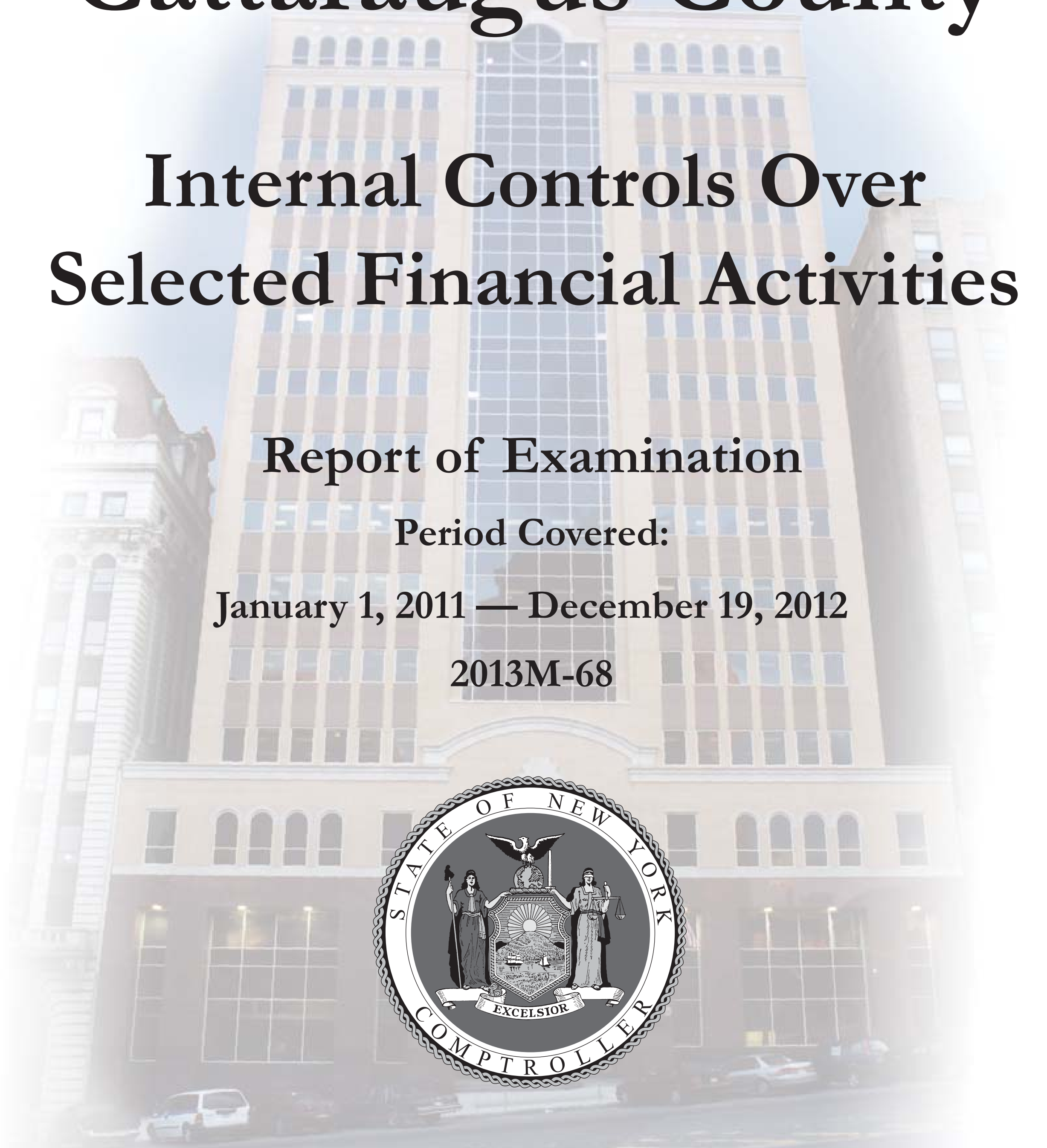
OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Cattaraugus County

Internal Controls Over Selected Financial Activities



Report of Examination

Period Covered:

January 1, 2011 — December 19, 2012

2013M-68

Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of Local Government
and School Accountability

July 2013

Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and County governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of Cattaraugus County, entitled Internal Controls Over Selected Financial Activities. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

Office of the State Comptroller
Division of Local Government
and School Accountability

State of New York
Office of the State Comptroller

EXECUTIVE SUMMARY

Cattaraugus County is located in the southwest portion of New York State and has a population of 80,317. The County is comprised of two cities, 32 towns and nine villages. The County is governed by a 21-member Legislature. The Chairman of the Legislature is the County's Chief Executive Officer; however, the Legislature appoints a County Administrator to coordinate the County's daily operations. An elected County Treasurer serves as the Chief Financial Officer. The County's budgeted appropriations for 2013 are $202 million, which include general fund appropriations of $155 million.

The County contracts with the Business Development Corporation (BDC), a not-for-profit agency, to administer certain economic development programs for the County. The Legislature, Director of Economic Development and County Treasurer share responsibility to ensure program activities are in compliance with relevant laws and regulations.

The County's Youth Bureau is responsible for the State-mandated Children With Special Needs Program for children who are in need of special education and related services. This program is managed by a Program Coordinator who works in conjunction with County school districts that are responsible for administering the program. The County is responsible for making payment to the school districts and service providers for services the children receive. The Youth Bureau is responsible for submitting claims to the State Education Department for reimbursement of eligible costs.

