fact, completed. Division officials paid \$6.8 million for a change order for Marlboro that was not adequately supported; further, the change order added \$3.2 million to the original approved amount, resulting in the reallocation of funds designated for other projects. The Division did not have formal timeframes for awarding contracts once funding was approved. For most of the projects we reviewed, NYCHA took between 1 year, 9 months and 4 years, 7 months (and, in one case, 9 years, 9 months) just to award the contracts. Among our key recommendations: the Division should improve project monitoring of State-funded NYCHA housing programs; work with NYCHA officials to develop action plans to help ensure unfinished projects are completed on time; instruct NYCHA to require contractors to sufficiently detail and justify the basis for all change orders; and establish timeframes for NYCHA and other funding recipients to award project contracts. ([2014-S-21](#))

Preserving and Expanding Affordable Housing Opportunities - Access to a habitable and secure place to live is a basic human need, essential to good health and well-being. Keeping New Yorkers housed is costly, however: government spends billions of dollars annually to assist developers, owners, and renters. New York's challenge is to deploy public resources more effectively to provide quality, affordable housing to as many New Yorkers as possible. Toward that end, in 2013, Comptroller DiNapoli

began an audit initiative focused on affordable housing. The aims of the audit series are to examine the performance and oversight of affordable housing programs in New York State and New York City, identify risks, and recommend management improvements. The first three audits in this series reviewed the administration of nearly 20,000 tenant complaints and the awarding of \$230 million in government- funded low- interest loans for affordable housing repair and development. Enforcing maintenance and safety standards in rent- regulated housing is critical to preserving New York's dwindling supply of rent- stabilized and rent- controlled apartments. However, tenants who file complaints with Community Renewal's Office of Rent Administration wait, on average, 10 months for their complaints to be resolved. Auditors found that 15 percent of tenant complaints received during 2012 had not been assigned to an examiner two years later. Just 80 examiners – who also perform other duties – handle the 6,500 tenant complaints received each year. Credible governance of affordable housing loan programs is also critical for effective use of scarce housing resources. This means using transparent, uniform, and written criteria to avoid the appearance of favoritism in awarding loans. Auditors found that Community Renewal's Housing Trust Fund Corporation could not document why it approved 19 loans to developers, totaling \$34 million, against the recommendations of its professional staff. Similarly, the New York City Department of Housing Preservation and Development could not document why it gave a not- for- profit housing corporation, owned primarily by a for- profit developer, a lower loan interest rate than a not- for- profit, financially distressed housing corporation owned by its low- income residents. ([2014-D-1](#))

OTHER STATE AGENCIES AND PUBLIC AUTHORITIES

Various State agencies and public authorities perform such functions as protecting natural resources, managing parks, and regulating and licensing certain activities. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Agriculture and Markets **(Agriculture and Markets)**

Dairy Inspections - Agriculture and Markets' Milk Control and Dairy Services Unit is responsible for inspecting the State's dairy industry. The Unit also responds to consumer and producer complaints, conducts and supervises the licensing of certified industry inspectors, and performs economic industry functions such as ensuring dairy products are properly represented in labeling and advertising and ensuring an adequate supply of milk for the public. The Unit performed approximately 6,000 inspections at almost 1,400 locations in 2013. We found the Unit completed all mandated inspections for 2013 despite staffing shortages, but had to cut back on other goals it also considers important to quality control and safety, such as delivery vehicle inspections, plant raw and pasteurized milk sampling, and butterfat testing. In addition, inspectors consistently rated establishments in accordance with prescribed procedures and followed the appropriate disciplinary action when required. The Unit's inspections database is incomplete, precluding useful trend and other data analyses, which could improve the Unit's effectiveness and efficiency. We recommended that Agriculture and Markets develop the current capabilities of the inspections database, in conjunction with the Office of Information Technology Services, to easily and readily store, access, and analyze all inspection information. ([2014-S-16](#))

Annual Assessment of Market Orders for 2012, 2013, and 2014 - Within Agriculture and Markets, the Market Order Administration unit is responsible for administration of all farm product market orders, except those involving dairy products. Each specific market order detailed in Agriculture and Markets regulations is established to assist the industry in achieving a variety of objectives, including product promotion, advertising, and research. These market orders include the Apple Market Order, the Apple Research and Development Program, the Sour Cherry Market Order, the Onion Research and Development Program, and the Cabbage Research and Development Program. Article 25 of the Agriculture and Markets Law authorizes the market orders and allows for the collection of funds by

assessing growers to cover expenses. We found Agriculture and Markets has adequate procedures in place to ensure that it accurately reports its assessable expenses in all material aspects. However, it needs to improve its oversight of its Market Order Program, particularly its Apple Market Order, which is administered pursuant to a contract with the New York Apple Association, Inc. (NYAA). We recommended Agriculture and Markets follow up on the questionable expenses identified in our report, seek repayment for any inappropriate or ineligible expenses, and strengthen policies and enforce provisions of the Apple Market Order contract by developing written guidelines for expenses deemed necessary for NYAA's performance under its contract and by enforcing contract criteria for maintaining documentation to support expenses. ([2014-S-58](#))

Uncollected Penalties (Follow-Up) - Agriculture and Markets' mission is to foster a competitive food and agriculture industry that benefits producers and consumers while promoting public health and safety. Agriculture and Markets conducts inspections of various operations to ensure compliance with the Agriculture and Markets Law. Individuals and entities who violate the law first receive warnings seeking compliance. If problems are not corrected, monetary penalties can be assessed. Between April 1, 2007 and September 17, 2012, Agriculture and Markets assessed over 31,000 penalties totaling more than \$18.2 million. Of this amount, \$10.4 million (57 percent) was collected; \$2.2 million was waived; and \$3.9 million was written off as uncollectible. The remaining \$1.7 million was outstanding. Our initial report ([2012-S-69](#)) found that: outstanding accounts routinely had no collection activity for two years or more and were often deemed uncollectible; there was a lack of separation of duties associated with the collection of payments; and the system used to track outstanding penalties was incomplete and often inaccurate, and there was a lack of communication and information flow between the Penalty Unit and divisions. In our follow-up review, we found Agriculture and Markets officials have made progress in addressing the problems we identified in the initial audit. Of the eight prior audit recommendations, six were implemented and two were not. ([2015-F-8](#))

