
**Alan G. Hevesi
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

DIVISION OF STATE SERVICES

DEPARTMENT OF STATE

**OVERSIGHT OF THE
ENHANCED WIRELESS 911
PROGRAM**

Report 2005-S-68

AUDIT OBJECTIVES

Our objectives were to (1) identify the status of enhanced wireless 911 service in each county as of April 2006, (2) determine whether the counties' progress in achieving this status was appropriately monitored by the Department of State, and (3) determine whether the State funding made available to the counties for enhanced wireless 911 systems was appropriately distributed by the New York State 911 Board and the Department of State.

AUDIT RESULTS - SUMMARY

Each county has an emergency call center to receive 911 calls made in that county. If the center is not equipped with an enhanced wireless 911 system, it cannot automatically identify the location of callers using cellular phones, making it difficult to send help to such callers when they are unable to identify their location. To encourage the counties to develop enhanced wireless 911 systems, State legislation enacted in 2002 made certain funding available to the counties and created the New York State 911 Board (Board), within the Department of State (Department), to facilitate and oversee the implementation of such systems.

We found that, as of April 2006, 43 of the 58 counties in New York State had completed their enhanced wireless 911 systems. However, the remaining 15 counties had not, even though State funding for such systems had been available for nearly four years. Ten of these 15 counties had made little or no progress on their systems, and as a result, efforts to respond to wireless 911 calls in those counties may, in some instances, be delayed. [Pages 4 - 5]

The Department is supposed to monitor the counties' progress in developing enhanced wireless 911 systems and provide assistance as needed. We found the Department did not actively track this progress and, consequently, was not well positioned to provide assistance to counties not making adequate progress. We recommend the Department actively oversee county efforts to develop enhanced wireless 911 systems, and work closely with any counties that are encountering difficulties. [Pages 6 - 9]

As of March 31, 2006, nearly \$150 million in State funding had been made available for enhanced wireless 911 systems. The distributions of these funds were to be made by the Board and the Department. We concluded that the Board and the Department were more intent on making this funding available to the counties than on ensuring it was used for the timely completion of enhanced wireless 911 systems. As a result, as of March 31, 2006, only about \$60 million of the nearly \$150 million had actually been spent and some of these expenditures did not promote the development of such systems.

We examined the awards and allocations of these funds and found they were not always made consistent with the legislation authorizing the funding. For example, \$18 million of the \$100 million in funding that was intended to expedite development of enhanced wireless 911 systems was awarded to counties that had already completed such systems. In addition, about \$1.8 million of \$5.7 million in expenditures we sampled were found to be inappropriate. They either were specifically ineligible per the Department's guidelines or they did not promote the development or maintenance of enhanced systems. We recommend certain changes in Board and Department funding practices. [Pages 9 - 20]

Our report contains 13 recommendations to improve the Department's oversight of the progress of counties in achieving enhanced wireless 911 service. Department officials generally agreed with our recommendations and have taken steps to implement changes.

This report, dated December 21, 2006, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

A caller dialing 9-1-1 should be connected with an emergency call center. These emergency call centers are staffed by emergency dispatchers who are trained to verify each caller's location, determine the nature of the emergency, and decide which emergency response teams (e.g., police, fire and/or ambulance services) should be notified. The location information is critical for ensuring a quick response, as the dispatcher uses this information to direct the response teams to the caller.

When a traditional landline telephone is used to make a 911 call, both the phone number and the caller's location can automatically be identified by the emergency call center. However, when a cellular (wireless) telephone is used, neither the phone number nor the caller's location can automatically be identified unless certain enhancements are made to the emergency call center. Three levels of enhanced wireless 911 service may be provided by an emergency call center, as follows:

- In Phase 0, the caller's telephone number can be identified by the emergency call center, but the caller's location at the time of the call cannot be identified.
- In Phase 1, the caller's telephone number and the cellular tower closest to the caller at the time of the call can be identified by the emergency call center.
- In Phase 2, the caller's telephone number, the cellular tower closest to the caller, and the approximate location of the caller at the time of the call can be identified by the emergency call center (the caller's location can be identified within 50 to 300 meters, depending on the type of technology used).

If no enhancements are made to an emergency call center, its wireless 911 service is classified as "basic." In basic service, a wireless 911 call can be received by an emergency call center, but the caller's phone number and location cannot be automatically identified. It should also be noted that enhanced wireless 911 service can only be provided if the cellular telephone making the call is equipped with the appropriate technology. (As of December 31, 2005, most cellular telephones were required by Federal regulations to be so equipped.)

In 2002, the State Legislature enacted Article 6-A of the County Law (County Law). This law makes certain funding available to counties that operate their own emergency call centers instead of contracting with the Division of State Police for emergency dispatch services. The funding is to come from (1) the State's monthly surcharge on cellular telephones and (2) the sale of certain bonds, and is to be used to develop or

maintain wireless 911 services with Phase 2 capability. As of March 31, 2006, nearly \$150 million in such funding had been made available for distribution, and nearly \$60 million had actually been disbursed to the counties.

The County Law also created the New York State 911 Board (Board) to facilitate and oversee the implementation of enhanced wireless 911 services throughout the State. The Board consists of 13 members, including the Secretary of State (who acts as Chairperson), the Commissioner of the Division of Criminal Justice Services, and 11 other members appointed by the Governor (six of whom must be recommended by either the President of the Senate or the Speaker of the Assembly). The 11 appointed members are to be representative of chiefs of police, sheriffs, fire chiefs, ambulance service providers, county 911 coordinators, emergency managers, local elected officials, wireless telephone service suppliers, or consumer advocates.

The Board is required by the County Law to promulgate minimum operating standards for all emergency call centers in the State, and the emergency call centers must certify their compliance with these standards biennially. The County Law also states that the Board shall “serve as a resource center for the gathering and dissemination of information and provide other assistance relating to 911 services and technologies. . . . monitor and periodically review the provision of 911 services throughout the State . . . [and] assist municipalities in developing plans to establish and implement enhanced 911 services utilizing state-of-the-art technologies and management systems.” According to the County Law, the Board is “established within the Department of State” (Department), and

the Department is to provide such assistance as is needed to carry out the Board’s duties. The counties are not required by law to have emergency call centers with Phase 2 capability. However, the Federal Communications Commission required cellular service providers to ensure that at least 95 percent of their cellular telephones were capable of supplying Phase 2 information to emergency call centers by December 31, 2005. Thus, if New Yorkers are to be able to take full advantage of this available technology and receive the best possible 911 emergency services, all the emergency call centers in New York State need to be upgraded to Phase 2 capability.

AUDIT FINDINGS AND RECOMMENDATIONS

Progress in Achieving Enhanced Wireless 911 Service

We found that, as of April 14, 2006, 43 of the 58 counties in New York State had emergency call centers with Phase 2 capability. However, the remaining 15 counties did not. Ten of these 15 counties had yet to attain even Phase 1 capability, and as a result, efforts to respond to wireless 911 calls in those counties may, in some instances, be delayed.

The Department is supposed to monitor the counties’ progress in attaining Phase 2 capability and provide assistance as needed. We found the Department did not actively track this progress and, consequently, was not well positioned to provide assistance to counties not making adequate progress. We recommend the Department actively oversee county efforts to develop enhanced wireless 911 services, and work closely with any counties that are encountering difficulties.

