

*State of New York*  
*Office of the State Comptroller*  
*Division of Management Audit*

**DEPARTMENT OF  
CIVIL SERVICE**

**MUNICIPAL SERVICE DIVISION**

**REPORT 95-S-10**



*H. Carl McCall*  
*Comptroller*



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# State of New York Office of the State Comptroller

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## Division of Management Audit

### Report 95-S-10

Mr. George Sinnott  
Commissioner  
Department of Civil Service  
The W. Averell Harriman  
State Office Building Campus  
Albany, NY 12239

Dear Mr. Sinnott:

The following is our report on the audit of the New York State Department of Civil Service's Municipal Service Division.

This audit was performed 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. Major contributors to this report are listed in Appendix A.

*Office of the State Comptroller  
Division of Management Audit*

April 1, 1996

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# Executive Summary

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## Department of Civil Service Municipal Service Division

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### Scope Of Audit

Article V, Section 6 of the New York State Constitution mandates that appointments and promotions in the civil service of the State and all of the civil divisions shall be made according to merit and fitness. At the time of our audit, there were 109 local civil service agencies, (local agencies) located in 57 counties, 50 cities and 2 towns, responsible for civil service administration within their jurisdiction. The State Civil Service Commission (Commission) is responsible for ensuring these agencies properly administer the Civil Service Law (Law). The Department of Civil Service's (Department) Municipal Service Division (Division) devises effective methods for the Law's administration statewide.

The Division is responsible for providing various services to local agencies, such as title classification and examination services. The Division, acting as the Commission's agent, also conducts periodic merit system administration reviews (reviews) of the local agencies to determine if the agencies are properly administering the Law and related rules. Division staff select the agencies to be reviewed, conduct the reviews, prepare the reports and follow up on local agencies' implementation of the recommendations made in these reports. The Division had 22 employees, including 13 consultants who are responsible for specific local agencies.

Our audit addressed the following question concerning Division operations for the period April 1, 1990 through October 31, 1994:

! Does the Division have adequate procedures to ensure that local agencies properly administer the Law?

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### Audit Observations and Conclusions

We found that the Division does not have adequate procedures to ensure that local agencies properly administer the Law, and to ensure that all personnel transactions in these local agencies comply with the merit and fitness provisions of the State Constitution. We also found that the Division can use its existing resources more efficiently and effectively.

We found that the Division has not conducted reviews every four years as required by Division policy. Further, between January 1990 and December 1994, the Division conducted reviews at only 28 of the 108 local agencies, and the New York City agency has not been reviewed. Division officials stated that they have limited staff for review work, and have not been directed by the Commission to review the New York City agency. (See pp. 5-11)

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When we applied the Division's selection criteria, 9 of the 28 local agencies the Division reviewed did not appear to be appropriate choices. We found that Division management sometimes chose to review agencies where few problems appeared to exist rather than agencies where the risk of noncompliance appeared significant. The Division should establish formal procedures for the review process and document the analysis of local agency data that justifies a Division review. (See pp. 8-12)

We observed the methods Division staff used to conduct reviews at the agencies in Tioga County and the City of Yonkers. We then used alternate procedures, including additional sampling techniques, to conduct a review at the agency in Ulster County. While we completed our review of Ulster in 20 days, the Division required 40 days to review Yonkers, an agency with fewer classified employees. By using more efficient review techniques, we believe the Division can use its limited staff resources more effectively. (See pp. 12-16)

Further, the Division does not adequately follow up to ensure that local agencies implement its review recommendations. While Division management acknowledged responsibility for follow up, the Division has no procedures to ensure follow up. Moreover, Division officials stated they regard their recommendations as advice for local agencies to follow. However, we believe, at a minimum, the Division should follow up to help ensure that local agency operations comply with the Law. (See pp. 16-18)

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## **Comments of Department Officials**

The matters contained in this report were provided to Department officials for review and comment. Department officials disagreed with many of the report's findings and conclusions. Their comments have been considered in preparing this report.

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The comments of Agency Officials are not available in an electronic format. Please contact our Office if you would like us to mail you a copy of the report that contains their comments.

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# Introduction

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## Background

Article V, Section 6 of the New York State Constitution mandates that appointments and promotions in the civil service of the State and all civil divisions shall be made according to merit and fitness. The merit and fitness provision is intended to provide all candidates equal opportunity for positions in public service based on an objective rating of their relevant qualifications. Merit and fitness should be determined, where practical, by competitive examination. The Civil Service Law (Law) allows the establishment of local civil service agencies who are responsible for administering the Law and the rules established pursuant to the Law.