Food Safety Monitoring (Follow-Up) - Agriculture and Markets' Division of Food Safety and Inspection (Division) is responsible for enforcing State laws and Agriculture and Markets regulations related to food safety, which is a critical factor in maintaining the health and well-being of the people of New York State. The Division's objective is to ensure a safe and properly labeled food supply – from the producer to the retailer to the consumer. Our initial audit report ([2013-S-27](#)) found that the Division was unable to meet the demands of its inspection frequency schedule, and identified instances of both existing and new establishments preparing food prior to obtaining the required inspection as a result. In addition, the Division's staff of 82 inspectors was below the staffing level recommended by the U.S. Food and Drug Administration, and the Division lacked formal performance measurement systems. In our follow-up review, we found Agriculture and Markets officials had made significant progress in addressing the problems we identified. Of the three prior audit recommendations, two were implemented and one was partially implemented. ([2015-F-10](#))

Department of Environmental Conservation **(DEC)**

Selected Aspects of Inactive Hazardous Waste Site Remediation Cost Recovery - DEC is responsible for administering the Inactive Hazardous Waste Disposal Site Program (Program), also known as the State Superfund Program. We conducted this audit to determine whether DEC has effective systems in place to fully and accurately accumulate State costs related to site investigation and remediation, bill for and collect these costs from responsible parties in a timely manner, and identify and pursue parties responsible for the contamination of inactive hazardous waste sites. We found that DEC has taken steps to improve its Superfund billing process and the timeliness of billing, though improvements are still needed. DEC also takes reasonable steps to identify all potential responsible parties, and to obtain agreements with, or pursue enforcement efforts against, parties responsible for contaminating a site. We recommended that DEC explore additional ways to increase the efficiency and timeliness of the billing process, and work internally and with Department of Health officials to identify and implement ways to include more up-to-date costs in each bill. ([2014-S-14](#))

Collection and Use of Oil Spill Funds - The Laws of 1977 established the Oil Spill Fund to pay for the cleanup and removal of petroleum spills. DEC is responsible for providing technical assistance and oversight for spill remediation efforts; ensuring that only allowable costs are charged to the Fund; and licensing, registering, and collecting appropriate fees from petroleum storage facilities. Petroleum Bulk Storage (PBS) facilities (with a total petroleum storage capacity of less than 400,000 gallons) pay a five-year registration fee of up to \$500. Major Oil Storage Facilities (MOSFs), with a capacity of 400,000 gallons or more, generally must pay monthly licensing fees and surcharges based on the reported volume of petroleum products they transfer. During the two fiscal years ended March 31, 2014, the Fund collected about \$96 million, including about \$61 million from MOSFs, \$22 million from parties responsible for spills, \$8 million from PBS facilities, and \$5 million in federal disaster relief funding. For the same period, DEC spent about \$60 million for spill-related expenses and administrative costs, and transferred about \$30 million to the State's Hazardous Waste Remedial Fund. As of March 31, 2014, the balance in the Fund was approximately \$28 million. Our tests showed DEC generally collected all fees due the Fund for the facilities we tested. We identified four facilities that may be incorrectly registered as PBS operations instead of larger MOSFs, thereby potentially avoiding appropriate oversight and reporting as well as higher fees and surcharges. DEC's internal controls over payment of cleanup, administrative, and indirect costs provide reasonable assurance that only appropriate expenses were charged to the Fund. We recommended that DEC improve monitoring activities to verify the accuracy of information that facilities report as well as licensing status to identify facilities most at risk of inaccurate reporting, and follow up on the licensing status of the PBS facilities identified as potentially misclassified. ([2014-S-59](#))

Collection of Electronic Waste Fees - DEC's Division of Materials Management is responsible for administering the New York State Electronic Equipment Recycling and Reuse Act, which is intended to divert electronic waste (e-waste) from landfills and waste combustion facilities and keep toxins such as lead, mercury, and other hazardous materials from potentially contaminating the environment. The Act requires manufacturers of covered electronic equipment to set up and fund programs for the collection and recycling of e-waste in the State. The Act also requires manufacturers that sell more than 1,000 units of covered electronic equipment to register with DEC, pay a one-time registration fee of \$5,000, and then annually submit a report of their statewide sales and recycling data and pay an annual \$3,000 fee. Sales data is used to calculate a recycling acceptance standard for each manufacturer. If actual recycling falls below this standard, surcharges apply. Manufacturers may choose to participate in a collective e-waste acceptance program with other manufacturers. Each collective must pay a \$10,000 registration fee. DEC is required to deposit all fees and surcharges into the Fund. For the three reporting years ended December 31, 2013, DEC collected a total of \$371,000 in registration fees from 116 manufacturers, eight collectives, and 84 recyclers, as well as \$750,000 in annual reporting fees from manufacturers and collectives. During the year ended December 31, 2014, DEC also collected \$176,000 in surcharges for the 2013 reporting year. We found DEC properly collected, recorded, and deposited fees and surcharges due the Fund. However, the Division did not segregate the responsibilities for collecting and recording cash receipts of the fees and surcharges, and did not document supervisory review of revenue and deposit activities. We recommended that DEC improve controls over the collection and reporting of fees by separating the handling and recording of cash receipts to the degree feasible, and documenting the results of supervisory reviews of the cash collection process. ([2015-S-18](#))

