



Department of Social Services Monitoring of Service Provider Agreements

2016-MS-1



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Table of Contents

	Page
AUTHORITY LETTER	1
EXECUTIVE SUMMARY	2
INTRODUCTION	5
Background	5
Objective	6
Scope and Methodology	6
Comments of Local Officials	6
MONITORING SERVICE PROVIDERS	7
Contract Monitoring	7
Performance-Based Contracting	9
Invoice Processing	10
Recommendations	11
APPENDIX A Response From Local Officials	12
APPENDIX B Audit Methodology and Standards	13
APPENDIX C How to Obtain Additional Copies of the Report	14
APPENDIX D Local Regional Office Listing	15

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

July 2016

Dear Local 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 local 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 titled Department of Social Services – Monitoring of Service Provider Agreements. 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 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 Statewide Audits office, 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

Each county Department of Social Services (Department) is responsible for providing temporary help to eligible individuals and families with social service and financial needs to assist them with leading safe, healthy and independent lives. The Departments provide and manage a wide range of social welfare programs. To accomplish their missions, the Departments enter into contractual agreements 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. Department personnel responsible for monitoring contracts (Managers) must ensure that all services are provided in accordance with service provider agreements and that invoices for payment are properly supported with sufficient documentation.

The Departments are required by New York State Social Services Law (Law) to use performance-based contracting, if practicable, when contracting for work activities.¹ Performance-based contracting explicitly includes a clear definition of a series of objectives and indicators by which to measure contractor performance, the collection of data on the performance indicators and consequences for the contractor based on performance, such as provision of rewards (e.g., performance bonuses) or imposition of sanctions (e.g., termination of the contract or reduced contract payments).

We audited six county Departments across New York State: Cattaraugus, Chemung, Fulton, Monroe, Schenectady and Tioga.

Scope and Objective

The objective our audit was to determine if counties effectively monitored service provider agreements for the period January 1 through December 31, 2013. Our audit addressed the following related question:

- Did county Department officials monitor service provider agreements to ensure that services provided and payments made were in accordance with the agreements?

¹ Paid or unpaid activities that help improve an individual's employability

Audit Results

Managers sometimes authorized payments without reviewing supporting documentation that demonstrated the contractors had met the performance expectations of the contracts. Weaknesses in the Managers' monitoring of the service provider agreements included the following:

- None of the Departments we examined developed or implemented written contract monitoring policies and procedures. Instead, Department management orally conveyed their contract monitoring expectations to Managers.

We found that Department Managers at four of the six counties audited (Chemung, Fulton, Monroe and Tioga) were not monitoring service provider agreements in accordance with managements' monitoring expectations. For example, Fulton County Department Managers did not use reports provided by contractors to monitor performance and determine whether the contractors were meeting performance expectations. In addition, Monroe County managers did not obtain all of the required reports for the five contracts we tested. When contracts are not effectively monitored, there is less assurance that services are provided according to contract terms or that programs are operating as intended.

- Although the Law requires the use of performance-based contracting for work activities when practicable, the Departments we examined generally did not use performance-based contracting to measure contractor performance and service quality. They also did not always define performance expectations in the contracts.

We reviewed 30 contracts² among the six Departments that were for various services (e.g., child care provider registration services, youth counseling, non-secure and foster home beds, medical application assistance and employability assessments). We found that 12 contracts (40 percent) from five Departments included performance measures and only one of these included performance incentives. Department officials stated that the use of performance-based contracting is not practical. Officials indicated that having a smaller population and a limited number of service providers makes it challenging to find service providers willing to accept performance-based contracts. Past experiences with contractors failing to meet expectations and difficulty establishing performance measures for services where personal relationships are formed (e.g., mental health services) were also noted as reasons for not using performance-based contracting. However, without established contract performance measures, the Departments lack information to evaluate whether the contractors' performance met expectations and if residents are getting results from expenditure of taxpayer dollars.

Defining performance measures in a contract can provide a reliable means to evaluate a contractor's performance as well as a Department's success in meeting its goals. These measures can help distinguish what appears to be happening from what is really happening, establish a baseline and demonstrate that change can lead to improvements, help make decisions based on solid evidence, allow for performance comparisons and provide a way to monitor changes to ensure improvements are sustained over time.

