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July 2016

Cheryl Dinolfo, County Executive
Members of the County Legislature
Monroe County Legislature
110 County Office Building
39 West Main Street
Rochester, NY 14614

Report Number: S9-15-30

Dear Ms. Dinolfo 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 Monroe 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 our audit and recommendations with County officials and considered their comments, which appear in Appendix A, in preparing this report. Except as specified in Appendix A, County officials generally agreed with our recommendations and indicated they have taken or plan to take corrective action. Appendix B includes our comment on an issue raised in the County's response. 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 contractor¹ 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 \$3,919,171. We found that the Department of Social Services' (Department) was unable to provide sufficient documentation or other evidence to support that the managers effectively monitored Department contracts. For example, the managers did not obtain all contractually required reports. Officials also could not explain how a former manager monitored a \$1.6 million non-secure and foster home beds contract. Officials said the former employee worked autonomously, and they could not provide documentation to support any monitoring efforts the manager may have taken.

Although each contract we reviewed defined contracted services and compensation rates, four of the contracts totaling \$3,869,171 did not contain performance measures. One contract contained four performance measures, but the contractor's performance reports detailed only two of the four measures. The manager who monitored the contract did not follow-up to obtain the information on the two unreported measures.

We also found that 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 it is difficult to establish performance measures when many of the services are personal. For example, one client might need more counseling or guidance than another client may need.

In addition, we found a Literacy Program contractor submitted one invoice totaling \$35,535, but the Department paid the contractor \$50,000. Officials could not explain the difference.

Background and Methodology

The County has a population of approximately 750,000 residents and is governed by a 29-member Board of Legislators (Board). The County Executive is the County's chief executive officer and is responsible for the oversight of County operations. The County's 2014 budget totaled \$1 billion and included the Department's budget of \$505 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 \$127.3 million.² Fourteen program managers (managers) monitor these contracts.

¹ Contractor that provide services to a client of the County's Department of Social Services

² As of December 31, 2013

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 C of this report.

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. The 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 managers should verify the contractor’s information.

The Department’s contracts require contracted agencies to periodically provide progress reports. The reports should account for each performance measure defined in the contract. The Department’s management expects its managers to review appropriate supporting documentation to ensure that they receive all required reports and ensure that the contractors submit payment vouchers in accordance with contract terms, provide billed services and accurately report self-reported performance outcomes.

To determine if managers were monitoring the contractors in accordance with the Department’s direction, we reviewed five contracts valued at \$3,919,171. 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 terms; and confirmed that the Department reviewed and approved each voucher for payment.

The Department was unable to provide sufficient documentation or other evidence to support that the managers effectively monitored Department contracts. For example, Department officials stated that a former manager was responsible for monitoring a \$1.6 million non-secure and foster home beds contract. However, Department officials could not answer questions regarding how the manager monitored the contractor’s performance. Officials said the former manager worked autonomously and could not provide documentation to support any monitoring efforts the former manager may have taken.

We also found that while each contract defined contracted services and compensation rates, four contracts we reviewed, totaling \$3,869,171, did not contain performance measures. For example, two employability assessment service contracts required the contractor to provide employability assessments. However, neither contract defined within what timeframe the assessments should have been completed or what percentage of assessed individuals should have been assigned to a work activity. Such measures would help managers determine if the contractor is meeting the

Department's performance expectations and can provide leverage during performance-related discussions with the contractor.

The Department also did not obtain all contractually required reports. Managers should have obtained 11 reports but they received only five. Each contract required the contractor to provide certified financial statements and a corresponding management letter, but none of the contractors provided these reports, and the Department did not follow-up with each contractor to obtain them. The youth counseling contractor also did not provide information on two of four performance measures. We found no evidence the manager tried to obtain the missing performance information or that the manager verified the performance outcomes for the two measures the contractor reported on. We could not determine if the contractor met the defined performance measures because the contractor's documentation did not provide sufficient information. The Department also did not have adequate documentation to assess the contractor's performance.

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.³ Although not defined in SSL, performance-based contracting generally 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 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 fees 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. We found the Department incorporated performance measures in one of the five contracts we reviewed. The Department's literacy contract requires the contractor to meet the following performance measures: 95 percent of students to show fluency improvement, 95 percent of students to show comprehension skills improvement, all children to maintain or improve skills and not experience "summer slide," and 95 percent of students will maintain or improve their reading and writing skills during the school

³ Paid or unpaid activities that help improve an individual's employability

year. However, the contract contains no language to reward the contractor if they meet these goals or financial sanctions if they do not.

Officials said performance-based contracts are not practical because many of the services the contractors provide are highly personal services and it is difficult to establish universal performance measures when one client may need more counseling or guidance than another.

Invoice Processing – Auditing invoices should be a thorough and deliberate examination to determine that the invoice is a legal obligation and proper charge against the County. Further, the original invoice submitted by the service provider should agree with contractual terms. The various required supporting documentation should also agree with amounts charged on the invoices.

