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July 2016

John Searles, County Administrator  
Members of the County Legislature  
Cattaraugus County Legislature  
303 Court Street  
Little Valley, NY 14755

Report Number: S9-15-32

Dear County Administrator Searles and Members of the County Legislature:

The Office of the State Comptroller works to help county officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support county 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 governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six counties throughout New York State. The objective of our audit was to determine if counties are monitoring community-based agencies to ensure that services provided and payments made are in accordance with contractual agreements. We included Cattaraugus County (County) in this audit. Within the scope of this audit, we examined the procedures of the County and various contracts in place for the period January 1 through December 31, 2013. Following is a report of our audit of the County. 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 New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the County. We discussed the results of the audit and recommendations with County officials and considered their comments, which appear in Appendix A, in preparing this report. County officials generally agreed with our recommendations and indicated they have taken or plan to take corrective action. At the completion of our audit of the six counties, we prepared a global report that summarizes the significant issues we identified at all the municipalities audited.

## **Summary of Findings**

We found the County could do more to ensure each community-based agency service contractor<sup>1</sup> provides services in accordance with the contract terms.

To determine if the County was effectively monitoring its community-based agency service contracts, we sampled five contracts totaling \$412,188. We found the Department of Social Services (Department) obtained the required progress reports, reviewed and approved all vouchers and made payments in accordance with the contract terms. While four contracts totaling \$287,759 defined the contracted services and compensation rates, these contracts did not contain performance measures. A child protective service contract for \$15,000 not only lacked performance measures, it also did not define the services the contractor was to provide. When contracts do not contain performance measures, there is less assurance that the Department is receiving the contracted services or that programs are operating as intended.

In addition, although the New York State Social Services Law (SSL) requires counties to use performance-based contracts when contracting for work activities, if practicable, the County does not use them. Officials said performance-based contracts are not practicable because both of the County's employment-based contracts augment the County's primary employment operation that is staffed by County employees.

## **Background and Methodology**

The County has a population of approximately 79,000 residents and is governed by a 21-member Board of Legislators (Board). The County Administrator is the County's chief executive officer and is responsible for the oversight of County operations. The County's 2014 budget totaled \$153 million and included the Department's budget of \$24 million. A Commissioner oversees the general management of the Department and enforcement of SSL.

The Department is responsible for providing temporary help to eligible individuals and families with financial and social service needs to assist them with leading safe, healthy and independent lives. The Department provides and manages a wide range of social welfare programs. To accomplish its mission, the Department enters into contracts with community-based agencies to provide services that enhance the ability of families to live together, enable individuals to remain in their homes, minimize the risk of abuse or neglect and provide for specialized care in residential settings when necessary. SSL requires the Department, when contracting for work activities, to use performance-based contracts, when practicable. The Department has 66 service contracts totaling \$5.5 million.<sup>2</sup> Nine staff (managers) monitor these contracts.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

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<sup>1</sup> Contractor that provides services to a client of the County's Department of Social Services

<sup>2</sup> As of December 31, 2013

## **Audit Results**

Contract Monitoring – Contract monitoring is essential to ensure that services provided are consistent with the contract terms. The managers responsible for monitoring a contract should be familiar with and have copies of the contract they monitor and should adhere to the Departments' contract monitoring practices. The managers should hold each contractor accountable to the terms of their contract, such as providing agreed-upon reports and evaluating services provided. Managers should also ensure that information reported by the contractor meets the performance outcomes outlined in the contract. In addition, if a contractor self-reports contract performance data, the manager should verify the contractor's information.

The Department expects its managers to hold regular meetings with contractors and other multi-disciplinary teams, verify submitted information, maintain related files and hold contractors accountable to their contractual requirements.

To determine if managers were monitoring the contractors in accordance with the Department's direction, we reviewed five contracts valued at \$412,188. For each contract, we determined if the contractor submitted all required progress reports; determined if the contractor met performance expectations; examined the Department's documentation, when possible, to confirm services were provided; examined and recalculated the contractor's payment vouchers to confirm they were prepared in accordance with the contract's terms; and confirmed the Department reviewed and approved each voucher for payment.

We found the Department obtained the required progress reports, reviewed and approved all vouchers and made payments in accordance with the contract terms. We also found that while four contracts totaling \$287,759 defined the contracted services and compensation rates, these contracts did not contain performance measures. For example, a day care contractor is required to provide childcare services; however, the contract does not specify the timeframe in which the contractor must provide the services. In addition, a \$15,000 child protective service contract did not define the contracted services and it also lacked performance measures. Four contracts totaling \$280,667 also had no reporting requirements.

The Department also does not have written policies and procedures to guide the managers in monitoring contracts. Department management orally conveyed the contract monitoring policies and procedures. Having policies and procedures that are not formalized leads to misunderstandings and inconsistent application of the policies and procedures. When managers do not effectively monitor contracts, there is less assurance that the Department is receiving the contracted services.

Performance Contracting – The Department is required by SSL to use performance-based contracting, if practicable, when contracting for work activities.<sup>3</sup> Although not defined in the SSL, performance-based contracting includes a clear definition of a series of objectives and indicators by which to measure contractor performance, collection of data on the performance indicators and consequences for the contractor based on performance (e.g., agreed upon amounts of consideration for meeting or exceeding indicators, or termination of the contract or reduced amounts, as set forth in the agreement, for not meeting or exceeding those indicators). Performance-based contracting

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<sup>3</sup> Paid or unpaid activities that help improve an individual's employability

methods are intended to ensure that required performance quality levels are achieved and that the consideration is related to the degree that services performed meet or exceed contract standards.

