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Office of the State Comptroller

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Division of State Services

Protecting Payroll Data - A Job for OSC and State Agencies

You are probably familiar with this television commercial: a woman on the screen with a man's voice saying he's wanted in four states, he just bought a new pickup truck and got himself a new driver's license. And "the best part is," he boasts, "that it's all free — for me at least." We laugh and then we wonder: can identity theft happen to me?

Identity theft has been referred to as the crime of the new millennium. It is estimated that identity theft has become the fastest-growing financial crime in America and perhaps the fastest-growing crime of any kind in our society. This crime can result from the careless sharing of personal information or the intentional theft of personal belongings, mail or digital information.

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Vendor Responsibility Initiative Impacts

The primary goal of the Comptroller's Vendor Responsibility Initiative is to ensure that New York State contracts are awarded to vendors who have both the capacity to perform the requirements of the contract and the integrity to warrant an award of taxpayer dollars. The award of a contract to a non-responsible vendor can have serious and detrimental consequences for an agency and its customers, including poor performance and/or failure to satisfy contractual requirements. A non-responsible vendor may also lack the legal capacity required (e.g., failure to obtain required licenses) or may have engaged in activities that call the vendor's integrity into question. The vendor responsibility determination process gives agencies an opportunity to pro-actively solve and mitigate problems or, if necessary, avoid contracting with such vendors. It also



promotes fairness in the procurement process by limiting unfair competition.

By now, most of you have heard the facts of the Thruway Authority's and OSC's collaborative review of Worth Construction. Numerous other impacts

of the Comptroller's initiative have been documented and are shared in this article. The story of Worth Construction is the most extreme. As you will see, the more common

impact is that State agencies enter into contractual agreements with more knowledge of their vendors and are better able to take actions to mitigate potential risks to the agency's critical business.

**Department of Taxation and Finance
Queens District Office Lease** – OSC's review of a new Office of General Services (OGS) lease revealed that the principal owner of the leasehold company was also the principal in an

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New Internet-Based Agency Financial Reporting Package

During the past year, the Bureau of Financial Reporting (BFR) and the Bureau of Information Technology have worked together to develop an Internet-based Agency Financial Reporting Package application.

The State's accounting and financial reporting system under the control of the Office of the State Comptroller provides for the collection, summarization and reporting of unique financial data and information maintained at State agencies. This financial information is required to ensure full and proper disclosure in financial statements prepared in accordance with generally accepted accounting principles (GAAP).

The Agency Financial Reporting Package (AFRP) was developed for the purpose of gathering data-in-process which has not been entered onto the State's central accounting system at specified closing dates for both interim and annual reports.