Status of Service in Each County

The Department maintains a map showing the status of each county, plus New York City (for the purposes of this program, New York City is considered a single county). The map was first created in November 2002 and has been updated periodically since then. The most recent map at the time of our audit field work was dated April 2006. The status of each county according to these two maps are summarized in the following table:

Wireless Capability	November 2002	April 2006
Basic	6	0
Phase 0	36	10
Phase 1	11	5
Phase 2	5	43
Total	58	58

As is shown in the table, during this 3.5-year period, the number of counties with Phase 2 capability increased from 5 to 43. This is a significant increase. However, 15 counties had yet to attain Phase 2 capability, as follows:

- Phase 0: Chenango, Columbia, Essex, Greene, Jefferson, Oswego, Putnam, St. Lawrence, Saratoga, and Seneca
- Phase 1: Cortland, Franklin, Nassau, Niagara, and Orleans

If an emergency call center has Phase 1 capability, the cellular tower closest to a wireless caller at the time of the call can automatically be identified by the emergency call center. As a result, the emergency dispatcher will have some idea of the caller's location, even if the caller is not able to

describe that location. However, if an emergency call center has Phase 0 capability, nothing about the caller's location at the time of the call can automatically be identified by the emergency call center. As a result, if the caller is not able to describe where he or she is located, the emergency dispatcher may not be able to send help.

As of April 14, 2006, 9 of the 58 counties contracted with the Division of State Police (Division) for emergency call center services. Seven of these counties were only temporarily contracting with the Division, as they had received State funding to develop Phase 2 capability and were constructing their own emergency call centers. The other two counties (Hamilton and Westchester) had no plans to operate their own emergency call centers, and thus had not received State funding.

Both Hamilton and Westchester Counties were receiving Phase 2 service from the Division. In addition, three of the seven counties temporarily contracting with the Division were also receiving Phase 2 service, while the remaining four were receiving Phase 0 service (see Exhibit A for a summary of the status of wireless 911 services in all 58 counties).

Thus, as of April 14, 2006, 4 of the 15 counties lacking Phase 2 capability were contracting with the Division until their new emergency call centers were completed and ready for use, and the remaining 11 counties were either upgrading their existing emergency call centers to Phase 2 or constructing new emergency call centers to replace the old ones. As is described in the following section of this report, we recommend the Department work closely with these 15 counties to expedite their development of Phase 2 capability.

Department Monitoring and Technical Assistance

The Department is responsible for monitoring and assisting county efforts to develop enhanced wireless 911 services. We found the Department collects information about the status of these services once a year and provides assistance when requested. However, the Department does not, on an ongoing basis, actively track the counties' progress in developing enhanced wireless 911 services, and consequently, is not well positioned to offer assistance when counties encounter difficulties. We also found the Department could do more to make useful information about enhanced wireless 911 services available to the counties.

Monitoring

The County Law states that the Board (and thus, the Department) is supposed to "monitor and periodically review the provision of 911 services throughout the State. . . . [and] assist municipalities in developing plans to establish and implement enhanced 911 services." We found the Department periodically reviews the counties' provision of wireless 911 services, but does not adequately monitor each county's progress in establishing and implementing enhanced wireless 911 services.

The Department reviews the counties' provision of wireless 911 services through an annual survey that is to be completed by the counties in conjunction with a site visit by Department staff. The purpose of the survey and site visits is to ascertain the status of the wireless 911 services in each county (i.e., owned or contracted, and Basic, Phase 0, Phase 1 or Phase 2). This information is used to determine each county's eligibility for State funding, and is also included in an annual report that is submitted to the Legislature, as required by the County Law.

The status information provided through the annual survey is thus useful and important. However, by itself, this information cannot enable the Department to adequately monitor county progress in attaining Phase 2 capability. To effectively monitor this progress, the Department needs additional information. Specifically, the Department needs to know (1) when counties lacking Phase 2 capability expect to attain that capability, (2) what actions still need to be taken by these counties, and (3) what obstacles are preventing these counties from reaching Phase 2. However, we found the Department does not have this information.

For example, at the Board's monthly meeting in February 2006, the Board asked the Department when counties not yet at Phase 2 would reach that level and what difficulties had been encountered by these counties in reaching that level. The Department was unable to provide this information to the Board at that time. The Department began gathering this information to provide to the Board at its next meeting, which was scheduled for May 2006.

Similarly, early in our audit, we asked Department officials why one of the counties had yet to make any enhancements to its wireless 911 service (at that time, this county was still providing basic service). The officials were unable to provide a reason for this lack of progress. If the Department had actively monitored the progress of the counties, and not just ascertained their status once a year, the officials would have been aware of the obstacles that were preventing this county from reaching Phase 2 and would have been in a position to help the county overcome these obstacles.

We spoke with one Board member who believed the Department was receiving regular progress reports from the counties.

This Board member also believed that, if the counties were having any difficulties reaching Phase 2, the Department would report this to the Board. However, we found no indication such progress reports were being submitted, even though the Department maintains contact with the counties throughout the year. We recommend the Department obtain such progress reports, and report any significant lack of progress to the Board.

We note that the Department has a basis for progress reports of this kind, as almost all the counties (56 of 58) submitted plans for enhancing their wireless 911 services. These plans were required from counties that applied for Expedited Deployment Funding, one of the two types of State funding that was made available for enhanced wireless services. The plans were submitted to the Department and became part of the Department's funding contract with each county. Each plan listed the specific actions that had to be taken by that county if its emergency call center was to reach Phase 2, and specified timeframes for each of these actions. These milestones could have been used by the Department to monitor county progress, as the Department could have requested periodic progress reports from each county and compared the county's progress against the milestones contained in its plan.

Department officials told us they did not do this because they believed the narrow timeframe to achieve Phase 2 capability was not realistic. A county could not qualify for the Expedited Deployment Funding unless its plan showed that its wireless enhancements would be in place within 180 days of the submission of the plan. Department officials said this timeframe, which was required by the County Law, was unreasonable because it did not take into account the time that was needed for the State's review and approval of the plan (each plan had to be approved by

both the Department and the Dormitory Authority of the State of New York, which issued the bonds that provided the funding). The funding could not be provided to the county until its plan was approved, and Department officials further noted that it might not even be realistic to expect a county to complete the procurement process for its enhancements within 180 days of receiving the funding.

We did not attempt to evaluate the reasonableness of the 180-day timeframe. However, the Department took no action beyond deciding this timeframe was unreasonable and did not monitor the counties' progress against the milestones contained in their approved plans. Department officials stated that they do not have the legal authority to force counties to complete their wireless enhancements within a specific time period, but we note that the Department could recover or withhold State funding if the work is not completed within the required timeframes, since the work plans are part of the counties' funding contracts with the Department. However, we believe it is important for the Department to monitor the counties' progress against these milestones and to intervene to help counties when they fall behind schedule. Accordingly, we recommend the Department monitor the progress made by the 15 counties that have yet to attain Phase 2 capability and provide assistance.

A total of 43 counties have Phase 2 capability. However, 12 of these counties did not develop this capability until sometime in 2005 and another eight counties did not develop this capability until sometime in 2006. If the Department had been actively monitoring the counties' progress since 2002 and providing assistance when it was needed, some of these counties may have been able to reach Phase 2 sooner.

