

New York State Office of the State Comptroller

2010 – 2011 Annual Report on
Audits of State Agencies and Public Authorities



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A MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI



New York State continues to face serious fiscal problems. To return New York to a path of fiscal stability, the State's priorities must include reforming ineffective and wasteful programs, identifying and eliminating fraudulent and unethical behavior by those entrusted with public responsibilities, and taking every opportunity to achieve cost savings. If citizens are to obtain the returns they deserve on their tax dollars, programs must be driven by performance and focused on results. All of these actions and more are essential to restoring New York State to good financial health.

As Comptroller, one of my responsibilities is to audit the operations of State agencies and public authorities. My audits are designed to provide recommendations to help government managers improve their operations, as well as to strengthen the State's overall fiscal condition. The audits also help to increase transparency and accountability for taxpayer-funded operations and services.

In accordance with State law, the results of these audits for the past year are summarized in this annual report.

Sincerely,

A handwritten signature in blue ink, which appears to read "Tom DiNapoli". The signature is fluid and cursive, with a long horizontal stroke extending from the start of the name.

Thomas P. DiNapoli
State Comptroller

INTRODUCTION

Under the New York State Constitution, the Comptroller serves as the State Auditor. As a statewide elected official, the Comptroller is directly accountable to the taxpayers and voters of the State.

The Division of State Government Accountability is a component of the Office of State and Local Government Accountability, which is the office that carries out the Comptroller's function as State Auditor. The Division is responsible for performing audits of State agencies and public authorities. In the past year, the Division issued a total of 69 audit reports addressing the operations of these entities. Some of the audits followed up on previous audit report recommendations. In total, 92 percent of the recommendations were implemented by agencies and public authorities, thereby increasing accountability and transparency at these entities.

The Comptroller is assisted by almost 200 professional auditors responsible for the audits of State agencies and public authorities. Some of these auditors have advanced degrees and many have professional certifications in the accounting and auditing fields. They include Certified Internal Auditors, Certified Fraud Examiners and Certified Public Accountants, along with several other certifications. Each of them is dedicated to protecting the public interest and promoting government accountability.

This year, auditors identified approximately \$27 million in actual cost savings at State agencies and public authorities (savings that had already been achieved or will definitely be achieved as a result of the agency implementing our recommendations). In addition, auditors identified another \$71 million in potential savings that could be realized by State agencies and public authorities. However, more action is usually required for these savings to occur (i.e., legislative action may be necessary before the savings can be realized, or an agency may need to do follow-up investigations with vendors to determine the exact amount it could save). Audits also result in many benefits that cannot be quantified, such as new internal controls and management procedures that have been put into place as a result of audit findings and recommendations. Such steps help increase efficiency and prevent fraud, waste and abuse in the future.

As shown in this annual report, auditors found a wide variety of problems and recommended solutions to protect the State and its taxpayers. For example:

- As part of our continuing review of the Medicaid program, auditors identified millions of dollars spent in inappropriate payments. They recommended certain controls be put into place to prevent these inappropriate payments in the future.
- In a series of audits of agencies and public authorities that entered into consultant and service contracts, auditors found that most did not document their justification for entering into the contracts, raising questions about the need for the contracts and the spending. Auditors recommended several ways agencies and public authorities could attain savings and improve their oversight of contracts.
- Auditors determined that disabled veterans did not receive preference in admission to Mitchell-Lama housing developments as required by law. Division of Housing and Community Renewal officials have already started to implement our recommendations to ensure housing companies comply with the law.
- Several audits focused on overtime costs and found that overtime at selected agencies and public authorities was not justified, costing taxpayers millions of dollars in overtime pay and future pension payments. Specific recommendations were made to improve overtime controls at these entities.
- Comptroller DiNapoli joined with New York City Comptroller John C. Liu to conduct the first joint audit by the two offices in more than a decade. The audit found that the Metropolitan Transportation Authority (MTA) and New York City Transit did not do enough to alert subway riders about subway service diversions. Auditors recommended that Transit make significant

improvements when it comes to budgeting, scheduling and managing service diversions. This was one of an ongoing series of audits of the MTA.

These are just a few of the issues auditors addressed. The Office of the State Comptroller also referred potential fraud cases to the appropriate prosecutors, and continues to work with prosecution staff to pursue convictions of wrongdoers.

The Comptroller's audits are central to the sound management of State government. They provide the Legislative and Executive branches, as well as the public with an independent and objective view of how State government can operate more efficiently and effectively.

ABOUT THE ANNUAL REPORT

As required by law, this annual report summarizes the results of all the State agency and public authority audit reports issued from October 1, 2010 through September 30, 2011. The audit summaries are divided into seven areas: Health and Human Services, Education, Transportation, Criminal Justice and Judicial Administration, Government Support Agencies, Economic Development and Housing, and Other State Agencies and Public Authorities. An accompanying volume lists, by State agency or public authority, the audit reports issued during the five-year period from October 1, 2005 through September 30, 2010.

The audit summaries in this annual report provide brief descriptions of the audit results, and do not include the comments by officials at the audited agencies and authorities. If you are interested in knowing more about a particular report, you are encouraged to obtain and read the entire report, which includes many additional details, recommendations and the full text of the response to the findings by officials of the audited entities. You may obtain any of the reports cited in this annual report by contacting the Comptroller's Office of Public Information at (518) 474-4015 or by visiting our website: www.osc.state.ny.us.

HEALTH AND HUMAN SERVICES

Several State agencies are responsible for administering and providing health and human services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

Department of Health **(Health)**

Medicaid Payments to Selected Providers for Services to Recipients with Medicare Part C Coverage -

Individuals who qualify for both Medicare and Medicaid are commonly referred to as “dual eligible.” To receive payment, healthcare providers who render services to dual eligible recipients must bill Medicare prior to Medicaid. Medicare Part C is the segment of Medicare that allows private health insurance companies to administer Medicare benefits. Our audit examined whether Health had established and implemented adequate controls over Medicaid payments to selected providers for recipients who are also covered under Medicare Part C. We reviewed 270 claims from four providers and determined that three of the providers received overpayments from Medicaid totaling about \$758,000. We further determined that many of the overpayments could have been prevented if Health had certain controls in place on its claims processing system. We recommended certain controls be improved relating to the processing of these claims. (2010-S-22)

Monitoring of Medicaid Payments for Nursing Home Bed Reserve Days - If a Medicaid-eligible nursing home patient needs to be temporarily hospitalized, Medicaid will often pay the nursing home to reserve a bed for a limited number of days pending the patient’s return. Our audit examined whether nursing home claims submitted to Medicaid for bed reserve days were appropriate, and if not, to what extent nursing home claims exceeded the bed reserve day limits and if Medicaid overpayments were made. We audited the claims filed by two nursing homes which accounted for over 60 percent (\$17.6 million) of these payments. We found the claims for both exceeded the number of days allowed and that both had been systematically miscoding claims for days that should have been billed as standard care because the patients were no longer hospitalized. Because the reimbursement rates were the same for standard and reserve care during our audit period, we determined that no significant overpayments occurred.

