2017–2018 Annual Report on Audits of State Agencies and Public Authorities

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

JANUARY 2019

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MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI

One of the chief responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that taxpayer money is appropriately protected and wisely used. The audits conducted by my staff in the Division of State Government Accountability help establish whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate waste and prevent and detect fraud. This, in turn, helps promote transparency and accountability in New York State government, which benefits each and every one of us.

State government officials are the stewards of the State's assets and the public's trust. Our audits keep New Yorkers informed on how well agencies and authorities are living up to that responsibility, and sound a call to action when needed.

This annual report summarizes the results of the State government audits my staff conducted for the 2017-18 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets.

I hope you find this information helpful.

Sincerely,

/S/

Thomas P. DiNapoli
State Comptroller

ABOUT THE ANNUAL REPORT

As required by law, this annual report summarizes the results of all the State agency and public authority audit reports issued by the Office of the State Comptroller (OSC) from October 1, 2017 through September 30, 2018. It does not include audits of New York City agencies, local governments, or other entities, as these are not included in the statutory requirements. The audit summaries in this report are divided into nine areas: Health and Human Services; Education; Transportation; Criminal Justice and Judicial Administration; Government Support; Economic Development and Housing; Other State Agencies and Public Authorities; Multi-Agency; and Special Reports. An accompanying volume lists, by State agency or public authority, the audit reports issued during the preceding five-year period – October 1, 2012 through September 30, 2017.

To obtain any of the audits cited in this report, visit http://osc.state.ny.us/audits/index.htm or contact the State Comptroller's Office of Public Information at (518) 474-4015.

INTRODUCTION

The New York State Constitution designates the State Comptroller as the State's Auditor. Within the Office of the State Comptroller (OSC), the Office of State and Local Government Accountability (SLGA) is the primary office that carries out the State Comptroller's functions as State Auditor. The Division of State Government Accountability (SGA) is a component of SLGA, and conducts audits of New York State and New York City agencies and public authorities. Audits of New York City agencies, while not included in this report, are accessible from the OSC website.

SGA employs more than 250 professional auditors, many of whom hold advanced degrees and professional certifications in the accounting and auditing fields, including Certified Internal Auditors, Certified Fraud Examiners, Certified Information Systems Auditors, and Certified Public Accountants. SGA also employs staff with other professional expertise, including in the social sciences, health, and computer science. OSC is dedicated to protecting the public interest and promoting government accountability.

FISCAL IMPACT

For the reporting year 2017-18 (October 1, 2017 through September 30, 2018), SGA issued 104 audit reports addressing the operations of State agencies and public authorities. Auditors identified nearly $646.8 million in actual cost savings at these agencies and authorities. These savings have already been achieved or will be achieved with the implementation of audit recommendations. Auditors also identified about $88.2 million in potential savings. In these cases, more action is usually required to realize the savings (e.g., legislative action or agency follow-up investigations with vendors to determine exact amounts).

The table below provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2017-18. We estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize a total of more than $1.9 billion in monetary benefits.

Audit Cost Savings for Reporting Year 2017-18

Fiscal Category	Actual	Potential	Totals
Cost Recovery	$124,608,532	$76,009,010	$200,617,542
Cost Avoidance	25,042,492	1,392,000	26,434,492
Revenue Enhancement	497,107,922	10,768,923	507,876,845
Subtotals	**$646,758,946**	**$88,169,933**	**$734,928,879**
Questionable Transactions			1,191,113,459
Total Fiscal Impact			**$1,926,042,338**

AGENCY ACCOUNTABILITY

According to Section 170 of the Executive Law, when an entity is audited by the State Comptroller, the executive of that entity must report to the Governor, the State Comptroller, and the leaders of the Legislature and the legislative fiscal committees, advising them on steps taken to implement the State Comptroller's recommendations and, where any particular recommendations were not implemented, the reasons why. (Section 170 is not applicable to New York City agencies.) The State Comptroller also performs follow-up reviews to assess auditees' progress in implementing prior audit recommendations. In reporting year 2017-18, SGA issued 36 follow-up reports, reviewing progress on a total of 155 recommendations. Of these recommendations, 139 (90 percent) have been fully or partially implemented, as follows:

Agency	Report Number	Number of Recommendations		
		Total	Implemented	Percentage
Health and Human Services				
Department of Health	2017-F-3	6	5	83%
	2017-F-4	14	14	100%
	2017-F-9	5	5	100%
	2017-F-10	4	4	100%
	2017-F-11	8	7	88%
	2017-F-12	4	4	100%
	2018-F-1	11	6	55%
	2018-F-2	2	1	50%
	2018-F-8	5	5	100%
Erie County Medical Center	2018-F-6	4	4	100%
Office of Alcoholism and Substance Abuse Services	2018-F-11	3	3	100%
Office of Temporary and Disability Assistance	2018-F-12	4	4	100%
	2018-F-15	3	3	100%
Education				
State Education Department	2017-F-22	4	4	100%
	2017-F-30	2	2	100%
State University of New York	2017-F-24	3	3	100%
City University of New York	2017-F-14	2	2	100%
	2017-F-18	4	4	100%
	2017-F-25	3	3	100%
	2018-F-4	9	7	78%
Transportation				
Central New York Regional Transportation Authority	2018-F-5	2	2	100%
Metropolitan Transportation Authority	2017-F-7	5	4	80%
Niagara Frontier Transportation Authority	2018-F-16	3	3	100%
Criminal Justice and Judicial Administration				
Division of State Police	2017-F-21	6	6	100%