The County's computer system and network are managed by the Director of Information Technology.

Scope and Objective

The objective of our audit was to examine the County's internal controls over selected financial activities for the period January 1, 2011 through December 19, 2012.

Our audit addressed the following related questions:

- Does the County properly account for and monitor the administration of the Microenterprise Development Loan Fund (MDLF) and the activities of the grant sub-recipient?

- Did County officials ensure that eligibility requirements for the Children With Special Needs Program were met and reimbursement claims for eligible costs were submitted in a timely manner?

- Has the County established comprehensive policies and procedures for its information technology system?

Audit Results

County officials have not established policies and procedures to monitor the MDLF Program. Although the County's contract with the BDC requires quarterly and annual reporting, BDC provided untimely and insufficiently detailed activity reports. County officials did not have sufficient information to address delinquent balances for nine loans totaling $24,847. Further, files for loans of County MDLF moneys were incomplete. Because of these weaknesses, County officials lack the necessary tools to monitor and oversee the use of MDLF funds. The revolving loan fund is therefore at risk; should full repayment not occur, less money will be available for loans to other qualified businesses to further the County's economic development goals.

For the Children with Special Needs Program, we found that client files were not always available or complete. We reviewed the files for the 224 children that were available and found that the County did not maintain one or more pieces of required documentation in the files for 19 of these children, for whom the County paid claims totaling $161,482. We also reviewed 16 transportation claims totaling $100,566 and found exceptions with five claims totaling $85,654. Without the necessary information, the County may not be able to receive reimbursement for these transportation services.

The Legislature has not established policies and procedures relating to the security of data and assets, including user access, a formal disaster recovery plan, and IT security awareness training for users of the County network. As a result, the County is at an increased risk that data could be lost or misused.

Comments of Local Officials

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendations and indicated that they have taken, or plan to initiate, corrective action. Appendix B includes our comments on issues raised in the County's response letter.

Introduction

Background

Cattaraugus County is located in the southwest portion of New York State and has a population of 80,317. The County comprises two cities, nine villages and 32 towns. The County is governed by a 21-member Legislature. The Chairman of the Legislature is the County's Chief Executive Officer; however, the Legislature appoints a County Administrator to coordinate the County's daily operations. An elected County Treasurer serves as the Chief Financial Officer. The County's budgeted appropriations for 2013 are $202 million, which include general fund appropriations of $155 million.

The County contracts with the Business Development Corporation (BDC), a not-for-profit agency, to administer certain economic development programs for the County. The Legislature, Director of Economic Development and County Treasurer share responsibility to ensure program activities are in compliance with relevant laws and regulations.

The County's Youth Bureau is responsible for the State-mandated Children With Special Needs Program for eligible children aged two-and-a-half to five years who are in need of special education and related services. This program is managed by a Program Coordinator who works in conjunction with County school districts that are responsible for administering the program. The County is responsible for making payment to the school districts and service providers for services the children receive. The Youth Bureau is responsible for submitting claims to the State Education Department for reimbursement of eligible costs.

The County's computer system and network are managed by the Director of Information Technology.

Objective

The objective of our audit was to examine the County's internal controls over select financial activities. Our audit addressed the following related questions:

- Does the County properly account for and monitor the administration of the Microenterprise Development Loan Fund (MDLF) and the activities of the grant sub-recipient?
- Did County officials ensure that eligibility requirements for the Children With Special Needs Program were met and reimbursement claims for eligible costs were submitted in a timely manner?

- Has the County established comprehensive policies and procedures for its information technology system?

Scope and Methodology

We examined the records and reports for the County's MDLF Program, Children With Special Needs Program, and information technology for the period January 1, 2011 through December 19, 2012. Our audit disclosed areas in need of improvement concerning information technology controls. Because of the sensitivity of this information, certain vulnerabilities are not discussed in this report but have been communicated confidentially to County officials so they could take corrective action.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendations and indicated that they have taken, or plan to initiate, corrective action. Appendix B includes our comments on issues raised in the County's response letter.

The Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make this plan available for public review in the office of the Clerk of the Legislature.

Microenterprise Development Loan Fund

The U.S. Department of Housing and Urban Development (HUD) established the Small Cities Program (Program) in 1974. Program funds are awarded through Community Development Block Grants (CDBG) to counties with populations of less than 200,000, and cities, towns, and villages with populations less than 50,000. The municipalities must consider local needs, develop plans, prepare grant applications, ensure that planned activities are implemented and comply with Program requirements. Municipalities receiving CDBG funds may use the moneys for a variety of purposes, including assistance to both not-for-profit and private for-profit entities, including microenterprises. Microenterprise development is intended for low and moderate income residents of the County to start or expand an existing business having five or fewer employees, one (or more) of whom owns the enterprise.

The Legislature, Director of Economic Development and County Treasurer share the responsibility to ensure that grant activities are in compliance with relevant laws and regulations. The Legislature may authorize contracts with not-for-profit agencies, as sub-recipients, to effectuate certain activities on the County's behalf. The County contracts with the Cattaraugus County Business Development Corporation (BDC), a not-for-profit agency, to act as a sub-recipient of the County's grant funds and administer the County's Microenterprise Development Loan Fund (MDLF) Program. Pursuant to these contracts, the County paid the BDC $83,217 for 2011[1] to administer the MDLF Program. The BDC reported that outstanding loans of County CDBG moneys totaled over $609,000 as of July 31, 2012.