However, the law was amended in June 2010 to reduce the number of days for bed reserve claims for each patient and the rate paid for these days. Therefore, it is likely that, if the billing errors we identified continue, overpayments will be made in the future. We concluded Health needs to take proactive steps to remind nursing homes of the proper methods for coding bed reserve claims and needs to improve its monitoring and oversight of these claims. (2010-S-21)

Medicaid Claims Processing Activity: October 1, 2009 through March 31, 2010 - Medicaid claims are processed and paid by an automated system (eMedNY) that is overseen by Health. We performed audit work related to the system and the payments made for the period October 1, 2009 through March 31, 2010. We concluded that eMedNY reasonably ensured that Medicaid claims were submitted by approved providers, were processed in accordance with requirements, and resulted in correct payments to the providers. However, we also identified certain conditions relating to actual and potential overpayments exceeding \$6 million. Approximately \$4.7 million of these overpayments were either prevented or recovered by the end of our audit work. In addition, we found there were 15 providers who were charged with abusing Medicaid, Medicare or other health insurance systems. Health had terminated five of these providers, but the remaining ten were still under review. We recommended that Health recover the inappropriate payments, remove certain providers from the Medicaid program, and improve the controls over the payments in these areas. (2009-S-71)

Medicaid Claims Processing Activity: April 1, 2010 through September 30, 2010 - We performed audit work related to Health’s eMedNY automated system and the payments made for the period April 1, 2010 through September 30, 2010. We concluded that eMedNY reasonably ensured that Medicaid claims were submitted by approved providers, were processed in accordance with requirements, and resulted in correct payments to the

providers. However, we also identified certain conditions relating to actual and potential overpayments totaling almost \$2.9 million. Approximately \$2.3 million of these overpayments were recovered by the end of our audit work. In addition, we found there were 21 providers who were charged with abusing Medicaid, Medicare or other health insurance systems. We recommended that Health recover the remaining inappropriate payments, remove certain providers from the Medicaid program, and improve the controls over the payments in these areas. (2010-S-15)

Contracts for Personal and Miscellaneous Services - During the period April 1, 2006 through April 1, 2010, Health had approximately 400 active personal and miscellaneous service contracts in place with a total value of \$684 million. We examined whether Health was adequately justifying the need to contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We reviewed a sample of 20 contracts valued at \$320 million and found that Health generally justified the need for the contracts, although it did not maintain sufficient documentation to justify two of the contracts. In addition, Health provided support showing that 19 of the 20 contracts we sampled were reassessed and/or reduced during 2008-09. However, Health was unable to show that contracts were reassessed after this time. We recommended certain improvements for Health relating to these contracts. (2010-S-13)

Under Reporting of Net Available Monthly Income for Nursing Home Residents Causes Medicaid Overpayments - Many Medicaid nursing home recipients have income from Social Security, pensions and other sources. This is referred to as Net Available Monthly Income (Monthly Income). Localities must provide this information to Health's eMedNY computer system, which processes nursing home provider claims for Medicaid reimbursement. Then, eMedNY is supposed to deduct the Monthly Income from the amount that Medicaid pays to the nursing home provider. However, we found that these payments were not being reduced by the Monthly Income amounts. As a result, we estimate that up to \$42 million of Medicaid money was overpaid to nursing homes during our 44-month audit period. The State and local portion of the potential overpayment was about \$21 million. (2010-S-17)

Inappropriate Medicaid Payments for Dental Services Provided to Patients With Dentures (Follow-Up) - In audit report 2008-S-125, we reviewed Medicaid claims for a five-year period and found that dentists may have been overpaid as much as \$2.9 million for services provided to patients with dentures. For example, some dentists billed Medicaid for dental procedures that are typically performed on patients with natural teeth. We determined that the Medicaid claims processing system, eMedNY, lacked the controls necessary to detect and prevent such overpayments. We recommended that appropriate controls be developed and implemented. When we followed up with Health officials, we found that they have made some progress in correcting the problems we identified. However, improvements were still needed. (2010-F-33)

Inappropriate Payments for Medicaid Recipients Residing and Enrolled in Other States (Follow-Up) - According to federal reports, during the period April 1, 2004 through May 31, 2008, Health made \$28.4 million in Medicaid payments on behalf of New York State Medicaid enrollees who were also enrolled in another state's Medicaid program. In audit report 2008-S-4, we found that Health had not taken steps to effectively ensure that local social services districts acted in a timely manner to either investigate the enrollees identified on the reports or to remove them from New York's Medicaid program. We also found that Health was not taking any steps to recover inappropriate managed care premiums paid on behalf of enrollees who no longer resided in New York State. When we followed up with Health officials, we found that they have made progress in correcting the problems we identified. However, additional improvements were needed. (2010-F-21)

Inappropriate Medicaid Claims for Newborn Services (Follow-Up) - Newborn infants with low birth weights require higher levels of care. Accordingly, the Medicaid reimbursement rates for such infants are higher than the rates for infants with normal birth weights. In audit report 2008-S-152, we examined selected Medicaid payments for services provided to newborn infants and identified overpayments of \$480,894. The overpayments were made because the claims submitted by the medical providers erroneously understated the infants' birth weights. When we followed-up with Health officials, we found they have made some progress in correcting the problems we identified in our initial report. However, improvements were still needed. (2010-F-43)

Medicaid Reimbursement of Synagis (Follow-Up) - Synagis is a prescription medication that helps to decrease the incidence of human respiratory syncytial virus in children who were born prematurely or diagnosed with serious respiratory conditions such as congenital heart disease or chronic lung disease. Synagis costs an average of about \$2,000 per month per recipient.

In audit report 2008-S-153, we examined Medicaid payments for Synagis over a three-year period and identified

about \$29.7 million in payments that did not comply with Health's guidelines for the use of the drug. Some of the noncompliant payments may have been medically necessary in the circumstances, but others may not have been necessary. We examined the payment controls established by Health to determine whether they provided reasonable assurance the payments for the drug were medically necessary. We identified a number of weaknesses in these controls and concluded that they provided no such assurance. When we followed up with Health officials, we found they have made progress in correcting the problems we identified in our initial report and have implemented all of our recommendations. (2010-F-46)

Inappropriate Payments for Vision Care Services Claimed by Dr. Horowitz (Follow-Up) - Kenneth Horowitz, OD, is an optometrist from Staten Island who received about \$370,000 from Medicaid during the five-year period ended September 30, 2008. In audit report 2008-S-166, we determined that Dr. Horowitz routinely overbilled Medicaid when the patients were also eligible for Medicare, and routinely overbilled for the cost of his transportation to a nursing home where most of his patients lived. We concluded that about \$239,500 of the \$370,000 in Medicaid payments (65 percent) received by Dr. Horowitz may have been inappropriate. We recommended that Health investigate these payments and make all appropriate recoveries. When we followed up with Health officials, we found they have made some progress in correcting the problems we identified in our initial report, but improvements were still needed. (2010-F-47)

