



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

Division of State Government Accountability

Fiscal Oversight and Monitoring of AIDS Institute Service Provider Contracts

Department of Health



Report 2016-S-30

May 2017

Executive Summary

Purpose

To determine if the Department of Health's AIDS Institute (Institute) has provided effective oversight of its service provider contracts to ensure claimed expenses are program appropriate and consistent with contract requirements. Our audit covered the period April 1, 2014 through February 6, 2017.

Background

The Institute's stated mission is to protect and promote the health of New York State's diverse population through disease surveillance and the provision of quality prevention, health care, and support services for those impacted by HIV/AIDS, sexually transmitted diseases, viral hepatitis, and related health concerns. In addition, the Institute promotes the health of LGBT populations and substance users and the sexual health of all New Yorkers. The Institute executes approximately 700 State and federal contracts annually and processes voucher payments to those contractors. The Institute has developed guidelines, materials, and strategies for not-for-profit agencies to strengthen financial management and internal control structures, and oversees a management review program that assists grantees to ensure solvency and effective operations.

In September 2014, the Comptroller's Bureau of State Expenditures issued a report detailing problems found with payment claims submitted by one Institute contractor (the Long Island Association for AIDS Care, or LIAAC). Of about \$2.3 million that the Institute paid to LIAAC during the year ended June 30, 2012, the examination identified over \$178,000 of inappropriate and questionable expenses. In response to the report, officials acknowledged that the Institute's risk assessment process had focused on identifying agencies in poor fiscal health, and that a broader look at other characteristics and areas of risk was needed. The Institute agreed to recover the inappropriate payments and develop new control activities.

From April 1, 2014 through May 9, 2016, the Institute managed 872 contracts totaling more than \$225 million. These contracts provide a range of services including syringe exchange, intervention, counseling and testing, and housing.

Key Findings

- The Institute has taken several steps to update its procedures to address problems with contractor cost claims that were identified prior to this audit. However, the Institute needs to further improve its internal controls to provide effective oversight and monitoring, and thereby ensure that claimed contractor expenses are program appropriate and consistent with contract requirements.
- The Institute continues to place significant reliance on its budget approval and monitoring process, whereby controls ensure budgeted cost categories are allowable and actual costs do not exceed budget line item amounts. However, the Institute does not require detailed listings of costs or other supporting documentation to accompany voucher submissions. As such, the Institute has insufficient assurance that all claims for reimbursement are appropriate.
- Although Institute personnel conduct periodic fiscal monitoring reviews, the Institute did

not meet its formal goal to examine each contractor at least once every two years in at least one-third of the cases we reviewed. For 152 contractors, we compared the time that elapsed between the last two reviews and found that, for 58 (38 percent), the time frame exceeded the two-year requirement by at least 30 days. Of these 58 contract reviews, 27 were more than 60 days late. Most importantly, its practice of reviewing only one monthly voucher claim for every two-year period provided very limited assurance that contractors: routinely claimed only allowable expenses; maintained appropriate documentation to substantiate voucher claims; and properly allocated expenses across multiple funding sources.

- The Institute's practice of providing contractors with advance notice of the month to be reviewed, along with details of the specific costs to be examined, gave contractors considerable opportunity to fabricate supporting documentation for such costs. In addition, the Institute's practices provided contractors with opportunity to manipulate expenses claimed on vouchers for other months throughout the two-year cycle, which most likely would not be selected for detailed Institute review.
- When a review uncovered claimed expenses that are not allowable, the Institute generally did not expand the review beyond the selected month to determine if similar problems existed with other months' claims. Also, in some cases, the Institute did not take action to recover amounts corresponding to ineligible cost claims. For example, although a contractor could not provide appropriate documentation to support \$12,275 of miscellaneous costs, supplies, and travel expenses that it claimed, the Institute did not recover the unsupported costs.

Key Recommendation

- Further strengthen controls to provide additional assurance that contractors' claimed expenses are program appropriate and consistent with contract requirements. Such controls should include, but not be limited to:
 - Requiring contractors to submit detailed listings of expenses along with their vouchers;
 - Incorporating an analysis of the detailed expenses in the risk assessment process to determine what costs to review during the on-site fiscal review;
 - Incorporating an examination, based on the risk assessment, of an unannounced sample of expenses during on-site fiscal reviews;
 - Performing an expanded analysis of claimed expenses to determine the full extent to which certain non-allowable expenses, identified during a standard one-month review, were also claimed in prior months; and
 - Implementing controls over fiscal monitoring reviews to ensure that recoveries are consistently made and that each contractor is reviewed timely.

