

2015–2016 Annual Report on Audits of State Agencies and Public Authorities

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller



JANUARY 2017

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MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI



One of the chief responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that taxpayer money is protected and wisely used. The audits conducted by my staff in the Division of State Government Accountability help establish whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate resource waste and prevent and detect fraud. 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 New Yorkers informed on how well agencies and authorities are living up to that responsibility, and sound a call to action when needed.

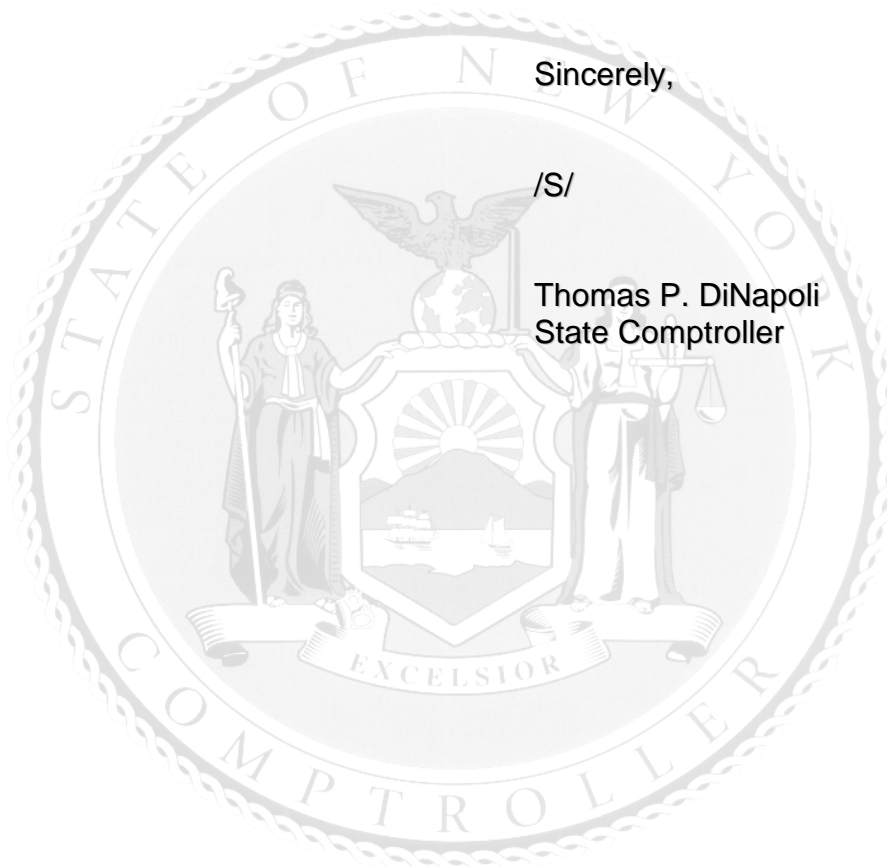
This annual report summarizes the results of the State government audits my staff conducted for the 2015-16 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets.

I hope you find this information helpful.

Sincerely,

/S/

Thomas P. DiNapoli
State Comptroller



INTRODUCTION

Under the New York State Constitution, the State Comptroller serves as the State Auditor. Within the Office of the State Comptroller (OSC), the Division of State Government Accountability (SGA) is a component of the Office of State and Local Government Accountability – the primary office that carries out the State Comptroller’s functions as State Auditor.

SGA 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 2015-16 (October 1, 2015 through September 30, 2016), SGA issued 120 audit reports addressing the operations of State agencies and public authorities. Auditors identified nearly \$68.6 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 about \$93.6 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 2015-16. We estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize a total of more than \$174 million in monetary benefits.

Audit Cost Savings for Reporting Year 2015-16

Fiscal Category	Actual	Potential	Total
Cost Recovery	\$58,468,657	\$4,658,506	\$63,127,163
Cost Avoidance	–	3,101,461	3,101,461
Revenue Enhancement	10,125,347	85,801,436	95,926,784
Subtotal	\$68,594,004	\$93,561,403	\$162,155,408
Questionable Transactions			12,227,661
Total Fiscal Impact			\$174,383,069

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 State 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 reviews to assess auditees' progress in implementing prior audit recommendations. In reporting year 2015-16, SGA issued 21 reports following up on a total of 93 recommendations. Of these recommendations, 83 (89 percent) have been fully or partially implemented, as follows:

Agency	Report No.	Recommendations		
		Total	Implemented	Percent
Health and Human Services				
Department of Health	2015-F-20	5	5	100%
	2015-F-24	5	5	100%
	2015-F-25	3	3	100%
	2016-F-5	3	2	67%
	2016-F-6	6	6	100%
Education				
State Education Department	2016-F-2	5	5	100%
	2016-F-9	3	3	100%
State University of New York	2016-F-4	2	2	100%
City University of New York	2015-F-5	6	5	83%
Transportation				
Metropolitan Transportation Authority	2015-F-13	4	4	100%
	2015-F-14	6	4	67%
	2015-F-15	3	3	100%
	2015-F-27	11	10	91%
Port Authority of New York and New Jersey	2015-F-19	4	3	75%
Criminal Justice and Judicial Administration				
Office of Court Administration	2015-F-18	4	3	75%
Government Support				
Department of Civil Service/NYSHIP	2015-F-21	3	3	100%
	2015-F-22	3	3	100%
	2015-F-23	3	1	33%
	2015-F-26	3	3	100%
Other				
Office of Parks, Recreation and Historic Preservation	2016-F-3	8	7	88%
Office of Temporary Disability and Assistance	2015-F-28	3	3	100%
Totals		93	83	89%

AGENCY OBSTRUCTION

State agency and public authority officials have a responsibility to the public to provide access to information to those who oversee their actions, such as OSC. Transparency and accountability are two essential cornerstones of good government. When public officials are not transparent and accountable for their actions, there is an increased risk that internal controls will not function properly – and less assurance that program goals and objectives will be

accomplished efficiently and effectively. Denial of, or excessive delay in, access to relevant documents or key individuals leads to incomplete, inaccurate, or significantly delayed findings or recommendations. This, in turn, may prevent agencies from promptly addressing serious problems, and deprive decision makers and the public of timely critical information regarding the agency's performance.

In accordance with professional standards, OSC auditors are required to report instances where management's refusal to share all available, relevant evidence constitutes an impairment of audit work. For the reporting year 2015-16, four agencies significantly delayed, obstructed, or otherwise impaired the scope of six audits:

- **Empire State Development Corporation (ESD)**

[Department of Economic Development: Selected Aspects of the Minority- and Women-Owned Business Enterprises Program \(2014-S-13\)](#). ESD officials refused to provide auditors with access to pertinent records and staff, and failed to provide requested responses to certain preliminary audit findings. Feedback from agencies is a part of OSC's due diligence process and helps ensure that OSC's audit reports are complete, thorough, and accurate. These obstructions resulted in significant delays to audit progress.

[Performance of the Excelsior Jobs Program \(2015-S-15\)](#). ESD officials withheld information and otherwise delayed and impeded the audit by restricting access to program staff and other necessary information. Delays were so extensive that auditors were forced to bypass ESD and gather information directly from program participants. Further, in responding to the draft report, officials attempted to introduce new information to address issues that OSC had discussed with them in preliminary findings over 8 months prior. This information had been requested repeatedly for almost one year, but was not provided until audit fieldwork was completed. Auditors concluded that these actions represented an intentional interference with transparency and accountability.

- **Office of Information Technology Services**

[Effectiveness of the Information Technology Transformation \(2015-S-2\)](#). The Office of Information Technology Services often did not provide auditors with timely or independent access to certain data and staff, calling into question the reliability of some of the data that auditors received and constraining auditors' interviews with agency personnel. Further, there is considerable risk that material information pertaining to the history of and decisions made during the IT Transformation was withheld. In addition, throughout the audit, auditors were repeatedly presented with contradictory information when trying to obtain documentation and answers to inquiries.

- **Office of General Services**

[Passenger Vehicle Fleet Management \(2014-S-30\)](#). The Office of General Services was uncooperative during this audit, and did not provide a requested report dealing with agency fleet needs that was imperative to the objective. This impaired auditors' ability to meet their audit objective, thus denying decision makers and the public information about whether individual agencies have the proper number and type of vehicles needed to most efficiently meet their organizational missions, as well as how OGS was performing its responsibilities.

- **Department of Health**

[Social Adult Day Services \(2014-S-31\)](#). Department of Health officials were uncooperative in providing auditors with information necessary to conduct their examination. Actions ranged from excessive delays in providing information to outright refusals.

[Medicaid Program: Appropriateness of Medicaid Eligibility Determined by the New York State of Health System \(2014-S-4\)](#). The Department of Health did not provide auditors with adequate access to the New York State of Health (NYSOH) system. Due to this and other audit scope impairments, auditors were unable to fully assess the adequacy of NYSOH controls over Medicaid enrollments and to fully determine the extent to which improper enrollments may have caused Medicaid overpayments.

Both agencies and auditors have roles and responsibilities within the audit process. According to General Accepted Government Auditing Standards, the standards that are required for audits by New York State Law, agency management is required not only to provide “appropriate reports to those who oversee their actions and to the public in order to demonstrate accountability for the resources and authority used to carry out government programs and the results of these programs” but also to address “the findings and recommendations of auditors, and for establishing and maintaining a process to track the status of such findings and recommendations.” Unfortunately, some agencies are not living up to their responsibilities, and through their actions, deny the public and decision makers assurance regarding the accountability of the State resources provided to them.

AUDITS OF SIGNIFICANCE

During the past year, SGA allotted more resources to audits designed to identify system and control deficiencies and policy noncompliance issues, which render State programs vulnerable to overcharging, improper claims, and abuse. Among SGA’s most significant audit 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 – the City of New York and New York counties (17.5 percent). Eight Medicaid audits identified more than \$146.8 million in actual and potential cost savings to the State, including \$95.1 million in uncollected drug rebates ([2015-S-1](#)) and nearly \$16.4 million in actual and potential Medicaid overpayments based on two Medicaid weekly claims audits (covering periods of six months each) ([2014-S-53](#), [2015-S-16](#)).
- **Special Education** – SGA issued 25 audit reports assessing preschool special education providers’ compliance with the State Education Department’s Reimbursable Cost Manual. 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 Office of the State Comptroller to audit the more than 300 preschool special education providers in this \$1.4 billion program by March 31, 2018. Auditors found widespread noncompliance with the Manual’s claims requirements, and identified disallowances totaling

nearly \$9.4 million stemming from unsupported and/or inappropriate costs charged to the audited programs, with nearly \$3 million ([2015-S-19](#)) and nearly \$2.6 million ([2014-S-64](#)) charged by two providers alone.

- **New York State Health Insurance Program** – Six audits identified more than \$6 million in overpayments by United HealthCare for Empire Plan claims that were excessive due to non-participating providers' practice of routinely waiving members' cost-sharing obligations ([2014-S-70](#), [2015-S-28](#), [2015-S-29](#), [2015-S-53](#), [2015-S-54](#), [2016-S-17](#)).
- **Tuition Assistance Program** – SGA issued six audits assessing compliance with the Tuition Assistance Program's requirements by the following educational institutions: Metropolitan Learning Institute ([2014-T-1](#)), LIM College ([2015-T-2](#)), Wagner College ([2015-T-3](#)), College of Westchester ([2015-T-5](#)), Vaughn College of Aeronautics and Technology ([2015-T-6](#)), and Metropolitan College of New York ([2015-T-7](#)). The audits found that a total of \$760,633 was overpaid to the schools due to incorrect certifications of students' eligibility for State financial aid.

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 OSC from October 1, 2015 through September 30, 2016. 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, 2010 through September 30, 2015.

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

AUDIT SUMMARIES

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 Claims Processing Activity. 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 for their claims. OSC performs audit steps during each weekly cycle of eMedNY processing to determine whether eMedNY has reasonably ensured the Medicaid claims were processed in accordance with requirements, the providers submitting the claims were approved for participation in the Medicaid program, and the amounts paid to the providers were correct. In the 2015-16 reporting year, OSC issued two such audits, as follows:

- [October 1, 2014 Through March 31, 2015 \(2014-S-53\)](#). During the six-month period ended March 31, 2015, eMedNY processed about 264 million claims, resulting in payments to providers of about \$28.5 billion. The weekly cycles averaged about 10.1 million claims and \$1.1 billion in payments to providers. Auditors identified about \$4.3 million in inappropriate Medicaid payments, including: \$1,956,679 in overpayments for newborn claims that were submitted with incorrect birth weights; \$1,061,204 in overpayments for inpatient claims that were billed either at a higher level of care than what was actually provided or with incorrect patient status codes; \$590,405 in overpayments for claims billed with incorrect information pertaining to recipients' other health insurance coverage; \$476,888 in improper payments for pharmacy claims that were not in compliance with State Medicaid policies; and \$167,101 for claims with improper payments for duplicate billings and for clinic and durable medical equipment services. By the end of audit fieldwork, about \$3.7 million in overpayments had been recovered. Auditors also identified 29 Medicaid providers who had been charged with or found guilty of crimes that violate health care programs' laws or regulations. DOH terminated 13 of the providers, but the status of the 16 others was still under review at the time fieldwork was completed. Auditors made 13 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.
- [April 1, 2015 Through September 30, 2015 \(2015-S-16\)](#). During the six-month period ended September 30, 2015, eMedNY processed about 192 million claims, resulting in payments to providers of about \$28.4 billion. The weekly cycles averaged about 7 million claims and over \$1 billion in payments to providers. Auditors identified about \$12.1 million in inappropriate Medicaid payments, including: \$7,134,184 in overpayments for Managed Long Term Care (MLTC) capitation payments made for recipients who were retroactively disenrolled from an MLTC plan; \$2,282,626 in overpayments for deceased Medicaid recipients enrolled through New York State of Health, DOH's marketplace for health insurance; \$1,052,058 in overpayments for claims billed with incorrect information pertaining to other health insurance coverage that recipients had; \$813,412 in overpayments for newborn claims that were submitted with incorrect birth weights; \$708,016 in overpayments for inpatient claims that were billed at a higher level of care than what was actually provided; and \$77,861 in improper payments for duplicate billings and claims for clinic, transportation, durable medical equipment, and eye care services. By the end of the audit fieldwork, about \$2.1 million of the overpayments had been recovered. Auditors also identified providers in the Medicaid program who had been charged with or found guilty of crimes that violate health care programs' laws or regulations. DOH terminated 26 of the providers, but the status of five others was still under review

at the time fieldwork was completed. Auditors made 11 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Medicaid Program: Eye Care Provider and Family Inappropriately Enroll as Recipients and Overcharge for Vision Services (2013-S-1). Medicaid provides a wide range of medical services, including vision care, to individuals who are economically disadvantaged and/or have special health care needs. For the fiscal year ended March 31, 2014, Medicaid claim costs for eye care services totaled about \$10 million. Auditors found numerous violations and questionable practices connected to the owner of a Medicaid eye care provider (Provider) and extending to the owner's family. For example, the owner and family members submitted false income information to secure Medicaid coverage and other medical assistance benefits; during their enrollment period, the State paid \$68,483 in medical benefits on their behalf. In addition, the Provider received over \$22,000 in improper Medicaid payments for claims with inappropriate coinsurance charges and/or for services not supported by medical records, and allowed non-Medicaid-enrolled providers to render services while identifying a different, authorized, provider as the service provider on its claims to Medicaid. The Provider also used a non-Medicaid-enrolled billing service company to submit its claims; the owner of the Provider and the owner of the billing service company are married. Furthermore, the owner of the billing service company used other providers' Medicaid identification numbers to gain unauthorized access to the eMedNY claims system and bill over \$700,000 in Medicaid claims on behalf of 55 providers. Auditors also identified five additional Medicaid recipients with a business or personal connection to the Provider's family who, we believe, submitted misleading information on their Medicaid applications to gain eligibility; Medicaid paid \$67,673 in health insurance benefits on behalf of this family during the period covered by the audit. Also, recipients identified in this audit engaged in transactions that were not indicative of a person living at or below the income levels that qualify a person for Medicaid eligibility. For example, auditors identified over \$400,000 in deposits made to the Provider's family's personal bank accounts (much of which appeared to be income). Additionally, in November 2012, the Provider's owner and the owner's spouse paid \$105,000 toward the purchase of a condominium for one of their family members. Auditors made eight recommendations to DOH to: assess the eligibility of the identified Medicaid recipients; deactivate ineligible Medicaid recipients and providers; conduct an expanded review of improper Medicaid claims; recover improper State payments; and improve claims processing controls.

Medicaid Program: Appropriateness of Medicaid Eligibility Determined by the New York State of Health System (2014-S-4). With the enactment of the federal Patient Protection and Affordable Care Act in 2010, the State developed the New York State of Health (NYSOH) as a new online marketplace for individuals to obtain health insurance coverage, including Medicaid. Individuals who apply for public assistance benefits, including Medicaid, are assigned a Client Identification Number (CIN) that uniquely identifies them. NYSOH is required to conduct various checks among data systems to verify applicants' eligibility, ensure proper CIN assignment, and validate enrollees' continued eligibility. DOH did not provide auditors adequate access to the NYSOH system. Due to this limitation and other audit scope impairments, auditors were unable to fully assess the adequacy of NYSOH controls over Medicaid enrollments and to fully determine the extent to which improper enrollments may have caused Medicaid overpayments. However, using other Medicaid data sources, auditors found that a range of design and process flaws in NYSOH's eligibility procedures permitted inappropriate Medicaid enrollments, resulting in overpayments totaling about \$3.4 million since NYSOH's implementation. Auditors made 14 recommendations to DOH to review and correct NYSOH eligibility system weaknesses, correct the improper Medicaid enrollments identified, recover identified inappropriate payments, and ensure NYSOH system auditability.

Medicaid Overpayments for Inpatient Transfer Claims Among Merged or Consolidated Facilities (2014-S-18). Generally, when a Medicaid recipient is transferred among different hospitals, separate payments are made to each facility for its claims. However, DOH regulations do not allow separate payments when transfers occur among hospitals or divisions that are part of a merged or consolidated facility. Under these circumstances, the first hospital should submit one claim for the entire episode of care. Auditors found that Medicaid made \$1.6 million in actual overpayments and up to \$5.3 million in potential overpayments because DOH did not enforce its regulations regarding Medicaid reimbursements for hospital transfer claims among merged or consolidated facilities, and thereby allowed separate payments for recipients transferred among merged or consolidated facilities. In addition, DOH lacked an

automated mechanism to identify merged hospitals, which would help detect and prevent inappropriate payments for inpatient transfers among these facilities. Auditors recommended that DOH: review the improper payments for hospital transfer claims and recover inappropriate payments; establish and implement policies to enforce regulations for inpatient transfers among divisions of merged or consolidated facilities; develop and implement mechanisms to identify merged and consolidated hospitals and to prevent payments for inpatient transfers between them; and inform providers how to properly bill for patient transfers among divisions of merged or consolidated facilities.

Medicaid Managed Care Organization Fraud and Abuse Detection (2014-S-51). Through its Medicaid managed care program, DOH contracts with managed care organizations (MCOs) to coordinate the care for enrolled Medicaid beneficiaries. At the time of this audit, 53 MCOs offered 81 different plans, with United HealthCare (United) and Amerigroup being among the largest. To participate in the Medicaid program, MCOs are required to have an effective compliance program. For instance, they must establish a full-time Special Investigation Unit (SIU) dedicated solely to the prevention, detection, and investigation of fraud and abuse. Additionally, MCOs must have adequate systems in place to identify providers who have been terminated or excluded from the Medicaid program, deny their claims, and thus prevent improper payments. Auditors found that, from January 1, 2011 through December 31, 2014, United and Amerigroup made improper and questionable payments totaling more than \$6.6 million attributable to providers who were excluded from the Medicaid program. In addition, recoveries of improper payments by United's and Amerigroup's SIUs were very limited, and both MCOs underreported their SIU recoveries to DOH. There may be a disincentive for MCOs to report these recoveries because they are factored into the premium rate calculation and could result in reduced premiums. Auditors also found that there is considerable risk that United and Amerigroup did not adequately staff their SIUs. With minimal staffing, the MCOs had limited ability to identify and recover fraudulent and improper payments, which increased the risk that Medicaid paid for improper claims. Moreover, the SIU staff at both MCOs had received inadequate annual training. Auditors made 11 recommendations to DOH, including: ensure improper MCO payments to ineligible providers are appropriately recovered; determine if the MCOs' recoveries have an impact on the monthly managed care premium rate calculations, and adjust the premiums as appropriate; strengthen steps to oversee and monitor MCOs to ensure that only eligible providers are reimbursed; and take steps to establish appropriate criteria for SIU staffing levels, adequate training requirements for the SIU staff, and a process for ensuring consistency and accuracy in reporting SIU activities and recoveries.

Medicaid Program: Optimizing Medicaid Drug Rebates (2015-S-1). In 1990, Congress created the Medicaid Drug Rebate Program to reduce state and federal expenditures for Medicaid prescription costs. Since January 1991, New York State has been able to recover a portion of the Medicaid prescription drug costs by requesting rebates from drug manufacturers. The Affordable Care Act, enacted in 2010, extended prescription drug rebates to cover medications dispensed to enrollees of Medicaid managed care organizations (MCOs). Currently, DOH monitors drug dispensing to Medicaid enrollees through claim information submitted to the eMedNY Medicaid claims processing and payment system. Included in this information is a drug's National Drug Code (NDC), a unique number that identifies each medication by its drug manufacturer and is the basis for DOH's manufacturer rebate requests. DOH uses NDCs and other information in eMedNY to identify drugs that are eligible for rebates, and then calculates quarterly rebates for each drug and submits rebate invoices to the manufacturers. For 2014, DOH invoiced \$2.4 billion in rebates for pharmacy drugs and \$72 million in rebates for physician-administered drugs (i.e., those given by a medical professional in an office setting). Auditors determined that DOH has not maximized revenues from the Drug Rebate Program, overlooking multiple sources of rebates that collectively accounted for an estimated \$95.1 million during the audit period. By the end of the audit fieldwork, DOH had already acted on some of the findings and had invoiced \$9.3 million of the \$95.1 million in identified rebates. Auditors also found that DOH implemented exclusionary rebate policies that were dubious when adopted or inadequately monitored thereafter, thus undermining its ability to collect all drug rebate revenue. In addition, DOH does not routinely review its internal policy decisions regarding rebate exclusions to reaffirm or reject their validity, which is especially critical given the dynamic nature and complexity of Medicaid claims processing. Such policies accounted for \$86.4 million (of the \$95.1 million) in unclaimed rebates. Further, DOH did not adequately oversee its rebate invoicing processes to ensure that all claims that were eligible for rebate were accurately identified and invoiced to manufacturers. Auditors identified errors in the drug rebate invoicing process that prevented DOH from properly identifying \$8.7 million (of the \$95.1

million) in rebate revenue due. Further, DOH did not perform sufficient risk assessments of its rebate invoicing processes to ensure key operations functioned correctly and effectively. Auditors recommended that DOH: review the rebate policies and rebate processing errors discussed in the report, and revise or take action as appropriate to ensure all rebate-eligible drugs are identified for invoicing; where appropriate, issue retroactive rebate invoices on the drug claims identified; and formally document the entire drug rebate process and regularly reassess policy decisions.