For example, as is described in detail in the section of this report entitled *Audit Scope and Methodology*, we selected a judgmental sample of 15 counties and spoke with officials in 13 of these counties about their wireless enhancements. Officials at the remaining two counties did not respond. We found that the enhancement process was delayed at some of these counties for such reasons as difficulties in obtaining and installing equipment and difficulties in dealing with wireless service providers, particularly in regards to testing once the system was in place. If the Department had been actively monitoring the progress of these enhancements, it may have been able to help the counties resolve these difficulties sooner.

We also found that improvements are needed in the Department's administration of its annual survey of the counties. When we reviewed the completed surveys for 2002 through 2005, we identified inconsistencies, from year to year, in some of the answers provided by the counties. For example, in at least two of the four years reviewed, 30 counties gave different dates for when they began receiving wireless calls. As a result of such inconsistencies, the information obtained by the Department about enhanced wireless 911 services in the counties may not always be accurate and reliable.

Department officials stated that the inconsistencies may have been caused by different county representatives completing the surveys in different years. However, we determined that, in 11 of the 12 counties, the surveys were completed by the same person each year. It thus appears the Department needs to clarify its instructions for completing the survey. We recommend the Department provide such clarification and compare each county's survey against the prior year's survey to ensure the information is consistent.

Technical Assistance

The County Law states that the Board (and thus, the Department) shall "serve as a resource center for the gathering and dissemination of information and provide other assistance relating to 911 services and technologies." The Law also states that the Board shall "assist local governments . . . [by] encouraging the use of best practice standards among the public safety answering point community."

We examined the actions taken by the Department in serving as a resource center, providing technical assistance, and encouraging best practices in relation to wireless 911 services. We found the Department could be more active in these areas. For example, the Department has not established a central repository of information that can be shared with the counties. As of February 2006, the only information available on the Department's website was the County Law and the Board's operating standards for emergency call centers. The website had no information that would help counties reach Phase 2, such as best practices or contact information for wireless service providers.

We determined that the Department does operate a toll-free hotline, with information about enhanced wireless 911 services throughout the State. This hotline, however, is mostly intended to provide information to residents of the State about the status of each county. It is not intended to be a resource for the counties.

When we interviewed officials at the counties included in our judgmental sample, 12 of the 13 with whom we spoke stated they do contact the Department when they have questions. However, all 13 indicated that much of their technical assistance comes directly from contact with other counties

(such as through the NYS Statewide 9-1-1 Coordinators Association, which is a professional organization) or from technical consultants hired by the counties. Officials at nine of the counties stated they have worked closely with other counties, particularly three Phase 2 counties that give tours of their facilities to counties not yet at Phase 2. One county official said that it would have been helpful if the Department had provided contact information for the various wireless service providers, instead of leaving it to the counties to identify the appropriate people on their own.

Department officials told us that they provide assistance to the counties when requested. However, they assume the counties are knowledgeable about the technical aspects of enhanced wireless 911 systems. Consequently, the Department generally provides assistance by referring one county to another, more advanced county. Department officials believe this is the more efficient way to provide technical assistance, because each county has a different kind of enhanced wireless 911 system and different experiences during the implementation of the system. Thus, if a county is experiencing problems, the Department tries to refer it to a county that has a similar system.

We acknowledge the Department's efforts in this area, but note that the Department could offer more in the way of a resource center and do more to encourage best practices. We therefore recommend the Department work with the Board, the counties, and other interested parties to identify information that would help the counties attain and maintain Phase 2 capability and make this information available to the counties on an ongoing basis. In addition, as was noted previously in this report, we recommend the Department provide assistance to counties when they fail

to meet important milestones in the development of their wireless systems.

Recommendations

1. Obtain periodic progress reports from counties not yet at Phase 2, monitor their progress against the milestones in their approved plans, and provide assistance if the counties fall behind schedule.
2. Clarify the instructions provided to the counties for completing the annual survey.
3. Compare each county's completed annual survey against the prior year's survey to ensure the information is consistent, and follow up with counties to resolve any inconsistencies.
4. Work with the Board, the counties, and other interested parties to identify information that would help the counties attain and maintain Phase 2 capability, and make this information available to the counties on an ongoing basis.

Distribution of State Funding

The County Law made two types of State funding available to the counties. The first type (Surcharge Funding) is a specified portion of the State's monthly surcharge on cellular telephones. This funding has been available for enhanced wireless 911 services since 2002. Surcharge funding is available to counties that operate their own emergency call centers, as long as they comply with the Board's operating standards for emergency call centers. As of March 31, 2006, a total of \$50 million in Surcharge Funding had been set aside for county use and \$37.2 million of this amount had been disbursed to counties.

The second type of funding (Expedited Deployment Funding) is generated by the sale of certain bonds, and has been available since 2004. This funding is available to any county that makes a commitment to develop its own Phase 2 capability within 180 days. A total of \$100 million in such funding was authorized by the Public Authorities Law. As of March 31, 2006, a total of \$98.3 million in Expedited Deployment Funding had been set aside for county use and \$22.6 million of this amount had been disbursed to counties.

According to the County Law, both types of funding are to be used for the “design, installation or maintenance of a system to provide enhanced wireless 911 service, including, but not limited to, hardware, software, consultants, financing and other acquisition costs.” However, operating expenses cannot be funded by Expedited Deployment Funds, because they are generated by tax-exempt bonds. Both types of funding reimburse eligible expenses that have been incurred by the counties, though counties may also receive advances of Expedited Deployment Funding.

The Board and the Department are responsible for distributing the funding to the counties. This is a two-step process. First, the available funding must be allocated or awarded to each eligible county. Surcharge Funding is allocated annually, based on population. Expedited Deployment Funding has been awarded twice, in March 2004 and again in March 2005, after funding applications were received from interested counties.

After the funding is allocated or awarded, counties must submit a reimbursement request or a request for an advance. The request is reviewed by the Department and if it is approved, the Department makes a disbursement from the county’s allocation or

award. The allocations, awards and disbursements are governed by requirements contained in the County Law and guidelines developed by the Board.

We examined the distribution of the funds by the Board and the Department between May 29, 2002 and March 31, 2006. We examined the award of Expedited Deployment Funding and the allocation of Surcharge Funding for the entire period, and the disbursement of both types of funding to 15 selected counties for the period May 1, 2002 through December 31, 2005. We also examined certain special allocations that were intended to reimburse counties for wireless 911 costs incurred prior to 2002.

We found that these allocations, awards and disbursements were not always consistent with the intent of the County Law and the Board’s guidelines, as follows:

- The Board’s guidelines state that, when Expedited Deployment Funding is awarded, priority would be given to counties not yet at Phase 2. However, funding applications were not prioritized on this basis. In fact, all the counties submitting applications appeared to have an equal chance of being awarded funding, and counties were generally awarded as much as they requested. As a result of this lack of prioritization, \$19 million was awarded to counties already at Phase 2, even though there was no assurance the remaining \$81 million in available funding would be sufficient to get non-Phase 2 counties to Phase 2.
- According to the County Law, counties receiving Expedited Deployment Funding were supposed to expedite their development of Phase 2 capability and reach that level within 180 days. However, the Board did not attempt to

hold counties to this, or any other, timetable. In fact, most counties received two awards of Expedited Deployment Funding a year apart (in March 2004 and again in March 2005), which was clearly inconsistent with the 180-day timeframe specified in the County Law.

