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Audit Objective.....2

Audit Results - Summary.....2

Background.....2

**Audit Findings and
Recommendation 3**

Training3

Payroll for Program Staff4

Other than Payroll Expenditures.....5

Recommendation 6

Scope and Methodology 6

Authority7

Reporting Requirements.....7

Contributors to the Report 8

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE OFFICE
FOR THE AGING**

OMBUDSMAN PROGRAM

Report 2006-S-76

AUDIT OBJECTIVE

Our objective was to determine if Ombudsman Program funds were being spent on their intended purposes.

AUDIT RESULTS - SUMMARY

The New York State Office for the Aging (SOFA) administers the Long Term Care Ombudsman Program (Program), which is overseen by a State Ombudsman. The Program trains and certifies volunteers at the State and community levels to investigate and resolve complaints made by, and on behalf of, residents in long-term care facilities such as nursing homes.

The Program receives almost \$3 million in Federal and State funding each year. In fiscal year 2006, of this amount, over \$1.1 million was spent in SOFA's central office, which oversees the administration of the Program. The remaining \$1.8 million was distributed directly to the 58 different localities by SOFA via grants. In program year 2006, the two largest grant recipients were the New York City Department for the Aging (NYC Aging), which received \$476,941, and Suffolk County, which received \$109,959. NYC Aging subcontracts with New York Foundation for Senior Citizens, Inc. (NY Foundation) and Suffolk County contracts with the Family Service League of Suffolk County, Inc. (League) to provide the necessary training for volunteers.

The Office of the State Ombudsman is responsible for certifying volunteers after they receive training from the localities. We found that the required training is being conducted by the NY Foundation and the League. [Page 3]

We found that payroll expenditures by SOFA's central office, NY Foundation and

the League were all appropriate, and that those who were paid out of Program funds were working for the Program. [Page 4]

We found that the NY Foundation and the League generally complied with their contracts regarding non-payroll expenditures. However, we found that 88 percent (\$44,841) of a sample of general office account charges to the Program by SOFA's central office were not program related. [Pages 5-6]

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BACKGROUND

The New York State Office for the Aging (SOFA) administers the Long Term Care Ombudsman Program (Program), which is overseen by a State Ombudsman. The Program trains and certifies volunteers at the State and community levels to investigate and resolve complaints made by, and on behalf of, residents in long-term care facilities such as nursing homes. The State Ombudsman appoints 46 local Ombudsmen Coordinators to oversee the Program at 58 localities throughout the State (some are responsible for more than one area). As of January 2007, SOFA reported that there were approximately 1,812 certified ombudsman volunteers and 160,932 residents residing in 1,661 long-term care facilities.

The Program receives almost \$3 million in Federal and State funding each year, \$2.2 million Federal and \$.8 million State. In

fiscal year 2006, of this amount, over \$1.1 million (in Federal funds) was spent in SOFA's central office, which oversees the administration of the Program. The remaining \$1.8 million was distributed directly to the 58 different localities by SOFA via grants. In program year 2006, the two largest grant recipients were New York City Department for the Aging (NYC Aging), which received \$476,941, and Suffolk County, which received \$109,959.

NYC Aging subcontracts with New York Foundation for Senior Citizens, Inc. (NY Foundation) to provide the necessary training for volunteers. Its current contract covers the period from July 1, 2005 through June 30, 2008. The contract requires NY Foundation to use grant funds for program services involving the training of volunteers aged 60 and over, to serve as ombudsmen and act as advocates on behalf of other senior citizens who are either nursing home residents or who are under the care of a home health care agency. For the contract period from July 1, 2005 through June 30, 2006, NY Foundation received \$665,643 in grant and City funds. Approximately 80 percent (\$531,042) was budgeted for payroll costs. The remaining 20 percent (\$134,601) was budgeted for non-payroll (e.g., consultants, equipment rental, travel, rent, communications, printing/supplies, program insurance, etc.).

Suffolk County subcontracts with the Family Service League of Suffolk County, Inc. (League) to provide the necessary training for volunteers. The contract requires the League to recruit, train and certify patients' advocates to provide long-term care ombudsman service on behalf of persons residing in long-term care facilities and their families. From April 1, 2005 to March 31, 2007, the League received a budget of \$235,357 in grant and County funds. Approximately 82 percent (\$192,373) was budgeted for payroll costs.

The remaining 18 percent (\$42,984) was budgeted for non-payroll costs (e.g., communications, rent, travel, printing/supplies, etc.).

AUDIT FINDINGS AND RECOMMENDATION

Training

Section 218 of the New York State Elder Law requires the Office of the State Ombudsman (Office) to train all volunteers who participate in the Program. The Office requires the 58 localities to conduct the training for certification of volunteers. Some of the localities, such as NYC Aging and Suffolk County, have subcontracts with organizations to provide the training. New recruits initially must receive 36 hours of extensive training and are then certified to work with residents. After the certification training, volunteers are required to attend at least four in-service training sessions each year. The Office is responsible for certifying the volunteers based on information provided by the localities. For fiscal year 2005-06, SOFA reported a total of 420 new volunteers.

