

THOMAS P. DiNAPOLI
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 30, 2010

Mr. Richard F. Daines, M.D.
Commissioner
NYS Department of Health
Corning Tower, Room 1495
Empire State Plaza
Albany, NY 12237

Re: 2009-S-17 Department of Health
Oversight of Revenue Contracts

Dear Commissioner Daines:

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 the State Finance Law, we audited the Department of Health's (DOH) monitoring of its contract revenues for the period January 1, 2008 through February 23, 2010.

A. Background

DOH's mission is to ensure that high quality appropriate health services are available to all New York State residents at a reasonable cost. DOH functions and responsibilities include:

- Promoting and supervising public health activities throughout the State;
- Ensuring high quality medical care in a sound and cost effective manner for all residents;
- Reducing infectious diseases; and
- Directing a variety of health-related homeland security measures in conjunction with the Office of Homeland Security.

DOH officials are responsible for monitoring DOH's revenue contracts. This responsibility includes collecting and properly reporting the receipt of contract revenues to the Office of the State Comptroller (OSC).

As of November 24, 2008, DOH had a total of 633 active revenue contracts totaling over \$468 million per year in expected revenue collections. The majority of these contracts (612 or 97 percent) are drug rebate agreements between the State and drug manufacturers where the State receives a rebate of a certain amount per unit of drug sold to program participants. DOH administers two drug rebate programs: Elderly Pharmaceutical Insurance Coverage (EPIC), with

473 contracts totaling nearly \$185 million in revenue during fiscal year 2008-09, and Supplemental Drug Rebates from the National Medicaid Pooling Initiative (NMPI) with 139 contracts totaling nearly \$166 million in revenue during fiscal year 2008-09. DOH also administers 18 Technology Transfer contracts with Health Research Incorporated, totaling \$19,469 in revenue during fiscal year 2008-09, and 3 Women, Infants and Children (WIC) program contracts with \$117.2 million in revenue during calendar year 2008.

B. Audit Scope, Objectives and Methodology

We audited DOH's oversight of its revenue contracts to ensure all entitled revenue is billed, collected, promptly deposited in appropriate accounts and maximized for the period January 1, 2008 through February 23, 2010. To accomplish our objectives, we gained an understanding of four DOH programs (EPIC, NMPI, WIC and Technology Transfer) and interviewed DOH personnel. We also reviewed a judgmental sample of contracts to determine whether DOH collected the appropriate amounts, and traced collections to deposits and to entries in the State Accounting System maintained by the Office of the State Comptroller.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our audits 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.

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.

C. Results of Audit

We found that DOH appropriately billed, collected, and promptly deposited in the correct accounts, the \$9.2 million contract revenue we judgmentally sampled for the audit period. We also found that for the WIC program DOH maximizes contract revenue by awarding contracts to the highest bidder. Drug program contracts are negotiated by the Federal Government.

A draft copy of this report was provided to DOH officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report.

Major contributors to this report include Donald Geary, Todd Seeberger, Mike Cantwell, Melissa Davie and Rachelle Luchkiw.

We wish to thank DOH's management and staff for the courtesies and cooperation extended to our examiners during this audit.

Very truly yours,

Frank P. Patone, CPA
Audit Director

cc: Mr. Steve Abbott, Audit Liaison
Mr. Thomas Lukacs, Division of the Budget



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

September 15, 2010

Mr. Frank Patone, CPA, Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, New York 10038

Dear Mr. Patone:

The Department of Health (Department) has reviewed the Office of the State Comptroller's draft audit report 2009-S-17 on the Department's Oversight of Revenue Contracts. The report does not contain any recommendations and concludes that the Department billed, collected and promptly deposited into the correct accounts, the \$9.2 million in contract revenues in the OSC audit sample. The Department appreciates the positive report.

Thank you for the opportunity to comment.

Sincerely,

James W. Clyne, Jr.
Executive Deputy Commissioner

cc: Robert W. Reed
Donna Frescatore
Michael J. Nazarko
Ellen Anderson
Marybeth Hefner
Michael J. Brennan
Diane Christensen
Patricia Hess
Stephen Abbott
Stephen LaCasse
Irene Myron
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