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STATE COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

A.E. SMITH STATE OFFICE BUILDING
ALBANY, NEW YORK 12236

December 12, 1997

Barbara A. DeBuono, M.D., M.P.H.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: AIDS Service Center of Lower Manhattan, Inc.
Report 96-R-6

Dear Dr. DeBuono:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we audited the books and records of the AIDS Service Center of Lower Manhattan, Inc. (ASC), for the period of July 1, 1994 through June 30, 1996. Our audit related to reimbursements claimed by ASC under contract C-010724, which had been awarded by the New York State Department of Health (DOH).

The objectives of our financial-related audit were to determine whether costs claimed by ASC were allowable, had been documented adequately, and had been incurred for services funded under the contractual agreement we were auditing. We also planned to evaluate ASC's budgeting process, determining whether it had reported all program-related expenses and revenues. To accomplish these objectives, we reviewed the contractual agreement, ASC's books and records of revenues and expenditures, its internal controls over charges to the contract, and the level of its compliance with contractual terms.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of ASC that are included within our audit scope. Further, these standards require that we review and report on ASC's internal control structure and its compliance with those laws, rules, and regulations that are relevant to ASC's operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

In planning and performing our audit procedures, we considered ASC's internal control structure. Our consideration was limited to a preliminary review of this structure that would enable us to understand the control environment and the way in which transactions flowed through the accounting

system and other systems supporting ASC's claims. Because we did not intend to rely on the internal control structure in performing our work, our assessment did not extend beyond the preliminary review phase. Instead, we appropriately extended our substantive audit tests.

In conducting our audit, we performed tests of ASC's compliance with certain terms of the contract. Our objective in performing these tests was to obtain reasonable assurance about the allowability of amounts ASC received from DOH, not to provide an opinion on ASC's overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, ASC complied in all material respects with the provisions referred to in the preceding paragraph, except as noted in Section B of this report. With respect to the items not tested, nothing came to our attention that caused us to believe that ASC had not complied, in all material respects, with those provisions.

A. Background and Contract Terms

Originally incorporated as a not-for-profit organization in 1990 under the name Lower Manhattan AIDS Task Force, Inc., and renamed the AIDS Service Center of Lower Manhattan, Inc., in 1992, ASC was formed to encourage the development of HIV/AIDS outreach, information, and service programs. ASC's administrative offices and programs are located in lower Manhattan. DOH provided \$974,000 of the \$1.7 million ASC reported receiving in support and revenues during the fiscal year ended June 30, 1996. Medicaid revenues totaling \$380,000 made up more than half the balance. As of February 1997, ASC had 29 employees.

In the period from July 1, 1994 through June 30, 1996, DOH paid ASC \$1,942,889 to provide program services under contract C-010724. ASC's programs include client services and community education. ASC case managers offer their clients individual, couple, or family counseling; referrals to other services; and assistance in applying for public benefits they are entitled to receive. ASC also offers intensive case management that takes services to clients who are unable to come to the ASC site. Medicaid reimburses ASC for providing certain community-based case management services to eligible clients.

ASC's Community Education unit provides comprehensive outreach, education, peer support, and training opportunities for communities affected by HIV/AIDS. Among the unit's activities is a program to train clients to become peer counselors for others with HIV/AIDS. ASC also operates a satellite walk-in center, run largely by peer counselors and local volunteers, that offers recreational activities and information.

The contract budgets were structured according to line-item categories of expenditures, including salaries and fringe benefits, and expenses for other than personal services such as rent. As for the disposition of program-related revenues, such as Medicaid, the contract terms required that they be used either to expand program services or to offset expenditures claimed for State reimbursement. Furthermore, ASC was required to request written DOH approval to use these other revenues.

B. Results of Audit

ASC claimed expenses under contract C-010724, as follows:

<u>Period</u>	<u>Budgeted</u>	<u>Claimed</u>
7/01/94-6/30/95	\$997,825	\$995,064
7/01/95-6/30/96	<u>947,825</u>	<u>947,825</u>
Totals	<u>\$1,945,650</u>	<u>\$1,942,889</u>

As detailed in Exhibits A and B, we determined that DOH is due a refund of \$8,872 - \$6,326 for 1994-95 and \$2,546 for 1995-96 - for excess fringe-benefit claims. We also found that ASC did not disclose all Medicaid and other third-party revenues earned during the contract period; nor did it request DOH approval to use these revenues, as required by the contract.