County officials have not established policies and procedures to monitor the MDLF Program. Although the contract with the BDC requires quarterly and annual reporting, the BDC provided untimely and insufficiently detailed activity reports. County officials did not have sufficient information to address delinquent balances for nine loans totaling $24,847. Further, files for loans of County MDLF moneys were incomplete. Because of these weaknesses, County officials lack the necessary tools to monitor and oversee the use of MDLF funds. The revolving loan fund is therefore at risk; should full repayment not occur, less money will be available for loans to other qualified businesses to further the County's economic development goals.

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[1] The contract allowed for payment "not to exceed" $120,000 for services rendered in 2011. For 2012, the contract allowed up to $50,000 in administration costs to be reimbursed.

Monitoring and Oversight

HUD regulations require that a written agreement between the grant recipient and sub-recipient be in place prior to CDBG funds being placed in the custody of a sub-recipient. Such an agreement is essential for defining the nature of activities to be carried out by the sub-recipient, the timeframe for completing activities, and the records or reports the sub-recipient must submit to the grant recipient to demonstrate Program compliance.

The Director of Economic Development provided us with sub-recipient agreements for the 2011 and 2012 grant years, which provided the County the ability to monitor the BDC's administration of the MDLF Program. For example, the agreement requires the BDC to prepare and maintain all relevant documentation related to its operation of the MDLF Program. The BDC also must submit quarterly program activity reports, annual audited detailed financial reports, and program evaluations of the operations and services provided under the contract to the County Administrator. The contract also provides the County with the ability to examine BDC's records during the contract term and for three years following contract termination to verify and audit financial program activities.

County officials stated it was difficult to access the BDC's records prior to 2012. County officials did not have any quarterly or annual reports for the 2011 and 2012 grant years on file and indicated they had difficulty obtaining loan status reports and information from the BDC. Subsequent to our requests, the County received annual reports for 2010 and 2011 on August 17, 2012, and October 29, 2012, respectively. Also, on July 31, 2012, subsequent to our request for documentation indicating the status of loans, the County received a report for activity through July 31, 2012. None of the required quarterly activity reports were provided to us for our review. Without timely financial activity reports from the BDC, the County cannot ensure that its sub-recipient is complying with Program requirements and administering the Program as intended.

Given the County's stated difficulty in obtaining information from the BDC, lack of receipt of required reporting and lack of review of the BDC's records, it is unclear how County officials have monitored its sub-recipient's use of the County's federal moneys during our audit period. As such, we question why the County continues to contract with this sub-recipient, as the BDC does not comply with important contract terms necessary to monitor it.[2]

[2] County officials informed us at the exit conference that the County did not renew its contract with the BDC, which expired on December 31, 2012, to administer the MDLF program.

Loan Monitoring − In 2006, the Legislature adopted an MDLF Operations Manual to delineate the sub-recipient's loan application, award and enforcement process. The County Treasurer is responsible for contacting the borrower within 30 days of the delinquency. If the delinquency continues for more than 60 days, the Treasurer will notify the business and any co-signers or guarantors of the delinquency and the need for payment. After the delinquency continues for more than 90 days, the loan will be referred to the MDLF attorney,[3] at the discretion of the BDC,[4] the loan committee,[5] and the Treasurer. Loans that have been called or written-off will be reported to credit reporting agencies. However, the manual is vague regarding responsibilities; while it requires that these actions be taken, it does not assign responsibility to specific individuals.

We reviewed the BDC Account Summary report that the County received, dated July 31, 2012, which listed 39 outstanding loans with current balances totaling $609,124. This report did not contain sufficient information with which to determine whether the loan payments and balances agreed with County records of loan payments received. The report only included the outstanding loan balances and did not indicate principal and interest payments or interest accrued and outstanding. To the extent payments were not being made timely, the reported balance of the loans did not reflect interest, and therefore did not contain the information necessary for the County to adequately monitor its loans and reconcile reported amounts to loan payments received.

The Account Summary report listed, as of July 31, 2012, nine loans with balances totaling $91,659 as delinquent by more than 30 days (delinquent amounts totaled $24,847); eight of the nine loans totaling $75,901 were delinquent by 90 or more days. When we asked during fieldwork, the Treasurer indicated that there were currently only three loans that were delinquent totaling $36,448 as of August 31, 2012. However, the Director of Economic Development provided us with memos dated December 2012 (four months after our inquiry) from the Treasurer advising her to write off an additional two loans, totaling $16,348,[6] as uncollectible. It was unclear if the Treasurer contacted the recipients of the remaining four loans totaling $39,493. At the exit conference, the Treasurer provided us with additional documentation

[3] Nicholas DiCerbo Jr., who is contracted by the County

[4] The MDLF Operations manual does not specify who, in particular, from the BDC would be involved.

[5] As of November 2012, loan committee members were David Potter, David Torrey, David Dickinson, Jeffrey Peterson, Jeffrey Walker, Joan Petzen, William O'Connell and Robert Buchanon. These members are appointed to the committee by the County Legislature.

[6] The memo indicated the balances of the loans totaled $16,348, but the two loans totaled $15,718 on the Account Summary report.

indicating he had corresponded with three of the remaining four loan recipients regarding their delinquencies.

