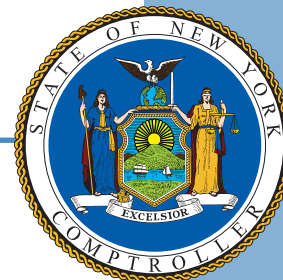


2016–2017 Annual Report on Audits of State Agencies and Public Authorities

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller



JANUARY 2018

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MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI



One of the chief responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that taxpayer money is protected and wisely used. The audits conducted by my staff in the Division of State Government Accountability and the Bureau of State Expenditures help establish whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate resource waste and prevent and detect fraud. This, in turn, helps promote transparency and accountability in New York State government, which benefits each and every one of us.

State government officials are the stewards of the State's assets and the public's trust. Our audits keep New Yorkers informed on how well agencies and authorities are living up to that responsibility, and sound a call to action when needed.

This annual report summarizes the results of the State government audits my staff conducted for the 2016-17 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets.

I hope you find this information helpful.



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 by OSC from October 1, 2016 through September 30, 2017. It does not include audits of New York City agencies, local governments, or other entities as these are not included in the statutory requirements. The audit summaries in this report 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 preceding five-year period – October 1, 2011 through September 30, 2016.

To obtain any of the audits cited in this report, visit <http://osc.state.ny.us/audits/index.htm> or contact the State Comptroller's Office of Public Information at (518) 474-4015.

INTRODUCTION

The New York State Constitution designates the State Comptroller as the State's Auditor. Within the Office of the State Comptroller (OSC), the Office of State and Local Government Accountability (SLGA) is the primary office that carries out the State Comptroller's functions as State Auditor. The Division of State Government Accountability (SGA) is a component of SLGA, and conducts audits of New York State and New York City agencies and public authorities. These audits of New York City agencies, while not included in this report, are accessible from the [OSC website](#). The Bureau of State Expenditures (BSE) also audits all State expenditures prior to payment. Reports issued by BSE are also included in this annual report.

SGA and BSE employ more than 200 professional auditors, many of whom hold advanced degrees and professional certifications in the accounting and auditing fields, including Certified Internal Auditors, Certified Fraud Examiners, and Certified Public Accountants. SGA and BSE also employ staff with other professional expertise, including the social sciences, health, and computer science. OSC is dedicated to protecting the public interest and promoting government accountability.

FISCAL IMPACT

For the reporting year 2016-17 (October 1, 2016 through September 30, 2017), SGA issued 115 audit reports addressing the operations of State agencies and public authorities. Auditors identified nearly \$320.6 million in actual cost savings at these agencies and authorities. These savings have already been achieved or will be achieved with the implementation of audit recommendations. Auditors also identified about \$316.2 million in potential savings. In these cases, more action is usually required to realize the savings (e.g., legislative action or agency follow-up investigations with vendors to determine exact amounts).

The table below provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2016-17. We estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize a total of more than \$784 million in monetary benefits.

Audit Cost Savings for Reporting Year 2016-17

Fiscal Category	Actual	Potential	Total
Cost Recovery	\$201,583,510	\$148,396,121	\$349,979,631
Cost Avoidance	31,465,259	68,902,895	100,368,154
Revenue Enhancement	87,531,767	98,925,396	186,457,163
Subtotal	\$320,580,536	\$316,224,412	\$636,804,948
Questionable Transactions			147,752,246
Total Fiscal Impact			\$784,557,194

AGENCY ACCOUNTABILITY

According to Section 170 of the Executive Law, when an entity is audited by the State Comptroller, the executive of that entity must report to the Governor, the State Comptroller, and the leaders of the Legislature and the legislative fiscal committees, on any steps taken to implement the State Comptroller's recommendations, and on reasons why any particular recommendations were not implemented. The State Comptroller also performs follow-up reviews to assess auditees' progress in implementing prior audit recommendations. In reporting year 2016-17, SGA issued 24 reports following up on a total of 113 recommendations. Of these recommendations, 106 (94 percent) have been fully or partially implemented, as follows:

Agency	Report No.	Recommendations		
		Total	Implemented	Percent
Health and Human Services				
Department of Health	2016-F-7	2	1	50%
	2016-F-8	4	4	100%
	2016-F-11	4	4	100%
	2016-F-16	6	3	50%
	2016-F-17	5	5	100%
	2016-F-18	3	3	100%
	2016-F-27	12	12	100%
	2016-F-29	1	1	100%
2017-F-2	4	4	100%	
Office of Mental Health	2016-F-14	2	2	100%
Transportation				
Canal Corporation	2016-F-20	7	7	100%
Department of Transportation	2016-F-13	6	6	100%
Metropolitan Transportation Authority	2016-F-23	3	2	67%
	2017-F-8	2	2	100%
Government Support				
Department of Civil Service/NYSHIP	2017-F-5	1	1	100%
	2017-F-6	2	2	100%
Office of Information and Technology Services	2016-F-15	5	5	100%
	2016-F-28	8	6	75%
Economic Development				
Empire State Development	2016-F-1	2	2	100%
Other				
Department of Motor Vehicles	2016-F-12	4	4	100%
Hudson River Park Trust	2016-F-22	19	19	100%
Office of Temporary Disability and Assistance	2016-F-31	5	5	100%
	2017-F-1	2	2	100%
Roswell Park Cancer Center	2016-F-19	4	4	100%
Totals		113	106	94%

AUDIT IMPAIRMENTS and AGENCY OBSTRUCTION

State agency and public authority officials have a responsibility to the public to provide access to information to those who oversee their actions, such as OSC. Transparency and accountability are two essential cornerstones of good government. When public officials are not transparent about and accountable for their actions, there is an increased risk that internal controls will not function properly – and less assurance that program goals and objectives will be accomplished efficiently and effectively. Denial of, or excessive delay in, access to relevant documents or key individuals leads to incomplete, inaccurate, or significantly delayed findings or recommendations. This, in turn, may prevent agencies from promptly addressing serious problems, and deprive decision makers and the public of timely critical information regarding the agency's performance.

In accordance with professional standards, OSC auditors are required to report instances where management's refusal to share all available, relevant evidence constitutes an impairment of audit work. For the reporting year 2016-17, four agencies significantly delayed, obstructed, or otherwise impaired the scope of four audits and one follow-up review.

- **Empire State Development Corporation (ESD)**

[Compliance With Outcome Reporting Requirements \(2016-S-40\)](#). On June 21, 2016, at the beginning of our audit, we asked ESD officials to provide us with a listing of all ESD programs with statutory reporting requirements and the details of any policies and procedures in place to ensure compliance with those requirements. Despite repeated emails and phone conversations, ESD failed to respond to our request. Six months into our audit, on December 21, 2016, ESD provided us with only a partial response to our request, significantly impairing our audit fieldwork.

[Oversight of International Offices \(Follow-Up\) \(2016-F-1\)](#). Our assessment of ESD's efforts to improve its monitoring of contracts with foreign representatives necessarily encompassed its Client Resource Management System, which ESD implemented in early 2015 to better track contractor performance. In April 2016, ESD denied our initial request to observe the system in operation and have its capabilities demonstrated. After repeated requests, in July 2016 auditors were finally allowed to observe the system in the presence of ESD officials.

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

[Oversight of Critical Foster Care Program Requirements \(2015-S-79\)](#). OCFS took five months to respond to a preliminary draft of our audit report, and withheld more than 500 electronic files that were subsequently provided to us as part of the agency's final response to our audit findings. Some of this information appeared to have been created after and in response to our audit testing and site visits. For example, in one case, 427 days had elapsed between a purported July 2015 casework contact and the September 2016 data entry date for that contact, which was nine days after our audit site visit. When agency records are not contemporaneous with the events they document, the records are of limited evidentiary value. Withholding information to prevent auditors' review and creating information after the fact to dispute audit findings reflect a lack of accountability and transparency and a weak control environment, which can increase the risks for the already vulnerable population that OCFS is charged with protecting.

- **Justice Center for the Protection of People With Special Needs (Center)**

[Selected Aspects of Incident Intake and Investigation \(2015-S-61\)](#). Citing Section 496 of the Social Services Law – that the Center was only authorized to provide the State Comptroller with case-specific information in substantiated cases – Center officials blocked our access to records about any Abuse or Neglect reports that its staff deemed to be unsubstantiated through their investigations, including cases where investigations were not yet completed and where allegations were deemed unfounded. We also were not given access to records about incident reports categorized as Significant Incidents, unsubstantiated, unfounded, administratively closed, out-of-state investigations, and active/open investigations. These reports represent more than 70 percent of the individual incidents reported to the Center since its inception in June 2013. Without such access, we were unable to test multiple aspects of the Center’s processes, procedures, and data that are critical to assessing its performance in relation to its mission. This lack of access notwithstanding, our examination of information for substantiated cases was also physically controlled by the Center, and OSC auditors were only allowed to observe computer screens after they were previewed by Center staff.

- **State Education Department (SED)**

[Oversight of Nurse Licensing \(2016-S-83\)](#). Despite clear policies and procedures for investigating complaints, including established benchmarks and timeframes for completion, SED is challenged to complete investigations timely, increasing the risk that nurses who are threats to the public’s health and safety are able to continue practicing in New York. Citing confidentiality provisions in Section 6510(8) of the Education Law, SED denied us access to its investigation files, and we were thus unable to draw conclusions about factors contributing to SED’s noncompliance with its own policies and procedures, nor were we able to assess SED’s compliance with any of its other investigation procedures and benchmarks. The confidentiality provisions of the Education Law, as currently formulated, effectively prevent independent audit oversight of the complaint investigation process.

Both agencies and auditors have roles and responsibilities within the audit process. According to Generally Accepted Government Auditing Standards (the standards that are required for our audits by New York State Law), agency management is required to provide “appropriate reports to those who oversee their actions and to the public in order to demonstrate accountability for the resources and authority used to carry out government programs and the results of these programs.” Management is also required to address “the findings and recommendations of auditors” and is responsible “for establishing and maintaining a process to track the status of such findings and recommendations.” Unfortunately, some agencies are not living up to their responsibilities, and through their actions, deny the public and decision makers assurance regarding accountability for the State resources with which they are entrusted.

AUDITS OF SIGNIFICANCE

During the past year, SGA allotted more resources to audits designed to identify system and control deficiencies and policy non-compliance issues, which render State programs vulnerable to overcharging, improper claims, and abuse. Among SGA's most significant audit findings:

- **Medicaid Program** – Medicaid is a federal, State, and locally funded government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. New York's Medicaid program has approximately 7.4 million enrollees. As of November 2017, New York's Medicaid budget totaled \$68.4 billion, including \$36.7 billion in federal funds; \$23.9 billion in State funds; and \$7.8 billion from New York county and New York City governments. Eleven Medicaid audits identified more than \$710 million in actual and potential cost savings to the State, including about \$118 million in collectible drug rebates ([2016-F-27](#)) and about \$122 million in improper and questionable Medicaid premium payments for recipients who were subsequently disenrolled retroactively ([2015-S-47](#)).
- **Special Education** – SGA issued 30 audit reports assessing preschool special education providers' compliance with the State Education Department's Reimbursable Cost Manual. These audits are part of a continuing series of audits and investigations of the special education sector. In December 2013, Governor Cuomo signed legislation mandating the Office of the State Comptroller to audit the more than 300 preschool special education providers in this \$1.4 billion program. Auditors found widespread noncompliance with the Manual's claims requirements, and identified disallowances totaling nearly \$12.8 million stemming from unsupported and/or inappropriate costs charged to the audited programs, with nearly \$5.8 million ([2015-S-43](#)) charged by one provider alone.
- **New York State Health Insurance Program** – For the 2016-2017 reporting year, our special series audits -- focusing on drug rebate revenue collection ([2016-S-7](#), [2017-F-5](#), [2017-F-6](#)), special medical item payments ([2016-S-57](#)), and providers' waiving of out-of-pocket costs ([2016-S-8](#)) – continued to have significant fiscal impact, valued at \$9 million in un-remitted revenues or overpayments.

AUDIT SUMMARIES

HEALTH AND HUMAN SERVICES

Several State agencies are responsible for administering and providing health care 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 (DOH)

Medicaid Program: Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a Related Prescriber (2013-S-4). Prescription drugs can be dispensed to Medicaid beneficiaries by licensed pharmacists who work at pharmacies enrolled in the Medicaid program. For the period January 1, 2008 through December 31, 2012, DOH had paid Joia Pharmacy more than \$7.7 million, on behalf of 706 recipients, for 50,060 pharmacy claims, including 31,351 claims for which a related prescriber (Doctor) was listed as the prescribing physician. Based on a statistical projection of audit sample results, auditors found that DOH overpaid Joia \$1,485,121 for improper pharmacy claims. Disallowances included claims for excess drug quantities, drugs with missing or invalid prescriptions, and unauthorized and inappropriate refills. We made four recommendations to DOH, including: review the Medicaid payments made to Joia and recover any improper payments, as warranted; review and assess the factors that led to Joia's submission of the improper claims and take actions, as warranted; follow up on all other matters identified in this report, including having a DOH physician review the issues involving the Doctor and take appropriate action, as warranted; and assess the appropriateness of referring the providers to the State Education Department's Office of the Professions.

Medicaid Program: Inappropriate Premium Payments for Recipients No Longer Enrolled in Mainstream Managed Care and Family Health Plus (2015-S-47). For the period October 1, 2010 through September 30, 2016, DOH had paid Medicaid mainstream managed care plans and Family Health Plus managed care plans (Plans) approximately \$94 billion in monthly premium payments. DOH can recover inappropriate premium payments made to Plans, which can occur when a recipient is retroactively disenrolled from the Plan, and the Plan was not "at risk" for the provision of medical services during the disenrollment period. We found that DOH had made 314,287 improper and questionable premium payments totaling about \$122 million for 171,936 recipients who were subsequently disenrolled retroactively from a Plan, and the Plan was not at risk during the disenrollment periods. As of June 16, 2016, the Plans had voided premium payments totaling about \$7.4 million, potentially leaving several tens of millions of dollars that still needed to be recovered. We made five recommendations to DOH, including: review the improper and questionable premium payments we identified and recover overpayments, as appropriate; and formally assess the reasons for the outstanding improper payments and strengthen controls to address these weaknesses.

Medicaid Claims Processing Activity. DOH's eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and generates payments to reimburse the providers for their claims. OSC performs audit steps during each weekly cycle of eMedNY processing to determine whether eMedNY had reasonably ensured the Medicaid claims were processed in accordance with requirements, the providers submitting the claims were approved for participation in the Medicaid program, and the amounts paid to the providers were correct. In the 2016-17 reporting year, OSC issued two such audits, as follows:

- **Medicaid Program: Medicaid Claims Processing Activity October 1, 2015 Through March 31, 2016 (2015-S-74)**. During the six-month period ended March 31, 2016, eMedNY had processed about 200 million claims, resulting in payments to providers of about \$29 billion.

Auditors identified approximately \$6.8 million in inappropriate Medicaid payments, including: \$3,521,562 in overpayments for fee-for-service claims for recipients whose services had been covered by managed care; \$1,342,307 in overpayments for claims billed with incorrect information pertaining to other health insurance coverage that recipients had; and \$937,424 in overpayments for newborn claims that had been submitted with incorrect birth weights. By the end of the audit fieldwork, about \$2.4 million of the overpayments had been recovered. Auditors also identified providers in the Medicaid program who had been charged with or found guilty of crimes that violate health care programs' laws or regulations. DOH had terminated 14 of the providers we identified, but the status of one provider was still under review at the time our fieldwork was completed. We made nine recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

- Medicaid Program: Medicaid Claims Processing Activity April 1, 2016 Through September 30, 2016 (2016-S-12)**. During the six-month period ended September 30, 2016, eMedNY had processed about 202 million claims, resulting in payments to providers of about \$29 billion. The audit identified approximately \$16.6 million in potential and actual Medicaid cost savings, including: \$13.6 million in potential savings attributable to Medicaid recipients diagnosed with end stage renal disease who were entitled to Medicare coverage at the time of the claims; \$1.1 million in improper episodic payments to home health care providers; and \$845,824 in overpayments for newborn claims that had been submitted with incorrect birth weights. By the end of the audit fieldwork, about \$1.8 million of the overpayments had been recovered. Auditors also identified providers in the Medicaid program who were charged with or found guilty of crimes that violate health care programs' laws or regulations. DOH had terminated 15 providers that we identified. We made eight recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Medicaid Program: Mainstream Managed Care Organizations – Administrative Costs Used in Premium Rate Setting (2014-S-55). Most of the State's Medicaid recipients receive their services through Medicaid managed care. Medicaid pays mainstream managed care organizations (MCOs) a monthly premium payment for each enrolled Medicaid recipient and the MCOs arrange for the provision of services their members require. Of \$53 billion in total Medicaid claim costs in New York State for fiscal year ended March 31, 2015, MCOs received \$17.8 billion in mainstream managed care premiums for nearly 5.2 million Medicaid enrollees. DOH is responsible for setting the monthly managed care premium rates, which are based, in part, on allowable administrative costs reported by MCOs on Medicaid Managed Care Operating Reports (MMCORs). Of the \$17.8 billion in premiums, approximately \$1.2 billion was for MCOs' administrative costs. DOH is required by the federal Centers for Medicare & Medicaid Services to create actuarially sound rates and to assess certain costs of actuarial services against all MCOs. Auditors found that DOH: overpaid MCOs more than \$18.9 million in mainstream managed care premiums for the State fiscal year 2014-15, and an additional \$56.8 million was at risk of overpayment over the following three years; and also provided insufficient and conflicting MMCOR reporting guidance that allowed MCOs to misreport non-allowable marketing expenses as allowable facilitated enrollment expenses. Auditors recommended that DOH: recalculate the administrative cost components of the mainstream managed care premiums based on our findings and apply them to the premiums paid for the State fiscal year 2014-15 and forward, and recover the corresponding overpayments from all mainstream MCOs based on the recalculated premiums; modify the rate-setting methodology to ensure certain taxes are properly factored into the methodology; and assess the costs of the actuary contract against the MCOs, as appropriate.