Other Related Audit/Report of Interest

[Department of Health AIDS Institute: Long Island Association for AIDS Care, Inc. \(2012-0063\)](#)

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

Division of State Government Accountability

May 22, 2017

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Empire State Plaza
Corning Tower Building
Albany, NY 12237

Dear Dr. Zucker:

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 entitled *Fiscal Oversight and Monitoring of AIDS Institute Service Provider Contracts*. This audit was performed pursuant to the State Comptroller's authority under 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 report, please feel free to contact us.

Respectfully submitted,

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

Table of Contents

Background	5
Audit Findings and Recommendations	7
General Fiscal Oversight	7
Performance of Fiscal Monitoring Reviews	9
Recommendation	11
Audit Scope, Objectives, and Methodology	11
Authority	12
Reporting Requirements	12
Contributors to This Report	14
Agency Comments	15
State Comptroller's Comments	18

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This report is also available on our website at: www.osc.state.ny.us

Background

The mission of the Department of Health's AIDS Institute (Institute) is to protect and promote the health of New York State's diverse population through disease surveillance and the provision of quality prevention, health care, and support services for those impacted by HIV/AIDS, sexually transmitted diseases, viral hepatitis, and related health concerns. In addition, the Institute promotes the health of LGBT populations and substance users and the sexual health of all New Yorkers.

The Institute's Office of Administration and Contract Management is responsible for setting Institute policy and for oversight of all Institute activities related to grants and contract management, budget development, fiscal management, and operations management. The Institute carries out key activities necessary to ensure that AIDS service dollars from all sources, including State, federal, and Medicaid, are devoted to the development and implementation of a full continuum of HIV services throughout the State.

The Institute executes approximately 700 State and federal contracts annually and processes voucher payments for those contractors. From April 1, 2014 through May 9, 2016, the Institute managed a total of 872 contracts totaling more than \$225 million. These contracts provide a range of services including syringe exchange, intervention, counseling and testing, and housing. The Institute develops guidelines, materials, and strategies to help not-for-profit agencies strengthen financial management and internal control structures, and oversees a management review program that assists grantees in ensuring their solvency and effective operations.

In September 2014, the Comptroller's Bureau of State Expenditures issued a report detailing problems found with payment claims submitted by one Institute contractor (the Long Island Association for AIDS Care, or LIAAC). Of about \$2.3 million the Institute paid to LIAAC during the year ended June 30, 2012, the examination identified over \$178,000 of inappropriate and questionable expenses, including:

- \$52,972 for rent in excess of the going rate for comparable properties;
- \$22,225 in unsubstantiated travel expenses;
- \$4,400 for a duplicate claim for the same expense;
- \$18,726 for expenses that were not consistent with the related budget category; and
- \$2,078 in payments to a vendor that was not approved by the Institute.

Several of the questioned expenditures also appeared to personally benefit at least one organization executive. In response to that report, Department of Health officials acknowledged that the Institute's risk assessment process had focused on identifying agencies in poor fiscal health, and that a broader look at other characteristics and areas of risk was needed. Further, officials agreed to recover the inappropriate payments, and further pledged to develop new control activities to add to their standard procedures for contracting and contract monitoring.

Under its current policies and procedures, when the Institute awards a grant and executes a

contract, it reviews a proposed budget to ensure that planned costs are appropriate for the contract's work plan and deliverables. Additionally, for all contracts, the Institute verifies that the costs are allowable under the Uniform Guidance issued by the federal Office of Management and Budget (OMB). Contractors, in turn, submit periodic vouchers for reimbursement by the Institute. Each voucher contains a Budget Statement Report of Expenditures (BSROE), which lists an itemized breakdown of employees being claimed on the voucher for the month. The BSROE also contains high-level other than personal service (OTPS) categories for reimbursement. These OTPS categories include supplies, equipment, subcontractor/consultants, administrative costs, and other miscellaneous expenses. When vouchers are submitted for reimbursement, the Institute compares the voucher to the contractor's approved budget. Institute staff ensure that the employees claimed for reimbursement were listed on the budget, and that the amounts claimed for personal services and OTPS do not exceed the amounts in the budget.

