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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 10, 2001

Mr. William Fraser
Commissioner
New York City Department of Correction
60 Hudson Street - 6th floor
New York, New York 10013

Re: Payments for State Felons, State Ready
Inmates, and Court Return Inmates
Report 2000-N-12

Dear Mr. Fraser:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Article III of the General Municipal Law, we have audited the internal controls over the preparation of State aid claims for the maintenance of individuals classified as State felons, State Ready inmates, and Court Return inmates. Our audit covered the period of January 1, 1998 through June 30, 2000.

A. Background

The New York City Department of Correction (Correction) provides custody, control, and care of inmates sentenced to one year of incarceration or less, detainees awaiting trial or sentence, newly sentenced felons awaiting transportation to New York State (State) correctional facilities, alleged parole violators awaiting revocation hearings, and State prisoners scheduled for court appearances in New York City. Correction handles approximately 125,000 admissions each year, and manages an average daily inmate population of about 16,000 individuals.

The New York State Correction Law requires both the New York State Department of Correctional Services (DOCS) and the New York State Division of Parole (Parole) to reimburse New York City (City) for the incarceration of inmates awaiting transfer to DOCS facilities (State Ready inmates) and alleged parole violators awaiting revocation hearings, as well as transportation costs associated with inmate transfers to State facilities. The State also pays the City for DOCS inmates who are brought to City facilities and housed there while they await trial (Court Returns). Until April

1, 1999, the State reimbursed the City for housing sentenced State felons who had one year or less to serve. During 1998 and 1999, the City claimed an average of more than \$49 million per year from DOCS and Parole.

B. Audit Scope, Objective, and Methodology

We audited selected internal controls over the preparation of the State aid claims for State felons, State Ready inmates, and Court Return inmates for the period of January 1, 1998 through June 30, 2000. The primary objective of our financial-related audit was to determine the adequacy of controls Correction has established to ensure that such claims are accurate. We decided not to include parole-related costs in this audit because Parole officials have stated that they plan to begin their own audit of Correction's aid claims.

To accomplish these objectives, we interviewed Correction management and analyzed relevant documentation to gain an understanding of Correction's internal control structure with regard to the preparation of claims. For each of the three classifications of claimed individuals, we randomly sampled 50 such individuals and verified the accuracy of the data on which their claims were based.

As is our practice, we notify agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. Agency officials further affirm that either the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors.

However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, Mayoral agency officials will not provide representation letters in connection with our audits. As a result, we lack assurance from Correction officials that all relevant information was provided to us during this audit. We consider this refusal to provide a representation letter to be a scope limitation on our audit. Therefore, readers of this report should consider the potential effect of this scope limitation on the findings and conclusions presented in this report.

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 the New York City Department of Correction, which are included in our audit scope. Further, these standards require that we understand Correction's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider

necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We therefore focus our audit efforts on those activities we have identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort to reviewing operations that may be relatively efficient or effective. As a result, we prepare our audit reports on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

C. Internal Control and Compliance Summary

Internal controls are the integrated activities, plans, attitudes, policies, and efforts of the people of an organization working together to provide reasonable assurances that the organization will fulfill its mission. They encompass a comprehensive system that helps an organization manage risk and enables its programs and administrative activities to operate efficiently and effectively. In our evaluation of Correction's internal controls over the State aid claims for State felons, State Ready inmates, and Court Return inmates, we identified significant weaknesses in the compilation of the claims, as detailed in the next section of our report.

D. Results of Audit

Our review of sampled inmates identified under-claims of \$10,098 relating to Court Returns and \$23,953 relating to Sentenced felons. These under-claims pertain only to the 50 inmates we sampled in each of these areas and resulted from the control weaknesses we identified.

1. State Ready and Contract Inmates

Correction officials are responsible for notifying DOCS, based on a review of documentation, that the inmate is eligible for transfer to a State facility. Correction prepares a listing of such inmates, who are referred to as "State Ready," and sends it to the DOCS Screening Unit at Rikers Island along with the inmates' folders of information about their incarceration. The Unit reviews the folders twice to ensure that each contains an original signed sentence and commitment form or a certified copy of the form. The purpose of the first review is to accept or reject the City's notification. The documents are reviewed a second time just before the inmate is put on the bus for transport to a State facility.

