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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 28, 2005

Mr. Robert M. Maccarone
Acting State Director
NYS Division of Probation and
Correctional Alternatives
80 Wolf Road, Suite 501
Albany, NY 12205

Re: Report 2005-F-27

Dear Mr. Maccarone:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the New York State Division of Probation and Correctional Alternatives (Division) to implement the recommendation contained in our audit report, *Alternatives to Incarceration Contract Management* (Report 2003-S-44).

Background, Scope and Objective

The Division was established under Chapter 134 of the Laws of 1985. It exercises general supervision over the operation of local probation agencies throughout New York State (State). The Division's mission is to promote and facilitate probation services and community corrections programs through funding and oversight. Division staff oversees 158 Alternative to Incarceration (ATI) programs across the State that offer a variety of services intended to reduce reliance on detention and incarceration, consistent with public safety.

Sections 261 and 265 of the Executive Law of New York State stipulate the amount of funds available to each locality for programs that offer alternatives to incarceration. The Division administers the State aid appropriated to fund local probation services that are operated by municipalities and not-for-profit agencies whose ATI plans have been approved. These plans include community-based programs designed to reduce the frequency and/or duration of incarceration and thus advance public safety and offer private alternatives to incarceration that are acceptable to both the community and the criminal justice system. Program funds can also be used for providing services to offenders who have a history of alcohol or substance abuse.

The Division distributes approximately \$22 million annually for ATI programs. However, the State is prohibited from contributing more than 50 percent of the total contractual cost for service providers. In New York City (City), the Office of Criminal Justice Coordinator (OCJC) contracts

with service providers and pays them with City funds for both the State and City portions of reimbursable expenses. OCJC becomes eligible for Division reimbursement through the annual ATI Service Plan application approval process established for the OCJC contracts. Approval of the Service Plan means that the Division agrees with the performance targets contained in the contracts and will reimburse the City for a portion of its costs. OCJC submits claims to the Division, which reviews and approves them before reimbursing OCJC. The Division relies on OCJC to monitor the propriety of payments to the service providers. For the fiscal year that ended on June 30, 2004, the total value of the State portion of the contracts was \$2.8 million, representing approximately 30 percent of the total cost to the City.

For the period of July 1, 2004 through June 30, 2005, OCJC contracted with five service providers to address the behavior of misdemeanor or felony defendants. The value of these contracts was \$9.4 million. Division and OCJC payments to providers are performance-based; that is, providers receive payment only when participants reach or complete multiple milestones that have been established for each ATI program.

Our initial audit report, which was issued on September 8, 2004, examined selected billings made by three service providers for the period July 1, 2002 through June 30, 2003: Center for Alternative Sentencing and Employment Services (CASES); Fortune Society (Fortune); and Edwin Gould Services for Children and Families, Inc. Fortune operates three different programs: DAMAS, Flametree, and Freedom. CASES administers two programs: Court Employment Program (CEP) and the Community Service Sentencing Project (CSSP). Edwin Gould Services for Children and Families, Inc., administers one ATI program: STEPS To End Family Violence (STEPS). These contractors operate other ATI programs, including those funded in part through the Service Plans approved by the Division.

Our report found that while OCJC and the providers we visited had generally complied with the Division and OCJC contract requirements by maintaining prescribed documentation that supported the services they provided to participants, there were opportunities for improvement in controls relating to duplicate billings and payments for services not provided. Of the 122 participants for whom records were available, we found no problems for 121 and an overpayment for one. In addition to our sampled cases, from the databases maintained by Fortune's Freedom program and CASES' CEP program, we identified two participant cases that each had a billing error. For these three cases, we found that two of the three service providers had been overpaid \$18,269. The third provider did not receive an overpayment. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation as of September 15, 2005 of the recommendation included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Division officials have partially implemented the recommendation contained in our report.

Follow-up Observations

Recommendation

Work with OCJC to jointly recover payments totaling \$10,482 from Fortune, and the payment of \$7,787 from CASES.

Status - Partially Implemented

Agency Action - The audit identified a total of \$18,269 in overpayments to two contracted service providers. These payments were made by OCJC to the service providers. The Division recouped \$5,741.95 based on its share of 31.43 percent. The recoupment resulted from reductions by the Division from New York City reimbursement claims. OCJC has not recouped the remaining \$12,527.05 as of September 15, 2005.

Major contributors to this report were Richard Sturm and Christine Chu.

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

Very truly yours,

William P. Challice
Audit Director

cc: Howard Bancroft, Division of Probation and Correctional Alternatives
Robert Barnes, Division of the Budget
John Feinblatt, Office of the Criminal Justice Coordinator