
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF MENTAL
RETARDATION AND
DEVELOPMENTAL
DISABILITIES
CENTRAL NEW YORK
DEVELOPMENTAL
DISABILITIES SERVICES
OFFICE**

**USE OF EMPLOYEES AND
EMPLOYEES' RELATIVES
AS VENDORS**

Report 2007-S-90

AUDIT OBJECTIVE

Our objective was to determine whether the Central New York Developmental Disabilities Services Office (Central NY DDSO) is complying with State law when it uses employees or employees' relatives as vendors.

AUDIT RESULTS - SUMMARY

Central NY DDSO oversees the care that is provided to about 3,850 persons with mental retardation and developmental disabilities. This care is provided in community-based group homes and privately-owned family care homes.

Central NY DDSO hires vendors to provide maintenance and repair services at the group homes. We found that some of these vendors are relatives of employees at the DDSO. While it is not necessarily improper for a State agency to do business with relatives of its employees, to avoid the appearance of favoritism and comply with State procurement guidelines, it should be clear that other vendors were given a fair opportunity to provide the services and a reasonable price was paid for the services. However, when we reviewed 113 instances in which four relatives were hired to provide home maintenance and repair services costing \$176,192, we found that, in many of these instances, there was no indication other vendors were given an opportunity to provide the services and no assurance a reasonable price was paid for the services.

We also found that the documentation in our sample of home maintenance transactions often lacked important details, and as a result, it was often difficult to determine what kind of maintenance or repair work was supposed to have been done by the relative-vendors. In the absence of detailed specifications for the

work that was supposed to be done and detailed descriptions of the work that was actually done, there is less assurance the transactions were valid and necessary. We recommend that the internal controls over such transactions be significantly strengthened.

Central NY DDSO hires qualified sitters for family care homes when the regular family care providers cannot be at home or need time away from their care giving responsibilities. Some of these sitters are also full-time employees at the DDSO. We found that, on numerous occasions, one of these employees was fraudulently paid for providing sitter services at the same time that she was being paid to perform her regular duties for the DDSO. The DDSO official who was responsible for the sitter services told us the employee's brother (who is also a qualified sitter) was actually providing the services on those occasions, but this arrangement was not documented.

We recommend the Office of Mental Retardation and Developmental Disabilities investigate this matter and determine whether qualified sitter services were actually provided on those occasions. We also recommend Central NY DDSO recover the money paid to the employee for sitter services she never provided. Central NY DDSO officials agree with our recommendations and have taken actions to implement them.

This report, dated December 20, 2007, 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 Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Office of Mental Retardation and Developmental Disabilities (OMRDD) provides a comprehensive system of care for more than 140,000 persons with mental retardation and developmental disabilities and their families. OMRDD provides this care through 13 regional Developmental Disabilities Services Offices (DDSOs) and a network of community-based not-for-profit agencies and State-operated programs in each region.

The Central New York Developmental Disabilities Services Office (Central NY DDSO) oversees the care that is provided to about 3,850 persons with mental retardation and developmental disabilities in Cayuga, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga and Oswego Counties. This care is provided in 197 community-based group homes, 306 family care homes, and 23 other program sites.

Central NY DDSO provides various services to support these group and family care homes. For example, it hires vendors to provide home maintenance and repair services at the group homes, and hires individuals to provide respite care and sitter services at the family care homes. Respite care and sitter services are needed when family care providers cannot be at home or need time away from their caregiving responsibilities.

For calendar years 2005 and 2006, Central NY DDSO paid nearly \$1.8 million for home maintenance and repair services at its group homes, and about \$760,000 for respite care and sitter services at its family care homes. Its total expenditures for other than personal services during this period exceeded \$40 million.