Department of Labor **(Labor)**

Amusement Park and Fair Ride Safety - Labor is responsible for protecting the safety and health of workers and the public. As part of this role, its Industry Inspection Unit is charged with inspecting rides at all amusement parks, fairs, and other venues located outside New York City. In a previous audit, we found reasonable assurance that Labor's procedures were adequate to ensure that the rides offered at fixed-base amusement parks, the New York State Fair, and many county fairs are properly inspected and authorized before being placed into service. This audit was conducted to determine whether other rides, including temporary rides assembled at fairs, traveling carnivals, and other short-term events, had current inspections during the 2014 operating season. We found each of the rides being operated at all of the 53 locations we visited between May 11, 2014 and July 31, 2014 were permitted as required. ([2014-S-47](#))

Assessment and Collection of Selected Fees and Penalties (Follow-Up) - Our initial report ([2010-S-70](#)) determined that Labor had not collected about \$3.8 million in fees and penalties for the Public Work Enforcement Fund, the boiler inspection program, and the asbestos abatement program, and that it did not have accurate records to show who is required to pay boiler inspection and asbestos-related project fees. We recommended that Labor increase its oversight of the assessment and collection of fees and penalties. In our follow-up, we determined that Labor had made substantial progress in addressing the issues we identified. For example, Labor had improved its methods used to identify and notify public authorities that have assessable public works contracts to ensure that they remit proper payments to the Fund; developed an updated boiler database, developed and implemented guidelines on how and when boiler inspection penalties may be waived, and implemented a new system that automatically issues inspection fee overdue notices at specific intervals; and developed a method to identify individuals who are required to pay asbestos project notification fees. ([2014-F-19](#))

Wage Theft Investigations (Follow-Up) - Labor's mission is to protect workers, assist the unemployed and connect job seekers to jobs. Its Division of Labor Standards is committed to safeguarding New York State workers through vigorous enforcement of State labor laws. As the investigative and restitution arm of worker and wage protection, the Division conducts wage theft investigations on behalf of workers who file wage dispute claims against employers, and helps to collect unpaid wages, withheld wages, and illegal deductions. Our initial audit ([2013-S-38](#)) found that the Division did not complete wage theft investigations timely, and its caseload management system did not provide management with accurate or useful case management reports. We made seven recommendations to help the Division decrease its backlog of cases, increase procedural efficiency, and improve controls over wage theft investigations. In our follow-up, we found that Labor has made progress in executing our recommendations, implementing six and partially implementing one. In 2014, the Division reported that it recouped \$30.2 million in wages and interest on behalf of about 27,000 workers – more than any previous year and a 35 percent increase in recovered funds over 2013. ([2015-F-9](#))

Department of Motor Vehicles **(DMV)**

Driver Responsibility Assessment Program - Established in 2004, the Driver Responsibility Assessment Program requires the DMV to assess additional fees on certain unsafe drivers who are convicted of specific traffic violations and to suspend the licenses (or the privilege to obtain a license) of violators who fail to pay them. We found that during the audit scope period of April 1, 2012 through March 31, 2013, the DMV accurately assessed all Program fees and either collected them or took appropriate action against drivers who did not pay. However, we identified a weakness in DMV's internal controls that increased the risk that undetected, inappropriate changes could be made to the Program database. We recommended that DMV work with the Office of Information Technology Services to establish an automated method to capture manual changes to the Program database for periodic review. ([2013-S-53](#))

Accountability for Traffic Ticket Surcharges - New York State Vehicle and Traffic Law authorizes cities with a population of 200,000 or more to adjudicate non-criminal traffic infractions through administrative tribunals instead of the court system, freeing the courts to concentrate on more serious cases. DMV established ten Traffic Violations Bureaus (TVBs) to manage this administrative adjudication function; each is responsible for processing and collecting fines and traffic ticket surcharges. The Vehicle and Traffic Law imposes a cap on the total amount of surcharges that can be assessed as a result of any one traffic stop or incident. During our audit period, DMV reported over \$341 million in revenue collected from the TVBs, including about \$147 million generated from traffic ticket surcharges. We found that, with the exception of about \$1 million in surcharge revenue that was reported twice for the same week during May 2013, DMV is consistently accounting for and reporting all traffic ticket surcharge revenue received. However, DMV's systems are not properly applying the statutory cap on surcharge amounts for multiple violations, resulting in an underassessment of surcharges if a driver is cited for multiple incidents on the same day. In addition, we found DMV could better use existing system data to continually improve its processes and management of the program. We recommended that DMV: develop a more proactive approach to monitoring and analyzing the data management system, including conducting routine system reviews and establishing controls to ensure modifications are working as intended; analyze system and

source documentation for traffic stops that resulted in multiple traffic tickets subject to the surcharge cap to identify and correct any instances where motorists were charged an incorrect surcharge; and work with the Office of Information Technology Services to implement system and data changes necessary to ensure surcharges are properly and consistently applied. ([2014-S-26](#))

Controls Over Cash Advance Accounts - Under Section 115 of the State Finance Law, cash advances are issued to State agencies for purposes such as petty cash, travel, and other funding needs. Advances are issued from agency appropriations, and the cash is transferred from the State Treasury to a local bank account for use by the agency. As of December 31, 2014, DMV was authorized to have three advance accounts for Travel Advance, Confidential, and Petty Cash, with a total value of \$346,750. We found DMV has designed effective internal controls over these accounts to ensure that funds are properly accounted for and payments are made only for appropriate business purposes. Our tests showed these controls have generally operated as intended. However, we also found that each of the three cash advance accounts is overfunded relative to its apparent business needs. We recommended DMV reduce the amount of funds held in each advance account to more appropriate levels based on an analysis of historical usage, current business practices, and anticipated future needs, and return excess funds to the State Treasury. ([2014-S-65](#))

