

Office of Court Administration

Court Facilities Aid and Assistance Programs

Report 2019-S-4 | December 2019

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine if the Office of Court Administration (OCA) is ensuring court facility aid and assistance programs are being used for only eligible expenses. The audit covers the period April 1, 2015 through March 31, 2018.

About the Program

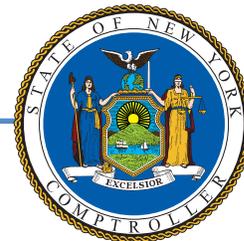
OCA is responsible for directing and overseeing the administrative operations of all courts in the Unified Court System (UCS). UCS serves the State's 62 counties through 13 Judicial Districts, including nine District Offices (Nassau and Suffolk counties have separate District Offices within District 10) and the Deputy Chief Judge for New York City. OCA administers several programs for municipalities and local justice courts that assist in the maintenance and improvement of court facilities. The Court Facilities Incentive Aid (CFIA) Fund reimburses municipalities for cleaning, maintenance, and improvements to court-occupied space. OCA administers the CFIA program through its District Offices for all areas outside of New York City. For New York City, OCA works directly with the Department of Citywide Administrative Services to administer the CFIA program. The Justice Court Assistance Program (JCAP) provides annual grants of up to \$30,000 to towns and villages for court improvements, including security enhancements, renovations, and furnishings.

Key Findings

- While OCA has processes for ensuring its facility aid and assistance programs are used for only eligible expenses, review and approval processes are not standardized across the District Offices. For CFIA, for the three-year period ending March 31, 2018, we identified a total of \$301,000 in questionable expenses (out of \$2.1 million reviewed) for two District Offices and New York City, including purchases with missing or incomplete documentation and municipalities claiming incorrect amounts. Ninety-one percent – or \$273,000 – of the questionable expenses were attributed to two municipalities within the same district.
- For JCAP, for the same period, we also identified about \$21,000 in questionable expenses (out of \$274,000 reviewed), including unapproved purchases, purchases with insufficient supporting documentation, and purchased items that could not be located at court facilities during site visits.

Key Recommendations

- Provide training to District Offices to standardize the review and approval of submitted CFIA claims.
- Take action to review and recover, where applicable, the \$301,000 and \$21,000 in questionable CFIA and JCAP expenses, respectively.



Office of the New York State Comptroller Division of State Government Accountability

December 18, 2019

The Honorable Lawrence K. Marks
Chief Administrative Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

Dear Judge Marks:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Court Facilities Aid and Assistance Programs*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
CFIA Fund	Court Facilities Incentive Aid Fund	<i>Key Term</i>
DCAS	New York City's Department of Citywide Administrative Services	<i>Key Term</i>
District Office	Judicial District Office	<i>Regional Office</i>
Division	Division of Financial Management	<i>Division</i>
JCAP	Justice Court Assistance Program	<i>Key Term</i>
OCA	Office of Court Administration	<i>Auditee</i>
OJCS	Office of Justice Court Support	<i>Division</i>
UCS	Unified Court System	<i>Judicial System</i>

Background

The Office of Court Administration (OCA) is the administrative arm of the State's court system. Under the direction of the Chief Administrative Judge, OCA is responsible for directing and overseeing the administrative operations of all courts in the Unified Court System (UCS) through nine District Offices (Nassau and Suffolk counties have separate District Offices within District 10) and the Deputy Chief Administrative Judge for New York City. UCS serves the State's 62 counties through 13 Judicial Districts, as shown in the Exhibit.

As part of its duties, OCA administers several aid and assistance programs to municipalities and local justice courts to help maintain and improve court facilities and capabilities. One such program, the Court Facilities Incentive Aid (CFIA) Fund, was established in 1996 to reimburse municipalities for cleaning, maintenance, and improvements to court-occupied space. Such costs include service contracts, payroll, supplies and equipment used for cleaning, minor repairs, and maintenance activities in dedicated court space.