AUDIT FINDINGS AND RECOMMENDATIONS

Employees' Relatives as Vendors

We determined that, between January 1, 2005 and November 30, 2006, Central NY DDSO used its employees' relatives as vendors in at least 331 separate procurement transactions totaling \$253,385. In most of the transactions, Central NY DDSO obtained home maintenance/repair services or respite care/sitter services from the relatives. Thirty different relatives were used as vendors in the transactions. Ten of these relatives accounted for \$245,256 (96.6 percent) of the amount spent, as follows:

| Vendors | Payment Amount | Type of Service |
|--------------|------------------|-------------------------------|
| # 1 | \$77,540 | Home maintenance |
| # 2 | \$45,158 | Heating & air conditioning |
| # 3 | \$44,331 | Home maintenance |
| # 4 | \$16,320 | Home maintenance |
| # 5 | \$15,430 | Respite care & sitter service |
| # 6 | \$12,360 | Sitter service |
| # 7 | \$11,394 | Sitter service |
| # 8 | \$9,660 | Sitter service |
| # 9 | \$9,163 | Home maintenance |
| # 10 | \$3,900 | Sitter service |
| Total | \$245,256 | |

We were able to determine that these vendors were relatives of Central NY DDSO employees by comparing the names and addresses of all of Central NY DDSO's vendors for the 23-month period to the names and addresses of its employees, and taking certain other steps to verify apparent family relationships.

It is not necessarily improper for a State agency to do business with relatives of its

employees. However, to avoid the appearance of favoritism, it should be clear that other vendors were given a fair opportunity to provide the services and a reasonable price was paid for the services. At the very least, the State's normal procurement requirements should be met.

These requirements are stated, generally, in the New York State Procurement Guidelines and the New York State Procurement Bulletin. According to the Guidelines, a Procurement Record (Record) should be kept for each acquisition. The Procurement Bulletin also states that Agencies are required to maintain a record of every procurement. The Record shall be maintained for each procurement identifying, with supporting documentation, decisions made by the agency during the procurement process. For procurements under the discretionary buying threshold of \$15,000, the procurement record should include a voucher, a purchase order or contract, evidence of how the vendor was selected, and evidence that the price was reasonable.

We reviewed a sample of the 331 procurement transactions with Central NY DDSO employees' relatives to determine whether the State's normal procurement requirements were met. Our sample consisted of all 113 transactions with four of the five relative-vendors who provided home maintenance services (we did not review the transactions with the fifth relative-vendor who provided home maintenance services because that individual was performing a special type of apprenticeship with Central NY DDSO). The four vendors were paid a total of \$176,192 in the 23-month period, as follows:

- Vendor #1 was paid \$77,540 in 34 transactions for such home maintenance services as installing windows and putting up siding;

- Vendor #2 was paid \$45,158 in 47 transactions for such heating and air conditioning services as installing furnaces and repairing air conditioners;
- Vendor #3 was paid \$44,331 in 26 transactions for such home maintenance service as installing kitchen cabinets and painting; and
- Vendor #9 was paid \$9,163 in 6 transactions for such home maintenance services as installing countertops and chair rails.

We found that, for the most part, the transactions did not meet the State's procurement requirements. While all the transactions were supported by a standard voucher and invoice, in 64 of the 113 transactions (57 percent) there was no evidence of how the vendor was selected, and in 100 of the 113 transactions (88 percent), there was no evidence the price was reasonable.

Moreover, in the 49 transactions in which there was evidence of how the vendor was selected, bids or quotes were obtained from other vendors in only 17 of the transactions. In the other 32 transactions, the only vendor contacted was the relative-vendor. According to the records maintained by Central NY DDSO, this vendor was selected because either his price seemed reasonable or he had been used in the past and had done satisfactory work.

It thus appears that, in most instances, other vendors are not being given a fair opportunity to provide the home maintenance services that are being provided by relatives of Central NY DDSO employees and there is no assurance a reasonable price is being paid for these services.

In one instance, a relative-vendor with a windows and siding business was selected to perform landscaping and cabinet renovation work at a group home. The procurement record indicated that the vendor was selected because he had been used in the past. We question why a vendor would be selected to do work outside his area of expertise, especially when that expertise can be found in other vendors. It is especially questionable when that vendor is a relative of an employee, because the appearance of favoritism is enhanced by that relationship.

We recommend Central NY DDSO officials ensure procurement transactions comply with the New York State Procurement Guidelines and the New York State Procurement Bulletin, especially when the vendors are related to agency employees. In particular, if quotes or bids are not obtained from multiple vendors, the officials should ensure that the reason for the lack of competition is thoroughly documented.