The Institute also performs periodic fiscal monitoring reviews of each contractor. According to its policies, these reviews are designed to achieve several goals:

- Ensure the contractor's compliance with the fiscal requirements of its contracts;
- Assess the strengths of its fiscal systems and identify areas for improvement;
- Verify actual contract expenses;
- Provide technical assistance, or work with the contractor to secure appropriate assistance;
- Provide guidance in the resolution of fiscal issues; and
- Ensure that any recommendations resulting from prior monitoring efforts have been implemented.

According to the Institute's policies and procedures, at a minimum, a fiscal monitoring review should be conducted at least once every two years for each contractor. These reviews may be performed either on site or as a desk review. During this process, the contractor is required to provide the Institute with full back-up documentation for one voucher. Institute officials stated that they usually review the most recent month for which the contractor has submitted a claim voucher.

The Institute has also developed a fiscal monitoring tool that outlines what should be verified during these reviews. The fiscal monitoring tool includes a review of time and effort reports, payroll records, personal service and OTPS expenses, allocated expenses, related-party transactions, fiscal systems, conflicts of interest, fundraising, and corporate credit card use. If issues are identified, policies require the contractor to prepare a written plan of action or correction within 30 calendar days from the date the reviewer's written report is issued.

Audit Findings and Recommendations

Subsequent to the Comptroller's report on LIAAC, Institute officials took several steps to update procedures for overseeing and monitoring contractors' cost claims. This included expanding fiscal monitoring reviews to include more routine examination of related-party transactions and fundraising costs (two issues central to the problems identified with LIAAC). Nonetheless, the Institute needs to further improve certain control procedures to provide effective fiscal oversight and ensure that claimed contractor expenses are program appropriate and consistent with contract requirements.

We concluded that the Institute's fiscal monitoring review processes do not adequately mitigate the risk that contractors claim inaccurate, inappropriate, or duplicate expenses throughout contracts' terms. Instead, the Institute relies primarily on its budget approval and monitoring processes, wherein controls are designed to ensure that claimed expenses align with established budget categories and budget line item amounts are not exceeded. However, because the Institute does not require supporting documentation for non-equipment voucher submissions, officials have insufficient assurance that all contract reimbursements are for allowable and supported costs.

Although Institute personnel conduct periodic fiscal monitoring reviews, the Institute has not met its goal of examining each contractor at least once every two years in at least one-third of the cases. For 152 contractors, we compared the time that elapsed between the last two reviews, and found that, for 58 (38 percent), the time frame exceeded the two-year requirement by at least 30 days. Of these 58 contract reviews, 27 were more than 60 days late. In addition, the Institute's practice of reviewing only one monthly voucher claim for every two-year period provides insufficient assurance that contractors: claim only allowable expenses; maintain appropriate documentation to substantiate voucher claims; and properly allocate expenses across multiple funding sources. Further, the Institute's practice of providing advance notice to contractors specifying the month that will be reviewed, along with the detail of what specific costs will be examined, gives contractors opportunity to fabricate documentation for the requested month in review. In addition, the practice provides contractors opportunity to manipulate expenses claimed on other months' vouchers throughout the two-year review cycle, which likely will not be subject to detailed Institute review.

Finally, when a review uncovered claimed expenses that were not allowable, the Institute did not expand its review beyond the selected period to determine if similar problems existed with other months' claims. In some cases, Institute officials did not take steps to recover disallowed costs.

General Fiscal Oversight

As the contracting agency, the Institute is responsible for program and fiscal oversight of the contracts that it awards. Fiscal oversight includes verifying that costs claimed are allowable. Language in the New York State Master Grant Contract requires adherence to the OMB Uniform Guidance, which details certain requirements for costs to be allowable. For example, costs must be necessary and reasonable for the performance of the award, recognized in accordance with

generally accepted accounting principles, and adequately documented.

The Institute's procedures for fiscal oversight begin with its review of the contract and its budget. Each line of the budget and each item of expense proposed in the contract are reviewed for propriety with the program being implemented and to ensure expenses are allowable under OMB's Uniform Guidance. When a contractor submits a claim voucher for payment, the Institute compares the voucher to the contractor's approved budget. Institute staff ensure that the employees claimed for reimbursement are listed on the budget and that the amounts claimed for personal services and OTPS do not exceed the amounts in the budget.