Motor Vehicle Financial Security and Safety Responsibility Acts: Assessable Expenses for the Two Fiscal Years Ended March 31, 2013 - DMV administers the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act, which help ensure that the operators of motor vehicles driven in New York State possess adequate insurance coverage, or are financially secure, to compensate those persons they might injure or whose property they might damage as a result of an accident. According to Article VI, Section 317 and Article VII, Section 363 of the Vehicle and Traffic Law, DMV is responsible for tracking its cost of administering these Acts and for assessing these costs on insurance carriers that issue policies or contracts of automotive bodily injury insurance. For the fiscal years ended March 31, 2012 and March 31, 2013, net assessable expenses for the Acts totaled about \$20.3 million and \$18.9 million, respectively. DMV is reporting its assessable expenses accurately. However, we found DMV lacks written policies and procedures for identifying which expenses are assessable. We recommended that DMV develop written policies and procedures for identifying assessable expenditures. ([2014-S-42](#))

Motor Vehicle Financial Security and Safety Responsibility Acts: Assessable Expenses for the Fiscal Year Ended March 31, 2014 - DMV administers the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act. These Acts help ensure that the operators of motor vehicles driven in New York State possess adequate insurance coverage, or are financially secure, to compensate those persons they might injure or whose property they might damage as a result of an accident. According to Article VI, Section 317 and Article VII, Section 363 of the Vehicle and Traffic Law, DMV is responsible for tracking its cost of administering these Acts and for assessing these costs on insurance carriers that issue policies or contracts of automotive bodily injury insurance. We found for the fiscal year ended March 31, 2014, net assessable expenses for the Acts total about \$19.9 million. DMV has adequate procedures in place to ensure that it accurately identifies and reports its assessable expenses in all material respects. In addition, DMV implemented the recommendations contained in our prior audit report ([2014-S-42](#)). ([2015-S-7](#))

Department of Taxation and Finance **(Tax and Finance)**

Personal Income Tax Refunds - The objective of our examination was to determine whether personal income tax refunds approved by Tax and Finance for payment were appropriate and processed in accordance with applicable New York State tax laws and regulations. We examined refunds processed during the calendar year January 1, 2014 through December 31, 2014, and selected Tax and Finance-approved refunds for examination using filters to identify high-risk transactions. During the period of our examination, Tax and Finance processed almost 7.4 million refunds totaling over \$8.5 billion. Of this, we selected 37,900 refunds totaling almost \$480 million for examination. We identified and returned to Tax and Finance 13,380 questionable refunds totaling about \$55.6 million, including 2,620 questionable refunds valued at about \$8.3 million, based on data we obtained from select State and New York City

agencies to identify taxpayers claiming unwarranted credits. We recommended that Tax and Finance continue to pursue obtaining external data to prevent unwarranted credits and to identify and implement other opportunities to help identify and prevent erroneous refunds. ([BSE 2014-1A-001](#))

Property Tax Freeze Credit - Our objective was to determine whether the Property Tax Freeze (PTF) Credit payments approved by Tax and Finance were appropriate and processed in accordance with New York State Tax Law. Using a risk-based approach, we examined 216,164 individual PTF Credit payments totaling \$33,175,360. We identified and returned to Tax and Finance 5,661 questionable payments totaling \$591,902 for follow-up evaluation and appropriate action: 2,159 payments totaling \$239,848 with incorrect or questionable data and incorrect calculation amounts; 1,841 payments totaling \$188,523 where either the homeowner or the property was not eligible for the STAR property tax exemption; 909 duplicate payments totaling \$62,651; and 752 payments totaling \$100,880 to deceased homeowners. We also found that while Tax and Finance maintains the necessary data to identify incorrect payee and/or address information, out-of-state residents, household incomes that exceed eligibility limits, secondary residences, business properties, and deceased homeowners, it did not always review that data prior to submitting payments to OSC for approval. As a result, we returned 25 files containing over 881,000 payments to Tax and Finance for correction and reprocessing. We recommended Tax and Finance ensure PTF Credit payment data is complete and correct prior to submitting those payments for approval and, for the 2015 Tax Year, work with the local assessor offices to ensure data provided is standardized, complete, and accurate. ([2014 Property Tax Freeze Credit](#))

2014 Family Tax Relief Credit Audit Report - Our objective was to determine whether the Family Tax Relief Credit (FTC) payment requests approved by Tax and Finance were appropriate and processed in accordance with New York State Tax Law. Using a risk-based approach, we examined 1,857 FTC payment requests totaling \$649,950, and found that all payment requests based on taxpayers' 2012 tax returns met the criteria in the Law. However, we identified and returned to Tax and Finance 1,486 questionable payment requests totaling \$520,100 for follow-up evaluation and appropriate action. To date, OSC has worked with Tax and Finance and approved \$70,350 for 201 of the previously stopped payment requests. For the remaining 1,285 stopped payment requests totaling \$449,750, Tax and Finance will require taxpayers to submit an application if taxpayers believe they are eligible for FTC. We recommended Tax and Finance evaluate all applications submitted for the 1,285 disqualified payment requests that remain and take appropriate action, and in the future consider additional potential fraud schemes when designing systems to review new tax payment initiatives. ([2014 Family Tax Relief Credit Audit Report](#))

Division of Military and Naval Affairs (DMNA)

Payments in Response to Superstorm Sandy - OSC performed an examination of payments DMNA made in response to Superstorm Sandy. The objectives were to determine whether DMNA conducted appropriate procurements, paid appropriate prices, and received the quality and quantity of goods and services it procured during its response to Superstorm Sandy. We presented findings in three separate reports, as follows:

- **Arrochar Meats, Inc.** - We reviewed seven vouchers totaling \$94,610 related to fuel and 16 vouchers totaling \$78,062 related to food DMNA purchased from Arrochar Meats from October 29, 2012 through November 13, 2012. We found that DMNA did not follow, or did not have the documentation to support it followed, State procurement requirements when purchasing fuel from Arrochar. DMNA did not purchase this fuel from existing State contract fuel vendors or justify why the State contracts did not meet its form, function, or utility; lacked documentation to support how it selected Arrochar to provide fuel; and was unable to support how it determined the price paid to Arrochar for the fuel was reasonable. DMNA purchased 18,960 gallons of fuel from Arrochar from October 31, 2012 through November 9, 2012. To fulfill this order, Arrochar purchased 13,960 gallons of fuel from Burke Heat at an average of \$3.71 per gallon and 5,000 gallons of fuel from People's Oil at an average of \$3.87 per gallon. Arrochar then resold the fuel to DMNA for \$4.99 per gallon and had People's Oil or Burke Heat deliver the fuel directly to DMNA's facilities. As a

result, Arrochar earned \$19,594 in ten days acting solely as middleman. When we sought to determine how Arrochar was selected to provide fuel to DMNA, all the DMNA managers and staff we interviewed denied knowledge about who directed the purchase of fuel from Arrochar. Among our key recommendations to DMNA: conduct procurements in accordance with all applicable laws, rules, and regulations; establish controls for emergency procurements for items such as fuel; evaluate other records to support whether Arrochar's suppliers actually provided all the fuel for which DMNA paid and recover any amount for fuel that was not received; develop a list of approved vendors from which to purchase items such as fuel during times of disaster; ensure Burke Heat is aware that the outstanding balance associated with the "NY National Guard account" (i.e., Arrochar) is not an obligation of the State of New York; and refer our findings related to the excessive prices Arrochar charged to the New York State Office of the Attorney General for its review. ([2013-0003 Arrochar Meats, Inc.](#))

- **Fuel and Services** - We found that DMNA did not follow, or did not have the documentation to support it followed, State procurement requirements. In particular, DMNA lacked documentation to support the reasonableness of the prices paid and how it selected vendors. Specifically, we determined DMNA paid eight vendors collectively up to \$66,081 more than necessary for fuel. In addition, we found DMNA lacked documentation to support: (i) the reasonableness of prices paid for the procurement of services from the ten vendors in our examination; (ii) the selection of nine of these ten vendors; and (iii) in some instances, the number of labor hours charged and whether vendors paid the appropriate prevailing wage rates to their employees. We recommended that DMNA: conduct procurements in accordance with all applicable laws, rules, and regulations; review fuel charges and recover overcharges as appropriate; collect and maintain appropriate documentation to support the selection of vendors and reasonableness of prices paid; and refer to the Department of Labor the vendors that did not provide evidence to support they paid prevailing wages to their workers. ([2013-0003 Fuel and Services](#))
- **Deployed Resources** - We examined the appropriateness of DMNA's payments to Deployed Resources to provide a turnkey base camp at Floyd Bennett Field (FBF). We found that DMNA complied with procurement requirements to contract with Deployed Resources. However, DMNA did not have an effective monitoring system in place to accurately record the number of service members at FBF and did not make timely adjustments to ongoing services based on its actual needs. As a result, DMNA missed the opportunity to reduce expenses for base camp services by \$90,801 when out-of-state service members returned to their home station on November 16 and 17, 2012. In addition, without an effective monitoring system, DMNA could not validate the number of service members Deployed Resources billed for November 4–6, 2012 and November 18–December 16, 2012 and, therefore, has no assurance it paid Deployed Resources the correct amount for services during those periods. We recommended that DMNA: maintain accurate, timely, and contemporaneous personnel strength projections and records to allow it to effectively assess, track, and meet its resource needs during disasters; implement an effective monitoring process which will allow it to accurately determine the daily personnel count at its base camps and monitor payments appropriately; and adjust the daily personnel count, as necessary, to reduce expenses for base camp services. ([2013-0003 Deployed Resources](#))

Dormitory Authority of the State of New York (DASNY)

Contract Participation of Minority- and Women-Owned Business Enterprises - DASNY is a public benefit corporation that finances and constructs buildings for public and not-for-profit entities. Article 15-A of the New York State Executive Law requires State agencies and public authorities to promote the participation of minority- and women-owned business enterprises (MWBES) in their contracts. State agencies and public authorities are required to establish annual goals for such participation, make a "good faith" effort to achieve their goals, and report quarterly on their level of participation to the Department of Economic Development (DED), a division of Empire State Development. We found for fiscal years 2011-12 through 2014-15 DASNY set participation goals that were lower than the State target of 28.92 percent (ranging from 20 to 26 percent) and did not provide goal justification to DED as required. Furthermore,

DASNY overstated its MWBE contract participation when reporting to DED. A judgmental sample of payments to prime contractors totaling \$37.8 million was overstated by \$9.2 million (24 percent), and a judgmental sample of payments to subcontractors totaling \$25.9 million was overstated by \$4 million (15 percent). In preparing reports to DED, DASNY did not make adjustments for payments to MWBE prime contractors that, in turn, paid other MWBE contractors as subcontractors, and did not report payments for non-construction professional services, although it made payments to MWBEs in this industry segment. We recommended that DASNY develop and implement formal processes to properly establish annual MWBE participation goals, formal mechanisms to ensure the quality of data entered into its automated MWBE participation reporting system, and formal processes to correct data entry errors. We also recommended that DASNY report no more than the actual amount paid when a MWBE prime contractor makes a related payment to a MWBE subcontractor, and that DASNY seek clarification from DED regarding the reporting of non-construction professional service payments for MWBE program participation purposes and follow such guidance in preparing its quarterly MWBE program reports. ([2014-S-7](#))