We also found that the vouchers and invoices for the transactions in our sample often lacked important details, and as a result, it was often difficult to determine what kind of maintenance or repair work was supposed to have been done. For example, one invoice stated, "Repair furnace," without stating what part needed to be repaired and how much the labor cost as opposed to the parts. In the absence of detailed specifications for the work that was supposed to be done and detailed descriptions of the work that was actually done, there is less assurance the transactions were valid and necessary.

For example, we visited seven of the group homes where maintenance or repair work had reportedly been done by relative-vendors. In one of the transactions, a furnace was to be installed. However, the procurement record included no details about the furnace (such as

its brand name or BTU capacity). Consequently, we could not determine whether the right type of furnace had been installed or even if a new furnace had been installed at all.

In another transaction, the procurement record stated that electric baseboard heating was to be moved and rewired. However, there were no details describing where the baseboard heating was located or where it was to be moved to. Consequently, we could not determine whether the work had been performed as intended or even if it had been performed at all. In such circumstances, fraudulent transactions can be committed and not be detected because of the lack of documentation. We recommend procurement transactions be fully documented, especially when the vendors are related to employees.

We note that many Central NY DDSO employees are authorized to procure services, including employees located at all 197 group homes. In such a decentralized operation, there is ample opportunity for favoritism and other inappropriate practices. It is thus critical that an appropriate system of internal control be established for the procurement function. For example, employees should be required to exclude themselves from any procurement decisions involving their relatives.

Central NY DDSO management stated that an employee could not hire a family member to provide services. However, this policy was not documented and there was no indication it had been communicated to employees in training sessions or other such activities. Moreover, since most of the procurement transactions were not adequately documented, we could not determine whether employees were, in fact, excluding themselves from procurement decisions involving their relatives. Employees who were related to the

30 relative-vendors included the Business Officer's Secretary and a Maintenance Supervisor for group homes (the Maintenance Supervisor's son was one of the 30 relative-vendors - employee #9 in the preceding table and the Business Officer's Secretary's husband was employee #1).

According to Executive Order 1, which was signed in January 2007, State employees are not supposed to take part in any contracting decisions involving family members. If a contracting matter involving a family member arises, the employee is supposed to advise his or her supervisor of the relationship and be recused from any discussions or decisions relating to the matter. In response to our audit, Central NY DDSO developed Ethical Conduct Guidelines, which address the Executive Order and prohibit employees from hiring relatives as contractors. We recommend Central NY DDSO monitor its procurement transactions to ensure compliance with the Executive Order and its Ethical Conduct Guidelines.

The various internal control weaknesses that we identified helped create a weak control environment in the procurement area. In failing to comply with the State's procurement requirements, Central NY DDSO management did not demonstrate a supportive attitude towards internal control. For example, the Central NY DDSO Business Officer stated that he avoids calling vendors to obtain price quotes because, in his view, it is annoying to the vendors. We disagree and maintain that vendors want the opportunity to do business with the State and want a fair opportunity to compete for State business. We also note that an inadequate commitment to internal control can create an environment that is susceptible to fraud, waste and abuse.

In response to our audit, Central NY DDSO is making a number of changes in its procurement practices for home maintenance services. For example, benchmark prices will be established for small repairs and site supervisors will be trained in the new practices.

Recommendations

1. Ensure that procurement transactions comply with the New York State Procurement Guidelines and the New York State Procurement Bulletin, especially when the vendors are related to agency employees. In particular, ensure that the transactions are fully documented and, if quotes or bids are not obtained from multiple vendors, the reason for the lack of competition is thoroughly documented.
2. Monitor procurement transactions to ensure compliance with Executive Order 1 and Central NY DDSO's Ethical Conduct Guidelines. Ensure that employees exclude themselves from any procurement decisions involving their relatives.

Employees as Vendors

Employees of Central NY DDSO are sometimes hired as sitters in the region's Family Care Program. We found that, on numerous occasions, one of these employees was fraudulently paid for providing sitter services at the same time that she was being paid to perform her regular duties for the DDSO. We also determined that certain provisions of the Public Officers Law may have been violated when DDSO employees were hired as sitters, and one employee was hired as a sitter more often than was permitted.