The Institute also performs periodic fiscal monitoring reviews of the contractors, wherein staff are expected to check supporting documentation for expenses claimed on vouchers submitted for reimbursement. However, our examination of documentation supporting these reviews found the Institute performs only minimal review of supporting documentation. Furthermore, the Institute gives contractors such advance notice about the examinations' timing and content that reviewers have diminished ability to identify improper charges.

According to the Institute's policies and procedures, each contractor should be subject to a fiscal monitoring review at least once every two years. In most cases, the biennial review is performed for one month's claimed costs, usually the most recent month for which the contractor submitted a voucher. We found that the Institute routinely provides contractors with advance notice of which month's voucher will be reviewed, as well as specific details of the costs that will be tested during the review. The Institute sends the contractor a request detailing what documentation is needed for the review. For personal service expenses, this includes time and effort records, payroll registers, employee leave accrual records, and proof of payment for payroll taxes and fringe benefits for a sample of employees. For OTPS expenses, the Institute asks the contractor to provide purchase orders, invoices or bills, and proof of payment for any subcontractor or consultant costs, supplies, travel, or other miscellaneous expenses such as space-related costs, utilities, and telecommunications charges.

To determine how well the Institute complied with its policy of examining each contractor biennially, we analyzed the listing of 191 contractors that had active State contracts as of March 31, 2016. Of these 191 contractors, we excluded 39 because either their reviews were not yet due at the time we received the listing or a biennial review was not required by Institute policy due to the nature of the contract. Among the remaining 152 contractors, we found that, for 58 (38 percent), the time lapse between the last two reviews exceeded the two-year requirement by at least 30 days. Of these 58 contract reviews, 27 were more than 60 days late.

By typically reviewing only one monthly voucher every two years, and not always meeting that requirement, the Institute had little assurance that contractors: routinely maintained appropriate documentation to substantiate voucher claims; properly allocated expenses across funding sources; and/or claimed only allowable expenses. Further, by limiting reviews to one month and providing advance notice of the month to be reviewed (as well as the detail of the review), Institute officials had minimal assurance that any abusive claims would be detected. Because the monthly vouchers generally do not include specific details about the OTPS costs claimed, the

Institute's fiscal review process provides contractors with the opportunity to fabricate support for inappropriate cost claims. It also does not effectively mitigate the risk that contractors claim the same costs on multiple vouchers throughout the contract term.

In response to our preliminary findings, the Institute disagreed with our conclusions. Officials stated that it is a substantial task to ensure adequate oversight, and they believe that over time they have established strong fiscal protocols. Institute officials also stated that it would be difficult to limit the notice that is given to contractors before the fiscal monitoring reviews take place because of the amount of time required for contractors to provide the information. Additionally, they noted that some reviews are done as desk reviews, where no site visit is involved and the provider instead sends the required information to the Institute. Finally, throughout our audit, Institute officials stated that they simply do not have adequate resources to review the support for vouchers at the time they are submitted for reimbursement.

We acknowledge that the Institute cannot reasonably require, nor physically examine, complete documentation for every claimed cost at the time a voucher is received. Nevertheless, it could use staff resources more efficiently and effectively through a more strategic approach to identify higher-risk costs. For example, if the Institute required contractors to submit budget line item details of expenses included on each voucher, it could use this data to more effectively analyze voucher submissions for costs of comparatively higher risk. Staff could then examine these costs in more detail, without prior provider notification, as vouchers are received or during on-site fiscal reviews.

Performance of Fiscal Monitoring Reviews

From a listing of fiscal monitoring reviews that were performed during our audit period, we selected a sample of 25 of the 217 contractors to determine if the Institute consistently disallowed funds when it identified an inappropriate allocation, an unallowable expense, or an undocumented cost. (The population for this sample is larger than the 191 active State contractors because some of the entities reviewed only had federal contracts.) The fiscal monitoring reviews for these 25 contractors covered 175 contracts totaling \$41.3 million. We also determined whether the Institute expanded its reviews to prior months' vouchers to determine the full extent of an identified problem and the amount that should be recovered. We found the Institute did not always recover funding when a disallowance was identified. Also, we found that the Institute did not expand its review to prior months if a significant issue, resulting in an unallowable reimbursement, was found.