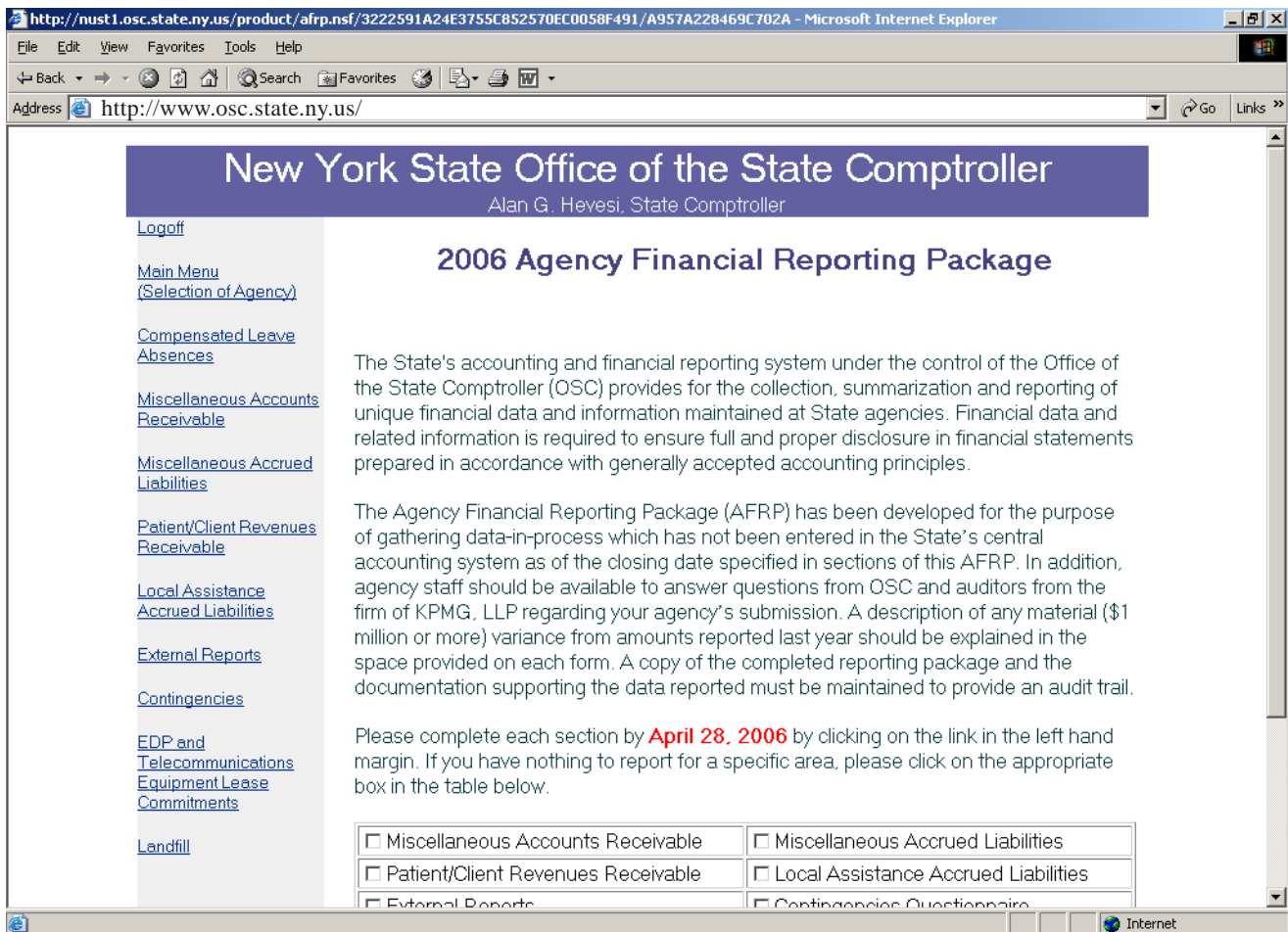
In the past, State agencies would download forms from the Internet and return them to the Bureau by email, fax or mail.

BFR staff would then enter the information into the State's financial reporting system. The new application allows agencies to key necessary information directly through the Internet. The data is collected in a database, analyzed and then used in the generation of the State's GAAP financial statements.

BFR conducted a pilot program with 20 agencies to test the new application for the December 31, 2005 interim report. The pilot program was a success with 100 percent participation and excellent feedback provided by the agencies. Full utilization of the Internet-based AFRP is anticipated for the March 31, 2006 annual report.

An informational letter including the web-site address for the Internet-based AFRP, user ID and details on obtaining a password will be sent to agencies in March 2006.

If you have any questions, please feel free to contact Tina Roberts, Bureau of Financial Reporting, at (518) 486-1236 or email at finrep@osc.state.ny.us.



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affiliated business that had an outstanding State income tax warrant (as reported on the Department of State's website). The intended occupant of the space was the Department of Taxation and Finance's Queens District Office, the entity charged with collecting the liability.

It is OSC's opinion that a landlord who has not fulfilled his State tax obligations should not profit from rental income generated from New York State taxpayer dollars. Therefore, the contract was returned to the contracting agency for additional responsibility review. As a result of OGS's added diligence, we understand that the vendor paid the outstanding tax liability and the lease may now be cleared for approval.

Mobile PET Scanning for a SUNY Teaching Hospital – A contract amendment that would have added time and money to a contract that provided mobile PET scanning services came to the attention of the OSC vendor responsibility review team because the vendor was not properly registered with the Department of State. Our review, which included information publicly available on the Securities and Exchange Commission website and a Dunn and Bradstreet report, revealed that the company was experiencing severe financial stress and was at risk of losing the leased equipment required to fulfill the terms of the contract. The contracting agency was grateful for the information OSC's review provided and, as a result, rebid the contract sooner than was originally planned. Also, the agency prepared for a potential emergency need should their vendor become unable to provide the services.