Medicaid Payments for Diabetic Testing Supplies (Follow-Up) - Diabetic individuals use certain items to monitor their blood glucose levels. In New York State's Medicaid program, pharmacies may be reimbursed for providing these items to diabetic Medicaid recipients. The reimbursements received on behalf of any single individual should be limited to a certain number of the items per month. In audit report 2008-S-123, we compared the limits in New York's Medicaid program to the limits in Medicare and ten other states' Medicaid programs. We found that New York's Medicaid program allows reimbursements for far more items per month than all the other programs. We recommended Health consider lowering New York's Medicaid limits on diabetic testing supplies as well as investigate certain instances where it appeared that reimbursements had been claimed for an excessive number of testing supplies per recipient. When we followed up with Health officials, we found they have made some progress in correcting the problems we identified in the initial report, but improvements were still needed. (2010-F-42)

Controls Over eMedNY Edit Changes (Follow-Up) - Medicaid claims in New York State are processed and paid by the automated eMedNY system. When the claims are processed by eMedNY, they are subject to various automated edits which determine whether the claims are eligible for reimbursement at the amounts claimed. The edits are programmed in accordance with instructions provided by various units within Health.

In audit report 2007-S-139, we examined the management controls over these edits and found there were control weaknesses and improvements were needed. For example, edit changes were not always properly coordinated among the responsible Health units, were not always appropriately authorized, and were not always programmed as intended. As a result of these control weaknesses, inappropriate Medicaid payments may not be prevented and Medicaid claims may be processed inefficiently. For example, in 2007 alone, our audit reports identified about \$54.5 million in overpayments. We made a number of recommendations for strengthening Health's controls over the eMedNY edit process. When we followed up with Health officials, we found they have made progress in correcting some of the problems we identified in the initial report. However, improvements were still needed. (2011-F-4)

Medicaid Overpayments of Coinsurance Fees for Medicare Beneficiaries (Follow-Up) - If an individual is eligible for both Medicare and Medicaid, the individual's eligible medical costs are to be paid by Medicare, except for a portion of the costs relating to certain services, which are to be paid by Medicaid. In audit report 2008-S-128, we examined the payments made by Medicaid over a one-year period on behalf of individuals who were eligible for both Medicare and Medicaid to determine whether any overpayments had been made because medical service providers had inaccurately reported the amounts they had been paid by Medicare. We identified an estimated \$2.7 million in such overpayments. When we followed up with Health officials, we found that they made significant progress in correcting the problems we identified in our initial report. (2011-F-11)

Office of Children and Family Services **(OCFS)**

Contracts for Personal and Miscellaneous Services - During the period April 1, 2006 through July 20, 2010, OCFS had 525 active personal and miscellaneous service contracts in place with a total value of \$139 million. We

examined whether OCFS was adequately justifying the need to contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We reviewed a sample of 15 contracts valued at \$24 million and found that OCFS was not able to demonstrate that it had formally evaluated and justified the need for 14 of these contracts totaling \$23 million. OCFS also did not provide documentation to show it was periodically reassessing whether such contracts could be deferred, eliminated or reduced. We recommended certain improvements for OCFS to attain savings relating to these contracts. (2009-S-100)

Oversight of Operating Revenue Contracts - OCFS often enters into contracts with vendors to collect program-related revenues which they share with OCFS. We examined whether OCFS was maximizing its revenue opportunities and effectively monitoring its revenue contracts. We found that OCFS officials are effectively maximizing contract revenue and monitoring contracts to ensure that all entitled revenue is collected and promptly deposited into the appropriate accounts. (2009-S-18)

Mobile Devices With Sensitive Information Are Not Secure - The Information Security Officer and the Information Security Unit at OCFS are responsible for the security of sensitive child welfare data. We found confidential child welfare data is at risk of being viewed by unauthorized users. We were able to access progress notes, pictures of injuries related to case investigations and files related to court petitions and medical requests. We recommended OCFS take certain steps to secure their devices. (2010-S-19)

Office of Temporary and Disability Assistance (OTDA)

Contracts for Personal and Miscellaneous Services - During the period April 1, 2006 through December 21, 2009, OTDA had 245 active personal and miscellaneous service contracts in place with a total value of more than \$847 million. We examined whether OTDA was adequately justifying the need to initially contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We reviewed a sample of 27 contracts valued at \$270 million and found that OTDA was not able to demonstrate that it had formally evaluated and justified the need for any of the selected contracts. We also determined that OTDA has not been periodically reassessing whether such contracts could be deferred, eliminated or reduced. We recommended certain improvements for OTDA to attain savings relating to these contracts. (2009-S-101)

Oversight of Grants - Government agencies often award grants to public, private and not-for-profit entities so that these entities can carry out government programs. As of July 2009, OTDA was overseeing 643 grants that had a total value of \$358 million over the duration of the grant contracts. Five of OTDA's largest grant programs are overseen by its Bureaus of Housing and Shelter Services and Employment and Contract Management. We assessed whether OTDA was effectively overseeing its grant activity by reviewing a sample of 24 grants with a total value of about \$25 million, overseen by these two Bureaus. We found that certain improvements are needed in OTDA's grant oversight, particularly by the Bureau of Employment and Contract Management. We recommended certain steps that OTDA can take to improve its ability to oversee its grants. (2009-S-55)

Office of Mental Health (Mental Health)

New York State Psychiatric Institute: Control Over State Resources - The New York State Psychiatric Institute (Institute) is one of two clinical research facilities administered by Mental Health. The Institute is funded by a combination of State appropriations and public/private research grants, and has collaborative relationships with Columbia University and New York Presbyterian Hospital. These three entities share professional and administrative staff, facilities and equipment, and participate in joint training, research and clinical trial endeavors. Many Institute employees also work for Columbia. We examined whether Institute officials provided adequate control over State resources and determined that they did not. As a result, we concluded that there was inadequate assurance that all employees on the Institute's payroll were working the appropriate number of hours to support their State salary. There was also inadequate assurance that the Institute was being properly reimbursed for the use of its facilities by Columbia staff or for Columbia business. We recommended certain improvements to enhance management control over State resources. (2008-S-145)

Controls Over Prescription Drugs (Follow-Up) - Mental Health operates 27 psychiatric centers, all of which operate pharmacies to supply medications to patients. Prescription drugs are categorized as controlled (e.g., hallucinogens, which are strictly regulated by the federal government) and non-controlled (e.g., less harmful) drugs. In audit report 2007-S-111, we found that centers had sufficient controls in place to protect and account for controlled drugs, but not for non-controlled drugs, which account for the majority of their drug costs. When we followed up with Mental Health officials, we found that they made progress in correcting some of the problems we identified in the initial report, but improvements were still needed. (2010-F-49)

Oversight of Criminal History Record Checks for Service Provider Employees (Follow-Up) - Mental Health provides inpatient and outpatient services to approximately 500,000 New Yorkers annually. Mental Health may be assisted by not-for-profit service providers, but all prospective employees of these providers who would have close or unsupervised contact with patients are required by law to undergo a background check as a condition of their employment. In audit report 2008-S-87, we found that Mental Health's oversight provided reasonable assurance the providers were complying with the requirement. We made two recommendations relating to their compliance and periodic reassessment of its oversight of policies and procedures. When we followed up with Mental Health officials, we found that they have implemented both recommendations. (2011-F-1)

