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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 21, 2013

Ms. Laurie A. Kelley
Acting Commissioner
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

Re: Fire Prevention, Safety and Control
Report 2013-S-20

Dear Commissioner Kelley:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of State Finance Law, we audited the Office for People with Developmental Disabilities' (Office) compliance with applicable fire prevention, safety and control requirements that help ensure the safety of vulnerable populations.

Background

The Office is responsible for coordinating services for more than 126,000 New Yorkers with developmental disabilities. It provides services directly and through a network of approximately 700 nonprofit service providing agencies, with about 80 percent of services provided by the private nonprofits and 20 percent provided by State-run services. Residential support and service is provided in both institutional and residential settings across the State. On March 21, 2009, a fire at the Riverview Individual Residential Alternative group home in the Town of Wells resulted in the death of four residents. A grand jury investigation into the fire provided two recommendations: first, New York must ensure that the design and construction of group homes is adequate to protect the highly vulnerable populations that live in them, and secondly, it must assign fire safety code enforcement to fire safety professionals.

To address this need, the Office entered into a Memorandum of Understanding with the Office of Fire Prevention and Control (OFPC), a unit within the New York State Division of Homeland Security and Emergency Services. The Memorandum of Understanding, effective April 1, 2011, transfers the responsibility for conducting certain fire and life safety inspections and other identified fire and life safety associated duties from the Office to OFPC. Additionally, the Office's Division of Quality Improvement (Quality Improvement) issued an administrative

memorandum providing guidance to the field to standardize fire safety practices among both State owned and voluntary operated (nonprofit entities that provide services under certification by the Office) group homes and supervised facilities. The Office also provided guidance setting forth standards for, among other practices, building evacuation, fire drill frequency, sprinkler and fire alarm maintenance contracts, and heat detectors.

Another result of the Riverview fire was the formation of the Fire Safety Panel of State and National Experts (Panel), which consists of Office officials and State fire safety experts. The Panel assessed and made recommendations regarding the thoroughness and effectiveness of the Office's current policies and practices in the areas of fire safety and emergency evacuations. The Panel conducted a review in 2010 and presented a total of 16 recommendations for consideration by the Commissioner.

On April 11, 2013, the Commission on Quality of Care and Advocacy for Persons with Disabilities (Commission), an independent agency charged with improving the quality of life for New Yorkers with disabilities and protecting their rights, issued a report to the Office with 12 recommendations directly related to the same six areas addressed in the Panel report. The Office has implemented or partially implemented all 12 recommendations. Upon completion of all OFPC initial inspections, all of the Commission's report recommendations will have been implemented, as they mirror the Panel's recommendations.

Results of Audit

We found the Office is in compliance with applicable fire prevention, safety and control requirements that help ensure the safety of the vulnerable populations it serves. The Office has significantly improved its fire safety procedures and practices since the disaster at the Riverview facility in 2009. Both the 1,392 State-owned and the 6,411 nonprofit facilities are inspected annually by fire safety experts using comprehensive guides to ensure consistent and thorough coverage at all facilities. Upon completing an inspection, fire safety experts issue a Statement of Deficiency to each respective facility identifying any fire safety matters in need of correction. Facility managers are then required to submit a Corrective Action Plan designed to eliminate any potentially serious fire safety risks identified. In addition, the Office established fire safety training for all staff and requires all facilities to conduct periodic fire evacuation drills.

We conducted site visits to 20 State-operated facilities and 3 voluntary facilities and found that any previously identified findings of deficiency had been adequately corrected. During those visits, we also reviewed training records for facility staff and found that all staff had been given initial fire safety training, along with annual refresher updates as required. In addition, we reviewed fire evacuation drill records for State- and voluntary-operated facilities and found the facilities followed required practices. We examined service tags on fire extinguishers and found all had current inspection dates, and also found working smoke detectors in every room and evacuation plans on each floor. We examined the fire alarm system records at each facility and found that all had received required inspections. During one site visit, we observed immediate action being taken to correct deficiencies identified by the inspectors. For example, the inspectors cited a malfunction in the fire alarm system and personally contacted the fire alarm company

during the inspection to facilitate repairs. The inspector conveyed a sense of urgency and waited for a commitment from the alarm company to schedule needed repairs.

Audit Scope, Objective and Methodology

We audited fire safety practices at the Office for the period January 1, 2011 to September 30, 2013. The objective of our audit was to assess the Office's compliance with applicable fire prevention, safety and control requirements to ensure the safety of vulnerable populations.

To accomplish our objective, we reviewed pertinent laws, rules and regulations, Office policies and fire safety inspection records maintained by OFPC and the Quality Improvement unit. We conducted site visits to State-owned and voluntary-operated facilities and interviewed OFPC and central and regional Office officials, as well as facility staff, to determine the adequacy of fire safety inspections and management's actions to correct problems identified. We reviewed a judgmental sample of 23 facilities, including 13 facilities that had a significant number of deficiencies noted, to determine whether appropriate corrective action was taken.

We conducted our performance audit in accordance with generally accepted government auditing standards. 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 objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We discussed the results of our audit with Office officials, who agreed with our conclusions and waived the opportunity to provide formal written comments to be included in this final report.

Major contributors to this report were Brian Reilly, Brian Lotz, Kathy Garceau, and Kelly Evers Engel.

Please convey our thanks to Office management and staff for the courtesies and cooperation they extended to our auditors during this review.

Sincerely,

John F. Buyce, CPA
Audit Director

cc: Vincent P. Sleasman, OPWDD
Thomas Lukacs, Division of Budget