- Counties operating their own emergency call centers are eligible for Surcharge Funding, as long as they comply with the Board's operating standards for emergency call centers. However, in 2005, the Department allocated \$6.1 million in Surcharge Funding to 25 counties that either were not in compliance with these operating standards or had not certified their compliance, as required by the County Law.
- About \$1.8 million of \$5.7 million in Surcharge Funding disbursements made to the 15 counties in our sample should not have been made, as the expenses reimbursed by the funds either were clearly ineligible for reimbursement or appeared to be ineligible because they did not promote the development or maintenance of enhanced wireless 911 services.
- According to the County Law, between 2002 and 2004, about \$3 million in Surcharge Funding was to be set aside and allocated to the counties that had provided wireless 911 services prior to 2002. We found that the Department set aside the funding as required, but did not allocate it as required. Instead, the Department allocated the funding to all counties receiving Surcharge Funding those years, regardless of whether they provided wireless 911 services prior to 2002. As a result, \$141,395 that should have been allocated to the 31 counties

that provided wireless services before 2002 was instead allocated to 14 counties that did not.

The Department is also responsible for reviewing documentation in support of the counties' reimbursed expenses to ensure that the expenses are valid and appropriate. However, we found the Department has reviewed little of this documentation, and as a result, has little or no assurance the reimbursed expenses are valid and appropriate.

In some instances, counties were advanced Expedited Deployment Funding. These counties were supposed to use the funds within 60 days and submit documentation of the expenses within 180 days. However, the documentation was not submitted as required and the Department did not begin to follow up with the counties until December 2005, nearly 18 months after the first advance was made. During this initial follow-up, the Department discovered that one county had yet to spend any of the advanced funds.

Based on our review of the transcripts of Board meetings and our discussions with Department officials, we believe the Board and Department were more intent on providing funding to the counties, and were less intent on ensuring that the funding was actually used to develop Phase 2 capability in all counties. As a result, as of March 31 2006, only about \$60 million of the nearly \$150 million made available to the counties for enhanced wireless 911 services had actually been spent. Some of these expenditures did not promote the development of enhanced wireless 911 services, and 15 of the 58 counties had yet to develop Phase 2 capability.

Additional details about these matters are presented in the following sections of this report.

Awarding of Expedited Deployment Funding

Expedited Deployment Funding is generated by the sale of certain bonds. Specifically, the Public Authorities Law authorizes the Dormitory Authority of the State of New York (DASNY) to issue up to \$100 million in bonds, the proceeds of which are to be used for the development of enhanced wireless 911 services in New York State. The Board is required by the County Law to award the bond revenue on the basis of applications from interested counties. The applications are to be submitted to the Board and DASNY for review and approval (DASNY reviews the applications to ensure that the expenses planned by each county can legally be funded by tax-exempt bonds). To be eligible for the funding, a county must make a commitment to develop its own Phase 2 capability within 180 days of the application's submission and, as previously noted, include a detailed plan documenting its ability to do this.

Expedited Deployment Funding was authorized by a 2003 amendment to the County Law. The funding was not made available until 2004, because the Board had to develop application and award guidelines, issue the guidelines to the counties, and give interested counties time to complete their applications.

The Board initially awarded Expedited Deployment Funding to the counties in March 2004, and again in March 2005. In each instance, the Department mailed application packages to all the counties in the State, regardless of their 911 wireless status (some of these counties were already at Phase 2). In 2004, a total of 49 counties submitted

applications. In 2005, a total of 56 counties submitted applications (the same 49 plus seven others). The only two counties not to submit applications were Hamilton and Westchester Counties, as they intended to continue contracting with the Division of State Police for emergency dispatch services instead of building their own emergency call center.

In 2004, the Board awarded \$50.1 million to 48 of the 49 counties applying (one county was denied funding because it requested items that were not eligible for funding), and in 2005, the Board awarded \$48.2 million to all 56 counties applying. Thus, as of March 31, 2006, the Board had awarded \$98.3 of the \$100 million authorized by the County Law. Only \$22.6 million of this amount had been disbursed to the counties, because that is all the counties had requested in reimbursements or advances. Because of the low level of disbursements, as of March 31, 2006, DASNY had issued only \$35 million in bonds.

The counties' use of the \$98.3 million is governed by their funding agreements with the Department. These agreements expire on December 31, 2006. Thus, if a county does not use all of its awarded funds by that date, the unspent funds will be available for possible distribution in the future, unless the county's funding agreement is extended by the Board.

We examined the actions taken by the Board in evaluating the counties' funding applications and in awarding funding to counties. According to the Board's application and award guidelines, priority was to be given to counties not yet at Phase 2 when the funding was awarded. However, we found the counties' applications were not prioritized on this basis. In fact, all the counties submitting applications appeared to

have an equal chance of being awarded funding, as follows:

- In 2004, the applications were not prioritized because the total amount of funding requested by the counties was less than the \$100 million maximum authorized by the County Law. Instead, the Board reviewed the applications in alphabetical order by county name. One county requesting ineligible items was denied, and the remaining 48 counties were awarded the full amount of funding they requested (\$50.1 million in total).
- In 2005, the applications were prioritized, because the total amount requested exceeded the \$49.9 million available in remaining funding. This prioritization consisted of reviewing applications for primary emergency call centers before reviewing applications for backup emergency call centers (a backup emergency call center provides service in the event the primary emergency call center is not available). No additional prioritization was documented in the Board meeting minutes. However, all 56 applications (including those for backup emergency call centers) were approved. Certain individual items in some of the applications were denied, which kept the total awards within the amount of funding still available. A total of \$48.2 million was awarded to the 56 counties, including \$19.0 million that was awarded to 19 counties already at Phase 2 at the time of their applications (these counties intended to upgrade or replace existing Phase 2 equipment).

As a result of the general lack of prioritization, counties already at Phase 2

were given additional funding at the same time that other counties had yet to even reach Phase 2. The Board is considering targeting these non-Phase 2 counties with the remaining Expedited Deployment Funding, but only \$1.7 million in authorized funding remains uncommitted and that might not be enough to meet the needs of the 15 counties still without Phase 2 capability.

We also note that counties receiving Expedited Deployment Funding were supposed to reach Phase 2 quickly (within 180 days). To help ensure quick development of Phase 2 capability, the counties were required by the County Law to submit a detailed plan describing how they would reach Phase 2 within the 180-day timeframe and the Board was required to review the plan for completeness. However, at least five of the plans approved by the Board in 2004 were not complete. As a result, these counties could not reach Phase 2 on the basis of those plans and applied for additional funding in 2005.

Department officials acknowledged that some of the expedited deployment plans approved in 2004 were incomplete, because the counties had not requested enough equipment to complete their enhanced wireless 911 systems. The officials stated that, due to the compressed time for submitting funding applications, some counties did not have enough time to develop a comprehensive plan. The officials indicated that the Board decided to approve the plans - even though they were incomplete - so that the counties could begin working on their enhanced wireless 911 systems. The officials also indicated that the Board expected these counties to apply for more funding in 2005.