Medicaid Program: Reducing Medicaid Costs for Recipients With End Stage Renal Disease (2015-S-14). For the six-year period ended December 31, 2015, Medicaid had paid \$909 million for medical services (including inpatient, clinic, physician/professional, referred ambulatory, transportation, durable medical equipment, and laboratory services) on behalf of 10,906 Medicaid recipients who were diagnosed with end stage renal disease (ESRD). When Medicaid recipients with ESRD are also enrolled in Medicare, Medicare becomes the primary insurer (payer) and Medicaid is the secondary payer. Auditors determined DOH had not taken steps to effectively control the Medicaid costs of recipients diagnosed with ESRD, costing the Medicaid program as much as \$146 million over the six-year audit period. Based on our

analysis of the \$146 million, we estimated that the Medicaid program could save as much as \$69 million from 2016 through 2018 if DOH took steps to identify Medicaid recipients with ESRD and helped guide them on how to apply for and enroll in Medicare. We also identified 4,381 ESRD Medicaid recipients who did not qualify for Medicare based on their time worked and for whom we could not identify a spouse or parent to establish Medicare eligibility. We made five recommendations to DOH, including: implement a process to identify and notify Medicaid recipients with an ESRD diagnosis to apply for Medicare coverage and instruct them on how and where to apply for Medicare; develop an outreach program that encourages ESRD-related providers and other stakeholders to inform ESRD recipients about Medicare benefits and Medicaid's payment of Medicare out-of-pocket costs, and to actively assist recipients in applying for Medicare; and recover Medicaid claims paid for any retroactive Medicare enrollments of ESRD recipients.

Medicaid Program: Managed Long Term Care Premium Rate Setting (2015-S-30). DOH is responsible for setting monthly Managed Long Term Care (MLTC) premium rates. The rate-setting methodology is based largely on managed care organizations' (MCOs) medical costs and administrative costs, which MCOs report annually to the DOH on Medicaid Managed Care Operating Reports (MMCORs). We found that two MCOs reported a total of \$82.3 million in medical costs for services procured through a corporate affiliate that should have been classified as administrative costs. We found that DOH did not have a process in place to properly evaluate unique MCO cost reporting situations and differences in MCO operations and corporate structures that would impact the completeness, accuracy, and consistency of the financial data used to set the premium rates. DOH also overpaid at least \$2.8 million in MLTC premiums between April 1, 2013 and March 31, 2014 because of improper reporting of medical costs by MCOs on the MMCORs. MCOs did not always identify and prevent inappropriate payments to providers for health care services. We identified \$262,197 in duplicate payments to providers, which were reported as costs on the MMCORs and factored into the 2013-14 premium rates. We made seven recommendations to DOH, including: review the appropriateness of the reported medical costs we identified and recover overpayments where appropriate; amend the MMCOR and its instructions, as appropriate, to ensure proper cost reporting by MCOs; and ensure MCOs take certain steps to remedy inappropriate reporting of costs on the MMCOR.

Medicaid Program: Administrative Costs Used in Premium Rate Setting of Mainstream Managed Care Organizations (2015-S-76). Of \$53 billion in total Medicaid claim costs in New York State for fiscal year ended March 31, 2015, mainstream managed care organizations (MCOs) received \$17.8 billion in premiums for nearly 5.2 million Medicaid enrollees, including \$1.2 billion for MCOs' administrative costs. DOH sets the monthly managed care premium rates, which are based, in part, on allowable MCO administrative costs. For this purpose, the Department relies on financial data reported by MCOs on the Medicaid Managed Care Operating Reports (MMCORs). We examined the expenses submitted by WellCare New York, Inc. (WellCare) and found about \$9.8 million in administrative expenses that were not allowable. We assessed the impact of these non-allowable expenses on the administrative component of the premium rate and estimated approximately \$4 million in annual overpayments for each year that the rate is not corrected. For fiscal year 2014-15, we estimate that DOH paid MCOs about \$127 million for facilitated enrollment through the premium rates. Despite the magnitude of these payments, DOH does not adjust each MCO's premium to reflect the MCO's actual facilitated enrollment activities. We made 11 recommendations to DOH, including: review the audit findings and, as appropriate, recalculate the administrative cost components of the mainstream managed care premiums and recover the corresponding overpayments; determine the extent to which MCOs report non-allowable marketing and outreach expenses as facilitated enrollment and require them to remove these expenses from their MMCORs; and revise MMCOR instructions to ensure adequate guidance is given regarding the reporting of facilitated enrollment and outreach expenses, legal costs, and fines.

Improper Episodic Payments to Home Health Providers (2016-S-4). Effective May 1, 2012, DOH had implemented the new Episodic Payment System (EPS) to reimburse Certified Home Health Agencies (CHHAs) for health care services provided to Medicaid recipients in the home. CHHAs allow Medicaid recipients to receive services in their homes instead of unnecessarily being placed in medical facilities, such as hospitals or rehabilitative centers. For the period May 1, 2012 through December 31, 2015, Medicaid had made \$1.2 billion in EPS payments. Auditors had identified about \$16.6 million in improper Medicaid payments to 95 CHHAs. About 93 percent (\$15.4 million) of the overpayments went to 20

CHHAs. Auditors also determined that DOH had not established controls to identify, prevent, and recoup the types of overpayments we identified. Our auditors recommended that DOH: review the \$16.6 million in improper payments made to CHHAs and recover overpayments, as appropriate, and ensure prompt attention is paid to those providers that received the largest dollar amounts of overpayments; and develop and implement mechanisms to identify and recover overpayments when CHHAs do not bill according to DOH guidelines.

Medicaid Program: Errors in Identification of 340B Providers in the Medicaid Drug Rebate Program (2016-S-6). The federal Medicaid Drug Rebate Program requires drug manufacturers to pay rebates to state Medicaid programs for prescription drugs dispensed to Medicaid recipients. To collect rebates, states determine the amount of rebates owed to them and send invoices to the manufacturers. The 340B program requires drug manufacturers to discount the price of drugs sold to eligible health care providers. The Medicaid program benefits when these providers submit claims reflecting the discounted (lower) drug prices. We found that DOH incorrectly identified 13 Medicaid providers as 340B providers. Consequently, the drug claims that these providers had submitted were improperly excluded from the Medicaid Drug Rebate Program, resulting in \$10.7 million in uncollected rebates. In response to the audit, DOH had taken steps to correct some of the errors identified and had invoiced \$4.7 million of the drug rebates before the conclusion of the audit fieldwork. We identified an additional 26 providers that DOH identified as 340B providers but that were not on the official federal Medicaid Exclusion File of 340B providers, leading to claims from these providers being excluded from the drug rebate process. As a result, we estimated that \$531,650 in potential rebates may have gone uncollected. DOH had agreed to review the discrepancies and seek rebates where appropriate. We made four recommendations to DOH to recover about \$6.5 million in uncollected drug rebates and to take certain steps to help ensure future rebates are properly collected.

Fiscal Oversight and Monitoring of AIDS Institute Service Provider Contracts (2016-S-30). DOH's AIDS Institute (Institute) serves to protect and promote the health of New York State's diverse population through disease surveillance and the provision of quality prevention, health care, and support services for those impacted by HIV/AIDS, sexually transmitted diseases, viral hepatitis, and related health concerns. Toward this end, the Institute executes approximately 700 State and federal contracts annually and processes voucher payments for those contractors. From April 1, 2014 through May 9, 2016, the Institute managed 872 contracts totaling more than \$225 million. A past audit by the Bureau of State Expenditures identified over \$178,000 in inappropriate and questionable expense claims submitted by, and paid to, one contractor, which the DOH largely attributed to deficiencies in the Institute's risk assessment process. The current audit found that, although the Institute had taken steps to update its procedures to address problems with contractor cost claims, further internal control improvements were needed. The Institute's fiscal monitoring review processes did not adequately mitigate the risk of contractors claiming inaccurate, inappropriate, or duplicate expenses. Auditors recommended that DOH further strengthen controls to provide additional assurance that contractors' claimed expenses are program appropriate and consistent with contract requirements.

Criminal History Background Checks of Unlicensed Health Care Employees (2016-S-65). DOH, through its Criminal History Record Check (CHRC) Legal Unit, is responsible for conducting criminal history background checks of unlicensed persons in Nursing Homes, Adult Care Facilities (ACFs), and Home Health Care (HHC) providers. Between April 1, 2014 and December 7, 2016, DOH received 563,548 CHRC submissions. Of these, 17 percent had a criminal history, and the CHRC Legal Unit conducted a review and made an employment eligibility determination. About 3.5 percent (19,622) of the CHRC submissions resulted in applicants being denied employment eligibility. We found that DOH is generally meeting its obligations for conducting background checks on unlicensed employees of Nursing Homes, ACFs, and HHCs, according to State requirements. However, we identified 24 CHRC applicants whose determination letters were not completed timely and, as a result, the individuals could have been allowed to work for periods as long as 28 months. We had also found that providers were unable to provide required documentation to support that three of these applicants were adequately supervised during the period when the background checks were pending. DOH officials promptly issued determination letters as a result of our bringing the 24 instances to their attention. Going forward, DOH officials stated that they would utilize this same analysis as a monitoring tool to ensure determination letters are sent timely. We recommended that DOH continuously monitor and analyze CHRC data to

ensure determination letters are sent to applicants and employers timely for all rap sheets that staff have reviewed and perfected.

Cost of Living Adjustment – Child Center of New York (2016-BSE4-COLA-001). Each fiscal year, DOH makes cost-of-living adjustment (COLA) payments to not-for-profit contractors with an eligible contract, such as Child Center of New York (CCNY). DOH provides the contractors with guidance describing the eligible expenses and required supporting documentation. Of the \$15,538 in expenses we examined, we found \$5,756 in overpayments for unallowable and unsupported expenses and \$1,970 in noncompliant expenses paid outside the applicable budget year. The remaining \$7,812 was appropriate and properly supported. Auditors recommended that DOH recover \$5,756 overpaid to CCNY for expenses that did not meet COLA guidance, and ensure any future expenses claimed for COLA payments comply with DOH's COLA guidance for the applicable budget year, including ensuring that expenses claimed are incurred and paid within the correct budget year.

Improper Payments to a Physical Therapist (Follow-Up) (2016-F-7). The State's Medicaid program provides a wide range of health care services, including physical therapy services, to individuals who are economically disadvantaged and/or have special health care needs. Our initial audit ([2013-S-15](#)), issued on December 15, 2014, had found that Medicaid overpaid Mark Amir, a physical therapist who owned and operated Madison Physical Therapy located in Brooklyn, \$146,225 for 3,837 claims that were submitted to the Medicaid program with incorrect Medicare payment information. In addition, our audit had questioned the propriety of 5,634 claims totaling \$158,990 because Mr. Amir submitted claims using his National Provider Identifier for services that were rendered by other clinicians working for Madison Physical Therapy. In our initial audit report, we made two recommendations to DOH to review and recover the improper Medicaid payments that we identified and to determine if sanctions were warranted. Auditors found that officials had made some progress implementing the recommendations we made in the initial audit report, including certain steps to recover \$116,298 in overpayments made to Mr. Amir. However, at the time we completed our follow-up fieldwork, none of the overpayments were actually recovered, and additional actions were still needed. Of the initial report's two audit recommendations, one was partially implemented and one was not implemented.

Overpayments to Managed Care Organizations and Hospitals for Low Birth Weight Newborns (Follow-Up) (2016-F-8). The State's Medicaid program reimburses providers for newborn services using the fee-for-service and managed care payment methods. Medicaid also make supplemental payments for the costs associated with newborn medical care (commonly referred to as "kick" payments). Our initial audit report ([2013-S-57](#)), issued on October 2, 2014, identified about \$13.9 million in inappropriate Medicaid payments, including: \$12.4 million in overpayments for low birth weight kick payments that did not meet the billing requirements of the supplemental payments; \$949,681 in potential overpayments for similar claims that had a high risk of not meeting the billing requirements for low birth weight kick payments; and \$548,404 in overpayments due to duplicate fee-for-service and managed care low birth weight newborn claims. At the time the initial audit's fieldwork had concluded, auditors had recovered over \$7 million of the overpayments identified. We recommended that DOH: review and recover the remaining \$5.9 million in overpayments; review the \$949,681 in payments at high risk of not meeting the billing requirements for low birth weight kick claims and recover any overpayments; implement controls to properly process low birth weight kick claims; and, actively monitor the appropriateness of low birth weight kick payments. We found that DOH officials had made significant progress implementing the recommendations we made in the initial audit report. This included recovering about \$2 million in overpayments that were identified in the initial report and strengthening controls that prevented over \$13 million in improper claims since November 2014. Each of the initial report's four recommendations were implemented.

Facility Structure, Safety, and Health Code Waivers (Follow-Up) (2016-F-11). The almost 4,000 health care facilities across New York State are required to operate in compliance with architectural codes and safety regulations issued by DOH. Regulations permit DOH to grant waivers, temporary or permanent, to a facility for it to continue operating while corrections are made or alternative means of compliance are achieved. Our initial audit ([2014-S-27](#)), which was issued on June 18, 2015, found DOH's waiver practices had not effectively ensured that safety and structural risks related to physical plant standards at health

care facilities were appropriately addressed. DOH lacked a formal written process for waiver management and monitoring, and adequate internal controls, which together led to poor communication among various units with critical responsibilities. Among other findings, there was inadequate documentation of waiver applications and decisions, and of monitoring for approved waivers. As a result, DOH could not efficiently and effectively ascertain what waivers were in place at a given facility, nor could it identify the code violations that had been waived at those facilities. Further, there was limited assurance that violations were corrected or mitigated during the time frame allowed by the waivers. Auditors found that DOH officials had made significant progress in addressing the problems we identified in the initial audit. We found the initial report's four recommendations were all implemented.

Medicaid Payments Made Pursuant to Medicare Part C (Follow-Up) (2016-F-16). Medicaid provides health care services to those who are economically disadvantaged and/or have special health care needs. Many of the State's Medicaid recipients are also enrolled in Medicare. Under Medicare Part C, also known as Medicare managed care or Medicare Advantage, private managed care companies administer Medicare benefits. Our initial audit report ([2012-S-133](#)), issued on May 9, 2014, determined that Medicaid could have saved up to \$69 million if it limited payments of Medicare Part C cost-sharing liabilities. We also identified Medicare Part C cost-sharing liabilities that were improperly paid, including: \$70,594 in excessive payments for Medicare Part C cost-sharing liabilities; \$1.6 million in overpayments for Medicare Part C cost-sharing liabilities paid on behalf of recipients who were not enrolled in Medicare Part C; and \$94,306 in duplicate cost-sharing claims paid. We recommended that DOH: re-evaluate the reimbursement methodology for Medicare Part C cost-sharing; review and recover the improper payments; and correct the Medicaid payment system that allowed concurrent payments of Medicare cost-sharing liabilities and Medicaid Advantage premiums on behalf of the same recipient. Our follow-up found that DOH officials had made progress in addressing the problems we identified in the initial audit report; however, none of the overpayments identified during the initial audit had been recovered. Of the initial report's six audit recommendations, one was implemented, two were partially implemented, and three were not implemented.

Multiple Same-Day Procedures on Ambulatory Patient Groups Claims (Follow-Up) (2016-F-17). Our initial audit report ([2012-S-163](#)), issued on August 12, 2014, had determined that DOH did not implement adequate controls to enforce Ambulatory Patient Groups (APG) policy and payment rules, and identified over \$11 million in improper and questionable APG claim payments. For example, overpayments were made for the same medical procedure billed multiple times on the same date of service and for services that were billed beyond the allowed service limits. We made five recommendations to DOH to review and recover the inappropriate APG payments, as well as strengthen controls over APG claims processing and, where feasible, to apply professional service limits to APG claims. In our follow-up, we found that officials had made some progress in addressing the problems we identified, including strengthening payment controls over APG claims processing of excessive rehabilitation services and recovering \$107,388 in APG claim overpayments. The initial report's five audit recommendations were partially implemented. In certain instances, the actions taken were relatively limited, and consequently more purposeful and definitive actions were needed.

Medicaid Overpayments for Certain Medicare Part C Claims (Follow-Up) (2016-F-18). Under Medicare Part C, also known as Medicare managed care or Medicare Advantage, private managed care companies administer Medicare benefits. Our initial audit report ([2013-S-35](#)), issued on January 16, 2015, covered the period September 1, 2008 through August 31, 2013 and identified 5,571 Medicare Part C claims that either had unreasonably high patient cost-sharing amounts or indicated that United Healthcare did not cover the service. We reviewed 125 Medicaid claims totaling \$151,069 and found Medicaid overpaid 54 claims (43.2 percent) by \$61,711. Most overpayments occurred because the providers billed claims with incorrect Medicare Part C coinsurance, copayments, or deductibles. During the initial audit, \$23,374 was recovered, leaving \$38,337 that still needed to be recovered. We had recommended that DOH recover the remaining overpayments and instruct providers to bill Medicare Part C claims in accordance with the existing requirements. Additionally, our audit recommended that DOH assess the propriety of the remaining 5,446 high-risk claims totaling \$506,239 that we did not examine in detail, and make recoveries where warranted. Auditors found that DOH officials had made progress in implementing the recommendations we made in our initial audit, which included recovering \$21,648 in overpayments

and instructing providers to bill Medicare Part C claims in accordance with the existing requirements. Of the initial report's three audit recommendations, one was implemented and two were partially implemented.

Medicaid Drug Rebate Program Under Managed Care (Follow-Up) (2016-F-27). Our initial audit report (2014-S-41) had found that DOH did not take sufficient steps to maximize rebate collections on drugs dispensed to individuals enrolled in managed care. As a result of ineffective policies and processes and untapped rebate opportunities, we determined that DOH did not collect as much as \$119.3 million in available rebates during the audit period. DOH also: did not conduct risk assessments to determine the impact of its policies and processes on managed care organizations (MCO) claims processing and rebate revenue; did not have proper monitoring controls in place to ensure rejected MCO drug encounter claims were successfully resubmitted to the Medicaid claims processing system so that rebates could be requested; and did not seek rebates on drugs from all categories of Medicaid services. We recommended that DOH obtain the \$119.3 million in uncollected rebates and improve its claims and rebate processes in order to maximize rebate collections on drugs dispensed to individuals enrolled in managed care. Our follow-up found that officials had made significant progress in addressing the problems we identified in the initial audit. Of our 12 audit recommendations, seven were implemented and five were partially implemented. However, further actions were still needed. DOH invoiced \$159 million in rebates since the initial audit. However, as much as \$72.4 million in rebates had not been invoiced, but could still be collected with additional efforts. DOH also provided training and assistance to MCOs regarding the proper submission of encounter claims and implemented controls to prevent some of the problems we identified in the initial audit from recurring.

New York City School-Based Health Centers: Security and Controls Over Medications and Related Supplies (Follow-Up) (2016-F-29). Our initial audit (2013-S-34), which was issued on January 8, 2015, determined that New York City School-Based Health Centers (SBHCs) did not follow DOH inventory control regulations for medications and potentially hazardous medical supplies. Ten of the 11 SBHCs sampled had shortages in various medication categories (907 out of 2,298.25 units expected), with one school having an unexplained shortage of 2,712 hypodermic needles. The sampled SBHCs: did not maintain proper inventory control over student-supplied medications; did not record student medication transactions (e.g., medications received from or returned to the parent/guardian or student); and did not document their contact with parents/guardians to notify them of expired medications or to arrange the return of medications at the end of the school year. Our follow-up found that DOH had made progress in addressing the issues identified in our initial report, partially implementing the prior recommendation.