Medicaid Program: Improper Payments for Recipients No Longer Enrolled in Managed Long Term Care Partial Capitation Plans (2015-S-9). Managed Long Term Care Partial Capitation plans (Plans) provide health and long-term care services to recipients who have a long-lasting health problem or disability. Generally, recipients enrolled in these Plans: need home care, adult day health care, or other long-term care for more than 120 days; have both Medicaid and Medicare; and are age 21 or older. Medicaid pays each Plan a monthly capitation payment for every Medicaid recipient enrolled, and the Plan arranges for the provision of services that its members require. An inappropriate payment occurs when a capitation payment is made for a recipient who is later retroactively disenrolled from a Plan and the Plan was not “at risk” for the provision of services during the disenrollment period (i.e., did not pay for medical services for the recipient during the disenrollment period). Auditors found that, from January 1, 2010 through January 31, 2015, Medicaid paid Plans 5,368 monthly capitation payments totaling about \$21.4 million for recipients who were subsequently disenrolled and the Plans were not “at risk” during the disenrollment periods. By the end of fieldwork, the Plans voided 1,522 of the 5,368 monthly capitation payments (totaling about \$6.2 million). Additionally, the Office of the Medicaid Inspector General recovered another 800 payments (totaling more than \$3.2 million), leaving 3,046 capitation payments totaling about \$12 million that still needed to be reviewed and recovered. Further, DOH does not have a system in place to identify capitation payments made for retroactively disenrolled recipients. In addition, auditors determined that the Medicaid program could realize significant savings if it paid for the cost of services provided during disenrollment periods when plans were “at risk” rather than making capitation payments; auditors estimated that this would have resulted in savings of about \$3.1 million for the audit scope period. Auditors recommended that DOH: review the remaining \$12 million in capitation payments identified and recover overpayments as appropriate; enhance its oversight to identify and recover capitation payments for retroactively disenrolled recipients for periods that Plans were not “at risk” for providing medical services; amend Plan contracts to specify a time frame in which Plans are required to void inappropriate capitation payments for retroactively disenrolled recipients; and assess the impact of revising payment policies to reimburse Plans for the cost of medical services (as opposed to capitation payments) provided to retroactively disenrolled recipients.

Oversight of the Early Intervention Program’s State Fiscal Agent (2015-S-22). DOH is the lead agency responsible for the Early Intervention Program (Program), which aims to identify and evaluate as early as possible those infants and toddlers whose healthy development is compromised, and provide for appropriate intervention to improve child and family development. Early Intervention (EI) services, such as physical therapy and speech-language pathology services, are provided at no cost to an eligible child’s family, and are funded first through third-party payers, including commercial insurance and Medicaid; the State and counties share the remaining costs. The Program serves more than 60,000 children annually, at a cost of about \$556 million. Legislation effective April 1, 2013 required DOH to begin using a State Fiscal Agent (SFA) to administer EI claims and payments. DOH engaged an interim SFA and then entered into a five-year, \$42.8 million contract with Public Consulting Group (PCG). From April 2013 through July 2015, DOH paid a total of \$19.1 million for SFA services. Auditors found that DOH generally provides effective oversight of the SFA, helping to ensure that EI claims are paid timely and that the SFA fulfills contract deliverables related to customer service and data and reporting. However, despite improvement in the SFA’s timeliness of EI claim payments, as of September 2015, there were 169,615 unpaid claims totaling \$10.9 million that were submitted from July 1, 2013 through June 30, 2015. These claims required further actions by the SFA, insurers, or providers to resolve. Of the 169,615 unpaid claims, more than 18,000 claims (totaling nearly \$1.4 million) had been outstanding for more than 17 months. Auditors recommended that DOH: take prompt action to resolve the 169,615 unpaid claims by working with PCG, providers, and third-party payers; and work with PCG to gather input on potential enhancements to online training and customer service to better meet stakeholder needs.

[Nursing Home Surveillance \(2015-S-26\)](#). DOH monitors nursing homes' compliance with federal and State regulations that govern their operations, and acts as an agent for the federal government's Centers for Medicare and Medicaid Services (CMS) in monitoring quality of care in nursing homes. DOH staff assess compliance through on-site facility inspections, referred to as surveys. Standard Health and Life Safety Code surveys are unannounced and must be conducted at least every 15.9 months pursuant to CMS guidance. Complaint surveys investigate issues and nursing home-reported incidents that may involve noncompliance with regulations. Follow-up surveys are used to monitor nursing homes' progress in correcting deficiencies. If any survey reveals violations, surveyors issue citations, and DOH can implement a range of enforcement actions, such as fines, directed plans of correction, and, if warranted, facility closure. Auditors found that DOH is generally meeting its obligations to conduct Standard Health and Complaint surveys in accordance with federal and State requirements, including the timeliness of inspections and the accuracy of scope and severity ratings in its citations. However, DOH needs to strengthen its enforcement policies and procedures to better protect the health and well-being of nursing home residents. Inefficiencies in DOH's processes have significantly impaired its ability to assess fines timely, in some cases resulting in delays of up to six years between when a violation is cited and the resulting fine is imposed. In addition, DOH does not utilize the full array of enforcement actions available to it under both State law and CMS guidelines, choosing not to levy fines for well over 80 percent of the violations it cites. These weaknesses appear to undermine the incentive that fines can have as a deterrent to deficient practices as well as the sense of urgency for correcting the deficiencies, particularly in addressing cases of repeated noncompliance. Auditors recommended that DOH: eliminate the backlog in enforcement activity and maintain timely processing of future assessments of State fines; and consider assessing State fines for additional citations allowable by the Public Health Law and CMS guidelines, especially for facilities that demonstrate a pattern of repetitive citations.

[Early Assessment of the Encounter Intake System \(2015-S-41\)](#). Medicaid managed care organizations (MCOs) are contractually required to submit encounter transactions to inform DOH about each medical service provided to their enrolled recipients. DOH uses encounter data for quality assurance, various research and analytics, managed care rate setting, and drug rebate collections. On September 14, 2015, DOH's Encounter Intake System (EIS) began accepting encounter transactions from MCOs. (Prior to the EIS, MCOs submitted encounter transactions to DOH's eMedNY claims processing system.) The EIS collects and processes encounter transactions submitted by MCOs using four standard Health Insurance Portability and Accountability Act-compliant transaction sets (one each for professional, institutional, dental, and pharmacy encounters). Auditors found that most Medicaid MCOs (42 of 52) were not ready to submit Medicaid encounter data to the EIS by the September 2015 implementation date. According to DOH officials, as of September 30, 2015, only 10 of 52 Medicaid MCOs had successfully completed testing for the new system, including all four transaction sets. An additional 21 MCOs had successfully completed testing of at least one of the four transaction sets. The remaining 21 MCOs either had started but had not completed testing of any transaction set (13) or had not started any testing (8). Auditors determined that 19 of these remaining 21 Medicaid MCOs were specialized health plans, which generally have fewer enrollees than mainstream Medicaid managed care plans. According to DOH officials, the specialized plans typically had less sophisticated claims processing systems than other Medicaid managed care plans prior to EIS implementation, and therefore were more challenged to meet the EIS implementation date. Despite this, prior to the September 2015 EIS implementation, DOH did not provide any additional time or special assistance to the less sophisticated plans; all plans were treated similarly regardless of the unique challenges each may have faced. In response to this preliminary observation, DOH officials stated that additional guidance was provided to these plans, and as a result, the number of Medicaid MCOs that had successfully completed testing increased from 10 to 43 (of 52) by November 20, 2015. Auditors recommended that DOH actively monitor and guide the Medicaid MCOs that have not completed testing to ensure they become capable of submitting appropriate encounter transactions to the EIS and, if necessary, take corrective actions to enforce compliance.

[Management of Selected Special Revenue Funds \(2015-S-72\)](#). DOH administers over 90 special revenue funds, which are supported by specific sources of State-generated revenue and are legally restricted to disbursement for specified purposes. Over a decade ago, the State created four such funds to promote awareness of, and research into, the following health issues: organ donation, autism, diabetes, and multiple sclerosis. Money is raised primarily through the sale of distinctive license plates in support of

the specific causes. More recently, the fund for organ donation (Life Pass It On Trust Fund) has also begun to benefit from a voluntary \$1 donation check-off on license applications. Auditors found that for two of the funds, Drive Out Diabetes and Multiple Sclerosis, DOH used moneys timely and as intended. At the same time, DOH failed to use \$460,000 appropriated by the Legislature for the other funds. Most of this funding is for the Life Pass It On Trust Fund, which had a balance of more than \$1 million in December 2015 and has never been used by DOH since its inception. Overall, DOH officials have taken a passive approach to managing and utilizing special revenue funds, lacking any specific plans and policies for fund management and making little effort to promote the funds or raise awareness of their existence. Officials also do not report to the public on how the funds are used, and only monitor fund activity when specific issues arise. Auditors recommended that DOH establish and implement fund management controls to ensure that special revenue funds are utilized timely and for their intended purposes. Such controls should include, but not be limited to: written plans and policies specifically geared toward the management of special revenue funds; procedures to effectively promote the respective distinctive license plates of each fund as well as the State's ability to accept grants, gifts, and bequests for these funds; public disclosure of how funds are used; and regular monitoring of fund activity.

[Program Oversight and Monitoring of the Maximus Contract for the New York State of Health \(Insurance Marketplace\) Customer Service Center \(2015-S-80\)](#). Since 2010, DOH has had a contract with Maximus to develop and operate a statewide enrollment center for the State's public health insurance programs. In October 2013, DOH launched a State-based marketplace, known as the New York State of Health (NYSOH), to help New Yorkers shop for and enroll in health insurance coverage. DOH amended Maximus' contract to include staffing and operating a Customer Service Center for NYSOH. The Customer Service Center includes a Contact Center, which provides multi-channel assistance to all types of NYSOH consumers, and an Eligibility and Enrollment Unit, which provides centralized eligibility and enrollment processing. Maximus is required to meet performance standards related to processing, accuracy, and reporting on its operations. DOH's Bureau of Quality Management and Change Control monitors Maximus' performance against contract requirements through quality assurance reviews, as well as regular meetings with Maximus staff to discuss issues found during these reviews. Auditors found that DOH has an effective system to ensure that Maximus is complying with contract requirements and meeting performance standards. They also identified areas for process improvement, such as: requiring Maximus to provide DOH its complete sample population for each business function reviewed, including those calls/documents discarded from review along with the reasons; reviewing the discarded calls/documents for reasonableness; and increasing staffing to complete more quality assurance reviews to further ensure that Maximus meets performance standards. By the end of audit fieldwork, DOH officials had already taken actions to address the matters identified to help ensure Maximus' compliance with prescribed performance standards.

[Medicaid Program: Overpayments of Ambulatory Patient Group Claims \(Follow-Up\) \(2015-F-20\)](#). In 2008, changes to the State's Public Health Law required a new Medicaid outpatient payment methodology (known as Ambulatory Patient Groups, or APG) for clinic and ambulatory surgery services as well as hospital-based emergency room services. In the initial audit ([2011-S-43](#)), auditors identified flaws in DOH's eMedNY claims processing system that allowed \$1,204,186 in improper payments on 6,615 claims and \$933,399 in duplicate payments to providers for the same services under both the old and the new (APG) payment methodologies. Auditors also identified 56,241 claims totaling \$4,286,603 that were at risk of duplicate payment and needed to be reprocessed using the new APG methodology. Auditors made five recommendations to DOH to review and recover the improper Medicaid payments and implement new claims processing controls to prevent future improper payments. In their follow-up, auditors found that DOH had made significant progress in implementing the five recommendations, which included recovering nearly \$898,000 in overpayments and implementing new claims processing controls to prevent future improper payments. Of the initial report's five audit recommendations, four had been implemented and one had been partially implemented.

[Suspicious and Fraudulent Medicaid Payments to Affiliated Brooklyn Dentists \(Follow-Up\) \(2015-F-24\)](#). DOH administers the State's Medicaid program, which provides a wide range of health care services, including dental services, to individuals who are economically disadvantaged and/or have special health care needs. The initial audit ([2010-S-64](#)) identified a dentist, Lawrence Bruckner, with a highly unusual

Medicaid billing pattern. Lawrence Bruckner operated two office locations in Brooklyn, New York. From January 1, 2007 through June 8, 2011, Medicaid paid about \$6.9 million for services purportedly performed at the Brooklyn offices by six affiliated dentists, including Bruckner and three members of his family. Auditors identified about \$2.3 million in highly suspicious and possibly fraudulent Medicaid claims that were submitted by the six dentists during the audited time period. Auditors determined that the affiliated dentists: created false entries in medical records to support claims; routinely certified claims for services that were purportedly provided by another affiliated dentist; and paid staff to recruit Medicaid recipients to their offices. Auditors also found questionable sanitary conditions at the two offices. Audit findings were referred to the State Attorney General's Office for further investigation. In August 2012, Bruckner pleaded guilty to multiple criminal charges, and received a prison term of one to three years. Auditors recommended that DOH: determine whether additional recoveries should be made and whether the dentists should be allowed to participate in the Medicaid program; monitor the dentists' claims and direct them to cease improper solicitation practices; and inspect the two office locations for unsanitary conditions. In their follow-up, auditors found that DOH officials had made progress in addressing the problems identified. Of the initial report's five audit recommendations, three had been implemented and two had been partially implemented. Bruckner paid \$681,336 in restitution to the State; Bruckner and three other dentists were removed from the Medicaid program; and the remaining two dentists were prohibited from receiving Medicaid payments.

[Payments for Fraudulent and Improper Claims Submitted by Davis Ethical Pharmacy \(Follow-Up\) \(2015-F-25\)](#). In an initial audit ([2012-S-11](#)), issued on August 13, 2013, auditors determined that, for the period January 1, 2008 through December 13, 2011, Medicaid made improper payments totaling \$94,460 to Davis Ethical Pharmacy, an independently owned pharmacy in Rockville Centre. Based on information obtained from the prescribing physicians identified on the claims, auditors determined that Davis Ethical likely fabricated nearly all of the improper claims. Auditors coordinated their audit and investigative work with the Nassau County District Attorney and the Department of Financial Services. Auditors recommended that DOH: recover the improper payments, formally assess the payments that were not tested, and formally assess the conduct of William Davis, the owner of Davis Ethical. Davis pleaded guilty to Grand Larceny in the Second Degree and was sentenced on February 9, 2016, and made restitution of \$231,919 to the State, of which \$94,460 was paid to the Medicaid program for the improper payments auditors identified. Auditors determined that DOH officials had made progress addressing the problems identified in the initial audit report. Of that report's three audit recommendations, one had been implemented and two had been partially implemented.

[Improper Fee-for-Service Payments for Pharmacy Services Covered by Managed Care \(Follow-Up\) \(2016-F-5\)](#). In their initial report ([2014-S-5](#)), issued on January 5, 2015, auditors determined that, for the 27-month period from October 1, 2011 through December 31, 2013, Medicaid inappropriately paid 29,289 fee-for-service pharmacy claims totaling \$978,251 on behalf of 18,010 Medicaid recipients whose pharmacy benefits were covered by managed care. Auditors recommended that DOH: review the improper payments identified and recover overpayments as appropriate; take corrective action to help ensure managed care enrollment information, particularly for newborns, is entered and updated timely; and determine why fee-for-service pharmacy claims were inappropriately paid and take any necessary corrective actions. In the follow-up review, auditors found that DOH officials had made some progress in addressing the problems identified in the initial audit. However, further actions were still needed. Of the initial report's three recommendations, two had been implemented and one had not been implemented.

[Improper Payments for Controlled Substances That Exceed Allowed Dispensing Limits \(Follow-Up\) \(2016-F-6\)](#). The Medicaid program provides a wide range of health care services, including prescription drugs, to individuals who are economically disadvantaged and/or have special health care needs. The New York State Controlled Substances Act (Act) was enacted to combat the illegal use of controlled substances. The Act limits the quantities of controlled substances that pharmacies can dispense when prescriptions are ordered by telephone or fax. In their initial report ([2013-S-59](#)), issued on February 6, 2015, auditors determined that, for the period 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 the supply limits allowed by the Act. They further identified 3,323 managed care claims for controlled substances in which the quantities dispensed exceeded the limits set

by the Act. In addition, auditors determined that DOH's claims processing system did not contain controls to deny claims from pharmacies for controlled substances that exceeded supply limits allowed by the Act. Auditors recommended that DOH review the improper pharmacy claims identified and make recoveries; and that DOH and managed care organizations implement certain controls to prevent further improper payments. In the follow-up review, auditors found that DOH officials had made progress in addressing the problems identified in the initial audit report. This included implementing controls to prevent the payment of pharmacy claims for quantities of controlled substances that exceeded supply limits allowed by the Act. These actions resulted in the denial of approximately \$3.3 million in claims through July 2016. Pharmacies were also formally reminded of the supply limits on controlled substances. However, further actions were still needed. In particular, only \$49,600 of the \$1,183,601 in improper payments identified in the initial audit had been recovered. Of the initial report's six audit recommendations, five had been implemented and one had been partially implemented.

Office of Alcoholism and Substance Abuse Services (OASAS)

Contracted Programs With Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc. (2015-S-24). OASAS entered into a five-year contract with the Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc. (PROMESA) covering the period July 1, 2009 through June 30, 2014, totaling \$12.5 million, in part to conduct a Methadone to Abstinence Residential Treatment (MTAR) program. Under the program, PROMESA administers methadone by prescription, in conjunction with other rehabilitative assistance that seeks to control the physical problems associated with heroin dependence and to provide the opportunity for clients to make lifestyle changes over time. According to the contract, OASAS reimburses PROMESA for the net costs it incurs to provide the services for each contracted program, up to the maximum budgeted amount; costs are reported via an annual Consolidated Fiscal Report (CFR). Between July 1, 2012 and June 30, 2014, for the MTAR program, PROMESA reported about \$6.5 million in costs, which were offset by \$3.7 million in revenues. The MTAR program incurred a reported deficit of \$2.8 million, of which OASAS funded \$2.3 million. Auditors found that, despite two relatively recent audits by OASAS, claims submitted by PROMESA for the two years ended June 30, 2014 continued to include costs that were not valid or consistent with OASAS guidelines. PROMESA reported about \$23 million in costs associated with contracted OASAS programs during the period. Auditors examined about \$9 million of these expenses and identified problems with over 90 percent, totaling \$8.2 million. In addition, about 25 percent of these expenses (\$2.1 million) were clearly unallowable under OASAS and CFR guidelines, including \$940,493 charged to the State-funded MTAR program. The remaining \$6.1 million represents expenses that auditors deemed questionable. Auditors recommended that OASAS: establish additional monitoring controls to ensure that PROMESA only claims expenses that are reasonable, necessary, allowable, supported, and consistent with CFR and OASAS guidelines; recover from PROMESA the \$940,493 in expenses claimed that are not allowable, and take steps to ensure the organization does not re-claim these costs for funding in the future; follow up with PROMESA to formally assess the \$6.1 million of questioned expenses; require that PROMESA consistently use a documented, competitive process to provide assurance that reasonable prices are being paid for services that are actually rendered; and continue to explore alternative funding methods to more efficiently manage and oversee contracted service programs.

Drug and Alcohol Treatment Program: Provider Claiming of Depreciation Expenses (2015-S-84). OASAS oversees the nation's largest and most diverse addiction treatment system, and enters into agreements with providers for specific alcohol- and drug-related services. OASAS reimburses the providers for the net costs they incur to provide the services for each contracted program, up to the maximum budgeted amount. The costs are reported via an annual Consolidated Fiscal Report (CFR), which is commonly used by several New York State agencies to monitor and oversee service providers' financial activity. According to the Consolidated Fiscal and Reporting Manual (CFR Manual), OASAS providers are not allowed to budget for or claim any type of depreciation expense for reimbursement. OASAS's oversight responsibility includes ensuring provider compliance with the CFR Manual when submitting reimbursement claims. Auditors found that OASAS's monitoring of these contracts was not effective; providers inappropriately claimed \$2,675,045 in depreciation expenses, of which \$2,220,807

was funded by OASAS. Also, OASAS could potentially use the remaining \$454,238 for inappropriate increases to providers' future program budgets. Auditors recommended that OASAS: recover from identified providers the \$2,220,807 in depreciation expenses claimed that are not allowable; make sure the \$454,238 in non-funded depreciation expenses are not used to increase provider budgets; and establish effective monitoring controls to ensure provider claims do not include depreciation expenses.

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 established by the State Education Department (SED) in certifying students as eligible for TAP awards.

Metropolitan Learning Institute (2014-T-1). The Metropolitan Learning Institute is a licensed private career school headquartered in Rego Park, with additional instruction sites in Jackson Heights, Brooklyn, and Jersey City, New Jersey. (Only students enrolled at the New York locations may receive State financial aid.) The school offers ten vocational programs registered with SED. For the three academic years ended June 30, 2012, the school certified 4,605 TAP awards totaling almost \$8.7 million that were paid on behalf of 1,890 students. At the time of the audit, Metropolitan served about 550 students. Tuition costs average \$16,500 per program. Based on a sample of 125 randomly selected TAP awards paid during the three years ended June 30, 2012, as well as other awards to these students through fall 2012, auditors determined that Metropolitan was overpaid \$581,315 because school officials incorrectly certified students as eligible for State financial aid awards. Incorrect certifications include nine students who were not properly matriculated. For eight students, the school did not retain enrollment agreements demonstrating that the students had been informed of program requirements, tuition and other fees, the school's refund policy, etc., prior to the start of instruction. The other student's enrollment agreement was not signed by an SED-licensed agent. Additional incorrect certifications include two students who did not meet the full-time requirements, three students who did not enroll in the second module, and one student who did not demonstrate academic preparedness. Auditors recommended that HESC recover \$581,315 plus applicable interest from Metropolitan, and that SED and HESC work with Metropolitan officials to help ensure future compliance with eligibility requirements.

LIM College (2015-T-2). Founded in 1939, LIM College is located in Midtown Manhattan and offers seven SED-approved undergraduate programs, including fashion merchandising, management, marketing, and visual merchandising. Annual tuition for a full-time student is approximately \$23,650, and the school's enrollment as of fall 2014 was about 1,500 undergraduate students. For the three academic years ended June 30, 2013, the school certified 1,442 financial aid awards totaling \$2.1 million that were paid to the school on behalf of 538 students. Auditors reviewed a sample of 50 randomly selected awards paid during that period, as well as other awards paid to these students through fall 2013, and determined that, for these transactions, LIM's certification procedures for State financial aid substantially complied with the governing Law and Regulations. Nonetheless, tests did disclose nine awards totaling \$12,009 that school officials certified in error. Auditors recommended that HESC recover \$12,009 plus applicable interest from LIM, and work with LIM officials to help ensure that they fully credit student accounts for TAP awards within the required time frames; and that SED work with LIM officials to help ensure future compliance with State financial aid certification requirements.