We question the approach taken by the Board. In extending the funding process for expedited deployment over a two-year period

for these counties, the Board was acting in a manner that was not consistent with the County Law, as the Law states that counties receiving the funding are to develop Phase 2 capability within six months (180 days). We also determined that additional non-Phase 2 counties - the counties specifically targeted by the County Law for Expedited Deployment Funding - might have submitted applications in 2004 if more of an effort had been made to reach out to these counties. Of the ten counties which did not receive expedited deployment money in the first round, two did not plan to build their own facilities and one applied, but was denied. Of the seven counties which did not apply for the first round, two were included in our sample. When we spoke with officials from those two counties, we learned that one county did not know it was eligible to apply in 2004 and the other county wanted to apply in 2004, but was unable to prepare an application in time. The eight counties which planned to build their own facilities all applied in the second round, and all eight received awards.

To fully meet the intent of the County Law, the Board should have given priority to non-Phase 2 counties when the funding was first awarded in 2004. Specifically, the Board should have conducted a comprehensive assessment of the equipment and other assistance these counties needed to reach Phase 2, and worked with the counties to ensure that their expedited deployment plans met these needs. The Board then should have awarded the funding in accordance with these needs, ensuring that all basic Phase 2 needs were met before further upgrades were funded. We recommend the Board take this approach with the remaining \$1.7 million in Expedited Deployment Funding and any of the previously awarded funding that is still unspent on December 31, 2006, when the funding agreements with the counties expire

(recognizing that some funding agreements may have to be extended to enable counties to meet financial commitments that were made on the basis of the funding).

Board and Department officials defended the awards that were made to counties already at Phase 2. A Board member stated that the Board wanted to make sure all the counties had equivalent wireless 911 systems. Thus, counties that had already completed their enhanced wireless 911 systems were awarded money so they could acquire the same newer technology as counties which had not yet completed their systems. Department officials noted that some counties reached Phase 2 by upgrading their existing equipment. They did not purchase new equipment. The officials stated that, while this was less expensive in the short run, the old equipment would have to be replaced soon and some of it was already obsolete. The officials further noted that, according to the County Law, the Board is supposed to assist the counties in developing plans for state-of-the-art enhanced 911 services. They therefore believe it was appropriate for the Board to approve plans submitted by counties already at Phase 2.

We agree that these awards, by themselves, may not have been inappropriate. However, when the needs of the non-Phase 2 counties are taken into account, the awards to the Phase 2 counties appear to be inconsistent with the regulations issued by the Board which state that Expedited Deployment Funding is intended "to encourage the rapid deployment of enhanced wireless 911" services and that priority will be given to counties not yet at Phase 2. By failing to give this priority, the Board did not adequately encourage the *rapid* deployment of enhanced wireless 911 services, as the Expedited Deployment Funding was intended to do.

Allocation of Surcharge Funding

According to the County Law, each year, a specified portion of the revenues from the State's monthly surcharge on cellular telephones is to be allocated among eligible counties on the basis of their population. A county is eligible if it has operated its own emergency call center for at least part of the 12 months prior to the date when eligibility is being determined, and if it complies with all standards issued by the Board regarding emergency call center operations.

Each year, the Department identifies the eligible counties and calculates their allocations. To determine whether a county has operated its own emergency call center for at least part of the prior 12 months, the Department refers to its most recent annual survey of the counties. To determine whether a county is in compliance with the Board's operating standards for emergency call centers, the Department can refer to the county's most recent certification of compliance, which is to be filed with the Department biennially. The Department can also refer to the annual survey, as some of the questions on the survey address the county's compliance with these standards.

To determine whether the counties allocated Surcharge Funding for 2005 were in fact eligible for the funding, we reviewed the annual surveys for 2005 and the biennial certifications of compliance for 2005. A total of 47 counties were allocated \$10 million in Surcharge Funding for that year. However, we found that 25 of these counties may not have been eligible for the funding, as one county (New York City) had not filed the required certification of compliance for 2005 (New York City also failed to file the 2005 annual survey) and, according to the annual survey for that year, 24 other counties were not in compliance with one or more of the

Board's operating standards for emergency call centers. These 25 counties were allocated a total of \$6.1 million in Surcharge Funding for that year.

The Board's operating standards address the four following areas of emergency call center operations: call-taker and dispatcher training; minimum staffing levels; equipment/facility reliability and security; and jurisdictional protocols (there are overlapping jurisdictions in some areas of the State). According to the County Law, if a county does not comply with these standards, it must submit a corrective action plan for the Board's review and approval. The Board is then required to monitor the county's adherence to the approved corrective action plan. The county would not be eligible for Surcharge Funding until the corrective action plan has been fully implemented and the county's emergency call center is in compliance with all the operating standards. The Board is authorized to issue variances for instances of non-compliance. If a variance is issued, the county is not required to develop a corrective action plan (though in its application for a variance, the county must describe its alternative procedure).

Some of the types of non-compliance we identified were minor, such as not having a written training plan. Others were more significant, such as not restricting emergency call center access to authorized personnel only and not having written procedures for the emergency recall of off-duty employees. The County Law, though, requires a county to comply with all the standards to be eligible for an allocation of Surcharge Funding.

We note that all 24 counties submitted a certification of compliance for 2005, and all 24 certified that they were in compliance with all operating standards. We also note that, while questions in the annual survey address compliance with three of the four types of

operating standards, they do not address compliance with the fourth type of standard (jurisdictional protocols). Consequently, we could not verify the counties' compliance with that standard. We further note that we found no evidence any variances were issued by the Board for any of these counties.

When we shared our findings with Department officials, they indicated that discrepancies between the certifications of compliance and the survey could be a result of the two documents being completed at different points in time. However, our further review of the 2005 signed certifications of compliance submitted by the 24 counties indicated that 11 signed the certification the same day as they completed their survey and eight signed the certification no later than a month after completing the survey. It thus appears the discrepancies were not caused by differences in timing.

We recommend the Department routinely review the questions in the annual surveys addressing compliance with emergency call center operating standards to determine whether the counties are in fact in compliance with these standards. We also recommend the Department follow up on the instances of non-compliance that were identified by our audit, and refer all confirmed instances to the Board for appropriate action. Such action should include a re-allocation of the Surcharge Funding for 2005 if any of the counties receiving that funding are determined to be ineligible by virtue of their non-compliance. We further recommend the Department obtain the missing annual survey and missing certification of compliance from New York City.

In addition, as was previously noted, we also examined certain special Surcharge Funding allocations that were intended to reimburse counties for wireless 911 costs incurred prior

to 2002, and determined that \$141,395 was incorrectly allocated to 14 counties. During this examination, we also determined that one county was incorrectly allocated \$2,899 less than it should have been. We recommend that these errors be corrected and the special allocations be recalculated to account for the corrections.

Disbursement of Funding

Counties submit their reimbursement requests to the Department. The Department reviews the requests to determine whether the items included are eligible for reimbursement, and approves or denies the requests accordingly. The Department then authorizes disbursements for the requests that have been approved. The Department reports total disbursements to the Board on a county-by-county basis at each Board meeting.