OCA, through its Division of Financial Management (Division), enters into five-year contracts with municipalities to establish the terms and conditions for cleaning and minor repairs of court-occupied space. For New York City, OCA contracts with the New York City Department of Citywide Administrative Services (DCAS), which is responsible for the cleaning and maintenance of court facilities throughout the five boroughs. Initial contracts include a formal document in which the municipalities outline their proposed scope of services and budget. Subsequent contract years include annual renewals and budget updates.

Upon approval of the State budget, the Division informs OCA's District Offices of their appropriation amount for the district as a whole. The District Offices then work with municipalities to develop budgets detailing the costs necessary to complete cleaning and repair work. Municipalities submit claims either quarterly or annually for reimbursement to their respective District Office, which, in turn, reviews the claims to ensure they are within the municipalities' budgets and approves the claims for payment. For New York City, DCAS submits its claim directly to the Division for review and payment.

OCA also administers the Justice Court Assistance Program (JCAP). OCA, through its Office of Justice Court Support (OJCS), provides annual grants of up to \$30,000 to towns and villages for court facility improvements, including security enhancements (e.g., surveillance cameras), renovations, and furniture. Towns and villages submit applications for funds to OCA and include a detailed description of the planned use of funding. Once OCA approves an application, it disburses funds of up to the amount requested. Unlike the CFIA program, which reimburses municipalities for costs, JCAP funds are disbursed before costs are incurred. Towns and villages then have 180 days

to use JCAP funds and must submit signed reconciliation reports to OCA identifying how they spent the funds.

Annual funding for the CFIA program is approximately \$80 million. Annual funding for JCAP ranges between \$2.5 and \$3.5 million.

Audit Findings and Recommendations

While OCA has processes for ensuring its facility aid and assistance programs are used for only eligible expenses, review and approval processes are not standardized across District Offices. For CFIA, we identified a total of \$301,000 in questionable expenses (out of \$2.1 million reviewed) for two District Offices and New York City during the three-year period ending March 31, 2018. The questionable expenses included purchases with missing or incomplete documentation and municipalities claiming incorrect amounts. The vast majority of the expenses – \$273,000 or 91 percent – were attributed to two municipalities within the same District Office. For JCAP, for the same period, we identified about \$21,000 in questionable expenses out of \$274,000 reviewed that included unapproved purchases, purchases with insufficient supporting documentation, and purchased items that could not be located during site visits.

Court Facilities Incentive Aid Fund

We reviewed claims submitted by six municipalities among two District Offices (Albany County, City of Troy, and Columbia County for District 3; and Schenectady County, Hamilton County, and the City of Johnstown for District 4) and New York City totaling \$2.1 million, and identified about \$301,000 in questionable expenses, the majority of which (\$288,000) lacked sufficient documentation, such as invoices. Other questionable expenses were misclassified among court facilities (\$11,000) or incurred outside the claiming period (\$2,000).

Outside of New York City, OCA's District Offices are responsible for reviewing claims submitted for CFIA. However, each District Office establishes its own review processes without guidance from the Division. As a result, District Office practices are inconsistent. For example, \$274,000, or 91 percent, of the questionable expenses were from District 3, which did not require municipalities to submit supporting documentation with their claims (the District Office began requiring municipalities to submit all required documentation with their claims beginning with the 2017-18 fiscal year). In contrast, District 4 processes include a review of a selection of the submitted claims each quarter based on a prescribed review schedule. Our review of \$139,000 in claims from District 4 found less than \$50 in questionable expenses.

OCA officials generally agreed with our findings and the need to provide training to District Offices that would allow for the exchange of best practices for reviewing submitted claims.

Justice Court Assistance Program

We reviewed the JCAP awards for eight towns and villages that received approximately \$274,000 in JCAP funding between April 1, 2015 and March 31, 2018, and identified \$21,000 (8 percent) in questionable expenses, including unapproved purchases, purchases with insufficient supporting documentation, and purchased items that could not be located during our site visits. The vast majority of the findings were attributable to municipalities using funds for unapproved purchases (\$17,500) due to a lack of communication and clarity regarding awards.