Hudson River-Black River Regulating District

Financial Management Practices - The Hudson River-Black River Regulating District (District) was established to control the flow of waters of two neighboring watersheds: the Hudson River and the Black River. The District's responsibilities involve reducing floods caused by excess run-off and augmenting river flow at times of drought or other periods when normal river flows are low. Organized as a public benefit corporation, it has a broad spectrum of legal powers to accomplish its mission, including the authority to build and operate reservoirs, issue bonds, and apportion costs to its beneficiaries to finance construction, maintenance, and operations. The District funds its operations primarily through assessments levied on beneficiaries along the two watersheds. In addition, the District collects permit fees for access rights to the Great Sacandaga Lake and assesses fees to power companies for dam usage to generate electricity. We found the District had adequate controls over permit fee billing and collection and cash management. However, we identified control weaknesses in the District's practices related to past due assessments, facility maintenance, equipment inventories, time and attendance, and procurement. Among our key recommendations to the District: evaluate the collectability of outstanding accounts turned over to counties and adjust budgets to reflect uncollectible accounts; continue to pursue acceptable outcomes in negotiations and litigation, in accordance with the Federal Energy Regulatory Commission's Headwater Benefit Determination; and take the necessary steps to promptly meet applicable federal and State dam safety requirements. ([2013-S-55](#))

Hudson River Park Trust

Selected Financial Management Practices - The Hudson River Park Trust (Trust) has authority over the planning, construction, operation, and maintenance of the Hudson River Park in New York City. All revenues generated within the Park are used to fund the costs of maintenance and operations. The primary sources of revenues in fiscal year 2013 were leases, occupancy permit fees, revenue from the parking garage, and certain user fees. We found opportunities exist for the Trust to improve its practices related to revenue collection, procurement, investments, employee time and attendance, budgeting, and equipment inventories. In addition, the Trust needs to improve its monitoring of payments from tenants. For three contracts, the Trust did not collect \$297,925 in revenues because tenants: reduced their payments by the amounts of maintenance costs, which were not documented; did not pay rent for a year; or paid the wrong amount of rent. In addition, two vendor contracts were awarded and modified by \$16.9 million, but the documentation in support of the vendor selection and contract modification was incomplete. We recommended that the Trust: strengthen controls over the award of revenue contracts and the monitoring of revenues from such contracts; ensure it follows its prescribed guidelines for the competitive procurement of goods and services consistently; and improve budget procedures to ensure they comply with regulatory requirements for updates, quarterly reports, explanations of variances, and assessments of their propriety. ([2013-S-56](#))

New York State Energy Research and Development Authority **(NYSERDA)**

Contract Award and Performance - NYSEDA's mission is to "advance innovative energy solutions in ways that improve New York's economy and environment." NYSEDA has established procurement guidelines for awarding contracts. For the two fiscal years ending March 31, 2013, NYSEDA reported that it awarded or modified 5,120 contracts greater than \$5,000. The total value of these contracts was approximately \$1.08 billion. We found that certain of NYSEDA's policies and procedures governing the contract award process were not always followed. Further, NYSEDA did not effectively monitor contract expiration dates to ensure that successor contracts were in place prior to the expiration of the previously existing contracts for similar or related work; NYSEDA paid about \$9.7 million on four contracts after they had expired or after approved extensions had been exhausted. In addition, NYSEDA did not adequately document the justification for allocating projects (related to four contracts) to certain contractors when there were nine additional contractors pre-qualified for the same work. Two of these four contracts amounted to \$15.4 million. We recommended that NYSEDA: classify contracts properly and use the appropriate procurement method to award them; ensure that the assignment of project task orders to contractors is properly justified and adequately documented and that such documentation is retained in procurement files; and actively monitor contract expiration dates to ensure that new contracts are in place before the expiration of existing contracts. ([2013-S-45](#))

Accounts Receivable Collection and Reporting - NYSEDA is advancing a comprehensive clean energy program portfolio that develops and deploys new and innovative technologies to help New York State meet its energy needs. Its programs are organized into five portfolios, each representing a complementary group of offerings with common areas of energy-related focus and similar objectives. NYSEDA recently experienced one of the largest increases in third-party billing accounts receivable balances of any State public authority. Between fiscal years 2011-12 and 2013-14, its financial statements showed an increase in accounts receivable (third-party billings) from \$22.1 million to \$135.6 million. At the end of its 2014-15 fiscal year, NYSEDA's receivable balance had returned to a more moderate level of \$21.7 million. We found that NYSEDA's accounts receivable collection and reporting practices are in compliance with applicable laws and regulations. As required, NYSEDA documented its efforts to collect any past due accounts, and referred to the Office of the Attorney General the accounts more than 120 days past due that it was unable to collect. The temporary rise in NYSEDA's accounts receivable balance was attributable to a deferred collection schedule established in October 2011 by the Public Service Commission for utility charges associated with its newly enacted Energy Efficiency Portfolio Standard 2. Accounts receivable balances have since returned to more traditional levels. ([2015-S-35](#))

New York State Insurance Fund **(NYSIF)**

Statewide Financial System (SFS) Vendor File - Our objective was to determine the amount of payments in the SFS Vendor File that were available to offset outstanding NYSIF premiums. NYSIF provided us with 31,110 Tax Identification Numbers (TINs) of vendors and the value of their outstanding premiums as of September 9, 2014. We matched these TINs to the SFS Vendor File and identified 769 matches. Based on payments the State made to these vendors since April 1, 2012, and the amount of each overdue premium, NYSIF may have been able to collect up to \$10.6 million. We urged a collaboration between NYSIF's Counsel, Treasury, and Collections Offices and OSC to develop a continuous process to recover outstanding vendor premiums. NYSIF representatives were receptive to this collaboration. ([2014-0004](#))