Public Officers Law

The persons being cared for in the Family Care Program cannot be left unattended. If the family care providers are going to be away from the family care home, whether for a few hours or a few days, a substitute caregiver (sitter) must be found. The family care providers notify their DDSO when a sitter is needed, and the DDSO hires a sitter.

Individuals cannot be hired as sitters unless they have received certain training from the DDSO and their backgrounds have been checked by the DDSO. Most family care providers have regular designated sitters who are familiar with the needs of the person being cared for, and these designated sitters are used whenever possible.

The DDSO is responsible for paying the sitter for his or her services. The payments are made at certain standard daily or hourly rates. The sitter must sign a timesheet attesting to the hours worked, and the timesheet must be approved by the appropriate Family Care Liaison at the DDSO (generally, certain liaisons are responsible for certain family care homes in each region).

Between January 1, 2005 and December 31, 2006, Central NY DDSO hired 17 of its own employees as sitters. While some of the employees were hired only occasionally, others were hired on a regular basis during the two-year period. As is shown in the following table, during this period, the 17 employees were paid a total of \$43,331 for their services as sitters:

| Employee | Payment Amount |
|--------------|-----------------|
| # 1 | \$10,962 |
| # 2 | \$9,660 |
| # 3 | \$5,740 |
| # 4 | \$3,240 |
| # 5 | \$2,587 |
| # 6 | \$2,460 |
| # 7 | \$1,864 |
| # 8 | \$1,400 |
| # 9 | \$1,350 |
| # 10 | \$1,250 |
| # 11 | \$905 |
| # 12 | \$623 |
| # 13 | \$526 |
| # 14 | \$376 |
| # 15 | \$200 |
| # 16 | \$120 |
| # 17 | \$68 |
| Total | \$43,331 |

We reviewed the sitter services provided during this period by the three employees who were hired the most (employees #1, #2 and #3). We found all three employees were paid at the appropriate daily or hourly rates. However, we also found that the payments were contrary to certain provisions in the Public Officers Law (Article 4, Section 73). According to these provisions, State employees may not act as vendors and provide services to the State unless the services are competitively bid by the State or the employees are paid only a nominal amount (\$25 or less) for the services.

However, the employees were paid more than \$25 for their services as sitters and the services were not competitively bid. Central NY DDSO publicly advertises for qualified sitters, but it does not seek competitive bids from the candidates. Rather, it pays them at standard rates that are set by OMRDD.

As a result, the Central NY DDSO employees hired as sitters may be in violation of the Public Officers Law. Central NY DDSO officials told us they were not aware of these provisions in the Law. We note that State agencies can obtain formal opinions from the Commission on Public Integrity, the successor to the State Ethics Commission, on matters relating to the Public Officers Law. We recommend OMRDD obtain an opinion on whether it needs to seek competitive bids when it hires its employees as sitters in its Family Care Program.

Fraudulent Certifications for Sitter Services

If employees do continue to be hired as sitters in the Family Care Program, Central NY DDSO officials need to ensure that the individuals' duties as employees do not conflict with their duties as sitters. Six of the 17 employees who were hired as sitters were full-time employees with Central NY DDSO, including the three who were used the most. We reviewed the timesheets of these three employees for the periods when they were paid as sitters to determine whether any were being paid as employees at the same time they were being paid as sitters.

We found that one of these individuals (employee #3) was repeatedly, and fraudulently, paid as an employee at the same time that she was being paid as a sitter. On numerous days during the two-year period, she was paid as both a sitter and as an employee (a Developmental Aide). Our analysis found a potential of approximately \$4,000 paid to the employee for sitter services while at the same time she was working at Central NY DDSO. As a result of our audit findings, Central NY DDSO officials performed their own analysis and found this employee was paid \$2,402 for her work as an

employee at the same time that she was also being paid as a sitter.

We discussed this matter with the Family Care Liaison who was responsible for the family care home where the employee usually worked as a sitter. The Family Care Liaison told us that she knew the employee sometimes worked her regular job as a Developmental Aide when she was supposed to be working as a sitter. According to the Family Care Liaison, in these instances, the employee's brother would actually serve as the sitter (the brother is also an approved sitter).

If this was the case, we question why the brother was not hired, and paid, to be the sitter. At the very least, the Family Care Liaison fraudulently certified that the employee provided the sitter services and was entitled to payment for the services. It is also possible that no one provided sitter services on these occasions, and the safety of the person being cared for was put at risk (there is no documentation to confirm that the employee's brother actually provided sitter services on these occasions).

