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OFFICE OF THE STATE COMPTROLLER

April 19, 2010

Ms. Gladys Carrion, Esq.
Commissioner
New York State Office of Children & Family Services
52 Washington Street
Rensselaer, NY 12144-2796

Mr. John Mattingly
Commissioner
New York City Administration for Children's Services
150 William Street
New York, NY 10038

Mr. Robert Doar
Commissioner
New York City Human Resources Administration
180 Water Street
New York, NY 10038

Re: Report 2009-F-18

Dear Commissioners Carrion, Mattingly, and Doar:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the New York State Office of Children & Family Services, the New York City Administration for Children's Services and the New York City Human Resources Administration to implement the recommendations contained in our audit report, *Health, Safety and Fiscal Issues Relating to Legally-Exempt Child Care in New York City* (Report 2007-N-11).

Background, Scope and Objective

The Office of Children & Family Services (OCFS) provides a wide range of resources to help parents with their child care needs. Under the New York State Child Care Block Grant subsidy program (Program), child care providers that are legally-exempt from licensing and registration requirements of OCFS are paid for child care services. The Program provides payments to child care providers who care for the children of families who are receiving public assistance, who are transitioning from public assistance, or who are not receiving public assistance but have low incomes.

OCFS regulations require the use of enrollment agencies to administer the Program after July 31, 2006. According to OCFS, however, the New York City Administration for Children's Services (ACS) agreed to continue to operate the Program until appropriate enrollment agencies could be identified in New York City. As of September 2006, ACS assumed full responsibility for the administration of payments to all legally-exempt providers in New York City. Both ACS and the New York City Human Resources Administration (HRA) enroll legally-exempt providers. As the State's oversight agency, OCFS is responsible for monitoring implementation of the Program.

Under the OCFS requirements, the legally-exempt provider and parent sign an enrollment form certifying that the provider meets the required health and safety standards. The legally-exempt provider also attests to whether they have been convicted of a crime or been the subject of an indicated report of child abuse or maltreatment. The provider also must explain any convictions and reports of child abuse or maltreatment and the parent must attest to considering this information in the selection of the provider. Under the OCFS requirements, enrollment agencies are to verify information submitted by the legally-exempt providers, to check providers' criminal background and the New York State Sex Offender Registry, and to annually inspect the premises of 20 percent of legally-exempt child care providers to determine compliance with health and safety standards.

Our initial audit report, which was issued on May 29, 2008, examined whether oversight activities by OCFS, ACS, and HRA were effective in monitoring the health and safety of children receiving care from legally-exempt providers in New York City, and if program funds were spent for their intended purposes. We found that two of the 35,276 enrolled legally-exempt providers as of June 2007 were registered on the New York State Sex Offender Registry and that one of these two providers had reportedly been providing child care services while on probation. We could not confirm that child care services were actually being provided by 14 of the 50 randomly selected legally-exempt providers we selected for review. We also found that for 34 of the 36 (94 percent) legally-exempt providers that we visited were not in compliance with one or more of 12 Program health and safety requirements. The objective of our follow-up was to assess the extent of implementation as of December 20, 2009 of the five recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that OCFS, in conjunction with ACS and HRA, has made progress implementing the recommendations contained in our prior audit report. Of the five prior audit recommendations, three recommendations have been implemented, and two recommendations are no longer applicable.

Follow-up Observations

Recommendation 1

*To OCFS, in conjunction with ACS:
Expedite contracting with enrollment agencies in New York City.*

Status - Implemented

Agency Action - OCFS contracted with the Women's Housing and Economic Development Corporation (WHEDCo) to be the enrollment agency for legally-exempt child care providers in the Bronx starting in September 2008. In April 2009, OCFS contracted with WHEDCo to service the rest of the City, with services beginning in Queens in October 2009, Manhattan in January 2010, and Brooklyn and Staten Island scheduled to start in April 2010.

Recommendation 2

To ACS:

While awaiting implementation of enrollment agencies in New York City, verify the sex offender status of all new legally-exempt family providers prior to approving their enrollment. Develop procedures for periodically checking the registry for all legally-exempt family providers.

Status - Not Applicable

Agency Action - With the implementation of enrollment agencies (as described under Recommendation one) in three of the five boroughs, and the remaining two expected to begin in April, this recommendation is no longer applicable. We do note that starting in June 2008, one month after the issuance of our original audit report, ACS began to periodically (once a month) submit a CD containing information on all New York City legally-exempt providers to the New York State Division of Criminal Justice Services (DCJS) to be matched against the New York State Sex Offender Registry (Registry). When DCJS identifies a provider on the Registry, it informs ACS, and ACS terminates payments and notifies Child Protective Services. These reviews by DCJS have found providers on the Sex Offender Registry.

Recommendation 3

To ACS:

While awaiting implementation of the enrollment agencies in New York City, develop a systematic approach, including site visits, to ensure that providers are meeting the health and safety regulations.

Status - Not Applicable

Agency Action - With the implementation of enrollment agencies (as described under Recommendation one) in three of the five boroughs, and the remaining two expected to begin in April, this recommendation is no longer applicable. We do note ACS had developed a process for systematically conducting site visits to legally-exempt providers in Brooklyn, Queens, and Staten Island while awaiting implementation of the enrollment agencies. ACS has also provided health and safety training to legally-exempt providers

and distributed health and safety kits to them in an effort to ensure child care meets health and safety requirements.

Recommendation 4

ACS and HRA, in consultation with OCFS, should:

Investigate the two providers noted in the report who may have received payments under false pretenses, and refer the cases to the appropriate law enforcement agencies, if appropriate.

Status - Implemented

Agency Action - ACS officials referred one of the providers for investigation by HRA's Bureau of Fraud Investigations (Bureau) in September 2007. The Bureau conducted an investigation and made a referral to the Bronx District Attorney's Office in April 2008. The provider was arrested on April 15, 2009, and is being held at Riker's Island awaiting trial. ACS also referred the second provider to HRA for investigation. Shortly thereafter, the parent of the child this provider was to be caring for contacted ACS to advise them that she was receiving services at a different location. When ACS officials visited the provider's new location on April 10, 2008 they determined that services were being provided. ACS closed their investigation.

Recommendation 5

ACS and HRA, in consultation with OCFS, should:

Continue to investigate the remaining six providers who were not home, or did not allow us entry into their home at the time of our visits. Determine whether they were providing the services they were being paid for.

Status - Implemented

Agency Action - ACS and HRA, in consultation with OCFS followed up on the six providers who were not home, or did not allow us entry into their home at the time of our visits to determine whether they were providing the services for which they were being paid. ACS officials informed us that three of these individuals were no longer service providers; one is still being investigated by the Bronx District Attorney's Office; one could not be located; and one provider was found through site visits, to be providing services.

Major contributors to this report were Santo Rendon, John Lang, Jay Gwak, and Lisa Duke.

We wish to thank your management and staff for the courtesies and cooperation extended to our auditor during this process.

Very truly yours,

Michael Solomon
Audit Manager

cc. Mr. Kevin Mahar, Director of Audit and Quality Control, OCFS
Ms. Julie Bittman, ACS
Ms. Hope Henderson, Audit Liaison, HRA
Mr. Thomas Lukacs, Division of Budget
Mr. George Davis, Mayor's Office