Government Support				
Department of Civil Service/New York State Health Insurance Program	2017-F-23	3	3	100%
	2017-F-31	2	2	100%
	2017-F-32	2	2	100%
Office of General Services	2017-F-28	2	2	100%
Office of Information Technology Services	2017-F-19	4	4	100%
Economic Development and Housing				
Homes and Community Renewal	2018-F-3	4	3	75%
Other State Agencies and Public Authorities				
Department of Environmental Conservation	2017-F-13	4	4	100%
New York Racing Association	2017-F-26	4	2	50%
	2017-F-27	4	2	50%
New York State Energy Research and Development Authority	2018-F-7	2	2	100%
Public Service Commission	2017-F-20	3	3	100%
Multi-Agency				
Office of General Services/State Education Department	2017-F-15	5	5	100%
Totals		**155**	**139**	**90%**

AUDIT IMPAIRMENTS AND AGENCY OBSTRUCTION

State agency and public authority officials have a responsibility to the public to provide access to information to those who oversee their actions, such as OSC. Transparency and accountability are essential cornerstones of good government. When public officials are not transparent about and accountable for their actions, there is an increased risk that internal controls will not function properly – and less assurance that program goals and objectives will be accomplished efficiently and effectively. Denial of, or excessive delay in, access – or refusal of direct access – to relevant documents or key individuals leads to incomplete, inaccurate, or significantly delayed findings or recommendations. This, in turn, may prevent agencies from promptly addressing serious problems, and deprive decision makers and the public of timely critical information regarding the agency's performance.

In accordance with professional standards, OSC auditors are required to report instances where management's refusal to share all available, relevant evidence constitutes an impairment of audit work. For the reporting year 2017-18, two agencies significantly delayed, obstructed, or otherwise impaired the scope of audits.

- **Office of Children and Family Services (OCFS)**

  Oversight of Residential Domestic Violence Programs (2017-S-16). During this audit, OCFS restricted auditors' access to pertinent information that affected our audit risk assessment and conclusions, and repeatedly provided auditors with contradictory information – actions that hindered progress in obtaining independent and reliable information, delayed the audit, and ultimately fueled questions about the adequacy of its

oversight. OCFS' poor cooperation with the audit, as well as a defensive and dismissive response, are not indicative of an appropriate agency control environment, particularly given the vulnerable population involved.

Mindful of the sensitive nature of this audit, auditors had worked out agreements with OCFS to not access certain identifiable information – and, in so doing, help to keep domestic violence (DV) program residents and residences safe. During the course of the audit, we requested access to systems that OCFS uses to monitor DV programs – and that were thus integral to our audit. Abiding by our agreements, we did not request information that could be used to identify DV victims. However, OCFS denied our request, invoking confidentiality issues, which our agreements were intended to address. It is important to note that this particular audit experience is not an isolated incident; rather, following similar OCFS responses to audits issued in previous reporting years (see, e.g., 2015-S-79), it constitutes a pattern of poor cooperation by OCFS and a disregard for transparency and accountability.

- **Office of Information Technology Services (ITS)**

  Effectiveness of the Information Technology Transformation (2017-F-19). For our follow-up review, ITS did not improve cooperation with authorized State oversight inquiries. For example, as pointed out in the initial audit report, "all auditor-requested documents were expressly sent through the designated ITS officials, although we repeatedly asked that the information be sent directly to us." During the follow-up review, all documentation continued to be gathered by ITS Internal Audit, which then provided it to the audit team. Additionally, ITS Internal Audit was present at all audit meetings, thereby continuing the practice cited in the original report, where "officials refused to allow ITS staff to meet with auditors without a member of ITS management present."

Both agencies and auditors have roles and responsibilities within the audit process. According to Generally Accepted Government Auditing Standards (the standards that are required for our audits by New York State Law), agency management is required to provide "appropriate reports to those who oversee their actions and to the public in order to demonstrate accountability for the resources and authority used to carry out government programs and the results of these programs." Management is also required to address "the findings and recommendations of auditors" and is responsible "for establishing and maintaining a process to track the status of such findings and recommendations." Unfortunately, some agencies are not living up to their responsibilities, and through their actions, deny the public and decision makers assurance regarding accountability for the State resources with which they are entrusted.

AUDITS OF SIGNIFICANCE

During the past year, SGA allotted more resources to audits designed to identify system and control deficiencies and policy non-compliance issues, which render State programs vulnerable to overcharging, improper claims, and abuse. Among SGA's most significant audit findings:

- **Medicaid Program** – Medicaid is a federal, State, and locally funded government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. New York's Medicaid program has approximately 7.3 million enrollees. As of November 2017, New York's Medicaid budget totaled $68.4 billion, including $36.7 billion in federal funds, $23.9 billion in State funds, and

$7.8 billion from New York county and New York City governments. Thirteen Medicaid audits identified more than $189 million in actual and potential cost savings to the State, including more than $97 million in Medicaid premium payments for recipients who had concurrent comprehensive third-party health insurance (2016-S-60). In addition, our audit of drug rebates for health and recovery plans identified more than $427 million in actual and potential revenue enhancements (2017-S-61).

