



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Dual Employment

Office for People With Developmental Disabilities



Report 2011-S-22

December 2013

Executive Summary

Purpose

To determine whether Office for People With Developmental Disabilities (OPWDD) employees who are dually employed at other State or New York City agencies are working their required hours at each job. The audit covered the period July 1, 2009 through March 9, 2012.

Background

OPWDD's mission is to help people with developmental disabilities live richer lives by creating opportunities and supporting people in ways that allow access to needed supports and services. As of October 2012, OPWDD employed about 20,600 individuals throughout the State, some of whom were also employed by other government agencies. OPWDD requires its full-time employees to get approval before accepting a second job. Second jobs may not interfere with the employees' job responsibilities nor represent a conflict of interest.

Key Findings

- Between July 2009 and June 2010, 678 OPWDD staff members were simultaneously employed by another State or New York City agency, 81 of whom we selected for further review based on several risk factors. Detailed analysis of time sheets and other payroll records showed 27 of these staff violated time and attendance rules, resulting in payroll payments for time potentially not worked.
- Several cases showed a pattern of routine improper activity, such as claiming to be working two places at the same time, not allowing sufficient commute time between the end of one shift and the beginning of the next, and charging sick leave at one job while actually working at another. OPWDD's failure to enforce time and attendance requirements allowed these individuals to circumvent controls, sometimes with management's knowledge.
- In most cases, due to poor supervision and record-keeping practices at the agencies, it is not possible to determine whether these staff failed to work required time at OPWDD, another agency or both. We estimate the cost of these abuses of time and attendance procedures could be as high as \$107,000. Since some of these employees held second jobs for many years, it is possible that costs associated with these abuses may be significantly higher.

Key Recommendations

- Work with the other agencies involved in these cases to determine whether the dually employed individuals we identified are continuing to abuse time and attendance procedures. Take appropriate actions as warranted, including recovery of salary payments, adjustment of pension salary and service, and assisting in any further investigation.
- Ensure that other dually employed staff are working the time for which they are being paid.
- Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure that required policies and procedures are followed.

Other Related Audits/Reports of Interest

[Metropolitan Transportation Authority/Metro-North Railroad: Forensic Audit of Select Payroll and Overtime Practices and Related Transactions \(2010-S-60\)](#)

[Port Authority of New York and New Jersey: Management and Control of Employee Overtime Costs \(2009-S-87\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

December 19, 2013

Ms. Laurie A. Kelley
Acting Commissioner
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229-0001

Dear Acting Commissioner Kelley:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Office for People With Developmental Disabilities entitled *Dual Employment*. This audit was performed pursuant 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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Background

The Office for People With Developmental Disabilities (OPWDD) works to help people with developmental disabilities live richer lives. OPWDD achieves this by creating opportunities and supporting people in ways that allow for as many people as possible to access the supports and services they want and need. As of October 2012, OPWDD employed about 20,600 individuals throughout the State, some of whom are also employed by other government agencies. These dual employment situations can be advantageous for employees, but also pose additional risks for management ranging from conflicts of interest to opportunities for payroll fraud or abuse.

State Department of Civil Service regulations prohibit employees of a State agency from accepting an additional paid State position without first obtaining approval from the head of their agency or department. In addition, the State's Public Officers' Law addresses other activities (including any outside employment or serving on the board for a not-for-profit corporation) and requires employees to first obtain permission from their State agency and, in certain cases, the Joint Commission on Public Ethics if certain compensation amounts are reached. These limitations are designed to ensure that secondary employment does not create a conflict of interest with the employees' primary duties and responsibilities.

At the operational level, when individuals work for more than one State agency, they receive separate payroll checks generated through the State's central payroll system, which is operated by the Office of the State Comptroller's (OSC) Bureau of State Payroll Services. To receive payroll checks for both State positions, the employee is required to complete a "Dual Employment/Extra Service Approval Form" describing the work to be performed and, optionally, the work schedule of both positions. Employees must state that the second State position will not interfere with their regular duties and it must be approved by their home agency. Original approved forms must then be filed with OSC before additional salary payments can be processed.

