

THOMAS P. DiNAPOLI
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 7, 2010

Ms. Gladys Carrion, Esq.
Commissioner
NYS Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144

Re: 2009-S-18
Oversight of Operating Revenue Contracts

Dear Commissioner Carrion:

According 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 audited the Office of Children and Family Services' (OCFS) monitoring of its contract revenues for the period April 1, 2006 through January 6, 2010.

A. Background

The mission of OCFS is to promote the safety, permanency and well-being of New York State's children, families and communities. To achieve these objectives, OCFS officials set and enforce public policy, build partnerships, and provide various services. To help it carry out its mission, OCFS often contracts with third party vendors. Some of these contractors collect program-related revenues which they share with OCFS.

OCFS is responsible for monitoring its revenue contracts with third party vendors. This responsibility includes collecting the revenues from vendors and properly reporting the receipt of revenues to the Office of the State Comptroller. The New York State Accounting System User Procedures Manual (Manual) requires that contract revenues be reported on the State's Central Accounting System (Accounting System) using a prescribed form (AC2405). This form allows agencies to report revenue collections by specific contract.

As of November 24, 2008, OCFS had 44 active revenue contracts totaling \$9.7 million in expected revenue collections. The majority of these contracts (43) were awarded by the NYS Commission for the Blind and Visually Handicapped (Commission), a division of OCFS, to contractors providing vending machines at various State and federal buildings. These contractors pay the Commission a flat monthly fee in return for the placement of the vending machines.

The remaining OCFS revenue contract was awarded to a private foundation which provides private monies to OCFS to support OCFS' Passport to Success Program (Program), an education and training program for youth aging out of the Foster Care system.

B. Audit Scope, Objective and Methodology

We audited OCFS' oversight of its revenue contracts to ensure that all entitled revenue is billed, collected and promptly deposited in appropriate accounts. Our audit covered the period April 1, 2006 through January 6, 2010. To achieve our objective, we interviewed OCFS officials and reviewed the contract revenue collection information submitted by OCFS to the Office of the State Comptroller (OSC) as well as supporting records maintained by OCFS. We selected a judgmental sample of eight contracts for review. For our sample contracts, we compared OCFS' records of contract-related revenues and transfers to OSC's records of revenue collections and related bank deposits. We also selected one of the contracts, in our sample to verify whether the contractor was paying revenues according to the terms of the contract. We visited the sites where this contractor's vending machines were reportedly placed to make sure that OCFS received payment for all of the located machines.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

We found that OCFS officials are effectively maximizing contract revenue and monitoring OCFS contracts to ensure that all entitled revenue is collected and promptly deposited into the appropriate accounts. We reviewed OCFS' monitoring of seven sampled vending machine contracts and the Program revenue contract. We found that OCFS officials competitively bid and awarded each vending machine contract to the highest bidder. We also found that OCFS officials received all of the revenue due from these contracts and submitted the revenue to OSC, as required. However, OCFS officials need to ensure that they are informed by vendors of all vending machine movements and use the appropriate forms to report Program revenues to OSC.

Maximizing Revenue

OCFS, via the Commission, is responsible for maximizing revenue on all of its revenue contracts. For State and federal buildings located in New York State, each Department head is responsible for notifying the Commission of vending machine opportunities at their respective locations unless the site regularly employs less than 400 employees. If the Commission finds the site satisfactory for vending machines, Commission staff work with the agencies to make the appropriate space available to vendors. In addition, if Regional Office Commission staff observes a potential location for vending machines where there currently are none, they are responsible for pursuing the identified vending revenue opportunity.

When the Commission staff identifies, or is notified, of potential vending machine opportunities, they complete a site (e.g., building) survey form, on which they record relevant information such as the number of employees at the site and the feasibility and revenue potential from placing vending machines at that site. We reviewed the 17 site survey forms completed by the Commission during our audit period (seven for State locations and ten for federal locations). Based on these surveys, Commission staff has negotiated the placement of vending machines at 12 of the 17 locations. At the time of our field work, the Commission was negotiating contracts for two of the remaining five sites. The remaining three sites were reportedly unsuitable for vending machines and had less than 400 employees.

Monitoring Revenue Collections

OCFS officials are responsible for monitoring revenue collections to ensure that all entitled revenue is collected and promptly deposited into the appropriate accounts. Vending machine contractors routinely remit checks to OCFS each month. We found that OCFS officials monitor receipts to ensure that the monthly checks are received from the contractors, and that the actual amounts received are in compliance with contract terms.

We reviewed seven of OCFS' 43 vending machine contracts, as well as its one Program revenue contract, to determine whether the associated contract revenues were in fact received, recorded and deposited as required. The sampled transactions totaled \$1,260,507. We found that for all eight sampled contracts, the appropriate revenues were collected and promptly remitted to OSC. However, we also noted opportunities for OCFS to improve its revenue contract oversight.

Vending Machine Contractor Compliance

OCFS is responsible for verifying that contractors abide by the terms of the contract. Each vending machine contract specifies the locations where the vending machines are to be placed, and the number of vending machines at each location. OCFS is to receive a fixed dollar amount per machine. We found that OCFS was not monitoring designated sites to ensure that the correct number of machines were in place. We judgmentally selected one of these contracts to verify whether the contractor was paying OCFS for the correct number of vending machines at the designated locations. The selected contract provided for 27 vending machines at nine different locations in Albany and the surrounding area. We visited the nine locations and found 26 vending machines. We found the vendor had removed a machine without notifying OCFS as

required by contract. Nevertheless, the vendor continued making payments to OCFS for 27 machines. As such, there was no negative financial effect to OCFS as a result of the vendor's actions.