We audited the disbursements made to the 15 counties in our sample during the period May 1, 2002 through December 31, 2005. During this period, the 15 counties received a total of \$5.7 million in Surcharge Funding reimbursements, \$684,117 in Expedited Deployment reimbursements, and \$3.8 million in Expedited Deployment advances. Fourteen of the 15 counties received Surcharge Funding reimbursements and 13 of the 15 counties received Expedited Deployment Funding. To determine whether the disbursements were appropriate, we referred to the relevant provisions in the County Law, the reimbursement guidelines issued to the counties by the Department, and the counties' approved Expedited Deployment plans.

We found that all \$684,117 in Expedited Deployment reimbursements were appropriate, as all reimbursed items were included on the counties' approved Expedited Deployment plans and all were eligible for

reimbursement. We further determined that none of the items were reimbursed twice (i.e., by both Surcharge Funding and Expedited Deployment Funding).

We also found that all \$3.8 million in Expedited Deployment advances were distributed in a manner that was consistent with Department guidelines. A total of seven counties received an advance, one of which requested that its entire allocation of \$382,352 be advanced. These counties were supposed to use the funds within 60 days and submit documentation of the expenses within 180 days. However, none of the counties complied with this requirement and the Department did not begin to follow up with the counties to determine whether the funds had been used appropriately until December 2005, nearly 18 months after the first advance was made. During this initial follow-up, the Department discovered that one county had yet to spend any of its advance. Department officials stated they plan to recoup the interest earned by the county for the period of time it had the money without spending it.

We also found that \$1.8 million of \$5.7 million in Surcharge Funding reimbursements should not have been made, because the expenses reimbursed either (1) were clearly ineligible for reimbursement (\$148,969), (2) were not directly related to the provision of enhanced wireless 911 services (\$352,222), or (3) sustained the county's current system rather than resulting in progress towards Phase 2 (\$1,339,500).

We distinguish between expenses that were clearly ineligible and those that appeared to be ineligible because the Department's reimbursement guidelines state that, to be eligible for reimbursement, expenses must promote the development or maintenance of enhanced wireless 911 services. The guidelines then give examples of expenses

that are always ineligible (these examples are not intended to be all-inclusive). We categorized as clearly ineligible any expenses that were included among these examples (e.g., the cost of laptop computers). If an expense did not promote the development or maintenance of enhanced wireless 911 services, but was not included among the examples (e.g., maintenance costs for existing equipment that would not enable a county to reach Phase 2), we categorized the expense as apparently ineligible.

Department officials stated that the Board had interpreted the reimbursement guidelines more broadly than we did. However, the officials agreed with our stricter interpretation. They stated that they plan to bring the matter to the attention of the Board, revise the guidelines to make the counties aware of the stricter interpretation, and use the stricter interpretation when reviewing future reimbursement requests.

We note that many of the inappropriate reimbursements in our sample were made to six counties, none of which had reached Phase 2 on March 31, 2006. In fact, only three of the six counties had even reached Phase 1. The six counties received a total of about \$2.3 million in Surcharge Funding reimbursements during the period we reviewed, and we determined that only \$869,410 of this amount (38 percent) related to expenses that promoted the development or maintenance of enhanced wireless 911 services (e.g., the purchase of upgraded equipment or software). The remainder of the reimbursements related to expenses that either were clearly ineligible for reimbursement (\$126,820 for training, laptop computers, office supplies, weather data, and other items) or appeared to be ineligible, because they did not promote the development or maintenance of enhanced wireless 911 services (\$1,339,500 for the maintenance of existing

equipment that would not enable the counties to reach Phase 2).

For example, one of the six counties provided only Basic wireless 911 service until January 2006. The county received \$99,123 in Surcharge Funding to reimburse costs incurred in leasing lines and equipment that maintained this Basic service. At the same time, the county was awarded \$912,234 in Expedited Deployment Funding to build a new emergency call center at a different location. The Expedited Deployment Funding was consistent with the intent of the County Law, as it enabled the county to develop enhanced wireless 911 service. However, the Surcharge Funding was not consistent with the County Law, as the Law specifically states that the funding should be used only for the “design, installation, and maintenance of a system to provide enhanced 911 service,” not to maintain existing Basic wireless 911 service.

We recognize that this county needed its leased lines and equipment to operate its old emergency call center while the new emergency call center was being built, just as we recognize that items such as laptop computers, office supplies and weather data are needed to operate an emergency call center. However, the County Law does not authorize the funding of Basic emergency call center operations; rather, it authorizes funding that will enable emergency call centers to reach Phase 2. The maintenance of existing equipment is eligible for reimbursement only if that equipment can still be used in the county’s new Phase 2 system. If the equipment cannot be used in a Phase 2 system and must be discarded once such a system is in place (such as leased lines not compatible with Phase 2 equipment), the maintenance costs for the equipment should not be reimbursed.

Documentation of Expenses

Counties requesting reimbursements against their Surcharge Funding allocations are not required to submit documentation supporting the expenses claimed. However, they must maintain the supporting documentation, which the Department may review. As of January 2006, the Department had not attempted to review any of this supporting documentation, even though the counties had been reimbursed for \$32.5 million in claimed expenses from these allocations. Moreover, Department officials told us they do not intend to conduct any reviews of this supporting documentation. In the absence of such reviews, the Department has no assurance the expenses claimed by the counties are valid and appropriate. We recommend the Department perform such reviews.

Counties requesting reimbursements against their Expedited Deployment allocations are required to submit documentation supporting the expenses claimed. Specifically, the counties are required to submit a Certificate of Project Completion (Certificate) within six months of receipt of funding. This Certificate consists of a detailed description of the county’s current status, an itemized list of all purchases made with Expedited Deployment money, and copies of all invoices for the items on the list.

Ten of the 15 counties in our sample received Expedited Deployment funding, and as of April 14, 2006, nine of the ten counties had been in possession of the funding for more than 180 days. In fact, five of these counties had the funding for more than a year, including two that had the funding for more than 18 months. However, none of the counties had submitted a complete Certificate to the Department (some had submitted partial documentation), and the Department

had not followed up with any of the counties to obtain the required documentation.

Department officials said they would review the documentation when they performed on-site reviews of the counties' Expedited Deployment activities. However, such reviews are not scheduled to begin until December 2006, when the funding contracts with the counties expire. We recommend the Department obtain expense documentation from all counties that have had Expedited Deployment Funding for more than 180 days, and review this documentation for compliance with the terms of the funding agreements. If a county has not had its Expedited Deployment Funding for more than 180 days, we recommend the county be required to comply with the terms of its funding agreement and submit all expense documentation, along with a Certificate of Project Completion, within 180 days of receipt of the funding.

Recommendations

5. Before awarding the remaining Expedited Deployment Funding to any counties, conduct a comprehensive needs assessment of the counties that have yet to reach Phase 2, work with these counties to ensure that their Expedited Deployment plans adequately meet their Phase 2 needs, and fully fund these needs before funding any other needs.
6. Before extending any of the agreements for Expedited Deployment Funding, determine whether any of the unspent funding should be made available to counties not yet at Phase 2.
7. Routinely review the county's responses to the annual survey addressing compliance with emergency call center operating standards to determine whether

the counties are in compliance with these standards.