Wagner College (2015-T-3). Wagner, a four-year private college located on Staten Island, offers arts, business, nursing, physician's assistant, and teacher education programs approved by SED. Annual tuition for a full-time student is approximately \$42,000, and the school's enrollment is approximately 1,700. For the three academic years ended June 30, 2014, the school certified 2,148 awards, totaling \$3 million, that were paid to the school on behalf of 635 students. Based on a sample of 150 randomly selected

awards paid during that period, as well as other awards paid to these students through spring 2015, auditors determined that Wagner was overpaid \$97,947 because school officials incorrectly certified students as eligible for State financial aid awards. Incorrect certifications included: eight students who did not meet the good academic standing requirements; three students who were not enrolled for the semesters in question; two students who did not demonstrate academic preparedness; one student for whom there was insufficient proof of having satisfied the State residency requirement; two students whose accounts were not fully credited with their State financial aid payment; and five students who did not meet the full-time requirements. Auditors recommended that HESC recover \$97,947 plus applicable interest from Wagner; that HESC and SED work with Wagner officials to help ensure future compliance with eligibility requirements; and that Wagner comply with the Education Law and the Commissioner of Education's Rules and Regulations when certifying students for State financial aid.

College of Westchester (2015-T-5). Westchester, formerly known as the Westchester Business Institute, offers programs in business, computer, digital media, and health fields. Tuition for full-time students is \$8,900 per semester, and the school's student enrollment as of fall 2015 was about 1,070. For the three academic years ended June 30, 2014, the school certified 4,090 awards, totaling \$7.4 million, that were paid to the school on behalf of 1,590 students. Based on a sample of 50 randomly selected awards paid during that period, as well as other awards to these students through summer 2015, auditors determined that the procedures used by Westchester officials to certify students for State financial aid substantially complied with the governing Law and Regulations. However, Westchester was overpaid \$13,872 because school officials incorrectly certified some students as eligible for State financial aid awards. The school had refunded \$2,532 prior to completion of this audit. Auditors recommended that HESC recover \$11,340 plus applicable interest from Westchester; that HESC and SED work with Westchester officials to help ensure future compliance with eligibility requirements; and that Westchester comply with the State financial aid requirements when certifying students for State financial aid.

Vaughn College of Aeronautics and Technology (2015-T-6). Located in Queens, New York, Vaughn is a four-year private institution specializing in aviation, engineering, and technology. The tuition for full-time students is \$10,940 per semester, and the school has an enrollment of about 1,500. For the three academic years ended June 30, 2014, the school certified 4,317 awards, totaling \$7.9 million, that were paid to the school on behalf of 1,716 students. Based on a sample of 50 randomly selected awards paid during that period, as well as other awards paid to these students through spring 2015, auditors determined that Vaughn's certification procedures for State financial aid substantially complied with the governing Law and Regulations. Of the 50 awards tested, only two, totaling \$3,945, were certified in error. In addition to the two improper awards, auditors also identified other improper awards that were not among those from the random sample, for a total of \$34,546 in improperly certified awards. Auditors recommended that HESC recover \$34,546 plus applicable interest from Vaughn, and that HESC and SED work with Vaughn officials to help ensure future compliance with eligibility requirements.

Metropolitan College of New York (2015-T-7). Metropolitan College, which operates at two locations (Manhattan and the Bronx), offers degrees in areas such as Business, Healthcare System Management, Human Services, and Emergency Management & Business Continuity. The school's year-round operations include three semesters per academic year. For the 2015-16 year, Metropolitan College enrolled 575 undergraduate students. Undergraduate tuition for spring 2016 was \$584 per credit, or \$8,760 per term (15 credits). For the three academic years ended June 30, 2014, the school certified 3,718 awards, totaling \$6.6 million, that were paid to the school on behalf of 1,560 students. Based on a sample of 75 randomly selected awards paid during that period, as well as other awards to these students through spring 2015, auditors determined that the procedures used by Metropolitan College officials to certify students for State financial aid substantially complied with the governing Law and Regulations. Auditors also determined that Metropolitan College was overpaid \$20,944 because school officials incorrectly certified some students as eligible for State financial aid awards. Auditors recommended that HESC recover \$20,944 plus applicable interest from Metropolitan College; that HESC and SED officials work with school officials to help ensure future compliance with eligibility requirements; and that Metropolitan College comply with the State Education Law and the Commissioner of Education's Rules and Regulations when certifying students for State financial aid.

State Education Department (SED)

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. 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 2015-16 reporting year, OSC issued 25 such audits, as follows:

- [Mid Island Therapy Associates, LLC \(2014-S-40\)](#). Mid Island, also known as All About Kids, is a Plainview-based for-profit organization authorized by SED to provide, among other programs, a preschool Special Education Itinerant Teacher (SEIT) program to children with disabilities between the ages of three and five years. During the 2012-13 school year, Mid Island served approximately 271 students. For the fiscal year ended June 30, 2013, Mid Island reported approximately \$3 million in reimbursable costs to the SEIT program. For the three fiscal years ended June 30, 2013, auditors identified \$655,055 in reported costs that did not comply with the RCM's requirements, including \$621,191 in personal service costs and \$33,864 in other than personal service (OTPS) costs, as follows: \$466,575 in over-allocated salaries and fringe benefits charged to the SEIT program; \$147,121 in non-allowable 2012-13 retroactive salary increases that were paid in April and May 2014; \$33,864 in non-reimbursable OTPS costs; and \$7,495 in employee bonuses that were not in compliance with the RCM's guidelines. Auditors recommended that SED review the disallowances and make appropriate adjustments to Mid Island's CFRs and reimbursement rates, and work with Mid Island officials to help ensure compliance with RCM provisions; and that Mid Island ensure that costs reported on its annual CFRs fully comply with the requirements in the RCM.
- [Unity House of Troy \(2014-S-60\)](#). Unity House, a not-for-profit organization located in Troy, offers preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2012, Unity House reported approximately \$6.85 million in reimbursable costs for its rate-based preschool special education programs. Auditors identified \$404,952 in costs charged to the programs that did not comply with SED's requirements for reimbursement, including \$322,258 in personal service costs (\$312,543 in salary and fringe benefits and \$9,715 in severance pay) that were overstated on the CFR and \$82,694 in ineligible other than personal service costs (\$46,878 in costs that were incorrectly calculated, \$13,653 in costs that were not related to the programs, \$11,143 in gifts, \$5,132 in food, \$3,698 in fundraising, and \$2,190 in other non-reimbursable costs). Auditors recommended that SED review the disallowances identified and adjust Unity House's CFRs and tuition reimbursement rates, as appropriate, and remind Unity House officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Unity House ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Kew Gardens SEP, Inc. \(2014-S-63\)](#). Kew Gardens is a Queens-based for-profit organization that is authorized by SED to operate preschool Special Education Itinerant Teacher (SEIT) and Related Services programs for children with disabilities between the ages of three and five years. During the 2012-13 fiscal year, Kew Gardens served 103 students. For the three fiscal years ended June 30, 2013, Kew Gardens reported approximately \$9.8 million in reimbursable costs for the audited SEIT program. Auditors identified \$295,997 in reported costs that did not comply with RCM requirements, including \$283,649 in personal service costs and \$12,348 in other than personal service costs, as follows: \$119,906 in accrued pension plan expenses that was diverted to other uses; \$93,771 in accrued compensation that was paid to 19 employees in subsequent years; \$50,851 in excess

retirement plan contributions for five employees; \$19,120 in salary expenses paid to two individuals whose time sheets showed they worked the same time period at another preschool special education provider; \$8,680 in advertising costs that were insufficiently documented; and \$3,668 in over-allocated costs for supplies. Auditors recommended that SED review the disallowances and make appropriate adjustments to Kew Gardens' CFRs and reimbursement rates, and work with Kew Gardens officials to help ensure their compliance with the RCM's provisions; and that Kew Gardens ensure that costs reported on its annual CFRs fully comply with the requirements in the RCM.

- [Starting Point Services for Children \(2014-S-64\)](#). Starting Point is a Brooklyn-based not-for-profit organization that operates preschool Special Education Itinerant Teacher and Special Class Integrated Setting programs for children with disabilities between the ages of three and five years. During the 2012-13 school year, Starting Point served 942 students. For the three fiscal years ended June 30, 2013, auditors identified \$2,585,454 in reported costs that did not comply with RCM requirements, including \$1,981,802 in non-reimbursable shared staff compensation costs, \$310,136 in inadequately documented consulting costs, \$173,539 in unsupported bonuses to staff, \$70,078 in non-program costs, and \$49,899 in misclassified costs, food costs, and other ineligible costs. Auditors recommended that SED review the disallowances and make appropriate adjustments to Starting Point's CFRs and tuition reimbursement rates, and work with Starting Point officials to help ensure compliance with RCM provisions; and that Starting Point ensure that costs reported on its annual CFRs fully comply with SED's guidelines and requirements.
- [Upstate Cerebral Palsy \(2014-S-71\)](#). Utica-based Upstate Cerebral Palsy (UCP) is an SED-approved not-for-profit special education provider that provides preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2012, UCP reported about \$7.9 million in reimbursable costs on its CFR for three preschool special education programs. Auditors identified \$97,781 in non-allowable costs, including \$83,905 in personal service costs consisting of ineligible bonuses, executive compensation above the regional median allowable salary, and non-program-related costs, and \$13,876 in other than personal service costs that were either non-program-related, not allowable, or unsupported by proper documentation. Auditors recommended that SED review the disallowances identified and, if warranted, make the necessary adjustments to UCP's reimbursement rates, and remind UCP officials of the pertinent SED guidelines that relate to the deficiencies identified; and that UCP ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Words 'N Motion Special Education Programs \(2014-S-72\)](#). Staten Island-based Words 'N Motion is a for-profit organization authorized by SED to operate, among other SED-approved programs, a preschool Special Education Itinerant Teacher (SEIT) program for children with disabilities between the ages of three and five years. During the 2012-13 fiscal year, Words 'N Motion served 63 students. For the three fiscal years ended June 30, 2013, Words 'N Motion reported approximately \$4.6 million in reimbursable costs for the audited programs. Auditors identified \$135,174 in reported costs that did not comply with the RCM's requirements, including \$64,790 in personal service costs and \$70,384 in other than personal service costs. The disallowances included: \$62,895 in salaries and related fringe benefits for six Preschool Evaluations program staff who were incorrectly charged to the SEIT program; \$32,770 in over-allocated rent-related expenses; \$19,827 in fees, corporate taxes, advertising costs, and other miscellaneous expenses that were ineligible, insufficiently documented, and/or not program-related; and \$17,787 in staff development costs that were unsupported and/or ineligible. Auditors recommended that SED review the disallowances and make appropriate adjustments to Words 'N Motion's CFRs and reimbursement rates, and work with Words 'N Motion officials to help ensure their compliance with RCM provisions; and that Words 'N Motion ensure that costs reported on its annual CFRs fully comply with all RCM requirements.
- [Kids-Centric, Inc. \(2014-S-73\)](#). Kids-Centric, a Brooklyn-based for-profit organization, provides Special Education Itinerant Teacher services and integrated special class preschool special education programs (collectively referred to as the SED Programs) to children with disabilities between the ages of three and five years. During the 2012-13 school year, Kids-Centric served 153 students. For the

three fiscal years ended June 30, 2013, Kids-Centric reported approximately \$14.2 million in reimbursable costs for the audited programs. Auditors identified \$301,601 in reported costs that did not comply with RCM requirements, including \$139,267 in personal services costs and \$162,334 in other than personal service costs. These ineligible costs included: \$67,783 in various unsupported travel and vehicle expenses; \$58,565 in salary expenses that were not supported or documented; \$39,410 in ineligible and/or unsupported food expenses, including parties for staff as well as alcohol; and \$36,812 in costs that had already been reimbursed from federal Individuals with Disabilities Education Act grants. Auditors recommended that SED review the disallowances identified and make appropriate adjustments to Kids-Centric's CFRs and reimbursement rates, and work with Kids-Centric officials to help ensure their compliance with RCM provisions; and that Kids-Centric ensure that costs reported on its annual CFRs fully comply with all RCM requirements.

- [United Cerebral Palsy Association of the Rochester Area, Inc. \(2014-S-75\)](#). UCP Rochester, a not-for-profit organization located in Rochester, provides preschool special education services to children with disabilities who are between the ages of three and five years. In 2013, UCP Rochester provided preschool special education services to about 90 children from 16 school districts located in Monroe and Ontario counties in western New York. For the year ended December 31, 2013, UCP Rochester reported approximately \$1.7 million in reimbursable costs for its preschool special education programs. Auditors identified \$6,634 in costs charged to the audited programs that did not comply with SED's requirements for reimbursement. The non-reimbursable costs included: \$2,743 in other than personal service costs that were either not allowed, not directly related to the programs, or not properly documented; \$2,210 in ineligible bonuses and associated fringe benefits; and \$1,681 for inappropriate consultant services. In addition, auditors also questioned the appropriateness of \$1,544 in costs for consultant services that did not comply with bidding requirements outlined in the RCM. Auditors recommended that SED review the disallowances and questionable costs identified in the audit and, if warranted, make the necessary adjustments to UCP Rochester's reimbursement rates; that SED remind UCP Rochester officials of the pertinent SED guidelines that relate to the deficiencies identified; and that UCP Rochester ensure that the costs it reports on its annual CFRs fully comply with SED's requirements.
- [Inspire \(Orange County Cerebral Palsy Association\) \(2014-S-80\)](#). Based in Goshen, and originally founded as Orange County Cerebral Palsy Association, Inc., Inspire provides a wide array of outpatient, educational, and support services for individuals of all ages and abilities. Inspire is also an SED-approved provider of preschool special education services. Inspire operates preschool special education programs at three sites (Goshen, Newburgh, and Monroe) that serve approximately 250 students between the ages of three and five years. For the fiscal year ended June 30, 2013, Inspire reported over \$6.4 million in reimbursable costs on its CFR for six rate-based preschool special education programs. Auditors found that Inspire claimed \$226,382 in ineligible costs, including \$149,768 in personal service costs (ineligible bonuses and fringe benefits paid to direct and non-direct care staff) and \$76,614 in other than personal service costs (unsupported vehicle costs; ineligible food, entertainment, and gift expenses; and costs not related to the audited programs). Auditors recommended that SED review the disallowances and make appropriate adjustments to Inspire's tuition reimbursement rates, and remind Inspire officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Inspire ensure that costs reported on its annual CFRs fully comply with SED's guidelines and requirements, and communicate with SED to obtain clarification as needed.
- [Finger Lakes United Cerebral Palsy \(2015-S-10\)](#). Finger Lakes United Cerebral Palsy, also called Happiness House, is a not-for-profit organization located in the Finger Lakes region of central New York that provides preschool special education services to children with disabilities from three to five years of age. During the 2012-13 school year, Happiness House provided preschool special education services to about 150 children with learning disabilities in Geneva, Canandaigua, and Waterloo. For the fiscal year ended June 30, 2013, Happiness House reported approximately \$3.4 million in reimbursable costs for its preschool special education programs. Auditors identified \$15,454 in costs that did not comply with SED's requirements for reimbursement, including \$13,570 in other than personal service costs and \$1,884 in personal service costs that were either ineligible, not reasonable or necessary, not properly documented, or incorrectly reported on the CFR. Auditors recommended

that SED review the disallowances identified and adjust Happiness House's reimbursement rates, as appropriate, and remind Happiness House officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Happiness House ensure that costs reported on annual CFRs fully comply with SED's requirements.

- [Just Kids Early Childhood Learning Center \(2015-S-13\)](#)**. Just Kids is a Suffolk County-based for-profit organization authorized by SED to provide, among other SED-approved programs, Preschool Special Education Itinerant Teacher, Special Class, and Special Class in an Integrated Setting programs to children with disabilities between the ages of three and five years. During the 2013-14 school year, Just Kids served about 803 students. For the three fiscal years ended June 30, 2014, Just Kids reported approximately \$53.7 million in reimbursable costs for its SED Programs. In addition to the preschool special education programs, Just Kids also operates a day care center. Several Just Kids employees also performed services at an affiliated entity, Just Kids Diagnostic & Treatment Center. Just Kids and the Diagnostic & Treatment Center share a common ownership. This less-than-arm's-length (LTAL) relationship is disclosed in the notes to Just Kids' Annual Financial Statement. Auditors identified \$417,994 in reported costs that did not comply with the RCM's requirements, including \$229,117 in personal service costs and \$188,877 in other than personal service costs. Among the disallowances identified were: \$148,590 for repairs, maintenance, office supplies, and utilities improperly allocated to Just Kids; \$108,662 in employee day care discounts to employees who were not parents of students enrolled in their programs; \$70,951 in salary and fringe benefits for one employee without time records/documentation of work product; and \$38,800 in overstated compensation for two employees. Auditors recommended that SED review the disallowances and make appropriate adjustments to Just Kids' reimbursement rates, work with Just Kids officials to help ensure compliance with RCM provisions, and re-evaluate Just Kids' LTAL lease and health service transactions for reasonableness and cost effectiveness; and that Just Kids ensure that costs reported on its annual CFRs fully comply with RCM requirements.
- [Yeled v'Yalda Early Childhood Center \(2015-S-19\)](#)**. Yeled is a Brooklyn-based not-for-profit organization authorized by SED to operate, among other SED-approved programs, a Special Education Itinerant Teacher (SEIT) program to serve children with disabilities between the ages of three and five years. Yeled also operates numerous other programs, such as Head Start, Infant/Toddler Early Intervention, and the Special Supplemental Nutrition Program for Women, Infants, and Children. During the 2013-14 school year, Yeled provided SEIT services to 1,582 students. For the three fiscal years ended June 30, 2014, Yeled reported approximately \$81 million in reimbursable costs for the audited program. Auditors identified \$2,950,518 in reported costs that did not comply with the RCM's requirements, including \$1,924,379 in other than personal service (OTPS) costs and \$1,026,139 in personal service costs. Among the disallowances identified were: \$1,062,157 in OTPS costs related to 20 Yeled sites that were not approved by SED for SEIT; \$683,915 in non-program-related OTPS costs; \$571,929 in salaries and fringe benefits for employees who did not work for the SEIT program; \$215,528 in excessive allocation of shared employees; and \$74,025 in vehicle expenses not supported by usage logs. Auditors recommended that SED review the disallowances and make appropriate adjustments to Yeled's CFRs and reimbursement rates, and work with Yeled officials to help ensure their compliance with RCM provisions; and that Yeled ensure that costs reported on its annual CFRs fully comply with the RCM requirements.
- [Rivendell School \(2015-S-25\)](#)**. Rivendell is a Brooklyn-based not-for-profit organization that is authorized by SED to operate, among other SED-approved programs, a preschool Special Education Itinerant Teacher (SEIT) program for children with disabilities between the ages of three and five years. In addition to the audited SEIT program, Rivendell operates a Montessori preschool, which is primarily privately funded, and Related Services and Evaluations programs. These non-SEIT programs are not subject to SED's rate-setting function. During the 2013-14 school year, Rivendell's SEIT program served 86 students. For the three fiscal years ended June 30, 2014, Rivendell reported approximately \$7.5 million in reimbursable costs for the audited program. Auditors identified \$536,449 in reported costs that did not comply with the RCM's requirements, including \$465,805 in other than personal service costs and \$70,644 in personal service costs. Among the disallowances identified were: \$389,012 in expenses that should have been allocated to other Rivendell programs; \$70,644 in

undocumented extra pay expenses; and \$12,699 in unnecessary and ineligible travel costs. Auditors recommended that SED review the disallowances and make appropriate adjustments to Rivendell's reimbursement rates, and work with Rivendell officials to help ensure their compliance with RCM provisions; and that Rivendell ensure that costs reported on its annual CFRs fully comply with all RCM requirements.

- [Center for Disability Services \(2015-S-40\)](#). Center for Disability Services (CFDS), an SED-approved not-for-profit special education provider located in Albany, provides preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2013, CFDS reported about \$4.8 million in reimbursable costs on its CFR for five preschool special education programs. Auditors identified \$81,581 in costs that were not in compliance with the RCM, including \$64,954 in personal service costs that consisted of ineligible bonuses and executive compensation above the allowed regional median and \$16,627 in non-personal service costs that were either not supported by proper documentation, not allowable, or not related to the programs. Auditors recommended that SED review the disallowances identified and make the necessary adjustments to the costs reported on CFDS's CFR and to CFDS's tuition reimbursement rates, and remind CFDS officials of the pertinent SED guidelines that relate to the deficiencies identified; and that CFDS ensure that costs reported on its annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [United Community Services, Inc. \(2015-S-44\)](#). Located in Brooklyn, United Community Services, Inc. (United) is a for-profit organization authorized by SED to operate, among other SED-approved programs, the Special Class in an Integrated Setting program to children with disabilities between the ages of three and five years. During the 2013-2014 school year, United provided services to 108 students. Also, United has a collaboration agreement with Bushwick United Headstart, and provides services to students with disabilities at four Bushwick locations. For the three fiscal years ended June 30, 2014, United reported approximately \$7.3 million in reimbursable costs for the audited programs. Auditors identified \$207,295 in reported costs that did not comply with the RCM's requirements, including \$154,991 in personal service costs and \$52,304 in other than personal service costs. The ineligible costs included: \$81,068 in compensation paid to the Assistant Executive Director, who also served as the full-time Executive Director at Bushwick; \$73,923 in pension contributions that did not comply with the RCM's guidelines; \$17,931 in undocumented vehicle expenses; and \$17,347 in miscellaneous expenses that were insufficiently documented and/or not program-related. Auditors recommended that SED review the disallowances and make appropriate adjustments to United's CFRs and reimbursement rates, and work with United officials to help ensure their compliance with RCM provisions; and that United ensure that costs reported on its annual CFRs fully comply with the requirements in the RCM.
- [The Arc of Orange County \(2015-S-45\)](#). The Arc of Orange County (Arc Orange) is an SED-approved, not-for-profit special education provider located in Orange County. Arc Orange provides preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2013, Arc Orange reported over \$5.5 million in reimbursable costs on its CFR for four rate-based preschool special education programs. For the two years ended December 31, 2013, auditors identified \$94,969 in ineligible costs that Arc Orange reported on its CFRs for the audited programs. The ineligible costs included \$70,950 in personal service costs (\$69,310 in severance pay and \$1,640 for staff service awards) and \$24,019 in other than personal service costs (\$18,606 in costs that were not related to the programs, \$3,474 in food, \$1,206 in gifts, \$437 in retainer fees, and \$296 in other non-reimbursable costs). Auditors recommended that SED review the disallowances identified, and make the necessary adjustments to the costs reported on Arc Orange's CFRs and to Arc Orange's tuition reimbursement rates, as appropriate, and remind Arc Orange officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Arc Orange ensure that costs reported on its annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Newmeadow, Inc. \(2015-S-48\)](#). Newmeadow, a not-for-profit organization located in Malta, provides preschool special education services to children with disabilities between the ages of three and five

years. For the fiscal year ended June 30, 2014, Newmeadow reported \$2.9 million in reimbursable costs on its CFR for its rate-based preschool special education programs. Auditors identified \$12,059 in costs charged to the audited programs that did not comply with SED's requirements for reimbursement. The non-reimbursable costs included \$3,897 in personal service costs and \$8,162 in other than personal service costs. Auditors also found unreported less-than-arm's-length (LTAL) relationships that Newmeadow should have disclosed on its CFR and financial statements. In addition, auditors determined that Newmeadow did not maintain sufficient inventory records or have a process for identifying board members' conflicts of interest on an ongoing basis. Auditors recommended that SED review the disallowances and, if warranted, make the necessary adjustments to Newmeadow's reimbursement rates, and remind Newmeadow officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Newmeadow improve compliance with the RCM by requiring that all LTAL business relationships be properly reported on the CFR and financial statements, by maintaining required inventory records, and by developing a process for identifying board members' conflicts of interest on an ongoing basis.