Not-for-Profit Providers – The most common responsibility issue found for not-for-profit providers is delinquent

Attorney General's (AG) Charities Bureau registration. Under New York State Law, failure to keep a current registration makes a vendor ineligible to solicit funds, including funds from any State agency. As a result of the Comptroller's vendor responsibility review requirements, the Department of Agriculture and Markets and the AG's Charities Bureau worked collaboratively to clarify the registration requirement for the not-for-profit corporations that organize and manage county fairs across the State. It was found that most were not properly registered and as a result of the efforts of these two agencies, a significant number have come into compliance with State law.

Charities Bureau registration was also an issue documented by the Office of Children and Family Services (OCFS) which recently found two not-for-profit vendors non-responsible and determined not to renew previous longstanding service provider agreements. The agency's determination was based on responsibility review findings that also included a U.S. Department of Treasury lien for failure to pay payroll taxes, an open State Department of Labor warrant for non-payment of State payroll taxes, and failure to submit required program reports. Additionally, one of the vendors was determined to have a level of debt of such a significant amount that the payment plan negatively impacts on the ability of the vendor to provide services. OCFS provided due process to both vendors.

Changing Business Name to Avoid Tax Liabilities – The low bidder for waste carting services in a large mental health facility's procurement was a newly formed corporation with a name very similar to a carting company that had previously had State contracts and that had been dissolved by proclamation

by the Department of State for failure to file State tax returns. Further research of public records found the dissolved corporation had bankruptcies, Department of Labor warrants and active State tax liens. The vendor responsibility questionnaire did not disclose an affiliation with the dissolved corporation, but it was signed by the same man shown as owner of the former company.

One very suspicious component of the vendor's documents was the misspelling of its street address on the company letterhead. Furthermore, the letterhead showed a business phone number with an area code that did not correspond to the address.

OSC alerted the contracting agency of the suspected relationship between the two companies. While the contracting agency attempted to clarify a potential relationship directly with the vendor, OSC's independent research continued. OSC found no public records of the new company by name, EIN, address, principals, telephone number, or fax number. Finally, OSC sent investigators to the vendor's reported address and found no evidence that a business was operating from the site. While staff was visiting the site, a postman came by on his regular rounds and reported that he'd never delivered business mail to the address.

After consideration of OSC's finding coupled with their own, the contracting agency asked that the contract be returned non-approved. OSC worked with the contracting agency to execute an emergency contract to ensure vital waste removal service was provided while the agency determined the next steps related to the procurement.

Waste Carting – It is old news that the

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waste carting industry is notorious for ties to organized crime. OSC recently reviewed two transactions with two affiliated vendors from two different State agencies where such ties appeared to be present. The owner of the two affiliated companies has a long history of alleged ties to the Lucchese organized crime family as evidenced by law enforcement and court records and as documented in the New York City Vendor Information Exchange System (VENDEX). These ties were not immediately apparent to the contracting agencies. In one case, the vendor did not accurately disclose ownership. In the other case, the abbreviated responsibility questionnaire used by the contracting agency did not solicit ownership information. Both agencies appear to

have accepted the vendor's disclosure at face value rather than supplementing the vendor responsibility questionnaire with independent research and verification.

OSC's review began with a simple Google search which provided obvious indications of alleged ties to organized crime. Our review also found that the New York City Trade Waste Commission (TWC), which licenses carters that work within the City limits, has issued licensing orders for both affiliates and has determined that the vendors "lack good character, honesty and integrity." Further, a condition of the order is that carters licensed or applying for permits with TWC may not knowingly employ or otherwise retain the services of, or

do business with, these vendors. One of the contracting agencies had a basis to find the vendor non-responsive and was able to award the contract to the second lowest bidder. The second agency is currently conducting a supplemental responsibility review.

Worth Construction – The Thruway Authority conducted a thorough responsibility review of Worth Construction in conjunction with the procurement for reconstruction of the I87-I84 interchange near Newburgh in Orange County. Following a review of the procurement record, including a review of the responsibility review conducted by the Thruway Authority, OSC conducted its own extensive and independent review of Worth's

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State Financial Services Group Outreach Program Announces 2006 Annual Spring Training Event

The State Financial Services Group Outreach Program has announced its 2006 Annual Spring Training Event. The Spring Training Event offers outstanding learning opportunities for agency staff on a variety of aspects of New York State financial management. Classes offered at this year's event include such topics as: the Vendor Responsibility Initiative, pitfalls in the procurement process, voucher processing, travel guidelines and responsibilities, the procurement lobbying law, and many others.