- **Special Education** – SGA issued 16 audit reports assessing preschool special education providers' compliance with the State Education Department's Reimbursable Cost Manual (RCM). These audits are part of a continuing series of audits and investigations of the special education sector. In December 2013, Governor Cuomo signed legislation mandating the Office of the State Comptroller to audit the more than 300 preschool special education providers in this $1.4 billion program. Auditors found widespread non-compliance with the RCM's claims requirements, and identified disallowances totaling more than $8.7 million stemming from unsupported and/or inappropriate costs charged to the audited programs, with over $1.7 million charged by one provider alone (2017-S-22).

- **Metropolitan Transportation Authority (MTA)** – The MTA operates North America's largest transportation network, serving a population of 15.3 million people across a 5,000-square-mile travel area. SGA issued nine reports on the MTA focusing primarily on safety, and found significant deficiencies regarding safety and security equipment (2016-S-92, 2017-S-84) as well as train crews' compliance with training and medical fitness requirements (2016-S-26, 2017-S-71).

AUDIT SUMMARIES

HEALTH AND HUMAN SERVICES

Several State agencies are responsible for administering and providing health care and human services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

Department of Health
(DOH)

Medicaid Claims Processing Activity. DOH's eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and generates payments to reimburse the providers for their claims. OSC performs audit steps during each weekly cycle of eMedNY processing to determine whether eMedNY had reasonably ensured the Medicaid claims were processed in accordance with requirements, the providers submitting the claims were approved for participation in the Medicaid program, and the amounts paid to the providers were correct. In the 2017-18 reporting year, OSC issued two such audits, as follows:

- **Medicaid Program: Medicaid Claims Processing Activity October 1, 2016 Through March 31, 2017** (2016-S-66). During the six-month period ended March 31, 2017, eMedNY processed over 192 million claims, resulting in payments to providers of more than $29 billion. The audit identified approximately $12.4 million in improper Medicaid payments, including: $4.58 million in overpayments for long-stay inpatient claims billed at higher-than-allowed levels of care; $2.9 million in overpayments for Comprehensive Psychiatric Emergency Program claims billed in excess of permitted limits; $1.4 million in overpayments for claims billed with incorrect information pertaining to recipients' other health insurance coverage; $1.1 million in improper inpatient claims for newborns who were not enrolled into managed care in a timely manner; $1 million in overpayments for newborn claims that were submitted with incorrect birth weights; and $705,466 in improper episodic payments to home health care providers. By the end of the audit fieldwork, about $6.3 million of the overpayments had been recovered. Auditors also identified providers in the Medicaid program who had been charged with or found guilty of crimes that violated health care program laws or regulations. DOH terminated 22 of the providers from the Medicaid program, but the status of two others was still under review at the time fieldwork was completed. Auditors made recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

- **Medicaid Program: Medicaid Claims Processing Activity April 1, 2017 Through September 30, 2017** (2017-S-23). During the six-month period ended September 30, 2017, eMedNY processed over 193 million claims, resulting in payments to providers of more than $31 billion. The audit identified approximately $10.2 million in improper Medicaid payments, including: $3.7 million in overpayments for claims billed with incorrect information pertaining to recipients' other health insurance coverage; $3.1 million in overpayments for claims involving Medicare coverage that eMedNY incorrectly processed; $1.3 million in overpayments for improper newborn birth claims; $783,016 in improper fee-for-service claims for Medicaid recipients who were enrolled in a managed care plan; $684,457 in overpayments for Comprehensive Psychiatric Emergency Program

claims billed in excess of permitted limits; $465,257 in improper episodic payments to home health care providers; and $172,052 in other overpayments for inpatient, clinic, practitioner, and referred ambulatory claims. By the end of the audit fieldwork, about $4.5 million of the overpayments had been recovered. Auditors also identified providers in the Medicaid program who had been charged with or found guilty of crimes that violated health care programs' laws or regulations. Of the 51 providers identified, DOH terminated 42 from the Medicaid program. In the interim between the date of criminal charge and date of termination, eMedNY paid five of these providers a total of $292,681. Auditors recommended that DOH: determine the appropriateness of these payments and recover as warranted; recover the other remaining inappropriate Medicaid payments identified in the report; and improve claims processing controls.