8. Follow up on the instances of non-compliance with emergency call center operating standards identified by our audit, and refer all confirmed instances to the Board for appropriate action. Such action should include a re-allocation of the Surcharge Funding for 2005 if any of the counties receiving that funding are determined to be ineligible by virtue of their non-compliance.
9. Obtain the missing annual survey and missing certification of compliance from New York City.
10. Correct the errors in the special Surcharge Funding allocations for wireless 911 service provided prior to 2002 and recalculate the allocations accordingly.
11. Approve reimbursement requests against Surcharge Funding allocations only when the claimed expense enables the county to reach or maintain Phase 2 capability, and notify the counties of this change in reimbursement practices.
12. For selected counties, review the documentation supporting the expenses claimed in the counties' requests for reimbursement against their Surcharge Funding allocations.
13. Obtain expense documentation from all counties that have had Expedited Deployment funding for more than 180 days, and review this documentation for compliance with the terms of the funding agreements. If a county has not had its Expedited Deployment funding for more than 180 days, require the county to comply with the terms of its funding agreement and submit all expense

documentation, along with a Certificate of Project Completion, within 180 days of receipt of the funding.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the Department's oversight of the enhanced wireless 911 program for the period May 29, 2002 through April 14, 2006. To accomplish our objectives, we met with Department officials and staff and with representatives of the Board. In addition, we reviewed relevant provisions of the County Law, the standards issued by the Board, and transcripts of Board meetings. We also reviewed relevant documentation maintained by the Department.

We selected a judgmental sample of 15 counties from the 49 counties operating their own emergency call center in January 2006. We judgmentally selected counties that had made differing degrees of progress in enhancing their wireless 911 services. Specifically, we selected:

- four counties (out of 24) that had achieved Phase 2;
- two counties (out of six) that made no progress toward achieving Phase 2;
- two counties (out of four) that made limited progress;
- five counties (out of 13) that had switched from relying on an emergency call center operated by the Division of State Police to operating one of their own; and
- two counties (out of two) that indicated in an annual survey that they had dropped to a lower level of wireless 911 service (we subsequently

learned that the counties had not, in fact, dropped to a lower level service; rather, they had incorrectly reported their wireless status in the annual survey).

We reviewed these counties' Expedited Deployment applications and awards, and approved reimbursements against both their Expedited Deployment and Surcharge Funding allocations. We also interviewed officials at 13 of the counties regarding their enhanced wireless 911 program.

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, several of which are performed by the Division of State Services. 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 management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The 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.

REPORTING REQUIREMENTS

Draft copies of the matters contained in this report were provided to Department officials

for their review and comment. Their comments were considered in preparing this report. A complete copy of the Department's response is included as Appendix A. Department officials generally agreed with our recommendations and have indicated actions being taken to implement change. Appendix B contains State Comptroller's comments which address matters of disagreement contained in the Department's response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the

Department of State 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.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, Cindi Frieder, Christine Rush, Jennifer Paperman, Jacqueline Keeys-Holston, Resa Ostrander, Holly Thornton, W Sage Hopmeier, and Dana Newhouse.

Exhibit A**Summary of the Status of Wireless 911 Service in Each County
As of April 14, 2006**

County	Who Operates Emergency Call Center?	If County, When Began Operation	Phase	If Phase 2, Since When?
Albany	State		Phase 2	Before 2002
Allegany	County	Before 2002	Phase 2	2003
Broome	County	Before 2002	Phase 2	2004
Cattaraugus	County	Before 2002	Phase 2	Before 2002
Cayuga	County	2003	Phase 2	2006
Chautauqua	County	Before 2002	Phase 2	2004
Chemung	County	Before 2002	Phase 2	2005
Chenango	County	Before 2002	Phase 0	
Clinton	County	2003	Phase 2	2004
Columbia	State		Phase 0	
Cortland	County	Before 2002	Phase 1	
Delaware	County	Before 2002	Phase 2	2006
Dutchess	County	2003	Phase 2	2005
Erie	County	Before 2002	Phase 2	2004
Essex	County	2003	Phase 0	
Franklin	County	2004	Phase 1	
Fulton	County	Before 2002	Phase 2	2005
Genesee	County	Before 2002	Phase 2	2003
Greene	County	2005	Phase 0	
Hamilton	State		Phase 2	2004
Herkimer	County	Before 2002	Phase 2	2003
Jefferson	State		Phase 0	
Lewis	County	Before 2002	Phase 2	2005
Livingston	County	Before 2002	Phase 2	2003
Madison	County	2003	Phase 2	2006
Monroe	County	Before 2002	Phase 2	2003
Montgomery	County	Before 2002	Phase 2	2005
Nassau	County	Before 2002	Phase 1	
New York City	County	Before 2002	Phase 2	2004
Niagara	County	Before 2002	Phase 1	
Oneida	County	Before 2002	Phase 2	2005

County	Who Operates Emergency Call Center?	If County, When Began Operation	Phase	If Phase 2, Since When?
Onondaga	County	Before 2002	Phase 2	2003
Ontario	County	Before 2002	Phase 2	2003
Orange	County	2004	Phase 2	2006
Orleans	County	Before 2002	Phase 1	
Oswego	County	Before 2002	Phase 0	
Otsego	County	Before 2002	Phase 2	2003
Putnam	State		Phase 0	
Rensselaer	State		Phase 2	Before 2002
Rockland	County	2003	Phase 2	2005
St. Lawrence	County	Before 2002	Phase 0	
Saratoga	State		Phase 0	
Schenectady	State		Phase 2	Before 2002
Schoharie	County	2005	Phase 2	2005
Schuyler	County	Before 2002	Phase 2	2005
Seneca	County	Before 2002	Phase 0	
Steuben	County	2005	Phase 2	2005
Suffolk	County	Before 2002	Phase 2	2003
Sullivan	County	2004	Phase 2	2005
Tioga	County	Before 2002	Phase 2	2006
Tompkins	County	Before 2002	Phase 2	2006
Ulster	County	2003	Phase 2	2004
Warren	County	Before 2002	Phase 2	2005
Washington	County	2004	Phase 2	2006
Wayne	County	Before 2002	Phase 2	2004
Westchester	State		Phase 2	2004
Wyoming	County	Before 2002	Phase 2	2006
Yates	County	Before 2002	Phase 2	2003

APPENDIX A - AUDITEE RESPONSE



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

November 30, 2006

CHRISTOPHER L. JACOBS
SECRETARY OF STATE

Mr. Frank J. Houston
Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street - 21st Floor
New York, NY 10038

Dear Mr. Houston:

We have reviewed the Office of the State Comptroller's audit report (2005-S-68) addressing the Department of State's oversight of the enhanced wireless 911 program for the period May 29, 2002 through April 14, 2006. Our comments and responses to the 13 recommendations made in that report follow below. We understand that our response will be appended to and released with your final report.

Before addressing the specific recommendations in your draft report, I would like to note our Department's disagreement with your assessment of the lack of county "progress" toward achieving Phase 2. At the time the initial legislation was enacted in May of 2002, one county was capable of Phase 2 wireless 911 call receipt; as of Friday, April 14, 2006, 42 counties and the City of New York were Phase 2 capable. As of November 30th, 49 are Phase 2 capable. This is real, measurable progress.