- [The ARC of Ulster-Greene \(2015-S-60\)](#). Ulster-Greene, a not-for-profit organization located in Kingston, is an SED-approved provider of preschool special education services to children with disabilities between the ages of three and five years. In 2014, Ulster-Greene provided preschool special education services to about 130 children from ten school districts located in Ulster, Green, and Delaware counties. For the year ended December 31, 2014, Ulster-Greene reported approximately \$2.6 million in reimbursable costs for its preschool special education programs. For this period, auditors identified \$995 in other than personal service costs charged to the programs that did not comply with SED's requirements for reimbursement. Auditors recommended that SED review the disallowances identified and make the necessary adjustments to the costs reported on Ulster-Greene's CFRs and to Ulster-Greene's tuition reimbursement rates, as appropriate, and remind Ulster-Greene officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Ulster-Greene ensure that costs reported on its annual CFRs fully comply with SED's requirements.
- [Kidz Therapy Services, PLLC \(2015-S-63\)](#). Kidz Therapy is a Nassau County-based for-profit organization authorized by SED to provide Special Education Itinerant Teacher (SEIT) and other preschool special education programs to children with disabilities between the ages of three and five years. During the 2013-14 school year, Kidz Therapy served about 200 students. For the three fiscal years ended June 30, 2014, Kidz Therapy reported approximately \$4.77 million in reimbursable costs for its SEIT program. In addition to the SEIT program, Kidz Therapy operated two other SED-approved preschool special education programs: Evaluations and Related Services. However, payments for services under these two programs were based on fixed fees, as opposed to cost-based rates established through CFR-reported financial information. Kidz Therapy also operates an affiliated entity, Gayle E. Kligman Therapeutic Resources, which offers evaluations, other services, and programming options for school-age children who are not eligible for services through their local school districts or through the Early Intervention or Preschool programs. For the three fiscal years ended June 30, 2014, auditors identified \$249,850 in reported costs that did not comply with the RCM's requirements, including \$240,553 in personal service costs and \$9,297 in other than personal service (OTPS) costs, as follows: \$164,004 in ineligible compensation; \$37,041 in pension expenses that did not comply with the applicable provision of the RCM; \$17,300 in ineligible bonuses to employees who served in non-direct care titles; \$16,025 in ineligible expenses, including \$13,225 in fringe benefits for employees of a related entity, \$2,149 in life insurance premiums, and \$651 in health insurance expenses for a former employee; \$9,297 in OTPS costs that did not comply with the RCM's requirements; and \$6,183 in excess compensation to certain Kidz Therapy employees. Auditors recommended that SED review the identified disallowances and make the appropriate adjustments to Kidz Therapy's CFRs and tuition reimbursement rates, and work with Kidz Therapy officials to help ensure their compliance with Manual provisions; and that Kidz Therapy ensure that costs reported on future CFRs comply with all Manual requirements.
- [Story Place Preschool, Inc. \(2015-S-69\)](#). Story Place is an SED-approved, for-profit special education provider located in Castleton. Story Place offers a range of services and programs,

including preschool special education services, to children with disabilities from birth to five years of age. For the fiscal year ended June 30, 2014, Story Place reported about \$1.9 million in reimbursable costs on its CFR for three rate-based preschool special education programs. Auditors identified \$5,150 in personal service costs on Story Place's CFR that did not comply with SED's requirements for reimbursement. Auditors recommended that SED review the identified disallowances and make appropriate adjustments to Story Place's tuition reimbursement rates, and remind Story Place officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Story Place ensure that costs reported on its annual CFRs fully comply with SED's guidelines and requirements.

- [Crossroads Center for Children \(2015-S-87\)](#). Crossroads is an SED-approved, not-for-profit organization located in Schenectady. Crossroads provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2014, Crossroads reported about \$1.27 million in reimbursable costs on its CFR for two rate-based preschool special education programs. Auditors identified \$14,297 in other than personal service costs charged to Crossroads' preschool special education programs that did not comply with SED's requirements for reimbursement, including: \$11,111 for iPads, software, laptops, and various curriculum materials that were purchased with private grant funds; \$2,281 for non-audit services that were performed by the same CPA firm that Crossroads contracted with for its annual audit; and \$905 in non-reimbursable costs for travel, gifts, and clothing for staff. Auditors recommended that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to Crossroads' CFR and tuition reimbursement rates, and remind Crossroads officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Crossroads ensure that costs reported on its annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [League for the Handicapped \(2015-S-89\)](#). League for the Handicapped (LFH), a not-for-profit organization located in Springville, offers a range of services and programs to children with disabilities from birth through eight years of age. In 2014, LFH provided preschool special education services to 156 children with learning disabilities from approximately 35 school districts located in three counties in western New York. For the fiscal year ended June 30, 2014, LFH reported approximately \$2.9 million in reimbursable costs for its SED-funded, rate-based preschool special education programs. Auditors identified \$4,354 in other than personal service costs charged to the preschool special education programs that did not comply with SED's requirements for reimbursement, including insufficiently documented expenses, costs for services that were not directly related to the programs, unallowable working capital interest, and credit card late fees. Auditors recommended that SED review the disallowances and, if warranted, make the necessary adjustments to the costs reported on LFH's CFR and to LFH's tuition reimbursement rates, and remind LFH officials of the pertinent SED guidelines that relate to the deficiencies identified; and that LFH ensure the costs reported on its annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Helping Hands School \(2015-S-90\)](#). Helping Hands, a not-for-profit organization located in Clifton Park, offers a range of services and programs to children with disabilities from three to five years of age. For the fiscal year ended June 30, 2014, Helping Hands offered the following SED-funded, rate-based preschool special education programs: Preschool Special Class, Preschool Integrated Special Class, and Preschool Special Education Itinerant Teacher Services (Programs). During the 2013-14 school year, Helping Hands provided these special education services to about 241 children with learning disabilities from 20 school districts in upstate New York. For the fiscal year ended June 30, 2014, Helping Hands reported about \$2.5 million in reimbursable costs on its CFR for the Programs. Based on a review of a sample of transactions, auditors concluded that Helping Hands generally complied with SED's reimbursement guidelines. Auditors identified no deficiencies in Helping Hand's reporting of personal service costs, and found that \$26 in other than personal service expenses was ineligible for reimbursement. Auditors recommended that SED review the disallowances and make the necessary adjustment to the costs reported on Helping Hands' CFR and to Helping Hands' tuition reimbursement rates, as appropriate; and that Helping Hands ensure that all costs reported on its annual CFRs fully comply with SED's requirements.

- [Early Education Center \(2015-S-96\)](#). The Early Education Center (Center), a for-profit organization located in Highland, provides preschool special education services to children with disabilities between the ages of three and five years. For the 2013-14 school year, the Center offered three SED-funded, rate-based preschool special education programs: Preschool Special Class - over 2.5 hours per day; Preschool Integrated Special Class - 2.5 hours per day; and Preschool Integrated Special Class - over 2.5 hours per day (Programs). During the 2013-14 school year, the Center provided these special education services to 181 children with learning disabilities from 11 school districts located in three counties in the Hudson Valley Region. For the fiscal year ended June 30, 2014, the Center reported about \$2.4 million in reimbursable costs on its CFR for the Programs audited. Auditors identified \$11,508 in other than personal service costs charged to the Programs that did not comply with SED's requirements for reimbursement, including vehicles expenses, food for meetings, and advertising. Auditors recommended that SED review the disallowances identified and make the appropriate adjustments to the costs reported on the Center's CFRs and to the Center's tuition reimbursement rates; and that the Center ensure that costs reported on its annual CFRs fully comply with SED's requirements.
- [The Alcott School \(2015-S-97\)](#). Alcott is an SED-approved, not-for-profit special education provider located in Westchester County. Alcott provides preschool special education services to children with disabilities who are between three and five years of age. For the year ended June 30, 2014, Alcott reported about \$4.3 million in reimbursable costs on its CFR for four rate-based preschool special education programs (Programs). Auditors identified \$55,969 in ineligible costs that Alcott reported on its CFR for the Programs, including \$52,442 in personal service costs (\$49,874 in unsupported staff time and \$2,568 in employee compensation reported as more than one full-time equivalent on the CFR) and \$3,527 in other than personal service costs (\$1,889 in inadequately documented expenses, \$1,252 in working capital interest, and \$386 in food and other non-reimbursable costs). Auditors also identified \$15,030 in potentially reimbursable salary expenses for a marketing position that SED disallowed during its desk review of Alcott's CFR costs, prior to OSC's on-site audit. Finally, auditors identified certain control weaknesses and compliance deficiencies that Alcott officials should correct. Auditors recommended that SED review the audit findings identified and, if warranted, make the necessary adjustments to the costs reported on Alcott's CFR and to Alcott's tuition reimbursement rates, and remind Alcott officials of the pertinent SED guidelines that relate to the deficiencies identified. Auditors also recommended that Alcott ensure that costs reported on its annual CFRs fully comply with SED's requirements, communicate with SED to obtain clarification as needed, and improve compliance with the RCM by: submitting CFRs timely, ensuring proper independent review and approval of time records by supervisors, competitively bidding contracted services, and ensuring that less-than-arm's-length transactions are disclosed on the CFR.

[Oversight of School Fire Safety Compliance \(2015-S-86\)](#). SED is responsible for overseeing school fire safety and for ensuring that schools comply with fire safety provisions established in State Education Law, the State Uniform Fire Prevention and Building Code, and SED regulations. These include requirements for mandatory building and fire inspections, fire drills, and other fire safety activities. Auditors found that SED does not adequately monitor whether schools are in compliance with all fire safety regulations and accurately report all violations. Many of the 25 schools that auditors visited did not complete the required number of fire drills, and emergency evacuation plans at six schools did not include procedures to address the evacuation of students who have disabilities or special needs. Additionally, auditors observed several violations and deficiencies, including: electrical hazards such as overloaded power strips and extension cords; missing or outdated fire extinguishers; partially obstructed means of egress; and violations cited in prior inspections that had not been corrected. Auditors also found that almost 50 percent of private schools did not submit required inspection reports for the 2015-16 school year. In 2015, SED implemented a new electronic system that allows schools to self-report inspection data, but has taken no steps to verify the accuracy of information provided by schools. Further, officials did not implement tools or commands to enable staff to analyze the data or to produce reports to monitor school compliance. Auditors recommended that SED: develop a risk-based approach for verifying, by site visit or other means, whether information provided in fire inspection reports is accurate and schools are complying with fire safety requirements; develop and implement actions to follow up with noncompliant private schools to encourage and improve their submission of annual fire safety inspection reports; and develop, in conjunction with

information technology staff, the capabilities and data reliability of the new fire inspection data system, so that it can be used to easily access, analyze, and generate management reports on relevant inspection information for all schools.

[Compliance With the Safe Schools Against Violence in Education Act \(Follow-Up\) \(2016-F-2\)](#). The initial audit ([2013-S-71](#)), issued on January 13, 2015, examined whether school districts outside of New York City are properly and accurately reporting statistics on crime and incidents to SED, pursuant to the Safe Schools Against Violence in Education Act (SAVE Act). Auditors also assessed whether SED used incident data to identify school districts with comparatively high rates of incidents to help ensure they have adequate violence prevention and response programs. Auditors found that for the period July 1, 2011 through June 16, 2014, SED failed to comply with certain key SAVE Act provisions, which limited the effectiveness of the Act. For seven selected schools, the related school districts did not properly and accurately report the schools' statistics on crime and incidents to SED. The inaccurate reporting included unreported incidents and incidents misclassified as less serious than they were. Auditors also found that SED did not designate persistently dangerous schools for the 2013-14 school year, and did not issue annual reports to the Governor, Legislature, and Board of Regents, as required. In the follow-up review, auditors found that SED officials had made significant progress in addressing the problems identified in the initial audit. Of the initial report's five audit recommendations, four had been implemented and one had been partially implemented. Auditors determined that SED had clarified incident reporting guidance; provided new training to schools on how to report incidents; improved its site visit processes to help enhance school safety and improve the accuracy of incident reporting; and annually designated persistently dangerous schools, as required. Additionally, SED visited two schools identified in the initial audit to provide technical assistance to help them improve how they report incidents. At the time of the follow-up audit, SED still had not submitted a summary report of incidents to the Governor, Legislature, and Board of Regents.

[Selected Aspects of the Migrant Education Program \(Follow-Up\) \(2016-F-9\)](#). In the initial report ([2014-S-48](#)), issued on May 15, 2015, auditors determined that: the Migrant Education Program (Program) did not achieve certain Program outcomes and overarching Program goals; SED did not complete federally required documents in a timely manner; and a significant portion of the Migrant Education Tutorial Services (METS) faced challenges obtaining migrant student performance data. The initial audit report contained three recommendations to SED: expedite the Service Delivery Plan update; develop methods to provide evaluation results at both the METS level and Program-wide to monitor performance against goals; and establish a method to facilitate the timely exchange of information between METS and school districts. In their follow-up review, auditors found that SED officials had made significant progress in correcting the problems identified in the initial report. However, several of the strategies the Program plans to implement were scheduled to begin with the 2016-17 school year. Of the three prior audit recommendations, one had been implemented and two had been partially implemented.

State University of New York

(SUNY)

[Compliance With Payment Card Industry Standards \(2015-S-65\)](#). SUNY is the largest comprehensive university system in the United States, comprising 64 institutions with about 460,000 enrolled students. SUNY System Administration provides SUNY schools with centralized services and support, and defines policies and procedures that apply to all State-operated SUNY schools. This includes procedures addressing the actions required of all institutions to protect the confidentiality of sensitive data, including compliance with industry standards. System Administration also evaluates schools' system security through the use of internal security-based questionnaires. All industries that accept credit cards as a method of payment must comply with the Data Security Standards (DSS) established by the Payment Card Industry (PCI) Security Standards Council. Because SUNY schools accept credit cards as a method of payment, they must comply with the PCI DSS to protect against electronic security breaches and theft of payment card data. Auditors found that the six SUNY schools in their sample were generally knowledgeable about PCI compliance and the need to protect credit card data from unauthorized access; however, they identified areas where system and data controls need to be improved to meet certain

compliance standards. Among a range of issues, auditors identified weaknesses in: completeness of systems' PCI component inventories; network segmentation; resolution of compliance deficiencies; and oversight of affiliated campus organizations. In addition, the guidance provided by System Administration could be further developed to assist SUNY schools with meeting PCI DSS requirements. Auditors recommended that the six SUNY schools sampled implement the recommendations contained in the detailed preliminary reports, and that System Administration develop strategies to enhance compliance with PCI DSS and improve monitoring of PCI compliance at all SUNY colleges, and revise contract templates for affiliates to address PCI DSS regulations and require affiliates' compliance.

Downstate Medical Center: Review of Growe Technologies Inc. (2015-BSE1-03). In January 2009 through federal legislation, the Centers for Medicare and Medicaid Services set new standards for electronic medical health records called Meaningful Use (MU) and ICD-10. In November 2013, the Health Science Center at Brooklyn Foundation, Inc. (Foundation) entered into a noncompetitive agreement with Growe Technologies Inc. (Growe) for health care IT services to implement MU and ICD-10 at the State University of New York Downstate Medical Center (Downstate). In April 2014, Downstate entered into a subsequent, State-funded, non-competitive, single-source contract with Growe under Part Q of Chapter 56 of the Laws of 2013 (Part Q). Neither the Foundation contract nor the contract SUNY let under Part Q were subject to OSC's pre-audit and approval. Auditors found that Downstate paid up to \$1.3 million more than necessary by using a noncompetitive procurement to obtain IT health care services rather than bidding the services or using existing competitive contracts available to Downstate. Furthermore, the decision to use the noncompetitive contract was based on unsupported claims from Downstate officials. Auditors recommended that SUNY: ensure that future Downstate requests to let non-competitive, single-source contracts are supported by sufficient, appropriate evidence that justifies the need to rule out normal procurement processes; and direct Downstate to procure services timely and competitively to promote fairness in contracting with the business community, facilitate the best possible price for the University, and avoid unnecessary time constraints.

Downstate Medical Center: Review of Collecto, Inc. (2016-BSE4-02). Downstate Medical Center (Downstate) contracted with Collecto, Inc. (Collecto) for debt collection services. Under the \$2.5 million contract, which was not subject to OSC pre-audit and approval, Downstate pays Collecto various commission rates based on the amount collected by account type and size. Of the \$29,288 in payments examined, auditors found \$12,269 in payments that were appropriate and properly supported; \$14,355 in overpayments for services billed on prior invoices; and \$2,664 in potential overpayments, where the contract did not include clear language to determine the proper commission for small-balance accounts. SUNY officials are implementing desk procedures to ensure staff do not approve vouchers with duplicate billings. In addition, Downstate is working with its counsel's office and Collecto to review and amend the contract as necessary to eliminate the unclear terms. Auditors recommended that SUNY: continue to ensure staff do not approve vouchers with duplicate billings for amounts already billed on prior invoices; continue to work with counsel's office to clarify ambiguous contract terms and amend the contract accordingly; and ensure that future payments comply with the clarified and amended contract terms.

PMA Travel Expenses. SUNY Downstate Medical Center (Downstate) contracted with Pitts Management Associates, Inc. (PMA) to provide organizational restructuring and consulting services. As part of the Bureau of State Expenditures' daily audit of high-risk payments, auditors examined six travel-related vouchers totaling \$735,386 for the period March through August 2014 to determine whether the expenses that PMA claimed for reimbursement were for business purposes and were reasonable in price. Auditors found that Downstate approved PMA expenses that were inconsistent with contract terms and conditions, were extravagant and unreasonable in price, and/or had a questionable business need. Auditors identified \$83,156 in questionable expenses for which Downstate staff could not adequately demonstrate the business purpose and/or price reasonableness as well as \$29,012 in related services that Downstate paid PMA outside of the examination period. These amounts include \$41,512 in miscellaneous expenses for software license fees and legal fees that PMA charged, and Downstate approved, as travel-related expenses. Auditors also found several instances where the President of Downstate did not act in the best interest of the State when dealing with PMA and administering the contract. For example, in December 2013, the President approved a new contract with PMA that eliminated specific reference to criteria pertaining to cost controls over travel expenses, including safeguards that preclude reimbursement for

personal or customer entertainment, personal items, and alcoholic beverages. The President also attended a six-day birthday celebration in Bermuda for PMA's Chairman and Chief Executive Officer, and charged the airfare and a portion of his hotel stay to his State-issued travel card. Subsequent to the trip and at the President's request, the hotel charged the entire stay to the President's personal credit card. The President reimbursed the State for the airfare two months after his trip—more than one month after auditors questioned the expense. Furthermore, when auditors attempted to verify whether the President charged the appropriate accruals for his time in Bermuda, they found that, contrary to SUNY policy, the President did not maintain time and attendance records. He also refused to provide auditors with evidence to verify that he charged the appropriate accruals until directed to do so by SUNY management. The President also approved a \$3,867 reimbursement for meals for Long Island College Hospital staff for "security reasons" that was initially charged to the PMA contract. However, when asked by auditors to justify this expense, Downstate removed it from the voucher. During this time, auditors found that Downstate's Director of Contracts was also serving as the Interim Director of Disbursements—and thus responsible for approving both Downstate's contract with, and payments to, PMA. This lack of separation of duties places too much control with one individual. Auditors recommended that SUNY review the actions of Downstate's President and take appropriate action to ensure that time cards are submitted timely and appropriately certified, and that all expenses claimed for reimbursement are business-related. Auditors also recommended that SUNY ensure: that the President provides appropriate oversight of all operations and sets an ethical standard that fosters a positive control environment; that Downstate develop a policy for consulting contracts that includes reimbursement for meals, transportation, lodging, and miscellaneous expenses in conformity with the General Services Administration rates and/or the New York State Travel Manual; and that Downstate establish and promote a control environment that supports internal controls. Furthermore, auditors also recommended that System Administration's Internal Auditor perform an independent examination of all travel-related expenses that PMA charged, and Downstate approved, under contracts CM00939 and TQ00002 and recover any improper payments as appropriate, as well as recover \$41,512 in miscellaneous expenses identified in this report.

Compliance With the Clery Act (Follow-Up) (2016-F-4). In 1990, Congress enacted the Clery Act, which requires colleges and universities to disclose crime statistics and security policies to help the public make informed decisions when choosing a college for educational or employment purposes. In the initial audit report ([2013-S-70](#)), issued on August 22, 2014, auditors determined that certain SUNY colleges published inaccurate crime statistics on their Annual Security Reports in reports and/or to the U.S. Department of Education. This inaccurate information could affect the public's ability to accurately assess college safety and security and make valid comparisons among colleges. Auditors made two recommendations to SUNY: to develop strategies to enhance compliance with the Clery Act and to investigate and correct errors and discrepancies in statistics to ensure compliance with the Clery Act. In their follow-up audit, auditors found that SUNY officials had made some progress in correcting the problems identified in the initial report, partially implementing the two recommendations. However, improvements are still needed.

City University of New York (CUNY)

Controls Over Bank Accounts. CUNY is the largest urban university in the United States, consisting of 24 constituent colleges, graduate, and professional schools. Each of the CUNY constituent schools maintains bank accounts for various purposes, such as tuition and fees, auxiliary service, child care, and campus activities. CUNY's Cash Management and Banking Policy (Policy), effective July 1, 2008, requires the University Controller (UC) and the Vice President of Finance and Administration at each college to ensure that each bank account complies with CUNY's policies and procedures. In the 2015-16 reporting year, OSC issued three audits to determine whether CUNY's Central Office and college officials adequately ensured that all bank accounts were authorized and used only for appropriate purposes and transactions, as follows:

- **Lehman College (2014-S-69)**. Prior to establishing any new bank account, the Policy requires colleges to notify the UC by completing a "Bank Account Notification Form." The UC notifies the college within five business days of the receipt of the form as to whether there are any concerns with

establishing the new account. If not contacted within this time frame, the college can proceed with the account. Auditors identified multiple internal control weaknesses related to the use of bank accounts that CUNY and Lehman officials need to improve. These weaknesses affected various aspects of the banking process, from opening and properly authorizing accounts to making deposits to and disbursements from such accounts, and increased the risk to CUNY and Lehman of fraud, waste, and/or abuse. For example, CUNY Central did not have the required notification forms for four of the six accounts, which were opened or closed after CUNY's bank authorization policy was established in 2008. Auditors also identified a Certificate of Deposit account (totaling \$65,034) that was not on CUNY Central's list. Further, auditors' findings point to weaknesses in the monitoring and authorization of bank accounts, which increase the risk that Lehman personnel could conduct transactions using unauthorized accounts. A review of the source of funds in Lehman's accounts found that a non-tax-levy account contained tax levy funds that Lehman officials should have transferred to the State. As of March 31, 2015, these funds totaled over \$1 million. Auditors attributed this problem mostly to inadequate controls to ensure that funds were deposited in the appropriate accounts, which allowed this practice to continue over several years. Lehman officials subsequently advised auditors that they remitted over \$1 million of these funds to the State. Of 72 payments (totaling \$1,248,139) paid from five judgmentally selected bank accounts, 25 payments totaling \$114,554 were either improper (did not comply with CUNY and/or State and City policies and procedures) and/or unsupported. For example, the required supporting documentation for a cash advance payment of \$5,629 was altered, incomplete, and/or dated months after the advance. Auditors recommended that Lehman: fully comply with prescribed procedures for opening new bank accounts and monitoring existing accounts; develop and implement additional policies and procedures to administer bank accounts, as warranted; transmit all funds due the State Treasury on a timely basis; and effectively separate the duties related to the administration of bank accounts, so that no one person has control over incompatible functions. Where duties cannot be adequately separated, Lehman should develop and implement appropriate compensating controls.