Improper Medicaid Payments to Eye Care Providers (2015-S-6). Health care providers, including optical establishments, optometrists, and opticians, wishing to enroll in the Medicaid program must meet certain requirements in order to participate and must revalidate their enrollment every five years. The enrollment and revalidating processes are intended to protect Medicaid recipients against, and prevent improper payments to, providers who do not meet federal and State requirements for Medicaid program participation. Provider enrollment and revalidation also serve as first-line defenses in the prevention of Medicaid fraud and abuse, and are required in order to obtain a Medicaid provider identification number. During enrollment and revalidation, providers are obligated to disclose accurate and timely information about their practice, including owner and affiliation information, which DOH uses for screening purposes. Auditors identified vulnerabilities in DOH's provider enrollment and revalidating processes and procedures that undermine its ability to ensure that only qualified providers participate in the Medicaid program and otherwise prevent improper payments to providers who do not meet federal and State requirements. Because of these weaknesses, six eye care professionals who did not fully comply with DOH's enrollment and revalidation policies were able to obtain Medicaid eligibility under 34 provider identification numbers without disclosing all of their apparent affiliations. These providers improperly reported, and DOH paid, a total of $34,625 in excessive Medicare coinsurance claims or claims for services not supported by proper medical records. Auditors made recommendations to DOH to review the appropriateness of the providers' enrollment, enhance controls over its enrollment process, monitor the appropriateness of the providers' Medicaid claims, and recover improper payments.

Medicaid Program: Medicaid Payments to Medicare Advantage Plan Providers (2016-S-54). Many of the State's Medicaid recipients are also enrolled in Medicare, the federal health insurance program for the elderly and disabled. Generally, for "dual-eligible" recipients, Medicare is the primary payer for medical services, and Medicaid covers recipients' cost-sharing liabilities (Medicare coinsurance, copayments, deductibles). For companies that offer Medicare Part C plans (Advantage plans), Medicare pays a fixed monthly amount for each beneficiary, and the plans reimburse providers directly for services rendered. Providers bill Medicaid for the remaining cost-sharing liabilities. Based on a review of selected Advantage plan contracts offered by Fidelis and WellCare, auditors determined that certain providers reported inflated Part C cost-sharing liabilities on their Medicaid claims, and identified $770,935 in actual overpayments and an additional $562,356 in potential overpayments to three of the providers. The overpayments occurred because eMedNY lacks sufficient controls to detect and prevent such claims, and DOH instead relies on providers to accurately report cost-sharing amounts. Auditors recommended that DOH: review the $1,333,291 in actual and potential Medicaid overpayments and recover as appropriate; formally instruct the three providers identified in this report to bill Medicare

Part C claims in accordance with existing requirements; and develop a risk-based approach to identify and prevent inappropriate Medicaid claims for Medicare Part C cost-sharing liabilities.

Managed Care Organizations: Payments to Ineligible Providers (2016-S-59). Under managed care, Medicaid pays managed care organizations (MCOs) a monthly premium for each enrolled Medicaid recipient, and the MCOs deliver health care services through their provider network. Providers may become ineligible or excluded from the Medicaid program for various reasons (e.g., violation of statutory or regulatory requirements related to the Medicaid or Medicare programs, unacceptable insurance practices), and are no longer eligible to receive payments from MCOs for services rendered to Medicaid recipients. While it is primarily the MCOs' obligation to ensure claims are not paid to ineligible providers, DOH has procedures in place to notify MCOs of ineligible providers in their network, so that MCOs can then take appropriate action to remove them and prevent improper payments. Despite DOH's efforts to improve its ability to detect and prevent payments by MCOs to ineligible providers, for the five-year audit period 2012–2016, auditors identified $50.3 million in improper payments to ineligible or excluded providers as well as 22.5 million MCO encounter claims, totaling over $2 billion, that lacked the provider identification (ID) information needed to assess the propriety of payments. Auditors recommended that DOH: review the improper payments identified and instruct MCOs to recover overpayments as appropriate; obtain the missing provider IDs on the encounter claims that lacked this information, assess the propriety of these claims, and recover any improper payments; and improve monitoring efforts to assist MCOs in detecting and recovering improper payments to ineligible providers.

Medicaid Program: Managed Care Premium Payments for Recipients With Comprehensive Third-Party Insurance (2016-S-60). Under managed care, Medicaid pays managed care organizations (MCOs) a monthly premium for each enrolled Medicaid recipient, and the MCOs arrange for the provision of services their members require. As of August 2017, 4.4 million people were enrolled in mainstream managed care plans: about 2.5 million through New York State of Health (NYSOH), New York's online health insurance marketplace, and the remainder through other means (e.g., Local Departments of Social Services). According to DOH policy, recipients are excluded from managed care when they have concurrent comprehensive third-party health insurance (TPHI). Furthermore, according to the Medicaid Managed Care Model Contract, when the managed care provider and the comprehensive TPHI provider are the same, the State can disenroll recipients from managed care retroactively and recover premiums paid to the MCO on their behalf during the period of overlapping coverage. When the managed care and comprehensive TPHI providers are unrelated, however, disenrollment is prospective, and there is no recovery of premiums paid during the period of overlapping coverage. Auditors determined that, from January 1, 2012 to September 1, 2017, DOH paid about $1.28 billion in Medicaid managed care premium payments on behalf of enrollees who also had concurrent comprehensive TPHI. Auditors recommended that DOH: improve monitoring efforts to assist in the prevention, detection, and recovery of inappropriate managed care premiums; implement controls to remove non-NYSOH-enrolled recipients with comprehensive TPHI from managed care; review the managed care premiums identified in the report and recover as appropriate; and amend the Model Contract language to allow the recovery of premiums from all MCOs, regardless of the relationship with recipients' third-party insurer.