Kingsboro Psychiatric Center Controls Over Late Separations (Follow-Up) - When employees resign, retire or are terminated, controls must be in place to ensure that their separation is processed in a timely manner. In audit report 2007-S-109, we identified weaknesses in these controls at Kingsboro Psychiatric Center. As a result, a number of employees were paid for time they did not actually work. We recommended that certain actions be taken to strengthen the controls over employee separations at Kingsboro Psychiatric Center. When we followed up with Mental Health officials, we found that they have implemented all of our recommendations. (2010-F-30)

Creedmoor Psychiatric Center Continuing Medical Education Credits (Follow-Up) - Physicians at Creedmoor Psychiatric Center are re-appointed every two years, and consistent with guidelines issued by the American Medical Association, they are required to earn at least 40 hours of Continuing Medical Education (CME) credits in the two-year period before they are re-appointed. In audit report 2008-S-99, we found that 14 of the physicians re-appointed during our audit period did not meet this requirement. When we followed up with officials, we found that they have made progress in correcting the problems we identified and implemented all of our recommendations. (2010-F-29)

Office for People With Developmental Disabilities

Oversight of Criminal History Record Checks for Employees of Voluntary Agencies and Registered Providers (Follow-Up) - The Office for People With Developmental Disabilities provides residential, day and family support services to approximately 140,000 New Yorkers with developmental disabilities. All prospective employees, including those at voluntary agencies and registered providers who have regular and substantial unsupervised or unrestricted physical contact with the developmentally disabled, are required by law to undergo a background check as a condition of their employment. In audit report 2007-S-112, we examined the voluntary agencies' and registered providers' compliance with this requirement and found that, in general, they were in compliance. We also found that the Office for People With Developmental Disabilities' oversight appeared to be adequate to detect instances of noncompliance. However, we also determined that certain improvements were needed in its oversight procedures. When we followed up with Office for People With Developmental Disabilities officials, we found that they have made some progress in addressing the matters in our initial audit report. (2011-F-2)

Office for the Aging

Security Controls Over Computer Network - We reviewed security controls for the Office for the Aging's computer network and found numerous weaknesses which needed to be corrected. Detailed results were provided to Office of the Aging officials. Due to the sensitivity of the information, these results were not included in the public report. (2010-S-23)

EDUCATION

Several State agencies are responsible for providing and overseeing educational services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

State Education Department **(Education)**

Accuracy of Graduation and Dropout Data in Annual Report Cards for Selected High Schools (Follow-Up) -

Education is responsible for reporting high school graduation and dropout rates to the public. To do this, Education publishes an annual report card for each public high school in the State. In report 2008-S-45, we reviewed data for 12 schools and found that the graduation rates reported by two schools and dropout rates reported by four schools were inaccurate by more than 5 percentage points. We also determined that, while Education had some controls in place to ensure the accuracy of the information in the report cards, these controls were not sufficient. When we followed up with Education officials, we found that they have made significant progress in correcting the problems we identified. (2010-F-34)

Oversight of Scoring Practices on Regents Examinations (Follow-Up) -

Regents examinations are statewide tests for high school students in particular subject areas. Local school officials are responsible for scoring the exams and reporting the results to Education, which then reviews selected scored exams to evaluate the schools' compliance with guidelines. These reviews have identified significant inaccuracies that have tended to inflate exam scores across the State. In audit report 2008-S-151, we found that Education had done little to correct these inappropriate scoring practices. We recommended that certain actions be taken by Education to strengthen its oversight of local scoring practices for Regents exams. When we followed up with Education officials, we found that they made significant progress in addressing the issues we identified in our initial report. (2011-F-6)

Tuition Reimbursement Account - We examined Education's Statements of Revenues, Expenditures, and Changes in Fund Balance, and the related Balance Sheets (Statements) for the Tuition Reimbursement Account for the three fiscal years ended March 31, 2010. The Statements are the responsibility of Education's management. Our responsibility is to express an opinion on the fair presentation of the Statements based on our examination. In our opinion, the Statements fairly presented, in all material respects, the Tuition Reimbursement Account's financial position and operations as of March 31, 2008, March 31, 2009 and March 31, 2010. (2010-S-39)

Henry Viscardi School: Compliance With the Reimbursable Cost Manual - The Henry Viscardi School, which is located in Long Island, is one of 11 private schools in New York that receive operating aid directly from the State to provide educational services to disabled students. The aid is provided on the basis of certain claimed expenses that the schools submit to Education as part of their annual consolidated fiscal reports. To be eligible for reimbursement, the expenses must comply with the guidelines contained in Education's Reimbursable Cost Manual. We reviewed the costs reported by the Henry Viscardi School for the two years ended June 30, 2009 and determined that some were not appropriate. We disallowed \$835,074 because some of the expenses were unnecessary, unreasonable or not allowable and, therefore, not eligible for State reimbursement. We also identified another \$488,269 in excessive allocations for 15 employees in the two years covered by our audit. These were not disallowed, but we question these allocations and recommend Education review these costs. (2009-S-70)

St. Mary's School for the Deaf: Procurement and Contracting Practices (Follow-Up) - St. Mary's School for the Deaf, which is located in Buffalo, is one of 11 private schools in New York that receive almost all its operating aid directly from the State while providing educational services to disabled students. In audit report 2008-S-126, we examined the School's procurement and contracting practices and found widespread noncompliance with the State's requirements. For example, only one of the 20 procurement transactions (totaling \$1.9 million) in our sample was in full compliance with applicable competitive bidding requirements. As a result of this noncompliance, there was little assurance the School was obtaining goods and services at the lowest available prices. When we followed up with school officials, we found that they have made some progress in correcting some of the problems we identified. However, additional improvements were needed. (2010-F-35)

St. Francis de Sales School for the Deaf: Selected Financial Management Practices (Follow-Up) - St. Francis de Sales School for the Deaf, which is located in Brooklyn, is one of 11 private schools in New York that receive operating aid directly from the State to provide educational services to disabled students. In audit report 2008-S-160, we identified a number of internal control weaknesses at St. Francis in the areas of procurement, cash disbursements and payroll. We also found that the School's Board of Trustees was not providing effective oversight of the School's financial operations. When we followed up with school officials, we found that they have made significant progress in correcting the problems we identified. However, improvements were still needed. (2010-F-40)

Lexington School for the Deaf: Review of Procurement Practices (Follow-Up) - The Lexington School for the Deaf (School), which is located in Queens, is one of 11 private schools in New York that receive operating aid directly from the State to provide educational services for certain types of disabled students. In audit report 2008-S-129, we examined the School's procurement practices and found it needs to strengthen controls over its procurement operations. We determined the School did not comply with Education guidance for procurements over \$10,000 and \$20,000. For purchases under these limits, we found the School did not comply with its own procedures. When we followed up with School officials, we found that they implemented both recommendations included in our initial report. (2011-F-8)