During its fiscal monitoring reviews of the 25 selected contractors, the Institute identified 89 findings, of which 22 pertained to possible disallowances totaling \$24,159. These included findings related to: unallowable expenses; undocumented allocation methodologies to support charges; time records that did not support the percentage of effort as charged on the corresponding vouchers; and OTPS expenses that could not be supported with appropriate documentation. The other findings generally related to contractors' lack of appropriately documented policies, failure to submit vouchers and budget modifications within required time frames, and untimely reconciliation of bank accounts.

We found the Institute disallowed inappropriate payments for only 8 of the 22 funding-related findings. For 6 of the remaining 14 findings, Institute staff provided reasonable explanations why costs were not disallowed. For example, in instances where employees failed to document their reported time and effort, the Institute substantiated contract work by other means, and therefore did not disallow the amounts claimed on the vouchers for those employees. However, for the other 8 findings (with exceptions totaling \$13,276), Institute officials were unable to adequately explain why they did not disallow the costs. For example:

- A contractor could not provide appropriate documentation to support \$12,275 of miscellaneous costs, supplies, and travel expenses that it claimed. Although it did not disallow funding, the Institute referred this contractor to the Department's Internal Audit Unit for a limited scope audit. However, the Department's audit did not address the Institute's findings and, consequently, no funds were recovered.
- Another contractor could not support an allocation rate of 24 percent for certain shared expenses. The Institute determined that an allocation rate of only 15 percent should have been used, resulting in a \$275 overpayment to the contractor for the month under review. Documentation shows the Institute instructed the contractor to review its allocation methodology and adjust charges as necessary. Although this fiscal monitoring took place in June 2014, the contractor did not submit an adjustment to its allocation rate as a part of its corrective action plan, and the Institute ultimately closed the fiscal monitoring review in September 2014 without requiring the adjustment. Institute staff told our auditors that they decided not to require the adjustment because, after reviewing the contractor's general ledger for the entire contract period, it was apparent that the contractor could have claimed more costs than it did. However, Institute personnel did not have this information at the time of their fiscal review and could not have known what costs the contractor would claim during the rest of the contract period.

In each case, the Institute only reviewed the month initially requested in the fiscal monitoring reviews. The Institute did not expand its reviews to prior months' claims when an issue of material non-compliance was found, although reviews of prior months would be needed to determine the full extent of such problems. For example, if an issue is found regarding time and effort reports for several employees, the same issue might well have occurred for prior months' claims. As a result, the Institute should formally consider extending fiscal monitoring reviews and determine if costs should be disallowed for additional vouchers, especially when there is material risk that matters of non-compliance could be systemic.

When we first discussed this issue, the Institute's program director agreed that recoveries should be made if the contractor claimed an expense that was unallowable or unsupported. However, in response to our preliminary findings, Institute officials stated that the primary purpose of their fiscal monitoring efforts was to promote future contractor compliance – and not necessarily to recover disallowances for ineligible claimed costs. Also, officials noted that their policies and procedures state that, unless potential fraud is suspected or the impact of the findings results in fiscal instability for the contractor, the findings will be used to make corrections and move forward. As a result, when issues arose, the Institute often only required a contractor to submit full support for claimed costs related to the specific findings with its next three monthly vouchers.

If no further problems were noted during that period, staff assumed that corrective actions were sufficient, and the documentation requirement was then ended.

We acknowledge that the Institute's fiscal monitoring reviews should be used to help contractors correct voucher preparation weaknesses; however, the Institute also uses the reviews to verify that contractors only claim expenses that fully comply with the prescribed requirements. By not recovering funding when those requirements are not met, the Institute not only knowingly reimburses contractors for unallowable expenses, but also diminishes an important incentive for contractors' future compliance with cost claiming requirements.

Recommendation

1. Further strengthen controls to provide additional assurance that contractors' claimed expenses are program appropriate and consistent with contract requirements. Such controls should include, but not be limited to:
 - Requiring contractors to submit detailed listings of expenses along with their vouchers;
 - Incorporating an analysis of the detailed expenses in the risk assessment process to determine what costs to review during the on-site fiscal review;
 - Incorporating an examination, based on the risk assessment, of an unannounced sample of expenses during on-site fiscal reviews;
 - Performing an expanded analysis of claimed expenses to determine the full extent to which certain non-allowable expenses, identified during a standard one-month review, were also claimed in prior months; and
 - Implementing controls over fiscal monitoring reviews to ensure that recoveries are consistently made and that each contractor is reviewed timely.