Concerns about potential conflicts of interest also apply to State employees who seek employment at other public employers, including public authorities, the City of New York and other municipalities. However, since these entities are not part of the central State payroll system, the same operational controls are not in place to ensure conflicts are avoided. In fact, the State's central systems provide no assurance that these dually employed individuals have even informed their primary employer about their other job, let alone received their required approval. As a result, it is even more critical that each State agency establish its own policies and procedures governing dual employment situations, and that supervisors diligently monitor and enforce appropriate time and attendance requirements.

State time and attendance policies also require agencies like OPWDD to maintain adequate and accurate records of employee attendance. Unless specifically exempted, State employees must maintain a detailed record of actual hours worked, which should indicate the times the employee arrived, took lunch or breaks, and departed. Certain exempted employees are not required to maintain detailed arrival and departure times, but they must still maintain a record of daily presence and absences sufficient to serve as a basis for salary payments.

OPWDD requires its full-time employees to get approval before accepting a second job and prohibits such jobs from interfering with the employee's full-time responsibilities or representing a conflict of interest. OPWDD employees are also responsible for filling in the correct information on their time records, including the correct day and date, as well as the actual hours worked. Where start and end times are pre-populated on the employees' time records based on approved work schedules, staff and supervisors are required to make corrections if actual hours worked differ.

Audit Findings and Recommendations

Because of weaknesses in OPWDD policies and practices, direct managers and supervisors may not always know when staff members are involved in dual employment situations. Even when these arrangements are known, our review shows supervisors do not always take necessary steps to verify work schedules and attendance, or to otherwise ensure that employees do not engage in payroll abuse.

We identified 678 OPWDD staff members who were also employed by another State or New York City public agency from July 2009 through June 2010. Of these, we further identified 81 people who posed a particularly high risk for payroll abuse based on factors such as significant earnings from more than one employer during the same pay periods. Our review of time and attendance records submitted by these 81 staff identified 27 individuals (33 percent) who engaged in abusive payroll activity that resulted in payments for time that may not have been worked. In many cases, the records showed a pattern of routine, improper activity such as claiming to be working at two places at the same time, not allowing sufficient commute time between the end of one shift and the beginning of the next, and/or charging sick leave hours at one employer while working the same hours for another. Specific examples of these situations are detailed in subsequent sections of this report.

Supervisors are responsible for monitoring their employees and ensuring that they accurately report their time and attendance in accordance with both civil service and OPWDD requirements. Employees and supervisors both must certify that the time records correctly report time worked, leave accruals used and overtime to be paid. Certifications on these time records hold employees and supervisors responsible for any misrepresentations. We determined that failure to enforce time and attendance requirements resulted in an increased risk that dually employed individuals are being paid for time they do not work. We found these individuals were able to circumvent controls due to management's lack of supervision or, in some cases, with management's knowledge.

For each of the 27 individuals whom we identified as abusing their dual employment situation, we communicated specific results to OPWDD officials, as well as to officials at the other State or City agencies where they also worked. We also discussed certain cases with the employees' OPWDD supervisors, some of whom could not offer specific or adequate explanations for the inconsistencies and patterns that we observed, even though they had approved many of the time records in question. Even so, almost every supervisor we interviewed expressed confidence that their employees had not been paid for more hours than actually worked at their agency.

Except for cases involving sick leave abuse, it is unclear whether these staff failed to put in their required time at OPWDD, another agency or the combination of both. Collectively though, our review showed that the failure of supervisors at OPWDD or at the other agencies to enforce time and attendance rules resulted in an increased risk that employees were paid for more time than they actually worked. We estimate the cost of these abuses of time and attendance procedures to State and/or City taxpayers could be as high as \$107,000 for just these 27 employees over the

two- to three-year period for which time records were available, depending on location. Since many of the people we reviewed have held second jobs for many years, it is likely that the cost of their abuse is significantly higher. In addition, the effect of these abuses can continue to cost taxpayers for years to come, since the employees' inflated salaries can increase the cost of future pension benefits.