² The Schenectady County Department does not contract for work activities; therefore, it is not required to use performance-based contracting. We included five community-based agency service contracts in our testing for the Schenectady County Department.

We reviewed 291 invoices associated with 30 contracts valued at \$6.8 million and found that, generally, the Departments paid each contractor in accordance with contract terms and each contractor submitted invoices in a timely manner. We did find, however, that the Monroe County Department paid a contractor \$14,465 more than the contractor's invoice and one of the three Tioga County Department Managers does not review contractor invoices prior to payment. As of February 29, 2016, Monroe officials said they are investigating the potential overpayment, but did not know when the investigation would be complete. A thorough review of invoices helps ensure that contractors are appropriately paid for provided services.

Comments of Local Officials

The results of our audit and recommendations have been discussed with local officials, and their comments, which appear in Appendix A, have been considered in preparing this report.

Introduction

Background

New York State counties have a Department of Social Services (Department) that is responsible for providing temporary help to eligible individuals and families with social service and financial needs to assist them with leading safe, healthy and independent lives. The Departments provide and manage a wide range of social welfare programs. To accomplish their missions, the Departments enter into contractual agreements 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. The Departments must monitor contractual agreements to ensure that all services are provided in accordance with the agreements and that invoices for payment are properly supported with sufficient documentation.

The Departments are required by New York State Social Services Law (Law) to use performance-based contracting, if practicable, when contracting for work activities.³ Performance-based contracting explicitly includes a clear definition of a series of objectives and indicators by which to measure contractor performance, the collection of data on the performance indicators and consequences for the contractor based on performance, such as provision of rewards (e.g., performance bonuses) or imposition of sanctions (e.g., termination of the contract or reduced contract payments).

Monitoring is essential to ensure that services are provided in accordance with contractual agreements. Department personnel responsible for monitoring contracts (Managers) should be familiar with the contract terms, and service providers should be held to these terms. For example, Managers should ensure they receive periodic performance reports and required documentation from service providers and should use these documents to evaluate the services being provided. Additionally, Managers should verify the information provided by service providers to ensure it is reliable and can be used to evaluate performance and to confirm invoiced services were provided.

We audited six county Departments across New York State: Cattaraugus, Chemung, Fulton, Monroe, Schenectady and Tioga. Figure 1 provides relevant statistics for these counties:

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

Figure 1: Relevant County Department Statistics

County	Approximate Population	2014 Department Budget (Millions)	Number of Service Provider Agreements	Value of Service Provider Agreements (Millions)	Number of Service Provider Agreement Managers
Cattaraugus	79,000	\$24	66	\$5.5	9
Chemung	89,000	\$63.9	134	\$11.3	7
Fulton	54,000	\$28.3	31	\$5.5	3
Monroe	750,000	\$505	66	\$127.3	14
Schenectady	155,000	\$108	38	\$6.4	2
Tioga	51,000	\$20.7	24	\$.9	3

Objective

The objective our audit was to determine if counties effectively monitored service provider agreements. Our audit addressed the following related question:

- Did county Department officials monitor service provider agreements to ensure that services provided and payments made were in accordance with the agreements?

Scope and Methodology

We examined Department records and interviewed county and Department officials to identify practices used to monitor service providers to determine if Departments effectively monitored their service provider agreements for the period January 1 through December 31, 2013.

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 B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Comments of Local Officials

The results of our audit and recommendations have been discussed with local officials, and their comments, which appear in Appendix A, have been considered in preparing this report.

Monitoring Service Providers

The Departments provide social welfare services, in part, through contractual agreements with community-based service providers. Department Managers are responsible for monitoring contractual agreements to ensure that services are provided in accordance with contractual agreements. When practicable, the Departments are required to use performance-based contracting when contracting for work activities. Performance-based contracting methods are intended to ensure that the performance quality levels stated in contracts are achieved. Invoices submitted by contractors for services provided should be reviewed to ensure they represent proper charges against the Department and that they include proper supporting documentation of the services provided.