The Treasurer stated that, prior to July 2012, there were no formal delinquency reports available and that he was made aware of loan delinquency issues through periodic communications with the BDC's Executive Director. Once made aware of delinquency on a loan, the Treasurer indicated that he sends a letter to the loan recipient after it is 60 days delinquent. Again, since no reports were being provided to the County, and the County was not reviewing the BDC's records, we question the extent to which the County was in a position to monitor, in any manner, the status of all the loans that were made by the BDC with the County's federal moneys. In effect, the Treasurer was apparently relying solely on conversations with the Executive Director to provide him with this vital information.

Loan File Documentation

The BDC contract also indicates that the BDC will maintain all documentation related to the Program and administer the Program in accordance with all statutory requirements.

County officials stated that prior to the commencement of our fieldwork, loan records were maintained at the BDC's offices and therefore, they could not verify if the loan files contained all of the information necessary to comply with Program requirements. We requested from the Director of Economic Development a list of the loans made with the County's federal moneys. We reviewed the 44 most recent loans, initially made in amounts totaling $1,023,531, to determine if the files maintained by the BDC contained sufficient documentation to comply with Program requirements. We found that 33 loans totaling $855,450 did not have the required documentation or did not meet Program requirements, as follows (some loans contained one or more discrepancies).

- Training − The BDC indicated that loan recipients have up to a year, after receiving the loan, to obtain business training. This training may be waived; however, the reason for the waiver, the waiver status, and the appropriate authorizing BDC signatures must be on file for each loan recipient. Thirty of the loans we reviewed totaling $778,150 required that the recipient receive such training. There was no evidence in any of the loan files that the recipient had attended any classes or received a waiver.[7]

[7] We asked for documentation during fieldwork and were not provided any evidence to indicate whether the required training was attended or waived. However, at the exit conference, the Treasurer provided a list of loan recipients whose training was either completed or waived. Since this information was not provided until well after our fieldwork had concluded, we did not verify its accuracy against any other evidence that the loan recipient did indeed attend training as indicated on this list.

- Business Plan – All loan applicants must fill out a loan application and submit a business plan stating their intentions for using the loan moneys. We found that no loan applications were on file for three loans totaling $77,300.

Without records adequately documenting the basis for, terms and conditions of, as well as timely reporting on the status of these loans, County officials lack the necessary tools to monitor and oversee the use of MDLF funds. As a result, the revolving loan fund is at risk should full repayment not occur. This results in less money available for granting loans to other qualified businesses to further the County's economic development goals.

Recommendations

1. The Legislature should establish formal procedures to monitor the performance and administration of its sub-recipient (BDC) including the provision of timely, detailed reports.

2. The Treasurer should monitor and pursue delinquent loan payments in accordance with the MDLF Operations Manual.

Children With Special Needs Program

School districts are responsible for administering the State-mandated Children With Special Needs Program for children ages two-and-a-half to five years. Committees on Preschool Special Education (CPSE) determine the services needed for children with disabilities, taking into consideration the results of an individual evaluation, the student's strengths and needs, and concerns of the parent. Preschool special education services often include speech therapy, occupational therapy, physical therapy, and counseling. The costs for these services vary significantly; for example, more intensive services in special class settings tend to be more costly. SED establishes special education tuition rates for approved programs.

Service providers may be private schools, special act school districts, State-supported programs, or public school and BOCES summer programs. The New York State Education Department (SED) maintains a list of approved special education programs and oversees an application and approval process. The County is responsible for preschool special education costs, including transportation, and receives reimbursement from the State at a rate of 59.5 percent. The County also can submit claims for reimbursement from Medicaid in certain circumstances.

Payment of Services − The County must receive certain documentation from the school districts before making payments for appropriate and necessary services. This documentation is also necessary to prepare claims for reimbursement from SED and Medicaid. Among the key documents are the following:

- Prescriptions from licensed professionals to establish medical necessity for a service
- Evaluations that were performed
- Individual education programs (IEP) detailing planned services for a specific time period
- Quarterly assessments indicating the child's progress with each service
- SED's System to Track and Account for Children (STAC) 1 form, prepared by the school district indicating the services to be performed

- STAC 5 form for reimbursement of costs for evaluations

- Parental consent form to allow the County to submit information to Medicaid.

The County Program Director stated that if all relevant documentation is not available, she will request it from the school or provider and hold the claim from further payment processing.

We randomly selected 51 claims paid by the County totaling $311,229 for 230 children. The County did not have available files for six of these children. Therefore, we reviewed the files for the 224 children that were available to ensure relevant documents were on hand. We found that the County did not maintain one or more pieces of required documentation in the files for 19 of these children, for whom the County paid 12 claims[8] totaling $161,482. For example, eight files lacked the STAC 5 form. Without this form, the County will not receive reimbursement for evaluations performed.

In addition, we found that 194 of the 224 children's files reviewed contained evidence that a psychological evaluation was performed. If the evaluation resulted in the child's IEP[9] requiring counseling services, provided by a professional appropriately licensed to satisfy Medicaid requirements, the County would be able to claim reimbursement from Medicaid for the costs. However, County officials stated that they do not bill Medicaid for psychological counseling services because there is a lack of appropriately licensed professionals able to provide these services. Therefore, the County currently cannot obtain reimbursement for these costs.

Transportation – The County contracts with a commercial transportation provider and parents/guardians for the provision of child transportation to receive services. To ensure it receives the services expected, the County should have completed contracts on file with all providers − outlining the services to be provided and the rates charged − before the services commence. Claims for transportation costs should be properly itemized to determine the children transported and miles billed. We reviewed 16 claims totaling $100,566 and found exceptions with five claims totaling $85,654. For example, one claim for $60,784 did not contain[10] any information identifying which children were transported or the total miles billed. Without the necessary information, the County could potentially not be eligible to receive Medicaid reimbursement for these transportation services.