Audit Scope, Objectives, and Methodology

Our performance audit determined whether the Institute provided effective oversight of its service provider contracts to ensure claimed expenses are program appropriate and consistent with contract requirements. The audit covered the period April 1, 2014 through February 6, 2017.

To accomplish our objective, we interviewed Institute officials and reviewed Institute documents and records. We also reviewed relevant laws, regulations, policies, and procedures. To determine how well the Institute complied with its policy to perform fiscal monitoring of contractors at least every 24 months, we analyzed fiscal monitoring dates for contractors who had active State contracts as of March 31, 2016. We selected a sample of 25 out of 217 contractors (5 selected at random during our survey and 20 selected judgmentally during fieldwork) from a listing of fiscal monitoring reviews performed by the Institute. The 217 contractors were from a listing of fiscal monitoring reviews undertaken, which differs from the number of providers in the listing of active State contracts from the same period because it contains some contractors that only hold federal contracts. Our judgmental sample was chosen by identifying the reviewers who had the highest number of reviews completed. A proportion was used to determine how many of the 20 should

be selected for each provider. Further, the sample was selected to include contractors that had State contracts, the highest contract amount per provider, and a mix of on-site reviews and desk reviews. Overall, we selected more on-site reviews than desk reviews. Our sample also includes a mix of geographic areas of coverage across the State.

We examined our sample of fiscal monitoring reviews to determine if the Institute consistently recovered funding from contractors when its findings indicated such a recovery should have been made. We also looked to see if the Institute expanded its review to prior months to determine the full extent of the recovery that should have been made. We became familiar with, and assessed, the Institute's internal controls as they related to its oversight of the service contracts.

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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating threats to 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 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.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. Their comments were considered in preparing this report and are attached in their entirety to it. In general, officials disagreed with our findings and recommendations and asserted that their current controls and processes provide reasonable assurance that contractors' claimed expenses are appropriate and consistent with contract requirements. However, the Department's systems continue to focus primarily on budgetary control, notwithstanding the improper and questionable contractor claims that OSC identified several years ago and in this audit as well. Therefore, we remain concerned that the Department's internal control system, as currently designed, does not adequately protect the Department against abusive and/or improper claims. Also, our rejoinders

to certain Department comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Health 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 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



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

April 28, 2017

Mr. John Buyce, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Mr. Buyce:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2016-S-30 entitled, "Fiscal Oversight and Monitoring of AIDS Institute Service Provider Contracts."

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Marybeth Hefner
Brad Hutton
Ellen Anderson
Johanne Morne
Valerie White
Doug Manion
Jeffrey Hammond
Jill Montag
Diane Christensen
Lori Conway

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2016-S-30 entitled, "Fiscal Oversight and
Monitoring of AIDS Institute Service Provider Contracts"**

The following is the Department of Health's (Department) response to the Office of the State Comptroller's (OSC) Draft Audit Report 2016-S-30 entitled, "Fiscal Oversight and Monitoring of AIDS Institute Service Provider Contracts."

Recommendation:

Further strengthen controls to provide additional assurance that contractors' claimed expenses are program appropriate and consistent with contract requirements. Such controls should include, but not be limited to:

- Requiring contractors to submit detailed listings of expenses along with their vouchers;
- Incorporating an analysis of the detailed expense in the risk assessment process to determine what costs to review during the on-site fiscal review;
- Incorporating an examination, based on the risk assessment, of an unannounced sample of expenses during on-site fiscal reviews;
- Performing an expanded analysis of claimed expenses to determine the full extent to which certain non-allowable expenses, identified during a standard one-month review, were also claimed in prior months; and
- Implementing controls over fiscal monitoring reviews to ensure that recoveries are consistently made and that each contractor is reviewed timely.