Lavelle School for the Blind: Selected Financial Management Practices (Follow-Up) - Lavelle School for the Blind (School), which is located in the Bronx, is one of 11 private schools in New York that receive operating aid directly from the State to provide educational services for disabled students. During the 2007-08 school year, the School had an enrollment of about 163 students and received approximately \$9.6 million in State funds. In audit report 2009-S-2, we examined whether the School established and maintained an adequate system of internal control over procurement, cash disbursements and payroll operations. We found that the School did not have an adequate system in place. When we followed up with School officials, we found that they had made significant progress in correcting the problems we identified in our initial report. However, improvements were still needed. (2011-F-9)

State University of New York **(SUNY)**

SUNY Upstate Medical University: Contracts for Personal and Miscellaneous Services - During the period April 1, 2006 through February 1, 2010, SUNY Upstate Medical University (Upstate) had 665 active personal and miscellaneous service contracts in place totaling \$499.8 million. We examined whether SUNY Upstate was adequately justifying the need to initially contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We reviewed a sample of 50 contracts valued at \$148.8 million, and found that Upstate did not maintain sufficient documentation to justify the need for 38 of them totaling \$116.3 million. We also determined that Upstate has not been periodically reassessing whether such contracts could be deferred, eliminated or reduced. We recommended certain improvements for Upstate to attain savings relating to these contracts. (2010-S-3)

SUNY College at Oneonta: Network Security Controls (Follow-Up) - The College at Oneonta uses a computer network in a number of its activities. In audit report 2009-S-3, we examined selected aspects of the security controls in place over this network. We found that certain improvements were needed in these controls. So as not to compromise the security of the network, our detailed findings and recommendations were not included in the public report but rather presented directly to College officials. When we followed up with College officials, we found that many actions had been taken to implement our recommendations but some additional steps were needed. (2010-F-44)

Higher Education Services Corporation/Tuition Assistance Program **(TAP)**

TAP is the largest of the student grant and scholarship programs administered by the Higher Education Services Corporation. The program provides grants to State residents attending postsecondary institutions in New York State. Most of our audits of TAP are designed to determine whether the institutions comply with program requirements in certifying students as eligible for TAP awards.

Long Island Business Institute - Long Island Business Institute (LIBI) is a degree-granting, private, for-profit institution located in Suffolk and Queens counties. For the three academic years ended June 30, 2008, LIBI officials certified 4,863 TAP awards totaling more than \$10.3 million. We disallowed \$7,500 of this amount because school officials incorrectly certified three students as eligible for four TAP awards. Two of the students received three awards even though they had not met matriculation requirements. The other student was not in good academic standing and, therefore, not eligible for a TAP award. (2009-T-6)

New York Institute of Technology - New York Institute of Technology is an independent, non-sectarian institution, with locations in Old Westbury, Manhattan and Central Islip. For the three academic years that ended June 30, 2008, New York Institute of Technology officials certified 10,316 TAP awards totaling more than \$15.4 million. We tested the accuracy of the awards and disallowed \$109,380. We also disallowed four awards totaling \$5,450 because students were either not in full-time attendance or not in good academic standing. In total, we disallowed \$114,830. (2009-T-5)

Berkeley College (Manhattan Campuses) - Berkeley College is a private coeducational college located in New York and New Jersey. Berkeley College's Manhattan campuses specialize in business programs. For the three academic years ended June 30, 2008, Berkeley College officials certified 11,044 TAP awards totaling more than \$13.4 million. We determined that Berkeley College was overpaid \$634,714 because school officials incorrectly certified students as eligible for TAP awards. For example, some students who were certified as eligible were not in good academic standing, some were not full-time and others did not meet citizenship requirements. (2010-T-2)

Professional Business College - The Professional Business College is an independent proprietary college, with its main building in lower Manhattan. For the three academic years ended June 30, 2009, Professional Business College officials certified 4,596 TAP awards totaling more than \$10.5 million. We determined that the Professional Business College was overpaid \$5,438 because school officials incorrectly certified three students as eligible for TAP awards. Two of the students received awards even though they were not attending full-time and the other was not in good academic standing. (2010-T-3)

TRANSPORTATION

Several State agencies and public authorities are responsible for maintaining and regulating various types of transportation systems in New York State. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Metropolitan Transportation Authority **(MTA)**

New York City Transit: Subway Service Diversions for Maintenance and Capital Projects - A subway service diversion takes place when New York City Transit (Transit) must close all or a part of a subway line for capital projects or maintenance. For the period January 1, 2009, through July 14, 2010, Transit records show 3,332 service diversions were underway in various phases. Service diversions, while necessary, can be an inconvenience to riders and can have an adverse economic impact on businesses. In a joint audit with the New York City Comptroller's Office, we found that Transit did not adequately inform subway riders about diversions and diversion costs were not adequately monitored. As a result, Transit could not justify why diversion costs exceeded budgets. We also found that daily work on diversions often started late and ended early. These conditions add substantially to project cost, further inconvenience riders, and cause economic hardship to affected businesses. We made several recommendations to improve the management of diversions. (2010-S-34)

Selected Aspects of Bus Fleet Maintenance - The MTA oversees seven constituent agencies, three of which provide bus service in New York City and Long Island. We examined selected aspects of the MTA's bus maintenance program and found that a number of improvements were needed, as routine maintenance procedures often were not performed as required, buses at two-thirds of the 29 depots did not meet their performance goals, and the maintenance cost per mile was unusually high. In addition, we concluded there was not a sufficiently comprehensive bus maintenance plan in place. We made several recommendations for improving the effectiveness of the MTA's bus maintenance program. (2009-S-51)

Minority and Women's Business Enterprise Reporting - State agencies and public authorities are required to promote the participation of minority-owned business enterprises (MBEs) and women-owned business enterprises (WBEs) in State contracts and procurement opportunities. Specifically, they must establish annual goals for such participation (expressed as a percentage of the entity's total contract spending for the year), make a "good faith" effort to achieve these goals, and report quarterly on their level of participation. We examined the MTA's performance in these areas and found that it is establishing annual goals for M/WBE participation in its procurements, and in some respects, is making a good faith effort to reach those goals. However, it has not shown that the goals are reasonable, and it is consistently falling well short of reaching its goals. We also found that the MTA is not accurately reporting the results of its efforts and is overstating the extent of M/WBE participation in its procurements. We recommended certain improvements to help the MTA more fully comply with the requirements. (2010-S-9)

New York City Transit/Staten Island Railway: Selected Aspects of Railcar Fleet Maintenance - The MTA encompasses seven constituent agencies, including New York City Transit (Transit). The Staten Island Railway (Railway) reports through Transit. We reviewed both agencies to determine whether they had standards and procedures for the maintenance of their railcars and if the agencies were adhering to these standards and procedures. We found that Transit and Railway have established systems of regularly scheduled inspections and maintenance. While inspections were usually performed on time, there was still an opportunity for improvement because this was not always the case. We also found that if Transit and Railway changed the inspection cycles for certain railcars, it could save about \$2.6 million. (2009-S-68)