To determine if payments are allowable according to the contract and that they are a proper charge against the County, a thorough review of invoices provided by the contractor is required. This review should verify that payment is allowed according to the terms of the contract and that the required supporting documentation supports and agrees to the amounts charged on the invoices. In addition, these invoices should be submitted within timeframes established in the contract.

To determine if the Department paid the contractors in accordance with the contract terms, we reviewed 50 invoices totaling \$3,768,286 related to the same five contracts discussed previously. We found a youth counseling contractor submitted seven of their 12 invoices past the 30-day requirement. A Literacy Program contractor, compensated based on the number of Department clients that received services, submitted a \$35,535 invoice for the services provided. However, the Department paid the contractor \$50,000, \$14,465 more than the contractor's invoice. Department officials could not explain why the higher amount was paid.

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.
3. Work with contractors to ensure they submit invoices timely and ensure contractual payments agree with the contractors invoice and contract terms.
4. Investigate the potential overpayments totaling \$14,465 and recover any moneys paid in error.

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.



Department of Human Services

Monroe County, New York

Maggie Brooks

County Executive

Kelly A. Reed

Commissioner

December 31, 2015

Ann C. Singer, Chief Examiner
Office of the State Comptroller
State Office Bldg., Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

Re: Response to Preliminary Draft Findings

Dear Ms. Singer:

Please accept this letter as our response to the Preliminary Draft Findings of your Office's audit of Monroe County Division of Social Services contracts for the period January 1, 2013 to December 31, 2013.

We were pleased that the auditors made us aware of several positives in the management of Monroe County contracts during the Preliminary Audit Findings conference, where the field auditors indicated that they found that:

1. All invoices/vouchers were signed off on by program personnel;
2. None of the contracts that were reviewed exceeded their ceilings;
3. Both employment contracts that were reviewed include incentives.

We also note that at the Exit Conference we were advised that the findings for Monroe County were similar to those made in the other counties that were the part of this audit, and thank you for the opportunity to comment upon the draft findings. We wish to take this opportunity to clarify some points raised in the draft findings.

1. The fourth paragraph of the "Audit Results" section identified one of the contracts as a "youth housing contract." At the Exit Conference we confirmed for your Office that this contract was actually a contract for non-secure detention. The Audit indicated that the former manager who oversaw this contract did not document any monitoring efforts that she may have undertaken. Executive Law §503 makes all detention facilities in New York State subject to the regulation of the Office of Children and Family Services (OCFS) and as such charges OCFS with visiting and inspecting all facilities used for detention and making periodic reports of the operation and adequacy of such facilities. Because the "quality" of the service of detention is regulated by and subject to the certification of the Office of Children and Family Services, we find this critique irrelevant and believe it should be removed given the correction we provided your office.

See
Note 1
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Monroe County's primary concern is the space availability for the local youth that are detained. Each detention facility across the State is certified for a maximum number of beds, and when certified capacity is reached, MCDSS is obliged to attempt to arrange a detention bed with one of the other OCFS certified detention facilities across the State. Each day a non-secure detention remand census is updated to ensure that MCDSS is aware of the identity and status of each child in non-secure detention. An example of the daily census was provided to the field auditors.

2. The fifth and eighth paragraphs of the "Audit Results" section state that the employment assessment contracts did not contain performance measures and were not performance based. Although not contained directly in those contracts, performance measures were part of the day to day working relationships between the managers assigned to the contracts and the vendors. During the audit, detailed logs were provided which noted assessment dates, as well as dates of various work activities. The manager of those two contracts also met with the vendors whenever there were concerns over contract performance.

At the time of the audit we already had in place written procedures in our Finance Department for the review of vendor invoices. Currently we are developing written guidelines for contract monitoring at the program level. Further, we are reviewing existing contract performance measures to ensure that they remain relevant to the service being provided, and will use performance based measures when appropriate.

We will also be reviewing any potential contract overpayments, as well as working with vendors to make sure that invoices/vouchers are submitted in a timely matter.

Monroe County and its Department of Human Services remains committed to the efficient and cost effective delivery of public assistance and other services to eligible individuals and families.

Sincerely,


Kelly A. Reed
Commissioner

Monroe County Department of Human Services

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APPENDIX B

OSC COMMENT ON THE COUNTY'S RESPONSE

Note 1

OCFS establishes regulations governing procedures for certification of detention facilities and for renewal, suspension and revocation of such certifications and regulations for the operation of secure and non-secure detention facilities. The County cannot use a detention facility unless OCFS certifies the facility. As such, OCFS must visit and inspect all facilities used for detention and make periodic reports of the operation and adequacy of the detention facility. However, aside from OCFS inspections, the County's contract required the contractor to provide reports that could be used to monitor the contractor, but the contractor did not provide them. For example, the contract required the contractor to provide attendance reports, but the contract monitor did not obtain them and no reports were available for our review.

APPENDIX C

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, 2013 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.