Overlapping Time Entries

One of the most basic risks posed by dual employment is that a person claiming to be in two places at the same time may be paid for the same hours by both employers. Our analysis identified 25 OPWDD employees who engaged in this practice. Our analysis of their time records submitted to each employer identified 555 occasions between July 2009 and March 2012 when they claimed to be working for more than one employer simultaneously. These claims amounted to about 816 hours of work that was not performed. In addition, for each of these instances there was also a commute period which further affected the potential number of hours these individuals were not at work. We estimated this additional commute time was 156 hours - increasing the time that work may not have been performed to 972 hours.

One OPWDD employee, a full-time Social Worker who is also a full-time Director at the New York City Administration for Children's Services (ACS), was dually employed for over four years. Between July 1, 2009 and March 9, 2012, her time records indicated there were 47 instances when she reported leaving ACS after the time that she reported starting work at OPWDD. These instances totaled 44.75 hours of work not performed. When interviewed, the employee stated that her day at OPWDD may start at various locations and at different times, but she did not change her time sheet when these variations occurred. During an interview, her OPWDD immediate supervisor acknowledged that she did not check on this employee to validate when she actually started her workday.

Another employee, a full-time Research Scientist at OPWDD's Institute for Basic Research (IBR) on Staten Island, also worked as an Adjunct Professor at the City University of New York's (CUNY) Staten Island Community College for over 10 years. We compared time records he submitted to both employers between September 1, 2009 and December 7, 2010, and identified 53 instances where hours worked at OPWDD overlapped CUNY courses he was teaching. Daily overlaps ranged from several minutes to almost four hours and, in total, amounted to 93 hours of work that was not performed. For example, on May 12, 2010, his OPWDD time records reflect that he worked from 7:30 a.m. to 4:30 p.m. at IBR. However, on this same day, CUNY time records reflect that he worked from 10:00 a.m. to 1:00 p.m.

In addition, as a result of our inquiry into this individual's work schedule, CUNY officials determined that he had been overpaid \$9,607 during the fall 2010 term for four courses that he did not teach. The overpayments were the result of a payroll error by CUNY staff that added certain previous course adjustments to the employee's contract for the then-current term. Although the employee was actually teaching only one class at the time, he routinely accepted the improper payments and failed to report the error to CUNY. In February 2012, CUNY officials notified us that they had begun efforts to recover these funds through periodic deductions from the employee's

ongoing OPWDD salary and had implemented new procedures to prevent similar errors.

Adjoining Work Schedules

Adjoining work schedules involve situations where an employee works two jobs, one of which ends precisely at the same time that the second begins. The problem with these situations is that they frequently do not account for the time it takes to travel between jobs. As a result, to get from one job location to the other, employees must leave their first job early or arrive at their second job late. Our analysis of time records identified three OPWDD employees who had 84 instances of adjoining work schedules.

Using estimates of travel time obtained, in part, through Internet mapping software, we determined that the minimum amount of travel time needed in these 84 instances totaled over 63 hours, which represents time for which these employees were paid but likely did not work. When questioned, some OPWDD supervisors claimed they had allowed individual employees to adjust their hours and work informal alternate schedules. However, the time records submitted by these employees and approved by their supervisors did not reflect such changes.

More than three-quarters of the incidents we identified were attributable to the same OPWDD Social Worker whose full-time employment with ACS is discussed in the previous section of this report. During the same period, her time records reflected 65 occasions where she reported having left one job and arriving at the second at the same time. During an interview, the employee explained that it took her no more than 30 minutes to commute between her work locations. However, the trip took our investigator a full hour following the same route and using the same mode of transportation described by the employee. Furthermore, Internet mapping software estimates the trip should take 49 minutes. Even using the shorter commute time estimate of 49 minutes, these instances translate into at least another 53 hours for which this employee was paid but likely did not work.

We also identified two individuals whose time records showed their work schedules, although not directly adjoining, did not allow enough time for normal travel between their different jobs. In total, these two employees had 131 instances totaling over 51 hours of time not worked.

Sick Leave Abuse

Dually employed individuals may use sick leave accruals to cover illnesses or other medically oriented situations like doctor appointments, but may not use accruals at one job and report for work at the other for the same periods of time. Our analysis identified eight OPWDD employees who abused their sick leave in this manner.