Port Authority of New York and New Jersey **(Port Authority)**

Management and Control of Employee Overtime Costs - During 2010, the Port Authority paid \$85.7 million in overtime to 5,360 employees. We reviewed these costs and found that Port Authority officials have not effectively managed and controlled employee overtime costs. We found numerous examples of employees earning overtime

that exceeded their base salaries. We also determined that Port Authority retirees accounted for 24 percent of the top 300 pensioners in the New York State Retirement System as of December 31, 2009, with pensions ranging from \$125,612 to \$196,768. We recommended that the Port Authority be more proactive in managing its use of overtime. (2009-S-87)

Vehicle and Heavy Equipment Purchase Program - The Port Authority operates a fleet of vehicles and heavy equipment (e.g., cars, forklifts). To purchase new vehicles and heavy equipment, Port Authority employees are required to follow certain procedures and document purchases through an annual Automotive Equipment Purchase Program (Purchase Program). For the three years ended December 31, 2009, the Port Authority authorized the purchase of 616 vehicles and/or pieces of heavy equipment totaling \$48.2 million. We examined whether the Port Authority ensures that the acquisition and disposition of vehicles and heavy equipment is justified. We found that the Port Authority generally did not follow required procedures. In a random sample of 75 items that were purchased for \$8.2 million, the Port Authority only provided documentation to justify the purchase of two items for \$192,279. In addition, we found that the Port Authority set aside funds in the Purchase Program for vehicle and equipment rentals, as well as car services. However, not all the funds set aside for these items were used and the approximately \$5 million in surplus funds for these items we identified during the three-year period could not be allocated for other spending needs. We recommended certain improvements to strengthen the planning and oversight of vehicle and equipment purchases. (2009-S-32)

Contracts for Personal and Miscellaneous Services - The Port Authority obtains personal and miscellaneous services through two types of agreements: Service Contracts and Call-In Agreements. Service Contracts are usually for routine service functions as well as project-related services such as construction management. Call-In Agreements cover temporary staffing services and professional, technical and advisory services, etc. According to available records, the Port Authority had 1,858 Service Contracts and Call-In Agreements valued at \$4.38 billion in effect during the period April 1, 2006 through July 30, 2009. We examined whether the Port Authority was adequately justifying the need to contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds.

We found that the Port Authority generally did not have documentation to justify the need for new or renewed contracts for personal and miscellaneous services. For example, we reviewed a sample of 75 Service Contracts and Call-In Agreements with a total value of \$1.3 billion and found that the Port Authority lacked written support to show the need for 57 of these contracts valued at \$1.18 billion. In addition, the Port Authority did not provide documentation to support that it periodically reassessed all of its contracts for personal and miscellaneous services. We made several recommendations to improve the Port Authority's oversight. (2009-S-54)

Department of Transportation **(Transportation)**

Contracts for Personal and Miscellaneous Services - During the period April 1, 2006 through November 12, 2009, Transportation had about 1,231 active personal and miscellaneous service contracts in place with a total value of \$2.7 billion. We examined whether Transportation was adequately justifying the need to initially contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We reviewed a sample of 45 contracts valued at \$116.7 million and found that Transportation could justify 26 of the 45 contracts totaling \$48.7 million. However, there was no documentation to justify the remaining 19 contracts totaling \$68 million. We also determined that, while Transportation did reduce contract spending, it did not provide documentation to demonstrate that it was periodically reassessing whether such contracts could be deferred, eliminated or reduced. We recommended certain improvements for Transportation to attain savings relating to these contracts. (2009-S-66)

Region 4 Management of Selected Transportation Maintenance Activities - The Maintenance Division within Transportation is responsible for maintaining the infrastructure of the State's highway system. This includes maintaining pavement, bridges, and signs; and implementing a winter snow and ice control program. These tasks are done by workers based at residencies located throughout the State. We examined whether Maintenance employees in Region 4 were deployed and used efficiently and found several ways that Transportation can better utilize its employees to be more productive and provide better service. For example, highway maintenance workers typically spend about 30 minutes at the residency before going out to their assigned work site and 30 minutes at the residency at the end of the day. We do not believe there is a need for all maintenance workers to spend an hour each day at the residency. If indirect time could be reduced by just 25 percent, Region 4 could save about \$96,000 each summer season.

In addition, we found that Region 4 allocates its annual maintenance appropriations to each residency based primarily on lane miles, regardless of the highway and bridge conditions within each residency. We believe that allocations by Transportation and its various Regions should be based more extensively on the highway and bridge conditions. This would ensure that the highways and bridges that are in the worst condition are attended to first, regardless of residency location. We made several recommendations for Transportation to strengthen its oversight of Maintenance employees. (2008-S-172)

Oversight of Grants - Government agencies often award grants to public, private and not-for-profit entities so that these entities can carry out government programs. We assessed whether Transportation was effectively overseeing its grant activity by reviewing a sample of 15 capital construction grants with a total value of about \$64.6 million. We found both strengths and improvement opportunities in Transportation's oversight of its grants. (2009-S-78)

Rochester Genesee Regional Transportation Authority

Management of Employee Overtime - The Rochester Genesee Regional Transportation Authority provides public transportation and other related services within the Rochester Genesee regional transportation district. Records show that overtime increased from \$2.8 million for the year ended March 31, 2006, to \$3.5 million for the year ended March 31, 2009. We examined whether the Rochester Genesee Regional Transportation Authority was adequately managing employee overtime and if overtime paid to employees was actually worked and necessary. We found that Rochester Genesee Regional Transportation Authority officials have taken steps to manage and control employee overtime. However, when we tested overtime payments to seven of the 15 employees with the highest overtime earnings, we found that 537 overtime hours totaling \$17,572 were not justified, mainly due to a lack of documentation. We also found that some workers routinely start before their regular shift and, therefore, were paid overtime. Rochester Genesee Regional Transportation Authority officials generally agreed with our recommendations to improve overtime controls. (2009-S-103)

CRIMINAL JUSTICE AND JUDICIAL ADMINISTRATION

Several State agencies are responsible for the administration and support of New York State's criminal justice system and its unified court system. The following summarizes the results of our audits during the past year at these State agencies.