Performance-based contracts should:

- Describe the requirements in terms of results required rather than the methods of performance of the work;
- Use measurable performance standards;
- Specify procedures for reductions of fee or for reduction to the price of a fixed-price contract when services are not performed or do not meet contract requirements; and
- Include performance incentives where appropriate.

The Department does not use performance-based contracting and its contracts lack reward and sanction provisions for good and poor performance, respectively. As a result, the Department may be paying for services that are not effective. Officials said performance-based contracts are not practical because both of the County's employment-based contracts augment the County's employment operations.

### **Recommendations**

Department officials should:

1. Develop and implement written contract monitoring policies and procedures and ensure managers follow them.
2. Use performance-based contracting, when practicable. If the County does not use performance-based contracting techniques, consider adding contractual language to service contracts that detail recourse actions the County may take when performance measures are not met.

The Board 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 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. The Board should make the CAP available for public review in the Clerk's office.

We thank County officials and staff for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo  
Deputy Comptroller

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

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



**CATTARAUGUS COUNTY**  
DEPARTMENT OF SOCIAL SERVICES

One Leo Moss Drive, Suite 6010 • Olean, NY 14760

Daniel P. Piccioli  
*Commissioner*

Anthony Turano  
*Deputy Commissioner*

December 24, 2015

Ann C. Singer, Chief Examiner  
State Office Building, Suite 1702  
44 Hawley Street  
Binghamton, NY 13901-4417

Dear Ms. Singer:

Please treat this correspondence as a response to the enclosed preliminary draft findings to the audit performed by the New York State Comptroller's Office in April of 2015. The Cattaraugus County Department of Social Services participated in this audit, which examined the effectiveness of contract monitoring and to what extent, if any, the Department used performance based contracting.

The draft findings determined that DSS obtained the required reports, reviewed and approved all vouchers and made payments in accordance with the contract terms. However, in an on-site exit interview with County administration, it was recommended that moving forward, all contracts should clearly delineate the reporting requirements necessary to verify how many clients of the target population they should be serving during the contract period. In addition, the contractor must make sure services are provided according to the criteria listed in the contract's scope of services. Since the exit meeting, the Department is moving forward with language in each contract that clearly states: ***(1) a finite number of the clients to be served (2) a clear understanding of how often reports are to be submitted (3) an understanding of the need to keep clear records so that they may be examined by DSS whenever it is deemed appropriate by the Department.***

The draft findings also indicate that the county should use performance based contracting, when practical. The Department will follow this recommendation to ensure that effective services are being provided by the contractors. In collaboration with the Cattaraugus County Attorney's Office, the following language will be inserted into DSS contracts when deemed appropriate:

***During the term of the contract, the Commissioner of Social Services or his/her designee will, at his/her discretion, identify, review, and evaluate evidence of the performance of the contract on the part of \_\_\_\_\_ (contracting party). \_\_\_\_\_ (contracting party) agrees to cooperate with DSS during any review and evaluation process, and provide any additional information, records and documents requested by the Commissioner or his/designee.***



**CATTARAUGUS COUNTY**  
DEPARTMENT OF SOCIAL SERVICES

One Leo Moss Drive, Suite 6010 • Olean, NY 14760

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Daniel P. Piccioli  
*Commissioner*

Anthony Turano  
*Deputy Commissioner*

Finally, the draft audit also stated the need for a written set of policies and procedures to guide administration and managers in monitoring. The auditors felt that DSS staff was very accurate in orally explaining the contract monitoring process. However, they felt that not having a clear set of written procedures could lead to an inconsistency in the application of this process. The Department is developing a written process that will clearly delineate the contract process from beginning to end.

Thank you for the recommendations made by the Office of the State Comptroller. If any additional information is needed as a result of this response, please contact me at your earliest convenience. I can be reached at (716) 701-3553 or at [dppiccioli@cattco.org](mailto:dppiccioli@cattco.org).

~~Sincerely yours,~~

Dan Piccioli  
Commissioner of Social Services

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

To complete our objective, we interviewed County and Department officials and identified practices used to monitor Department contracts to determine whether the County is effectively monitoring these contracts. We performed procedures that include the following steps:

- We interviewed key officials to identify the Department's community-based agency service contract monitoring process and gained an understanding of the components of a typical Department contract, established how service providers invoiced the County for services and determined how those invoices were reviewed and payments were made. Further, we obtained an understanding of how the contractual agreements were monitored.
- We obtained a list of service-based contracts and verified that list to the Department's budget and accounting records. We judgmentally selected two employment-related contracts and three additional contracts. We considered the contract values and funding sources when selecting contracts to review.
- We obtained and reviewed the five contracts to determine the terms of the agreement.
- We obtained and reviewed the invoices for each contract that were paid between January 1 and December 31, 2013 to determine if payments were made in accordance with the contract and the Department's policy.
- We obtained and reviewed the performance reports submitted to the Department by the service providers to evaluate whether contractual requirements were met.
- We interviewed the managers to determine how each one monitors whether the service providers are complying with contractual obligations.
- We reviewed invoices to determine whether the managers were approving invoices for payment, the amount billed matched the amount paid by the Department and the supporting documentation substantiated the amount billed.
- We traced a sample of payments from the invoices to the general ledger.

We conducted this performance audit in accordance with 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.