Department officials need to improve the monitoring of contracts with community-based service providers. There are no written policies and procedures to guide Managers in monitoring contracts. Instead, each Department's management stated that they orally conveyed contract monitoring expectations to Managers. In addition, the Departments generally did not use performance-based contracting. We reviewed 30 contracts among the six Departments and found that 12 contracts (40 percent) from five Departments included performance measures and only one contract from the Schenectady County Department included performance incentives. We reviewed 291 invoices associated with the 30 contracts and found that, generally, the Departments paid each contractor in accordance with contract terms. When Managers do not effectively monitor contracts, there is less assurance that the Department is receiving the contracted services it pays for or that programs are operating as intended.

Contract Monitoring

Contract monitoring is essential to ensure that services provided are consistent with the contract terms. Managers responsible for monitoring contracts should be familiar with and have copies of the contracts they monitor and should adhere to the Departments' contract monitoring expectations. Written policies and procedures should be developed to provide consistent guidance to Managers on the Departments' expectations. 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 is accurate and that the contractor is meeting the performance expectations outlined in the contract.

The Departments' contracts generally required contracted agencies to provide periodic progress reports. The reports should account for each performance measure defined in the contract. Each Department expects its Managers to verify that the county receives all required progress reports, the contractors submit payment vouchers in accordance with contract terms, the Departments' clients receive billed services and the contractors accurately report performance outcomes when contracts include performance measures. For example, Tioga County Department Managers are expected to regularly communicate and meet with each contractor, maintain continuous awareness and monitoring of contractual requirements and obtain support documentation for services provided.

We found that none of the Departments developed or implemented written contract monitoring policies and procedures. Each Department's management said they have only orally conveyed their contract monitoring expectations. While Cattaraugus and Schenectady County Department Managers monitored the contracts we reviewed in accordance with managements' expectations, the remaining four Departments (Chemung, Fulton, Monroe and Tioga) have Managers that were not complying with managements' monitoring expectations. For example:

- Fulton County Department Managers do not use reports provided by the contractor to monitor the contractors' performance. A youth home and community-based program contract we reviewed contained six performance measures including a measure that required 90 percent of youth served who have or have not been abused or maltreated would not be abused or maltreated as of the time they are discharged from the program. The contractor provided information on each measure; however, the Manager did not use the information in the reports to determine if the contractor was meeting the Department's performance expectations. Although we tried to determine if the contractor met the defined performance measures, the available records were not sufficient to do so.
- Monroe County Department Managers did not obtain the required reports from the contractors for the five contracts we tested that provided youth counseling, non-secure and foster home beds, and employability and employment assessments. A Manager also did not follow-up with a youth contractor that provided information on two of the four performance measures they were required to meet.

Having unwritten policies and procedures can lead to misunderstandings, inconsistent application of management's contract monitoring expectations and wasteful expenditure of taxpayer moneys. When Managers do not effectively monitor contracts, there is less assurance that the Departments and residents are receiving the contracted services paid for or that programs are operating as intended.

Performance-Based Contracting

Departments are required by Law to use performance-based contracting, if practicable, when contracting for work activities. Although not defined in the Law, performance-based contracting generally includes a clear definition of a series of objectives and indicators by which to measure contractor performance, the 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 a reduction to the price of a fixed-price contract when services are not performed or do not meet contract requirements.
- Include performance incentives where appropriate.

The Departments we examined generally do not use performance-based contracting. We reviewed 30 contracts,⁴ five contracts at each county Department, to determine if service provider agreements contained performance measures. We found Department management generally did not define each contractor's performance expectations in the contracts. Twelve contracts (40 percent) for five Departments defined performance measures, but the remaining 18 contracts (60 percent) for five Departments did not. However, with the exception of one contract from the Schenectady County Department, the contracts

⁴ The Schenectady County Department does not contract for work activities; therefore, it is not required to use performance-based contracting. We included five community-based agency service contracts in our testing for the Schenectady County Department.

that included performance measures did not have performance incentives.