Three of these employees charged a total of 87.5 hours of sick leave at OPWDD at times when they reported working at other agencies. For example, one OPWDD Developmental Aide's time sheets indicate he charged 64 hours of unscheduled sick leave on nine occasions when we determined he either attended, or was traveling to, athletic events associated with his SUNY employment. On

six of these occasions, it appears he was traveling with a college basketball team to games out of state.

Five other OPWDD employees charged 190 hours of sick leave at their other places of employment when they reported working the same hours at OPWDD. In each case, we shared the information with these other agencies for follow-up and appropriate action.

Recommendations

1. Work with the other agencies involved in these cases to determine whether the dually employed individuals we identified are continuing to abuse time and attendance procedures. Take appropriate actions, as warranted, including but not limited to:
 - recovering inappropriate salary payments;
 - identifying inappropriate salary and service and contacting the appropriate New York City retirement system and/or the New York State and Local Retirement System to submit salary and service adjustments for the appropriate time periods; and
 - assisting in any further investigation.
2. Ensure that other dually employed staff are working the time for which they are being paid.
3. Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure required policies and procedures are followed.

Audit Scope and Methodology

The objective of our audit was to determine whether OPWDD employees who have dual employment at other State or New York City agencies are working their required hours at each employer. Our audit period was July 1, 2009 through March 9, 2012.

To accomplish our objective, we reviewed OPWDD policies and procedures, along with relevant regulations and employee labor agreements. We also interviewed OPWDD employees and their supervisors and other State and New York City officials and made site observations. We used computer-based audit techniques to match the State and New York City payroll records for the 12-month period July 2009 through June 2010. This analysis identified 678 OPWDD employees who also worked for other State and New York City agencies. We considered 81 of these employees to be high risk based on several factors, including having worked for one or more employers during the same pay period, and having combined income from all employers of \$50,000 or more, including at least \$5,000 or \$10,000 from another State or New York City agency, respectively.

For each of these 81 employees, we reviewed payroll records, time sheets and other supporting documentation. Our tests were designed to uncover conflicts in work schedules and time records submitted for each employee. For reporting purposes, we limited our findings to cases where the value of lost time exceeded \$500.

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 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.

Authority

The audit was performed 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.

Reporting Requirements

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

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Acting Commissioner of the Office for People With Developmental Disabilities shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



NYS Office For People With Developmental Disabilities

Andrew M. Cuomo, Governor
Laurie A. Kelley, Acting Commissioner

September 18, 2013

John Buyce, CPA, CIA, CGFM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
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Mr. Buyce:

The Office For People With Developmental Disabilities (OPWDD) reviewed the Office of the State Comptroller's (OSC) draft audit report (2011-S-22) entitled Dual Employment. As per our attached response, OPWDD will take corrective action to enhance internal controls in this area, and we appreciate the efforts of OSC staff in bringing them to our attention. That being said, we do have specific concerns which are briefly described below.

Throughout the audit process (preliminary report, closing conference, etc) up until the issuance of the draft audit report, the audit results identified "potential" payroll abuse by 26 staff who worked for OPWDD and another agency. The preliminary report's recommendation stated that OPWDD should "...investigate instances of potential fraud and wrongdoing we identified..." However, the draft audit report states a much different conclusion - that all 26 staff did, in fact, engage in abusive payroll activity resulting in payments for time not worked.

OPWDD has two main concerns; the audit process, and the unexplained change in the audit results. We were not informed that the results had changed, the reason the report changed, or given documentation to support the change. Neither was OPWDD given an opportunity to discuss these "new" audit results. Additionally, we believe that in many of the instances, the conclusion is erroneous. We understood that OSC characterized its findings as "potential" payroll abuse and in response, we began investigations of the 26 identified cases. The 13 completed investigations have not identified any payroll abuse, and additional investigation of the remaining items may have also yielded legitimate explanations for the apparent abuses noted by your auditors.

The attached provides more information regarding our concerns and how they affect OPWDD. It also includes our formal response to the specific recommendations contained in the draft report for your consideration. If you have any questions or concerns, please contact me directly at 518-474-4376 or Mary.E.Peck@opwdd.ny.gov.

