



STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

1220 WASHINGTON AVENUE

ALBANY, N.Y. 12226-2050

**BRIAN FISCHER**  
COMMISSIONER

August 18, 2011

Ms. Carmen Maldonado  
Audit Director  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Ms. Maldonado:

The Department of Corrections and Community Supervision (DOCCS) has reviewed the Office of the State Comptroller's Follow Up Audit Report 2010-F-50 which reviewed the actions taken by DOCCS officials to implement the recommendations contained in the audit report, *Selected Aspects of the Procurement of Pharmaceuticals* (Report 2006-S-20). In accordance with Section 170 of the Executive Law, DOCCS's thirty day response to the audit is attached.

DOCCS would like to acknowledge the time and effort of all employees that were involved with this audit and their desire to improve the Department's operation.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Fischer", written over a circular stamp or mark.

Brian Fischer  
Commissioner

Attachment

cc: Division of the Budget



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**BRIAN FISCHER**  
COMMISSIONER

**CARL J. KOENIGSMANN, M.D.**  
DEPUTY COMMISSIONER/  
CHIEF MEDICAL OFFICER

August 18, 2011

Ms. Carmen Maldonado  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Ms. Maldonado:

We are in receipt of the Office of the State Comptroller's (OSC) Follow Up Audit Report 2010-F-50 which reviewed the actions taken by officials of the Department of Corrections and Community Supervision (DOCCS) to implement the recommendations contained in the audit report, *Selected Aspects of the Procurement of Pharmaceuticals* (Report 2006-S-20).

In reviewing the background, scope and objective section of the report, DOCCS noted some inaccuracies. For clarification, Central Pharmacy (CP) is not solely headed by the Pharmacy Director. The warehouse and business office is overseen by the Deputy Superintendent for Administration. Also, CP does not purchase its \$51.7 million of pharmaceutical drugs and supplies through two OGS contracts, but through six central pharmacy contracts. The two OGS contracts are used by facilities in cases where the item is non-formulary, there is an urgent need or pharmacy services are not available at that facility.

DOCCS appreciates OSC's recognition of Central Pharmacy's (CP) improvements in monitoring and managing its pharmaceuticals since the prior audit. OSC found that DOCCS has implemented six of the ten recommendations and partially implemented four recommendations. DOCCS will address these four partially implemented recommendations.

**Recommendation 1:** *Monitor correctional facilities to ensure they follow appropriate procedures and are purchasing pharmaceuticals at the lowest possible price.*

Status – Partially Implemented

DOCCS agrees with OSC's findings that CP implemented a system for its staff to monitor facility pharmacy purchases through its financial management system. This system complied with OSC's recommendation until the employee performing these reviews left CP in March of 2010 and has not been replaced due to the State's fiscal restraints. It should be noted that CP still conducts random audits of facility purchases of pharmaceuticals. As a result of this follow up audit, OSC tested prices paid for 84 individual drugs purchased by facilities between January 1, 2008 and March 1, 2011 and found all prices paid were equal to or below prices set by Minnesota Multi-state Contracting Alliance for Pharmacy (MMCAP).

**Recommendation 2:** *Perform risk assessments and other analyses to determine whether DOCS can obtain better prices for drugs, over-the-counter items, and medical supplies.*

Status – Partially Implemented

Since the original audit report, DOCCS has questioned OSC's meaning of a "formal risk assessment" to determine if it can obtain better pricing for drugs and medical supplies. In the original audit report (Report 2006-S-20), OSC acknowledged that CP does compare prices against MMCAP prices and other sources, but suggested in a supplemental notation that the risk assessment should include correctional facilities since the risk of overpayment could occur at a facility when it makes its purchases outside of CP. As was noted in the response to recommendation 1, OSC found that CP did implement a system for its staff to monitor facility pharmacy purchases. Random audits of invoices from facilities by CP staff over the past two fiscal years and the OSC audit of 84 individual drugs purchased by six different facilities found that all drugs were purchased at the correct prices. While DOCCS seeks to improve its purchasing practices, it would seem that conducting a "formal risk assessment" would be a moot issue as a result of this audit and especially when such staffing challenges exist. The results of this audit would indicate there is little risk of facilities paying too much for their pharmaceuticals and that current monitoring practices are sufficient.

**Recommendation 7:** *Implement a system for ensuring that bills are accurate before they are paid.*

Status – Partially Implemented

DOCCS asserts that post audits of invoices from facilities which have already been paid is an acceptable risk due to the current staffing shortages. As was noted in responses to recommendations 1 and 2, audits conducted by CP staff for the last two fiscal years and the OSC audit of 84 individual drugs indicated all drugs were purchased at the correct prices. Any errors that are found are corrected and refunds pursued when appropriate.

**Recommendation 10:** *Evaluate the policy on cost implications of correctional facilities purchasing individually-packaged unit dose medications, and adjust DOCS policies if needed.*

## Status – Partially Implemented

DOCCS asserts that guidance from the New York State Department of Health and the American Society of Health-System Pharmacists (ASHP) indicate the unit dose is the preferred practice used at the Regional Medical Units (RMU) which is practiced at Wende and Walsh RMUs. CP defers to each individual RMU as to whether they will use the unit dose system since each RMU has various needs and resources and can best determine what will work for them. In any case, the cost differential of using unit dose at the two RMUs is not significant, given the relatively small number of inmate patients.

Once the warehouse relocates and the Central Automated Pharmacy is fully operational, the statewide pharmaceutical distribution system will be re-evaluated to determine further opportunities for efficiencies.

DOCCS would like to thank OSC's auditors for their professionalism and goal to improve DOCCS operations.

Sincerely,



Carl J. Koenigsmann, M.D.  
Deputy Commissioner/Chief Medical Officer

CJK/pb

cc: Brian Fischer, Commissioner  
Osbourne McKay, Deputy Commissioner  
Elizabeth Ritter, Assistant Commissioner  
Robert Kennedy, Assistant Commissioner  
Karen Wameling, Pharmacy Director  
Patrick Reardon, Deputy Superintendent for Administration  
Peter Berezny, Director, Internal Controls