In order to accommodate an increased demand for Outreach Program training, the Spring Event will be held in two locations this year:

April 5, 6, and 7
Office of the State Comptroller
110 State Street
Albany, New York

June 6 and 7
Manhattan Psychiatric Center
600 East 125th Street
Wards Island, New York

Registration is currently underway for the April 5, 6 and 7 event. Please visit www.osc.state.ny.us/agencies/outreach/index.htm to sign up today.

Protecting Payroll Data - A Job for OSC and State Agencies

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All of us are at risk of identity theft when security breaches occur at companies holding our private information. And it seems like every week there's news of another security breach. In February 2005, ChoicePoint, Inc., an information broker based in Georgia, announced that a fraud ring had gained access to the personal and financial information of an estimated 145,000 consumers from computer databases maintained by the company. In the same month, a computer security expert from Think Computer Corporation discovered that a software glitch enabled any user to view the W-2 forms generated for employees of companies that use PayMaxx, a payroll processing company. In April 2005, Lexis-Nexis announced that the personal information of 310,000 people was compromised by unauthorized persons who obtained passwords from legitimate customers and accessed such information as names, addresses, Social Security numbers and drivers' license numbers. In June 2005, CitiFinancial mailed notices to 3.9 million customers whose private information was put at risk when

backup tapes containing their information were lost in transit. And in January of this year, People's Bank, based in Bridgeport, Connecticut, sent letters to 90,000 customers whose names, addresses, Social Security numbers and checking account numbers were contained on a computer tape that was lost in transit.

In response to the growing threat of identity theft and several high profile incidents across the country, the New York State Legislature passed the Information Security Breach and Notification Act which was signed into law on August 10, 2005 and took effect in December 2005. When the unauthorized acquisition of State owned computerized private data occurs, the Act mandates the State entity to notify the affected individuals of the security breach by written, electronic, telephone or substitute notice. The law describes private data as Social Security numbers, drivers' license numbers, non-driver ID cards, account numbers or credit/debit card numbers, in combination with any required code or password which would

permit access to a financial account. The Act does not apply to computerized data that is encrypted.

Municipalities are exempt from the Act but are required to adopt an information security breach notification policy or local law consistent with the Act. The judiciary is entirely exempt from the Act.

Unfortunately, government is not immune from security breaches. According to the Consumers Union, at least 134 security breach incidents were disclosed in 2005, potentially affecting more than 57 million individuals. Fourteen of these incidents were reported by governmental entities.

The Office of the State Comptroller (OSC) has taken many steps to protect payroll data. During the past few years, we have moved 272 vendors from paper reports and computer cartridges to electronic transfers; we are working to accelerate the conversion of the remaining 11 vendors who receive data in cartridge, CD or tape format. Social Security numbers were deleted from the

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Organizational Culture – Its Theory and Practice

The Theory of Organizational Culture

Frequently managers attempt to change and improve organizational structures, processes or behaviors and ignore the necessary step of addressing organizational culture. In order for enhancements and improvements to process and procedural logic to be successful, organizational culture must first be analyzed, and if necessary, changed to accommodate and support planned improvements. Of course, in order to evaluate organizational cultural, we must first be able to define it.

Defining culture is not easy and several difficulties become evident. Organizational culture is different from structure or process and may be generally defined as: attitudes, values, behaviors, thoughts and verbalizations shared among members of an organization. Culture, therefore, becomes the routine of how things are done on a daily basis within the organization.

However, some of the difficulty in

defining organizational culture emerges when we look at the elements associated with culture itself. Is the culture explicit or implicit, obvious and clear, or difficult to perceive and identify? Does the overt presentation of the culture differ from the covert view, such as when an organization defines a certain culture publicly, but privately practices a different cultural logic. Does informal practice of the culture within the organization differ from the formal culture defined and established by management? Is the

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culture imposed from above by management or does it emerge as a result of negotiation between different groups in the organization? All of these questions must be answered before the true meaning of organizational culture emerges.