Once DOCS confirms that the inmate is State Ready, the inmate's name is placed on a listing that indicates the number of days the inmate has met the readiness requirements. If the State takes custody of an inmate within five days of notification, it owes the City nothing; but if custody

takes place after the fifth day, the State must pay for each day since DOCS declared the inmate State Ready. The State reimburses the City at the rate of \$34 per day.

If the State does not take custody of State Ready inmates within ten business days, it could be held in contempt of court. To avoid contempt charges, it has contracted with the City to house each newly-committed State Ready inmate for a period that does not exceed 180 days, in return for a reimbursement of \$100 per day. Individuals housed in this manner are referred to as Contract inmates.

On a quarterly basis, DOCS sends computer printouts regarding State Ready and Contract inmates to Correction that list the number of days the inmates have been housed and the amount of reimbursement for which the State is liable to the City. The printouts also include the names and identification numbers of inmates whose classification as State Ready or Contract has been rejected. Correction is supposed to complete an affidavit attesting to the correctness of the DOCS summary and attach it to a standard State voucher requesting payment.

However, Correction officials advised us that they do not verify the accuracy of the data provided in the printouts. For example, for the period January 1, 1998 through March 31, 2000, the City submitted claims for State Ready and Contract inmates that total approximately \$48.4 million, without verifying the data on which the claims were based. We believe Correction should be substantiating the accuracy of the printouts it receives from the State.

We selected a random sample of 50 inmates from a population of 35,669, for the period January 1, 1998 through March 31, 2000, and compared the information contained on the DOCS report with the data in Correction's Inmate Information System (IIS). We compared the sentence dates, notification dates, and transfer dates on Correction's inmate history screens with those listed by DOCS for the same inmates. If there were discrepancies between these records, we reviewed the inmates' files to determine whether Correction had adequate controls for maintaining accurate inmate data that could attest to the information supporting State aid claims. We found a variety of errors, as follows:

- Five folders did not have the required copies of commitment forms that would have provided information regarding the inmates' sentences.
- The folder for one inmate was not provided by Correction.
- Three folders substantiated that DOCS had submitted incorrect sentencing dates.
- One folder substantiated that Correction had submitted an incorrect date.
- Correction had no record indicating that one sampled inmate had been incarcerated for the period in question.

- The folder for one inmate was not available, because the inmate had been transferred into Federal custody. Data provided by both Correction and DOCS regarding this inmate were incorrect.

These errors did not affect the reimbursement payments.

2. Court Returns

Section 601 (b) of Article 22 of the New York State Correction Law states that a City is entitled to be reimbursed for housing a State inmate who has been returned to the City to await trial. The State is supposed to pay the City the actual per capita cost for the care of such a prisoner, but this figure can not exceed \$34 per day.

Correction generates a quarterly listing of the names of inmates returned to the City (Court Returns) and sends the list to its Budget Unit, which prepares a cover letter and attaches an affidavit to a standard New York State voucher that is then submitted to DOCS for review and reimbursement. When we examined the claims submitted by Correction to DOCS for reimbursement for the period July 1, 1998 through March 31, 2000, we noted that the number of Court Return inmates claimed was decreasing substantially.

The claims for each quarter from October 1, 1992 through December 31, 1997, averaged \$461,397. However, the claims for each quarter from July 1, 1998 through March 31, 2000, averaged only \$46,026. (To date, no claims have been submitted for the period January 1998 through June 1998.) Since July 1, 1998, these claims have been prepared electronically. Correction officials stated that the integrity of the electronic system had been tested before implementation, but they did not provide documentation of the tests.

Correction officials have recognized that the number of Court Return inmates claimed is decreasing, and have responded by initiating a manual review of information contained in hard copy files for all claims that had been prepared electronically. The review, which was still in progress as of February 20, 2001, started with the 1998 claim. A Correction official advised us that records for subsequent years will also be reviewed if material errors are found.

To determine the accuracy of the data used to prepare State aid claims, we randomly selected a sample of 50 out of 646 Court Return inmates for whom claims were submitted between July 1, 1998 and March 31, 2000. Correction advised us that the folders for two of the sampled inmates had been water-damaged and were unavailable. We computed an under-claim of \$10,098 for the five inmates who had been claimed for the first quarter of 2000. We also noted that all inmates listed on the State aid claim for that quarter had a claimed date of discharge to DOCS of December 31, 1999. We informed Correction of this discrepancy. In response, we were provided with diskettes that showed updated discharge dates for the inmates listed on that claim.