Department of Corrections and Community Supervision **(Corrections)**

Selected Aspects of the Procurement of Pharmaceuticals (Follow-Up) - Corrections has 67 facilities housing about 57,000 inmates. Some facilities have pharmacies to fill inmate medical prescriptions, while others have their prescriptions filled by vendors. In audit report 2006-S-20, we examined whether Corrections had taken all available steps to procure pharmaceuticals at the lowest possible cost to the State. We found that Corrections complied with procurement guidelines and made reasonable efforts to obtain the lowest price for pharmaceuticals. However, we identified certain actions that could be taken to further reduce pharmaceutical costs. When we followed up with Corrections' officials, we found that they made progress in correcting the problems we identified in our initial report. (2010-F-50)

Division of Criminal Justice Services

Consolidation of Services - Certain administrative and support functions for the Division of Probation and Correctional Alternatives, the State Commission of Correction, the Office for the Prevention of Domestic Violence, and the Office of Victim Services have been consolidated within the Division of Criminal Justice Services over the last ten years, at the direction of the Division of Budget. Our audit could not conclude whether, or to what extent, the consolidated services performed by the Division of Criminal Justice Services were effective and cost-efficient because neither it nor the other agencies maintained adequate documentation to enable us to reach a conclusion. For example, there were no rules, regulations, policies, or written agreements that specified anticipated service effectiveness or expected cost savings. We determined that the Division of Criminal Justice Services needs to work with each agency to develop written service level agreements that clearly define the role of each agency, develop formal goals and action plans, and identify all opportunities to streamline agency operations. (2010-S-16)

GOVERNMENT SUPPORT AGENCIES

Some State agencies and public authorities provide services that support the operations of State and local governments. These activities involve billions of dollars annually. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Civil Service **(Civil Service)**

Under the New York State Health Insurance Program (NYSHIP), Civil Service administers health insurance programs for active and retired State, local government and school district employees and their dependents. The primary such program is the Empire Plan, which includes prescription drug coverage, and provides services costing more than \$5 billion a year. Civil Service contracts with United HealthCare (United) to process medical claims for the Empire Plan.

Payments Made to Hudson Valley Hospital Center - The hospitalization portion of the Empire Plan is administered by an insurance carrier (Empire BlueCross BlueShield) that is overseen by Civil Service. Generally, the carrier's costs are fully reimbursed by Civil Service. The carrier has agreements with various hospitals, and these agreements govern the carrier's reimbursements of the hospitals for services provided to Empire Plan members. We examined the reimbursements that were made to one of these hospitals, Hudson Valley Hospital Center, over the three years ended December 31, 2009.

We found that, due to weaknesses in the agreement between Empire BlueCross BlueShield and Hudson Valley Hospital's parent organization, Empire BlueCross BlueShield paid the hospital excessive amounts for certain services. Specifically, Empire BlueCross BlueShield paid the hospital \$1.1 million for the services, even though the services cost the hospital only \$228,153 to provide. According to Empire BlueCross BlueShield officials, the reimbursements for these services were expected to be close to the hospital's costs for the services. Under the agreement, the excessive payments could not be recovered. However, we recommended that Empire BlueCross BlueShield modify the agreement to prevent such excessive payments in the future. (2009-S-99)

Payments Made to Stony Brook University Medical Center - The Empire Plan processes claims for hospital services in accordance with agreements between the Empire Plan and member hospitals. For the five-year period ended December 31, 2008, the Empire Plan paid 169,912 claims totaling \$249.7 million for services provided by Stony Brook to Empire Plan members. We identified 94 errors on 79 of the 179 random sample claims (44 percent) we selected for review. With few exceptions, the errors led to overpayments, many of which were significant. When we statistically projected these errors to the entire population of claim payments for the five-year audit period, the resulting estimate showed that the hospital had been overpaid by a total of about \$3.7 million. We recommended that the carrier recover these overpayments from the hospital, and remit the \$3.7 million to the State. We also recommended that the carrier establish controls to prevent such overpayments in the future. (2009-S-27)

Payments for Prescription Drugs Dispensed by Kings Pharmacy - United subcontracted its claims processing and payment functions for drug coverage to Medco Health Solutions, Incorporated (Medco). For the period from January 1, 2008 through July 9, 2010, the State paid United almost \$5.9 million for 30,066 prescriptions (47,780 claims) that were reported by Kings Pharmacy. Medco conducted an on-site audit of Kings Pharmacy in April 2009 and identified overpayments totaling \$124,280 (24 percent of the claims it tested). We examined the population of prescriptions and corresponding claim payments that were outside the scope of Medco's work and concluded that the State overpaid Kings Pharmacy by at least \$591,199 more than Medco had identified. We recommended the overpayments be recovered. (2010-S-43)

Payments for Repackaged Brand Name Drugs Dispensed Under the Empire Plan - United subcontracted its claims processing and payment functions for drug coverage to Medco Health Solutions, Incorporated (Medco). In addition, to help limit costs to the Empire Plan, the contract requires a claim payment for a brand name drug to be based on a prescribed discount from the manufacturer's Average Wholesale Price.

To reduce medication errors, the pharmaceutical industry developed processes for placing drugs into single dose packaging (versus traditional multi-dose bottles). This is commonly known as “repackaging,” which tends to increase production costs, Average Wholesale Prices, and retail prices for a drug. The contract requires United to have controls in place to protect the State from any inflated costs associated with claims for repackaged brand name drugs. For the period January 1, 2008 through July 9, 2010, the State paid United about \$3.1 million for 11,015 claims for repackaged brand name drugs. However, we found that United/Medco’s efforts did not adequately protect the State from excessive costs for repackaged drugs. We concluded that some pharmacies submitted excessive claims for repackaged drugs. As a result, the State overpaid \$996,751 during our audit period for 8,185 claims for repackaged drugs. We recommended ways to improve the controls used by United/Medco to protect the State from excessive costs for repackaged drugs. (2010-S-38)

United Healthcare: Payments for High-Cost Wheelchairs - We examined \$2.9 million in claims paid to four suppliers for 79 high-end wheelchairs provided to people covered by the Empire Plan. On average, these providers were paid \$37,000 each for these wheelchairs, resulting in an average gross profit of more than \$20,000 per chair. This situation occurs primarily because the State, together with the Health Insurance Council that oversees the NYSHIP program, has designed the Empire Plan to have few restrictions on payments made for high-cost wheelchairs and accessories. In addition, United does an inadequate job of monitoring claims to ensure that suppliers comply with the few restrictions that do exist, including making sure that prices are accurate and discounts are appropriate. Our review disclosed overpayments to providers totaling \$128,238 simply because claims exceeded contract limits. We recommended ways to better control these costs. (2010-S-20)

Health Insurance Premiums - Civil Service provides health insurance and other benefit programs for State agencies and participating employers (local government agencies and public authorities). We found that Civil Service inappropriately used State funds to pay health insurance premiums for 13 of 227 individuals we examined. As of March 16, 2011, these inappropriate payments totaled \$409,799. Civil Service has since corrected their records and recovered these funds. (2010-S-62)

Office of General Services

Controls Over Overtime (Follow-Up) - The Office of General Services provides various support services to State agencies, public authorities, municipalities and other political subdivisions of New York State. In audit report 2007-S-125, we examined the Office of General Services’ controls over its overtime costs, which totaled about \$3.5 million a year. We found that the Office of General Services had adequate controls in place to provide reasonable assurance employees were being paid only for hours they actually worked and overtime was being assigned in accordance with the prevailing guidelines. However, we found that certain improvements could be made in the development of certain overtime budgets. When we followed up with officials, we found they have made some progress in correcting the problems we identified. (2011-F-5)