We found that training is being conducted as required by the NY Foundation and the League. During fiscal year 2005-06, the League provided training for 29 volunteers and NY Foundation provided training for 173 volunteers. We were provided with lists of new volunteers and training class sign-in sheets from both subcontractors. To confirm that the volunteers received the required 36 hours of training for certification and, where appropriate, the four in-service training sessions, we contacted 30 volunteers (25 at the NY Foundation and 5 at the League). All 30 volunteers verified that they had attended the required training.

Payroll for Program Staff

SOFA's central office and the subcontractors received funds to pay for staff to administer the Program. The amount of funds used for payroll is specified in their contracts. For the period from October 1, 2004 through September 30, 2005, more than \$669,000 was allocated from Federal funds to pay employees at SOFA's central office. NYC Aging's contract with NY Foundation allocated \$531,042 for payroll, and Suffolk County's contract with the League allocated \$192,373. Generally, we found that payroll expenditures at the central office and by the subcontractors were appropriate, and that those who are paid out of Program funds were working on the Program.

SOFA's Central Office

There are seven SOFA employees assigned to work exclusively on the Program in SOFA's central office (six full-time and one part-time). We found that \$258,273 (39 percent) of the \$669,223 was spent on their payroll. The remaining \$410,950 (61 percent) was allocated to salaries for another 113 employees who work in other departments at SOFA's central office. While all of these employees have other job functions, they do some work for the Program.

We obtained time sheets for the seven employees assigned to the Program, did floor checks, and confirmed that they worked for the Program with the State Ombudsman. In addition, SOFA produces a time distribution report listing all employees in the central office who charge all or a portion of their salaries to the Program. We reviewed this report and identified the 113 employees who worked in other departments and charged time to the Program. To determine how their time was charged, we selected a judgmental

sample of five employees out of the 113 and reviewed their timesheets for two pay periods. We found that all five employees allocated time appropriately by indicating on their time sheets the percentage of time charged to a general account and the percentage of time charged to the Program.

We note that SOFA has a time distribution system for those not assigned directly to the Program. SOFA officials said that this system has been audited by the Federal government.

Sub-Contractors

For the contract period from July 1, 2005 through June 30, 2006, NYC Aging budgeted \$531,042 for NY Foundation to use for payroll and Suffolk County budgeted \$192,373 for the League to use for payroll. NY Foundation has 13 employees working on the Program and the League has six. We reviewed payroll expenditures by NY Foundation (for the month of January 2006) and the League (for the period January 2006 through March 2006) to determine if they were in compliance with the terms of their contract.

NYC Aging requires NY Foundation to submit monthly vouchers for payroll reimbursements. We reviewed the voucher for the randomly selected month of January 2006 and found that NYC Aging reimbursed NY Foundation \$94,781 for payroll expenses. To verify these expenses, we reviewed the payroll registers, timecards, earning statements, cancelled checks and job descriptions for the 13 employees (ten non-managerial employees and three managerial employees).

For the period August 1, 2005 through September 30, 2006, the League submitted ten vouchers to Suffolk County, for

reimbursement. We randomly selected one voucher covering the months January through March 2006 for review. The payroll amount for this voucher was \$13,434. We reviewed the payroll registers, timecards, earning statements, and job descriptions for the six employees working in the program.

We found expenditures by both NY Foundation and the League were appropriate and adequately supported.

Other than Payroll Expenditures

Federal regulations establish principles and standards for determining non-payroll allowable costs charged to grants and contracts with state and local governments. These regulations require that costs be necessary, reasonable and allocable to the program. In addition, the subcontracts with NY Foundation and the League both specify how much money can be charged to the Program for non-payroll expenditures. While we found that the subcontractors generally complied with the terms of their contracts, SOFA's central office had charges to the Program that did not meet Federal regulations.

Central Office

During the period of October 1, 2004 through September 30, 2005, \$325,242 was charged through SOFA's general office account to the Program. We judgmentally selected three categories of expenditures for review: furniture, out-of-state air fare, and a service contract. For these, we judgmentally selected seven high-dollar value vouchers totaling \$51,185 for review. We found that \$44,841 (88 percent) was charged for items not directly related to the Program.

- Furniture - We reviewed a voucher for \$18,145 that was charged to the

Program for furniture in SOFA's Executive Deputy Director's Office. Federal regulations require cost be "necessary and reasonable" to the Program. This expenditure did not appear to be allocable totally to the Program.