Questionable Payments for Practitioner Services and Pharmacy Claims Pertaining to a Selected Physician (Follow-Up) (2017-F-2). Our initial audit report (2012-S-35), which was issued on September 18, 2015, found significant issues with medical records provided by a physician, Dr. Riaz Ahmad, to support his Medicaid claims. Our review of a sample of Dr. Ahmad's medical records found they contained inadequate and sparse detail. DOH's review of this sample found the records lacked sufficient details to ensure adequate treatment of complex diseases, contained no treatment plans, and were illegible. We had recommended that DOH: review Dr. Ahmad's claims and recover overpayments as appropriate; determine whether Dr. Ahmad's prescriptions were supported by his medical records; and determine if medical sanctions against Dr. Ahmad were warranted. At the time of our follow-up review, the Office of the Medicaid Inspector General (OMIG) was actively investigating Dr. Ahmad. According to OMIG officials, steps were to be taken to implement each of the recommendations made in our initial audit pending the results of the investigation. Of the initial report's four audit recommendations, all four were partially implemented.

Erie County Medical Center Corporation

Employee Incentive and Bonus Payments (2016-S-29). Erie County Medical Center Corporation (ECMCC) is a public benefit corporation created to manage the Erie County Medical Center health network. Between January 1, 2013 and December 31, 2015, ECMCC reported 4,720 employees on its payroll, including 209 Management Confidential (MC) employees. During the three-year audit period,

ECMCC offered two incentive programs to certain MC physicians — the Performance Incentive Program and the Productivity Incentive Program — and paid 16 of its physicians a total of \$1,655,359 in these incentives. Also during this period, ECMCC offered a bonus program for all MC employees, and paid 80 employees a total of \$503,022 in bonuses. We had found that ECMCC did not properly administer and monitor its incentive and bonus programs, resulting in \$76,254 in incentive payments that should be recovered because they were not justified under the terms of the relevant incentive plan, distributed in error (as duplicate payments), or simply miscalculated. ECMCC did not maintain documentation to support the validity of another \$86,261 paid to four physicians. Nine other physicians were paid a total of \$510,062 in incentives based upon their performance as a group, despite the terms of their employment agreements that specified that such payments would be based on individual performance. ECMCC's productivity incentive payments included \$401,096 paid to three physicians in settlement of a threatened employment dispute. We recommended that ECMCC: recover the \$76,254 in unwarranted performance and productivity incentives; further assess the \$86,261 of unsupported incentive payments to determine if additional disallowances and recoveries are warranted; and for all incentive and bonus programs and payments, improve monitoring, maintain appropriate supporting records, and ensure that payments are in full compliance with contractual stipulations and commensurate with actual achievements.

Office for People With Developmental Disabilities

(OPWDD)

[The Association of Neurologically Impaired Brain Injured Children, Inc.: Compliance With the Consolidated Fiscal Reporting and Claiming Manual \(2013-S-60\)](#). The Association for Neurologically Impaired Brain Injured Children, Inc. (ANIBIC) is a Queens-based not-for-profit provider of a broad range of services to people with special needs from ages five through adulthood. ANIBIC receives funding from OPWDD, the State Education Department, and the Department of Health, as well as the New York City Department of Health and Mental Hygiene. The Consolidated Fiscal Reporting and Claiming Manual and its Appendices (Manual) provide guidance on the preparation of Consolidated Fiscal Reports (CFRs), which providers use to claim reimbursements from the State. ANIBIC had reported \$25.42 million in expenditures for the three fiscal years ended June 30, 2013. Of that amount, \$24.5 million (96 percent) was claimed for OPWDD programs. We identified \$493,172 in claimed costs that did not comply with Manual requirements and recommended such costs be disallowed. In addition, we identified ineligible lobbying costs (\$124,000) and commuting costs (\$4,948) that were claimed during periods prior to and following the primary audit period. We recommended that OPWDD: review the recommended disallowances identified in our audit and adjust ANIBIC's CFRs and reimbursements accordingly; and recover overpayments as appropriate. We recommended that ANIBIC comply with the Manual's requirements for eligibility and documentation of program costs and make certain all costs reported are business-related.

Office of Mental Health

(OMH)

[Administration of Contract C007373 With the Institute for Community Living \(2015-S-39\)](#). Institute for Community Living (ICL) is one of the largest providers of supportive housing services in the State, providing both multiple and single-occupancy apartments in the Bronx, Brooklyn, Manhattan, and Queens. ICL claimed total program expenses (which OMH is responsible for reviewing) of about \$21.5 million for the fiscal year ended June 30, 2014. We found that ICL provided the required contract services and charged its personal service costs to the contract in an appropriate manner. However, we also determined that: ICL charged \$138,132 in inappropriate and/or unsupported non-personal service (NPS) costs to the contract; OMH staff did not perform required annual reviews and reconciliations of ICL's Consolidated Fiscal Reports (CFRs) in a timely manner (and as a result, we identified \$561,011 in unrecovered contract overpayments from the 2010-11 and 2011-12 fiscal years); and there was no documentation that a contingency fund of \$500 per client had been established. Some of the recommendations that we made to DOH were to: establish effective fiscal controls to ensure that providers' use of program funds is appropriate, allowable, and documented; ensure ICL officials claim only program-appropriate and properly supported NPS expenses on its CFR; recover the \$138,132 in inappropriate and unsupported NPS

expenses reported by ICL on its CFR; and initiate recovery procedures for the \$561,011 overpaid to ICL for the 2010-11 and 2011-12 contract years, and perform all future reconciliations in a timely manner.

Oversight of the Supported Housing Program: DePaul Group, Inc. and Affiliates (2015-S-42). For 2013 and 2014, DePaul Community Services, Inc. (DCS) claimed about \$2.9 million in expenses to provide an average of 192 bed-s, and Living Opportunities of DePaul, Inc. (LOD) claimed nearly \$3.4 million in expenses to provide an average of 241 beds, for a total of \$6.3 million in Supported Housing Program (Program) expenses claimed by the DePaul Group. We found that DePaul Group clients were receiving appropriate housing services and that all but one of 14 clients we visited had adequate housing. For the one client we identified who had been living in an unsafe apartment for several months, the DePaul Group worked with the landlord to make needed repairs. Both DCS and LOD claimed expenses that were either not allowable or not documented, totaling \$41,743. We also identified questionable costs totaling \$109,987, including expenses related to vehicle and pension costs. In addition, we identified \$216,262 in administrative expenses allocated from the parent entity, the DePaul Group, to DCS and LOD that were not correctly reported or adequately supported. OMH had not provided sufficient fiscal oversight and programmatic guidance to ensure that claimed expenses are Program appropriate or that certain Program goals were achieved. We made several recommendations to OMH, including: ensure that service providers visit each client in their home at least once every three months, as required by the Program guidelines; recover the disallowed expenses and review the questionable expenses; ensure service providers handle contingency funds properly; and establish effective fiscal and programmatic controls to ensure that providers' use of Program funds are appropriate, allowable, and documented.

Administration of the Contract With the Postgraduate Center for Mental Health (2015-S-88). Postgraduate Center for Mental Health (PCMH), a not-for-profit entity, is one of the State's largest providers of supportive housing services. We found that the clients we sampled were program-eligible and referred to the program via the proper authorities, and the sampled client case files contained documentation of the client's required Service Plan and subsequent monthly case manager contacts. However, our visits to certain client apartments identified what appeared to be ongoing conditions that could negatively affect the health and/or safety of clients. We also found \$697,938 in unsupported and/or inappropriate expenses charged to the audited contract and other related OMH contracts, including: charges for a profit-sharing account that primarily benefited three PCMH executives; a deferred compensation plan reserved solely for PCMH's Chief Executive Officer; parties and alcoholic beverages for staff; and unsupported professional fees and staff travel. Among the recommendations we made to OMH were to: require PCMH case managers to take prompt action where apartment conditions pose potential health and/or safety hazards to clients; ensure that only program-eligible and properly supported expenses are reimbursed to PCMH; and recover the \$697,938 in inappropriate and unsupported expenses charged to the audited contract and other OMH contracts cited in our report;.

Oversight of the Supported Housing Program: Rehabilitation Support Services, Inc. (2016-S-5). Rehabilitation Support Services, Inc. (RSS) is a Supported Housing Program (Program) service provider in upstate New York serving eight different counties. For calendar year 2014, RSS had claimed nearly \$7.8 million in expenses to provide 708 beds for Program clients. We found that OMH had not provided sufficient fiscal oversight or programmatic guidance to Program service providers to ensure that expenses were appropriate and that Program goals were met. Further, OMH had not established meaningful performance measures and had not set targets for the performance measures it had established. We identified \$32,271 in unallowable expenses and \$489,616 in questionable costs claimed by RSS on its Consolidated Fiscal Report (CFR). RSS was generally providing appropriate Program services to clients, though it did not always ensure that clients were in affordable housing. We recommended that OMH: establish controls to ensure that service providers were claiming only reasonable and allowable expenses on the CFRs for the Supported Housing Program; establish specific quantitative and qualitative goals or targets for all Program performance measures; recover the \$32,271 in expenses we identified as not reasonable, necessary, or allowable for the Program; and review the \$489,616 in questionable expenses we identified to determine whether they are reasonable and necessary, and recover any amounts determined to be not allowable.

[Assertive Community Treatment Program \(Follow-Up\) \(2016-F-14\)](#). The Assertive Community Treatment (ACT) program provides treatment, rehabilitation, and support services to individuals with severe mental illnesses. ACT program teams had received over \$74 million and \$77 million in 2014 and 2015, respectively. In our initial audit report ([2014-S-25](#)), issued May 6, 2015, we recommended that OMH: establish controls to effectively oversee the ACT program to ensure provider teams are complying with program requirements and recipients are receiving needed services; and establish measurements to assess achievement of overall program goals. We found that OMH had addressed the issues identified in our initial audit. Of the two recommendations contained in our audit report, both had been implemented.

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.

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 (HESC). 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 established by the State Education Department (SED) in certifying students as eligible for TAP awards.

- [York College \(2016-T-1\)](#). York College (York) is a senior college within the City University of New York (CUNY), located on a 50-acre campus in Jamaica, Queens. For the three academic years ended June 30, 2014, the school certified 17,517 awards totaling over \$33.2 million that were paid to the school on behalf of 7,037 students. We reviewed a sample of 75 randomly selected awards paid during that period, as well as other awards to these students through the fall 2015 semester. We determined that York was overpaid \$83,956 due to school officials incorrectly certifying some students as eligible for State financial aid awards. We recommended: that HESC recover \$83,956 plus applicable interest, from York; that York comply with the State Education Law and the Commissioner of Education's Rules and Regulations when certifying students for State financial aid; and that SED and HESC work with school officials to help ensure future compliance with the eligibility requirements cited in the report, and formally review and determine if York's "no credit" grading policy is consistent with the intent of the applicable TAP requirements and appropriate for State financial aid purposes.
- [Fordham University \(2016-T-2\)](#). Fordham University (Fordham), a Jesuit Catholic university founded in 1841, operates four campuses in the State. For the three academic years ended June 30, 2014, the school certified 8,739 awards totaling \$14.4 million that were paid to the school on behalf of 2,638 students. We reviewed a sample of 75 randomly selected awards paid during that period, as well as other awards to these students through the spring 2016 semester. We determined that Fordham was overpaid \$104,630 due to school officials incorrectly certifying some students as eligible for State financial aid awards. We recommended: that HESC recover \$104,630, plus applicable interest, from Fordham; that Fordham comply with the State Education Law and the Commissioner of Education's Rules and Regulations when certifying students for State financial aid; and that SED and HESC work with school officials to help ensure future compliance with the eligibility requirements cited in the report.

State Education Department (SED)

Compliance With the Reimbursable Cost Manual. Private special education providers can be for-profit or not-for-profit organizations. These providers must be approved by SED to deliver special education services to children in New York. SED annually develops rates for preschool special education programs operated by approved providers based on actual costs reported to SED. These rates are used to reimburse providers for eligible costs, which must be in compliance with comprehensive instructions and guidelines set forth in SED's Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) and its Reimbursable Cost Manual (RCM). Chapter 545 of the Laws of 2013 requires the State Comptroller to audit the expenses reported to SED by every program provider of special education services for preschool

children with disabilities, subject to the funding made available by the Legislature for such purpose. In the 2016-17 reporting year, OSC issued 30 such reports, as follows:

- [Gingerbread Learning Center, Inc. \(2014-S-79\)](#). Gingerbread Learning Center, Inc. (Gingerbread) is a not-for-profit organization that provides center-based preschool special education programs to children ages three through five years. For the three fiscal years ended June 30, 2013, Gingerbread reported approximately \$12.2 million in reimbursable costs for its SED programs. We identified \$942,998 in reported costs that did not comply with Manual requirements and recommended such costs be disallowed. These included \$621,356 in personal service costs and \$321,642 in other than personal service (OTPS) costs. Among the disallowances we identified were: \$246,777 in fringe benefit expenses that were unsupported, ineligible, and did not comply with the Manual's guidelines; \$243,693 in inadequately documented and undocumented OTPS costs; \$219,459 in overallocated compensation costs associated with shared employees; and \$142,093 in employee bonuses that were not in compliance with the Manual's guidelines. Auditors recommended: that SED review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Gingerbread's CFRs and to its tuition reimbursement rates, as appropriate, and work with Gingerbread officials to help ensure their compliance with Manual provisions; and that Gingerbread ensure costs reported on annual CFRs fully comply with SED's requirements.
- [Easter Seals New York \(2015-S-27\)](#). Easter Seals New York (Easter Seals) is a not-for-profit organization that provides a range of community-based programs and special education services throughout New York State. Easter Seals provides preschool special education services to children with disabilities who are between the ages of three and five years at its Bronx, Monticello, Port Jervis, and Valhalla locations. For the three-year period ended December 31, 2013, Easter Seals reported over \$27.6 million in reimbursable costs for its special education programs. Auditors recommended disallowances of \$688,543 in reported costs that did not comply with SED's requirements for reimbursement, including: \$546,263 in personal service costs that exceeded the staffing ratios approved by SED; \$110,206 in parent agency administration fees for services provided by Easter Seals New Hampshire that included executive compensation above the allowed regional median salary, bonus payments to non-direct care staff, non-reimbursable food, and gifts and other unsupported charges or duplicative charges; and \$19,714 for gifts to employees and other individuals. Auditors recommended: that SED review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Easter Seals' CFRs and to its tuition reimbursement rates, as appropriate, and remind Easter Seals officials of the pertinent SED guidelines that relate to the deficiencies we cited; and that Easter Seals ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [New York League for Early Learning, Inc. \(2015-S-43\)](#). New York League for Early Learning, Inc. (NYL) is a not-for-profit organization located in New York City that provides a range of educational programs and services, including preschool special education services to children with disabilities who are between the ages of three and five years. During the three fiscal years ended June 30, 2014, NYL was an associate of the eight-member Young Adult Institute Network (Network), which also included the Young Adult Institute (YAI). The relationships among Network members were intertwined. During the same period, NYL was a signatory to a management agreement with YAI, wherein YAI agreed to provide management services to NYL for a total of about \$13.8 million in fees, which were included on the corresponding CFRs. In November 2015, after the start of audit fieldwork, the agreement with YAI was terminated. For the three fiscal years ended June 30, 2014, NYL reported \$138,242,983 in reimbursable costs for its special education programs. The audit recommended disallowances of \$5,771,008 in costs that did not comply with SED's requirements for reimbursement, including: \$1,728,270 in duplicate administrative compensation costs for the Executive Director, Assistant Executive Director, and seven agency administrative staff that were also covered under the management agreement; \$1,209,263 for compensation paid to 347 employees who worked in other programs; \$801,660 in unsupported/ineligible costs, including contracted services, staff food, vehicle expenses, bonuses,

and executive retirement plans that were claimed as part of a management fee; \$738,901 for employee bonuses that were not based on merit or supported by employee performance evaluations; \$331,235 in contracted services and food for students that were recorded as adjusting entries on the general ledger but for which no other supporting documentation was provided; and \$270,879 for property costs allocated from other programs. We recommended: that SED review the recommended disallowances resulting from our audit and make the appropriate adjustments to NYL's CFRs and reimbursement rates; that SED work with NYL officials to help ensure their compliance with the Manual; and that NYL ensure that costs reported on future CFRs comply with all Manual requirements.

- [Jawonio, Inc. \(2015-S-49\)](#). Jawonio is a not-for-profit organization in Rockland County that provides preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2014, Jawonio reported over \$3.5 million in reimbursable costs on its CFR for four rate-based preschool special education programs that served approximately 150 students. Our auditors identified \$26,975 in ineligible costs, including: \$24,611 in personal service costs that consisted of excess severance pay, compensation for work that was not related to the special education programs, excess compensation and fringe benefits, and a non-reimbursable bonus; and \$2,364 in other than personal service costs that consisted of ineligible depreciation and undocumented vehicle expenses. Auditors recommended: that SED review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Jawonio's CFR and to its tuition reimbursement rates, and remind Jawonio officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that Jawonio ensure that all costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Baker Victory Services \(2015-S-57\)](#). Baker Victory is a not-for-profit organization located in Lackawanna that provides a range of community-based programs, including preschool special education services to children with disabilities who are between the ages of three and five years. For the fiscal year ended June 30, 2014, Baker Victory reported approximately \$6.9 million in reimbursable costs on its CFR. Our audit identified \$155,303 in costs, comprising \$85,736 in personal service costs and \$69,567 in other than personal service costs, that were not in compliance with SED's requirements due to various reasons, including but not limited to: ineligible bonuses; compensation for work that was not related to the Programs; non-allowable public relations and advertising costs; undocumented costs; and ineligible donations, food, entertainment, and gift expenses. Auditors recommended that SED review the disallowances identified and make the necessary adjustments to the costs reported on Baker Victory's CFR and to its tuition reimbursement rates, and remind Baker Victory officials of the pertinent SED guidelines that relate to the deficiencies we identified. We also recommended that Baker Victory: improve its internal control structure; ensure that all costs reported on annual CFRs fully comply with SED's requirements; and communicate with SED to obtain clarification as needed.
- [Aim High Children's Services \(2015-S-62\)](#). Aim High Children's Services (Aim High) is a not-for-profit organization that provides preschool special education programs to children with disabilities between the ages of three and five years. For the three fiscal years ended June 30, 2014, Aim High reported approximately \$9.7 million in reimbursable costs for the audited cost-based programs. Our auditors had identified \$616,906 in reported costs that did not comply with the Manual's requirements, and recommended such costs be disallowed, including \$22,139 in personal service costs and \$594,767 in other than personal service costs. These expenses included invoices totaling \$8,745 that were altered by a consultant at the request of an Aim High executive. We recommended: that SED review the recommended disallowances resulting from our audit and make the appropriate adjustments to Aim High's CFRs and reimbursement rates, and work with Aim High officials to help ensure their compliance with Manual provisions as well as the pertinent provisions of their agreements with collaborative schools; and that Aim High ensure that costs reported on future CFRs comply with all Manual requirements as well as the provisions of agreements with collaborative schools.