Response:

- Detailed lists are already required for Personal Services (PS) expenses, which are the major expenses on AIDS Institute (AI) vouchers. The current Budget Statement and Report of Expenditures (BSROE), which is required with each voucher, contains a detailed listing of PS, as recommended. In addition, there are separate lines detailing the expenses that make up Other Than Personal Services (OTPS). The Department maintains that other processes in place, particularly as strengthened by the responses to this report's recommendations described below, provide sufficient controls for reasonable assurance that contractors' claimed expenses are appropriate and consistent with contract requirements.
- As discussed with the OSC auditors, a process for analyzing detailed expenses is and has been in place. The AI considers risk when determining what voucher expenses to review during fiscal monitoring. The following factors are considered in determining what backup to request:
 1. Fiscal health and history of the organization
 2. Feedback/input from the contract manager
 3. Results of previous fiscal monitoring
 4. Vouchering anomalies

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Comment
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Comment
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Based on these factors or other known issues, the AI determines what expenses to review. The fiscal review is often expanded beyond the selected month because of findings during the review. The Department will ensure that the process for selecting the costs to be

* See State Comptroller's Comments, page 18.

reviewed based on a risk assessment is documented via a formal update to the AI site visit monitoring manual.

- As discussed with the OSC auditors, this process is and has been in place. Additional unannounced samples of expenses are requested when the current sample shows an anomaly. The Department will ensure that this process is documented and consistently applied via a formal update to the AI site visit monitoring manual.
- When an unallowable expense is identified, prior months are reviewed, as stated in the recommendation. In most cases, this is and has been the practice. The Department will ensure that this process is documented and consistently applied via a formal update to the AI site visit monitoring manual.
- The Department disagrees with this finding for the following reasons:

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Comment
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1. Audit disallowances and recoveries for contractors that OSC reviewed were all explained. In the draft audit report, the first bullet on page 10 is incorrect. During the fiscal monitoring, the reviewers were not given back-up for some OTPS expenses. As a result, the contractor was required to provide full back-up for all expenses, and the AI referred the contractor to the DOH Audit Services Unit. This audit resulted in a finding of \$5,804. The disallowance is being recovered from March 2017 contract vouchers.
2. Most often, vouchers from the current contract period are reviewed. If issues are found, the disallowed costs are deducted from a future voucher on that contract.
3. Each finding of a potential unallowable expense needs to be considered on a case-by-case basis. When an issue is identified, the grantee is required to provide full back-up for all expenses. By requiring back up, the Department continues to review the issue to make sure the grantee addresses and corrects our concern.

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Comment
4

The Department will ensure that a procedure establishing parameters for recoveries and referrals for audit is documented via a formal update to the AI site visit monitoring manual.

State Comptroller's Comments

1. Department officials' characterization of the voucher support that they require is incorrect. Individual vouchers do not currently include details about claimed OTPS expenditures; rather, indicating only summary amounts by category of expense (e.g., Supplies, Rent, Utilities). As a result, fiscal reviewers have limited information upon which to identify potentially ineligible transactions, duplicate claims, or other higher-risk expenses for which more explanation is likely warranted. These weaknesses demonstrate management's focus on budgetary controls and comparative lack of awareness of the potential for errors or abuse. As currently designed, the internal control system does not adequately protect against fraudulent claims because only the broad nature of expenses is identified. If any claims were to be tested by Department staff, a contractor intent on abusing the system could provide virtually any documentation (valid or not) so long as it was consistent with the expense category and the total amount claimed.
2. As detailed in our report, the Department's fiscal reviews routinely examine only the most recent monthly voucher submitted. Although the risk assessment process officials describe may be used to select individual expenses from that voucher for further review, the Department does not have detailed OTPS expense listings to support the other claims submitted and, therefore, cannot incorporate such details in its risk assessment process. Further, although officials contend that the "fiscal review is often expanded beyond the selected month because of findings during the review," this did not occur in any of the 25 reviews we tested, including the 22 instances in which reviewers identified possible inappropriate payments.
3. The third bullet in our recommendation is intended to introduce an element of surprise in each review to partially mitigate the effect of announcing the sample of expenses in advance. It is not intended as additional testing, to be done only when anomalies are found. Also, in our testing, we found no evidence that the Department reviewed any unannounced samples or additional vouchers, even when an issue was found.
4. Department officials are mistaken. The full backup that the Department indicates the contractor was required to submit was for future vouchers, not past claims. Further, although the audit performed by the Audit Services Unit resulted in a finding of \$5,804, it did not include a review of the same type of expenses that we identified as unsupported. Therefore, the unsupported amount identified during the Institute's review was still outstanding and had not been disallowed by the Institute at the time of our audit fieldwork.