The Civil Service Commission (Commission), composed of three Governor-appointed members, promulgates rules and regulations concerning the interpretation of the Law, conducts disciplinary hearings, reviews and rules on employee appeals and oversees the State's merit system. The Department of Civil Service (Department) administers the Law. The Department's Municipal Service Division (Division) was established in 1941 to devise and recommend an effective and practical method for the Law's administration in local agencies throughout the State. At the time of our audit, there were 109 local agencies statewide responsible for a total workforce of almost 600,000. These agencies are located in 57 counties, 50 cities and 2 towns.

According to Section 23 of the Law, the Division has the responsibility of providing services to all local agencies, except for the agency in New York City. The Law specifies that the Department shall provide, upon a local agency's request, services and technical advice and assistance in areas such as position classification, pay equity/compensation assessments, examination services and the preparation and promulgation of rules.

Sections 6 and 26 of the Law provide the Commission and its agents with the authority to conduct examinations to ensure local agencies are properly administering the Law (Section 26 does not exempt New York City). The Division carries out this function for the Commission, pursuant to Section 26(2) of the Law. Division officials select the local agencies at which they will conduct merit system reviews (reviews), conduct the reviews, prepare the reports (which are then issued by the Commission) and provide the Commission with feedback on the status of local agencies' implementation of the recommendations made in these reports. Section 26 of the Law also requires all local agencies to submit annual reports to the Commission. The Division receives and reviews these reports and compiles the information into an annual report. The Division's annual report does not include data from New York

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City, which is reported separately.

The Division had 22 employees as of October 31, 1994, including 15 professional staff and seven clerical staff. The professional staff includes 13 consultants who have been assigned responsibility for specific local agencies. Since 1990, there has been a 28 percent reduction in Division staffing levels.

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## **Audit Scope, Objective and Meth- odology**

We audited the Division's operations for the period April 1, 1990 through October 31, 1994. The objective of our performance audit was to determine whether the Division has adequate controls in place to help ensure local civil service agencies comply with and effectively administer the Law. Our audit focused on the role of the Division, as the Commission's agent, in carrying out its inspection activities pursuant to Section 26 of the Civil Service Law. To accomplish this objective, we reviewed Division records and reports, interviewed Division officials, observed Division staff conducting two reviews and conducted a review at one local agency.

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 Department which are included within our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the Department's operation included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in 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 of management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest possibility for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient and effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore highlights those areas needing improvement and does not address activities that may be functioning properly.

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## **Response of Department Officials**

Draft copies of this report were provided to Department officials for review and comment. Their comments have been considered in preparing this report and are included in Appendix B.

This audit has generated significant discussions between the Commissioner and

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our auditors. The Commissioner believes the Department's emphasis must be on service to local agencies and not on control. He also believes statistical sampling is not an acceptable tool to be used in reviewing local agency operations and assessing the quality of civil service administration. This report presents disparate views on the role of the Municipal Service Division in administering Section 26 of the Civil Service law and related sections.

Our report is not designed to challenge the Commissioner's policy of service versus control, but rather to point out that inspection and service are not mutually exclusive concepts. We fully understand the Commissioner's position on service as required under Section 23 of the Civil Service Law, upon local agency request. The report's purpose is to recognize that Sections 6 and 26 of the Civil Service Law require certain inspection activities to occur. While such inspections might not have been requested by local agencies, they can also be viewed as service by helping to improve operations.

As detailed in this report, we believe the Department can provide these required inspection activities in a more efficient and effective manner. For example, using statistical sampling techniques could reduce the time to do a review, allowing more local agencies to be inspected. While the Commissioner believes statistical sampling is not an appropriate tool, statistical sampling is a widely accepted technique which allows for appropriate conclusions to be drawn about populations.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Civil Service shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.



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# Merit System Administration Reviews

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The Division conducts reviews of local agencies, pursuant to Section 26 of the Civil Service Law, to ensure they are properly administering the Law. Division policy requires that the Division conduct a review at each local agency every four years. However, we found that since the Division's inception, there has never been a review of the New York City Department of Personnel (NYCDOP), the local agency in New York City. Division officials stated that they have never been directed to do so by the State Commission and that adequate resources are not available to do such reviews.