- [Hebrew Institute for the Deaf and Exceptional Children \(2015-S-67\)](#). Hebrew Institute for the Deaf and Exceptional Children (Hebrew Institute) is a Brooklyn not-for-profit organization providing full-day and half-day preschool special education programs to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, Hebrew Institute reported approximately \$11 million in reimbursable costs for the audited cost-based programs. Our auditors had identified \$774,122 in reported costs that did not comply with the Manual's requirements and recommended such costs be disallowed, including \$624,868 in personal service costs and \$149,254 in other than personal service costs. We recommended: that SED review the disallowances resulting from our audit and make the appropriate adjustments to Hebrew Institute's CFRs and reimbursement rates, and work with Hebrew Institute officials to help ensure their compliance with the provisions in the Manual; and that Hebrew Institute ensure that costs reported on future CFRs comply with all Manual requirements.
- [Fred S. Keller School \(2015-S-98\)](#). Fred S. Keller School (FSK) is a not-for-profit special education provider located in Palisades and Yonkers that provides preschool special education services to children with disabilities between the ages of three and five years. For the three years ended June 30, 2014, FSK reported over \$21.2 million in reimbursable costs on its CFRs for five rate-based preschool special education programs. Our auditors identified \$455,117 in costs that were not in compliance with the Manual. We also found \$21,529 in ineligible personal service costs. We questioned the propriety of certain actions involving FSK's Board of Directors that pertain to related-party business transactions. We concluded that improvements in the Board of Directors' conduct were needed to ensure the financial and programmatic integrity of FSK's programs in the future. We recommended that SED: review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on FSK's CFRs and to FSK's tuition reimbursement rates, and remind FSK officials of the pertinent SED requirements that relate to the deficiencies we identified; and direct FSK to develop a conflict of interest policy consistent with SED's requirements and guidelines. We also recommended that FSK: ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed; and develop a conflict of interest policy consistent with SED's requirements and guidelines.
- [Susan E. Wagner Preschool \(2015-S-100\)](#). Susan E. Wagner Preschool (Wagner) is a Bronx not-for-profit organization that provides special education and itinerant teacher and full-day and half-day preschool special education programs to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, Wagner reported approximately \$17.1 million in reimbursable costs for the audited cost-based programs. Our auditors identified \$140,902 in reported costs that did not comply with the Manual's requirements, including \$39,709 in personal service costs and \$101,193 in other than personal service costs, as follows: \$81,370 in real estate taxes; \$39,709 in unsupported and/or ineligible compensation costs for six employees; \$18,650 in inadequately documented consultant costs; and \$1,173 in ineligible staff food costs. We recommended: that SED review the recommended disallowances resulting from our audit and make appropriate adjustments to the costs reported on Wagner's CFRs and to Wagner's reimbursement rates, and work with Wagner officials to help ensure their compliance with the provisions in the Manual; and that Wagner ensure that costs reported on future CFRs comply with all requirements in the Manual.
- [New York Center for Child Development, Inc. \(2015-S-101\)](#). New York Center for Child Development, Inc. (NYCCD) is a not-for-profit organization located in New York City that provides special education services to children with disabilities from birth to five years of age. For the three fiscal years ended June 30, 2014, NYCCD reported about \$24 million in reimbursable costs for its special education programs. The OSC audit recommended disallowances of \$776,901 in reported costs that did not comply with SED's requirements for reimbursement, including: \$308,905 for inadequately documented costs for two consultants; \$254,268 in overallocated staff salaries for three employees; \$65,705 in costs from other programs that were incorrectly allocated; \$38,923 in non-program personal service expenses, including \$20,618 paid to the executive assistant and

the executive director, and \$18,305 in compensation paid to a NYCCD employee who also worked for the executive director's for-profit entity; and \$21,591 in unsupported and non-program related travel expenses. In addition, the audit recommended a disallowance of \$50,175 in non-allowable rent expenses. NYCCD's executive director owns a 50 percent share of the building leased by NYCDD for its SED programs, which is an LTAL transaction. The OSC auditors found that NYCDD did not comply with the RCM's guidelines to calculate the executive director's actual cost for the LTAL space. We recommended: that SED review the recommended disallowances resulting from our audit and make the appropriate adjustments to NYCCD's CFRs and reimbursement rates, and work with NYCCD officials to help ensure their compliance with the requirements in the Manual; and that NYCCD ensure that costs reported on future CFRs comply with all requirements in the Manual.

- [East River Child Development Center \(2016-S-3\)](#). East River Child Development Center (ERCDC) is a not-for-profit organization located in New York City that provides a range of educational services, including preschool special education services to children with disabilities who are between the ages of three and five years. For the fiscal year ended June 30, 2014, ERCDC reported \$4,885,165 in reimbursable costs for its special education programs. The audit recommended disallowances of \$350,246 in costs that did not comply with SED's requirements for reimbursement, including: \$116,508 in retirement plan payments for certain employees that were not proportionally similar to benefits for general ERCDC staff; \$89,940 in excessive compensation costs for ERCDC's comptroller; \$52,266 in unsupported employee compensation expenses; and \$43,025 in compensation costs charged for employees of another ERCDC program. We recommended: that SED review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on ERCDC's CFR and tuition reimbursement rates, and work with ERCDC officials to help ensure their compliance with the provisions in the Manual; and that ERCDC ensure that costs reported on future CFRs comply with the requirements in the Manual.
- [Rochester Childfirst Network \(2016-S-15\)](#). Rochester Childfirst Network (RCN) is a not-for-profit organization in Rochester that provides preschool special education services. For the fiscal year ended June 30, 2014, RCN reported \$752,438 in reimbursable costs on its CFR for the two rate-based preschool special education programs it operated. Our auditors identified \$13,201 in costs that were charged to the programs that did not comply with the Manual's requirements for reimbursement, including \$7,042 in other than personal service costs and \$6,159 in personal service costs. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on RCN's CFR and to RCN's tuition reimbursement rates, and remind RCN officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that RCN ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [JCC of Mid-Westchester \(2016-S-21\)](#). JCC of Mid-Westchester (JCC) is a not-for-profit organization located in Scarsdale that provides preschool special education services to children with disabilities between the ages of three and five years. For the three fiscal years ended June 30, 2014, JCC reported approximately \$5.4 million in reimbursable costs on its CFRs for its rate-based preschool special education programs that served 191 students. We found that JCC claimed \$90,900 in ineligible costs for its rate-based preschool special education programs, including: \$26,923 in personal service costs that consisted of staffing for teacher aides in excess of approved staffing ratios, incorrectly allocated salaries and fringe benefits, personal commuting expenses, ineligible employee bonuses, and compensation from a prior year; and \$63,977 in other than personal service costs that consisted of non-allowable depreciation, incorrectly allocated administrative expenses, non-reimbursable interest, and other non-reimbursable expenses. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on JCC's CFRs and to JCC's tuition reimbursement rates, and remind JCC officials of the pertinent SED requirements that relate to the deficiencies we identified; and that JCC ensure that costs reported on annual CFRs

fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- [**The Child Development Council, Inc. \(2016-S-22\)**](#). The Child Development Council, Inc. (TCDC) is a not-for-profit organization in Johnson City that provides preschool special education services to children with disabilities who are between the ages of three and five years. For the fiscal year ended June 30, 2014, TCDC reported about \$1.8 million in reimbursable costs on its CFR for the rate-based preschool special education programs it operated. Our auditors identified \$16,699 in costs charged to the programs that did not comply with the Manual's requirements for reimbursement, including \$5,394 in ineligible property expenses, \$3,609 in ineligible food costs, \$2,337 in ineligible costs for consultant services, \$2,309 in non-program-related costs, and \$3,050 in other non-reimbursable costs. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on TCDC's CFR and to TCDC's tuition reimbursement rates, and remind TCDC officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that TCDC ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [**Bornhava \(2016-S-23\)**](#). Bornhava is a not-for-profit organization located in Buffalo that offers a range of preschool special education services to children with disabilities from birth to five years of age. For the fiscal year ended June 30, 2014, Bornhava reported approximately \$1.8 million in reimbursable costs on its CFR for three rate-based preschool special education programs that served approximately 150 students. We determined that Bornhava claimed \$14,237 in ineligible costs, including \$9,055 in personal service costs that exceeded the approved full-time equivalent ratios for certain employees, and \$5,182 in other than personal service costs that consisted of non-reimbursable non-audit services, depreciation costs, food expenses, bank fees, bad debt, administrative costs, charitable contributions, and legal fees for lobbying. Auditors recommended: that SED review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Bornhava's CFRs and to its tuition reimbursement rates, as appropriate, and remind Bornhava officials of the pertinent SED guidelines that relate to the deficiencies we cited; and that Bornhava ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [**Books and Rattles, Inc. \(2016-S-25\)**](#). Books and Rattles, Inc. is a New York City-based for-profit organization that provides preschool special education services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, Books and Rattles reported approximately \$9.7 million in reimbursable costs for the audited cost-based programs. We identified \$242,357 in reported costs that did not comply with the Manual's requirements and recommend that such costs be disallowed, including \$115,949 in personal service costs and \$126,408 in other than personal service costs. Among them were: \$60,690 in unsupported compensation, including \$46,684 paid to employees of another organization; \$57,097 in vehicle expenses that did not comply with the Manual's requirements; \$39,226 in unsupported expenses, including \$10,806 in classroom supplies and \$6,671 in repairs and maintenance expenses; and \$39,027 in unsupported allocated costs for shared employees. We recommended: that SED review the recommended disallowances identified by our audit and, if warranted, make the appropriate adjustments to the costs reported on Books and Rattles' CFRs and to Books and Rattles' tuition reimbursement rates, and work with Books and Rattles officials to help ensure their compliance with the provisions in the Manual; and that Books and Rattles ensure that costs reported on future CFRs comply with the requirements in the Manual.
- [**Westchester Community Opportunity Program, Inc. \(2016-S-33\)**](#). Westchester Community Opportunity Program, Inc. (WestCOP) is a not-for-profit special education provider located in Westchester County, providing preschool special education services to children with disabilities who are between three and five years of age. For the year ended June 30, 2013, WestCOP reported about \$2.1 million in reimbursable costs on its CFR for the rate-based preschool special education programs (Programs) it operated. We identified \$87,017 in ineligible costs that

WestCOP reported on its CFR for the Programs, including: \$74,714 in other than personal service costs; and \$12,303 in personal service costs. We also determined WestCOP did not disclose related-party transactions with three vendors on its CFR, as required. We recommended that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on WestCOP's CFR and to WestCOP's tuition reimbursement rates, and remind WestCOP officials of the pertinent SED guidelines that relate to the deficiencies we identified. We also recommended that WestCOP: ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed; and ensure related-party transactions are properly disclosed on the CFR.

- [**HTA of New York, Inc. \(2016-S-36\)**](#). HTA of New York, Inc. (HTA) is a for-profit special education provider located in Westchester County that provides preschool special education services to children with disabilities between the ages of three and five years. For the fiscal year ended June 30, 2014, HTA reported about \$2.7 million in reimbursable costs on its CFR for one rate-based special education and itinerant teacher program. Auditors identified \$28,952 in ineligible costs, including: \$22,207 in other than personal service costs; and \$6,745 in personal service costs. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on HTA's CFR and to HTA's tuition reimbursement rates, and remind HTA officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that HTA ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [**Therapy and Learning Center, Inc. \(2016-S-44\)**](#). Therapy and Learning Center, Inc. (TLC) is a Brooklyn-based not-for-profit organization that provides preschool special education services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, TLC reported \$12,936,983 in reimbursable costs for its special education programs. The audit recommended disallowances of \$276,453 that did not comply with SED's requirements for reimbursement, including: \$87,178 in consultant costs that either were not itemized or did not detail the dates and hours of services provided; \$51,733 in overstated fringe benefit expenses; \$51,707 in personal services costs charged from a fixed-fee program; and \$36,525 in other than personal service expenses allocated from TLC's former Early Intervention program. We recommended: that SED review the recommended disallowances resulting from our audit and make the appropriate adjustments to TLC's CFRs and reimbursement rates, and work with TLC officials to ensure their compliance with SED's reimbursement requirements; and that TLC ensure that costs reported on future CFRs comply with SED's reimbursement requirements.
- [**Benchmark Family Services, Inc. \(2016-S-47\)**](#). Benchmark Family Services, Inc. (BFS) is a for-profit provider of preschool special education services organization located in Watertown. For the fiscal year ended June 30, 2013, BFS reported \$669,689 in reimbursable costs on its CFR for the two rate-based preschool special education programs it operated. Our auditors found that the personal service costs claimed by BFS in our sample complied with SED's requirements for reimbursement. However, we identified \$18,012 in other than personal service costs that BFS reported that did not comply with SED's requirements. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on BFS' CFR and to BFS' tuition reimbursement rates, and remind BFS officials of the pertinent SED requirements that relate to the deficiencies we identified; and that BFS ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [**Jowonio School \(2016-S-48\)**](#). Jowonio is a not-for-profit special education provider located in Syracuse, providing preschool special education services to children with disabilities between three and five years of age. For the three years ended June 30, 2014, Jowonio reported over \$7.6 million in reimbursable costs on its CFRs for four rate-based preschool special education programs. Our auditors identified \$118,110 in costs that did not comply with the Manual. These costs included: \$98,572 in personal service costs, which consisted of ineligible employee bonuses; and \$19,538 in other than personal service costs, which consisted of \$16,656 in

insufficiently documented vehicle costs, \$2,370 in non-reimbursable interest, and \$512 in non-reimbursable purchases. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Jowonio's CFRs and to Jowonio's tuition reimbursement rates, and remind Jowonio officials of the pertinent SED requirements that relate to the deficiencies we identified; and that Jowonio ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- [North Country Kids, Inc. \(2016-S-53\)](#). North Country Kids, Inc. (North Country) a for-profit special education provider located in Clinton County, providing preschool special education services to children with disabilities who are between three and five years of age. For the two fiscal years ended June 30, 2014, North Country reported \$2.6 million in reimbursable costs on its CFRs for the rate-based preschool special education programs it operated. We identified \$79,084 in ineligible costs that North Country reported on its CFRs for the programs, including: \$69,272 in other than personal service costs, which consisted of \$54,694 in less-than-arm's length lease expenses, \$5,791 in non-reimbursable interest expense, \$5,580 in ineligible life insurance expenses, and \$3,207 in other non-reimbursable expenses that included food, gifts, charitable donations, and expenses that lacked sufficient documentation; and \$9,812 in personal service costs, which consisted of \$8,579 in ineligible bonuses and \$1,233 in incorrectly allocated salary and fringe benefit costs. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on North Country's CFRs and to North Country's tuition reimbursement rates, and remind North Country officials of the pertinent SED requirements that relate to the deficiencies we identified; and that North Country ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Ganrormic, Inc. \(2016-S-58\)](#). Ganrormic, a for-profit organization located in Orchard Park, provides one rate-based preschool special education program, serving about 35 students with disabilities from 13 different school districts in two counties in western New York. For the fiscal year ended June 30, 2014, Ganrormic reported approximately \$1.3 million in reimbursable costs on its CFR for the program it operated. We identified \$4,854 in other than personal service costs that Ganrormic reported on its CFR that did not comply with SED's requirements for reimbursement. We also questioned the appropriateness of \$14,431 in costs for professional services that were not obtained through competitive procurement processes. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Ganrormic's CFR and to Ganrormic's tuition reimbursement rates, and remind Ganrormic officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that Ganrormic ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Elmcrest Children's Center, Inc. \(2016-S-62\)](#). Elmcrest Children's Center, Inc. (Elmcrest) is a Syracuse-based not-for-profit organization that operates a special education preschool classroom within its early education center. For the fiscal year ended June 30, 2014, Elmcrest reported approximately \$2.2 million in reimbursable costs on its CFR for the one rate-based preschool special education program that it operated. We found that Elmcrest claimed \$54,250 in ineligible costs including: \$18,264 in personal service costs; \$16,578 in overstated expenses that resulted from Elmcrest understating revenue that should have been offset against program expenses; \$12,911 in improperly allocated personal service and other than personal service costs; and \$6,497 in other than personal service costs. We also determined Elmcrest did not disclose related-party transactions with two vendors on its CFR, as required. We recommended that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Elmcrest's CFR and to Elmcrest's tuition reimbursement rates; and remind Elmcrest officials of the pertinent SED requirements that relate to the deficiencies we identified. We also recommended that Elmcrest: ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain

clarification as needed; and ensure that related-party transactions are properly disclosed, including on the CFR.