Respectfully,

Mary E. Peck, CIA, CCSA, CGAP, CRMA
Director, Office of Internal Control

Attachment

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We help people with developmental disabilities live richer lives



**Office For People With Developmental Disabilities (OPWDD)
Response to the Office of the State Comptroller's (OSC)
Draft Audit Report (2011-S-22)
Dual Employment**

As illustrated in the Response to the Recommendations section of this response, OPWDD will take the necessary corrective actions to enhance internal controls in this area, and we appreciate the efforts of OSC staff in bringing them to our attention. However, OPWDD has concerns with the draft audit report, which are described below.

Change From Potential Payroll Abuse to Actual Payroll Abuse in Draft Audit Report

Throughout the audit process the results of the audit were of "potential" payroll abuse by 26 individuals who worked at OPWDD and another agency. The preliminary report's recommendation was for OPWDD to "*Investigate instances of potential fraud and wrong doing we identified...*" Approximately six months after the closing, the draft audit report was issued which states a much different conclusion, that all 26 staff did commit wrongdoing, violating time and attendance rules and engaging in abusive payroll activity, resulting in payments for time not worked.

At the closing conference with OSC we discussed the audit results, the potential abuse, and need for OPWDD to investigate in concert with other involved agencies. We are not aware of any additional audit work being done to arrive at the new conclusion (or any other support for it) that all 26 staff did, in fact, commit payroll abuse, and we were not given any opportunity to discuss the new audit results.

*
Comment
1

OPWDD does not agree with the findings stated in the draft audit report. Specifically, that all 26 staff committed payroll abuse. Legitimate explanations have been identified for 13 of the 26, and further investigation of the remaining instances may have found similar results.

The following are examples that we found through our investigation where there was a legitimate explanation:

- We discussed a case with a liaison from another agency regarding a time overlap with an OPWDD employee, and found that the records of actual work time reflected on time sheets at her agency (which were apparently used by OSC) were not used for her agency's payroll submissions.
- There was a case of overlapping schedules, and our investigation found it was easily explained as a data entry error. OPWDD's uses TIMES (an electronic system designed to record actual hours worked and track leave accruals) and OSC used time sheets derived from TIMES in its analysis. However, in this instance the employee mistakenly entered PM instead of AM. As a result of this data entry error, it showed a morning shift when the person actually worked evenings.
- The audit identified a potential internal control weakness within the TIMES system. TIMES pre-populates an employee's work hours for each day over a two week pay period based on a regular schedule, and it's cumbersome to change the hours. We've learned that OPWDD staff and supervisors may not accurately change actual hours worked each day, but merely be concerned that the total hours worked and accrual charges, if any, are accurate. This explains some of the identified problems, as supported by the following examples cited in the preliminary report:
 - OSC staff observed an employee arriving at 3:30 at OPWDD for work; she correctly signed in at 3:30, but her TIMES record showed her work day starting at 3:00. Per OSC the employee stated that she makes the hours up if she is late but does not change TIMES; she was more concerned with working the correct number of hours and not the actual hours as recorded in TIMES. **Note:** We asked and OSC informed us that they did not observe/check to see if the employee made up the hours (e.g., observance or even a review of a sign-out sheet).



- An individual had overlapping and adjoining work schedules, and the report includes the following statement regarding this individual: “The immediate supervisor did not have employees update their actual hours on the time reports; she felt if the employee was working eight hours, this was sufficient.”

These issues may illustrate an internal control weakness, but are not indicative (without further review/investigation) of definitive time and attendance payroll abuse, or circumventing payroll practices for personal gain, as described in the draft report.

We respectfully request that OSC change the wording of the final audit report to more accurately reflect the circumstances as supported by the preliminary findings, the closing conference, and OPWDD’s investigations to date.

Clarity

The draft audit report identified 26 individuals who worked for OPWDD and another agency, and states that all of them abused time and attendance and were paid for time not worked. While the draft report states that it is not possible to determine whether these staff failed to work required time at OPWDD, a reader may come away with the false impression that: (1) abuse was verified in all instances; and (2) all abuse occurred on OPWDD time. It has not been determined if abuse occurred for all these individuals, nor whether it occurred at OPWDD.