We also found that the Division has not conducted reviews of other local agencies every four years, as required. Division officials cited a 28 percent reduction in Division staff since 1990 and a restrictive travel budget as the reasons for the limited number of reviews done.

Our audit of Division activities indicates that the Division can increase efficiency by improving both the methods it uses to select local agencies for review and the procedures it uses to conduct reviews. We also believe the Division can increase its effectiveness by developing procedures for adequate follow-up to help ensure that local agencies implement the recommendations made in Division reviews.

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## Oversight of New York City

Section 26 of the Law provides the State Commission and its agents with the authority to inspect the functions and activities of local agencies to ensure they properly administer the Law. Each local agency submits an annual report of its activities to the Division, where the consultant responsible for that agency reviews it. Generally, the Division then sends a letter to the local agency officials noting the problems identified in the review of the annual report. However, we found that neither the Division nor the Commission has ever conducted a review at NYCDOP. Only recently, the Division Director notified NYCDOP officials of compliance problems suggested by data in the annual report. As a result, the Commission has limited assurance that NYCDOP is properly administering the Law.

According to 1993 annual reports, NYCDOP is accountable for a significant percentage of the State's civil service employees. We made comparisons between NYCDOP statistics and those of all other local agencies statewide for employees in the following classes: classified (all employees under the Department's jurisdiction), competitive (employees subject to competitive examinations) and provisional (employees appointed in the absence of an eligible list based on a competitive examination). As shown in the table below, NYCDOP accounts for almost 39 percent of all local agency

employees, and for 60 percent and almost 85 percent, respectively, of competitive and provisional employees.

<b>Employees</b>	<b>Statewide (except NYCDOP)</b>	<b>NYCDOP</b>	<b>Totals</b>	<b>NYCDOP Percent of Total</b>
Classified	359,839	228,487	588,326	38.8%
Competitive	136,554	204,818	341,372	60.0%
Provisional	6,783	37,983	44,766	84.8%
% Provisional	5.0%	18.5%	13.1%	

In responding to the draft report, Department officials stated that following ten years of emphasis on service, the overall provisional rate for all jurisdictions in the State has been reduced from 10.1 percent in 1981 to 5.0 percent in 1993. However, the 5.0 percent provisional rate does not include NYCDOP. When NYCDOP is reflected, the overall rate is 13.1 percent, as shown above. Division reports show that NYCDOP's provisional rate has increased from about 6 percent in 1979 to 18.5 percent in 1993.

Since NYCDOP administers the Law for a large number of Civil Service employees, we asked Division officials why they had not conducted a review of NYCDOP. Division managers stated they had never been directed to do so by the State Commission. Division officials also stated they had been asked to prepare proposals (in 1973-74 and 1978-79) on the resources needed to conduct a review of NYCDOP. However, additional funding was never received.

Division officials maintain that their responsibility relative to New York City is limited to a review of the annual report. After the review, the Division Director prepares a memo outlining the Division's findings, and sends the memo to the Department's Director of Civil Service Commission Operations. Division officials provided us with copies of these memos for NYCDOP annual reports submitted in 1990, 1991 and 1992. In these memos, the Division noted among its findings that:

! NYCDOP officials were unable to independently provide certain staffing data themselves, leading Division officials to question the data's accuracy.

! Appointing authorities under NYCDOP's jurisdiction were not required to provide information to NYCDOP concerning temporary appointments.

! The ratio of provisional to competitive employees was high within NYCDOP

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itself.

! a significant number of job titles requiring classification had yet to be submitted for the Commission's approval.

! The provisional rate among New York city public employees was high. This rate had increased from 5.8 percent in 1979 to 22.3 percent in 1990. Division officials also noted that the 22.3 percent may be understated.

Data provided by Division staff indicated that for the same period, the provisional rate statewide (excluding NYC) decreased from 9.9 to 8.1 percent.

We asked Department and Division officials if they had informed NYCDOP officials of these findings. The Division Director stated he was not aware of any such communication, as the Division's responsibility was limited to a review of the annual report and preparation of the memo to the Director of State Commission Operations. The Director of State Commission Operations stated that he was not aware of any direction/feedback that was ever provided to NYCDOP officials regarding the annual reports.