Prior to the 2017-18 fiscal year, OJCS provided limited oversight and communication to ensure JCAP funds were used for only eligible expenses. For the two fiscal years ending March 31, 2017, OJCS' practice was to approve funding for certain (but not all) projects on the grantee's application without providing the grantee with a breakdown of the amount it awarded for each specific project. This resulted in municipalities using funds to purchase items not approved by OJCS. For example, one municipality used \$7,500 to build a conference room and kitchenette that OJCS had not approved. Another municipality used \$4,660 for a construction project for which OJCS had not approved any construction funds. This occurred at four of eight courts we visited. Additionally, OJCS did not require grantees to submit supporting documentation for purchases made with JCAP funds. The remaining questionable expenses were attributable to insufficient documentation or the purchased items could not be located at the court facilities during our site visits. For example, at one municipality, we could not locate a television monitor purchased with JCAP funds. Officials later stated that the monitor was stored elsewhere in the building but was not currently being used because it was too small.

Prior to the start of our audit, OJCS made improvements to its processes for overseeing JCAP awards. Beginning with the fiscal year ending March 31, 2018, OJCS amended its practices and began providing grantees with itemized award notifications, specifying which requested items had been approved and which had not. Additionally, beginning with the fiscal year ending March 31, 2020, OCA requires documentation to support all purchases. In response to our findings, OJCS officials reviewed the questionable expenses to determine appropriateness and, as necessary, to reallocate funds to appropriate categories.

Recommendations

1. Provide training to District Offices to standardize the review and approval of submitted CFIA claims.
2. Take action to review and recover, where applicable, the \$301,000 and \$21,000 in questionable CFIA and JCAP expenses, respectively.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if OCA is ensuring court facility aid and assistance programs are being used for only eligible expenses. The audit covered the period April 1, 2015 through March 31, 2018.

We became familiar with and assessed the adequacy of internal controls as they related to our audit objective. We reviewed State laws and regulations as well as OCA policies and procedures. We interviewed OCA, District Office, and town and village court officials to obtain an understanding of their monitoring practices. We analyzed payment data related to the programs in the Statewide Financial System. Based on our audit work, we believe the data was sufficiently reliable for the purposes of this audit.

Our audit focused on two programs administered by OCA: CFIA and JCAP. CFIA has three components: interest aid subsidies, debt service for appellate facilities, and cleaning and repairs. This audit focused on the cleaning and repairs portion of the CFIA program.

For CFIA, we selected a judgmental sample of seven municipalities that received a total of \$128.4 million out of \$208.5 million disbursed statewide for the scope period. The seven municipalities represented two OCA District Offices and New York City. For each municipality, we selected a judgmental sample of claims to determine if expenses were appropriate and sufficiently documented. Our selections were based on geographical location and funding amounts. For New York City, DCAS submits one claim representing all court facilities within the five boroughs. In our review of the New York City claim, we only reviewed the portions attributable to one court facility within each of two boroughs (Manhattan and Queens).

For JCAP, we selected a judgmental sample of eight municipalities that received a total of \$274,253 out of \$7.8 million awarded statewide for the scope period. For the eight municipalities, we reviewed all JCAP awards for the scope period. Our selection was based on geographical location and the amount of award funds received during the scope period.

The findings and conclusions drawn as the result of the samples reviewed cannot be and were not extrapolated to the population as a whole.

As part of our audit procedures, we used Geographic Information Systems software for geographic analysis. As part of the geographic analysis, we developed a map (see Exhibit) to improve understanding of our report. To improve ease of use, some minor locational changes were made in this map. These changes do not materially affect the accuracy or interpretations of the underlying data or visualization.