However, since this might not always be the case, OCFS should remind the contractor and building manager at each vending machine location, that OCFS must be notified when any changes are made to the number of vending machines at their respective sites.

Program Revenue Reporting

OCFS' Program revenue contract is the mechanism through which Casey Family Programs, a private foundation, provides funds (\$425,000 during our audit period) to OCFS to support the OCFS Passport to Success Program (Program). \$25,000 was provided to the Program in calendar year 2007, and \$400,000 was provided in calendar year 2008. The Program is administered by Arbor E & T, LLC. Casey Family Programs provides 50 percent of Program funding which is matched by State Child Welfare funds. We found this contractor to be in compliance with all contract terms. However, the State's Central Accounting System (CAS) showed no revenue being received for this contract.

We found OCFS staff has been using the incorrect form when reporting revenues received under this contract to OSC. The form they were using did not allow them to report which contract the revenue pertained to. Therefore the CAS does not show any revenue associated with this contract. According to OCFS officials, their Bureau of Financial Operations (BFO) staff, which collects all contract revenue, was not aware of this specific contract. Had they been made aware of it, they would have entered the appropriate coding on the revenue transmittal form. To prevent this omission in the future, BFO staff is reportedly making arrangements with OCFS' Contracts Unit to ensure that appropriate notifications are made whenever a revenue contract is awarded.

When contractual monies are collected and not reported correctly, the CAS will not reflect complete and accurate information. Because CAS data is used by decision makers and this data is made available to the public through Open Book New York, it is important for CAS data to be reliable, complete, and accurate.

Recommendations

- 1. Remind the vending machine contractors that any modification of their agreement must be mutually agreed upon and in writing, and establish controls to enforce this requirement.*
- 2. Ensure that the Contracts Unit appropriately notifies the BFO whenever a revenue contract is established.*
- 3. Comply with the New York State Accounting System User Procedures Manual by using the appropriate Accounting System forms to report contract monies received.*

A draft copy of this report was provided to OCFS officials for their review and comment. Their comments were considered in preparing this final report and are attached at the end of this report.

OCFS officials agree with our recommendations and state that they are taking action to address them.

Within 90 days of the issuance of this report, in accordance with Section 170 of the Executive Law, the Commissioner of OCFS shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, indicating the steps taken by officials to implement our report recommendations, and where they have not been implemented, the reasons therefor.

Major contributors to this report include Donald Geary, Todd Seeberger, Mike Cantwell, Melissa Davie and Rachelle Luchkiw.

We wish to thank OCFS's management and staff for the courtesies and cooperation extended to our examiners during this audit.

Very truly yours,

Frank P. Patone, CPA
Audit Director

cc: Mr. Ralph Timber, Audit Liaison
Mr. Thomas Lukacs



September 17, 2010

**New York State
Office of
Children & Family
Services**

www.ocfs.state.ny.us

David A. Paterson
Governor

Gladys Carrión, Esq.
Commissioner

Mr. Michael F. Cantwell
State Program Examiner 2
Office of the State Comptroller
Division of State Government Accountability
110 State Street
Albany, NY 12236

Dear Mr. Cantwell:

This is the Office of Children and Family Services' (OCFS) response to the draft Audit Report #2009-S-18 entitled "Oversight of Revenue Contracts" which was received from the Office of the State Comptroller (OSC) on August 10, 2010. In summary, the report states that OCFS is effectively monitoring its Revenue Contracts to ensure all entitled revenue is billed, collected and promptly deposited in appropriate accounts. There are three recommendations in the report.

Capital View Office Park
52 Washington Street
Rensselaer, NY 12144

As described in the audit, in one instance, a single vending machine had been removed from a site by the contractor without notice to the Commission for the Blind and Visually Handicapped (CBVH) but payments continued to be made in accordance with the vendor's contract. OCFS has added a paragraph to the letter sent to each contractor emphasizing that any change in machine configuration must receive prior written authorization from OCFS and has notified all host agencies that contractors are prohibited from unilaterally changing machine configurations.

It is important to note that CBVH operates the revenue contract program under the federal Randolph-Sheppard Act and parallel state legislation. This program is for participants in the CBVH Business Enterprise Program. The purpose of funds raised through the revenue contracts is to benefit legally-blind individuals in conformance with federal and state legislation and regulation.

The second recommendation involves the notification process between the OCFS Contracts Unit and the Bureau of Finance when a revenue contract is established. On September 14, 2010, the OCFS Bureau of Contract Management (BCM) published BCM Tip #69. This tip, which was distributed to all staff in both BCM and the Bureau of Finance, provides direction on the necessary steps to follow when a Revenue Contract is fully executed.



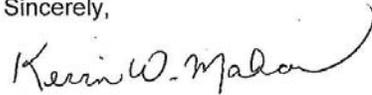
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Mr. Michael Cantwell
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The final recommendation deals with the use of the appropriate form to report contract monies received. OCFS is now using the AC2405 w/tails for all revenue contract coding as recommended.

OCFS appreciates the opportunity to respond to these recommendations and to update OSC on the progress which has been made in the revenue contract process. Any questions or comments on this response can be sent to the OCFS Audit Liaison, Ralph Timber. He can be reached via e-mail at Ralph.Timber@ocfs.state.ny.us or by phone at (518) 473-0796.

Sincerely,



Kevin W. Mahar
Director
Office of Audit and Quality Control

cc: Thomas S. Tipple
Todd Seeberger