



State of New York
Andrew M. Cuomo
Governor



Office of Mental Health
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April 28, 2014

Michael Solomon, CPA
Audit Manager
Office of the State Comptroller
Division of State Services
110 State Street
Albany, NY 12236

Dear Mr. Solomon:

The Office of Mental Health has reviewed the Office of the State Comptroller's Follow-Up Report 2013-F-22, concerning the actions taken to implement the recommendations presented in the prior OSC audit report entitled, Control Over State Resources (2008-S-145). Our comments to the follow-up report are enclosed.

OMH appreciates the Office of the State Comptroller's continuing efforts to recommend improvements in our operations.

Sincerely yours,

Martha Schaefer Hayes
Executive Deputy Commissioner

Enclosure





NEW YORK STATE PSYCHIATRIC INSTITUTE

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NEW YORK STATE PSYCHIATRIC INSTITUTE RESPONSE TO OFFICE OF THE STATE COMPTROLLER REPORT 2013-F-22 CONTROLS OVER STATE RESOURCES

NYSPI Comments

The New York State Office of Mental Health (OMH) and New York State Psychiatric Institute (NYSPI) have received the findings of the Office of the State Comptroller (OSC) report 2013-F-22, *Controls over State Resources*. We appreciate the time and effort the OSC staff made in attempting to understand the nature of our work and our work product and reconcile our operations with its standard auditing framework. We recognize that NYSPI represents an anomaly within OMH operations and presents a unique challenge to OSC in these efforts.

NYSPI research staff fulfills all obligations as employees of NYS in terms of hours worked in the service of New York State (NYS), and their productivity on behalf of the Office of Mental Health continues to be best measured by their unparalleled success in advancing the Agency's research mission and bringing federal and other grant revenue to NYS. We therefore recognize the importance to NYS, to the people of NYS, and to the funding agencies that support investigator salary, that we remain effective and honest stewards of the investment each makes to our research enterprise. To that end we have dedicated a significant amount of staff time to ensure that dually salaried faculty differentiate NYS and Columbia University effort, and we are confident that NYS salary paid to the Institute's dual-salaried employees is consistent with our mission. We believe that we have taken necessary and reasonable steps to document this and will continue to implement the efforts as outlined in OSC's report and described further in our responses below to OSC's follow-up observations.

NYSPI also notes that OSC's report includes the steps taken thus far to implement the recommendations regarding space sharing arrangements and management of the State's ownership rights in patents. Ongoing efforts continue in those areas, that once completed, will result in full implementation of additional OSC recommendations.

OSC'S Follow-Up Observations

OSC Recommendation No. 1

Prepare and maintain work assignment records for each Institute employee detailing what project(s) each is working on. These records should be reviewed and approved by a supervisory level employee who works solely for the Institute/State and reports directly to OMH officials.

Status - Partially Implemented

Agency Action - In response to this recommendation, the Institute required its dually employed staff to prepare work assignment records detailing what project(s) they were working on. These records were prepared for a variety of two-week periods between October 15, 2011 and June 15, 2012 and showed that employees' time allocated to State duties either equaled or exceeded the number of hours for which they were paid by the State. These documents were signed by the employees as well as their supervisors. On October 1, 2013, while we were on site performing our follow-up, Institute officials e-mailed a request to 93 currently dually employed staff to obtain work assignment records for another two-week period. These records once again supported the number of hours for which the selected individuals were paid. Going forward, the Institute plans to randomly select 10 dually employed staff every three months to submit these work assignment records for review. In addition, the Institute is implementing a new effort reporting system that will allow verification of dually employed staff work effort on research projects. The Institute has been training its staff on this new reporting system since December 2013, and estimates full implementation by spring 2014. We believe these actions will improve the Institute's ability to demonstrate that dually employed staff provide the required number of hours to the State.

NYSPI Response (See Response to OSC Recommendation #3)

Recommendation No. 2

Investigate the actual work activities of the 11 employees cited in this report and recoup any overpayments as appropriate.

Status - Partially Implemented

Agency Action - Institute officials investigated the work activities of the 11 employees by having each of them prepare work schedules listing their daily State activities for a time period within the scope of our original audit. The forms created were signed by the employees and their supervisors. The forms only included the time the dually employed employees dedicated to State services. However, no third-party independent investigation was performed covering the work activities of these employees for the entire audit scope period.

NYSPI Response

As stated by OSC in the agency action section just above, NYSPI investigated the actual work activities of the 11 employees cited. It was determined that there were no overpayments. NYSPI believes that OSC's Recommendation #2 was fully implemented.

OSC Recommendation No. 3

Perform periodic reviews of the work activities of all Institute employees on multiple payrolls to ensure that the salary payments they receive from the Institute are supported by their time and effort commitment to the State. Discrepancies should be investigated and restitution sought as appropriate.