Medicaid Program: Inappropriate Payments Related to Procedure Modifiers (2016-S-63). Medicaid payments to providers are based, in part, on the procedure codes reported on claims indicating the services rendered and, in certain instances, modifier codes that further describe the service. Medicaid payments for surgical procedures cover services delivered during the global surgery period (i.e.,

preoperative, intraoperative, and postoperative), including evaluation and management (E/M) services related to the surgical event. During the global surgery period, certain conditions may require E/M services unrelated to the original procedure. To be reimbursed for these services, providers submit claims with the appropriate modifier code. Auditors determined that, from January 1, 2012 to March 31, 2017, Medicaid made about $2.6 million in payments to providers for E/M services billed without a modifier code and that otherwise were already included in Medicaid's payment for the surgical procedures. Auditors recommended that DOH: review the $2.6 million in payments for E/M services and recover overpayments as appropriate; and formally advise providers who received inappropriate payments to report accurate claim information when billing Medicaid for E/M services during global surgery periods to ensure claims are paid appropriately.

Medicaid Program: Appropriateness of Payments to Transportation Management Contractors and Providers (2016-S-67). Federal regulations require the Medicaid program to provide recipients with transportation to medically necessary services if they are unable to obtain transportation on their own. In January 2012, as part of the State's Medicaid Redesign initiative to reduce costs and improve health care delivery, DOH began transferring non-emergency transportation services from the mainstream Medicaid managed care benefit package to the Medicaid fee-for-service program (in which providers are reimbursed directly for services). DOH contracted with two private transportation managers to manage such services and evaluate requests for prior authorization of non-emergency transportation services. DOH reimburses the transportation managers monthly based on the number of Medicaid recipients eligible for non-emergency fee-for-service transportation services. For the period January 1, 2013 to December 31, 2016, DOH reimbursed the two transportation managers nearly $180 million, and fee-for-service payments to non-emergency transportation service providers totaled approximately $1.6 billion. Auditors found that, in calculating the number of monthly Medicaid recipients, DOH incorrectly included nine Medicaid coverage groups that do not cover Medicaid non-emergency transportation services. DOH's resultant overreporting of 8.3 million recipients cumulatively between January 2013 and December 2016 accounted for more than $6.2 million in overpayments to the transportation managers. DOH implemented corrective actions in January 2017 to exclude these coverage groups from the monthly recipient counts, which auditors estimated would save the Medicaid program $7.6 million over a five-year period. Auditors also identified more than $2.7 million in improper payments to transportation providers, including: $2.4 million paid to a taxi company that did not maintain the proper records to support its claims prior to 2016; $169,893 paid to another taxi company for overbilled tolls; and $162,401 to four Advanced Life Support First Responder (ALSFR) providers that were inappropriately enrolled in Medicaid. Auditors recommended that DOH: recover the $6.2 million in overpayments to the transportation managers and ensure that the nine Medicaid coverage groups are excluded from its monthly recipient count calculations; review payments to the two taxi providers and recover, as warranted; and take the necessary corrective steps regarding the four ALSFR providers' future participation in the Medicaid program, and ensure that ALSFR companies are not enrolled as Medicaid providers.

Oversight of Resident Care-Related Medical Equipment in Nursing Homes (2016-S-80). DOH's Division of Nursing Homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities Surveillance (Division) is responsible for ensuring nursing home compliance with federal and State regulations. The Division assesses and certifies compliance through unannounced, on-site inspections, commonly referred to as surveys, including Certification surveys, which encompass both Standard Health (quality of care) and Life Safety Code (fire and safety) inspections. As of July 2016, for nursing homes that participate in federal reimbursement programs, the Division assesses their required

compliance with 2012 National Fire Protection Association safety codes and standards, which cover the testing and maintenance of patient care-related electrical equipment. Using DOH's Inventory Form of common types of equipment in use at facilities, surveyors are required to review service records and manufacturer requirements for a random sample of resident care-related equipment pieces, based on population size, and for at least one piece of non-resident care-related equipment. Between January 1, 2015 and December 31, 2017, the Division completed 2,223 surveys, including 1,648 Certification surveys. Auditors found that DOH completes its Certification surveys in a timely manner and reports deficient practices to the public, as required, but also identified gaps in procedures that weaken the Division's ability to effectively monitor nursing homes' equipment inspection, testing, and maintenance programs. For example, the Inventory Form is not a comprehensive list of resident care equipment. Further, although DOH's sampling meets federal requirements, the sample sizes are very small relative to facilities' number of equipment items. Auditors recommended that DOH: periodically update the Inventory Form to add types of medical equipment known to be in use at nursing home facilities; formally evaluate whether equipment sample sizes should be based on factors such as the size of a facility's medical equipment inventory and a facility's prior survey history; and remind facilities of the requirements for preventive maintenance of medical equipment and generator tests and recordkeeping of these activities.