Figure 2: Contract Analysis – Performance Measures

County Department	No. of Contracts Reviewed	No. of Contracts with Performance Measures	Contract Value
Cattaraugus	5	0	\$412,188
Chemung	5	5	\$903,875
Fulton	5	1	\$459,428
Monroe	5	1	\$3,919,171
Schenectady	5	3	\$743,333
Tioga	5	2	\$368,339
Total	30	12	\$6,806,334

Department officials stated they do not believe performance-based contracting is practical. Officials indicated that having a smaller population and a limited number of service providers makes it challenging to find service providers willing to accept performance-based contracts. Past experiences with contractors not meeting expectations and difficulty establishing performance measures for services where personal relationships are formed (e.g., mental health services) were also noted as reasons for not using performance-based contracting.

Defining performance measures in a contract can provide a reliable means to evaluate a contractor’s performance as well as a Department’s success in meeting its goals. These measures can help distinguish what appears to be happening from what is really happening, establish a baseline and demonstrate that change can lead to improvements, help make decisions based on solid evidence, allow for performance comparisons and provide a way to monitor changes to ensure improvements are sustained over time. They can also help recognize improved performance.

When contracts do not include performance measures, Department officials cannot be certain that contractors are providing quality services that meet or exceed contract standards and that residents are getting results from expenditure of taxpayer dollars.

Invoice Processing

A thorough review of invoices provided by the contractor is required to determine if payments are allowable according to the contract and if they are a proper charge against the county. This review should

verify that payment is allowed according to the terms of the contract and that the required supporting documentation supports and agrees with the amounts charged on the invoices. In addition, invoices should be submitted within timeframes established in the contract.

We reviewed all 291 invoices paid during the audit period that were associated with the 30 contracts, valued at \$6.8 million, and found that, generally, the Departments paid each contractor in accordance with contract terms and each contractor submitted invoices within contract timeframes. However, we found some instances where invoices were not thoroughly reviewed by the Department prior to payment. For example:

- A contractor billed the Monroe County Department for services totaling \$35,535, but the Department paid the contractor \$50,000 or \$14,465 more than the contractor's invoice. Department officials could not explain the difference. As of February 29, 2016, Monroe County Department officials said they are reviewing the potential overpayment, but did not know when the review would be complete.
- A Tioga County Department Manager does not review invoices before the Department pays a contractor. We identified 21 invoices totaling \$340,970 that were paid without the Manager confirming services were provided.

Invoices should be reviewed and approved to ensure they are a proper charge against County resources. When invoices are not reviewed, the Department may overpay for services or pay for services that were not provided to a Department client.

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 requirements to service contracts that detail recourse actions the county may take when performance measures are not met.
3. Ensure contractor invoices are reviewed and pertain to services provided to Department clients before paying them.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

We provided a draft copy of this global report to the six Departments we audited and requested responses. We received responses from the six Departments.

We also provided a draft version of the respective individual letter reports to each of the Departments and received responses from all of them. Each Department's respective letter report includes the Department's response to our audit and, in some instances, our comments on issues raised.

The following comments are excerpted from the responses received:

Cattaraugus County: "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."

Chemung County: "The Department of Human Services has updated written policies and procedures to guide managers in monitoring contracts under their responsibility." "In addition, since the time of the audit, the Department has hired a Quality Assurance Director to assist the managers in the oversight of contracts."

Fulton County: "The draft Audit Report was concise and the County understands the recommendations and their value in administering professional service contracts."

Monroe County: "Monroe Co. and MCDSS remains committed to the efficient and cost effective delivery of services to individuals and families. Any additional guidance and/or statewide best practices training offered by OSC are welcome."

Schenectady County: "We believe that DSS had an effective contract monitoring system in place for the 2013 audit period. Additionally, in 2014 and 2015 new monitoring processes were added prior to the commencement of this audit."

Tioga County: "Tioga County appreciates the opportunity to strengthen its procedures for contact monitoring and increase its utilization of performance-based contracting, when applicable."

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed key officials to identify each Department's service-based contract monitoring process, gain an understanding of the components of a typical Department contract, establish how service providers invoiced each county for services, determine how those invoices were reviewed and determine how 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 each 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 five contracts from each of the Departments 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 each Department's policy.
- We obtained and reviewed the performance reports submitted to each 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.

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