1. Comprehensive Disclosure of Revenues and Expenses

a. Contract Reporting Requirements

ASC's activities comprise interrelated client services, both direct services and outreach. Its primary funding sources (i.e., DOH, Medicaid, and a Federal Ryan White Act grant), make it possible to provide these services.

The contract terms require ASC to disclose its revenue sources and amounts and to obtain DOH approval of their uses. We found that ASC did not submit comprehensive budgets to DOH that disclosed all anticipated revenues. The 1994-95 and 1995-96 contract budgets showed anticipated grant revenue, but not estimated Medicaid revenues. (In the subsequent contract year budget - 1996-97 - ASC did report receiving \$400,000 in Medicaid funds during calendar year 1995.) In addition, the disposition of the revenues was not specified in the budgets. Instead, ASC's summary budgets contained only expenditures of funds requested from DOH. The budgets did not establish a relationship between all program expenses and all available funding sources.

ASC's contract budget narratives that supported the summary budgets did allude to Medicaid funding. For example, the 1994-95 budget narrative refers to a salary allocation for the Director of Finance & Administration. DOH was to fund 90 percent of the salary and Medicaid funds were to cover the remaining 10 percent. ASC did not document the reasons for selecting Medicaid as the designated funding source, or for allocating the 10-percent proportion. Moreover, the information in the budget narratives was not presented clearly and comprehensively in the summary budgets.

ASC's contract claims for our audit period requested reimbursement from DOH for the specific expenditures included in the approved budgets, but they did not show the total revenues and expenditures for the period. As a result, DOH lacked full knowledge of ASC's finances. According to the contract, ASC was to provide a comprehensive picture of its program, as well as its expense and revenue streams, so that DOH could make informed decisions regarding the necessary funding levels

and ensure that State funds were being used for program-related services. This did not occur. Although DOH documented an internal procedure for monitoring Medicaid funding to prevent claims duplication, DOH officials did not demonstrate that this procedure was applied to the ASC contract.

DOH funding of ASC should be predicated on the contract terms. That is, DOH should reimburse ASC's expenses, but only after other funding sources have been considered. Other State agencies have also incorporated this concept into the structure of their contract budgets and claims. For example, the Office of Alcoholism and Substance Abuse Services (OASAS) contracts with a number of community-based nonprofit organizations whose services also generate third-party funding. OASAS contract budgets with these organizations typically report all projected expenses and revenues. OASAS' funding represents the excess of expenses over third-party revenues, up to the contract limit. Contract claims submitted to OASAS also incorporate all revenues. The claims report actual expenses incurred, less actual revenues earned, with the net amount representing claimed reimbursement. Both expenses and revenues are tracked cumulatively. This structure offers a model that we believe DOH should adopt, in some version, for its ASC contracts. DOH officials told us that they agree that effective monitoring is important, but said they consider the internal monitoring activities that occur between the DOH Case Management Unit and the contract managers to be sufficient. However, we believe the OASAS model is more comprehensive and provides the full disclosure required by the contract.

b. Administrative Costs

Full-disclosure budgeting, as required by contract terms, should provide DOH with more-comprehensive expense data. More specifically, DOH should require contractors to indicate which expenses are direct program costs and which are administrative overhead. DOH should use this data to evaluate the reasonableness of administrative overhead costs before approving contract budgets. Administrative overhead typically includes salaries, fringe benefits, and rent. DOH indicated to us that an acceptable range for administrative costs would be between 10 percent and 20 percent of a contract award. Our review of ASC's DOH-funded expenses found that administrative salaries and fringe benefits alone totaled 35 percent of all the expenses claimed in the two-year contract period. In addition, claimed rent represented another 12 percent of overall expenses. We can reasonably assume that office space occupied by administrative personnel represented a significant portion of those expenses. In response to our observation that ASC's administrative costs were in excess of DOH's acceptable range, DOH officials suggested that individual Community Service Program contractors such as ASC might exceed DOH's guidelines, arguing that the Legislature intended for them to concentrate their other funding resources on direct program costs. However, this "legislative intent" is not spelled out in the contract. (ASC officials responded that their administrative expenses were essential to the operation of the contract program.)