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[8] These 12 vouchers also included claims for other children not in our exceptions.
[9] IEPs are established by the child's respective school district.
[10] County officials provided supporting documentation for this invoice at the exit conference.

State Reimbursements − We determined that, as of December 17, 2012, the County submitted claims to SED totaling $5.8 million for the 2009-10, 2010-11 and 2011-12 school years. It has received $3.4 million in reimbursements, had reducing adjustments of approximately $1.3 million,[11] and was still expecting $1.1 million[12] in reimbursements. County officials stated the significant unreimbursed amount was due to the State's delay in making payment.

In addition, County officials provided us with reports indicating that the County currently has unclaimed service payments in the following amounts by school year: $2,959 from 2009-10, $23,370 from 2010-11, and $387,799 from 2011-12. These amounts must be claimed within three years of the end of each school year and are in addition to the outstanding $1.1 million in reimbursements discussed above. Unclaimed amounts are services billed by providers that have not been successfully transmitted to SED for reimbursement. To maximize State reimbursements, it is important that County officials continue to diligently process claims in a timely manner to ensure all data is accurately entered for reimbursement and unclaimed amounts are investigated.

Recommendations

3. County officials should establish procedures to ensure each child's file contains all required documentation so that the County can receive reimbursement for services provided for special needs.

4. County officials should investigate methods to enhance Medicaid reimbursements, specifically relating to the provision of psychological counseling services.

5. County officials should ensure that vouchers for services provided are properly supported.

6. County officials should promptly address unclaimed amounts to maximize State reimbursements.

[11] Primarily consisting of Medicaid adjustments

[12] The unreimbursed claims were filed with SED between February and November 2012.

Information Technology

Computerized data is a valuable resource that County officials rely on to make financial decisions and to report to federal and State agencies. The Legislature is responsible for adopting policies and procedures and developing controls to safeguard its information technology (IT) including computerized data and assets.

The Legislature has not established policies and procedures relating to the security of data and assets, including user access, a formal disaster recovery plan, and IT security awareness training for users of the County network. As a result, the County has an increased risk that data could be lost or misused.

Policies and Procedures − A good system of IT internal controls includes policies to define appropriate user behavior, and the tools and procedures necessary to protect information systems. Such policies should include procedures governing acceptable use of computers; remote access controls for third parties using the County's computer system through the Internet or other external sources; and a disaster recovery plan that specifies how an organization should deal with a disaster such as a power outage, hardware failure, fire, flood or storm. In addition, the policy should clearly assign IT responsibilities and the consequences for inappropriate use. Training to help ensure that IT security policies and procedures are understood by users should be instituted for all individuals who have access to the County's system.

The Legislature has not adopted policies addressing acceptable computer use, remote access, user account access or management, disaster recovery planning, or security awareness training.

Without comprehensive policies that explicitly convey the appropriate use of the County's computer system, County officials cannot ensure that consistent standards for use are established, users are aware of their responsibilities in regard to the standards, and users are held accountable for inappropriate use. The lack of clearly written policies and procedures increases the risk of inappropriate computer use, either intentional or unintentional, could potentially expose County computers to virus attacks or compromise computer systems. Lastly, the lack of a formally established disaster recovery plan could lead to the loss of important financial data and serious interruptions in County operations in the event of a disaster.[13]

User Access – It is important for County officials to formally identify how access rights to the County's IT resources will be managed on a day-to-day basis. Users should only have access to the computer functions that are within their job responsibilities. It is especially important that user accounts be deactivated within a specified number of days after the employees leave County service to ensure that unauthorized users cannot access the system and manipulate or destroy data. Users' access should be reviewed periodically to ensure that former employees are not active and that current employees do not have rights to programs or data they do not need based on their job requirements.

The County did not have a documented process for adding, deleting, and changing user access rights to the network based on employees' duties or employment status. We reviewed 1,277 user IDs on the user access list and found that 44 had been accessed up to more than 12 months after the employee separated from the County. Of those 44 user ID's, 12 remained open. County officials indicated that the reasons these 12 user ID's remained open were:

- The department head still needed access to the former employee's email (five);
- The former employee subsequently returned to the County to work as a contractor (three);
- Unique software was installed under the former employee's user ID (two); and
- The former employee also serves as a Town Assessor requiring access (two).

When County officials do not immediately deactivate user access rights for employees, contractors, or third party providers who no longer serve the County, there is an increased risk that unauthorized users could access the system and cause the misuse, loss, or inappropriate modification or disclosure of sensitive information.

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[13] The County building in Little Valley experienced a significant flood in May 2012 that required the activation of the County IT backup procedures. Though not formally documented, the County IT staff performed procedures they knew to minimize any potential data loss due to the flooding. County officials reported there was no loss of electronic data during this event. They also indicated that a written disaster recovery plan will be adopted after the current series of IT equipment-related capital projects is complete.

Recommendations

7. The Legislature should develop and adopt IT policies that address acceptable computer use, remote access, and disaster recovery.

8. County officials should develop procedures which require that access rights for computer users be based upon current duties or employee status, and that user accounts for employees, contractors, or third party providers who separate from County service be deactivated within a specified number of days after separation.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.