- [**Medgar Evers College \(2015-S-92\)**](#). Medgar Evers College (MEC), located in Brooklyn, is one of CUNY's senior colleges and has approximately 6,700 students. Auditors identified multiple internal control weaknesses related to the use of bank accounts that CUNY and MEC officials need to improve. For example, CUNY Central did not have any of the required notification forms for 14 accounts that were opened after CUNY's bank authorization policy was established in 2008. Further, auditors' inquiries to banks located in the proximity of the college found an additional two accounts that were not on the list provided by CUNY Central. These findings point to weaknesses in the monitoring of bank accounts, which increase the risk that MEC personnel could conduct transactions using unauthorized accounts. Additionally, of 54 payments (totaling \$810,608) paid from six judgmentally selected bank accounts, 26 payments totaling \$118,782 were either improper (did not comply with CUNY and/or State and City policies and procedures) and/or were unsupported. For example, two payments (in August and September 2013) totaling \$32,421 were used to furnish the President's residence, which is owned by CUNY. To pay for these purchases, tax levy funds were transferred into the account used to pay for them, including \$50,000 from CUNY Central intended for the Child Care Center and \$40,000 from CUNY auxiliary and student fees. These funds were not used for their intended purposes. Auditors recommended that MEC: fully comply with prescribed procedures for opening new bank accounts and the monitoring of existing accounts; develop and implement additional policies and procedures to administer bank accounts, as warranted; and strengthen the control environment to ensure that funds are appropriately disbursed from bank accounts by reinforcing with staff the importance of adhering to New York State, City, and CUNY requirements and by training Finance and Administration employees on the appropriate policies and procedures related to bank accounts and banking operations.
- [**Borough of Manhattan Community College: Controls Over Bank Accounts \(2015-S-93\)**](#). Borough of Manhattan Community College (BMCC), located in lower Manhattan, is one of CUNY's seven community colleges and has more than 26,000 students. Auditors identified multiple internal control weaknesses related to the use of bank accounts that CUNY and BMCC officials need to improve. For example, CUNY Central did not have the required notification forms for one of the seven of BMCC's accounts that were opened after CUNY's bank authorization policy was established in 2008.

Additionally, auditors identified two accounts, for the BMCC Foundation, that were not on CUNY Central's list. These findings point to weaknesses in the monitoring of bank accounts, which increase the risk that BMCC personnel could conduct transactions using unauthorized accounts. A review of the source of funds in BMCC's accounts found \$120,116 that BMCC officials should have transferred to the City of New York. Moreover, of 78 payments (totaling \$3,136,579) paid from six judgmentally selected bank accounts, 45 payments totaling \$563,605 were either improper (did not comply with CUNY, State, and/or City policies and procedures) and/or were unsupported. Auditors recommended that BMCC: fully comply with prescribed procedures for opening new bank accounts and the monitoring of existing accounts; develop and implement additional policies and procedures to administer bank accounts, as warranted; and strengthen the control environment to ensure that funds are appropriately disbursed from bank accounts.

Controls Over CUNY Fully Integrated Resources and Services Tool (2015-S-34). CUNYfirst, which replaced CUNY's Financial Management, Human Capital Management, and Campus Solutions applications, is an Enterprise Resource Program. The objective of CUNYfirst was to replace CUNY's legacy systems with an integrated and flexible state-of-the-art solution. During its early phases, CUNYfirst implementation was expected to be complete by 2012. By October 29, 2015, 20 campuses had at least part of the system implemented, and at that time, the projected date for project completion was October 2016. As of September 30, 2015, CUNY reported the cost to develop and implement CUNYfirst was \$249.75 million. CUNYfirst, like many large computer systems, uses role-based access. Students and staff are assigned particular roles, and thereby acquire the rights to access certain CUNYfirst applications. As of April 23, 2015, CUNY reported CUNYfirst had approximately 1.27 million accounts (1.15 million former and current students and 123,000 employees, including faculty, administrative, and student employees whether active, inactive, or retired). Auditors concluded that CUNY's processes and controls did not adequately restrict CUNYfirst users' access to ensure that individuals only had appropriate roles assigned. For example, CUNY's Central Office (CUNY Central) granted 60 roles to Application Security Liaisons (information technology personnel who grant access to CUNYfirst at the campuses) without adequate justification. The business needs for the Application Security Liaisons to have the roles in question were unclear. In addition, 27 roles assigned to employees who had left CUNY were not removed until 3 to 32 months after their departure. A student had access to CUNYfirst's Financial and Supply Chain Management module, a business application that students normally cannot access. Such access requires an approved access form; however, no form was on file for this student, who was not an employee of the campus and had no business need. Auditors also examined 244 employees' accounts, all of which required approved access forms, and identified 170 employees who had 990 unauthorized roles, including 83 that were designated by CUNY as "sensitive." Multiple individuals appeared to have roles for which they had no business purpose. For example, 22 employees outside of Financial Aid could apply for student loans for individuals other than themselves. CUNY officials stated that while it may appear that these functions (such as applying for a loan) could be executed, they most likely could not. However, officials provided no basis to support this. Also, a student employee had unauthorized grade change capability. For the period January through May 2015, this student employee changed grades 127 times for other students, but did not change her own grades. Auditors also found that CUNY performed a survey of CUNYfirst users and potential users in November 2012 that did not include any students. Since then, another 11 campuses have implemented CUNYfirst; however, no survey or other process to obtain feedback from the users has been performed. Auditors also identified certain findings, and made a recommendation, pertaining to the data integrity of particular CUNYfirst functions. To preserve security over these functions, auditors provided this information to CUNY officials during the course of the audit's fieldwork but did not include them in the final report. Auditors recommended that CUNY Central and the campuses prepare and maintain documentation of all approvals of roles that are assigned or removed in CUNYfirst. Additionally, auditors recommended that CUNY Central: actively monitor all user access within CUNYfirst; periodically review and adjust the user access roles in the system to meet the actual needs of the individuals identified in the audit and system-wide; create a policy requiring a formal end and/or review date for all role delegations in CUNYfirst; and periodically survey users from all CUNYfirst user groups to assess whether their needs are being met.

College of Staten Island: Examination of Fast Track MK LLC (2015-BSE4-01). The College of Staten Island procured brackets, support components, and hardware for wooden benches on campus, and

submitted a \$22,800 claim for payment, payable to Fast Track, to OSC's Bureau of State Expenditures (BSE). Auditors found that the College did not conduct the procurement in accordance with State Finance Law. Specifically, the College did not: reject quotes from offerers that did not comply with mandatory requirements; specify all elements of a responsive quote or disclose the process for awarding contracts to potential offerers; or advertise the procurement in the New York State Contract Reporter. In addition, the claim for payment was inappropriate because the College had not received the hardware at the time it submitted the claim for payment. Auditors recommended that the College: ensure vendors provide all goods and/or services prior to submitting claims for payment to BSE; train staff to audit and process claims for payment in accordance with Title 2, Part 6 of the New York Codes, Rules and Regulations; and train staff to conduct procurements in accordance with Section 163 of the State Finance Law.

Administration of Fellowship Leaves (Follow-Up) (2015-F-5). In the initial audit report ([2011-S-20](#)), issued October 9, 2013, auditors examined whether the fellowship leaves, formerly known as sabbaticals, granted CUNY instructional staff were awarded for authorized purposes and in compliance with all applicable requirements. Auditors found that although most of the fellowship awards reviewed complied with CUNY policy, improvements were needed to protect taxpayer dollars and the integrity of CUNY's fellowship leave program. For example, there was no single comprehensive record maintained by CUNY listing all fellowship leaves granted during the audit period, and auditors found instances where fellowships were granted to ineligible employees. Auditors also found instances where supporting paperwork was not available, including activity summaries required to be submitted by fellowship recipients upon the completion of their fellowship. In their follow-up audit, auditors found that CUNY has made progress in addressing the issues identified. Four recommendations had been implemented, one had been partially implemented, and one had not been implemented.

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.

Albany Port District Commission

[Select Financial Management Practices \(2015-S-55\)](#). The Albany Port District Commission (Commission) manages the publicly owned maritime Port of Albany-Rensselaer, contributing to the economy of the Capital Region and beyond while emphasizing transparency and public stewardship. The Commission's 2014 annual report shows an increase in tonnage shipped, from 390,414 in 2013 to 572,946 in 2014. The increased shipping drove a surge in operating revenues in these same years, from \$4.8 million to approximately \$6 million. More than half of the revenue is from property rentals: approximately \$3.2 million per year. The Commission's accounts receivable balance grew from \$503,430 in 2012 to over \$1.7 million in 2013 (an increase of 250 percent). In 2014, the balance decreased to \$1 million and, as of May 31, 2015, was \$260,524. In addition, the Commission outlined its plans for capital spending in three capital plan reports: the State of New York Ten-Year Capital Plan, the Public Authorities Reporting Information System, and its own Capital Projects Plan; spending figures differed among the three plans, which covered different periods of time. For the period January 1, 2013 through September 30, 2015, auditors found the Commission's capital planning and delinquent accounts receivable collection practices to be generally in compliance with Commission procedures, laws, and regulations. However, auditors also found some opportunities to make minor improvements in each area, which they conveyed to the Commission separately.

Department of Transportation

(DOT)

[Performance Based Bus Safety Program \(2015-S-71\)](#). The State's Transportation Law (Law) requires DOT to conduct a safety inspection of each bus every six months. In October 2013, DOT began to implement its Performance Based Bus Safety Program (Program) by revising its bus inspection program to focus less on high-performing carriers and more on low-performing carriers. This strategy was intended to improve safety and compliance and establish a strong incentive for low-performing carriers to improve their operations. Auditors found that DOT had effectively implemented the Program and focused increased inspection activity on poorer-performing carriers by conducting two full in-depth inspections on each bus, as well as additional inspections of other areas such as driver compliance and bus maintenance, each year. DOT had also taken appropriate actions against poor-performing carriers, such as implementing corrective action plans that the carrier must complete, imposing fines, and, when necessary, suspending a carrier's operating authority.

Metropolitan Transportation Authority

(MTA)

[New York City Transit: Subway Wait Assessment \(2014-S-23\)](#). New York City Transit (Transit) serves an average 5.5 million weekday passengers on its 23 subway lines (which includes three shuttle lines). Wait assessment is a statistic that measures Transit's ability to provide evenly spaced subway service in conformance with the headways (time between trains) in the official schedule. The assessment determines the number of intervals between trains that meet the standard (headway plus 25 percent) and those that do not. Auditors found that although Transit met the overall wait assessment goal for 2013, it did not meet the goal established for 2014. Overall wait time performance declined between March 2013 and August 2014 as well. Further, there were notable deficiencies in the wait assessment data reported by

Transit. Specifically, statistical projection methodologies were not disclosed and appropriate weightings of line data were not used to calculate overall system performance. Also, auditors found that although Transit addresses the immediate causes for not meeting wait assessment goals on a day-to-day basis, it lacks a formal comprehensive long-term plan to address major structural and technology needs directly affecting wait assessment. Auditors recommended that Transit formally assess and revise as necessary the methodologies used to calculate and report wait time performance data, including appropriately weighting the performance statistics of the various lines and shuttles and promoting full, transparent disclosure of such data. In addition, auditors recommended that Transit develop a comprehensive, detailed long-term plan to address the reasons for decreased wait assessment performance. Such a plan should include the structural and information technology improvements that are needed as well as time frames and cost estimates to make the required improvements.

[New York City Transit: Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees \(2015-S-33\)](#). The Transit Adjudication Bureau (TAB) processes and adjudicates summonses for violations of Transit rules governing public use of the transit system. TAB offers a respondent the opportunity to receive a hearing, should he/she decide to contest a Notice of Violation (NOV or summons). TAB also handles the actual processing of the NOV's, including scanning images and data entry of the information, processing of payments, and the legal pursuit of those individuals who do not pay their fines. Transit contracts with a vendor to staff and operate the TAB. According to data provided by TAB officials, TAB had approximately 1.7 million summonses with outstanding fines and fees totaling \$383.2 million as of December 31, 2015. Auditors found that about half the NOV's written are never fully collected. For the period January 1, 2013 through June 6, 2015, TAB processed 324,079 summonses. The total fine amount was \$30.41 million, of which \$16.98 million was collected. Inaccurate information written on summonses, such as bad addresses, false telephone numbers, and wrong Social Security numbers, contributes to collection difficulties. Even for fines with accurate information, TAB does not do enough to enforce the collection of outstanding fines and fees, resulting in potentially millions of dollars going uncollected. Moreover, in most cases, TAB ceases active collection efforts on uncollected violations 18 months after a summons issue date, although substantial amounts of fines and fees remain unpaid. In the first nine months of 2015, TAB purged \$66.8 million of uncollected summons fines and fees because the 20-year limit had been reached. Auditors recommended that Transit: ensure that a sufficient number of staff resources are assigned to call campaigns; establish performance metrics related to the number of calls expected to be made each week; ensure all NOV's that are not paid within nine months of issuance are referred to the collection agency in a timely manner; work with representatives of the New York City Police Department and Transit inspectors to improve the quality of the identifying information detailed on the summonses; and formally explore and assess other methods of collecting fines and fees.

[Bus Driver Licensing \(Follow-Up\) \(2015-F-13\)](#). Two of the MTA's six constituent agencies – MTA Bus Company and New York City Transit – provide bus service. Article 19-A of the New York State Vehicle and Traffic Law (Article 19-A) requires that bus drivers pass periodic reviews, such as medical exams and driving tests, in order to obtain and retain the ability to operate a bus carrying passengers. In the initial report ([2012-S-30](#)), auditors determined that the majority of the 142 MTA bus drivers sampled met the requirements of Article 19-A of the New York State Vehicle and Traffic Law. However, seven did not meet the requirements of Article 19-A but were allowed to drive buses, transporting an estimated 8,400 passengers on a total of 38 days. In addition, the Safety and Training Division did not always maintain complete certification records, and outdated medical forms were used to certify drivers. In their follow-up report, auditors found that MTA officials had made progress in correcting the problems identified; however, additional improvements were needed. Of four prior audit recommendations, three had been implemented and one had been partially implemented.

[Metro-North Railroad: Forensic Audit of Select Payroll and Overtime Practices and Related Transactions \(Follow-Up\) \(2015-F-14\)](#). In the initial report ([2010-S-60](#)), issued November 9, 2011, auditors determined that certain Metro-North employees received costly payments due to long-term practices related to Hours of Service that may have been avoidable. For calendar 2010, auditors determined that these practices cost Metro-North \$991,208 in overtime and \$216,128 in regular pay, and enriched certain staff and supervisors. In addition, these payments will inflate future pension payments for these employees by about \$5.5 million. Auditors also found missed time punches by certain employees

were frequently not supported by exception reports. In their follow-up report, auditors found that Metro-North officials had made some progress in correcting the problems identified; however, additional improvements were needed. Of the six prior audit recommendations, two had been implemented, two had been partially implemented, and two had not been implemented.

[Metro-North Railroad: Forensic Audit of Payments to On-Board Service Managers \(Follow-Up\) \(2015-F-15\)](#). In the initial report ([2011-S-35](#)), issued June 14, 2012, auditors determined that Metro-North's On Board Services Unit (Unit), which monitors train crews (i.e., engineers and conductors), did not hold staff members accountable for their work performance and time and attendance. In addition, the Assistant Vice President responsible for the Unit violated Metro-North policy by not disclosing the referral of a relative who was hired in the Unit. Auditors made three recommendations to Metro-North: to investigate the productivity, time, and attendance of Unit staff and determine whether any salary payments need to be recouped and whether discipline is appropriate; to determine whether the current Unit staffing is justified and necessary; and to strengthen supervision over the Unit and address the other risk factors associated with Unit operation. In their follow-up report, auditors found that Metro-North officials had made some progress in correcting the problems identified. Of the three prior audit recommendations, one had been implemented and two had been partially implemented.

[New York City Transit: Access-A-Ride Accident Claims \(Follow-Up\) \(2015-F-27\)](#). Federal law requires the MTA to provide transportation services to individuals with disabilities. Transit's Paratransit Division supplies this service, called Access-A-Ride (AAR), through a network of 14 carriers under contract who operate specialized vehicles leased from Transit, as well as through several "black car" livery services and taxi companies. Carriers and black car services are required to immediately notify the Paratransit Division of any accidents/incidents and provide a written report within 24 hours; they are also required to send a copy of the reports to the MTA's third-party administrator for automobile liability insurance, Claims Service Bureau (CSB), which handles claims that result from the accidents. The 14 carriers are covered for personal injury and property damage through MTA's captive insurance company, First Mutual Transportation Assurance Company; black car and taxi companies are required to maintain appropriate insurance coverage. In the initial report ([2012-S-12](#)), issued on April 24, 2014, auditors determined that between 2008 and 2012 the overall demand for AAR service increased, but the portion of the service provided by traditional carriers decreased and reliance on the black car services and taxis increased. The number of reported accidents also initially increased, but decreased between 2010 and 2012. Auditors also found that, for the most part, AAR and the carriers were in compliance with federal motor carrier standards for Commercial Driver's Licensing, drug and alcohol testing, and training. However, auditors identified an unquantified, expanding liability risk associated with black car services and taxis that was not being tracked. Auditors made 11 recommendations to MTA, including: remind black car service providers of their responsibility to report accidents to the Paratransit Division in accordance with their contract and ensure they have a corrective action plan for drivers involved in accidents; ensure all carriers are in compliance with contract accident-reporting requirements; reconcile CSB and Paratransit listings of reported accidents/incidents on a weekly basis; and issue accident reporting and damage estimating guidance to carriers and to other service providers to promote consistency and uniformity of approach. In their follow-up review, auditors found that Transit officials had made some progress in correcting the problems identified. Of the 11 prior audit recommendations, two had been implemented, eight had been partially implemented, and one was no longer applicable.

New York State Thruway Authority

(Thruway Authority)

[Contract Participation of Disadvantaged Business Enterprises and Minority- and Women-Owned Business Enterprises \(2014-S-76\)](#). The Thruway Authority is responsible for overseeing the 570-mile highway system and 524-mile canal system in the State. For contracts involving State money, the Thruway Authority must comply with Article 15-A of the New York State Executive Law, which requires State agencies to set goals for the participation of minority- and women-owned business enterprises (MWBES) in their contracts, make a "good faith" effort to achieve their goals, and report quarterly on their level of participation to the Department of Economic Development (DED). For contracts involving federal money,

including the current New NY Bridge project (the Tappan Zee Bridge replacement), the Thruway Authority must comply with federal regulations that require it to set disadvantaged business enterprise (DBE) goals, monitor its contractors, and report to the New York State Department of Transportation (DOT) how much was paid to all contractors and how much was paid to DBEs so that its DBE utilization rate can be calculated. From January 2013 through December 2014, the Thruway Authority reported to DED a total of \$137.1 million in MWBE payments out of \$324 million in eligible contract expenses, for an overall MWBE utilization rate of 42 percent. The Thruway Authority also reported to DOT a total of \$73.5 million in DBE payments out of \$1.2 billion in eligible contract expenses, for a federal DBE utilization rate of 6 percent. Auditors found that the Thruway Authority set its federal DBE goal for the New NY Bridge in line with the regional goal set by DOT and has accurately reported its DBE utilization. However, the Thruway Authority has not accurately reported its MWBE utilization to DED, primarily because it has adopted practices that significantly skew its figures and result in over-reporting. Auditors estimated that the actual MWBE utilization rate that the Thruway Authority achieved over the two-year period was, at best, about 18 percent. Auditors recommended that the Thruway Authority: develop its annual MWBE goals based on factors such as history and potential contract opportunities; work with DED to correct errors in past MWBE utilization reporting; ensure that all MWBE utilization and all associated eligible contract expenses are reported to DED; and develop and implement strategies for detecting and preventing MWBE fraud schemes in its contracts.

Niagara Frontier Transportation Authority

(NFTA)

Capital Planning (2015-S-37). NFTA is a transportation authority responsible for air and public transportation in Erie and Niagara counties. Its businesses include a bus, light rail, and paratransit system and two international airports, and it owns more than 3,700 capital assets costing approximately \$1.6 billion. The Public Authorities Law (Law) requires NFTA to prepare a five-year capital plan, along with annual capital spending plans. NFTA's fiscal 2015-16 capital spending plan totaled \$68.7 million. Auditors found that NFTA prepared multiyear and annual capital spending plans as required by the Law. However, it could not demonstrate that these plans definitively addressed its highest priority capital needs. In addition, 19 percent of NFTA's capital assets, originally costing \$184 million, were not in a state of good repair. These included: buses and light rail cars; light rail stations and bus shelters; radio and train control systems; rail station escalators; and the light rail's catenary system, which provides power for the trains through overhead wires. Further, NFTA could not demonstrate that the vast majority of these assets were given consideration for replacement or reconditioning or otherwise addressed in capital plans. Auditors also found that NFTA management does not maintain documentation to support the reasons behind its determination of projects that are selected for improvement, projects that are deferred, and projects that are denied funding in capital plans. Also, officials have not established a documented system for ranking capital assets by importance, nor a schedule of replacement based on asset condition. Auditors recommended that NFTA: require its divisions to consistently prioritize projects submitted for the capital plan; maintain documentation for a reasonable period to support the decisions submitted in the capital plan; and complete the Transit Asset Management Plan that is currently in progress, keeping in mind likely future regulatory changes.

Ogdensburg Bridge and Port Authority

(OBPA)

Capital Planning and Maintenance (2015-S-70). OBPA manages over \$73 million in assets comprising five key transportation and commerce facilities in the State's North Country: the Ogdensburg-Prescott International Bridge; the Ogdensburg International Airport; the Port of Ogdensburg; the New York and Ogdensburg Railway; and the Commerce and Heavy Industrial Parks. Each year OBPA develops a capital plan that contains budget allocations for asset improvements or renovations. For projects that are beyond its means, the Authority relies on federal, State, and other sources of funding. In addition to its annual capital plan, pursuant to the Public Authorities Reform Act of 2009, OBPA is also required to develop four-year capital spending plans. The Bridge is currently OBPA's only profitable asset, generating about \$2.4 million in toll revenue annually. OBPA subsidizes its other assets with cash from the Bridge's fund: nearly

\$2.3 million in 2012-13, more than \$700,000 in 2013-14, and over \$2.2 million in 2014-15. However, OBPA is working to make all assets profitable, including plans to expand service at the Airport and increase ship capacity at the Port. Auditors found that although OBPA has routinely developed four-year capital plans as required, the plans are incomplete and do not identify all of OBPA's needs – in particular, those related to critical structural components of the Bridge. In addition, OBPA estimates that the Bridge needs at least \$104.5 million for complete repainting and replacement of the approaches. However, OBPA has neither the funds to make the capital investment nor the means to secure the necessary funding elsewhere. While recent legislation would permit OBPA to issue bonds for reconstruction and upgrades, based on its current revenue, it would be unable to afford enough bonding to generate the significant amount of funding needed. Auditors also found that Bridge tolls are currently set at levels that are equal to or significantly below those charged by other St. Lawrence River crossings. Auditors recommended that OBPA: include all anticipated needs in the four-year capital plans, even those OBPA deems to be currently unaffordable; and perform a formal comprehensive analysis of the Bridge's current toll structure to determine the most appropriate rates for each vehicle type from short-term, intermediate, and long-term perspectives.