- [ACDS, Inc. \(2016-S-76\)](#). ACDS, Inc. (ACDS), a not-for-profit organization located in Plainview, provides four rate-based preschool special education programs to 213 children from school districts located in Nassau, Queens, and Suffolk counties. For the fiscal year ended June 30, 2014, ACDS reported \$4,752,257 in reimbursable costs on its CFR for the rate-based preschool special education programs it operated. The personal service costs claimed by ACDS that we tested complied with SED's requirements. However, we identified \$30,104 in other than personal service costs that ACDS claimed on its CFR that did not comply with SED's prescribed requirements for reimbursement. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on ACDS' CFR and to ACDS' tuition reimbursement rates, and remind ACDS officials of the pertinent SED requirements that relate to the deficiencies we identified; and that ACDS ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Variety Child Learning Center \(2016-S-77\)](#). Variety Child Learning Center (Variety) is a not-for-profit organization located in Syosset and is a provider of special education services. For the fiscal year ended June 30, 2014, Variety reported approximately \$9.35 million in reimbursable costs for its rate-based preschool special education programs. We identified \$6,719 in other-than-personal-service costs that did not comply with the Manual's requirements for reimbursement. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Variety's CFR and to Variety's tuition reimbursement rates, and remind Variety officials of the pertinent SED guidelines that relate to the deficiencies we identified; and that Variety ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Spotted Zebra Learning Center, Inc. \(2016-S-81\)](#). Spotted Zebra Learning Center, Inc. (Spotted Zebra) is an Albany-based for-profit organization that provides special education services to children with disabilities from birth to five years of age. For the three fiscal years ended June 30, 2014, Spotted Zebra reported \$2,541,981 in reimbursable costs for its special education programs. The audit recommended disallowances of \$13,058 in other than personal service costs that did not comply with SED's requirements for reimbursement, including \$7,779 in working capital interest that was not eligible for reimbursement and \$4,683 for staff food and gifts. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Spotted Zebra's CFRs and to Spotted Zebra's tuition reimbursement rates, and remind Spotted Zebra officials of the pertinent SED requirements that relate to the deficiencies we identified; and that Spotted Zebra ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
- [Lois Bronz Children's Center, Inc. \(2016-S-86\)](#). Lois Bronz Children's Center, Inc. (Center), is a not-for-profit organization located in White Plains that provides a range of educational programs and services, including preschool special education services to children with disabilities who are between the ages of three and five years. For the two fiscal years ended June 30, 2014, Bronz reported \$2,522,822 in reimbursable costs for its special education programs. The audit recommended disallowances of \$177,786 in costs that did not comply with SED's requirements for reimbursement, including: \$164,502 of offsetting revenue that was not included in the calculation of the tuition rate of the integrated program; \$7,958 for staff bonuses not based on merit; and \$5,326 in OTPS costs not eligible for reimbursement, including food for staff. We recommended: that SED review the disallowances and questionable costs identified by our audit and, if warranted, make the necessary adjustments to the costs reported on the Center's CFRs and to the Center's tuition reimbursement rates, and remind Center officials of the pertinent SED requirements that relate to the deficiencies we identified; and that the Center ensure that costs

reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- [Adirondack Helping Hands, Inc. \(2016-S-88\)](#). Adirondack Helping Hands, Inc. (Adirondack) is a for-profit special education provider located in Clinton County. For the fiscal year ended June 30, 2014, Adirondack reported \$1.1 million in reimbursable costs on its CFR for the rate-based preschool special education programs it operated. We identified \$37,643 in ineligible costs that Adirondack reported on its CFR for the programs, including: \$22,215 in other than personal service costs that consisted of \$9,453 in ineligible rent, \$5,939 in non-reimbursable working capital interest, \$3,756 in non-program-related costs, and \$3,067 in non-reimbursable expenses such as food, gifts, charitable donations, fundraising, insufficiently documented expenses, and life insurance costs; and \$15,428 in excess personal service costs for two Adirondack owners who also worked for a related entity. We recommended that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Adirondack's CFR and to Adirondack's tuition reimbursement rates, and remind Adirondack officials of the pertinent SED requirements that relate to the deficiencies we identified. We also recommended that Adirondack ensure: that costs reported on annual CFRs fully comply with SED's requirements, and to communicate with SED to obtain clarification as needed; and that less-than-arm's-length transactions are disclosed on the CFR in accordance with SED's requirements.
- [Hagedorn Little Village School \(2017-S-4\)](#). Hagedorn Little Village School (HLVS) is a not-for-profit organization located in Seaford that provides special education services to children with disabilities from birth to five years of age. For the fiscal year ended June 30, 2015, HLVS reported \$6,285,225 in reimbursable costs for its special education programs. The audit recommended disallowances of \$10,040 in other than personal service costs that did not comply with SED's requirements for reimbursement, including \$5,627 in costs related to other HLVS programs and \$3,071 in fundraising-related costs. We recommended: that SED review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on HLVS' CFR and to HLVS' tuition reimbursement rates, and remind HLVS officials of the pertinent SED requirements that relate to the deficiencies we identified; and that HLVS ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

[Universal Pre-Kindergarten Program: Monitoring of Health and Safety Requirements \(2016-S-10\)](#)

SED regulations require buildings and classrooms used for Universal Pre-Kindergarten (UPK) to be safe and to comply with applicable fire safety, health, and building codes, and for equipment and furnishings to be safe and suitable for children and maintained in a state of good repair and sanitation. For the 2014-15 school year, there were 1,338 UPK providers operating outside of New York City that reported serving 43,623 children. Our auditors found that: SED did not directly monitor UPK providers for health and safety, and instead relied on the school district operating the UPK program, or the Office of Children and Family Services, to ensure that UPK providers were complying with health and safety requirements; there was a wide disparity in the way UPK providers were monitored for health and safety – some providers were inspected regularly for health and safety, while others were reviewed mainly for program curriculum; and there was a lack of consistency in how school districts inspected their UPK provider locations for health and safety compliance. Our auditors recommended that SED: develop requirements and issue guidance for school districts to follow when performing health and safety inspections of UPK facilities; and implement a structured system to monitor school districts' oversight and inspections of health and safety compliance of all UPK providers.

[Security Over Critical Information Systems \(2016-S-69\)](#). SED operates 120 computer systems to help support its activities, including four deemed critical to SED operations on which we focused our testing. Each of the four systems supports crucial SED services to the public and contains sensitive personal data, such as personally identifiable information and student records. SED is responsible for safeguarding its data and for ensuring the confidentiality, integrity, and availability of its systems. We found that while SED had taken a number of steps to secure its critical information systems and associated data, there was a

risk that unauthorized persons could access these systems. This is largely because SED had not taken fundamental steps to secure its critical systems, such as completing a full data classification process and adopting adequate information security policies and procedures. SED could also improve certain technical controls over its critical systems. We recommended that SED: develop strategies to enhance security controls over critical systems; and implement the recommendations detailed during the audit to strengthen technical controls over critical systems.

Oversight of Nurse Licensing (2016-S-83). SED oversees the licensure and practice of professions, as outlined in the State Education Law (Education Law). Its regulatory responsibilities encompass 54 professions, including nursing. From April 1, 2014 to October 31, 2016, there were about 450,000 active professional nursing licenses – in the titles of licensed practical nurse, registered professional nurse, clinical nurse specialist, and nurse practitioner – in the State. SED is responsible for ensuring that applicants seeking a license meet State standards. We identified several issues that, if left unaddressed, could increase the risk that nurses who were threats to the public’s health and safety were able to continue practicing in the State. Despite clear policies and procedures for investigating complaints, SED did not always ensure that investigations, particularly Priority 1 complaints (complaints that pose a substantial danger to public health and safety), were completed timely. Of 8,202 investigations (including 215 Priority 1 and 7,987 Priority 2–4) that were open at some point from April 1, 2014 to February 28, 2017: 179 (83 percent) Priority 1 investigations were not completed within SED’s established six-week time frame – on average, they were open over seven months. Citing confidentiality provisions in the Education Law, SED denied us access to its investigation files. Lacking this information, we were unable to draw conclusions about factors contributing to the noncompliance, and were unable to assess SED’s compliance with any of its other investigation procedures and benchmarks. SED did not take proactive steps to check applicants’ background in relation to the moral character requirement. Instead, SED relied solely on applicants to disclose past misconduct and criminal convictions. Once nurses were licensed, SED did not actively monitor them to identify incidents of professional misconduct or criminal convictions. We recommended that SED: ensure management more closely tracks investigations, particularly those classified as Priority 1, to help ensure they meet established time frames for completion; re-evaluate existing resources and procedures to identify opportunities for streamlining investigations; and take steps to strengthen oversight of nurse licensing.

State University of New York

Upstate Medical University’s Billing Practices (2016-S-50). Upstate Medical University (Upstate) specializes in research and treatment of the most prevalent human diseases, such as cancer, diabetes, and heart disease. All hospitals operate knowing that some claims will be denied, and payments might not be obtained for services. For the two fiscal years ended June 30, 2016, Upstate had billed 31 insurance carriers for services totaling nearly \$7.1 billion and had net patient revenue of approximately \$1.4 billion for the same period. In 2013, Upstate hired a consultant to help strengthen its billing processes in an effort to improve its performance in collecting accounts receivable and in minimizing write-offs. We found that for the two fiscal years under our review, Upstate had wrote off nearly \$17.4 million in insurance denials for causes that were isolated in nature and largely attributable to human error (e.g., data entry) or changes to the EPIC billing system, and thus not reflective of a systematic weakness in Upstate’s billing process. In addition, the amounts written off represented about 1 percent of the net patient revenue, an amount well within the industry standard of 1–2 percent set by the Healthcare Financial Management Association. In recent years, Upstate had taken appropriate steps to manage its accounts receivable and bad debt write-offs. Further, we found that Upstate had taken appropriate steps to follow through on these improvements and had made significant progress toward these ends. Our review found average monthly write-offs of bad debts had declined significantly as these improvements were put in place.

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.

Central New York Regional Transportation Authority

[Compliance With Payment Card Industry Standards \(2016-S-31\)](#). The Central New York Regional Transportation Authority (Authority) provides transportation services in Onondaga, Oswego, Cayuga, and Oneida counties. All organizations that accept credit cards as a method of payment, such as the Authority, must comply with the Data Security Standards (DSS) established by the PCI Security Standards Council (Council) for the payment card industry. The PCI DSS is a set of technical and operational requirements designed to protect cardholder data. Entities that do not comply with PCI DSS may be subject to fines and penalties, and lose the public's confidence and the ability to accept credit card payments. In calendar year 2015, the Authority reported 40,822 credit card transactions totaling more than \$900,000 in revenue. We reviewed select operational and technical security controls over the protection of cardholder data at the Authority. Based on our review, we identified several matters that management should address to improve the Authority's information security program for cardholder data and to help ensure it meets PCI requirements. The Authority had not yet developed and disseminated an Information Security Policy that clearly defined information security responsibilities for all personnel. Also, it had not: inventoried all devices that process cardholder data; implemented a formal risk assessment process to identify threats to cardholder data; ensured all devices that process cardholder data are physically secured; or implemented appropriately strong network user account and password controls. The Authority could also improve certain other technical safeguards over the cardholder data it processes. We recommended that the Authority: develop strategies to enhance compliance with PCI DSS; and implement the recommendations detailed during the audit for strengthening technical controls over cardholder data.

Department of Transportation

(DOT)

[Railroad Bridge Inspection Program \(Follow-Up\) \(2016-F-13\)](#). Our initial audit report ([2013-S-5](#)), which was issued on December 9, 2013, examined whether the DOT properly oversaw railroads in the State to ensure that they met bridge inspection requirements. We concluded that the DOT was not sufficiently monitoring whether the railroads complied with its bridge and inspection reporting requirements, and made recommendations to improve the DOT's oversight. The Railroad Bridge Inspection Program would potentially be impacted by pending legislation referred to as the Rail Safety Act of 2016, which, at the time, had passed the Assembly and Senate and was awaiting review and approval by the Governor. The Bill, if enacted, would amend existing State laws to align railroad bridge inspections with federal regulations and require each railroad to periodically provide specific safety information to the Commissioner. We found that the DOT had made progress in implementing the recommendations identified in our prior audit report. Of the six prior audit recommendations, one had been implemented, four had been partially implemented and one was no longer applicable.

Metropolitan Transportation Authority

(MTA)

[New York City Transit – Selected Aspects of the Paratransit Call Center Operations \(2015-S-17\)](#). New York City Transit (Transit) provides paratransit service within New York City called "Access-A-Ride" (AAR), which is operated by Transit's Department of Buses, Paratransit Division (Paratransit), and serves approximately 150,000 eligible customers. Transit contracted with GCS, a staffing/call center operations

contractor (contractor) to operate the Paratransit Call Center (Call Center). Paratransit is to assess a \$25 credit against the contractor for each call handling error that occurs in months when the error rate exceeds 0.01 percent and recoup from the contractor any additional costs incurred due to those errors. Auditors found that although the contractor's error rate was greater than 0.01 percent in every month from May 2013 to May 2015, Paratransit did not assess the appropriate penalties, totaling \$395,925 as of May 2015. Further, even though MTA officials claimed that the contractor sufficiently complied with call handling standards, we found that the data used for this analysis was incomplete and did not support the MTA's conclusion. The contractor's Quality Assurance program was not carried out in accordance with the contract, and as a result, Paratransit had limited assurance that its standards for quality service delivery to its customers were met. The contractor did not ensure that all staff received proper new hire and recurrent training and that it received signed non-disclosure agreements from employees. Finally, Paratransit did not approve management-level employees hired and their qualifications. Among the recommendations we made to the MTA were to: process the credits of \$395,925 against the contractor for the period from April 2013 to May 2015, when the error rate exceeded the 0.01 percent in the contract; require the contractor to ensure that all new hires attend all training and that staff receive recurring training, and document training by including the training sign-in sheets in the contractor's monthly invoice package; and monitor, review, and approve all managerial staffing changes, including additions and deletions, and maintain appropriate documentation for such changes.

[**New York City Transit – Selected Aspects of Subway Station Safety \(2016-S-11\)**](#). New York City Transit (Transit) provides public transportation in New York City, carrying an average of 5.65 million passengers per day. Transit's Division of Station Environment and Operations (DSEO) maintains safety and cleanliness in 469 subway stations. The Division's Operations Training Manual requires Station Supervisors to inspect subway stations at least once every 72 hours, placing defects into five categories, including 'A' defects, 'B' defects, 'C' defects, 'P' defects, and Signage defects. We found that DSEO often did not take sufficient and/or timely actions to identify and address safety-related defects. For example, we identified 21 Priority 'A' defects, 20 of which were not identified by Station Supervisors during required station inspections within three days before and after our site visits. Once identified, defects were not always addressed within the required time frames. In addition, officials could not provide written records supporting 9 of the 82 sample test calls for Help Points/Customer Assistance Intercoms (CAIs). Without an adequate audit trail of such tests, Transit had limited assurance that these systems work properly. We recommended that Transit: revisit the subway stations where auditors identified the defects, determine the current conditions, and take appropriate action; require Station Supervisors and other DSEO personnel, as appropriate, to attend refresher training courses emphasizing the importance of conducting thorough subway station inspections; ensure that defects are addressed or repaired according to DSEO bulletins/guidelines; and develop and implement formal procedures to document how tests of Help Points/CAIs are to be performed and documented by non-supervisors.

[**Staten Island Railway – Safety at Stations \(2016-S-91\)**](#). Staten Island Railway (SIR) is responsible for the operation of a single rapid transit line, which runs the length of the Island (14 miles) from St. George Terminal to the southern terminal at Tottenville. We found that generally, SIR documented its inspections of facilities where safety-related incidents occurred and the actions taken to remediate conditions that might have contributed to such incidents. However, in certain instances, responses to safety-related incidents were not documented. A lack of pertinent policies and procedures as well as staffing shortages likely contributed to lapses in documenting incidents and their related responses. SIR's Customer Assistance Intercom (CAI) system was not operational system-wide, and SIR did not have a formal timetable of when the system would become operational. We recommended that SIR: develop written policies and procedures pertaining to safety-related incidents at stations; and establish a formal timeline for the complete activation of the CAI system.

[**New York City Transit – Trash Can Free Stations Pilot Program \(Follow-Up\) \(2016-F-23\)**](#). Our initial report ([**2014-S-29**](#)), issued September 22, 2015, determined there were significant limitations in Transit's methods to evaluate the progress of the Pilot Program, which sought to reduce refuse in the City's subway system by removing garbage cans from station platforms. Consequently, it was unclear whether the Pilot Program sufficiently achieved the stated goals to improve customer experience and reduce the rodent population and whether it should have been expanded. In addition, the effectiveness of the Pilot Program

was not well monitored, and no metrics were established to focus on the primary goal, reducing “exposed bags.” However, the pilot was expanded twice, and continued through the issuance of our report, without conclusion. By the third phase of the Pilot Program, Transit had removed trash cans from 39 stations, with mixed results and no firm evidence that the Pilot Program was effective. We found that MTA officials had made progress in correcting the problems we identified. However, additional improvements were still needed. Of three prior audit recommendations, two were partially implemented and one was not implemented.

[New York City Transit – Train On-Time Performance \(Follow-Up\) \(2017-F-8\)](#). MTA’s New York City Transit (Transit) provides rapid transit services in New York City, 24 hours a day, 7 days a week. Transit’s Department of Subways (Subways) considers a train on time when it is not canceled or abandoned en route, and it arrives at the end terminal not more than five minutes after its scheduled arrival time. Our initial audit report ([2014-S-56](#)), issued on August 12, 2015, determined that train on-time performance (OTP) was well below stated goals for calendar years 2013 and 2014. Our follow-up found that Subways had made limited progress in addressing the problems identified in our prior report. Of the two prior audit recommendations, neither were fully implemented. Moreover, since the conclusion of our last audit, OTP had continued to decline. Additional actions were thus warranted.

New York State Canal Corporation

[Infrastructure Inspection and Maintenance \(Follow-Up\) \(2016-F-20\)](#). Our initial audit report ([2014-S-45](#)), issued on May 26, 2015, examined whether the inspection scheduling procedures of the New York State Canal Corporation (Corporation) ensure that all high- and intermediate-importance structures were periodically inspected and whether inspection results were considered when maintenance activities were prioritized. The audit report concluded that, while the Corporation performs routine operational and reliability checks of the Canal System’s critical structures, it had not performed biannual inspections of a significant number of them. In addition, we found a risk that critical structures most in need of repair were not given priority, as the Corporation’s process for determining inspection and maintenance priorities lacked clarity and funding shortages had greatly inhibited the Corporation’s ability to address its priority maintenance needs. We found the Corporation had made progress addressing the issues identified in our initial audit. Of the seven recommendations contained in our audit report, two had been implemented and five had been partially implemented. Moving forward, additional actions should be taken to ensure all high- and intermediate-importance structures are inspected timely. In addition, a documented and sound system should be established for supporting capital spending decisions.

New York State Thruway Authority

(Thruway Authority)

[Effectiveness of Cost Containment Initiatives \(2015-S-59\)](#). The Thruway Authority is responsible for: overseeing and maintaining the Thruway, a 570-mile tolled highway system that includes eight major bridges; maintaining 809 other bridges that carry local roads and State highways over and under the Thruway; and, at the time of our audit, operating the State’s 524-mile Canal System. In 2014, the Thruway Authority expended about \$1.1 billion (excluding costs for the New NY Bridge Project), including approximately \$711 million to support Thruway operations, \$281 million for its capital program, and \$66 million for New York State Canal Corporation operations. Although the Thruway Authority’s fiscal condition had shown some improvement in recent years, significant financial concerns remain. For example, the Authority’s use of debt increased and, as a result, its total liabilities rose nearly 80 percent, from \$3.5 billion in 2010 to \$6.4 billion in 2014. Auditors found that the Thruway Authority had not measured the total impact of its overall cost saving efforts. While operating revenues were sufficient to cover day-to-day operating expenses, some sections of the Thruway and its bridges were over 60 years old and were at or nearing the end of their projected useful life span. The Thruway Authority’s current revenue structure will likely not be sufficient to cover its ongoing and future capital needs, particularly in light of the Thruway’s age and the extent of deferred projects and maintenance. The Thruway Authority lacks a formal comprehensive long-term strategy to address these shortcomings. Auditors recommended that the

Thruway Authority develop and implement a long-term comprehensive strategic plan to address funding needs to pay for repairs and/or replacement of its aging infrastructure.