Statutory Requirements

Authority

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

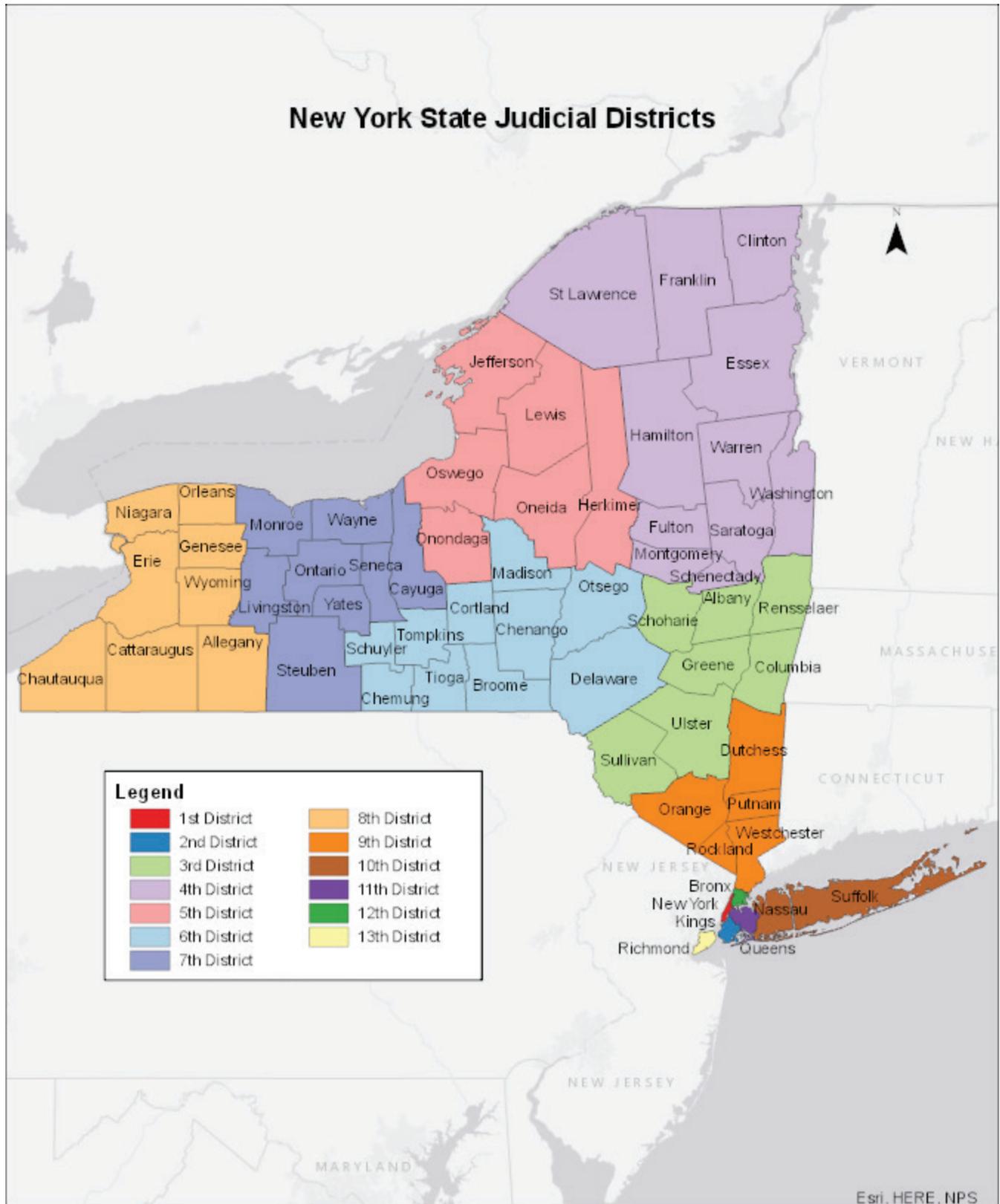
In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, 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.

Reporting Requirements

A draft copy of the report was provided to OCA officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end. OCA agreed with our recommendations and indicated it is taking steps to implement them.