Port Authority of New York and New Jersey

(Port Authority)

[Inspecting Highway Bridges and Repairing Defects \(Follow-Up\) \(2015-F-19\)](#). In an initial audit ([2012-S-34](#)), issued on May 19, 2014, auditors found that the Port Authority did not follow Department of Transportation (DOT) requirements for classifying, reporting, and repairing bridge defects. Instead, the Port Authority followed its own methods, but did not always comply with DOT's requirement for an annual interim inspection if the repairs are not completed. Further, auditors noted that 10 of the 17 Safety Conditions (i.e., a condition presenting a clear and present danger to vehicle or pedestrian traffic, but no danger of structural failure or collapse) sampled were not repaired for more than two years, including three that were open for five years. Auditors made four recommendations to the Port Authority to: follow all of DOT's requirements for addressing flag deficiencies; ensure that interim inspections are done for any priority condition open for more than one year; notify DOT about all modifications of its requirements and obtain its formal approval for each such modification; and establish specific time frames for repairing Safety Conditions. In the follow-up review, auditors found that Port Authority officials had made progress in correcting the problems identified. Of the four prior audit recommendations, two had been implemented, one had been partially implemented, and one had not been implemented.

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.

Department of Corrections and Community Supervision

(Corrections)

[Oversight of Sex Offenders Subject to Strict and Intensive Supervision and Treatment \(2014-S-50\)](#)

The Sex Offender Management and Treatment Act (Act), enacted in 2007, authorized methods of civil management for certain sex offenders who have been legally determined to suffer from a mental abnormality that predisposes them to committing a sex offense and makes it difficult for them to control this behavior. The goals of civil management are to protect the public, help reduce recidivism, and provide access to treatment. The most dangerous sex offenders are denied release and are confined to a secure treatment facility operated by the Office of Mental Health. Others who are judged less dangerous as a result of a jury trial or subsequent hearing can be released to the community, but remain subject to Corrections' Strict and Intensive Supervision and Treatment (SIST) regimen. Under SIST, parole officers closely monitor offenders' compliance with court-ordered conditions of their release. Auditors found that Corrections is monitoring and enforcing SIST conditions for offenders placed in the community, though they also identified areas that need improvement. For example, in certain instances, parole officers did not complete all the required monthly activities, and compliance varied significantly among the locations. In addition, Corrections did not update photographic records of SIST offenders in a timely manner, and lacked some records related to offenders' interviews at initial entry to SIST. Moreover, its record of responses to certain electronic alerts of potentially high-risk respondent behavior was at times overly general and vague. Auditors recommended that Corrections determine the reasons for variances in meeting certain requirements of the Act and other requirements, and improve the oversight and documenting of supervision in these areas.

Office of Court Administration

[Reporting on Foreclosure of Real Property Funds, Kings County \(Follow-Up\) \(2015-F-18\)](#). The Office of Court Administration is responsible for directing and overseeing the administrative operations of all courts in the New York State Unified Court System (UCS). During the foreclosure process, when the plaintiff (lender) determines that the defendant (borrower) is unable to negotiate a settlement, the plaintiff requests judicial intervention. If the foreclosure process continues, the court will appoint a referee, selected from a list of eligible referees (Part 36 Eligible Fiduciary List), to determine the amount of the debt and to sell the property once a judgment of foreclosure is issued. This includes closing the sale, distributing the proceeds (including payment of any surplus funds to the County Clerk within five days of closing), and filing the Report of Sale with the County Clerk within 30 days, unless the court grants an extension. In an initial audit ([2013-S-2](#)), which was issued December 12, 2013, auditors found that: referees did not always properly report and account for foreclosure funds; referees deposited surplus funds late; and ten of the referees sampled were not listed on the Part 36 Eligible Fiduciary list. Auditors recommended that the UCS remind all referees of their responsibilities as appointees of the court and remove from the Part 36 Eligible Fiduciary List those who are found to be negligent in performing their duties. In the follow-up review, auditors found that UCS officials had made some progress in addressing the issues identified; however, additional improvements were needed. Of the four prior recommendations, one had been implemented, two had been partially implemented, and one had not been implemented.

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.

[United HealthCare Insurance Company of New York: Empire Plan Drug Rebates \(2014-S-62\)](#). Civil Service contracted with United HealthCare Insurance Company of New York (United) to administer the Empire Plan's prescription drug program between January 1, 2008 and December 31, 2013. In accordance with the contract, United is required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations and to pass 100 percent of the value of the agreements on to the prescription drug program. United subcontracted key functions of the prescription drug program, including the negotiation and collection of manufacturer rebates, to Medco Health Solutions, which was subsequently acquired by Express Scripts Holding Company (Express Scripts). During the audit period (January 1, 2011 through December 31, 2013), United credited Civil Service for \$139 million in revenue derived from agreements with the five drug manufacturers included in the audit. Auditors found that United did not credit the State with \$371,635 in rebates because manufacturer agreements utilized to obtain rebates for the Empire Plan's prescription drug program did not meet or exceed Express Scripts' best existing rebate agreements for other clients, as required. In addition, Express Scripts did not invoice, collect, or allocate \$196,845 in rebates due to errors in the rebate process, and Express Scripts retained rebates of \$141,804 despite its contractual requirement to remit those funds. Auditors recommended that United: review the \$710,284 in rebates identified by this audit and credit Civil Service for the rebates, as appropriate; formally instruct Express Scripts to remit 100 percent of all rebate revenues attributable to drug utilization under its subcontract with United, without exception; and credit Civil Service for all such rebates.

United HealthCare: Overpayments for Services. United contracts with in-network (participating) providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. Members pay a nominal co-payment to the participating provider for the services rendered. Members may also choose to receive services from out-of-network (non-participating) providers. United reimburses claims from non-participating providers at amounts that are generally higher (and often significantly higher) than the rates participating providers agree to accept for the same services. To encourage members to use less costly participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (deductibles and co-insurance) when they use non-participating providers. In accordance with the Empire Plan's requirements, when United processes a non-participating provider's claims, it is with the understanding that Empire Plan members are liable for a portion of the claimed amount, representing members' out-of-pocket cost-sharing obligations. However, if a non-participating provider does not collect (i.e., waives) the member's out-of-pocket costs, it will result in United making an

excessive payment on the claim. In the 2015-16 reporting year, OSC issued six audits to determine whether non-participating providers routinely waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments by United resulting from this practice, as follows:

- [Overpayments for Services Provided by Dr. John Gomes \(2014-S-70\)](#). This audit focused on claims submitted to United by Women's Healthcare – Garden City, a non-participating obstetrics and gynecology practice operated by Dr. John Gomes. During the period January 1, 2011 through September 30, 2014, United paid claims totaling over \$5 million for services provided by Dr. Gomes to Empire Plan members. Auditors found that Dr. Gomes' practice routinely failed to pursue collection of out-of-pocket cost-sharing obligations from Empire Plan members and, as such, concluded that Dr. Gomes waived these amounts. Consequently, United made overpayments on claims submitted by Dr. Gomes. Further, by not collecting members' out-of-pocket costs, Dr. Gomes negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$138,905 resulting from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Dr. Gomes' claims, auditors determined that United overpaid \$1,258,855 for the period January 1, 2011 through September 30, 2014. Auditors recommended that United: recover the \$1,258,855 in overpayments from Dr. Gomes and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent Dr. Gomes from waiving Empire Plan members' out-of-pocket costs. This may include taking steps to recruit Dr. Gomes into the Empire Plan participating provider network.
- [United HealthCare: Overpayments for Services Provided by Long Island Spine Specialists \(2015-S-28\)](#). This audit focused on claims submitted to United by Long Island Spine Specialists (Long Island Spine), a non-participating provider located on Long Island. During the period January 1, 2011 through December 31, 2014, United paid claims totaling \$24.8 million for services provided by Long Island Spine to Empire Plan members. Auditors found that Long Island Spine routinely failed to pursue collection of out-of-pocket cost-sharing obligations from Empire Plan members and, as such, concluded that Long Island Spine waived these amounts. Consequently, United made overpayments on claims submitted by Long Island Spine. Further, by not collecting members' out-of-pocket costs, Long Island Spine negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$226,309 resulting from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Long Island Spine's claims, auditors determined that United overpaid \$890,931 during the period January 1, 2011 through December 31, 2014. Auditors recommended that United: recover the \$890,931 in overpayments from Long Island Spine and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent Long Island Spine from waiving Empire Plan members' out-of-pocket costs. This may include taking steps to bring Long Island Spine into the Empire Plan's participating provider network.
- [United HealthCare: Overpayments for Services Provided by Orthopedic Associates of Long Island \(2015-S-29\)](#). This audit focused on claims submitted to United by Orthopedic Associates of Long Island (Orthopedic Associates), a non-participating provider located on Long Island. During the period January 1, 2011 through December 31, 2014, United paid claims totaling \$18.4 million for services provided by Orthopedic Associates to Empire Plan members. Auditors found that Orthopedic Associates routinely failed to pursue collection of out-of-pocket cost-sharing obligations from Empire Plan members and, as such, concluded that Orthopedic Associates waived these amounts. Consequently, United made overpayments on claims submitted by Orthopedic Associates. Further, by not collecting members' out-of-pocket costs, Orthopedic Associates negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$229,088 resulting from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Orthopedic Associates' claims, auditors determined that United overpaid \$872,373 during the period

January 1, 2011 through December 31, 2014. Auditors recommended that United: recover the \$872,373 in overpayments from Orthopedic Associates and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent Orthopedic Associates from waiving Empire Plan members' out-of-pocket costs. This may include taking steps to bring Orthopedic Associates into the Empire Plan's participating provider network.

- **[United HealthCare: Overpayments for Services Provided by Eastern Orange Ambulatory Surgery Center \(2015-S-53\)](#)**. This audit focused on claims submitted to United by Eastern Orange Ambulatory Surgery Center (Eastern Orange), a non-participating provider located in Cornwall. During the period January 1, 2011 through March 31, 2015, United paid claims totaling \$6.6 million for services provided by Eastern Orange to Empire Plan members. Auditors found that Eastern Orange routinely waived Empire Plan members' required out-of-pocket cost-sharing obligations for services provided. Consequently, United made overpayments on claims submitted by Eastern Orange. Further, by not collecting members' out-of-pocket costs, Eastern Orange negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$217,187 resulting from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Eastern Orange's claims, auditors determined that United overpaid \$1,378,178 during the period January 1, 2011 through March 31, 2015. Auditors recommended that United: recover the \$1,378,178 in overpayments from Eastern Orange and refund the State accordingly; work with Civil Service to pursue an appropriate course of action designed to prevent Eastern Orange from waiving Empire Plan members' out-of-pocket costs; and continue efforts to bring Eastern Orange into the Empire Plan's participating provider network.
- **[United HealthCare: Overpayments for Services Provided by Long Island Laparoscopic Surgery \(2015-S-54\)](#)**. This audit focused on claims submitted to United by Long Island Laparoscopic Surgery (Long Island Laparoscopic), a non-participating provider located in Long Island. During the period July 1, 2011 through March 31, 2015, United paid claims totaling \$16 million for services provided by Long Island Laparoscopic to Empire Plan members. Auditors found that Long Island Laparoscopic routinely failed to pursue collection of out-of-pocket cost-sharing obligations from Empire Plan members and, as such, concluded that Long Island Laparoscopic waived these amounts. Consequently, United made overpayments on claims submitted by Long Island Laparoscopic. Further, by not collecting members' out-of-pocket costs, Long Island Laparoscopic negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$294,596 resulting from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Long Island Laparoscopic's claims, auditors determined United overpaid \$1,100,655 during the period July 1, 2011 through March 31, 2015. Auditors recommended that United: recover the \$1,100,655 in overpayments from Long Island Laparoscopic and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent Long Island Laparoscopic from waiving Empire Plan members' out-of-pocket costs. This may include steps to bring Long Island Laparoscopic into the Empire Plan's participating provider network.
- **[United HealthCare: Overpayments for Services Provided by Hudson Valley Bone and Joint Surgeons, LLP \(2016-S-17\)](#)**. This audit focused on claims submitted to United by Hudson Valley Bone and Joint Surgeons, LLP (Hudson Valley), a non-participating provider with two offices in Westchester County. During the period January 1, 2011 through October 31, 2015, United paid claims totaling \$8.7 million for services provided by Hudson Valley to Empire Plan members. Auditors found that Hudson Valley routinely waived Empire Plan members' required out-of-pocket cost-sharing obligations for services provided. Consequently, United made overpayments on claims submitted by Hudson Valley. Further, by not collecting members' out-of-pocket costs, Hudson Valley negated the incentive for members to use participating providers. This likely increased costs to the Empire Plan and, consequently, to taxpayers. From a random sample, auditors identified overpayments totaling \$202,209 resulting from claims that were excessive due to the routine waiving of members' cost-

sharing obligations. Based on a statistical projection of the sample overpayments to the population of Hudson Valley's claims, auditors determined that United overpaid \$566,126 during the period January 1, 2011 through October 31, 2015. Auditors recommended that United: recover the \$566,126 in overpayments from Hudson Valley and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent Hudson Valley from waiving Empire Plan members' out-of-pocket costs. This may include efforts to bring Hudson Valley into the Empire Plan's participating provider network.

Empire BlueCross BlueShield: Selected Payments for Special Items for the Period January 1, 2012 Through June 30, 2012 (Follow-Up) (2015-F-21). Empire BlueCross BlueShield (Empire) processes and pays Plan claims for hospital services in accordance with agreements Empire negotiates with member hospitals. Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. Hospitals may be entitled to additional payments for special items (implants, drugs, and blood) that are not covered by the standard fee schedules. Agreements with many of Empire's member hospitals limit the payments for special items. For the period January 1, 2012 through June 30, 2012, Empire paid over \$71 million for 38,381 claims for special items. In the initial audit report ([2012-S-132](#)), auditors found that Empire did not have adequate controls to ensure special items were paid according to contract provisions. As a result, during the six-month period January 1, 2012 through June 30, 2012, Empire made a net overpayment of \$391,894 on 81 claims from hospitals whose contracts with Empire limited payments for special items. Auditors made three recommendations to Empire to recover the overpayments identified and implement certain controls to ensure that payments for special items are accurate and properly supported by appropriate documentation. In their follow-up review, auditors found that Empire officials had made considerable progress in implementing the recommendations, including the recovery of \$368,917 in overpayments. Of the initial report's three audit recommendations, two had been implemented and one had been partially implemented.

Empire BlueCross BlueShield: Selected Payments for Special Items for the Period July 1, 2012 Through December 31, 2012 (Follow-Up) (2015-F-22). Empire BlueCross BlueShield (Empire) processes and pays Plan claims for hospital services in accordance with agreements Empire negotiates with member hospitals. Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. Hospitals may be entitled to additional payments for special items (implants, drugs, and blood) that are not covered by the standard fee schedules. Agreements with many of Empire's member hospitals limit the payments for special items. For the period July 1, 2012 through December 31, 2012, Empire paid over \$63 million for 39,993 claims for special items. In their initial audit report ([2013-S-28](#)), auditors found that Empire did not have adequate controls to ensure special items were paid according to contract provisions. As a result, during the six-month period July 1, 2012 through December 31, 2012, Empire made a net overpayment of \$898,541 on 96 claims from hospitals whose contracts with Empire limited payments for special items. Auditors made three recommendations to Empire to recover the overpayments identified and implement certain controls to ensure that payments for special items are accurate and properly supported by appropriate documentation. In the follow-up review, auditors found that Empire officials had made considerable progress in implementing the recommendations and recovered \$639,896 in overpayments. Of the initial report's three audit recommendations, one had been implemented and two had been partially implemented.

United HealthCare Insurance Company of New York: Empire Plan Drug Rebate Revenue (Follow-Up) (2015-F-23). Civil Service contracted with United HealthCare (United) to administer the Empire Plan's prescription drug program between January 1, 2008 and December 31, 2013. United subcontracted key functions of the prescription drug program to Medco Health Solutions, Inc., including the negotiation, collection, and allocation of rebates offered by drug manufacturers. In 2012, Express Scripts Holding Company (Express Scripts) acquired Medco. In the initial audit report ([2013-S-41](#)), auditors identified \$694,227 in drug rebate and discount revenue that was not credited to Civil Service for the period January 1, 2010 through December 31, 2012. Additionally, throughout the course of the initial audit, United and Express Scripts delayed auditors' access to requested information and refused to provide certain other information, limiting their ability to ensure that Civil Service was credited with all drug rebate and discount

revenue due to the State. Auditors recommended that United remit to Civil Service the \$694,227 in rebate and discount revenue identified, and fully comply with contract provisions that require timely audit access to all documents and information deemed necessary. In their follow-up review, auditors found that United officials had made some progress in implementing the recommendations, including remitting \$670,470 in additional drug rebate and discount revenue to Civil Service. However, additional actions were still needed. Of the initial report's three audit recommendations, one had been partially implemented, one had not been implemented, and one was no longer applicable.

United HealthCare: Payments for Fraudulent and Improper Claims Submitted by Davis Ethical Pharmacy (Follow-Up) (2015-F-26). In October 2011, OSC received allegations of improper billing practices by Davis Ethical Pharmacy (Davis Ethical), an independently owned pharmacy located in Rockville Centre, New York. In particular, it was alleged that Davis Ethical had submitted claims for medications that were neither prescribed nor dispensed. At that time, auditors learned that the Nassau County District Attorney (NCDA) and the Department of Financial Services (DFS) had received similar allegations and had initiated an investigation of Davis Ethical. Auditors coordinated their audit and investigative work with the NCDA and DFS. In their initial audit ([2012-S-10](#)), issued on August 13, 2013, auditors determined that, for the period January 1, 2008 through December 13, 2011, NYSHIP made improper payments totaling \$137,459 to Davis Ethical. Based on information obtained from the prescribers (the physicians indicated on the claims), auditors determined that Davis Ethical likely fabricated nearly all of the improper claims. Davis Ethical processed many of the improper claims well outside of normal business hours and often lacked records verifying that patients actually picked up the drugs billed to United HealthCare (United). Moreover, auditors concluded that Davis Ethical routinely submitted fraudulent claims to NYSHIP and received payments for those claims. Auditors recommended that United: coordinate with the NCDA, DFS, and other authorities to assist in any further investigation and to recover the \$137,459 in improper payments; formally assess the payments that auditors did not test and determine the extent to which Davis Ethical submitted other fraudulent or improper claims; and formally assess the conduct of William Davis, the owner of Davis Ethical. In their follow-up review, auditors determined that United officials had made progress addressing the problems identified in the initial report; two of the recommendations had been implemented, and the third was no longer applicable. On December 10, 2015, William Davis pleaded guilty to Grand Larceny in the Second Degree in Nassau County District Court and was sentenced on February 9, 2016. At the time of the follow-up review, Davis had made restitution of \$231,919 to the State, of which \$137,459 was paid to NYSHIP for the improper payments previously identified. United also recovered \$85,502 in prescription payments that auditors did not test.

Office of General Services (OGS)

Passenger Vehicle Fleet Management (2014-S-30). Public employees in many agencies are routinely required to travel for various work reasons. If public transportation is not available or feasible, staff typically drive to their destination, either in a fleet vehicle provided by the agency, their personal car, or a rental vehicle. The State's Spending and Government Efficiency (SAGE) Commission (which was created in 2011 to review and assess New York State government with the goals of saving taxpayer money, increasing accountability, and improving the delivery of government services) recommended a cost savings initiative to consolidate many activities and functions, including fleet management. As of June 2014, the State's fleet inventory included 23,853 vehicles, about 70 percent of which were special purpose vehicles that are generally unsuited for personal transportation. The remaining 6,700 were cars and light-duty trucks that were used by staff to conduct business. State records show that, for the two years ended March 31, 2014, more than 25,000 State employees incurred at least \$31.8 million in vehicle rental and mileage reimbursement costs. About 85 percent of these costs were incurred to reimburse staff for the use of their personal vehicles. In recent years, OSC performed 33 audits of travel expenses at State agencies, and found issues with charges for non-travel items, vehicle rentals that were not adequately monitored, and the potential misuse of rental and fleet vehicles. The purpose of this audit was to determine what steps OGS has taken to manage the State's passenger vehicle fleet and whether agencies have controls in place to ensure that vehicles are used in the most economical and efficient

manner and that risks associated with vehicle usage have been addressed. Auditors found that OGS has not made any formal recommendations regarding the State's vehicle fleet, as directed by the SAGE Commission. As a result, there has been relatively little progress in achieving the overall goal of consolidating and centralizing management of the fleet, which largely remains the responsibility of managers at the individual agencies. For additional progress to occur, OGS needs to perform a comprehensive analysis of agency needs and take steps to ensure the fleet available to each agency is the proper size and makeup to most efficiently meet agency missions. OGS officials indicated that consultants hired in 2013 (at a cost of about \$532,000) had already conducted just such an analysis. However, despite multiple requests by auditors spanning more than a year, OGS did not provide auditors with the consultant's report, which impaired their ability to fulfill the audit objective. At the individual agency level, auditors' surveys and field visits showed that most agencies have taken steps to more effectively manage employee travel in an effort to ensure passenger vehicle use is as efficient and cost-effective as possible. Auditors also found that monitoring practices among State agencies are not always sufficiently consistent to ensure that vehicle resource use is appropriate for specific employee travel circumstances. The significant use of rental and personal vehicles comes with inherent risks and, while the central review of travel vouchers helps to limit these risks, some still exist and agencies need to do more to mitigate those risks. Auditors recommended that OGS: formally assess the adequacy of its internal control environment, particularly as it relates to cooperation with statutorily authorized State oversight inquiries; complete an overall review of agency fleet needs and make formal recommendations regarding the State's fleet management; require employees to complete a vehicle use log (to record dates and times of use, purpose of trip, starting location and destination, and start and end odometer readings) when they use a rental vehicle; direct State agencies to establish controls to ensure that the OGS Trip Calculator is completed by travelers for all trips anticipated to exceed 100 miles; and work with State agencies to facilitate their sharing of successful and innovative practices to more efficiently and effectively manage employee vehicle travel, including establishing carpool policies, tracking rental car mileage, and performing routine vehicle purchase and lease analyses.