It should also be noted that the last sentence of the first paragraph on the right side of page 17 is incorrect. It states that we "plan to charge this county interest for the period of time it had the money without spending it." It should state that we plan to recoup the interest earned by the county for the period of time it had the money without spending it.

Recommendation # 1

Obtain periodic reports from counties not yet at Phase 2, monitor their progress against the milestones in their approved plans, and provide assistance if the counties fall behind schedule.

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Response: Department staff contacts the counties at least quarterly and periodically provides updated maps and information to the 911 Board. This is in addition to the annual survey and telephone communications, e-mails and on-site visits. Although, initially, telephone logs of contacts were not maintained, this has been corrected and staff assigned to the 911 program are keeping a master log of contacts with counties.

Recommendation # 2

Clarify the instructions provided to the counties for completing the annual survey.

Response: This was implemented June 1, 2006.

Recommendation # 3

Compare each county's completed annual survey against the prior year's survey to ensure the information is consistent, and follow up with counties to resolve any inconsistencies.

Response: Policy implemented September 1, 2006 for the annual surveys.

Recommendation # 4

Work with the Board, the counties, and other interested parties to identify information that would help the counties attain and maintain Phase 2 capability, and make this information available to the counties on an ongoing basis.

Response: On November 14, 2006, the 911 Board held a meeting in cooperation with the NYS 911 Coordinators Association. The Board directed Department staff to develop additional information sources on the Department's website such as "hot links" to manufacturers and other professional organizations, reports from incidents describing Phase 2 "success stories," as well as failures, and recommended actions to improve Phase 2 service. The Department has begun compiling the information to be posted on our website.

Recommendation # 5

Before awarding the remaining Expedited Deployment Funding to any counties, conduct a comprehensive needs assessment of the counties that have yet to reach Phase 2, work with these counties to ensure that their Expedited Deployment plans adequately meet their Phase 2 needs, and fully fund these needs before funding any other needs.

Response: See response to Recommendation # 6.

Recommendation # 6

Before extending any of the agreements for Expedited Deployment Funding, determine whether any of the unspent funding should be made available to counties not yet at Phase 2.

Response to #5 & # 6: Department of State staff and the 911 Board conducted a needs assessment of the counties not yet Phase 2 capable. At this time there appear to be no unfunded or under-funded items and the current plans on file with the Department adequately address county needs. The delays in reaching Phase 2 capability are related to construction of new facilities or vendors being unable to meet contract/equipment order requests in the specified time frames. It does not appear that funding is an issue for achievement of Phase 2 capability.

Recommendation # 7

Routinely review the county's responses to the annual survey addressing compliance with emergency call center operating standards to determine whether the counties are in compliance with these standards.

Response: Policy implemented September 1, 2006 for the annual surveys.

Recommendation # 8

Follow up on the instances of non-compliance with emergency call center operating standards identified by our audit, and refer all confirmed instances to the Board for appropriate action. Such action should include a re-allocation of the Surcharge Funding for 2005 if any of the counties receiving that funding are determined to be ineligible by virtue of their non-compliance.

Response: As part of the survey for state fiscal year 2005-2006, counties were required to submit a written statement indicating compliance with the standards promulgated by the 911 Board. Both the Department and the Board accepted those certifications at face value.

Based on preliminary reports, as well as guidance from the OSC audit team, Department staff modified the survey instrument used for 2006-2007. These modifications included specific questions and a detailed listing of the standard requirements to provide an accurate indication of actual compliance. This more detailed information allowed the Department and Board to conduct their own assessment of county compliance.

At its November 14, 2006 meeting, the 911 Board reviewed the most current non-compliance report generated as a result of this year's survey and directed Department staff to contact the counties for submission of Compliance Plans. This effort is currently underway. The counties have up to 120 days to submit their compliance plans and, once these plans are approved by the Board, the county will be deemed to be in compliance.

We believe it is not practical, feasible, or productive to calculate re-allocations of surcharge funding for state fiscal year 2005-2006. Based on the survey and compliance report for 2006-

2007, the Department is withholding notice of allocation letters until acceptable compliance plans are filed with the Board.

Recommendation # 9

Obtain the missing annual survey and missing certification of compliance from New York City.
Response: Numerous requests have been made to New York City to submit its completed survey for 2005. We will continue to request the completed report. We did receive the 2006 annual survey from New York City and the NYC PSAP is compliant with all board standards.

Recommendation # 10

Correct the errors in the special Surcharge Funding allocations for wireless 911 service provided prior to 2002 and recalculate the allocations accordingly.

Response: We have identified the errors in the special Surcharge Funding allocations for wireless 911 services provided prior to 2002 and have recalculated the allocations accordingly.

Recommendation # 11

Approve reimbursement requests against Surcharge Funding allocations only when the claimed expense enables the county to reach or maintain Phase 2 capability, and notify the counties of this change in reimbursement practices.

Response: We do not agree that the current practice for reimbursement against the Surcharge Funding Allocation should be changed. The legislative mandate behind the Enhanced 911 program is to create incentives for counties to achieve Phase 2 status. In this context, progress includes purchasing equipment that will enable a county to achieve Phase 2 status. Progress cannot be measured by looking only for achievement of the ultimate goal, but rather should consider achievement of the prerequisites necessary to reach that goal.

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Recommendation # 12

For selected counties, review the documentation supporting the expenses claimed in the counties' requests for reimbursement against their Surcharge Funding allocations.

Response: We plan to conduct periodic reviews of documentation supporting the expenses claimed in the counties' requests for reimbursement against their Surcharge Funding allocations.

* See State Comptroller's Comments, page 29

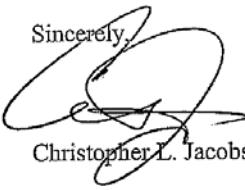
Recommendation # 13

Obtain expense documentation from all counties that have had Expedited Deployment Funding for more than 180 days, and review this documentation for compliance with the terms of the funding agreements. If a county has not had its Expedited Deployment Funding for more than 180 days, require the county to comply with the terms of its funding agreement and submit all expense documentation, along with a Certificate of Project Completion, within 180 days of receipt of funding.

Response: We have initiated a thorough review of all of the expedited deployment contracts from both rounds. Letters seeking Certification of Project Completion forms and supporting documentation for all contract payments made six months ago or longer have been and continue to be sent to the counties.

Thank you for the opportunity to respond to your review.

Sincerely,



Christopher L. Jacobs

CLJ/wyb

APPENDIX B - STATE COMPTROLLER'S COMMENTS ON AUDITEE RESPONSE

1. The report accurately reflects the number of counties that had achieved Phase 2 capability as of April 2006. At that time, four years after the program began, 15 of the 58 counties (26 percent) remained without that capability. Further, 10 of these 15 counties had made little or no progress on their systems.
2. The report was revised based on the Department's response.
3. The money made available to the counties under County Law 6-A is intended to reimburse counties for costs incurred in the design, installation or maintenance of a system capable of providing Phase 2 service for wireless phones. We agree that this would include purchasing equipment that will enable a county to achieve Phase 2 status. However, we found some purchases were for items used in the general operation of an emergency call center and were not a prerequisite for Phase 2 service. We maintain the Department should revisit its reimbursement policies to ensure that they are in compliance with the County Law.