Cultural Variations

It is important to recognize how organizational cultures are not all homogeneous and how they vary from organization to organization. Harrison and Stokes¹ define culture as consisting of four major types: power, role, achievement and support. As might be expected, each type has its own logic and individual attributes.

The **power culture** is established by the leaders of the organization and flows downward. This culture is very bureaucratic and well defined although not necessarily logical. The key to appropriate behavior in the power culture is to follow the boss's lead.

The **role culture** is defined by a set of rules and regulations and follows a strict standard of predefined rules. Everything in the organization relating to employee behavior and standards is clearly defined and regulated and follows formal, written criteria. *This model is especially prevalent in the government sector.*

The **achievement culture** allows for greater flexibility than the first two models by emphasizing the importance of completing the job at hand to the best of the organization's ability. Employees are encouraged to work and think creatively in order to arrive at the best and most efficient solution to a problem or work requirement. Employees who

are part of this cultural model generally believe that they are among the best in the organization or industry.

The **support culture** encourages people to work together cooperatively and emphasizes the spirit of cooperation and mutual assistance above all else and may be most often found in not-for-profit organizations.

Changing and Improving Organizational Culture

Having defined organizational culture and identified the different types of culture, we will now address the question of how to change and improve existing cultures. As we have already noted, establishing an efficient and supportive organizational culture is a cornerstone of improving structures, processes and behaviors. Usually some sort of culture exists in an organization and it is the existing culture that must be evaluated and improved in order to support changes in other areas of the organization. The challenge managers face in improving their organizational cultures is to logically and effectively direct and stimulate required changes while ensuring staff support.

Hatch's model of organizational culture change states that it is critical to "understand what culture does rather than to define culture as an entity."² Hatch employs four mutually reinforcing elements of cultural dynamics to accomplish this goal. The four elements include: assumptions, values, artifacts and symbols that reinforce each other in a circular sense in the following manner:

From **assumptions** we see the development of expectations that

produce **values** that then impact tangible **artifacts** and finally become part of a pool of **symbols**. This circular process therefore reinforces the existing culture but can also be used by managers to change the culture. New managers have an especially good opportunity to change one or more of the four elements since many times employees will give a new manager a chance to implement organizational changes. When one element is changed, changes to the other three begin to occur naturally until the entire culture has been modified. The area of artifacts is generally the best place for a manager to attempt to initiate change. Artifacts, in this context, would include structures and processes inherent in the organization.

For example, if a new manager attempts to change a bureaucratic organization by removing artifacts that enhanced production controls (such as an emphasis on the number of documents processed), symbols, assumptions and values will probably change to support the change to artifacts and be steadily enhanced to form a new culture. Managers can use a combination of power and commitment development to begin this change process. If properly supported, the change process will acquire a life of its own and the culture will be modified in a positive way. It is therefore critical to establish and maintain the interactive relationship between cultural changes and improvements to the organizational structures and/or processes. Attempts to improve one or more areas, while ignoring overall organizational culture, are probably doomed to failure.

Management Implementation of Changes to Organizational Culture
Management support and guidance is

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¹ Harrison and Stokes (1996), 'Diagnosing Organizational Culture, Trainer's Manual', Pfeiffer and Co., San Diego, page 30

² Hatch M., (1994) 'The Dynamics of Organizational Change', Academy of Management Review, 18 (4), pages 657-663

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critical to the implementation of organizational culture change. Managers can initiate and contribute to the process of change by:

1. Using their power to influence and direct change.
2. Maintaining constant support for the change process.
3. Establishing consistency between organizational policies and practice.
4. Supporting a constant, incremental change environment that stimulates continuous improvement and process enhancement.

There are also several limitations to management's ability to initiate and continue cultural change:

1. Change is sometimes somewhat unpredictable and it is difficult to be certain that the anticipated direction of change will be maintained. Sometimes cultural change progresses in an

inappropriate direction and this tendency must be managed and controlled immediately.

2. Cultural change may involve a slower than anticipated time frame as changes are revisited or delayed. Managers must be patient and confident that the anticipated outcomes will emerge over time.