Office for Technology

Avaya – CAPNET Maintenance - We examined payments made by the Office for Technology for services rendered by Avaya, Inc. (Avaya) under a contract during the period January 1, 2008 through December 31, 2008 and certain charges during calendar year 2009. These payments were for maintenance services on the integrated telecommunications system known as the Capital Network (CAPNET). The objective of our examination was to determine whether the Office for Technology obtained maintenance services at a reasonable price and we determined that it did not always do so. We found Avaya was paid \$3.5 million for services we conservatively estimated had corresponding direct costs totaling \$1.2 million. We believe the \$2.3 million difference suggests the Office for Technology may be able to negotiate better pricing in its future maintenance contracts. (Report 2008-0311)

ECONOMIC DEVELOPMENT AND HOUSING

Several State agencies and public authorities seek to promote commerce, economic development and homeownership. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Division of Housing and Community Renewal **(Community Renewal)**

Housing Preference for Disabled Veterans - In 2007, the New York State Private Housing Finance Law was amended to require housing companies to provide disabled veterans with a preference in admission to Mitchell-Lama housing developments. In advance of that law's enactment, Community Renewal issued a memorandum directing housing companies as to how they should implement the law. We found housing companies failed to follow Community Renewal's guidance. Community Renewal also failed to monitor the housing companies adequately. As a result, disabled veterans have not received the intended housing preference. (2010-S-42)

Vacancies at Selected Mitchell-Lama Housing Developments (Follow-Up) - Community Renewal supervises more than 170 privately owned housing developments that were created under the New York State Private Housing Finance Law (the Mitchell-Lama Law). Applicants for units in these developments are placed on a waiting list. In audit report 2008-S-122, we examined whether vacancies at six selected developments in Manhattan were being filled in a timely manner. We found that the three cooperative developments resold their vacant units in a timely manner, but the three rental developments had vacancies for excessive periods of time. When we followed up with Community Renewal officials, we found that they implemented all of our recommendations. (2011-F-14)

OTHER STATE AGENCIES AND PUBLIC AUTHORITIES

Various State agencies and public authorities perform such functions as protecting natural resources, managing parks, and regulating and licensing certain activities. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Agriculture and Markets

Controls Over State Fair Revenues - The Department of Agriculture and Markets oversees the annual New York State Fair. We found Department of Agriculture and Markets' managers had put in place several controls to provide assurance that State Fair revenues were properly collected, deposited, and recorded for most sources. However, we found that the contractor operating the Heroes and Legends Café was not accurately recording sales and, as such, it is likely that the Fair has not received its proper share of the revenues collected. We made 11 purchases at several of the Café's operating sites and found 36 percent of the purchases were not rung through the register. We also identified other issues relating to sponsor signs and space leasing that the Department of Agriculture and Markets should address. (2010-S-52)

Department of Environmental Conservation

Title V Operating Permit Program Consolidated Statements - In the Title V Operating Permit Program, the Department of Environmental Conservation regulates the amount of pollutants emitted by large businesses. We audited the Consolidated Statements of Revenues, Expenditures and Changes in Fund Balances pertaining to the Program for the two years ended March 31, 2009. We concluded that the financial statements were presented fairly in all material respects. However, we found the Program is not self-sufficient and the Department of Environmental Conservation exceeded Program revenue. (2010-S-61)

Division of Human Rights

Contracts for Personal and Miscellaneous Services - For the period April 1, 2006 through March 31, 2009, the Division of Human Rights had five contracts with a total value of \$2.32 million in effect for personal and miscellaneous services. We reviewed four of the contracts totaling \$2.29 million and examined whether the Division of Human Rights was adequately justifying the need to initially contract out for such services and periodically reassessing whether such contracts could be deferred, eliminated or reduced to save State funds. We found that the Division of Human Rights did not justify its need to award these contracts, was not adequately documenting the need to initially contract out and was not periodically reassessing whether such contracts could be deferred, eliminated or reduced. We recommended certain improvements in the administration of these contracts. (2009-S-83)

Energy Research and Development Authority

FlexTech Program - The Energy Research and Development Authority was established to advance innovative energy solutions to improve New York's economy and environment. The Energy Research and Development Authority administers the FlexTech program to provide the State's commercial, industrial, institutional, government, and not-for-profit customers with objective and customized information to help them make informed energy decisions. We examined whether FlexTech audit resources were sufficient to meet program demand and determined that they were sufficient. (2010-S-27)

Natural Heritage Trust **(Trust)**

Sources of Trust Revenues - The Trust is a public benefit corporation that was created to receive and administer gifts, grants and contributions to further public programs of parks, recreation, conservation and historic preservation. The Trust maintains over 200 custodial accounts for account holders, including the Office of Parks, Recreation and Historic Preservation (Office). We examined whether Office revenues were incorrectly deposited into the custodial accounts of the Trust. We found that more than \$3.5 million in revenues were deposited into Trust accounts that should have been deposited into Office accounts. We recommended the Office recover State funds and improve controls over Office and Trust revenue. (2009-S-11)

Barns Grant Program - The purpose of the Barns Grant Program (Program) is to restore and preserve barns and related agricultural buildings in New York State. The Program is overseen by a Coordinator. We audited the Program to determine whether grant funds were used appropriately, whether certain conflicts of interest existed within the Program, and to assess the propriety of the Trust's classification of the Coordinator as an employee. In addition, we followed up on the status of the Trust's efforts to return certain excess Program funds to the State as we recommended in a previous audit of Environmental Protection Fund grants awarded by the Office of Parks, Recreation and Historic Preservation. We determined that grant funds were used appropriately, no conflicts of interest existed within the Program and the Coordinator was appropriately classified. However, we noted that the Trust still had not refunded about \$213,000 due the State and recommended it do so promptly. (2010-S-37)

New York Power Authority **(Power Authority)**

Selected Management and Operating Practices - The Power Authority is the country's largest state-operated power organization. We reviewed the Power Authority's management and operating practices to determine whether they resulted in reasonable and business-related expenditures, including personal service contracts, discretionary spending and the cost of debt issuance. We found the Power Authority's management and operating practices generally resulted in appropriate expenditures in all areas examined. The Power Authority also monitored costs to ensure it was obtaining services and items at a reasonable price. Although discretionary spending generally appeared reasonable and proper, we did identify certain expenditures totaling approximately \$340,000 over the two-year audit period where we questioned if the purpose and/or the amount of such expense represented the best use of public funds. These expenses included amounts the Power Authority paid to host annual parties and picnics for employees, retirees and their children; for empathetic flowers and other gifts; and for other socially-oriented events. We brought these issues to the attention of Power Authority officials, who agreed to take steps to minimize these costs in the future. (2010-S-57)

Workers' Compensation Board

Inappropriate Payment Requests - We examined Workers' Compensation Board payment requests during the period January 1, 2010 through December 31, 2010. We found the Workers' Compensation Board made 619 inappropriate payment requests totaling over \$3.9 million, including \$3.43 million in potential overpayments and \$481,000 in potential underpayments. These included typing errors, duplicate payments, computation errors and payments not properly calculated according to the Workers' Compensation fee schedules. (10-3b-bse-001)