We also reviewed the Commission's minutes for the years 1989 through 1994 to determine if the Commission had formally discussed the NYCDOP annual report or the memos provided, or whether the Commission had ever "called in" NYCDOP officials to discuss their annual report and the problems the Division had found. We were able to locate one reference (in the November 18, 1993 minutes) relative to the NYC annual report which indicated that the Commission had received and filed the 1992 Annual Report. There was no indication in the minutes of a discussion by Commission members of the problems noted in this or any NYCDOP annual report. Further, it does not appear NYCDOP officials have ever been called before the Commission to address problems noted in the annual reports.

In response to the draft report, Department officials correctly stated that Section 23 of the Civil Service Law exempts New York City from the general provision of services. They added that, consequently there is no reason why the Division would follow-up on the annual report. However, the Commission also has the responsibility for oversight of all local agency functions and activities as authorized in Sections 6 and 26 of the Civil Service Law. These sections do not exempt New York from oversight by the State Commission.

As a result of the lack of oversight of NYCDOP operations, the Commission has no assurance that NYCDOP officials are properly administering the Law.

Based on the data contained in the annual report, we conclude that NYCDOP is not in compliance with Law. Therefore, there is limited assurance that Civil Service appointments and promotions made in New York City have been based on merit and fitness as required.

In August 1994, we met with the Commissioner to discuss the high provisional

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rate in New York City and the absence of reviews at NYCDOP. The Commissioner agreed to investigate these matters. The Division Director has since sent a letter to the Personnel Director of the NYCDOP outlining the Division's concerns as a result of its review of NYCDOP's annual report. Division officials also informed us that Department officials, including the Commissioner, subsequently met with representatives from the NYCDOP to discuss problems noted in the annual report. As a result of this meeting, the Division Director has been designated to work with NYCDOP officials to develop a plan of action to address these problems. We were also informed that the Commissioner would request funding for a review of NYCDOP. Subsequently, a new Commissioner was appointed, and Division officials advised us that this funding request has since been withdrawn.

### **Recommendations**

To the Civil Service Commission:

1. Continue recent initiatives relative to NYCDOP.
2. Initiate actions necessary to ensure NYCDOP is in compliance with the Law.

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## **Selection of Local Agencies for Review**

The Department's policy manual states that merit reviews should be conducted on a regular basis, with the interval between surveys not to exceed four years. However, a review of data provided by Division officials indicates that between January 1990 and December 1994, only 28 of the 108 local agencies outside New York City had received merit system administration reviews. Division management acknowledge this backlog.

The Division's resources should be expended in conducting reviews where they are most needed to improve compliance. To do this, the Division needs to select and perform reviews more efficiently and effectively. This would help the Division identify agencies in non-compliance and allow more reviews to be conducted.

For example, we found that at 9 of the 29 agencies selected for review there was a low risk of noncompliance. Since the objectives of the merit review include measuring and improving a local agency's compliance with the Law, and since the Division has limited staff to perform these reviews, the Division should select for review those agencies where conditions indicate that the risk of noncompliance is greatest. Division officials stated that some of these agencies were reviewed in the same week to avoid additional travel costs.

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Division officials identified the following criteria that can be used in selecting local agencies for review: the time lapsed since last review; the agency's rating at the last review; a change in the agency's Personnel Officer; indicators from the annual report; available Division resources; local agency requests; a directive by the Commission; and an agency's provisional percentage. When a review is completed, Division officials assign an overall rating to the agency: Excellent, Very Good, Good, Fair, Poor or Unsatisfactory.

Using documentation and related data provided by Division officials, we attempted to determine whether the local agencies selected for review since January 1990 were the most reasonable choices. We found that conditions at 9 of the local agencies selected did not appear to warrant reviews. Our conclusion was based on several key criteria which appear more significant than others when selecting agencies for review. These include last rating received; the number and rate of provisional employees; and the time lapsed since the last review.

We shared our analysis with a Division official and asked if Division management had done a similar formal risk assessment. According to this official, Division management had conducted an analysis, but had no documentation of the process. Division officials stated that the local agencies they reviewed, when selected, met at least one of the Division's stated criteria. Appropriate documentation would help assure that selection decisions were made based on the significance of the factors considered.