Cattaraugus County
John R. Searles
County Administrator

303 Court St.
Little Valley, NY 14755
Phone (716) 938-2232
Fax (716) 938-2760

June 19, 2013

Mr. Robert Meller
Chief Examiner
Office of the State Comptroller
Buffalo Regional Office
295 Main Street, Room 1032
Buffalo, NY 14203-2510

Dear Mr. Meller:

This letter is in reference to the Office of the State Comptroller's draft audit report we received June 4, 2013. Please consider this our official "Audit Response" to use in your preliminary draft findings and recommendations.

Before we begin our response, let me thank the Comptroller's Office for their thorough efforts related to this audit. The Comptroller's Office began their work in Cattaraugus County on April 23, 2012 and completed their work approximately December 9, 2012. During this time, up to three full time auditors were engaged in this work. This included a risk analysis and then further in-depth examination of certain specific items. What is largely unsaid in this audit report deals with the vast array of items examined but for which there was no findings. Again, Cattaraugus County is appreciative of the diligent and thorough efforts brought to bear by the Comptroller's Office to help us improve our operations.

As you are aware, this audit primarily addresses items related to internal controls over selected financial activities, specifically including: 1) the Microenterprise Development Loan Fund (MDLF), 2) the Children with Special Needs Program and 3) information technology security.

The remainder of this letter will specifically address issues related to these findings in the order in which they appear in the report, by topical areas.

Microenterprise Development Loan Fund (MDLF).

As noted in this audit, during the term of this audit, Cattaraugus County contracted with the Cattaraugus County Business Development Corporation (BDC) as a sub-recipient for grant funds and to administer the MDLF program.

<u>Page 8 Paragraph 3</u> "*County Official has not established policies and procedures to monitor the MDLF program. Although the contract with the BDC requires quarterly and annual reporting, the BDC provided untimely and insufficiently detailed activity reports. County officials did not have sufficient information to address delinquent balances for nine loans totaling $24,847. Further, files for loans of County MDLF monies were incomplete.*"

County officials do have procedures to administer the delinquent accounts. The County Treasurer, who is the Chief Fiscal Officer of the County, has directly overseen the collection of delinquent accounts since this program began with Cattaraugus County. The Director of the Department of Economic Development Planning and Tourism is a member of the BDC Board.

<u>Page 9 Paragraph 3</u> "*Given the County's stated difficulty in obtaining information from the BDC, lack of reporting and lack of review of the BDC's records, it is unclear how County officials have monitored its*

sub-recipient's use of County federal monies during the audit period. As such, we question why the County continues to contract with this sub-recipient, as the BDC does not comply with important contract terms necessary to monitor it".

Cattaraugus County Act 579-2012 adopted on November 28, 2012 is entitled Adoption of 2013 Budget. In the budget the MDLF was moved from the BDC to the Cattaraugus County Department of Economic Development, Planning and Tourism. During the audit timeframe, the lead auditor was made aware of this modification. This was reiterated several times. Footnote #2 at the bottom of page 9 does note "*County officials informed us at the exit conference that the County did not renew its contract with the BDC, which expired on December 31, 2012, to administer the MDLF program*".

Page 10 Paragraph 3. "*Once made aware of the delinquency on a loan, the Treasurer indicated that he sent a letter to the loan recipient after it was 60 days delinquent. Again, since no reports were being provided the County, and the County was not reviewing the BDC's records, we question the extent to which the County was in a position to monitor, in any manner, the status of all the loans that were made by the BDC with the County's federal monies. In effect, the Treasurer was apparently relying solely on conversations with Executive Director to provide him with this vital information.*"

This Microenterprise Loan Fund is intended for low and moderate income residents of the County, this is a "high risk" loan fund, as those businesses that qualify, would not qualify for funding elsewhere. Because of the high risk nature, delinquencies are expected. The delinquency rate for MELF is approximately 8%, which is far less that the national average for high risk loan funds.

See Note 1 Page 24

The Treasurer offered to provide records of correspondence on all nine loans at the exit conference. The Auditors chose to review only four (4) of the files. All of the delinquent loan accounts had been contacted. Documentation was present for all nine delinquent loans, not 8 as was insinuated in the report.

It was stated to the Auditors at the exit conference and prior, that while no formal reports have been issued, during monthly meetings, the Treasurer was provided with physical delinquency reports to review, and backup documentation pertaining to such.

Page 11 Paragraph 2. "*We found no evidence in any loan files that the recipient had attended any classes or received a waiver.*"

See Note 2 Page 24

BDC maintained all training records in a separate file by class as they were provided. These records were not strictly for the purposes of the MDLF. Information regarding the verification of the training was never requested as part of the formal audit process.

It is noted in Footnote #7 on page 11 that "the Treasurer provided a list of loan recipients whose training was either completed or waivered."

Page 11 Paragraph 4. "*County officials lack the necessary tools to monitor and oversee the use of MDLF funds. As a result, the revolving loan fund is at risk should full repayment not occur. This results in less money available for granting loans to other qualified businesses to further the County's economic development goals.*"

The Cattaraugus County Department of Economic Development, Planning and Tourism did internally monitor the vouchers against our loan fund balance and monitored the account balance. In renewing the contract for 2012 we included a limit to the funding to comply with the actual account balance and used this as a mechanism on our part to try to rebuild the loan fund , however, if there were loans being requested for qualifying business we would adjust to help in the promotion of economic development and the chance to create new business' and new jobs. We also held back on the 2012 contract until spring with a stipulation that all loan files had to be moved to our department within the county building.