Office of Parks, Recreation and Historic Preservation **(Parks)**

Riverbank State Park: Administration of the Concession Contract With Riverbank Restaurant Group - Riverbank State Park, a 28-acre rooftop park on the west side of Manhattan, is open 365 days a year and has a variety of indoor and outdoor athletic and cultural facilities. In March 2004, Parks entered

into a 10-year contract with Riverbank Restaurant Group, LLC (RRG) to provide food concession services at Riverbank. The anticipated State revenues resulting from this contract were estimated at \$160,000 annually. In addition to paying the monthly licensing fees, RRG was contractually required to invest a minimum of \$622,000 in capital improvements and concession-related upgrades. We found RRG's reported monthly sales and Parks' associated licensing fees were significantly less than anticipated in the contract (a difference of about \$11.6 million and \$580,000, respectively, from 2005 to 2009). Further, RRG did not submit the correct amount of licensing fees on the revenues it did report. At the time of our audit, RRG owed Parks \$136,459 in licensing fees. We also found Parks did not perform a thorough vendor responsibility check on RRG before the contract was awarded, and did not adequately monitor RRG operations on a timely basis. We recommended that Parks: perform a thorough vendor responsibility check on all potential vendors before awarding contracts; establish an effective contract monitoring system; and work with the Attorney General's office to pursue collection of the \$139,634 judgment against RRG. ([2013-S-22](#))

Administration of Concession Services at Riverbank State Park: Tri-State Snacks & Concessions - Tri-State Snacks & Concessions operates Riverbank State Park's 150-seat restaurant under a five-year revenue contract with Parks that started in August 2010. The contract terms required Tri-State to remit a flat monthly fee and a percentage of annual sales revenues over \$750,000 to Parks and to maintain adequate books and records to support its revenue remittances. We found that Tri-State did not comply with all contract requirements, such as hours of operation and maintenance of financial records. Tri-State owes Parks at least \$10,485 in licensing fees and potentially as much as \$37,034 in additional fees as a result of underreported and possibly unreported sales revenue. In addition, Parks did not adequately monitor Tri-State's operations to verify the accuracy of its revenue reports or compliance with other contract terms. We recommended that Parks: recover the \$10,485 in licensing fees due based on the underreported Tri-State revenues we identified; follow up on the \$37,034 of potentially underpaid licensing fees due Parks (based on unreported sales) and the unexplained deposits into Tri-State's contract-related bank accounts; and develop and implement an effective revenue contract monitoring system, including periodic site visits to the location of the contracted services, assessment of contractors' internal controls, periodic reviews of contract-related books and records, and verification of sales and other major contract requirements. ([2013-S-83](#))

Controls Over Cash Advance Accounts - Section 115 of the State Finance Law authorizes the establishment of cash advance accounts, which State agencies may use for petty cash, travel, and other funding needs. We conducted this audit to determine whether Parks manages its cash advance accounts responsibly and protectively, in accordance with accounting standards and State regulations. We found that Parks does not exercise adequate fiscal oversight and has weak internal controls over process, monitoring, and risk. As a result, there is limited assurance that State funds are managed in compliance with State regulations, are properly accounted for and used appropriately, and are protected against misuse. We recommended that Parks: establish consistent accounting policies and procedures for all cash advance accounts, and strengthen the control environment to ensure processes and procedures are in compliance with State regulations and adhere to professional standards; discontinue the practice of allowing payroll advances from the Petty Cash Account; and close the inactive Travel Account and return the authorized balance to the State Treasury. ([2014-S-22](#))

Safety of Infrastructure (Follow-Up) - Our initial report ([2012-S-29](#)) examined whether Parks was properly inspecting its infrastructure and repairing any hazardous conditions identified. That audit found that although staff were actively engaged in inspection and repairs, there was a backlog of over \$1.1 billion in improvements that needed to be made. In our follow-up review, we found Parks continues to prioritize its infrastructure needs but no longer maintains a comprehensive, up-to-date listing of backlogged projects. For fiscal years 2012-13 and 2013-14, Parks had started or completed 204 projects with total costs over \$221 million using New York Works funds. However, additional work was needed to safeguard the public in areas where potentially dangerous infrastructure problems remain unaddressed, including at least one problem area discussed in our prior audit. ([2014-F-16](#))

Office of Temporary and Disability Assistance **(OTDA)**

Internal Control System Components - In 1987, the Legislature passed the New York State Governmental Accountability, Audit and Internal Control Act requiring each State agency to institute a comprehensive system of internal control over its operations. The Division of the Budget's Budget Policy and Reporting Manual Bulletin B-350 requires the head of each covered agency to certify compliance with the Act by April 30 of each year by submitting a Certification and Internal Control Summary describing the internal control activities undertaken during the previous year. As the State's chief fiscal officer, the Comptroller also has several responsibilities under the Act, including providing technical assistance to agencies, conducting audits of internal control, and issuing the Standards for Internal Control in New York State Government. The Standards form the minimum expectations for internal control in State agencies and public authorities, and provide guidance to State officials on establishing and evaluating a comprehensive system of internal controls. Included in that guidance are five specific components of internal control that must be addressed by each system: control environment; control activities; risk assessment; information and communication; and monitoring. We found the OTDA's Internal Control System appropriately addresses all five components of internal control. As a result, OTDA has multiple mechanisms in place for implementing and evaluating the effectiveness of its internal control system. ([2015-S-4](#))

State Board of Elections **(State Board)**

Localities' Procurements of Paper Ballots - The State's 57 County Boards of Elections and, within New York City's five boroughs, the New York City Board of Elections (Local Election Boards) are responsible for administering all federal, State, and local government elections within their respective geographic areas. The State Board is a bipartisan agency responsible for administering and enforcing all laws relating to elections in the State and providing oversight to the Local Election Boards. During the fiscal year ended March 31, 2013, the State Board was appropriated a total of \$5.3 million for operations. State Election Law requires Local Election Boards to procure an adequate number of paper ballots for each election district within their respective jurisdictions. We determined that the State Board has not provided sufficient guidance to Local Election Boards on procuring paper ballots. As a result, the ballot procurement processes used by the 13 Local Election Boards we visited resulted in significant unnecessary costs. In addition, several Local Election Boards consistently overestimated the number of ballots needed for each election: About 14.3 million (62.3 percent) of the nearly 23 million ballots acquired by the 13 Local Election Boards went unused. We estimate that the Local Election Boards we visited could have saved, in the aggregate, about \$10 million during the audit period by competitively procuring ballots and using sound historical data to project the numbers of ballots needed. We recommended that the State Board: work with the Local Election Boards that do not print their ballots in-house to help ensure that paper ballots are procured through vendor competition; work with Local Election Boards to develop a sound and reasonable methodology to project the number of ballots needed for each election and to use accurate historical data of voter turnout and number of ballots procured to develop estimates of ballot needs; and periodically meet or communicate with Local Election Board officials to discuss emerging administrative and fiscal issues and to resolve their questions and concerns. ([2013-S-36](#))