The report also states “Because of weaknesses in OPWDD policies and practices, managers and supervisors do not always know when staff members are involved in dual employment situations. Even when these arrangements are known and sanctioned...” OPWDD’s policy requires pre-approval through department heads and the report cites no instances where this requirement was not met nor of any issues resulting from staff not being aware of the requirement.

We respectfully request that the final audit report be reworded to reflect that OPWDD has an appropriate pre-approval policy in place that has been followed, and also to provide more clarity regarding the circumstances surrounding the potential cases of payroll abuse (to address our concerns described above).

RESPONSE TO THE RECOMMENDATIONS

Recommendation #1:

Work with the other agencies involved in these cases to determine whether the dually employed individuals we identified are continuing to abuse time and attendance procedures. Take appropriate actions, as warranted, including but not limited to:

- *recovering inappropriate salary payments;*
- *identifying inappropriate salary and service and contacting the appropriate New York City retirement system and/or the New York State and Local Retirement System to submit salary and service adjustments for the appropriate time periods; and*
- *assisting in any further investigation.*

OPWDD Response

OPWDD does not agree that all 26 individuals were involved in time and attendance and payroll abuse. OPWDD has already started investigations into these cases and found legitimate explanations for the 13 cases where the investigation has been completed. For those still employed, OPWDD will review as



necessary, to determine if there is any impropriety and will take corrective actions as/if necessary. To the extent internal control weaknesses are identified, these will be remediated.

Recommendation #2:

Ensure the other dually employed staff are working the time for which they are being paid.

OPWDD Response

OPWDD does not agree that all 26 individuals were involved in time and attendance and payroll abuse. After completion of its investigation for those of the 26 staff who are still employed, OPWDD will use this information as a factor in taking any further actions pertaining to other dually employed staff, in an effort to ensure that they are working the time for which they are being paid. To the extent internal control weaknesses are identified, these will be remediated.

Recommendation #3:

Provide pertinent time and attendance training to dually employed staff and their supervisors, and assure required policies and procedures are followed.

OPWDD Response

OPWDD agrees with this recommendation. OPWDD's Division of Workforce and Talent Management will issue reminders to dually employed staff and their supervisors regarding policies and procedures, and will also issue reminders and update guidance given to all staff on the use of the TIMES payroll system. The emphasis will be on the importance of the accuracy of TIMES records, and that they must reflect the actual hours worked by employees.

We would like to take this opportunity to thank your audit team for their professionalism, and also for the opportunity to respond to the findings contained in this draft report. Should you have any questions, please don't hesitate to contact Mary E. Peck, Director of Internal Control, at 518-474-4376 or Mary.E.Peck@opwdd.ny.gov

State Comptroller's Comment

1. In responding to our draft report, OPWDD officials expressed their support for our recommendations and the actions necessary to correct the weaknesses we highlighted. At the same time, officials do not agree that every one of the 26 individuals we cited definitively engaged in abusive payroll activities. Rather, they noted that their own subsequent investigations have identified what they term to be "legitimate explanations" for half of the cases we cited.

The cases we cited are based on our analysis of the official time records prepared and submitted by these employees, and reviewed and attested to by their supervisors. As the principal employer that initially authorized many of these dual employment relationships, it is incumbent upon OPWDD and its supervisory staff to ensure that these records are accurate and that these arrangements do not interfere with the staff members' primary duties. It is our understanding that many, if not all, of the "legitimate explanations" to which officials refer are simply unsupported excuses offered by staff and supervisors regarding why they may have submitted or approved time records that did not reflect the actual times that they contend the staff worked. However, it is important to note that falsifying such records is, in and of itself, an abuse of the systems. Further, officials have not provided us with any other records (e.g., time cards, log books or sign-in/sign-out sheets) that demonstrate the employees actually worked during different times. Absent this additional information, we must conclude that staff manipulated or otherwise abused the systems, resulting in payments for time that records indicate was not worked.