Division officials also told us they "know" which agencies are "good" and which are "bad." When we asked Division officials why reviews should be conducted at "good" agencies, where conditions appear to indicate that noncompliance is low, Division officials stated that good agencies deserve a "pat on the back." However, we believe Division management should recognize well run agencies in other ways, and expend the Division's limited resources in conducting reviews where they are most needed to improve compliance.

We found that seven of the nine local agencies (the Cities of Auburn, Lackawana, Olean, North Tonawanda and Tonawanda and the Counties of Stueben and Clinton) were all rated favorably (Good, Very Good or Excellent) for both their present and their prior reviews. There were also no other indicators of problems. In addition, none of these agencies had provisional rates higher than three percent, a rate, well below the statewide average at the time of review.

We identified other local agencies which may have been more appropriate for review by Division staff. We selected these local agencies because: their last rating was unfavorable; they were larger agencies with more provisional employees; or they had provisional rates comparable to or higher than either

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the agencies the Division had selected or the statewide average. Some examples are:

! Ulster County - The agency was reviewed in 1976 and rated poor. In 1986, it was rated unsatisfactory. The agency has not been reviewed in eight years. The provisional rate is currently 16.2 percent, compared to the statewide average of five percent.

! Chenango County - The agency was reviewed in 1981 and rated good, but reviewed again in 1987 and rated poor. The provisional rate is currently 12.5 percent.

! Corning - was last reviewed in 1984 and rated very good. However, from 1987 to 1993, the provisional rate increased from 1.7 to 11.6 percent.

! Delaware County - was last reviewed in 1986 and rated very good. However, between 1985 and 1992 the provisional rate was consistently in double digits ranging from a high of 16 percent to a low of 10.1 percent. The rate is currently 9.0 percent.

Other agencies which appear to be good candidates for review include the City of Buffalo, and Westchester County. Buffalo is one of the largest local agencies, and it has not been reviewed in over 17 years. According to the 1993 Annual Report, Buffalo has 194 provisional and 199 temporary employees. Westchester County, another large agency, currently has a provisional rate of 8.5 percent. Westchester County was last reviewed in 1983 and was rated poor.

There appears to be a relatively higher risk of noncompliance by these agencies based on certain key indicators when compared to other agencies not exhibiting such conditions. Accordingly, the Division should focus its selection procedures to identify those local agencies where the greatest need exists to improve compliance.

In response to the draft report, Department officials stated that they as well as the local civil service administrators of Ulster and Chenango are well aware of the existing problems. However, Department officials stated that the agencies will not improve until those administrators leave and are replaced.

If this is true, then the Commission needs to be formally notified so it can initiate removal proceedings in accordance with Section 24 of the Civil Service Law. We noted that the applicable merit system review reports, submitted by the Division to the Commission, did not include such recommendations.

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## **Recommendations**

To the Department:

1. Establish formal procedures for analyzing data used to select local agencies for merit system administration reviews. Document this analysis and the resulting selection decisions.
2. Schedule merit system administration reviews at those local agencies where conditions indicate the greatest need.
3. Utilize methods other than merit system administration reviews to ensure that operations statewide are in compliance with the Law, and to help encourage "good" local agencies to continue making improvements.

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## **Procedures for Merit System Administration Reviews**

The Division conducts periodic reviews to evaluate the effectiveness of the local agencies' administration of the Law and the local agencies' rules. Among other things, reviews determine whether local rules are current, that all positions are properly classified, that appointments and examinations are valid and properly documented and that payrolls are certified as required.

During this audit, we observed Division staff conducting reviews at two local agencies, Tioga County (Tioga) and the City of Yonkers (Yonkers). At Ulster County (Ulster), we conducted the review ourselves, using alternate procedures including sampling techniques. Comparisons of the results of the Division's methods and our alternate methods in reviews of local agencies with similar characteristics and similar problems showed that using sampling techniques increases the efficiency of the review process. For example, we completed our review of Ulster in about half the time the Division needed to complete its review of Yonkers. If reviews can be conducted in less time, this increased efficiency may allow the Division to perform more reviews with its current resources.

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## **Division Review Procedures**

One step in the Division's review to determine the effectiveness of agency administration is to determine if employee titles agree with those in the agency's classification plan. In addition, for those employees in other than competitive positions, Division staff check to ensure that the titles are contained in the local agency's rules.

To test these areas, the Division reviewed each of the 1,800 roster cards at Tioga and each of the 3,600 roster cards at Yonkers. The Division reviewed all the roster cards a second time for the purpose of compiling lists of provisional and temporary employees and assessing the propriety of these appointments. Division staff also compiled lists of selected non-competitive and permanent appointments.