[Service-Disabled Veteran-Owned Business Program Implementation \(2015-S-81\)](#). The Service-Disabled Veteran-Owned Business (SDVOB) Act, signed into law on May 12, 2014, established a 6 percent goal for SDVOB participation in State contracts. The Act also created the Division of Service-Disabled Veterans' Business Development (Division) within OGS to oversee the State's SDVOB Program and to certify eligible businesses. As of December 28, 2015, there were 178 State-certified SDVOBs. From June 2014 through December 2015, the Division made substantial progress on its responsibilities as defined by the Act. For example, the Division issued regulations, established adequate policies and procedures for certifying SDVOBs and complied with them, and conducted significant outreach to veterans groups, State agencies, and public authorities about the Program. However, the Division had not yet developed a written, comprehensive statewide plan for implementing the Program. The Program would benefit from such a plan that includes progressive milestones and participation goals to guide its future progress, as well as from additional efforts to identify and address barriers to SDVOB development. Auditors recommended that OGS: develop a formal strategic plan to guide the Program's future development; expand efforts to gather and analyze information on agency contracting needs and potential service gaps; and work with strategic partners to increase the pool of certified SDVOBs to address any unmet needs.

Office of Information Technology Services

(ITS) (formerly New York State Office for Technology)

[Effectiveness of the Information Technology Transformation \(2015-S-2\)](#). ITS was established in November 2012 as part of a New York State Information Technology (IT) Transformation to consolidate and merge State agencies' operations and streamline services. ITS was created pursuant to a recommendation of the Governor's Spending and Government Efficiency (SAGE) Commission. The SAGE Commission's Final Report, issued in February 2013, outlined a framework by which ITS was created, and projected annual savings of approximately \$290 million as a result of three major initiatives: Organizational Restructuring, IT Infrastructure Modernization (Data Center Modernization, Digital Network Consolidation, Email Consolidation and Integration, Enterprise Identification and Access Management),

and Accelerating the Development of IT Projects with a High Return on Investment and a High Impact on Performance. Following the SAGE Commission's report, OSC completed separate audits of the security and effectiveness of core systems at three major agencies (Department of Motor Vehicles [DMV], Department of Labor [DOL], and Division of Criminal Justice Services [DCJS]), each organized within a different part of ITS. In each case, auditors reported on areas where ITS had not established adequate controls over its processes and procedures during the IT Transformation. For example, the audits questioned: the adequacy of access controls and change management at all three agencies; the implementation of Payment Card Industry standards at DMV; data classification efforts at both DOL and DCJS; and the ease and efficiency of core programming languages at DOL and DMV. As a result, in January 2015, OSC began this audit of the effectiveness of the overall IT Transformation effort. Auditors found significant deficiencies in ITS's planning of the execution of the Transformation, with little or no evidence that many basic planning steps had been performed. For example, ITS did not conduct a risk assessment in a timely manner to help identify priorities and avoid unintended consequences, and did not establish benchmarks for customer service levels and costs at the onset of the Transformation. As a result, ITS had little data to quantify or measure what benefits, if any, the IT Transformation had brought about thus far. Moreover, these deficiencies significantly limited ITS's ability to maintain continuity and meet the goals established in the SAGE Commission report, especially in an era of recurring turnover among top-level ITS executives. Auditors also found that ITS is still working toward completion of several of the goals outlined by the SAGE Commission. In fact, the SAGE Commission's initial report labeled the four major IT Infrastructure Modernization initiative components as "well underway" at the time. However, auditors found that, despite ITS being in its fourth year, only one component of this initiative (Email Consolidation and Integration) has shown significant progress and is ostensibly complete. ITS often did not provide timely or independent access to certain data and staff, thus limiting the reliability of some of the data that auditors received and the interviews the auditors conducted. As such, there is considerable risk that material information pertaining to the IT Transformation had been withheld. Further, throughout the audit, auditors had been given contradictory information when trying to obtain documentation and answers to their inquiries. Auditors recommended that ITS: formally assess the adequacy of its internal control environment and take necessary steps to ensure the control environment is adequate, including cooperation with authorized State oversight inquiries; complete an overall risk assessment of ITS and incorporate it into the new FY project plan for the 2016-17 fiscal year; and work with State agencies to facilitate their sharing of successful and innovative practices to more efficiently and effectively manage ITS resources and assets.

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 \(LDC\) \(2015-BSE1-01\)](#)

The objective of this examination was to determine whether the DED's payments to the Local Development Corporation of Laurelton, Rosedale, and Springfield Gardens (LDC) under contract M050231 were for appropriate expenses. On April 28, 2014, the 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, auditors rejected the 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). Auditors recommended that DED recover the \$11,966 in advance funds as appropriate, and ensure that future requests for payment under contract M050231 are supported by sufficient, appropriate evidence.

Empire State Development Corporation

(ESD)

[Selected Aspects of the Minority- and Women-Owned Business Enterprises Program \(2014-S-13\)](#)

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 ESD. DED's Division of Minority and Women's Business Development (Division) administers, coordinates, and monitors this program. Auditors conducted this audit to determine if DED properly certified and recertified MWBEs and processed agencies' annual MWBE goal plans and utilization reports, which are used to prepare an overall MWBE program report to the Governor and the Legislature annually. Auditors reviewed a sample of 20 businesses in the Division's directory of certified MWBEs and found that the addresses for five were not accurate. In addition, MWBE master goal plans for ten sampled agencies were submitted late (one by more than five months), and six of the 10 agencies did not explain why significant amounts of their budgets were exempted and excluded from MWBE participation. Further, there was no evidence the Division had taken actions to address these instances of noncompliance. In addition, for the audit period, 39 (46.9 percent) of the 83 files auditors requested were either missing mandatory or required documents used to certify MWBEs or could not be located. A lack of mandatory supporting documentation and missing files increase the risk that ineligible firms could be certified as MWBEs. Auditors recommended that ESD: develop and implement formal mechanisms to periodically verify that certified MWBEs are at their address of record; require analysts to obtain all mandatory and other applicable documents before certifying applications and document the reasoning for any waiver of mandatory or required documents; improve record-keeping and archiving systems to ensure that pertinent files and records can be easily retrieved and accessed; and formally require and remind agencies to submit MWBE goal plans timely.

[Performance of the Excelsior Jobs Program \(2015-S-15\)](#). The Excelsior Jobs Program, established in Chapter 59 of the Laws of 2010, provides refundable tax credits to companies in targeted industries. To receive the credits, over a 10-year period, the companies must create and maintain specific numbers of

new jobs and/or make significant capital investments. ESD administers the Program, and is responsible for determining whether businesses meet the Program's eligibility requirements before certifying their eligibility to receive annual tax credits. As of March 31, 2015, the State had committed over \$548 million in Program tax credits to 328 businesses. In return, these businesses had committed to invest nearly \$5.8 billion and create 34,472 jobs in New York State. Auditors sampled and tested 25 companies for which, as of June 2015, ESD had authorized Program tax credits on 39 occasions totaling \$4.84 million. Auditors found that ESD could not support that the sampled companies had met the agreed-upon job growth and investment benchmarks for five of the 39 instances (13 percent) where ESD authorized Program tax credits totaling \$214,000. Furthermore, ESD could not support that any of the 25 sampled companies met all the eligibility requirements when initially approved for Program participation. Moreover, in four separate instances, ESD adjusted the annual job creation requirements from the original agreement after the fact to align with the companies' actual lower job creation totals. Auditors recommended that ESD: obtain sufficient corroborating documentation to support that all Program participants met the eligibility requirements for job growth and investments in their formal agreement before receiving tax credits; and ensure that all tax credit calculations are correct before issuing a Certificate of Tax Credit.

Review of Trivision Tek Group, Inc. (2016-BSE01-01). The objective of this examination was to determine the appropriateness of payments made by ESD to Trivision Tek Group, Inc. under Grant Disbursement Agreement (GDA) X199, a member initiative grant sponsored by former Senate majority leader John Sampson. Trivision was hired to provide consulting services for the Medicaid Data Warehouse under both GDA X199 with ESD and as a subcontractor to Currier McCabe & Associates (CMA) under its contract with the Department of Health (DOH). According to GDA X199, Trivision was not allowed to bill ESD for services that were paid or were payable from other funding sources. Auditors found ESD approved three vouchers totaling \$350,000 payable to Trivision for services previously paid for, or payable by, CMA and for services never performed. This included \$330,200 for consulting services that Trivision performed as a subcontractor to CMA at DOH and \$19,800 for project management services that were never performed. As a result of this examination, auditors rejected the final \$211,109 payment request from Trivision to ESD. In addition, ESD terminated GDA X199 and recovered the \$138,891 it had paid under the grant. Auditors recommended that ESD: monitor future awards with multiple funding sources to ensure ESD does not pay contractors for services paid or payable from other funding sources; and ensure future projects are sufficiently monitored to verify all services are actually performed prior to certifying the appropriateness of payment requests to the State Comptroller.

Homes and Community Renewal

(Community Renewal)

Public Housing Modernization Program: Administration of Selected Projects Outside of New York City (2015-S-5). The Public Housing Modernization Program, administered by Community Renewal's Division of Housing and Community Renewal (DHCR) in conjunction with the Housing Trust Fund Corporation (HTFC), provides grants to public housing authorities to be used for major repairs. DHCR is responsible for awarding Program funds to authorities and providing general Program oversight, while HTFC disburses the Program funds pursuant to "funding contracts" between DHCR and the recipient authority. Between fiscal 2007 and 2013, 35 funding contracts, totaling \$44 million, were awarded to authorities located outside of New York City. Auditors identified several significant deficiencies regarding the expenditure of Program moneys, such as: long delays in the awarding of construction contracts, resulting in corresponding delays in project completion; questionable and undocumented contractor selection practices; questionable change orders for items that should have been competitively procured, could have been avoided with better planning, or were not adequately justified by available documentation; and final payments made without the required Certificates of Completion or independent DHCR final inspections. Auditors recommended that DHCR: ensure that housing authorities award consultant and construction contracts on a timely basis, once funding contracts are executed; review the questionable bidding practices identified in the audit and determine whether appropriate procedures were used in the contractor selection process; enhance and document DHCR oversight of the consultants and construction contractors chosen by housing authorities; ensure that Program funding recipients use change orders

appropriately; and ensure that housing authorities submit Certificates of Completion and that DHCR staff inspect projects prior to authorizing final project payments.

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 Labor

(DOL)

[Examination of Unemployment Insurance Benefits \(2014-BSE-3A-001\)](#). Auditors examined DOL's Unemployment Insurance (UI) program during calendar year 2014, including high-risk payment requests and payments processed in 2014 and prior year payments associated with those high-risk payment requests and payments, to determine whether UI benefit payment requests and payments were appropriate and in accordance with applicable federal and State laws and regulations and DOL policies and procedures. The scope also included the results of OSC's examinations in prior years to determine whether DOL took corrective action and recouped overpayments based on the findings identified. Auditors tested a sample of high-risk benefit payment requests and payments processed from January 1, 2014 through December 31, 2014, prior years' payments associated with those high-risk payment requests and payments, and prior years' findings confirmed by DOL in 2014. Auditors identified 8,392 overpayments totaling more than \$2.1 million, including \$168,878 in payment requests stopped; \$399,356 in future payments that would have been made over the life of the claim had DOL not taken corrective action based on audit findings; and \$1,600,459 in erroneous payments. Auditors also identified 711 underpayments totaling \$118,804, including \$27,508 in current payments and \$91,296 in future payments that claimants would not have received over the life of their claims had DOL not taken corrective actions based on audit findings. Auditors found other potential recoveries totaling \$403,456, including \$224,220 from newly hired State employees who owe DOL for UI overpayments made in prior years and \$179,236 from claimants against whom DOL assessed monetary penalties as a result of audit findings. DOL had recovered \$737,695 from UI claimants and State employees due to current and past examination efforts, including \$260,163 in forfeited UI benefits from claimants who made false statements or representations to obtain benefits they were not eligible for and \$477,532 from State employees who owed DOL for past UI overpayments. Auditors recommended that DOL: continue to enhance controls to identify claimants who are falsely certifying eligibility to receive UI benefits; ensure staff follow established policies and procedures when processing claims; establish and implement controls to prevent overpayments resulting from limitations in the DOL UI payment system; continue to recoup overpayments and monetary assessments from claimants, as appropriate; and determine the financial impact of Section 597.3 of the State Labor Law on the UI program. DOL should consider seeking authority to prevent future overpayments once they are identified.

[Unemployment Insurance Program \(2016-BSE4-01\)](#). Auditors examined DOL's Unemployment Insurance (UI) program during calendar year 2015, including high-risk payment requests and payments that DOL approved in 2015 and related prior year payments, to determine if UI payment requests and payments that DOL approved were appropriate and in accordance with applicable federal and State laws and regulations and DOL policies and procedures. The scope also included the results of OSC's examinations in prior years to determine if DOL recouped overpayments based on the findings identified. Auditors identified 11,306 overpayments totaling more than \$3.6 million. Based on these findings, DOL assessed \$471,458 in monetary penalties to 344 claimants. Auditors also identified 588 underpayments totaling \$105,744, including \$23,662 in current payments and \$82,082 in future payments that claimants would not have received had DOL not taken corrective actions based on audit findings. The overpayments occurred because: DOL did not detect that claimants made false statements to obtain benefits they were not entitled to receive; limitations in the UI payment system permitted erroneous payments; or staff did not follow established policies and procedures. Due to restrictions on sharing confidential data, the Bureau of State Expenditures (BSE) worked cooperatively with DOL to identify other potential recoveries totaling \$284,315 from 205 New York State employees hired during calendar year 2015 who owe DOL for UI

overpayments received in prior years. Auditors recommended that DOL: enhance controls to identify claimants who are falsely certifying eligibility to receive UI benefits and prosecute these individuals to the fullest extent of the law when it is economically beneficial to do so; continue to develop a modernized UI system and provide BSE with a report on the progress made to date and target dates for future milestones; address the system limitations in the UI payment system identified; ensure staff follow established policies and procedures to process claims appropriately; consider periodically reviewing individual claims in their entirety; and recoup overpayments and monetary assessments from claimants, as appropriate.

Department of Motor Vehicles

(DMV)

[Internal Control System Components \(2015-S-66\)](#). In 1987, the Legislature passed the New York State Governmental Accountability, Audit and Internal Control Act, which requires 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 each system must address: control environment, control activities, risk assessment, information and communication, and monitoring. Auditors determined that DMV had established a system of internal control that incorporates each of the five components of internal control. However, improvements are needed in the evaluation of some of these components, particularly at the unit level. In addition, auditors found that DMV had developed an internal control review program that requires unit managers to formally assess risks, test controls, and implement corrective action plans; however, the process has not yet been fully implemented across most units. Without a complete internal control review program, DMV does not have appropriate assurance that unit managers are properly evaluating risk, testing controls to verify that they are working as intended, and implementing corrective action plans if controls fail. Auditors recommended that DMV: develop a process and cycle for each unit manager to assess risk and review controls for major functions; incorporate a process for unit managers to evaluate the control environment, information and communications systems, and monitoring systems within their units; and provide additional training and outreach to unit managers to increase their understanding of internal controls and the internal control review program.

Department of Taxation and Finance

(Tax and Finance)

[2015 Personal Income Tax Refunds \(2015-1A-001\)](#). The objective of this examination was to determine whether tax refunds approved by Tax and Finance for payment were appropriate and processed in accordance with applicable New York State tax laws and regulations. From January 1, 2015 through December 31, 2015, Tax and Finance processed almost 7.5 million refunds totaling over \$8.6 billion. From this population, auditors examined 31,978 refunds totaling almost \$516.5 million. Auditors returned 11,469 questionable refunds, totaling about \$53.3 million, to Tax and Finance for follow-up evaluation and appropriate action. For the \$17.3 million in refunds of \$10,000 or more, auditors verified a total of \$16 million that would have been overpaid. Tax and Finance continues to follow up on the remaining questionable refunds identified. Based on prior years' results, the refund overpayments prevented averaged about 46 percent of the dollar amount of the taxpayer's original refund request. Therefore, auditors estimate that their efforts will prevent an additional \$16.6 million in refund overpayments, for a total savings of \$32.6 million. Auditors recommended that Tax and Finance: continue to pursue obtaining external data to prevent unwarranted credits; and continue working with OSC to identify and implement other opportunities to help detect and prevent erroneous refunds.

New York State Energy Research and Development Authority (NYSERDA)

NY-Sun Incentive Program (2015-S-91). NYSERDA was charged with oversight of the NY-Sun Incentive Program (NY-Sun), which was launched in 2012 by the State's Public Service Commission to help establish a self-sustaining and self-sufficient solar industry in the State. In 2014, NY-Sun received a commitment of \$1 billion to stimulate the marketplace for solar energy in New York. NY-Sun aims to add more than three gigawatts (3 billion watts) of solar capacity, enough to power approximately 400,000 homes in the State, by 2023. The roughly \$1 billion will be paid out as incentives to installers based on the size of the solar energy installation. NYSERDA has developed its own policies and procedures for managing the incentives, and works to ensure that consumers receive properly installed, reliable solar photovoltaic systems through initial design reviews and field inspections upon project completion. Auditors determined that, in general, NYSERDA's oversight of NY-Sun is adequate; however, they identified two areas where additional controls are necessary: monitoring of open projects and inspection of new installers' systems. NYSERDA established 210 days as the expected time required for installers to complete most projects, and an extension request is required if the project exceeds this time frame. Auditors identified 1,568 projects that not only exceeded 210 days but also had been open for more than 300 days without an extension request. According to NYSERDA policies, 15 to 30 percent of projects completed by experienced installers and the initial three projects completed by new installers must be inspected. However, auditors found that NYSERDA had not completed the required inspections of the initial three jobs for some new installers, nor had it documented the reasons for the deviation. Auditors recommended that NYSERDA: develop and implement a more formal process to follow up on the status of projects that remain open for more than 300 days; and re-examine priorities to determine if the new installer inspection requirement needs to be modified due to the increase in program volume.

New York Power Authority (NYPA)

Selected Management and Operations Practices (2015-S-20). NYPA is a public authority whose mission is to provide clean, low-cost, and reliable energy consistent with its commitment to the environment and safety, while promoting economic development and job development, energy efficiency, renewables, and innovation for the benefit of its customers and all New Yorkers. State law requires the State Comptroller to conduct an audit of NYPA's management and operations at least once every five years. This audit encompassed a review of three areas: (1) ReCharge New York (RNY), to determine whether NYPA managed the RNY program according to statute, accurately reported job creation goals and other program metrics, and phased out customers of the former discounted energy programs as provided in the ReCharge New York law; (2) Disposal of Personal Property, to determine if NYPA disposed of personal property valued over \$5,000 in accordance with its procedures; and (3) the Energy Efficiency Program, to determine if the savings reported as of April 9, 2015 were properly supported.

- **RNY**: This program allocates low-cost power to businesses and not-for-profit organizations that commit to retain or increase New York State jobs and agree to make capital investments. Auditors found that NYPA made errors in the method used to rank applicants for power allocations, and treated applicants with the same score differently based on when their applications were processed. These errors and the inconsistent application of the RNY model resulted in applicants' scores being ranked incorrectly. Auditors also found that NYPA reported certain information to the public that is incomplete and therefore may lead the public to draw incorrect conclusions about the program. For example, NYPA publicly reports power allocations that it offers to RNY applicants, but not the power they actually accept. NYPA also reports job commitments, and includes businesses that were awarded a power allocation but are in pending status because they have not signed a contract. In some cases, these businesses later declined the contracts. In June 2015, this resulted in an overstatement of job commitments reported by 29,795, or 7.7 percent. Furthermore, NYPA's primary mechanism for monitoring compliance with job commitments is flawed. In 12 cases, NYPA allowed customers to refuse to provide required documentation to confirm reported job retention numbers, without consequences. In addition, NYPA has not met its own yearly target for compliance reviews. Auditors

recommended that NYPA: identify resources available within NYPA that can conduct an independent and objective review of the models for accuracy and completeness; exclude businesses that have received an allocation but have not signed a contract from any reporting of RNY program results, or footnote/disclose the “results” owing to pending customers; and take action to reduce contract power allocations when customers do not meet power utilization or base employment levels or hinder verification of compliance requirements provided by contract terms.

- *Disposal of Personal Property:* Section 2896 of the Public Authorities Law requires NYPA to publish a report, not less frequently than annually, of all personal property valued in excess of \$5,000 that was disposed of during the reporting period. For purposes of this audit, personal property is all property other than real property. From January 1, 2011 to May 31, 2015, NYPA reported revenues of \$3.96 million from personal property disposals. Auditors found that NYPA sold scrap metal and plant equipment (valued at over \$900,000) from two locations without appropriate controls to ensure that they were properly accounted for and that appropriate value was received. In addition, NYPA had poor controls over the disposition of fleet vehicles. Auditors recommended that NYPA establish controls over the valuation and sale of scrap metal and improve controls over fleet assets sales.
- *Energy Efficiency Project:* NYPA began Energy Efficiency (EE) programs for its government customers in New York City and Westchester County in 1990. The programs were expanded to State-operated facilities in 1991, Long Island public schools in 1992, community colleges statewide in 1993, and county and municipal governments in 1994. As of April 9, 2015, NYPA financed \$1.8 billion in EE projects, which it claims will produce savings of \$103.3 million. While some projects have reported savings, others do not have savings. The projects without savings include feasibility studies, energy audits, and projects that improve the energy system’s reliability. As of April 9, 2015, NYPA completed 334 out of 565 projects, at a cost of \$814.5 million and reported savings of \$44.8 million. Auditors found that project savings in NYPA’s April 9, 2015 report were not always properly supported. Auditors sampled 25 EE projects, of which 21 reported energy savings of \$16.5 million. However, available documentation fully supported energy savings for only 11 of the 21 projects. Savings for seven projects were only partially supported, and savings for the remaining three projects were not supported. Supported savings totaled \$13.6 million, and the remaining \$2.9 million was unsupported. Auditors recommended that NYPA require project managers to prepare and maintain records to properly support the Energy Efficiency savings reported.

New York Racing Association

(NYRA)

[Capital Program Revenue and Expenses \(2014-S-54\)](#). NYRA holds the exclusive franchise to operate New York State’s three major thoroughbred racetracks: Aqueduct Racetrack, Belmont Park, and Saratoga Race Course. In 2011, Resorts World New York City Casino (Resorts), operated by Genting New York, opened adjacent to Aqueduct Racetrack. Under NYRA’s Franchise Agreement with New York State, a percentage of Resorts’ Video Lottery Terminal (VLT) revenues are to be directed to NYRA for enhanced purses, operational support, and capital expenses. For the period January 1, 2012 through June 30, 2014, NYRA received about \$259 million in revenue from Resorts, distributed as follows: \$56 million for operations; \$129 million for purses; and \$74 million for NYRA’s capital program. Auditors found adequate controls over the VLT revenues collected by Resorts and the transfer of such funds to NYRA. However, NYRA officials lacked an adequate capital planning function. NYRA officials had not developed a multiyear capital plan, and NYRA’s annual plans lacked pertinent details, such as completion dates, the projects to be financed, and support for their associated costs. Auditors also found that several of the actual capital projects initiated and/or completed by NYRA during the audit period were not on any of its annual plans, and several of the projects on the plans were not initiated. In addition, for part of the audit period, NYRA used material amounts of capital program funds for routine maintenance costs. Auditors recommended that NYRA: develop long-term (multiyear) capital plans that outline how available capital program moneys will be used to promote NYRA’s long-term capital program goals and operational goals; develop annual capital plans that detail each project’s need/justification, time frame for completion, and project cost estimates; develop and implement a formal project management system to effectively monitor the status

of projects in long-term and annual capital plans; and minimize the extent to which VLT capital revenues are used for non-capital (operational) purposes.