Within 180 days of the final release of this report, as required by Section 170 of the Executive Law, the Chief Administrative Judge of OCA must report to the Governor, the State Comptroller, and the leaders of the Legislature and its fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Exhibit



Agency Comments



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

JOHN W. McCONNELL, ESQ.
EXECUTIVE DIRECTOR

NANCY J. BARRY, ESQ.
CHIEF OF OPERATIONS

MAUREEN H. MCALARY
DIRECTOR, DIVISION OF FINANCIAL MANAGEMENT

NANCY M. SUNUKJIAN
DIRECTOR, OFFICE OF JUSTICE COURT SUPPORT

December 12, 2019

Stephen Goss, Audit Director
Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Re: Audit Report 2019-S-4

Dear Mr. Goss:

The OCA Division of Financial Management (DFM) and the Office of Justice Court Support (OJCS) have received the draft final audit findings of OSC's Audit Report 2019-S-4, related to the Office of Court Administration's Court Facility Incentive Aid (CFIA) and Justice Court Assistance Program (JCAP). As requested, OCA sets forth its response to the audit's findings and two specific recommendations below.

With regard to the CFIA program, while DFM accepts the audit's findings regarding limited instances of missing or insufficient documentation, it should be noted that the audit's stated objective was to determine if court facility aid programs are being used for only eligible expenses, and OSC auditors stated that they found no instances in which payments were made for ineligible expenses. Additionally, while \$301,000 of spending, primarily in the 3rd Judicial District, was insufficiently supported by documentation, auditors also found that courthouse facilities were in clean and in good condition, thus demonstrating that work was successfully being performed in furtherance of the objectives of the court facilities program.

OJCS accepts the audit's findings regarding the expenditure of JCAP funding in certain instances as being outside the parameters of the approved grant award, and comments that such actions by the awarded courts are attributable in most part to the prior award notifications' lack of specificity. OJCS' modification to the JCAP Reconciliation Report to better apprise the courts of which items were approved (or denied), as well as the implementation requiring that itemized receipts and documentation be submitted to support all purchases, has greatly diminished the likelihood of any reoccurrences in this regard. It can be stated that OJCS has been in contact with each of the courts audited and efforts have been effectuated to resolve any outstanding issues.

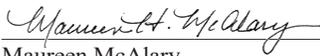
Regarding the final audit report's two specific recommendations:

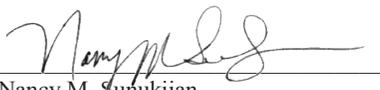
1. District offices are responsible for the local administration of the Court Facilities Incentive Aid program. As the auditors themselves noted, the 4th Judicial District could be a model for other

districts to replicate; our own experience is that the 7th Judicial District also applies excellent practices to the review of expenditures under the Court Facilities Incentive Aid program. To that end, DFM will schedule a training session in early 2020 for all district office personnel who are involved in receiving, auditing and approving for payment all municipality claims under the CFIA program. Specifically, the session will include an overview of the budget, contract approval, claims and reimbursement processes; a discussion of best practices by select districts; and a Q-and-A session to elaborate on specific questions.

2. As noted, we concur with the audit's findings relating to lapses in documentation and will continue to strengthen education and training of personnel overseeing CFIA vouchers and vendors. However, appropriate efforts to recover questionable payments under CFIA, we believe, must include an assessment, based on the best available evidence, of whether the payments were, in fact, legitimate claims under the CFIA program. While the Unified Court System strives to be a forceful reclaimant of any misspent public funds under its stewardship, we believe that in this case the vast majority, if not all, of the payments, found to be lacking documentation by OSC auditors, were legitimate claims, as evidenced by the fact that the court facilities visited by the auditors were clean, well-maintained and in good condition. This judgment is further based on claims submitted by Albany County and the City of Troy subsequent to the audit period, after the 3rd Judicial District had begun applying more rigorous review to claims and the associated supporting documentation. We will continue our review of contemporaneous records of the judicial districts addressed in the audit to identify any reports of (or complaints about) facility maintenance that are inconsistent with payments made under the court facility aid program; to the extent that such inconsistencies emerge, we will address these issues with the relevant municipality.

Very truly yours,


Maureen McAlary
Director, Division of Budget & Finance


Nancy M. Sunukjian
Director, Office of Justice Court Support

cc: Hon. Lawrence Marks
Hon. Vito C. Caruso
John W. McConnell
Nancy J. Barry
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Contributors to Report

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