Roswell Park Cancer Institute

Security Over Electronic Protected Health Information - Roswell Park Cancer Institute is a comprehensive cancer treatment and research complex located in Buffalo, New York. To support its operations, the Institute maintains major computer systems and networks that process, store, and transmit electronic protected health information (ePHI). Since 2003, all health care providers are required to comply with a set of information security standards for protecting ePHI, as established in the Health Insurance Portability and Accountability Act (HIPAA) Security Rule. Furthermore, the Federal Health Information Technology for Economic and Clinical Health Act (HITECH) extends certain HIPAA Privacy and Security Rule requirements to health care providers' business associates and establishes new

limitations on ePHI disclosure. Health care providers were expected to fully comply with HITECH by September 23, 2013. Over 4,000 individuals access the Institute's systems and networks that facilitate ePHI access. We found the Institute has taken many steps to safeguard its ePHI and meet Security Rule requirements. In addition, we found the Institute has adequate protection policies in place and a plan to make mandatory notifications when ePHI is lost or stolen. However, we identified some improvement opportunities involving certain administrative, physical, and technical safeguards over the Institute's ePHI. We recommended that the Institute: take steps to resolve risk items that have remained open over multiple periods; implement reporting mechanisms to support risk mitigation priorities, including decisions to defer or not address specific risks; continue efforts to strengthen physical and technical security over the systems that receive, store, process, transmit, and maintain ePHI; and implement the recommendations detailed during the audit for strengthening technical safeguards over ePHI. ([2014-S-67](#))

Workers' Compensation Board **(WCB)**

Assessment of Costs to Administer the Workers' Compensation Program for the Two Fiscal Years Ended March 31, 2013 - The primary responsibility of the WCB is to ensure that employees who are unable to work due to injury or illness are compensated under programs covering both occupational and non-occupational disabilities and sickness. Coverage for these benefits, with limited exception, is to be provided by employers. The WCB is also responsible for tracking its costs to administer the Workers' Compensation Program and assessing these costs on participating insurance carriers, self-insurers, and self-insured political subdivisions of the State. We found the WCB has adequate procedures in place to ensure that it accurately identifies and reports its assessable expenses in all material respects. The WCB made minor calculation errors in the fiscal year 2011-12 assessment, resulting in a net understatement of \$144,592 in the total assessment of about \$204 million. The errors were partially attributable to insufficient staff training. The WCB lacks a formal review process to ensure the procedures for preparing the assessment are properly executed and monitored. We recommended that the WCB: ensure the adjustments noted in this report are included in the 2013-14 assessment; provide additional training on procedures affecting self-insurance expense calculations; and implement a formal supervisory review process to ensure assessment procedures are properly executed and monitored. ([2014-S-43](#))

2014 Payment Examination Report - Our objective was to determine whether claims were appropriate in accordance with the New York State Workers' Compensation Law and New York State's mandated fee schedules. For the 2014 calendar year, our examination identified and disallowed 199 inappropriate claims totaling over \$1.3 million. The claims were approved by the WCB and submitted to OSC for approval even though they contained accounting errors, were not properly supported, were not in compliance with mandated fee schedules, contained computation errors, were previously approved and paid, and/or contained miscellaneous errors. In the earlier 2013 Payment Examination Report, we recommended the WCB reinforce the importance of accurately processing payments, and with this 2014 report encourage the WCB to continue to evaluate opportunities to reduce errors. ([2014 Payment Examination Report](#))

Multi-Agency

Quality of Internal Control Certifications - In 2012, we conducted a series of audits at 12 State agencies (Department of Agriculture and Markets, Department of Economic Development, State Education Department, Division of Housing and Community Renewal [DHCR], Office of the Medicaid Inspector General [OMIG], Office of Mental Health, Office of Parks, Recreation and Historic Preservation (Parks), Office for People With Developmental Disabilities, Office for the Prevention of Domestic Violence, Division of State Police [DSP], Department of State, and Office of the Welfare Inspector General [OWIG]) focusing specifically on their 2011-12 Internal Control Certifications submitted to the Division of the Budget. We examined whether these agencies submitted their certifications on time, answered all the questions with the appropriate level of detail, and maintained documentation supporting the answers given. Our initial audit reports concluded that improvements were needed to the quality of Internal Control Certifications at 10 of the 12 agencies. We found instances where Internal Control Certifications were not submitted timely and/or did not provide the appropriate level of detail, as well as cases where agencies

were unable to support important statements or assertions they made. We also found instances where Internal Audit units had not had a periodic external quality assessment as required by audit standards; instances where duties associated with the internal control and internal audit functions were not properly separated; and a lack of agency-wide internal control training. In our follow-up review, we determined that agency officials had made significant progress in addressing the problems we identified in the initial audit reports. Of 12 agencies originally audited, two (OMIG and OWIG) had no prior recommendations, seven have implemented all of our recommendations, and only three (DHCR, Parks, and DSP) still have work left to do. In total, of the 23 recommendations included in our original audit reports, 19 were implemented, three were partially implemented, and one was not implemented. ([2015-F-7](#))

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