Status - Partially Implemented

Agency Action - Since the issuance of our original report, Institute officials have reviewed the work activities of all dually employed staff on both the Institute and Columbia payrolls. In October 2011, Institute officials performed a one-time review of all such employees, requiring them to prepare a two-week work assignment record that showed their work activities. In addition, in October 2013, they sent out notices to the 93 dually employed staff asking them to once again prepare these work assignment records. Institute officials also stated that, going forward, they plan to review the work effort of 10 randomly selected dually employed staff every three months.

NYSPI Response to Recommendations 1 and 3

NYSPI has completed 170 audits of dually salaried employees representing all dually salaried employees, with some having been audited more than once. Going forward a random sample of 10 dually employed staff will be selected and audited every three months, this effort supplemented with an effort reporting system developed over the last year. All audits are reviewed by the employee's supervisor with oversight from senior management.

In addition, OMH and NYS civil service mandates require NYSPI administration to provide oversight of employee effort through a variety of procedures including weekly sign-in/sign-out sheets, monthly time and attendance forms, annual performance standards, effort and salary reconciliation on sponsored projects at the divisional and institutional level, review and approval of outside activities, and ongoing supervision, all of which serve to inform NYSPI management about the State activities in which the employee is involved.

OSC Recommendation No. 4

Formalize any use of space arrangements between Institute and Columbia officials. These arrangements must ensure that the Institute is paid fair consideration for the use of its facilities.

Status - Partially Implemented

Agency Action - Institute and Columbia officials entered into a Revocable Permit agreement for the use of space at 1051 Riverside Drive by Columbia employees. However, rather than requiring Columbia to pay the fair market value of the space it occupies, the agreement instead requires that Columbia reimburse the State for operating expenses (maintenance, housekeeping, security, fuel and utility charges) associated with Columbia's use of the space. The agreement was implemented for a two-year period beginning July 1, 2011, and has been extended for another two-year period, covering July 2013 through June 30, 2015. Payments from Columbia are to total about \$50,000 each year. This agreement was not submitted to the State Attorney General's Office or the Office of the State Comptroller's Bureau of Contracts for review and approval as required. Institute officials indicated that they are pursuing a formal lease agreement with Columbia that will require payment from Columbia based on prevailing market rates. These officials also indicated that, once agreed upon, the lease agreement will be submitted to the State Attorney General's Office and the Office of the State Comptroller for review and approval. We recommend that the Institute promptly submit this agreement once reached.

NYSPI Response

OMH is pursuing a formal lease agreement with Columbia that will require payment from Columbia based on prevailing market rates. A fair market rent study has been requested through DASNY. Once agreed upon, the lease agreement will be submitted to the Office of the State Comptroller for review and approval.

OSC Recommendation No. 5

Pursue the State's ownership rights regarding the two technologies discussed in this report.

Status - Partially Implemented

Agency Action - Institute officials have pursued agreement on an Inventions and Technology Transfer Policy with Columbia since 2009. However, to date no agreement has been reached. Institute and Columbia officials have formally agreed to continue to negotiate in good faith to reach a resolution of intellectual property issues as they arise and, where necessary, enter into inter-institutional agreements if patents for newly discovered technologies are to be pursued.

NYSPI Response

The Institute and Columbia are negotiating a Technology Transfer Agreement which is intended to support compliance with each of their respective Inventions and Technology Transfer Policies. The parties have informally agreed to continue to negotiate in good faith to reach a resolution of intellectual property issues as they arise and, where necessary, enter into inter-institutional agreements if patents for newly discovered technologies are to be pursued. The parties met for negotiations in early March and Columbia is currently making revisions to the most recent draft agreement.

OSC Recommendation No. 7

Establish a process to monitor compliance with the Institute's Policy.

Status - Partially Implemented

Agency Action - The Institute and Columbia have been in communication regarding any new and pending inventions in which the State may have an interest, and Columbia has agreed that such inventions will be subject to the Policy. However, there have not been any recent inventions that would require monitoring of compliance with the Policy. We note that, effective January 1, 2014, an additional attestation consistent with the Policy was added to the Institute's Application for Approval of Outside Employment form. This document requires employees to acknowledge, as part of their request to work for Columbia, which "OMH reserves the right to the ownership of a particular invention, technology or patent developed using any State resources."

NYSPI Response

The Institute and Columbia continue to exchange information regarding new and pending inventions in which the State may have an interest, and have agreed that such inventions will be subject to the Technology Transfer Agreement that is ultimately negotiated. In the interim, the parties have informally agreed, where necessary, to enter into inter-institutional agreements if patents for newly discovered technologies are to be pursued.