Since the objective in both the above tests was to assess the effectiveness of the local agency's administration of the Law and local rules, an examination of a statistical sample of records would have been sufficient to meet the objective. For the test of provisional and temporary appointments, the Division could have requested that the agency update its list of such appointments (previously provided in its annual report) prior to the Division's review. Division staff could have verified the accuracy of the lists provided, and then tested the propriety of a sample of appointments from the verified lists.

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The Law also requires local agencies to certify, at least once annually, the payrolls for all appointing authorities over which the agency has jurisdiction. This process involves comparing data contained on the employee's roster record card (Employee name, title, and pay rate) to that contained on the payroll. Local agencies are supposed to certify payrolls prior to payment, note any exceptions found and transmit this information to the appointing authority.

At both Tioga and Yonkers, Division testing found that agency officials had not certified all payrolls annually as required and that errors were made in certifying the payrolls (i.e., all exceptions were not noted). Division testing involved verifying (comparing information from roster record cards to the certified payrolls) nearly all the payrolls certified by the Yonkers and Tioga agencies, despite the fact that the Division found the same kinds of errors in all the payrolls. Division officials attributed the amount of time spent to the importance of payroll certification as a potent means to enforce the provisions of the Civil Service Law and Rules.

While we recognize the importance of ensuring that payrolls are certified as required, we believe that Division staff could determine if the payrolls have been certified prior to payment by comparing the date of the certification by the local agency official to the payroll date. To determine if these payrolls were certified properly, Division staff could review either a sample of payrolls or a sample of employees on each payroll. As a result, Division staff could accomplish their objectives in less time.

Division staff also review a sample of examinations given during the last three years to determine whether examination announcements were properly prepared, whether only qualified candidates were allowed to sit for the exam, whether eligible lists and certifications were properly prepared and whether all resulting appointments were proper. Division officials reviewed a total of 70 examinations at Yonkers: 27 from 1994, 31 from 1993 and 12 from 1992. Similar results could have been obtained in less time by reviewing a smaller sample.

We also noted that a report issued as a result of such a review indicates that the review covers the time period since the last review. This could be ten years or more in some cases. However, based on our observations of existing procedures, these reviews cover, at most, a period that includes only the last three years.

Division officials told us that staff limit their examination review to the last three years because Section 50.4 of the Law limits the time for corrective action to three years. Division officials also stated that reviews may comment on prior period deficiencies.

As currently written, a reader of the report may incorrectly assume that

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Division staff reviewed the appropriateness of appointments, promotions, etc., for the entire period. The Division should qualify the reports to indicate the actual scope of the review.

In responding to the draft report, Department officials maintain that conducting a comprehensive review, rather than employing a sampling approach, results in greater credibility and acceptance by interested parties. They added that the value of a sample review is questionable and it may not provide the basis for an assessment of the quality of local agency administration.

We do not believe that the Division is mandated to identify each and every error or problem with each employee at a local agency. In addition, we have not recommended taking records or lists at face value, when sampling can be employed to verify their accuracy. Our review covered the procedures and controls over payroll certification and we arrived at our conclusions in less time.

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## **Alternate Review Procedures**

After observing the reviews conducted by Division staff, we conducted a review at Ulster using alternate procedures which we believe provide a basis for assessing the effectiveness of civil service administration at local agencies. Our methodology included the following:

! we tested a random sample of 350 roster record cards to compare titles to the classification plan and rules and to determine whether the various types of appointments were appropriate;

! we tested a random sample of 50 roster record cards to verify payroll data for payroll certification and reviewed all payrolls provided to determine if they were certified timely;

! we reviewed a sample of examinations (18 total) from 1994, 1993, and 1992;

! we obtained lists of provisional and temporary appointments from local officials; and

! we interviewed staff to determine whether controls existed for the various areas of administration.

Our review found that certain sampled employees were in other than competitive titles that are not contained in Ulster's rules, and that some employees had been working for many years in titles for which positions had not been classified. In addition, we found that Ulster officials have no procedures or controls in place to ensure entries made to roster record cards are accurate. We identified instances in which data on roster record cards was

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missing or inaccurate. We also found that all payrolls have not been certified and that payrolls were not certified prior to payment, as required. We also found errors (exceptions not noted) in payrolls that had been certified.