2. Fringe Benefits

In each contract budget, ASC submitted an estimated fringe-benefit rate of 25 percent of salary. The largest individual component of this rate was 10 percent for health insurance. ASC applied the estimated rate instead of claiming the actual fringe benefit expenses. In the two-year audit period, ASC claimed \$99,087 for health insurance expenses. We found that the actual health insurance costs incurred by ASC under the DOH contract in this period totaled \$90,215, or approximately 9

percent of salaries. Therefore, as shown in Exhibits A and B, we disallowed a total of \$8,872 in fringe benefit claims representing excess health insurance expenses: \$6,326 in 1994-95 and \$2,546 in 1995-96.

Recommendations

1. *Obtain an \$8,872 refund from ASC.*
2. *Require full disclosure of all expenses and revenues, including Medicaid, in accordance with contract terms.*
3. *Consider the reasonableness of administrative overhead when structuring contract budgets.*

Major contributors to this report were Debra Wolrich, Michael Miller, Aurora Caamano, and Jeremy Mack.

We would appreciate receiving your response to the report recommendations within 30 days, indicating any actions planned or taken to implement them. We wish to thank the management and staff of the AIDS Service Center of Lower Manhattan, Inc. and the Department of Health for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Frank J. Houston
Audit Director

cc: Patricia A. Woodworth
Sharen Duke

EXHIBIT A

AIDS SERVICE CENTER OF LOWER MANHATTAN, INC.
 CONTRACT C-010724
 SUMMARY OF EXPENSES BUDGETED, CLAIMED, DISALLOWED, AND ALLOWED
 JULY 1, 1994 THROUGH JUNE 30, 1995

<u>Category</u>	<u>Budgeted</u>	<u>Claimed</u>	<u>Disallowed</u>	<u>Allowed</u>
Personnel	\$491,529	\$489,776		\$489,776
Fringe Benefits	123,243	123,243	\$6,326	116,917
Supplies	26,313	26,313		26,313
Travel	21,259	21,259		21,259
Equipment	42,165	41,494		41,494
Space	124,872	124,812		124,812
Telephone	10,000	10,000		10,000
Other	127,747	127,747		127,747
Consultants	<u>30,697</u>	<u>30,420</u>	<u> </u>	<u>30,420</u>
Total Expenses	<u>\$997,825</u>	<u>\$995,064</u>	<u>\$6,326</u>	988,738
State Payments				<u>995,064</u>
Refund Due the State				<u>\$6,326</u>

Note:

The amount disallowed represents health insurance expenses claimed in excess of those documented by ASC's books and records.

EXHIBIT B

AIDS SERVICE CENTER OF LOWER MANHATTAN, INC.
 CONTRACT C-010724
 SUMMARY OF EXPENSES BUDGETED, CLAIMED, DISALLOWED, AND ALLOWED
 JULY 1, 1995 THROUGH JUNE 30, 1996

<u>Category</u>	<u>Budgeted/ Claimed</u>	<u>Disallowed</u>	<u>Allowed</u>
Personnel	\$501,096		\$501,096
Fringe Benefits	125,274	\$2,546	122,728
Supplies	31,004		31,004
Travel	26,020		26,020
Space	137,860		137,860
Telephone	16,020		16,020
Audit	8,000		8,000
Other	80,818		80,818
Consultants	<u>21,733</u>	<u> </u>	<u>21,733</u>
Total Expenses	<u>\$947,825</u>	<u>\$2,546</u>	945,279
State Payments			<u>947,825</u>
Refund Due the State			<u>\$2,546</u>

Note:

The amount disallowed represents health insurance expenses claimed in excess of those documented by ASC's books and records.