



STATE OF NEW YORK DEPARTMENT OF HEALTH

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Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

November 24, 2003

Kevin M. McClune
Audit Director
Office of the State Comptroller
110 State Street
Albany, New York 12236

Re: Follow Up Audit Report 2003-F-19

Dear Mr. McClune:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's follow up audit report (2003-F-19) entitled "Tobacco Use Prevention and Control Program."

Thank you for the opportunity to comment.

Sincerely,

Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

**Department of Health
Comments on the
Office of the State Comptroller's
Follow Up Audit Report 2003-F-19
“Tobacco Use Prevention and Control Program”**

The following are the Department of Health's (DOH) comments on the Office of the State Comptroller's (OSC) follow up audit report (2003-F-19) entitled “Tobacco Use Prevention and Control Program.” No comments are included for recommendations 1, 5, 6, 8 and 9, since corrective actions were implemented to address issues raised. However, comments are provided for recommendations 2, 4 and 7.

Recommendation #2:

Develop a performance measurement system that enables:

- ♦ coalitions to link activities (outputs) to Tobacco Control Program goals (outcomes);
- ♦ coalitions to relate activities to contractual goals;
- ♦ the Department to effectively monitor coalitions' activities; and
- ♦ the Department to provide coalitions with feedback reports that include data relating to achievement of goals, suggestions for improvements, examples of best practices and comparative performance statistics.

Response #2:

The Tobacco Control Program (TCP) is currently developing feedback reports that will specifically refer back to program goals and provide suggestions for improvements. It is anticipated that these new reports will be implemented with the new program contracts starting in April 2004.

Recommendation #4:

To maintain appropriate Department control over the collection and disbursement of Tobacco Pool Funds, execute contracts with the Tobacco Pool Administrator in a timely manner.

Response #4:

In March 2003, the Office of the State Comptroller (OSC) questioned the Department's authority to extend the Pool Administration contract beyond the statutory sunset of the Health Care Reform Act (HCRA). DOH Counsel confirmed the Department's authority, as provided in Section 138(1) of Chapter 1 of the Laws of 1999 (i.e. HCRA 2000), to extend the Pool Administration contract beyond HCRA's statutory sunset date of the statute.

Response #4 (continued):

Counsel established that such authority permits an extension of such contract until pooled funds are exhausted.

In addition, in March 2003, the Department pursued an exemption request from publishing the contract as a procurement opportunity in the Contract Reporter. A decision was conveyed by OSC on June 6, 2003, that an exemption from publishing in the Contract Reporter was not required. The contract extension was subsequently forwarded to the contractor for signature, signed by DOH and then sent to the Attorney General on June 20, 2003. The Attorney General approved the contract and forwarded it to OSC on the same day. OSC approval was subsequently granted on August 1, 2003. Given the circumstances, the Department made every effort to advance the contract through the process as expeditiously as possible.

Also, during the exit conference for this audit, OSC auditors were provided a timeline for an RFP contract process exhibiting that the Department had developed procedures to ensure timely implementation of a subsequent contract should the current contract not be extended. The timelines for future contracts will also include critical dates that will enable staff to track the progress of the contracts at each step in the process. When delays occur, appropriate follow-up action will be identified and implemented to foster timely contract processing.

Recommendation #7:

Establish and enforce compliance with formal policies and procedures for verifying the legitimacy and accuracy of coalitions' Tobacco Control Program expenses. At a minimum, the Department should:

- ♦ state who is responsible for verifying the vouchers coalitions submit;
- ♦ indicate the process Department staff should follow to adequately verify coalition expenses; and
- ♦ enforce coalitions' compliance with voucher submission requirements, as stated in their contracts.

Response #7:

Note: The Department already implemented corrective actions to address the first two bullets.

Draft contract language has been prepared for review by DOH Counsel giving contractors the option of vouchering either on a monthly or quarterly basis, depending on individual contractor needs. Once approved, the language will be incorporated in the next round of contracts with TCP providers. Such language would increase compliance with rules for voucher submission while at the same time being sensitive to the needs of the contractors.