Compliance With Payment Card Industry Standards (2017-S-11). All organizations that accept credit cards as a method of payment, including the Thruway Authority, must comply with the Data Security Standards (DSS) established by the Payment Card Industry (PCI) Security Standards Council. The PCI DSS is a comprehensive set of technical and operational requirements addressing security management, information security policies and procedures, and other critical protective measures associated with credit card data. From May 1, 2015 through April 30, 2016, Thruway Authority reports indicated that it directly processed approximately 66,000 credit card transactions totaling more than \$1.4 million. Based on our review of select operational and technical security controls over the protection of cardholder data, we identified several matters that management should address to improve the Thruway Authority's information security program for cardholder data and to ensure compliance with PCI requirements. The Thruway Authority had not taken fundamental steps to secure its network. For example, it had neither classified its data, nor accounted for all of its systems that process or store credit card information. The Thruway Authority could also improve certain other technical safeguards over the cardholder data it processes. We recommended that the Thruway Authority: develop strategies to enhance compliance with PCI DSS; and implement the recommendations detailed during the audit for strengthening technical controls over cardholder data.

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

New York City Airport Lease (2014-S-28). New York City (City) and the Port Authority negotiated a lease agreement (lease) for the land and structures at John F. Kennedy (JFK) and LaGuardia (LGA) airports. In addition to a base rent, the Port Authority was also required to pay the City a lump sum of \$500 million and an additional lump sum of \$280.2 million at execution. Also, ancillary agreements to the lease required the Port Authority to fund capital projects in Queens, establish an Airport Board, and provide \$60 million in its capital plan for feasibility studies of direct rail links from Downtown Manhattan to JFK and Newark Liberty airports, which would come to be overseen by a Steering Committee composed of various New York City stakeholder entities. We found that the Port Authority had not fully complied with the terms of the ancillary agreements, which included an obligation to provide information and support to the Airport Board. Based on an agreement between the Port Authority and the City, the City assumed one of the Port Authority's responsibilities under the ancillary agreements – to fund \$100 million of capital projects in Queens. Although the lease agreement projected that Queens residents would have the full benefit of the \$100 million in capital projects by December 31, 2009, by the end of fiscal year 2014-15, the City had committed \$24.9 million, but expended only \$6.3 million. The lease prohibited the Port Authority from using the Aqueduct Parcel for any purpose other than employee and long-term parking lot facilities supporting JFK Airport. However, the Port Authority allowed the New York Racing Association to use a portion of the property for parking. Among the recommendations we made to the Port Authority were to: coordinate with City officials to ensure that all identified capital projects are funded and completed in a timely manner; deliver a final report to the Steering Committee and take appropriate action to determine whether to proceed with the One-Seat Ride Access project between Lower Manhattan and JFK Airport; and comply with the lease terms by using the Aqueduct Parcel for employee and long-term parking lot facilities supporting JFK Airport, or obtain formal approval from the City for use of the parcel before signing off on any permit/contract for other use.

Real Property Dispositions (2015-S-73). The Port Authority's real estate portfolio consists of over 12,000 acres of land and 45 million square feet of office, industrial, retail, and technical space. Administrative Instruction 25-3.02 (AI) governs Port Authority's disposition of real property. Our examination revealed that the AI was last updated on October 2, 1990, that its procedures were no longer consistently followed, and that it was thus obsolete. We also found that, in some cases, the AI did not reflect the Port Authority's current policies for administering property disposals, and that officials from key departments who were subject to certain AI provisions were unfamiliar with it. We examined records of seven Port Authority properties that were disposed of during the audit period, with values ranging from

\$650,000 to \$42.0 million, and found that the Port Authority did not comply with one or more provisions of the AI for all seven properties. We recommended that the Port Authority: formally review and update the policies and procedures for periodically reviewing real property and identifying unneeded real property holdings and disposing of them in a timely manner; disseminate the policies and procedures to all applicable departments and personnel; periodically review the policies and procedures for identifying unneeded real property holdings and disposing of them to ensure they are kept current; and develop and implement formal quality control processes to ensure that there is full compliance with policies and procedures for identifying unneeded real property holdings and disposing of them.

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)

[Inmate Sentence Calculation and Release Practices \(2016-S-43\)](#). Corrections is required to comply with the relevant laws and regulations regarding the sentencing and incarceration of inmates in New York State, including Penal Law Section 70.30, which gives Corrections the responsibility for calculating the terms of each inmate's imprisonment. The staff within the Inmate Record Coordinator office at each facility are responsible for determining the inmates' release dates, as well as any credits that reduce their sentence time. We found Corrections has appropriate procedures in place to ensure that it accurately determines inmate release dates. Our tests of sentencing calculations for a sample of 60 inmates found that the proper procedures were followed and the sentences were accurately calculated. However, Corrections records showed that during our audit period, five inmates were released between two weeks and 12 months early because certain procedures were not followed. The five errors represent an error rate of about one in every 17,000 inmates released during our audit period. Also, in all five cases, Corrections detected the errors, and the inmates in question were returned to custody within 20 days. Another four inmates were released up to seven months early due to inaccurate documentation provided to Corrections by external agencies, such as courts or local jails. Since Corrections is compelled to honor the terms of the orders and the local credits for time served it receives, the four errors were beyond its immediate control. However, we found Corrections also identified the errors, notified the appropriate external agencies, and took prompt action to return the inmates to custody as soon as corrected documentation was received. Further, each of the four inmates was returned to Corrections within 19 days.

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)

New York State Health Insurance Program

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 (Plan), which costs the State and local governments about \$6.5 billion each year. Civil Service contracts with UnitedHealthcare (United) to process medical claims, with Empire BlueCross BlueShield (Empire) to process hospital claims, and with CVS Caremark to process prescription drug claims for the Plan.

UnitedHealthcare: Empire Plan Drug Rebate Revenue (2016-S-7). Civil Service contracted with United to administer the Empire Plan's prescription drug program from January 1, 2008 through December 31, 2013. United was required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations, and to pass 100 percent of the value of the agreements on to the prescription drug program. For the audit period January 1, 2010 through December 31, 2013, United remitted approximately \$863 million in revenue from agreements with drug manufacturers to Civil Service. United subcontracted key functions of the administration of the prescription drug program to Medco Health Solutions, Inc., including the negotiation and collection of rebates offered by drug manufacturers. In 2012, Express Scripts Holding Company acquired Medco. The subcontract required Express Scripts to remit 100 percent of all rebates collected from the manufacturer agreements to United. United, in turn, was required to remit those rebates to Civil Service. Auditors found that Express Scripts improperly retained \$1,498,719 in NYSHIP rebates, despite its contractual obligation to remit this revenue to United. Consequently, United did not remit this revenue to Civil Service. Auditors recommended that United recover and remit the \$1,498,719 in rebates identified by the audit to Civil Service.

UnitedHealthcare: Overpayments for Services Provided by Long Island Bone and Joint, LLP (2016-S-8). Long Island Bone and Joint, LLP (LI Bone and Joint) is a non-participating provider with three locations in Suffolk County (Southampton, Riverhead, and Port Jefferson). During the period January 1, 2011 through October 31, 2015, United paid claims totaling \$8 million for services provided by LI Bone and Joint to Empire Plan members. We found that LI Bone and Joint routinely waived Empire Plan members' required out-of-pocket cost-sharing obligations for services provided. Consequently, United made overpayments on claims submitted by LI Bone and Joint. Further, by not collecting members' out-of-pocket costs, LI Bone and Joint negated the incentive for members to use participating providers, resulting in additional increased costs to the Empire Plan, and consequently, taxpayers. From a random sample, we identified overpayments totaling \$143,266 that resulted from the routine waiving of members' cost-sharing obligations. Based on a statistical projection, we determined United overpaid \$507,530 during the period January 1, 2011 through October 31, 2015. We recommended that NYSHIP: review the \$507,530 in improper payments identified by the audit, recover overpayments from LI Bone and Joint, as appropriate, and refund the State accordingly; and work with Civil Service to pursue an appropriate course of action designed to prevent LI Bone and Joint from waiving Empire Plan members' out-of-pocket costs, including potentially bringing it into the Empire Plan's participating provider network.

[Empire BlueCross BlueShield: Controls Over Payments for Special Items \(2016-S-57\)](#). From 2009 through 2012, we completed 21 audits of Empire's payments for special items. Systemic problems in Empire's controls over these payments were identified, as was about \$10 million in payments that exceeded reimbursement limits according to Empire's hospital contracts, and another \$2.2 million in excessive payments that were not recoverable due to limitations in Empire's hospital contracts. To correct the issues identified in prior audits, Empire contracted with two companies to review payments for special items (implants and drugs). In addition, Empire expressed a commitment to ensure all hospital contracts contained provisions to limit the reimbursement of special items. In response to our prior audits, Empire improved its controls over the identification and recovery of overpayments for special items. As a result of Empire's efforts, including contracts with two vendors, Empire recovered overpayments totaling \$6,313,534 for special items. Nonetheless, we concluded that Empire needed to further enhance its reviews of special item payments by incorporating steps and techniques that result in additional recoveries. Since 2016, Empire's recoveries of overpayments for certain special items had decreased. In addition, not all hospital contracts included language that limited payments for special items. We recommended that Empire: enhance internal controls designed to ensure payments for special items are made in accordance with hospital contracts; and continue efforts to ensure all hospital contracts include language which defines and limits reimbursement for all special items and expands audit look-back periods.

[UnitedHealthcare: Empire Plan Drug Rebate Revenue \(Follow-Up\) \(2017-F-5\)](#). As the administrator of the Plan's prescription drug program from January 1, 2008 through December 31, 2013, United was required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations, and to pass 100 percent of the value of the agreements on to Civil Service. Our initial audit report ([2016-S-7](#)), which was issued on November 1, 2016, found that United did not remit \$1,498,719 in rebate revenue to Civil Service. We made one recommendation to United to remit the \$1,498,719 in rebates to Civil Service. Our follow-up found that United officials fully implemented the recommendation and remitted \$1,498,719 in rebate revenue to Civil Service on December 1, 2016.

[UnitedHealthcare: Insurance Company of New York Empire Plan Drug Rebates \(Follow-Up\) \(2017-F-6\)](#). As the administrator of the Empire Plan's prescription drug program from January 1, 2008 through December 31, 2013, United was required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations, and to pass 100 percent of the value of the agreements on to Civil Service. Our initial audit report ([2014-S-62](#)), issued on December 28, 2015, identified \$710,284 in rebate revenues that were not credited to Civil Service. Our follow-up found that United officials had made progress in addressing the issues we identified in the initial audit, including the remittance of \$338,649 in drug rebate revenue to Civil Service on April 28, 2016. In addition, United officials agreed to remit another \$67,386 in rebate revenues. However, at the time of our follow-up, United had not yet made this credit to Civil Service. Officials stated the remaining rebate revenues that were identified in the initial audit, totaling \$304,249, would not be credited to Civil Service. However, we maintained that the \$304,249 in question should be credited to Civil Service. Of the initial report's two audit recommendations, one was partially implemented and one was no longer applicable.

Justice Center for the Protection of People With Special Needs

[Selected Aspects of Incident Intake and Investigation \(2015-S-61\)](#). The Justice Center for the Protection of People With Special Needs (Center) has law enforcement authority to protect and advocate for people with special needs who are served by six State Oversight Agencies (SOAs) and more than 3,000 SOA licensees, facilities, providers, or entities certified by the SOAs. Although we were able to conclude that the Center did operate the required hotline and maintain the Vulnerable Persons Central Register (VPCR) database and the Staff Exclusion List (SEL), we were unable to draw conclusions about several of the most important parts of our audit because the Center did not provide us with access to most of the relevant information needed to achieve our audit objective. We used the limited information we were provided to evaluate the Center's compliance with its statutory mandates. Unfortunately, in most cases, the controls and compliance we were able to evaluate related more to ensuring that persons accused of (and subsequently found to have committed) serious instances of Abuse and Neglect received due process – and less to ensuring that all allegations of acts against vulnerable individuals had been

investigated fully and timely, and referred to law enforcement when appropriate. Although our examination was severely limited, our tests identified three individuals who had been erroneously left off the SEL after committing serious acts of Abuse or Neglect, because the Center lacked proper controls to periodically validate the accuracy of the SEL. Our limited testing also showed that the Center's database of reported allegations contains numerous inaccuracies. For example, each suspected offender should have a unique identification number to enable tracking of repeat offenders. Yet our analysis identified about 180 individuals who had multiple identification numbers assigned to them instead of one unique identifier as required. We recommended that the Center: develop and implement controls to ensure all subjects with substantiated Category One offenses are promptly added to the SEL; and develop and implement procedures to provide reasonable assurance that data contained in the VPCR database is accurate, including procedures to periodically review and analyze the accuracy of the data and correct any inaccuracies discovered.

Office of General Services (OGS)

Business Services Center Shared Services (2016-S-16). The State's 2012-13 budget established the Business Services Center (Center) within OGS as a centralized office for processing Human Resources (HR) and Finance transactions that are common across State agencies. Auditors found that, for the period September 27, 2012 to September 12, 2016, the Center had improved the consistency and efficiency of certain services it provides to its customers. Procurement card rebates increased by over \$4 million, and interest paid by the State decreased by \$350,000 since Fiscal Year 2013-14. Also, the Center estimated it reduced staffing costs for administering these services by approximately \$34 million annually. Auditors also found that the Center made progress in providing services at agreed-upon performance target levels. However, the Center had not met its targets for Accounts Payable processing and Purchase Order processing time. Meeting these targets could help reduce interest paid by the State and expedite delivery of needed goods and services to customer agencies. The Center had yet to develop specific metrics to measure its performance against Service Level Agreement (SLA) targets for its HR function. As a result, it was unclear whether its service targets were being met. Auditors recommended that the Center further develop performance monitoring processes to better determine the causes of delays in meeting SLA targets, including obtaining necessary data to expand analytical testing and review of transactions.

Food Metrics Implementation (2017-S-18). To assist agencies in increasing their New York State food purchases, the Law requires OGS and the Department of Agriculture and Markets (Ag&Mkts) to develop regulations, establish guidelines, and provide training on State food purchasing to agency personnel involved in the acquisition process. OGS is also responsible for tracking data on State agencies' food purchases and for providing a Food Metrics Annual Report to the Governor and the Legislature by December 1 of each year detailing these purchases. We found that the Food Metrics Annual Reports contained calculation errors and lacked complete information on statewide food purchasing, such as understating 66,369 transactions valued at more than \$5 million and improperly including purchases totaling about \$11 million. OGS and Ag&Mkts had neither developed guidelines to direct and assist State agencies in procuring New York State food products, nor provided training to agency personnel, as required. In response to our audit, in May 2017, OGS and Ag&Mkts finalized and published the required guidelines for State agencies, which directed agencies to submit more complete reporting of food purchases to OGS, which should aid in issuing more accurate Food Metrics Annual Reports in the future and ultimately increase the purchase of State food products. We recommended that OGS: develop and provide training to agencies and vendors on purchasing State foods and reporting such purchases; and develop and implement adequate controls to detect and correct anomalies and inaccuracies in data used to create the Food Metrics Annual Report.

Office of Information Technology Services
(ITS) (formerly New York State Office for Technology)

Security and Effectiveness of Department of Motor Vehicles' Licensing and Registration Systems (Follow-Up) (2016-F-15). In an initial audit report issued on September 19, 2014 ([2013-S-58](#)), auditors determined that ITS and the Department of Motor Vehicles (DMV) were not in compliance with Payment Card Industry (PCI) Data Security Standards that govern the systems that process credit card transactions. In addition, ITS was not in compliance with State cybersecurity policies, and did not establish adequate processes for managing user access of DMV systems. Auditors made five recommendations covering PCI Data Security Standard compliance, policies addressing logging, controls over change management and user access, patching, and a succession plan for dated programming languages. In their follow-up review, auditors found that ITS officials had made some progress in correcting the problems identified; however, improvements were still needed. Of the five recommendations, two had been implemented and three had been partially implemented.

Security and Effectiveness of Division of Criminal Justice Services' Core Systems (Follow-Up) (2016-F-28). Our initial audit report ([2014-S-24](#)), which was issued on February 24, 2015, found that ITS did not have established policies and procedures for backup of key Division of Criminal Justice Service (DCJS) systems. Also, ITS did not have an active regional backup site, and DCJS systems were at risk for total data loss in the event of a regional disaster. We also found ITS did not comply with certain State cybersecurity policies, and did not establish adequate processes for monitoring and oversight of user access of DCJS systems and software and changes made to these operating systems. The eight recommendations in our initial report addressed user access, change management, patching, business continuity, disaster recovery, data classification, implementation of a service level agreement, and system availability and performance. We found that ITS officials had made some progress in correcting the problems we identified in the initial report. However, improvements were still needed. Of the eight recommendations, four had been implemented, two had been partially implemented, and two had not been implemented.

ECONOMIC DEVELOPMENT AND HOUSING

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

Empire State Development Corporation (ESD)

Compliance With Outcome Reporting Requirements (2016-S-40). ESD is required to report to various levels of State government and/or the public regarding the outcomes of numerous programs it supervises. Reporting requirements for specific programs vary, often with many of the requirements specified in the legislation that established the program. We found that ESD failed to meet more than half of the statutorily mandated outcome reporting requirements for the programs that it managed during the period April 1, 2012 through September 30, 2016. As a result, the level of transparency and accountability in these publicly funded initiatives was diminished, and policy makers had less information with which to gauge effectiveness or identify needed changes and improvements. The outcome reports that ESD did prepare contained all the required data elements. However, the required general summary reports, which were supposed to account for all of ESD's active economic development programs that provide financial assistance to participants, actually accounted for less than half of them. ESD had annual reports for only 15 of 173 subsidiaries linked with ESD per the State's Public Authority Reporting Information System (PARIS). For the reports ESD prepared, we often could not determine whether they were done timely because there was no evidence of when they were published. We recommended that ESD: develop and adhere to procedures for meeting statutory program and subsidiary reporting requirements in a timely manner; and review information contained in summary outcome reports to ensure all active programs are included.