3. State Felons (Sentenced)

A felony is an offense for which an individual may be sentenced to a term of imprisonment of more than one year. According to Article 70 of the Penal Law, when a person other than a second- or persistent-felony offender is sentenced for a class D, E, or C felony, and the court decides that imprisonment is necessary but that an indeterminate or determinate sentence would be unduly harsh; a definite sentence of imprisonment for one year or less may be imposed. Such inmates are classified as sentenced felons, and they remain housed at Rikers Island; some classified as Intermittent serve their time only on weekends and are released to outside jobs on weekdays.

Correction was entitled to \$17 of State aid per day for each of these “sentenced” felons it housed. However, since April 1, 1999, the State has not been obliged to reimburse the City for housing such individuals in City facilities. For the period January 1, 1998 to March 31, 1999, the City claimed \$10,264,566 for 12,489 inmates it housed for 603,798 inmate-days.

To determine the accuracy of the claims submitted to the State for reimbursement, we selected a judgmental sample of 50 sentenced felons. The inmates were selected based on the number of days they were housed by Correction, including inmates with both long and short term stays. DOCS could not locate 3 of the 50 folders for these felons; the 47 folders we reviewed had claims totaling \$69,088. Seven of the 47 folders did not contain the inmate’s discharge date, so we could not validate the electronic date as correct. One inmate had been convicted of petty larceny, a class A misdemeanor, and should not have been claimed as a sentenced felon.

Our review of the remaining 39 inmates’ folders disclosed that inmate sentences often included time served prior to sentencing. For certain felonies and for drug-related cases defined in Section 220 of the Penal Law per Section 601-c of the Correction Law, DOCS regulations require the date to be figured into the time of sentence when a prisoner is picked up and received at the county (City) facility. Because the statutes indicate that any time served prior to sentencing must be considered in the sentenced days, expenses incurred from the date the inmate is received at the City facility until the day of the inmate’s release from the facility must be reimbursed to the City. However, for the 39 inmates whose payments we reviewed, the City had claimed reimbursement only for time served after sentencing, resulting in an under-claim of \$23,953.

4. Written Procedures

In our prior report (A-11-91, *New York City DOC State Aid Claims for the Maintenance of Sentenced Felons*), we recommended that Correction issue written instructions for completing the State aid claims. In October 1999, Correction’s Budget Unit issued a manual of policy and procedures concerning the preparation of claims for State Ready and Court Return inmates. These procedures should be updated to include the additional internal control procedures recommended in this report.

Recommendations

1. *Generate and maintain tapes for State aid claims of State Ready and Contract inmates and use them for verifying the accuracy of the listings compiled by DOCS.*
2. *Continue to review the computer program used to generate data for the Court Return State aid claims to verify that it computes claimed amounts accurately.*
3. *Continue to manually verify the 1998 State aid claims for Court Returns, and perform the same review for subsequent years if the 1998 review identifies significant errors.*
4. *Recover the amount owed for the under-claims of Court Returns we identified.*
5. *Determine the feasibility of recovering any under-claims for Court Returns. If feasible, recover the amount owed.*
6. *Require random comparisons of a sample of electronically-entered data and original source documents as an additional control for ensuring the accuracy of the claim.*
7. *Recover the amount owed for under-claims of sentenced felons.*
8. *Identify other under-claims for sentenced felons.*
9. *Revise written procedures for preparing State aid claims to include the additional internal control procedures recommended in this report.*

Draft copies of this report were provided to Correction and DOCS officials for their review and comment. Their comments have been considered in preparing this final report. Correction's comments are included as Appendix A. Correction officials agreed with our recommendations. DOCS did not respond to the draft report but had suggested several wording changes, based on its review of our preliminary findings, that have been incorporated in this report as well.

Within 90 days after final release of this report, we request the Commissioner of the New York City Department of Correction to report to the State Comptroller, advising what steps were taken to implement the recommendations contained in this report, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Abe Markowitz, Barry Mordowitz, Joan Williams, John Lang, Legendre Ambrose, Ira Lipper, and Marticia Madory.

We wish to thank the management and staff of the New York City Department of Correction and the New York State Department of Correctional Services for the courtesies and cooperation extended to our auditors during this audit.