- Out-of-State Air Travel Expenditures - There were five vouchers for nine trips totaling \$3,402 for SOFA employees who traveled out-of-state during our audit scope period. We reviewed the vouchers and the reasons for these trips and found that they were unrelated to the Program. Among the purposes claimed were attending conferences (e.g., AARP Transportation Conference, AARP Livable Communities in 21st Century conference, Civic Venture Conference) and meetings (Alzheimer meeting).
- Service Contract - A service contract between SOFA and the State University of New York Research Foundation at Albany. The purpose of the contract was for SOFA and the Research Foundation to support and advance the objectives of the Elder Network of the Capital Region. The Elder Network's purpose is to cultivate, enhance and coordinate public and private entities to improve senior's access to services. During our audit period, SOFA paid to the Research Foundation \$28,852 under the contract and allocated \$23,294 of the payment to the Program's funds. However, neither the contract nor the payment voucher established a relationship to the Program.

Upon discussing this matter with officials from the Federal Department of Health and Human Services, we were advised that they were aware of this practice and would allow

the costs referred to above. However, they have advised SOFA that effective July 1, 2007, this practice must be discontinued.

Subcontractors

NYC Aging requires NY Foundation to submit monthly vouchers for reimbursement of all non-payroll expenditures. For the contract period July 1, 2005 through June 30, 2006, contract funding from the Federal, State, and City governments totaled \$665,643.

Approximately 20 percent (\$134,601) was budgeted for non-payroll expenditures (e.g., consultants, equipment rental, travel, rent, communications, printing, supplies, program insurance, etc.).

We randomly selected one voucher submitted by NY Foundation for January 2006 for non-payroll expenses totaling \$23,407. The categories listed on the voucher we examined included consultants, travel for volunteers and staff, rent, communication, printing, and office supplies. We reviewed supporting documentation for the voucher such as invoices, telephone bills, cancelled checks, and contract agreements. We found these expenditures were generally appropriate and adequately supported.

Suffolk County also requires vouchers from its subcontractor. From April 1, 2005 to March 31, 2007, the League received a budget of \$235,357 in Federal, State, and county funding. Approximately 18 percent (\$42,984) was budgeted for non-payroll expenditures (e.g., communications, rent, travel, printing, supplies, etc.). We randomly selected one voucher for review covering the period January through March 2006, that had \$687 in non-payroll expenditures. These expenditures were for telephone and stationery charges, and were generally appropriate and adequately supported.

Recommendation

Use Program funds only for goods or services that meet the Federal criteria of being allocable, reasonable and necessary.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We sought to determine whether Ombudsman Program funds were being spent for their intended purpose. This audit covered the period from October 1, 2004 through September 30, 2006. To accomplish our objective, we reviewed expenditures for the two localities that had received the most allocated funding; New York City and Suffolk County, as well as SOFA's central office expenditures. NYC Aging subcontracts with NY Foundation to provide these services, while Suffolk County subcontracts with the League. We interviewed the State Ombudsman and reviewed training records provided to the local ombudsman for volunteers at the NY Foundation and the League. We also confirmed with 30 volunteers (25 at the NY Foundation and 5 at the League) that they received the appropriate training required for certification.

To determine whether NY Foundation had maintained complete and accurate records to support its payroll and non-payroll expenditures for the Ombudsman Program, we reviewed the payments listed on the voucher submitted to NYC Aging for the randomly-selected month of January 2006. The payments for that month totaled \$118,188. For the 12-month period from August 1, 2005 to July 31, 2006, the NY Foundation had presented monthly vouchers totaling \$668,834 to NYC Aging for reimbursement. To determine whether the expenditures had been properly authorized, reasonable, and necessary for the Program,

we reviewed the items on the January 2006 voucher for supporting documentation.

To determine whether the League maintained complete and accurate records to support its payroll and non-payroll expenditures, we reviewed the payments listed on the expenditure report the League submitted to Suffolk County for one random voucher valued at \$14,121 and covering the period of January through March 2006. The League submitted a total of ten vouchers valued at \$232,000 for the period August 1, 2005 through September 30, 2006. To determine whether the expenditures had been properly authorized, reasonable, and necessary Program, we reviewed each item on the selected voucher for supporting documentation.

For the period from October 1, 2004 through September 30, 2005, SOFA's central office expenditures for the Program totaled \$1.1 million, \$669,223 for payroll and \$425,987 for non-payroll expenditures. Of the \$425,987, we audited \$325,242 that was charged through SOFA's general office account to the Program. To determine whether Program funds had been spent for their intended purpose at SOFA's central office, we judgmentally selected, based on high dollar value or risk, three non-payroll categories for review: air fare, Contract C-030400, and furniture, and identified 28 vouchers had been charged indirectly to the Program between October 1, 2004 and September 30, 2005. We judgmentally selected seven high dollar value vouchers from these for review. This sample consisted of five vouchers for air fare (out-of-State travel only), one Contract voucher, and one voucher for furniture. We also judgmentally selected five employees whose time was charged to the Program on an allocation basis for review.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed according 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

A draft of this report was provided to SOFA officials for their review and comment. SOFA officials indicated that they would not be responding to the draft report, but instead would respond to the final report in compliance with Section 170.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Director of the Office for the Aging 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 William Challice, Richard Sturm, Christine Chu, Adrian Wiseman, John Ames, Katrina Lau, and Sue Gold.