Oversight of International Offices (Follow-Up) (2016-F-1). ESD's International Division has contracts totaling about \$2.7 million with foreign representatives operating in Canada, Israel, China, and the United Kingdom to increase exports and attract foreign direct investment to create jobs for New Yorkers. Our initial audit report ([2012-S-7](#)), issued on June 28, 2013, concluded that ESD did not have an appropriate monitoring system to evaluate foreign offices' activities against contract performance requirements. Auditors recommended that ESD: monitor international office contracts to ensure that international offices are meeting contract requirements and are operating to benefit New York companies and New York State economy; and ensure that foreign representatives are only reimbursed for actual and necessary expenses incurred in the operation of foreign offices. In the follow-up review, auditors found that while ESD had made some progress in addressing these issues, further work was still needed. While ESD had taken additional actions to monitor contracts with foreign representatives, these efforts did not satisfactorily address the major underlying reasons for the audit recommendation, nor did they accomplish the improvement goals that ESD cited in its 90-Day Response to the Comptroller, the Governor, and Legislative leaders. For instance, ESD's new Client Resource Management System for performance monitoring is far less comprehensive than ESD initially described and, in fact, captures little or no data on foreign contractor performance. Despite auditors' repeated requests, and the important role these foreign contractors have in attracting additional international business investment and creating jobs in New York, ESD could not provide evidence that it monitors whether its foreign contractors' efforts have increased export sales, developed successful investment projects, and created jobs as required by their contracts. Of the two prior audit recommendations, one had been fully implemented and the other had been only partially implemented.

Homes and Community Renewal (Community Renewal)

[Administration of Mitchell-Lama Waiting Lists \(2016-S-46\)](#). The Mitchell-Lama Housing Program (Program) provides affordable rental and cooperative housing to middle-income families on the Automated Waiting List (AWL) system, which is maintained by the Division of Housing and Community Renewal (DHCR), an agency within Community Renewal. When there are vacancies, applicants should be offered and awarded apartments in the order they appear on the waiting lists. We found that the majority of sampled new admissions, internal transfers, and successions were selected from the AWL and approved by DHCR. However, in most cases, neither DHCR nor the development maintained the documentation required to confirm that tenants were selected in the order they appeared on the AWLs. One development, Knickerbocker Village, did not request or receive DHCR approval for eight of the nine succession apartments it awarded. Moreover, it awarded three apartments to individuals who were not on the AWL. Four of the five developments did not comply with the required 3:1 internal/external ratio when offering apartments to applicants. For example, Knickerbocker Village officials awarded 18 consecutive one-bedroom units to external applicants, while at Amalgamated Warbasse Houses, we found several instances where at least six consecutive internal transfers were selected for two- and three-bedroom units. We also found that, as of July 31, 2016, Westview had 51 vacant units, even though it had applicants on its internal and external AWLs. Ten of these units had been vacant for as long as five years. We recommended that DHCR: take appropriate action regarding tenants who were awarded apartments without DHCR approval and/or not selected from the AWL; ensure that occupancy changes are supported by documentation showing the order in which applicants are selected; and ensure that housing developments comply with the requirements for awarding apartments, including the 3:1 internal/external applicant ratio, the proper use of AWLs, and the prompt filling of vacant apartments.

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 Labor (DOL)

[Protection of Child Performers \(2016-S-70\)](#). DOL is charged with protecting workers in New York State. Part 186 of the New York Codes, Rules and Regulations (NYCRR) and Article 4-A of the State Labor Laws (Law) were established to protect child performers, including models, whose interests and well-being during employment may be vulnerable to exploitation. DOL's Child Performers Unit (Unit) is responsible for monitoring compliance. We found that DOL had not created a sound and effective system of internal controls for the Unit. Several systemic weaknesses existed that undermine DOL's ability to adequately monitor the child performers program, detect violations, and prevent noncompliance with legal requirements. We found instances where: children were likely working without permits; parents or guardians had circumvented DOL's Child Performers Registration System database (System) to improperly obtain permits for their children; and child permits and employer certifications were issued without all required documentation. DOL also: did not have the necessary controls to monitor and enforce compliance with regulations designed to protect child performers' earnings; and had not designed or implemented proactive monitoring activities to verify that permits, certifications, and education, safety, and work conditions fully comply with the Law and the NYCRR. We also found that the System had significant deficiencies that limited its effectiveness and reliability as a monitoring tool. We recommended that DOL: design and implement a system of internal controls to ensure that the welfare of child performers is protected and that parents/guardians and employers comply with the requirements of the Law and the NYCRR; and in conjunction with the Office of Information Technology Services, develop a System that can easily and readily store, access, and analyze required child performer and employer information and develop a process to identify and correct apparent System flaws.

[Examination of Unemployment Insurance Benefits: 2016 Annual Report \(2017-BSE4-01\)](#). This audit examined if unemployment insurance (UI) payment requests and payments that DOL approved were appropriate, and if DOL recouped overpayments based on current and prior year findings. We used data analytics to select 57,054 transactions for audit, including high-risk payment requests that DOL approved in 2016, and prior year payments related to those 2016 payment requests. We identified 4,864 overpayments totaling more than \$1.6 million. Based on those overpayments, DOL assessed \$217,290 in monetary penalties to 137 claimants. We also identified 345 underpayments totaling \$64,206, which comprises \$13,278 in current payments and \$50,928 in future payments that claimants would not have received had DOL not taken corrective actions based on our findings. As a result of our findings, DOL also recovered \$247,483 in forfeited UI benefits from claimants who DOL determined made false statements or representations to obtain benefits to which they were not entitled. In addition to our audit efforts, we worked cooperatively with DOL to identify \$238,792 in potential recoveries for past UI overpayments from 130 State employees hired during calendar year 2016. In addition, in calendar year 2016, DOL recovered \$342,415 from State employees who owed DOL for past UI overpayments through this cooperative effort.

Department of Motor Vehicles (DMV)

[Registration and Enforcement of Automotive Services, Sales, and Salvage Facilities \(2016-S-71\)](#). The Vehicle and Traffic Law outlines the DMV's responsibilities for administering the registration and licensing for certain types of automotive businesses, including registration of repair shops, dealers, dismantlers, and junk and salvage facilities and licensing of inspection stations. The DMV is also

responsible for receiving, investigating, and responding to complaints received from the public relating to the types of automotive businesses it regulates. Our analysis of DMV facility data and publicly available property records identified many automotive facility locations where businesses could potentially be operating without a valid DMV registration. We also identified delays in the DMV's process for handling consumer complaints. For example, of 1,127 complaints that required a hearing, more than half (583) did not receive a hearing within 12 months from the date the complaint was received, as called for in the regulations. We recommended that the DMV: take steps to improve the identification of potentially unregistered facilities and determine whether they continue to operate, including (but not limited to) periodic analysis of publicly available information, such as property records and advertisements for repair services; and examine the underlying causes of the delays and explore options for improving the ability to promptly address and resolve consumer complaint cases.

Traffic Ticket Surcharges (Follow-Up) (2016-F-12). New York State Vehicle and Traffic Law authorizes cities that meet an established population requirement – currently set at 200,000 or more – to adjudicate noncriminal traffic infractions through administrative tribunals instead of the court system. Within the DMV, Traffic Violations Bureaus (TVBs) were established to run the State's administrative adjudication program, which is intended in part to divert such high-volume non-criminal cases from the court system and thereby free the courts to concentrate instead on more serious cases. In an initial audit ([2014-S-26](#)), issued on August 10, 2015, auditors concluded that, overall, DMV consistently accounted for and reported all traffic ticket surcharge revenue received through the TVBs and its Traffic Violation Division. However, auditors identified certain areas where the DMV could make greater use of the data it maintains to better manage and improve its operations. Auditors made four recommendations to correct the errors identified and to establish a more proactive approach to program monitoring. In the follow-up review, auditors found that DMV officials had made progress in implementing each of the recommendations identified in the initial report. However, additional improvements were still needed. Of the four recommendations, one had been implemented and the other three had been partially implemented.

Department of State

Monitoring of Not-for-Profit Cemeteries for Fiscal Stability and Adequate Facility Maintenance (2016-S-79). The Department of State's (DoS) Division of Cemeteries (DoC) oversees the establishment, maintenance, and preservation of burial grounds for all not-for-profit cemetery corporations (cemeteries) in New York State. We found that as of September 30, 2016, DoC records indicated 642 cemeteries (37 percent of a total 1,745 cemeteries under its jurisdiction) had overdue audits and 285 (16 percent) had delinquent annual reports. For 145 cemeteries (8 percent), audits were overdue and annual reports were delinquent as well. As of December 1, 2016, 391 cemeteries (22 percent) had not been inspected in over seven years. DoC's mainframe information system was antiquated and captured only limited data. All 71 cemeteries we visited appeared well maintained, but 38 (54 percent) did not have all the proper information posted for visitors, as required. DoC had not updated its internal policies and procedures or its manuals for cemeteries to reflect the latest laws and regulations. We recommended that DoC: design a new data management system to include features that will allow it to more readily and accurately identify cemeteries at risk, increase its work planning efficiency, and enable centralized data entry and access; work with each of the 37 cemeteries identified in our analysis of Permanent Maintenance Fund requirements to determine what actions each needs to take to ensure it is sufficiently funded; and ensure that all operational manuals used by DoC and cemetery staff are up to date with the latest regulations.

Department of Taxation and Finance

(Tax and Finance)

Property Tax Freeze Credit (2015 Property Tax Freeze Credit Report). The Property Tax Freeze Credit (PTF Credit) was intended to reimburse qualified State homeowners for increases in school and municipal taxes on their primary residences. Tax and Finance approved nearly 2.1 million PTF Credit payments totaling \$600.7 million through June 30, 2016. Of 138,962 individual high-risk PTF Credit payments reviewed, totaling more than \$75.9 million, auditors identified and returned to Tax and Finance 31,924 questionable payments totaling almost \$8 million for follow-up evaluation and appropriate action, including:

25,567 payments totaling \$5,480,752 due to calculation errors; 3,998 payments totaling \$1,621,590 where either the homeowner or property was not eligible for the STAR property tax exemption; 2,052 payments totaling \$818,766 to deceased homeowners; 246 duplicate payments totaling \$43,504; and 61 payments totaling \$8,722 due to other issues. Although Tax and Finance maintained the necessary data to identify these discrepancies, it did not always review the data prior to submitting payments to OSC for approval. Auditors also worked with Tax and Finance to identify an additional 12,786 PTF Credit payments totaling \$2.55 million that were incorrect due to improper data formatting. Auditors recommended that Tax and Finance: ensure PTF Credit payment amounts are correct prior to submitting the payments for approval; continue working with the local assessor offices to ensure data provided is standardized, complete, and accurate; and for the 2016 tax year, use relevant Tax and Finance data to ensure only eligible taxpayers receive the PTF credit.

Personal Income Tax Refunds (2016-1A-001). The objective of our examination was to determine whether personal income tax refunds approved by Tax and Finance for payment were appropriate and processed in accordance with applicable New York State tax laws and regulations. We examined refunds processed during the calendar year January 1, 2016 through December 31, 2016. During the period of our examination, Tax and Finance processed almost 7.6 million refunds totaling over \$9.6 billion. From this population, we returned 12,335 refunds totaling almost \$43.9 million to Tax and Finance for follow-up evaluation and appropriate action.

Child and Dependent Care Credit (2017-BSE8-01). The objective of our examination was to identify potentially inappropriate Child and Dependent Care credits (credits) processed by Tax and Finance for tax year 2015 because the expenses claimed were not paid by the taxpayer, but were paid, in whole or in part, through subsidies from the Office of Children and Family Services (OCFS) or the New York City Administration for Children's Services (ACS). During the period of our examination, Tax and Finance processed 444,127 returns containing credits totaling \$177.1 million. We found Tax and Finance processed 29,102 personal income tax returns for tax year 2015 that contained potentially inappropriate credits valued at \$18.3 million. While OSC was able to access the OCFS and ACS data for our audit purposes, we are precluded from sharing specific information about the contents of these files with Tax and Finance, including the existence and dollar amount of the subsidy. The findings from this examination demonstrated the benefits of pursuing legislation to allow Tax and Finance access to the OCFS and ACS subsidy data for auditing personal income tax returns. We recommended that Tax and Finance continue to pursue legislation to allow it to obtain child care subsidy data directly from OCFS and ACS, and to then use the data to identify taxpayers who claim inappropriate credits.

Division of Homeland Security and Emergency Services

Awarding and Oversight of Statewide Interoperable Communications Grants (2016-S-90). The Division of Homeland Security and Emergency Services (DHSES) oversees and directs the development, coordination, and implementation of policies, plans, standards, programs, and services related to interoperable and emergency communications. Within DHSES, the Office of Interoperable and Emergency Communications (Office) is responsible for administering the Statewide Interoperable Communications Grant (SICG) program, which awards grants to counties to help them enhance their emergency response capabilities to support statewide communications between emergency responders. We found that DHSES awarded SICG funding to qualified recipients in accordance with its requirements, and assessed and re-evaluated its eligibility criteria after each round of awards was issued. DHSES was generally meeting its obligations for ensuring that grant funds are appropriately allocated. We did, however, identify certain process deficiencies in the areas of monitoring and documentation that could increase the risk of inappropriate use of funds and hinder DHSES' progress toward statewide interoperability. DHSES did not have procedures in place to conduct regular site visits to physically verify the status of counties' projects. The reimbursement voucher approval process did not have a mechanism in place to trigger closer scrutiny of larger voucher amounts, which pose a higher risk of misuse. Furthermore, staff were not required to document instances where they had identified questionable voucher requests and requested additional documentation for review, which limits DHSES' ability to monitor counties for potential patterns of misuse. DHSES' policy regarding documentation for grant extension requests was not clearly stated, and it did not strictly enforce its documentation requirements.

We recommended that DHSES: develop procedures that will enhance monitoring of SICG grants, including (but not limited to) site monitoring and improvements to the expenditure reimbursement approval process; identify and assess reasons for past inconsistencies in approving grant extensions and implement additional controls to ensure compliance with DHSES requirements; and provide training to the counties to ensure their officials are aware of the requirements they must meet to obtain contract extensions.

Dormitory Authority of the State of New York (DASNY)

[Monitoring of Prevailing Wage Compliance on Construction Contracts \(2015-S-99\)](#). DASNY's purpose is to finance and construct buildings for a variety of public and not-for-profit entities, including universities, health care facilities, and State agencies. Most DASNY construction contracts require the contractors to pay prevailing wages. The Department of Labor (Labor) assists DASNY by enforcing compliance with Article 8, Section 220 of the State Labor Law on Public Work (Article 8) that requires payment of prevailing wages. We found that DASNY had implemented appropriate controls to meet its specific Article 8 responsibilities, which were to: properly advertise prevailing wage construction projects; ensure contractors file an original payroll; and review whether the payrolls include all required information. However, although DASNY project managers and field representatives visited construction project sites, they did not routinely inspect the sites to ensure that prevailing wage rates were posted, as required. DASNY had an agreement with Labor (Agreement) to fund an Investigator dedicated to enforcement of the prevailing wage law on DASNY projects in the New York City area. However, DASNY could have improved its controls by obtaining documentation that detailed the Investigator's work and helped officials to determine if the services provided, and the results achieved, adequately fulfilled the requirements of the Agreement. We recommended that DASNY ensure project managers and/or field representatives periodically verify prevailing wage postings on job sites and require verifications of wage postings to be documented; and that Labor provide DASNY with periodic reports that sufficiently detail the nature and results of the Investigator's monitoring efforts regarding DASNY construction projects.

Hudson River Park Trust

[Selected Financial Management Practices \(Follow-Up\) \(2016-F-22\)](#). Our prior audit ([2013-S-56](#)), issued on December 26, 2014, found that the Hudson River Park Trust (Trust) needed to improve its practices related to revenue collection, procurement, investments, payroll, budgeting, and equipment inventories. Among the weaknesses identified, the Trust did not: maximize the amount of revenues from certain tenants; adequately ensure that the Economic Development Corporation reported revenues correctly; and document two vendor contracts that were awarded and modified by \$16.9 million. We found that the Trust had made progress in correcting the problems we identified in the initial report. However, additional actions were still needed. We noted that of the 19 recommendations included in our initial report, ten were implemented, eight were partially implemented, and one was no longer applicable.

New York State Insurance Fund (NYSIF)

[Risk Management Planning Group \(2015-1A-001\)](#). NYSIF provides a guaranteed source of workers' compensation insurance for employers within New York State. We determined that NYSIF did not effectively address the risk of the Risk Management Planning Group (RMPG) serving in conflicting roles or follow its policies and industry practices when calculating \$245.9 million in combined premiums and providing \$125.3 million in combined discounts for North Shore Hospital (North Shore) and King Kullen Supermarket (King Kullen). NYSIF allowed RMPG to: represent North Shore and King Kullen as its broker to negotiate favorable insurance rates with NYSIF; and represent NYSIF as the Third Party Administrator (TPA) to administer the insurance claims. NYSIF failed to follow its own internal policies and standard industry practices to determine premiums and discounts related to the North Shore and King Kullen policies, and instead priced their premiums without critical information to ensure the premiums collected would be sufficient to cover the ultimate cost of the claims. Discounts totaling \$118.7 million for North

Shore and \$6.6 million for King Kullen were provided despite the missing information and supporting documentation. NYSIF undercharged North Shore and King Kullen up to a cumulative \$14.1 million for workers' compensation assessments, which amounted to an additional discount on top of the \$125.3 million totaling \$139.4 million in premium discounts. The audit recommended that NYSIF ensure: premiums were appropriately priced; discounts and surcharges were warranted; and all underwriting decisions were documented, including those that deviated from NYSIF's policies. NYSIF should also: develop strong internal controls that include oversight of NYSIF underwriting staff, including the Director of Underwriting, when setting premiums; monitor policies administered by RMPG and consistently review RMPG's compliance with the TPA agreement which includes adequately setting reserves; and conduct an independent review of the North Shore and King Kullen policies to ensure appropriate reserves for existing claims.

Incarcerated and Death Matches (2017-SIF). We examined \$1.4 billion in payments for more than 17 million in medical and other service charges that NYSIF made on behalf of nearly 215,000 claimants during the period January 2014 through February 2017. We matched the payments to the New York State Department of Corrections and Community Supervision Under Custody files from September 2016 through March 2017. We also matched the payments to the Social Security Administration Death Master File as of April 5, 2017. According to Workers' Compensation Law Section 10(4), any person incarcerated upon conviction of a felony shall be deemed ineligible for all benefits. Furthermore, NYSIF will not pay for medical and other service charges that occur subsequent to a claimant's date of death. Both payment matches yielded minimal exceptions. In addition to conducting the matches, we observed NYSIF's process for identifying and preventing inappropriate payments made for claimants who were either incarcerated or deceased. Based on the match results and our observations of the payment process, we concluded that NYSIF had established reasonable controls to minimize the risk of improper payments in these areas.