We recommend OMRDD investigate this matter and determine whether qualified sitter services were actually provided on these occasions. We also recommend Central NY DDSO recover the money that was paid to the Developmental Aide for sitter services she never provided. We further recommend Central NY DDSO regularly review the timesheets of employees who are hired as sitters to ensure that their duties as employees are not conflicting with their duties as sitters.

In response to our audit, Central NY DDSO officials stated that they were reviewing the timesheets of the other employees who were hired as sitters to determine whether there were any other instances of improper payments.

60-Hour Limit on Sitter Services

According to Central NY DDSO policy, family care providers should not receive more than 60 hours of sitter services in any month. However, in our detailed review of the time worked by the three employees who were used most often as sitters, we found that one of the individuals (employee #3) worked more than 60 hours a month as a sitter for the same family care provider. This individual exceeded the 60-hour limit in 8 of the 24 months we reviewed, sitting for as many as 82 hours for the same family care provider in a single month (November 2006).

In response to our finding, Central NY DDSO management said the written policy was incorrectly stated, as the 60-hour limit related to any rolling four-week period and not simply a calendar month. However, we found this made no difference. We performed a second review of the sitter's hours and found they exceeded the 60-hour limit in 13 different rolling four-week periods. Central NY DDSO management then further refined their definition of "rolling," but could not provide us with the information that would enable us to test it (they said each person being cared for would have a different four-week rolling period, and this period would begin on their first date of family care; however, they could not tell us this date for the person we were testing).

The Family Care Program in each region is overseen by a Family Care Coordinator. We asked the Central NY DDSO Family Care Coordinator whether he was aware the 60-hour limit had been exceeded and he stated that he was surprised, because the Family Care Liaison should be tracking the hours. We reviewed the monitoring spreadsheet that would be used for such tracking and found numerous errors. For example, we found some sitter hours were missing. We

recommend Central NY DDSO strengthen its monitoring practices and ensure that the 60-hour limit is not exceeded. In response to our audit, Central NY DDSO officials began reviewing all sitter service payments since April 1, 2004 to assess compliance with the 60-hour limit.

Recommendations

To OMRDD:

3. Obtain an opinion from the Commission on Public Integrity, the successor to the State Ethics Commission, on whether it is necessary to seek competitive bids when hiring employees as sitters in the Family Care Program.
4. Investigate the fraudulent certifications for sitter services and determine whether sitter services were actually provided by a qualified sitter on the occasions claimed.

To Central NY DDSO:

5. Recover the money paid to the Developmental Aide for sitter services she never provided.
6. If employees continue to be hired as sitters in the Family Care Program, regularly review their timesheets to ensure that their duties as employees are not conflicting with their duties as sitters.
7. Correct the written policy regarding sitter hours to fully and accurately describe the time period covered by the 60-hour limit, and strengthen monitoring practices to ensure compliance with this limit.

AUDIT SCOPE AND METHODOLOGY

We did our audit according to generally accepted government auditing standards. We audited selected aspects of Central NY DDSO's procurement practices for the period January 1, 2005 through April 30, 2007. To accomplish our objective, we interviewed Central NY DDSO officials, reviewed procurement records and timesheets, and visited certain group homes.

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 under Article V, Section 1, of the State Constitution; and Article II, Section 8, of the State Finance Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to OMRDD officials for their review and comment. Their comments were considered in preparing this report and are included as Appendix A. Appendix B contains State Comptroller's comments that address matters included in OMRDD'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 Office of Mental Retardation and Developmental Disabilities 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 David R. Hancox, Melissa Little, Nadine Morrell, Jessica Turner, Heather Pratt, Theresa Podagrosi, Sharon Salembier and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE

Eliot Spitzer
Governor



Diana Jones Ritter
Commissioner

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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October 26, 2007

Mr. David R. Hancox
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Hancox:

The Office of Mental Retardation and Developmental Disabilities (OMRDD) has reviewed the Office of the State Comptroller's draft audit report regarding the audit at Central NY Developmental Disabilities Services Office (DDSO); the draft report addressed whether the DDSO complied with State law when it used employees or employees' relatives as vendors.