Since Ulster officials could not provide an application for the majority of the non-competitive employees, we could not determine whether these employees met minimum qualifications. We found similar problems in our review of provisional employees. Further, Ulster officials had not ordered examinations for some provisional employees within 30 days of appointment, as required.

In our review of examinations, we found that individuals who submitted late applications and individuals who did not appear to meet the minimum qualifications were allowed to take the examination. We also identified instances in which candidates who appeared to be qualified were not allowed to take the examination, and found that one individual was appointed prior to being eligible.

In response to the draft report, Department officials stated that the auditors' findings are not in the form of a formal report, cannot be verified without an independent review, and were not reviewed with Division staff.

We assembled our findings and supporting documentation to expedite discussion and review with Division staff. In one meeting, Division staff would not discuss the detailed findings with us. We offered to meet subsequently, but Division officials declined to meet.

Division officials also stated that comparing the time spent on reviews at Ulster and Yonkers is misleading. However, Ulster is slightly larger than Yonkers in terms of the employees over which it has jurisdiction: Ulster had 4,610 classified employees and Yonkers had 3,649, according to the agencies' 1993 annual reports. While we spent 20 days on site at Ulster, Division staff, by comparison, spent about 40 days to complete the Yonkers review. In responding to our work, Ulster officials informed us that our sampling techniques might be useful to the Division in conducting its reviews.

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## **Recommendations**

To the Department:

4. Review the procedures used to conduct merit system administration reviews. Investigate the use of alternative procedures, including sampling techniques, so that reviews can be conducted more efficiently.
5. Indicate the actual scope of the local agency reviews in Commission reports.

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### **Division Follow-up of Merit System Reviews**

The Department's policy manual states that follow-up surveys or inspections shall be conducted at the direction of the Commission. These surveys are intended to determine if the local agency has taken action to correct specific deficiencies mentioned in reports of Division reviews. Division management also stated that the Division is responsible for follow-up activities as a service to local agencies.

According to Division officials, the recommendations made in their reports are in two categories: "must" recommendations, involve actions to correct non-compliance with a local agency rule or the Law; "should" recommendations are made to help improve the efficiency or effectiveness of local agency administration. Division staff indicated there is no requirement to document follow-up. The Division does not have formal procedures for follow-up of reviews. For example, when the Division recommends that an agency establish procedures, Division staff do not perform limited testing to verify that agency officials have established those procedures. Instead Division staff relied on the statements of local agency officials that they had implemented those procedures. In addition, Division management has no controls in place to ensure consultants follow up with local agencies regarding implementation of recommendations.

Between January 1990 and December 1993, 23 local agencies have had reviews; of those, nine received unfavorable merit ratings. We reviewed five of these reports (for the Cities of Troy, Newburgh and Glen Cove and for Seneca and Tompkins Counties) to assess the Division's follow-up actions to ensure that agencies implement recommendations to correct deficiencies. We reviewed each local agency's review report, obtained the agency's written response to the recommendations (i.e. its corrective action plan) and interviewed the Division consultant responsible for follow-up with that local agency.

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We found these local agencies, except for Seneca County, have not implemented many of the recommendations. For example:

! City of Troy: The Division conducted its review in February 1993 and issued a report in December 1993. We found that only 18 of 35 recommendations were fully implemented. Of the 17 which had not been fully implemented 11 were "must" recommendations.

! Tompkins County: The Division conducted its review in October 1990 and issued a report in August 1993. Based on our review, we found that only 6 of 15 recommendations were fully implemented. Of the nine which had not been fully implemented, five were "must" recommendations.

! City of Glen Cove: The Division conducted its review in October 1990 and issued a report in May 1993. Based on our review, we found that none of the 11 recommendations appear to have been implemented. Of these 11 recommendations, nine were must recommendations.

In response to the draft report, Department officials stated that for Troy, Tompkins County and Glen Cove, the follow-ups directed by the State Commission are still ongoing.

We also found that generally, recommendations made in these reports do not address the cause of the problems noted. The recommendations only address the condition found during the Division's review.

For example, as previously reported, the Division conducted a review at one local agency in February 1976, in which it rated the agency's administration as poor, and another in February 1986, resulting in a rating of unsatisfactory. Records indicate the agency is still not in compliance with various sections of the Law. Division officials stated that the cause of the problems is personnel related and will not be resolved until there is a change in administration.