Yours truly,

William P. Challice
Audit Director

cc: Donald Felter
William Hurley
Eileen Reilly
Glenn Goord



NEW YORK CITY DEPARTMENT OF CORRECTION
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June 29, 2001

William P. Challice
Audit Director
Office of the State Comptroller
Division of Management Audit & State Financial Services
123 William Street – 21st Floor.
New York, N.Y. 10038

Dear Mr. Challice:

Attached is our response to your Draft report on the internal controls over the preparation of State aid claims for the maintenance of individuals classified as State Felons, State Ready Inmates and Court Return Inmates (Audit 2000 – N - 12).

In this response we have addressed each recommendation made in your report. Please include this response as an appendix to your final report on the subject matter.

If you have any questions regarding this response, please contact John J. Antonelli, Deputy Commissioner, Administration, at (212) 266-1317.

Sincerely,


WILLIAM J. FRASER

c: Gary M. Lanigan, First Deputy Commissioner
John J. Antonelli, Deputy Commissioner, Administration
Marc Carpentier, Assistant Commissioner, Finance
William T. Hurley, Chief of Compliance
Pernell Lancaster, Mayor's Office of Operations

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Appendix A

**Response to State Comptroller's Audit Report on the
Internal Controls Over the Preparation of Claims for
State Reimbursement
2000 – N – 12**

This response addresses all the recommendations offered by the State Comptroller's audit of the subject matter. Additionally, explanations and/or comments regarding findings are noted appropriately.

Recommendation #1

Generate and maintain tapes for State aid claims of State Ready and Contract inmates and use them for verifying the accuracy of the listings compiled by DOCS (New York State Department of Correctional Services).

DOC Response

The Agency will establish a process to verify the accuracy of the data submitted by DOCS to ensure appropriate and accurate reimbursement.

Recommendation #2

Continue to review the computer program used to generate data for the Court Return State aid claims to verify that it computes claimed amounts accurately.

DOC Response

In order to test the integrity of the automated claims for Court Returns, the Agency conducted an internal audit of the third and fourth quarters of calendar year 1998. Because of the nature of this review, random sampling was not practical. The records of every inmate returned to the custody of the State Department of Correctional Services were manually reviewed. A revised claim was internally compiled as a result of the manual audit. The revision was then compared to the automated claim actually submitted to the State Department of Correctional Services. Although significant discrepancies were found to exist, it was determined that virtually all of the inconsistencies could be directly attributed to data entry errors and not to the program used to generate the automated claim. Presently, the audit is under review and a claim to include all of calendar year 1998, including data that was not included in the original automated claim for reimbursement, will be submitted to the State Department of Correctional Services for reimbursement.

**Response to State Comptroller's Audit Report on the
Internal Controls Over the Preparation of Claims for
State Reimbursement
2000 – N – 12**

Recommendation #3

Continue to manually verify the 1998 State aid claims for Court Returns and perform the same review for subsequent years if the 1998 review identifies significant errors.

DOC Response

Refer to the response for recommendation #2. The manual audit of calendar year 1998 is presently under review. Upon completion of that review, a determination will be made as to the necessity for manual review of subsequent claims.

Recommendation #4

Recover the amount owed for the under-claims of Court Returns we identified.

DOC Response

The agency agrees with this recommendation and will submit the amended claims for the affected periods.

Recommendation #5

Determine the feasibility of recovering any under-claims for Court Returns. If feasible, recover the amount owed.

DOC Response

The agency agrees with this recommendation. The feasibility for recovery is being evaluated and, if found to be so, amended claims for the affected periods will be submitted.

Recommendation #6

Require random comparisons of a sample of electronically entered data and original source documents as an additional control for ensuring the accuracy of the claim.

DOC Response

Procedures for auditing the subject data will be developed.

**Response to State Comptroller's Audit Report on the
Internal Controls Over the Preparation of Claims for
State Reimbursement
2000 – N – 12**

Recommendation #7

Recover the amount owed for under-claims of sentenced felons.

DOC Response

The agency agrees with this recommendation and will submit the amended claims for the affected periods.

Recommendation # 8

Identify other under-claims for sentenced felons.

DOC Response

The Agency agrees with this recommendation. The Agency will research the noted under-claims and submit vouchers for reimbursement as necessary.

Recommendation #9

Revise written procedures for preparing State aid claims to include the additional internal control procedures recommended in this report.

DOC Response

The existing internal control procedures are under review and will be amended as necessary.