On the behalf Commissioner Ritter, I am forwarding for your consideration, OMRDD's responses to the recommendations contained in your report. Included in the responses are corrective actions which OMRDD has implemented.

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in cursive script that reads "James F. Moran".

James F. Moran
Deputy Commissioner

Attachment

cc: Commissioner Ritter
Ms. Kagan
Mr. Picker
Mr. Smits



Providing supports and services for people with developmental disabilities and their families.



OMR 26.04 (3/07)

Response to Draft Audit Report (2007-S-90)

Recommendation #1 – Maintenance Service Procurement

As noted in the Draft Audit Report, the DSO is in the process of developing a new Business Office Advisory specific to the procurement of repair services. The advisory includes “benchmark” prices that are considered reasonable to obtain maintenance services under the discretionary purchasing threshold. The benchmark levels are being established through a review of past experience at DSO sites, utilization of a planner/estimator guide book (R.S. Means) and knowledge of the prevailing wage rates that the DSO is mandated to pay trade professionals.

As soon as the benchmarks are established, the Business Office Advisory on repair services will be made available to all DSO staff and will become a part of the monthly training of all site supervisors. We anticipate full implementation on or about November 15, 2007.

In addition to the repair service advisory, the Business Office and Physical Plant Services Office will instruct vendors on descriptive specifications to include on billing statements that match work requested with work performed. An internal control review will be completed this fiscal year to ensure the improvement of the descriptive quality of maintenance billing statements.

In regards to the Business Officer comment quoted in the Draft Audit Report that the DSO avoids calling vendors to obtain price quotes because in his view it is annoying to the vendors, we continue to feel that this is out of context and not representative of the way the DSO does business. The DSO does incorporate bidding, quotes and telephone quotes into our procurement of maintenance services below the purchasing thresholds. The quote regarding “annoying vendors” was made to the Audit Team in response to the issue of procurement of low cost maintenance services. When the statement was made, it was in response to the auditor’s statement that the DSO had to always get the “best price,” and that the only way to ensure that the best price was obtained was to get “quotes or phone quotes.” The Audit Team, after review of purchasing guidelines, rules and regulations, changed their position on “best price” to the more appropriate “reasonable price” and, on their position that the DSO always had to obtain quotes or phone quotes. They, however, continue to advance the Business Officer’s quote that is now completely out of context. Therefore, we feel that this quote should be eliminated from the Final Report as it is not reflective of the way that the DSO conducts business nor is it appropriate to the content of the Final Audit Report.

*
Comment
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Recommendation #2

As stated in the Draft Audit Report, the DSO has developed and issued on June 5, 2007 to all employees “Ethical Conduct Guidelines” which address Executive Order #1 and prohibit employees from hiring relatives as contractors. We are monitoring transactions to ensure compliance, including seeking access to the same software utilized by the OSC audit team to match names and addresses of vendors to those of employees. Assuming the software is commercially available, we will implement a quarterly review of employees versus contractors beginning January 1, 2008. Although there was no indication that related employees of maintenance vendors had any involvement in the decision making process associated with maintenance work included in the audit sample, the DSO has put in place a process that will formally document each occurrence when an employee recuses

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Comment
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* See State Comptroller’s Comments, page 15

themselves from decision making associated with a relative providing maintenance services for the DSO.

Recommendation #3

An opinion from the Commissioner on Public Integrity will be requested by no later than November 15, 2007. The CNYDSO will follow the opinion rendered by the Commission on Public Integrity on whether it is necessary to seek competitive bids when hiring employees as sitters in the Family Care Program.

Recommendation #4

CNYDSO determined that sitter services were provided by a qualified sitter. Upon recoupment from the employee (a.k.a Employee #3), payment was issued to that sitter.

Recommendation #5

As noted in #4 above, the CNYDSO has recovered the money paid to Employee #3 for which she did not provide substitute provider services.