If Division staff believe that an agency's administration of the Law is inadequate because of poor agency management, the Division should address the cause of the problem by bringing the issue to the State Commission's attention so that appropriate steps may be taken.

In response to the draft report, Department officials stated that the auditors did not understand the distinction between follow-ups of merit system reviews and follow-ups as a service. Officials added that their report recommendations are advice and not directives. Officials believe there are adequate procedures in place to follow-up on merit system reviews. Further, where action is needed, the State Commission is notified and where technical advice and assistance is needed, the Division provides this as a service. Officials added that to resurvey local agencies to verify implementation status is not an efficient or

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effective use of resources, including travel costs.

We believe that the Division has an obligation to ensure that local agencies take necessary action to correct specific deficiencies. Without such follow-up action, there is a risk that agencies with records of poor administration will remain in noncompliance with the Law.

### **Recommendation**

To the Department:

6. Develop formal procedures and controls to ensure Division staff conduct adequate review follow-up. Document actions taken by local agency officials to ensure implementation of recommendations made in Division reviews.

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## Use of Annual Reports and Site Visits

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Section 26 of the Law requires local agencies to submit an annual report to the Commission. These reports contain such information as the number of staff employed, financial data, the number of employees served by each jurisdiction, lists of all provisional and temporary appointments, and data on examinations given. Each report is received and reviewed by the Division consultant responsible for that local agency. Generally, the consultant then sends a letter to agency officials regarding annual report data.

A review of these reports can provide officials with information on agency administration of the Law, and the consultant's communication to the agency can enable the agency to make corrections, as necessary. Department officials stated that consultant follow-up on annual reports is done in the spirit of service and not oversight. Follow-up can include letters, field visits and phone conversations to point out problems and suggest improvements.

However, we found that local agency officials are not always notified of all problems found in the report. For example, we reviewed five 1993 annual reports and noted problems at four agencies. We reviewed the letters sent to agency officials by Division staff to determine if the four agencies were notified of the problems. We found that the consultant responsible for two of these agencies sent letters which did address the problems noted. This consultant also stated that she discussed these problems with agency officials during subsequent site visits, although she had no documentation of the discussions. The letters sent to the other two agencies by a second consultant made no mention of any problems.

We also selected and reviewed a sample of annual reports submitted by eight local agencies for 1991, 1992 and 1993. Again, we found that agencies were not always notified of the problems found. In addition, while staff stated they had followed up on the problems during site visits, they could not provide documentation that these problems were discussed.

In response to the draft report, Department officials believe that the auditors' emphasis is on using the annual report as a control tool to identify problems and their resolution, and to verify the accuracy of reported information.

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Given the State Commission's responsibility to ensure local agencies are properly administering the Law and the fact that the Division has limited resources, the Division's careful review of the annual reports and correspondence with local agencies can help ensure these resources are used efficiently and effectively. By making better use of the annual reports and following up on problems noted during a site visit, the Division can address significant issues without conducting formal merit system reviews, thereby ensuring local agencies comply with the Law.

In addition, information could be included in annual reports to provide Division staff with more data to use in assessing agency compliance. For example, analysis of recent review reports and our observations at three agencies, indicate that payroll certification is a problem. Agencies are not certifying payrolls as required and are not certifying payrolls timely. If agencies are required to supply payroll certification data in the annual report, Division staff could assess compliance with the Law, without having to conduct a site visit or a formal merit system review.

In addition to reviewing the annual reports, Division officials also prepare a compiled annual report with data from the annual reports submitted by all local agencies except New York City. Division officials stated that the report can be used by the Commission to assess local agency operation and by the agencies for comparative purposes. Division management stated that they also use this information for decision making purposes (for example, it is used as a factor in selecting local agencies for reviews). Department officials have also specified that this compilation gives some aggregate statistical data on the number of local government employees by agency, by classified service, and status as well as general data on local civil service agency staffing and appropriations.

Because the annual report data is not verified, the compilation report should indicate that the data is self-reported by local agencies.

## **Recommendations**

To the Department:

7. Develop formal procedures and controls to ensure staff adequately review the annual reports and follow up on problems identified in these reviews.
8. Consider changes to the annual report in order to obtain additional information on local agency compliance with Civil Service Law.

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# Major Contributors to This Report

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