Page 11 Paragraph 11. "*The Treasurer should monitor and pursue delinquent loan payments in accordance with the MDLF Operations Manual.*"

With the movement of this program in-house, Cattaraugus County is revisiting, potentially modifying and implementing a revised set of procedures in the MDLF Operations Manual to assure that they reflect actual activities and address the concerns mentioned in this audit and are in compliance with HUD requirements

Children with Special Needs Program

This audit report appropriately states that "school districts are responsible for administering the State mandated Children with Special Needs Program for children ages two and a half to five years". Counties are a funding mechanism for a State mandate driven by the schools and the State Education Department (SED). Compound this with *very slow* reimbursements from SED and you have a program over which the County has little control, but, pays a significant part of the cost. This is the larger mandated context behind this program.

Page 13 Paragraph 1 "*we found that 194 of the 224 children's files reviewed contained evidence that a psychological evaluation was performed. If the evaluation resulted in the child's IEP requiring counseling services, provided by a professional appropriately licenses to satisfy Medicaid requirements, the County would be able to claim reimbursement from Medicaid for these costs. However, County officials stated that they do not bill Medicaid for psychological counseling services because there is a lack of appropriately licenses professionals able to provide these services. Therefore, the County currently cannot obtain reimbursement for these services.*"

For clarification, the regulations governing this program require every child has to have a psychological evaluation. With this said, there are only two Licensed Psychologists in Cattaraugus County. While the County will certainly continue to advocate for more Licensed Psychologists in the county, this remains an item that is largely out of our control in the large rural county.

Cattaraugus County is in compliance with the standards of NYSED in using proper evaluators and counselors for psychological services. Medicaid reimbursement standards are higher than those required by SED, therefore psychological counseling services performed only by NYS licensed and currently registered psychologists, psychiatrists, clinical social workers or master social workers are eligible for Medicaid reimbursement.

Further, it is important to note that this comment particularly focuses upon Medicaid reimbursement but makes the inaccurate logical leap that the County "*cannot obtain reimbursement for these services*". There is reimbursement for these services, specifically through traditional program related 59.5% funding available through SED, just not Medicaid reimbursement.

See Note 3 Page 24

Page 13 Paragraph 2: "*Claims for transportation cost should be properly itemized to determine the children transported and children billed ....Without the necessary information, the County could potentially not be eligible to receive Medicaid reimbursement for these transportation services.*"

In order for Cattaraugus County to be able to bill Medicaid for transportation, we must have transportation logs which include the student's name, the origination of the trip and the time of pickup, the destination of the trip and time of drop off, the bus number or vehicle license plate number, and the full printed name of the driver providing the transportation. These logs are submitted by the vendor with the invoice. At that time, all of the documentation is reviewed and if the totals are correct and all documentation is in order, the invoice is entered into the County accounting system for payment, as well as scans of the invoice. Due to the size of the backup documentation of the commercial transportation, the transportation logs are kept at the Youth Bureau and are not scanned into the accounting system. The transportation logs are then compared to the Medicaid reimbursable services for each child for the month and Medicaid transportation claims are entered for each eligible day. The transportation logs were easily accessible for the invoice for the commercial transportation, as it was filed with the other transportation logs for the entire school year. It is noted in Footnote #10 on page 13 that "*County officials provided supporting documentation for this invoice at the exit conference*".

Page 13 Paragraph 3 "*County officials should continue to diligently process its claims in a timely manner to insure all data is accurately enter for reimbursement and unclaimed amounts are investigated to maximize State reimbursements*".

Cattaraugus County will continue to process requests for reimbursement as quickly as possible. Unclaimed amounts will be reconciled and, if appropriate billed to SED. Lags in payments, once items are appropriately billed, are really the domain of SED and regrettably we have noted that the promptness of filing the claims seems to have little to do with the timeliness of state reimbursement to the County.

Page 13 Paragraph 4. *"County officials should establish procedures to ensure each child's file contains all required documentation so that it can receive reimbursement for services provided for special needs."*

The County will establish procedures to insure that each child's file contains all the required information.

Page 14 Paragraph 2. *"County officials should ensure that vouchers for services provided are properly supported."*

Agreed, we will continue to be diligent to insure that vouchers are properly supported.

Page 14 Paragraph 3. *"County officials should promptly address unclaimed amounts to maximize State reimbursements."*

As noted in this audit, the County has 3 years to claim all of the payments to the State before the school year is "closed." Claims are submitted based on the AVL calendar set by SED. Unclaimed payments usually consist of recent payments to vendors for services for the current or prior school years or claims that were sent to SED but were rejected for various reasons. The preschool software used by the County communicates with NY-SED and provides reports that allow us to easily review the unclaimed payables and the reason why they were rejected by the State for each school year in order to rectify any issues. The County is then able to submit/resubmit any claims to SED for reimbursement before the end of the 3 year period. Once properly submitted, however, the lags in payments are really a function of SED.

Information Technology Security

Page 15 Paragraph 5: *"The lack of clearly written policies and procedures increases the risk of inappropriate computer use, either intentional or unintentional, could potentially expose County computers to virus attacks or compromise computer systems. Lastly, the lack of a formally established disaster recovery plan could lead to a loss of important financial data and serious interruptions in County operations in the event of a disaster."*

The County has invested in a 5 year Technology Plan which includes upgrading the core systems (Financial, Time and Attendance) and rebuilding the entire network infrastructure from the ground up. At the current time, the County is in the middle of that plan. In March of this year, Phase 1 of the network infrastructure rebuild was completed which involved cleaning up, stabilizing the current network, and replacing all switches with [redacted] for better management. Currently underway is the reconfiguration of the entire county network. Computer Use, Remote Access policies, and Information Technology (IT) Security Awareness training will be reviewed and implemented at the completion of the Network Rebuild Phase. This effort is also noted in Footnote #13 where it is noted by the Comptroller's Office that "*a written disaster recovery plan will be adopted after the current series of IT equipment related capital projects is complete*."