The CNYDSO completed a survey of the eight counties of the CNYDSO (including three Agency Sponsored Family Care Programs) and there are no other situations similar to the Employee #3 arrangement of one substitute provider paying another substitute provider; this situation was an isolated anomaly due to the misinterpretation of the Home Liaison. The revised OMRDD FC Policy 10.8.7 was distributed to all staff and providers in September 2007. Staff have been reminded, at the Family Care Management Meetings, that the provider of the substitute provider service must be reimbursed. Providers have been reminded that only the provider of the substitute provider service must be paid - i.e., through the "Family Care Update" newsletter of September 2007 and during the monthly home visits. Providers are reminded several times a year during recertifications, reevaluations, in Newsletters, and during home visits that they need to use "approved" substitute providers and notify their Home Liaison when they are not providing supervision for the person living in their home.

Recommendation #6

The CNYDSO will periodically review time sheets of employees providing substitute provider services to ensure that their duties as employees are not conflicting with their duties as substitute providers.

The CNYDSO reviewed the time sheets of all other current employee/substitute providers from 4/1/04 to 5/31/07 to determine if they worked for the CNYDSO at the same time as providing substitute provider services. There were overlaps amounting to a total of \$128 for three employee/substitute providers. The circumstances involved in these instances are being investigated to determine whether recoupment is appropriate. This will be completed by November 15, 2007.

Recommendation #7

The CNYDSO will comply with revised OMRDD Family Care Policy 10.8.7 (June 2007) by requiring that all providers and substitute providers follow a fixed 4 week cycle starting on

10/7/07 ensuring that the maximum sitter service hours are not exceeded in each predesignated 4 week period. This implementation will simplify the tracking, give consistency for staff and providers, and will assist in assuring 100% compliance. The CNYDSO will implement the local Standard by following the Family Care Policy Manual 10.8.7. The Home Liaison will have the Family Care Provider complete a Sitter Service Application initially and annually. The County Family Care Coordinator (CFCC) will review and approve and send a copy of the Sitter Service Application to the District Family Care Coordinator (DFCC). The DFCC will maintain a list of approved Sitter Service Applications for the Business Office and issue a monthly status report to the CFCCs. The Business Office considers a week Sunday through Saturday for hours per week on a 4 week schedule starting 10/7/07. If a provider needs to exceed 15 hours of sitter service in a week, they must make a special notation on the payment form indicating which weekly total of hours is represented (i.e., week 1, 2, 3, or 4). The CNYDSO Quality Services Department will record and monitor substitute provider services accurately in a spreadsheet to assure compliance with the above.

At the request of the CNYDSO Director, a review of the CNYDSO Sitter Service Spreadsheet from 4/1/04 to 5/31/07 was completed to determine if there were any situations where the standard of 60 hours for a 4 week period was exceeded (as understood before the revised OMRDD Policy on Sitter Services). The review of over 4,100 CNYDSO Family Care Sitter Service Payments records showed a high level of compliance. Any overages were compared with the CNYDSO Business Office records and Family Care Sitter Service payment requests. Only three providers exceeded the standard of 60 hours over a 4 week period on four occasions for a total of \$223.50.

APPENDIX B - STATE COMPTROLLER COMMENTS

1. When we discovered a lack of documentation for employee related vendor selection, we asked Central NY DDSO officials how they could be assured that they received the best or a reasonable price for these purchases and how they assured that all potential vendors in the vicinity had an opportunity to get the State's business (i.e. that there was open competition). During more than one meeting on this topic, the Central NY DDSO Business Officer informed us that he avoided calling vendors to obtain price quotes because, in his view, it is annoying to the vendors. The first meeting focused on small dollar repairs. However, a second meeting was a general discussion of all employee related vendors. It's also worth noting that two of the employee related vendors were the husband of the Business Officer's Secretary and the son of the Maintenance Supervisor.
2. From our sample of 113 employee relative vendor transactions, we found that 57 percent had no evidence of how the vendor was selected. Further, 88 percent had no evidence the price was reasonable. We also found that documentation for the transactions in our sample lacked important details and, as a result, it was difficult to determine the kind of maintenance or repair work that should have been done. Because of these facts, we could not determine whether related employees of maintenance vendors had any involvement in the decision making process. Moreover, when we shared the list of employees and related vendors with Central NY DDSO officials, they were not aware of the relationships between some of the employees and the vendors, therefore, its unclear how OMRDD officials can provide assurance that related employees of maintenance vendors did not have any involvement in the decision making process.