Oversight of Public Water Systems (2017-S-45). Nearly 95 percent of New Yorkers rely on one of the 9,155 public water systems (PWSs) operating in the State for their drinking water. As administrator of the State's drinking water program, DOH is responsible for overseeing PWSs to ensure that the water they deliver meets required safety standards for consumption, including State Public Health Law and State Sanitary Code requirements as well as federal requirements. Toward this end, DOH sets limits on contaminant levels (Maximum Contaminant Levels [MCLs]), and requires that PSWs monitor the water for them. An MCL violation requires a broad range of actions by the PWS, including public notification, additional monitoring, and corrective actions, as necessary, to reduce or mitigate the contaminant level. Auditors determined that DOH takes various actions to safeguard the quality of drinking water delivered to PWS customers, and continues to study emerging contaminants in drinking water in an effort to determine whether maximum limits and regulations are appropriate. However, auditors identified opportunities for improved oversight, particularly regarding PWS compliance as well as system and procedural controls. When MCL violations occurred, the local health departments and DOH district offices did not always take appropriate and/or timely action to hold PWSs accountable for required follow-up, such as notifying the public. As a result, there was no assurance that PWSs appropriately addressed these occurrences. Auditors recommended that DOH: ensure that safe drinking water is distributed to the public through a robust monitoring program; and prioritize actions to regulate emerging contaminants with known adverse health effects.

Medicaid Program: Maximizing Drug Rebates for Health and Recovery Plans (2017-S-61). Under the federal Medicaid Drug Rebate Program, DOH is able to collect rebates from drug manufacturers for medications dispensed to Medicaid recipients, including those enrolled in Medicaid managed care organizations (MCOs). As part of the State's 2011 initiative to reduce Medicaid costs and improve the delivery of health care services, in October 2015, adult Medicaid recipients with significant behavioral health needs began to be enrolled into Health and Recovery Plans (HARPs) – a new type of managed care program that provides specialized care, including prescription drugs, to Medicaid recipients age 21 or older with serious mental illness and/or substance use disorders. Approximately 118,207 Medicaid recipients were enrolled in a HARP during 2017. Auditors found that, due to inadequate monitoring of the drug rebate process by DOH management, HARP drugs had been erroneously excluded from rebate

invoices. After being notified by auditors, DOH updated its procedures to include HARP drugs in its rebate process and sent retroactive invoices to manufacturers for previously missed HARP rebates. As a result of its corrective actions, DOH sought $425.9 million in drug rebates for the period October 1, 2015 through December 31, 2017, and auditors determined that an additional $1.2 million in rebates could be collected with further efforts. According to officials, DOH was working with a new drug rebate administration and management services contractor to improve the quality of the drug rebate process and formalize procedures. Auditors recommended that DOH: regularly monitor the activities of the rebate contractor to ensure the accuracy of the drug rebate function; and take steps to invoice any remaining uncollected HARP drug rebates.

Oversight of Obesity and Diabetes Prevention Programs (2017-S-78). For the four fiscal years 2014-15 through 2017-18, DOH received $27.7 million in State appropriations for services and expenses related to its obesity and diabetes programs. During State Fiscal Year (SFY) 2017-18, DOH allocated $5.97 million among several of its initiatives created to address the increasing rates of obesity and diabetes in the State. This audit sought to determine whether DOH measured the effectiveness of the obesity and diabetes prevention programs, and whether it provided effective oversight of its service provider contracts to ensure claimed expenses were appropriate and consistent with contract requirements. Auditors reviewed the two initiatives with the highest funding during SFY 2017-18 – Creating Healthy Schools and Communities ($4,507,480) and Creating Breastfeeding Friendly Communities ($1,087,100) – and found that DOH did not track the effect of outcome-based indicators (e.g., healthy nutrition posters, benches, bicycle racks) on the rates of obesity and diabetes, and was thus not able to perform data analyses that would provide tangible insight on impact or identify performance patterns and trends for many of the outputs it funds. Auditors recommended that DOH: take steps to improve oversight of contractor performance to ensure that contractor deliverables are outcome-based and correlate to DOH expectations for the individual programs it is funding; and ensure that costs reported by DOH's network of contractors are supported, appropriate, and reimbursable.

Medicaid Program: Improper Medicaid Payments to a Transportation Provider (2018-S-10). Medicaid provides transportation to medically necessary services for those recipients who are unable to obtain transportation on their own, and reimburses lawfully authorized transportation providers for these services. From September 26, 2012 to December 31, 2016, Medicaid paid one transportation provider $2.4 million for 26,345 transportation claims. This provider was a private proprietary corporation that had been providing taxi services to Medicaid recipients since September 2012. Auditors found the provider did not maintain the required documentation to support transportation claims for the period September 26, 2012 to December 31, 2015, which accounted for $1.4 million in inappropriate Medicaid payments. Auditors recommended that DOH review the $1.4 million in Medicaid payments to the provider and recover any inappropriate payments, as warranted.