Office of Children and Family Services (OCFS)

Oversight of Critical Foster Care Program Requirements (2015-S-79). OCFS regulates and supervises child welfare services, including foster care and adoption, through its Division of Child Welfare and Community Services. Regional Offices oversee the entities that provide child welfare services, including voluntary agencies (VAs) and local Departments of Social Services (counties). At each of the ten sites we visited, foster home records lacked evidence that counties or VAs met certain critical foster home certification/approval and recertification requirements, thus increasing the risk of placing children in an unacceptable environment. The problems we identified included missing home visits and no records of background checks for foster home residents. Casework records lacked evidence that caseworkers made required contacts with foster children, foster parents, and parents. For example, for 150 children we selected for review, casework records for 33 lacked evidence that caseworkers had two contacts with the child within the first 30 days of placement, as required. Inconsistencies and errors exist among different sources of foster care data, which may compromise its integrity and usefulness. We recommended that OCFS: identify and implement strategies to improve county and VA compliance with requirements for the certification and approval of foster homes, promptness and frequency of casework contact services, and timely entry of casework contact progress notes; and identify and correct the inconsistencies and errors in foster care population data, and take prompt steps to address those that may compromise its completeness and/or accuracy.

Office of Temporary and Disability Assistance (OTDA)

Use of Electronic Benefit Cards at Prohibited Locations (2016-S-52). OTDA provides benefits and services, and delivers payments and other assistance programs through electronic benefit transfer (EBT) cards. Recipients can use the cards to make purchases or withdraw cash from a portion of their monthly benefits at participating automated teller machines (ATMs) and point of sale terminals throughout the State. OTDA monitors EBT activity through its Specialized Fraud Abuse Reporting System (SFARS)

database, and is responsible for notifying the State Liquor Authority (SLA) and/or the Gaming Commission (Gaming) of potentially prohibited locations under their authority that improperly accept EBT transactions from public assistance recipients. We found that OTDA: had adopted appropriate policies and practices to avoid the risk of federal financial penalties; was monitoring EBT transactions to prevent cash assistance from being used at prohibited locations; and was referring identified violations to the appropriate governing authority. We found OTDA's monitoring of EBT transactions to be adequate, but identified certain strategic refinements that could help it to better monitor transactions and identify violations. We analyzed client card usage at prohibited locations and identified 15 recipients with 20 or more EBT transactions, including 7 recipients with 20 or more transactions at the Turning Stone Casino. We found one recipient with 71 EBT card transactions totaling more than \$3,360. We recommended that OTDA: develop comprehensive data analysis testing of monthly transactions, focusing on repeated violations at the same potentially prohibited location; include transactions occurring in other states in monthly reviews, and notify the other states where potential violations are identified; and reassign responsibility for EBT cash transaction monitoring to allow for both effective supervision and independence of the internal audit function.

Wage Subsidy and Transitional Employment Programs (Follow-Up) (2017-F-1). Our initial audit report (2015-S-58), issued on March 29, 2016, determined that OTDA provided adequate support and guidance to contractors to assist them in reporting Wage Subsidy Program (WSP) and Transitional Employment (TE) performance outcomes and preparing vouchers for wage subsidies and achieving milestones. However, its system for tracking and monitoring milestones and goal attainment was outdated. We recommended that OTDA: develop a system to more easily and readily store, access, and analyze complete WSP information; and require contractors to maintain supporting documentation, including payroll records, time sheets, paystubs, or canceled checks, to support program milestones, goal achievement, and wage subsidies. Our follow-up found that ODTA officials had made significant progress in addressing the problems we identified in the initial audit. We found that of the two recommendations in the initial report, one was implemented and other was partially implemented.

Oversight of Homeless Shelters (Follow-Up) (2016-F-31). Through its Bureau of Shelter Services, OTDA seeks to meet critical transitional housing needs of the State's homeless population – estimated at more than 80,000 and comprising families, couples, and single adults – while guiding them to self-sufficiency. OTDA certifies and directly oversees larger-scale facilities (family shelters that accommodate ten or more families and adult shelters that accommodate 20 or more individuals), and is responsible for inspecting these certified shelters and ensuring they meet New York Codes, Rules and Regulations standards. It has delegated authority for oversight of smaller, uncertified shelters to Departments of Social Services (Local Districts). However, OTDA remains responsible for monitoring Local Districts oversight and inspection of uncertified shelters, and for ensuring they meet minimum standards established by State and local laws and codes. Since our initial audit (2015-S-23), issued on February 12, 2016, general conditions and habitability at shelters had improved. Of the original report's five recommendations, four had been implemented and one had been partially implemented. As part of our follow-up review, we visited 20 shelters throughout the State. The deficiencies we observed were not as severe or numerous; however, unacceptable conditions still existed and, importantly, can develop quickly. While OTDA had taken several positive steps, we believed continued improvement of shelter conditions could be realized with more guidance and support provided to Local Districts in the areas of shelter inspection and the correction of deficiencies.

Public Service Commission (PSC)

Oversight of Complaint Activity (2015-S-82). PSC regulates almost 2,000 electric, gas, steam, telecommunications, and water utilities, which collected an estimated \$36 billion in revenue in fiscal year 2015-16. Within the Department of Public Service (DPS), which is the operating agency for PSC, is the Office of Consumer Services (OCS), which monitors the number and types of complaints received against all utilities operating in the State. During our audit period, OCS entered 108,405 complaints and inquiries into the database. Of the 108,405 entries, 80,717 (74 percent) pertained to natural gas and electric services. The most common reasons for the complaints and inquiries were potential termination of

service, service outages, questionable marketing practices, billing issues, and items related to life support equipment. We found that DPS consistently applies State laws, rules, and regulations to enforce utility consumer protections related to consumer complaints. However, it could improve its monitoring efforts by tracking and documenting broader complaints about more global issues, such as inadequate infrastructure or poor service reliability throughout a particular area, that impact more than just individual consumers. At the time of our audit, these issues were directed to individual DPS units with little or no documented follow-up to ensure broader issues are addressed. PSC generally did not fine utilities to ensure compliance with regulations. Rather, DPS prefers to work with the utilities to achieve compliance, such as by requiring performance plans that can be used to evaluate a utility's performance. We recommended that PSC: develop a process to track global complaints that ensures accountability for DPS staff and documents the efforts undertaken to address consumer issues; and periodically evaluate the effectiveness of the performance plans in ensuring safe and reliable service for utility consumers.

Roswell Park Cancer Center

[Security Over Electronic Protected Health Information \(Follow-Up\) \(2016-F-19\)](#). In our initial audit report ([2014-S-67](#)), issued on July 6, 2015, auditors concluded that the Roswell Park Cancer Institute (Institute) had established a highly developed information security program to protect the electronic protected health information (ePHI) it creates, receives, maintains, and transmits, and to meet Health Insurance Portability and Accountability Act (HIPAA) security requirements. In addition, the Institute had adequate protection policies in place and a plan to make mandatory notifications when ePHI is lost or stolen. However, auditors identified some improvement opportunities involving certain administrative, physical, and technical safeguards over the Institute's ePHI. In the follow-up review, auditors found the Institute had made good progress addressing the issues identified in the initial audit. Of the four recommendations in the audit report, two had been implemented and two had been partially implemented.

State Liquor Authority

(SLA)

[Statewide Compliance With Administrative Requirements for Retail Liquor License Approvals, Renewals, and Enforcement Actions \(2016-S-32\)](#). The SLA investigates licensees to ensure they are in compliance with the Alcoholic Beverage Control Law (ABC Law) and the related administrative and documentation requirements. When a licensee is noncompliant, the SLA can impose a fine on the licensee and/or suspend, cancel, or revoke the license. Our audit focused on the largest retail license types (On Premises Liquor, Grocery Store Beer, and Liquor Store). Between April 2014 and June 2016, the SLA issued 11,321 new retail licenses and 34,816 renewals of retail licenses in these three categories. During that same time, the SLA: assessed 5,134 fines totaling \$20.5 million; made 1,134 bond claims totaling \$1 million; and imposed 216 suspensions, 861 cancellations, and 156 revocations on licensees. On a statewide basis, the SLA generally approved new liquor licenses and license renewals consistent with the ABC Law and the SLA's prescribed administrative protocols. For the new license applications we selected for review, the SLA had 99 percent of the required documentation on file. For selected license renewals, we determined that all documents were submitted, as required. In addition, the SLA complied with its administrative requirements pertaining to license revocations, cancellations, and suspensions.

Westchester County Health Care Corporation

(WCHCC)

[Contract Participation of Minority- and Women-Owned Business Enterprises \(2015-S-78\)](#). WCHCC operates the Westchester Medical Center, a regional health care referral center providing advanced health services to the Hudson Valley and the surrounding area. Article 15-A of the New York State Executive Law requires State agencies and public authorities to promote the participation of minority-owned business enterprises and women-owned business enterprises (MWBES) in State contracts, establishing annual goals for such participation, making a "good faith" effort to achieve their goals, and reporting quarterly on its level of participation to the Department of Economic Development (DED). WCHCC reported to DED total contract expenditures of \$18.7 million for fiscal year 2013-14, \$13.9 million

for fiscal year 2014-15, and \$8.3 million for the first two quarters of 2015-16. Auditors found that, while WCHCC set MWBE participation goals, it lacked a clear process to develop these goals, so its ability to ensure strategies are achievable and appropriate to meet the objective of the program is limited. While WCHCC officials described the efforts they had made to attract certified MWBE vendors to meet its goals, they did not document these efforts during the period covered by this audit. WCHCC officials initially stated that they reported MWBE utilization to DED based on payments, as required by DED. However, auditors found that WCHCC did not submit accurate quarterly reports to DED for fiscal years 2013-14 and 2014-15 and April-September 2015, and also incorrectly reported \$475,598 in payments to a non-certified MWBE vendor as MWBE utilization. Auditors recommended that WCHCC: document the processes used to establish its annual MWBE goal plan, including the development of the rates for the individual program components of the overall MWBE initiative; document the results of its MWBE outreach plan and use the results to assess effectiveness and revise outreach efforts, as appropriate; and develop and implement formal procedures to identify and summarize MWBE payments and ensure that MWBE participation data is reported accurately to DED.

Workers' Compensation Board

(WCB)

[Assessment of Costs to Administer the Workers' Compensation Program for the Fiscal Year Ended March 31, 2014 \(2015-S-12\)](#). The primary responsibility of the WCB is to ensure that employees who are unable to work due to injury or illness are compensated under programs covering both occupational and non-occupational disabilities and sickness. WCB is also responsible for tracking its costs to administer the Workers' Compensation Program (Program) and assessing these costs on participating insurance carriers, self-insurers, and self-insured political subdivisions of the State. Auditors found the WCB: had adequate procedures in place to ensure that it accurately identifies and reports assessable expenses in all material respects; made minor payroll allocation errors that had no net impact on the total assessment of about \$212 million, caused by some workers being charged to the wrong department payroll; and implemented the recommendations contained in our prior audit report ([2014-S-43](#)). Auditors recommended that WCB: ensure that the appropriate corrections are made to the fiscal year 2014-15 assessment; and continue working with the Office of General Services' Business Service Center to ensure that personal service costs reconcile to employee payroll expenses and are allocated appropriately for future assessments.

[Annual Audit \(2016 Final Payment Examination Report\)](#). The objective of this examination was to determine whether claims were appropriate and complied with the New York State Workers' Compensation Law and mandated fee schedules. WCB processed claims totaling over \$830 million for four sole custody funds in 2016 – the Uninsured Employers Fund, the Special Fund for Disability Benefits, the Second Injury Fund and the Fund for Reopened Cases. We identified \$1,224,077 of inappropriate claims. We also identified two high-dollar outlier claims that resulted in \$2,633,204 in total savings. For these claims in particular, Board staff members entered incorrect data in fields used to calculate the payment amount, resulting in artificially higher amounts to be paid. Separate and apart from our daily audit, we reviewed claims processed by the Board on a post-payment basis to identify potential duplicate payments. For calendar year 2016, we identified 210 potential duplicate payments totaling \$344,000.

MULTI-AGENCY

[Homes and Community Renewal/Housing Finance Agency: The 80/20 Housing Program \(2015-S-83\)](#). Homes and Community Renewal (HCR) is an umbrella entity consisting of all the State's major housing and community renewal agencies, including the Housing Finance Agency (HFA). HFA's mission is to create and preserve high quality, affordable, multifamily rental housing. Its 80/20 Program (Program) provides low-interest financing to developers who commit to designating at least 20 percent of a development's units to low-income households. Auditors found that the proper numbers of affordable apartment units were made available to low-income tenants. In our sample of 43 low-income tenants, in most cases, the developments used "reasonable judgment" in determining eligibility, based on the information in the files. While the Program requires all applicants and adult family members to sign consent forms authorizing developments to collect information to verify applicant incomes, not all developments took this step. For 18 of the 43 tenants reviewed, applicant incomes were not verified with the Internal Revenue Service (IRS). The incomes of about one-third of the original tenants in the 68 developments exceeded the income eligibility limits in effect during the audit period for an applicant to move into a unit. In fact, as of December 31, 2015, more than 160 households occupying low-income units reported incomes of greater than \$100,000. The total benefits to developers to create the 363 affordable units in our four sampled developments could not be fully calculated. Benefits that could be quantified (local tax abatements per Section 421-A and federal tax credits) amounted to almost \$427.3 million for the four sampled developments. We recommended that HCR and HFA: require Program developments to verify the incomes of all prospective tenants, prior to moving into an apartment, with the IRS; work with the management staff at participating Program developments to develop sound and consistent methodologies to project applicant income when determining eligibility; and ensure that adequate information is collected to enable decision makers to adequately assess the costs and benefits of the Program.

[Department of Labor/Department of Corrections and Community Supervision: Selected Aspects of the Pay for Success Program \(2016-S-1\)](#). To increase employment opportunities and decrease the risk of recidivism, the Department of Corrections and Community Supervision (DOCCS) and the Department of Labor (DOL), in collaboration with Harvard University, developed the Pay for Success (PFS) employment training and job placement program (Program) to target high-risk parolees. Its social impact was to be evaluated using a randomized, controlled trial design, whereby eligible inmates were randomly selected to be referred by parole officers to the employment services provided by the Center for Employment Opportunities (CEO) upon release (treatment group). Their outcomes were then compared with an equal number of inmates randomly selected and not referred by parole staff to the employment services provided by CEO upon release (control group). Although not specifically referred for employment services, individuals in the control group could have requested and received such services. We found that, for both the treatment and control groups, only eligible individuals were selected for Program participation and the selection was properly randomized. We also found that the Program had procedures in place to accurately monitor employment of the group members. Although several conditions complicate the measurement of employment, we found that they did not have a material effect on the results and should not impact measurement of achievement differences between the treatment and control groups. We also determined that DOCCS is properly tracking individual days of reincarceration to accurately account for recidivism.

[New York City Police Department/New York State Liquor Authority: Responsiveness to Noise Complaints Related to New York City Nightlife Establishments \(2016-S-37\)](#). For the period January 1, 2010 through December 31, 2015, 713,264 noise complaints (of which 328,289 pertained to addresses that had nightlife establishments) were called in to New York City's 311 system. For noise complaints pertaining to City-based nightlife establishments, the New York City Police Department (NYPD) and the New York State Liquor Authority (SLA) are the agencies primarily responsible. We found that efforts by the NYPD and the SLA to communicate and coordinate noise mitigation strategies and tactics with each other were limited. As a result, certain establishments with numerous noise complaints lodged against them continued to operate with little or no notice to address such complaints. When the SLA took action against establishments with high levels of complaints, they were primarily due to violations other than those

related to noise. In addition, actions were rarely taken (if ever) against certain establishments with comparatively high levels of noise complaints. In addition, the accuracy of records maintained by these agencies needed improvement. For example, NYPD officials were able to provide supporting documentation for only 11 of the 14 reported summonses that were issued. We recommended that the NYPD: enhance precinct recordkeeping of noise complaints to track the exact times of officer follow-up to improve management analysis of response times and the effectiveness of the actions taken; and develop formal system-wide procedures to follow up on establishments with high volumes of complaints, including periodic communications with the SLA. We recommended that the SLA: develop a formal process to access and analyze 311 noise complaint data to enhance the efficiency and effectiveness of efforts to address potential noise violations and associated licensing concerns; and develop and implement a formal communication protocol with the NYPD and any other public oversight authority responsible for addressing noise matters.

Office of Temporary and Disability Assistance/Department of Health: Oversight of Hotels and Motels Used for Homeless and Mixed-Use Temporary Residency (2016-S-49). Counties throughout the State utilize hotels and motels to house a substantial portion of their homeless populations. The Office of Temporary and Disability Assistance (OTDA) has assigned responsibility for the inspection of hotels and motels housing the homeless to local Social Services Districts (SSDs) and to the New York City Department of Homeless Services, but remains responsible for monitoring their activities. Similarly, the Department of Health (DOH) oversees its own district offices and county health offices across the State (excluding New York City), which are responsible for permitting and inspecting temporary residences (hotels and motels). Of the 80 hotels and motels we visited, we found 24 (30 percent) to be in generally unsatisfactory condition, with multiple significant problems, including mold, water damage, structural damage, exposed wiring, missing smoke detectors, missing linens, and excessive garbage in rooms. Since our 2016 report, OTDA has established a standard checklist that SSDs can use to guide required six-month inspections. However, practices were still not uniform across SSDs, and confusion still exists regarding the inspection process. Improved coordination and cooperation between OTDA and DOH represents an opportunity for greater efficiency and effective use of government resources. We recommended that OTDA: provide additional guidance to local officials and establish uniform procedures that SSDs can use to ensure full understanding of the goals of the overall inspection checklist as well as the inspection function; and establish a process for analyzing the six-month inspection results submitted by the SSDs to better monitor habitability standards of hotels and motels used for homeless housing. We also recommended that OTDA and DOH seek out opportunities to better communicate and collaborate at both the State and local levels, where similar inspection efforts are occurring, to strengthen the current inspection system and use resources more efficiently to inspect temporary residences to house the homeless.

Department of Health/Office of Parks, Recreation and Historic Preservation/Department of Environmental Conservation: Oversight of Health and Safety Regulations at Public Pools, Beaches, and Spray Grounds (2016-S-55). The Office of Parks, Recreation and Historic Preservation (Parks), the Department of Environmental Conservation (DEC), and the Department of Health (DOH) are each responsible for regulating – and in some cases operating – public pools, beaches, and spray grounds available for use by residents and visitors of New York State. We found that: all three agencies had appropriate controls in place and were providing adequate oversight to ensure that public pools, beaches, and spray grounds under their jurisdiction are safe for public use; each agency had developed procedures to address health and safety issues at each of the facilities it operates or oversees, varying slightly based on the specific needs of each agency's facilities; of the 373 facilities we visited, aside from some minor exceptions at some facilities, they were generally in compliance with agency standards, clean, and meeting safety requirements at the time of our visits.

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