Financial Condition and Selected Expenses (2015-S-21). In 2011, Resorts World New York City Casino (Resorts), operated by Genting New York, opened adjacent to Aqueduct Racetrack. Under NYRA's Franchise Agreement with New York State, a percentage of Resorts' Video Lottery Terminal (VLT) revenues are to be directed to NYRA for enhanced purses, operational support, and capital expenses. The Agreement directs that NYRA receive VLT funding until 2033 unless the franchise is terminated before that time. However, the Franchise Oversight Board (FOB), which oversees NYRA's financial operations, stressed the need for NYRA to develop a plan to become profitable without reliance on VLT subsidies. Auditors found that NYRA's overall financial condition, as a result of VLT revenue subsidies, is sound. However, NYRA's traditional racing operations (which exclude the VLT revenues) have generated multimillion dollar annual deficits. Excluding VLT revenues, NYRA would have generated cumulative operating losses of \$109.3 million from 2010 through 2014 (or an average annual loss of about \$22 million). Moreover, NYRA has not developed a sufficient plan to make operations profitable without VLT subsidies. In addition, officials overstated NYRA's actual financial condition by excluding certain ordinary and necessary expenses (including pension contributions, post-employment health benefits, and depreciation) totaling \$13.2 million from profit and loss calculations. In addition, auditors questioned certain expenses that were not properly supported or did not appear to be ordinary or necessary for racing operations. These expenses, which included unsupported performance incentives and horse transportation, contributed to NYRA's racing operation deficits. Auditors recommended that NYRA: include all ordinary and necessary expenses when calculating the results of NYRA's racing-related financial operations; develop a detailed plan to eliminate NYRA's annual deficits from racing operations (excluding VLT subsidies) with specific actions to enhance racing and track-related revenues and diminish unnecessary and unsupported expenses; and formally assess the propriety of the questionable expenses identified, and develop and implement written policies to minimize the risk of excessive payments for the goods and services in question.

New York Wine and Grape Foundation

Use of State Appropriations (2015-S-102). The New York Wine and Grape Foundation, located in Canandaigua, is a public authority supporting New York State's wine and grape industry through research, promotion, and education. The Foundation receives State funding through a contract with the Department of Agriculture and Markets. Its most recent contract, covering the four years ending March 2016, was for \$3.7 million. Auditors found that the Foundation has appropriately used its State money to fund allowable activities. The contract requires at least 30 percent of the State money be spent on research. Over the term of its contract, the Foundation has spent 34 percent on research, although spending in the first year was just 27 percent. The Foundation has also exceeded its contractual commitment to leverage State money. Although it is only required to obtain outside funding equal to what the State provides, the Foundation has obtained nearly double that. In addition, auditors determined that the Foundation has established effective internal controls over most of its financial operations. Auditors found that certain revenue payments were being sent directly to an employee's home and not to the Foundation's business office. Auditors discussed this issue with Foundation officials, who rectified the problem immediately.

Office of Parks, Recreation and Historic Preservation

(Parks)

Controls Over Cash Advance Accounts (Follow-Up) (2016-F-3). 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 such as confidential and change allowances. As of March 31, 2012, Parks was authorized to have 14 advance accounts with a total value of \$436,090, as follows: Petty Cash (including 10 "sub-accounts") - \$185,000; Change Fund - \$246,590; Confidential Fund - \$1,500; and Travel Fund - \$3,000. As of March 31, 2016, Parks was authorized to have three advance accounts with a total value of \$313,090, as follows: Change Fund - \$271,590; Petty Cash Fund - \$40,000; and Confidential Fund - \$1,500. In their initial audit ([2014-S-22](#)), issued on December 22, 2014, auditors determined that

these accounts received little scrutiny; and made eight recommendations to improve internal controls over these accounts. In their follow-up review, auditors found that Parks had made significant progress in correcting the problems identified. Of the eight prior audit recommendations, seven had been implemented and one had not been implemented.

Office of Temporary and Disability Assistance

(OTDA)

[Oversight of Homeless Shelters \(2015-S-23\)](#). OTDA administers programs that assist the State's low-income residents and provides support to county Departments of Social Services (Local Districts) in the operation of these programs. Through its Bureau of Shelter Services, OTDA seeks to meet critical transitional housing needs of the State's homeless population – estimated at more than 80,000 and composed of families, couples, and single adults – while guiding them to self-sufficiency. OTDA certifies and directly oversees larger-scale shelter facilities and monitors Local Districts' oversight and inspection of smaller, uncertified shelters. Auditors found that OTDA does not sufficiently monitor State-certified shelters, nor Local Districts' oversight of uncertified shelters, to ensure that inspection violations are addressed properly and timely, and that shelters are operating in compliance with applicable State and local requirements. Moreover, auditors observed a range of substandard living conditions at both State-certified and uncertified shelters, some of which pose obvious and dangerous risks to shelter residents' health and safety. Auditors recommended that OTDA: take necessary actions to complete all annual inspections, and issue facility certifications, within the time limits prescribed for each shelter type; monitor Local Districts' oversight activities and obtain sufficient documentation to ensure that the responsibilities delegated to them are adequately met; and develop and implement a process to follow up on facilities with issues identified in prior inspections to ensure conditions are remedied and acceptable.

[Wage Subsidy and Transitional Employment Programs \(2015-S-58\)](#). The federal Temporary Assistance for Needy Families (TANF) program provides assistance and work opportunities to needy families by granting states the federal funds and flexibility to develop and implement their own welfare programs. Federal funds are provided to the State to support the Wage Subsidy Program (WSP) and the Transitional Employment (TE) program. For State fiscal years 2011 through 2014, federal funding provided \$3.8 million for WSP and TE programs. OTDA is responsible for administering WSP and TE programs, and has contracted with eligible public or private not-for-profit organizations (contractors) to implement them. Contractors work with third parties (e.g., local businesses) to employ eligible individuals or may act as employers themselves. Each contract establishes employment goals to be met during the contract period. In the WSP, contractors place public assistance recipients and other low-income individuals with employment barriers into wage-paying jobs, and reimburse employers for costs. In the TE program, contractors place individuals in temporary wage-paying jobs to help them acquire work skills and establish an employment record that improves their competitiveness in private sector employment. OTDA also makes performance-based payments to WSP/TE contractors when participants achieve certain employment milestones. Auditors found that OTDA has provided adequate support and guidance to contractors to assist them in reporting WSP/TE performance outcomes and preparing vouchers for wage subsidies and achieving milestones. However, OTDA's system for tracking and monitoring milestones and goal attainment is outdated. As a result, OTDA is not as efficient or effective as it could be in monitoring contractors to ensure that they accurately report performance outcomes and that program funds are used as intended. Auditors also found that OTDA's requirements for documentation are not sufficient to ensure that contractors are being reimbursed only for milestones and goals that they actually attain. Auditors recommended that OTDA: develop a system to more easily and readily store, access, and analyze complete WSP information; and require contractors to maintain supporting documentation, including payroll records, time sheets, paystubs, or canceled checks, to support program milestones, goal achievement, and wage subsidies.

[Homeless Shelters and Homelessness in New York State: An Overview, Exclusive of New York City \(2016-D-3\)](#). In his 2016 State of the State message, Governor Cuomo announced a new Homeless Housing Initiative that would give the State new oversight of the homeless shelter system. The homeless plan would be aided by statewide independent shelter risk assessment efforts by the Office of the State Comptroller as well as the Comptrollers of New York City and the City of Buffalo. Using lists of shelters

provided by the Governor's Office and the counties, auditors visited 200 emergency shelters and 187 hotels and motels, located across 48 different counties (exclusive of New York City and the City of Buffalo). During these site visits, auditors conducted risk assessments using a uniform checklist, which consisted of select sections of the Habitability Standards for Temporary Housing Accommodation Inspection Checklist prepared by OTDA. These risk assessments focused on observable conditions, including the physical condition of both the facility and the surrounding area (e.g., the neighborhood, any passers-by), and did not include a review of case management services, food preparation, or staffing levels. Auditors found that while many of the facilities visited were able to provide "adequate" living conditions (i.e., basic level of habitability), risks to health, personal safety, and fire safety were pervasive. Further, the shelters often indicated that they face an uphill battle in terms of facility maintenance and upkeep—in some cases because of funding, but in others simply by virtue of the transient and temporary nature of the population they serve. As a result, any condition can be volatile at best: conditions that are deemed "acceptable" one day can easily escalate to "unacceptable" the next. This report focuses on conditions found in the homeless shelters visited and presents demographic data "snapshots" for ten regions that represent the largest populations of homeless individuals outside of the New York City metropolitan area.

[National Directory of New Hires Data Security \(2016-S-27\)](#). OTDA is responsible for supervising State programs that provide assistance and support to eligible families and individuals, including the Temporary Assistance for Needy Families (TANF) program and the Supplemental Nutrition Assistance Program (SNAP). As part of managing these programs, OTDA obtains National Directory of New Hires data provided by the Office of Child Support Enforcement, a subdivision of the U.S. Department of Health and Human Services. OTDA uses Directory data, which includes information on new hires, quarterly wages, and unemployment insurance, to verify TANF and SNAP eligibility information. All State agencies that receive and process Directory data must comply with Child Support Enforcement's Security Requirements for State Agencies Receiving National Directory of New Hires Data, which define the administrative, technical, and physical security controls required to be implemented by the State agency before receiving Directory data. Every four years, OTDA must submit a copy of an independent security assessment to Child Support Enforcement. At the request of OTDA officials, auditors performed an independent security assessment of the Directory system security controls at OTDA. Auditors found that OTDA is fully compliant with 23 of the 32 requirements and partially compliant (in-progress) with seven requirements, and two requirements were not applicable due to current OTDA practices and modifications of federal reporting requirements. Auditors recommended that OTDA continue to develop and implement controls for those requirements identified as in-progress.

[Benefit Eligibility Assessment Process \(Follow-Up\) \(2015-F-28\)](#). An initial audit ([2012-S-51](#)), issued on May 28, 2014, examined whether the New York City Human Resources Administration's (HRA) public assistance benefit eligibility assessment process complied with applicable policies and procedures, and whether OTDA's Fair Hearing process was used only as necessary. Auditors found that HRA applied a fair and consistent assessment process when determining client eligibility in compliance with governing policies and procedures. They also determined that changes were necessary to reduce the number of overturned HRA determinations and costly, and in some cases unnecessary, OTDA Fair Hearings. These hearings were unnecessary because the case had either already been resolved to the client's satisfaction, or HRA could not proceed due to missing case file support or erroneously prepared documents. Auditors also found that OTDA's closed-case coding system did not always adequately describe the case resolution. In the follow-up review, auditors found that OTDA and HRA had made significant progress in addressing the issues identified. Of the three prior recommendations, two had been implemented and one had been partially implemented.

Public Service Commission

(PSC)

[Pipeline Safety Oversight \(2015-S-31\)](#). The Pipelines and Hazardous Materials Safety Administration (PHMSA) within the federal Department of Transportation administers pipeline safety nationwide. To do this, it delegates some of its authority to states and provides partial reimbursement for the costs they incur. In New York, the PSC operates a federally certified safety program for intrastate and interstate

pipelines. New York's pipelines transmit, gather, and distribute natural gas and hazardous liquids, including crude oil, refined petroleum products, and other highly volatile, flammable, or toxic liquids. Inspections are performed by the Department of Public Service (DPS), which reports to the PSC. Auditors found that DPS staff do not verify the accuracy of the information on employee/contractor qualifications maintained by individual Operators (i.e., any entity that engages in the transportation of gas), which DPS staff rely on during field audits. In addition, DPS has not set up a process to identify instances where Operators failed to notify them of incidents as required. Auditors also determined that Operators did not notify DPS of six gas-related incidents in 2015 that they should have reported. These incidents involved evacuations, road closures, a business closure, and other situations that left businesses and residents without gas. Moreover, DPS does not perform analyses of all available data to better identify potential high-risk areas. Auditors recommended that the PSC: ensure that the qualifications for Operators' employees and contractors are accurately documented and supported in the Operators' or independent third parties' files; develop procedures to identify instances when Operators fail to report incidents as required; and work with the Operators to identify all available sources of pipeline safety data, and then determine which analyses can best provide both DPS and the Operators with the most valuable information to help identify risks and improve pipeline safety.

Westchester County Health Care Corporation (WCHCC)

Supplemental Payments to Executive Employees (2015-S-77). WCHCC, a State public authority created under Sections 3300-3321 of the Public Authorities Law, is responsible for governing the Westchester Medical Center, the regional medical care and referral center providing high-quality advanced health services to the residents of the Hudson Valley and the surrounding area. Two legal opinions issued by State oversight agencies provide guidance to public authorities regarding employee performance incentive programs. These opinions provide that supplemental compensation payments (or bonuses) are allowable if they correspond with predetermined amounts paid after the end of previously specified work periods for meeting certain performance criteria. WCHCC reports various salary and compensation data through the Public Authorities Reporting Information System (PARIS), an online data entry and collection system maintained by OSC and managed jointly with the Authorities Budget Office (ABO). From 2013 through 2015, WCHCC paid 18 executives (with base salaries totaling about \$21.6 million) almost \$4.6 million in supplemental payments. The supplemental payments ranged from about \$20,000 to almost \$1.7 million per recipient for the three years ended December 31, 2014. Auditors found that, in general, the supplemental payments corresponded to work performed during the previous year. The largest supplemental payments (totaling about \$2.7 million) were made to the Chief Executive Officer (CEO) and the Chief Financial Officer (CFO) and accounted for almost 59 percent of the total paid. The other payments (totaling about \$1.9 million) went to members of "senior management," which WCHCC defined as titles such as Senior Vice President and above. WCHCC officials stated that senior managers were evaluated on whether they achieved certain goals and objectives before receiving their payments. There is no formal evaluation process for senior management. The CEO meets with all the senior executives each December to discuss their submitted goals and objectives for the following year as well as expectations. At the end of the period, the CEO evaluates the CFO's as well as each senior manager's performance. Auditors found that none of the employees submitted both Goals and Achievements in all three years. Further, WCHCC officials could not provide us with written performance evaluations for any senior managers. Auditors identified other payments, including sign-on and retention bonuses, which may require further examination by WCHCC officials. From 2013 through 2015, WCHCC made supplemental payments to 18 employees, including the CEO, CFO, and 16 other senior managers, for job performance during the 2012-14 period. These were not all reported to the ABO. Auditors recommended that WCHCC establish and document a formal program for the award and payment of supplemental executive payments that complies with the opinions of the State Comptroller and Attorney General. In particular, the program should ensure that specific performance criteria are established and disclosed prior to the performance of services, and that payments are made after the end of the period and only upon formal determination that an employee has met the prescribed criteria. Auditors also recommended that WCHCC: determine whether certain payments it made (e.g., sign-on bonuses, retention bonuses, supplemental payments to employees outside of a formal bonus program) comply with the opinions of the

State Comptroller and the Attorney General; and ensure that all reports to the ABO/PARIS contain complete and accurate data.

Workers' Compensation Board

(WCB)

Internal Control System Components (2015-S-46). The New York State Governmental Accountability, Audit and Internal Control Act requires each State agency to institute a comprehensive system of internal control over its operations. This audit was conducted to determine whether the WCB's management of its internal control system appropriately addresses all five components of internal control: control environment, control activities, risk assessment, information and communication, and monitoring. Auditors found that WCB's current internal control system adequately addresses all five required components. However, managers in some units need additional training and outreach to gain a better understanding of how internal controls relate to them. Auditors also found that the WCB's Internal Audit Unit reports to the Director of the Risk Management Unit, who also functions as the Internal Control Officer. This reporting relationship compromises the independence of the internal audit function. Auditors recommended that WCB separate the duties associated with the internal control and internal audit functions, and provide additional training and outreach to unit managers, especially in nonfinancial functions, to increase their understanding of internal controls.

2015 Payment Examination Report (2015-BSE-3B-001). Auditors examined daily payment requests by claimants and medical providers during the period January 1, 2015 through December 31, 2015 and claims paid twice by the WCB during the period January 1, 2014 through December 31, 2015 to determine whether claims were appropriate and complied with the New York State Workers' Compensation Law (Law) and mandated fee schedules. Auditors identified and disallowed 206 claims totaling \$1.85 million, which were either incorrectly coded (\$916,031) or otherwise inappropriate (\$941,509). Their examination of claims paid twice identified 798 potential duplicate payments totaling nearly \$2 million. Of the 798 payments, WCB confirmed 417 duplicate claims for \$1.62 million, including 66 for which providers and claimants had already refunded \$220,000. WCB intends to recover the remaining \$1.4 million. WCB also confirmed that 61 claims for \$107,000 were not duplicate payments, and is continuing to review the remaining 320 claims for \$232,000. Auditors determined that these duplicate payments occurred because WCB staff disregarded system alerts designed to identify and prevent potential duplicate payments. Auditors recommended that WCB: continue to reinforce the importance of accurately processing claims to staff; continue to review potential duplicate payments and recover any overpayments identified as needing to be recovered; and ensure that staff follow up appropriately when system alerts indicate a potential duplicate payment.

MULTI-AGENCY

[New York State Office for the Aging/Department of Health: Social Adult Day Services \(2014-S-31\).](#)

Social Adult Day Services (SADS) programs provide functionally impaired adults with individualized services such as socialization, supervision and monitoring, personal care, and nutrition in a protective setting. The New York State Office for the Aging (NYSOFA) currently has oversight responsibility for 17 SADS programs that it directly funds through contracts. Certain other programs are funded at least partially through counties and are overseen at the local level by 59 county Area Agencies on Aging (AAAs). In fiscal year 2014-15, NYSOFA provided \$1.1 million in funding to its 17 SADS contractors, while AAAs provided an additional \$4.5 million of direct funding to the SADS operating in their counties. SADS is also a benefit available under the State's Medicaid Managed Long-Term Care (MLTC) model. Although the Department of Health (DOH) is responsible for supervising and overseeing Medicaid as a whole, it is not specifically required to oversee individual component services offered through MLTC plans, including SADS. Instead, DOH relies on MLTC plans themselves to oversee the programs at the local level. More than 15,000 New Yorkers receive Medicaid-funded SADS services each year. SADS providers received over \$175 million in Medicaid funding for services delivered through MLTC plans in calendar years 2013 and 2014, according to DOH officials. Auditors found that because SADS programs are not currently licensed or registered by any one government agency, program oversight is not guaranteed, unless a program receives some form of direct government funding. Auditors' research suggested that a material number of unregulated providers are operating in the State. Absent more comprehensive oversight by stakeholder agencies, their precise number, cost, and, most importantly, who is running them and the quality of their services are unknown. Auditors also found that NYSOFA program regulations lack specific measures needed to effectively evaluate program quality and performance. In general, auditors found that NYSOFA fulfills its responsibility to oversee compliance with regulations by the SADS providers that it funds, either directly or through the county AAAs. However, auditors identified opportunities for NYSOFA to further enhance its efforts, specifically in terms of the frequency of on-site monitoring visits and its control over their tracking, as well as better use of a standardized monitoring tool at the county level. Auditors found that DOH has provided guidance and direction to MLTCs, and is independently assessing the extent to which New York City-based programs comply with NYSOFA's regulations. Based on auditors' field visits, it appears that such compliance may have improved in recent years, although problems continue to exist. Auditors recommended that stakeholder agencies carefully consider the risks identified in this report in deciding whether a more comprehensive system of regulation, such as licensing, registration, or mandated inspection, is warranted. Auditors also recommended that NYSOFA consider updating program regulations and/or providing supplemental guidance that more specifically defines expectations for factors that directly affect program quality and performance, and take steps to improve existing oversight and monitoring programs.

[Office of General Services/State Education Department: Preferred Source Contracting \(2014-S-77\).](#)

New York State's Preferred Source Program grants "preferred source" status to not-for-profit organizations that serve and employ the blind, the severely disabled, and veterans. All State and local agencies and public benefit corporations are required to purchase approved products and services from preferred sources. As the State's central procurement agency, the Office of General Services (OGS) is responsible for approving pricing for preferred source contracts over \$50,000 and for maintaining, on behalf of the New York State Procurement Council, a current list of the categories of commodities and services provided by preferred sources. The State Education Department (SED) is responsible for monitoring and oversight of preferred source contracts managed by the New York State Industries for the Disabled (NYSID), a not-for-profit organization appointed by the Commissioner of Education for the purpose of facilitating orders among both agencies employing the severely disabled and veterans' workshops. NYSID serves and represents a network of over 120 contract-holding preferred source member agencies and their private corporate partners. The SED Commissioner assigned NYSID the authority to monitor compliance by its member agencies and their partners. Auditors found that OGS is appropriately fulfilling its current responsibilities under the Program. Nonetheless, they identified opportunities for OGS to improve its effectiveness by more clearly defining some of the services available under preferred source contracts, and by working with the Procurement Council to consider regulatory changes that would more specifically define the role of facilitating agencies. In addition, although SED is

responsible for monitoring NYSID's Program activities, it has provided only minimal oversight. As such, there is little assurance that NYSID is awarding contracts in a manner that best meets the purpose of the Program, that member agencies and corporate partners are meeting contract requirements, and that the majority of the contracted work is being completed by disabled workers. Auditors recommended that OGS provide clear definitions for the services on its list of preferred source offerings to make it easier for purchasing agencies to determine if the services they need are approved. Auditors also recommended that SED implement a strong system of internal control for monitoring and oversight of NYSID that includes procedures for verification of self-reported information, such as contract performance data. In addition, SED should require that NYSID: limit the detailed information provided to members/partners in advance of its quality reviews; make contract opportunities available to all interested parties; maintain documentation to support the contract award process; and discontinue awarding contracts for digital printing services.

Department of Health/State Education Department: Oversight of Student Immunization in Schools (2015-S-85). This audit was conducted to determine whether the Department of Health (DOH) and the State Education Department (SED) are following the State's public health procedures to ensure New York's schools (outside of New York City) are adequately preventing, and are prepared to respond to, outbreaks of vaccine-preventable disease. Auditors found that both DOH and SED have provided appropriate assistance to schools to guide their immunization programs. Overall, these agencies also have appropriate controls in place to ensure schools are adequately preventing, and are prepared to respond to, outbreaks of vaccine-preventable diseases. In addition, immunization rates across the State are generally above the 95 percent standard established by Healthy People 2020, a federal initiative to limit the risk of a serious outbreak. According to DOH survey data, for the 2014-15 school year, 4,041 schools outside New York City, accounting for more than 1.8 million students, had an overall reported rate of complete immunization (CI) of 97 percent. However, 456 schools outside New York City had CI rates below 90 percent in the 2014-15 school year. Schools are authorized to grant or deny individual immunization waivers requested by parents or guardians for religious or medical reasons. Auditors found that schools in some counties have high exemption rates, most notably Yates and Montgomery counties, where 5 to 10 percent of the students were granted exemptions by the schools. The higher exemption rates put schools in Montgomery County (at 89 percent) and Yates County (at 86 percent) well below the 95 percent target rate for childhood immunization coverage. In addition, auditors found that there are pockets of at-risk populations that are more likely to have low immunization rates. This is particularly evident at private schools and schools with proportionally larger international and migrant student populations. Auditors recommended that DOH use additional risk factors, such as those detailed in this report, to identify higher-risk schools and better target audit and technical assistance efforts.

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