Ambulatory Patient Groups Payments for Duplicate Claims and Services in Excess of Medicaid Service Limits (Follow-Up) (2017-F-3). The Medicaid program reimburses outpatient services based on the Ambulatory Patient Groups (APG) payment methodology. The APG system pays providers based on patient condition and complexity of service, and is designed to pay more for services requiring a higher level of professional care than those requiring a lower level of care. The initial audit (2013-S-17) determined that DOH did not implement adequate controls to enforce APG policy and payment rules. As a result, Medicaid made $32.1 million in actual and potential overpayments for services that exceeded Medicaid's established service limits. Additionally, DOH did not have controls in place to prevent duplicate claims (such as when a clinic and individual practitioner both bill Medicaid for the

same service), resulting in $7.5 million in overpayments. Auditors recommended that DOH: review and recover the inappropriate APG payments; strengthen controls over APG claims processing to prevent improper payments for excessive services; ensure claims processing controls prevent overpayments for the duplicate (professional) claims identified during the audit; and ensure exemptions from official State Medicaid policies are based on appropriate rationales, are properly documented, and include formal repayment plans for recipients of exemptions. The follow-up review found that DOH had made some progress in addressing the problems identified in the initial audit report. DOH had recovered about $800,000 of the overpayments identified, and updated policy manuals to give clearer billing guidance to providers. However, DOH had not recovered a significant amount of the overpayments for services exceeding service limits or for duplicate services, and had not implemented system controls to prevent the overpayments. Of the initial report's six audit recommendations, three had been partially implemented, one had not been implemented, and two were not applicable at the time of follow-up.

Appropriateness of Medicaid Eligibility Determined by the New York State of Health System (Follow-Up) (2017-F-4). Following enactment of the Affordable Care Act in 2010, the State developed the New York State of Health (NYSOH) as a new online marketplace for individuals to obtain health insurance coverage, including Medicaid. Individuals applying for Medicaid, and other public assistance programs, are assigned a Client Identification Number (CIN) that uniquely identifies them. NYSOH is required to conduct real-time checks among various data systems to verify applicants' eligibility, ensure proper CIN assignment, and validate enrollees' continued eligibility, thereby preventing inappropriate enrollments and improper payments. The initial audit (2014-S-4) identified a range of design and process flaws in NYSOH's eligibility process that permitted inappropriate Medicaid enrollments (e.g., enrollment of deceased individuals and continued Medicaid coverage for individuals who had died after enrollment; issuance of multiple CINs to individual recipients), resulting in overpayments totaling about $3.4 million from October 1, 2013 through October 1, 2014. Auditors recommended that DOH: review and correct NYSOH system weaknesses; correct the improper Medicaid enrollments identified; recover identified inappropriate payments; and ensure NYSOH system auditability. In the follow-up review, auditors found that DOH had made certain improvements to NYSOH, and most of the overpayments caused by the enrollment of deceased individuals had been recouped. However, further actions were still needed. DOH had not recovered most of the identified overpayments caused by multiple CINs issued to individual recipients and had not terminated the corresponding Medicaid eligibility of all those CINs, causing additional overpayments totaling up to $801,759 to continue between January 1, 2016 and August 1, 2017. While DOH ended the eligibility for the remaining improper CINs identified in the audit, it did not complete steps to "link together" each recipient's multiple improper CINs to prevent potential overpayments from occurring again. Of the initial report's 14 recommendations, 12 had been implemented and two had been partially implemented.

Optimizing Medicaid Drug Rebates (Follow-Up) (2017-F-9). Since January 1991, New York has been able to recover a portion of its Medicaid prescription drug costs by requesting rebates from drug manufacturers. The initial audit (2015-S-1) determined that DOH had overlooked multiple sources of drug rebate revenue, accounting for an estimated $95.1 million in uncollected rebates during the audit period. Auditors recommended that DOH: review the rebate policies identified in the report and revise them as appropriate to ensure all drug rebates are collected; regularly reassess policy decisions to ensure their validity; review and correct the rebate processing errors identified; and, where appropriate, issue retroactive rebate invoices for the drug claims identified. In their follow-up review, auditors found that DOH's corrective actions to rectify policy and processing problems had resulted in the invoicing of $47.6 million in rebates for the period April 1, 2010 to March 31, 2017. However, as

much as $118.6 million in additional rebates could still be collected for this period with further efforts. According to officials, DOH was working with its new contractor for drug rebate administration and management services to address all of the issues identified in the initial audit and the follow-up review.

Improper Payments for Recipients No Longer Enrolled in Managed Long Term Care Partial Capitation Plans (Follow-Up) (2017-F-10). Enrollment in a Managed Long Term Care (MLTC) plan is mandatory for Medicaid recipients who also have Medicare, are age 21 or older, and who need community-based long-term care services for more than 120 days. The Partial Capitation Plan (Plan), one of the three types of MLTC plans, is reimbursed for long-term care services through monthly Medicaid capitation payments. A Medicaid recipient who is enrolled in a Plan can be disenrolled retroactive to the effective date the recipient lost eligibility. According to the MLTC contract in effect during the initial audit, DOH had the right to recover capitation payments made to Plans when the recipient was inappropriately enrolled and the Plan was not "at risk" for the provision of medical services during any portion of the payment period. The initial audit (2015-S-9) found that, from January 1, 2010 through January 31, 2015, Medicaid paid Plans $21.4 million in capitation payments for recipients who were subsequently disenrolled and the Plans were not "at risk" (did not pay for medical services) during the disenrollment periods. By the end of the audit fieldwork, some capitation payments had been recouped, and about $12 million still needed to be recovered. In addition, DOH did not have a system in place to identify capitation payments made for retroactively disenrolled recipients and, therefore, could not monitor these payments to ensure that Plans properly voided them. Further, DOH's contracts with Plans did not stipulate a required time frame for Plans to void inappropriate capitation payments. In addition, the Medicaid program could realize significant savings if DOH revised its policy on the payment of capitation payments during disenrollment periods when Plans were "at risk." Auditors made recommendations related to these issues and, at follow-up, found that DOH had made significant progress in addressing them. Of the four recommendations, two had been implemented and two had been partially implemented. DOH worked with the Office of the Medicaid Inspector General to enhance its ability to identify and recover capitation payments for retroactively disenrolled recipients, including for periods that Plans were "at risk." DOH was also amending Plan contracts, requiring Plans to void inappropriate capitation payments within 30 days of being notified of a recipient's retroactive disenrollment. However, further actions were still needed, as only $3.4 million of the $12 million in improper capitation payments had been recovered.