3. Some employees and managers may actually inhibit or attempt to stagnate change to the organizational culture.

Many times, people do not like or accept change. It is the manager's responsibility to clearly define the organization's goals for cultural change and attempt to secure buy-in from everyone involved.

Best practice managers must be able to provide support, leadership and overall direction to a combined, coordinated process of cultural, structural and process change in an organization. Management must be able to look for new alternatives, welcome and support

change and new ideas and implement changes effectively at all levels of the organization. The potential problems enumerated above must be managed and controlled if organizational culture is to be encouraged to change and provide support to enhancements to structures and processes.

In evaluating organizational culture and improving processes and structures, it is valuable to employ the following logic in order to ensure a successful cultural transition and support for positive change. First, managers should carefully review the existing culture from a critical perspective. Next, the current routines and ways of doing things in the organization should be challenged and, if necessary, changed. New ideas are critical to this phase and management should seek the input of all members of the organization in order to determine where room for improvement might be found. Finally, the new ideas and concepts must be tested and evaluated, and if they appear to be appropriate, implemented.

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responsibility (inclusive of Thruway materials, Worth's financial documents, and interviews with other State agencies and government jurisdictions). After the review, OSC still had significant concerns regarding the responsibility and integrity of Worth, and had identified new concerns not previously addressed by the Thruway Authority.

Issues of concern for OSC included:

- 1) the fact that there is an acknowledged (both by Worth and the United States Attorney for the District

Of Connecticut) active Federal investigation in Connecticut into allegations of bribery and municipal corruption involving the owner of Worth Construction and the former mayor of Waterbury;

- 2) documented connections to organized crime;
- 3) several instances where Worth had withdrawn from a potential contract to avoid inquiries into connections with organized crime;
- 4) Worth failed to disclose several issues on the uniform contracting

questionnaire and;

- 5) the manner in which Worth presents itself in its financial statements.

On October 19, 2005, staff from OSC met with Worth representatives to provide them an opportunity to respond to OSC's questions and concerns. Worth subsequently submitted additional documents for OSC review.

In light of the ongoing Federal investigation into municipal corruption in Connecticut, wherein Worth's owner has been repeatedly and personally

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implicated; in light of this vendor's pattern of refusing to answer fully and truthfully questions about its history of association with organized crime and known members of organized crime; in light of the significant failure of the entity to disclose to the Thruway Authority the existence of other corporate officers and at least eight other companies that Worth's owner either owns, controls or serves as an officer; and in light of the significant financial concerns raised by OSC's independent review of the corporation's financial statements, Worth Construction was found to not be a responsible bidder by OSC with the Thruway's concurrence in November 2005.

Immediately following OSC's determination, Worth Construction filed a lawsuit in State Supreme Court arguing that it was improper for OSC to reject the company's low bid. In December, a State judge refused to issue an injunction barring the Thruway Authority from awarding the \$46 million highway project to another contractor. In January, the Supreme Court issued a decision

upholding OSC's non-responsibility finding. Worth Construction has filed an appeal of that decision.

The case of Worth Construction is certainly the most compelling. The variety of impacts presented here and many others known to procurement officers in contracting agencies demonstrate the value of the Comptroller's Vendor Responsibility Initiative. Agencies have more information about the vendors that are relied on to provide mission critical services. Agencies have mitigated risks and agencies have recognized potential performance or capacity issues in advance and have planned accordingly. Agencies have avoided contracting with potentially non-responsible vendors and agencies are sharing information and working collaboratively to achieve better results for New Yorkers.

To learn more, please visit the Vendor Responsibility website at www.osc.state.ny.us/vendrep/index.htm.

Protecting Payroll Data - A Job for OSC and State Agencies

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paycheck advice and we are deleting or truncating this number from forms and reports as much as possible. Dan Crowe was appointed as the first Chief of Information Security for the Bureau of State Payroll Services last year. And we continue to explore the possible conversion of the employee identifier in the payroll system from the Social Security number to a unique employee identification number.

With computer networks creating

greater ease of access, protecting private information from the wrong people is a challenge for all of us — OSC and State agencies. We are collectively charged with the responsibility of protecting the private data of the 250,000 plus employees of New York State government. We need to work together to make the necessary changes in our internal practices to ensure that we are effectively responding to the information security challenges of our times.