Page 16 Paragraph 1: *"User's access should be reviewed periodically to ensure that former employees are not active and that current employees do not have rights to programs or data they do not need based on their job requirements."*

User access is being reviewed and cleaned up during the network upgrade. An overall user policy for managing user accounts will be implemented at the completion of the [redacted]leanup.

Page 16 Paragraph 4: *"The Legislature should develop and adopt IT policies that address acceptable use, remote access, and disaster recovery."*

The County had identified the need for a Disaster Recovery Plan and had set funding aside to create and implement a plan, prior to the audit. Again, this is dependent upon the overall 5 year

Technology Plan. Through this plan many core systems and infrastructure are changing. This will be completed after all upgrades have been done.

Please note, however, that Footnote #13 on page 15 does reference the fact that there was a disaster that did occur in the Little Valley Office Building in May, 2012, during the timeframe of this audit. Auditors were able to witness first hand response to this disaster. They note that this did "*require the activation of the County IT backup procedures. Though not formally documented, the County IT staff performed procedures they knew to minimize any potential data loss due to flooding. County officials reported that there was no loss of electronic data during this event. They also indicated that a written disaster recovery plan will be adopted after the current series of IT equipment related capital projects are complete*."

As part of this effort, the County will explore, with the intent to implement, policies and procedures that address the specified areas and reflect best practices in these areas.

Finally, we would be remiss if we did not comment upon the process of this audit. When the audit was completed and initial draft reports were issued, these first draft reports were distributed by the Comptroller's Office to the county officials (e.g., the County Sheriff and the County Administrator) and the full 21 member County Legislature. These reports were draft and subject to change and distributed via email and the internet. While labeled confidential and draft, Legislators were prohibited by the Comptroller's Office from participating in the exit interview where the report was discussed, County response was solicited and the report modified. On several occasions, it was noted that the Comptroller's office staff were willing to meet individually with Legislators, but again not in the exit interview format. This was noted as a policy change in the Comptroller's Office. If there is going to be widespread circulation of draft confidential documents via email and the internet, all parties receiving copies should be included in being able to access meetings at which this information may be modified. The process seems flawed.

Thank you for allowing us the opportunity to respond to your draft findings. I am confident that this audit will assist us in developing ways to improve our daily work so that we may better serve the public and conserve county resources.

Sincerely,

John R Searles, County Administrator
County of Cattaraugus, NY

Cc: Cattaraugus County Legislature

APPENDIX B

OSC COMMENTS ON THE LOCAL OFFICIALS' RESPONSE

Note 1

We obtained documentation for five of the delinquent loans during our fieldwork. The remaining four files were provided and reviewed after the exit discussion. One of the four files lacked documentation of contact with the loan recipient.

Note 2

We requested documentation of training at a November 2, 2012 meeting with the Executive Director of the BDC and the Treasurer. The list provided after our exit discussion only indicated whether a business received training or a waiver.

Note 3

To clarify, our report states: "If the evaluation resulted in the child's IEP requiring counseling services, provided by a professional appropriately licensed to satisfy Medicaid requirements, the County would be able to claim reimbursement from Medicaid for the costs." Without appropriately licensed professionals providing such services, the County currently cannot obtain Medicaid reimbursement for these costs, which was the focus of this finding.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard County assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial management, cash receipts and disbursements, purchasing, payroll and personal services, and information technology.

During the initial assessment, we interviewed appropriate County officials, performed limited tests of transactions, and reviewed pertinent documents, such as Legislative minutes, and financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft, and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected the Microenterprise Development Loan Fund, Children With Special Needs, and information technology for further audit testing.

We examined the County's internal controls over the Microenterprise Development Loan Fund, Children With Special Needs, and information technology operations for the period January 1, 2011, through December 19, 2012. To accomplish our audit objective and obtain valid audit evidence, our procedures included the following:

Microenterprise Development Loan Fund (MDLF)

- We reviewed Legislature minutes and sub-recipient contracts to determine whether policies and procedures were in place for the monitoring and oversight of the MDLF program administered by the sub-recipient Business Development Corporation (BDC).

- We interviewed County and BDC personnel to determine how the MDLF program was monitored.

- We obtained program requirements from both federal and State resources.

- We inventoried the contents of loan files.

Children With Special Needs Program

- We reviewed Legislature minutes and interviewed County officials to determine whether policies and procedures were in place for payments and reimbursements.

- We randomly selected vouchers paid to determine compliance with State and federal requirements and if the billings were at appropriate rates.

- We reviewed the County's reimbursement reconciliation analysis.

Information Technology

- We reviewed Legislature minutes and interviewed County officials to determine if policies and procedures for information technology had been established.

- We obtained a report of user access rights and a current employee listing to determine if account changes were properly documented, authorized and made in a timely manner.

- We reviewed new hire documentation to determine if IT security awareness training was provided.

- We interviewed the Director of Information Technology to determine if the County had formally documented and adopted a disaster recovery and backup plan.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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APPENDIX E

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