Eye Care Provider and Family Inappropriately Enroll as Recipients and Overcharge for Vision Services (Follow-Up) (2017-F-11). Medicaid provides a wide range of medical services, including vision care, to individuals who are economically disadvantaged and/or have special health care needs. For the fiscal year ended March 31, 2014, New York's Medicaid program had approximately 6.5 million enrollees and Medicaid claim costs for eye care services totaled about $10 million. The initial audit (2013-S-1) found numerous violations and questionable practices connected to the owner of a Medicaid eye care provider (Provider) and extending to the owner's family. For instance, auditors determined that the owner and family members submitted false income information to secure Medicaid coverage and other medical assistance benefits. Further, the Provider: received over $22,000 in improper Medicaid payments for claims with inappropriate coinsurance charges and/or for services not supported by medical records; allowed non-Medicaid-enrolled providers to render services, and on its claims to Medicaid identified a different, authorized, provider as the service renderer; and used a non-Medicaid-enrolled billing service company to submit its claims – and the owner of that company and the owner of the Provider are married. In addition, the owner of the billing service company used other providers' Medicaid identification numbers to gain unauthorized access to the eMedNY claims system and bill over

$700,000 in Medicaid claims on behalf of 55 providers. Auditors made recommendations to DOH to: assess the eligibility of the identified Medicaid recipients, deactivate ineligible Medicaid recipients and providers, conduct an expanded review of improper Medicaid claims, recover improper State payments, and improve claims processing controls. In March 2016, the Office of the Medicaid Inspector General (OMIG) commenced an investigation of the Provider, the Provider's billing company, and the recipients identified in the audit. At the time of the follow-up review, the investigation was ongoing, and OMIG officials had stated that recoveries of Medicaid overpayments and corrective actions would occur, if warranted, when the investigation was complete. Of the initial report's eight audit recommendations, two had been implemented, five had been partially implemented, and one had not yet been implemented.

Nursing Home Surveillance (Follow-Up) (2017-F-12). DOH is responsible for ensuring that nursing homes comply with federal and State regulations, and acts as an agent for the federal government's Centers for Medicare and Medicaid Services (CMS) in monitoring quality of care, including the investigation of complaints and incidents. Staff assess facilities' compliance through on-site inspections (or surveys). The initial audit report (2015-S-26) found that DOH generally met its obligations to conduct surveys in accordance with federal and State requirements, but its enforcement policies and procedures needed to be strengthened to better protect the health and well-being of nursing home residents. Inefficient processes significantly impaired DOH's ability to assess fines timely, in some cases resulting in delays of up to six years between when the violation was cited and the resulting fine was imposed. Further, DOH did not utilize the full array of enforcement actions available to address the violations. Auditors recommended that DOH: eliminate the backlog in enforcement activity and maintain timely processing of future assessments of State fines; take steps to initiate the assessment of State fines earlier to better align survey results with the assessed penalty; develop and implement a single, more comprehensive system to track and monitor all enforcement actions; and consider assessing State fines for citations issued at the Greater Than Minimal Harm level, especially for those facilities that demonstrate a pattern of repetitive citations. At the follow-up review, auditors found that DOH had implemented all the recommendations from the initial audit.

Medicaid Managed Care Organization Fraud and Abuse Detection (Follow-Up) (2018-F-1). Medicaid managed care organizations (MCOs) are responsible for ensuring they do not make payments to ineligible health care providers who have been excluded or terminated from the Medicaid program. In addition, MCOs are required to have effective compliance programs, including full-time Special Investigation Units (SIUs) dedicated solely to the prevention, detection, and investigation of fraud and abuse. State oversight of MCOs must ensure that only eligible health care providers participate in Medicaid. The initial audit (2014-S-51) determined that UnitedHealthcare (United) and Amerigroup made improper and questionable payments totaling more than $6.6 million to providers who were excluded from the Medicaid program. Furthermore, recoveries of improper payments by United's and Amerigroup's SIUs were very limited. Auditors made 11 recommendations to DOH to: ensure the improper MCO payments made to ineligible providers were recovered; strengthen oversight and monitoring of MCOs to ensure that only eligible providers are reimbursed; and take steps to establish appropriate criteria for SIU staffing levels, adequate training requirements for SIU staff, and a process for ensuring consistency and accuracy in reporting SIU activities and recoveries. The follow-up review found that DOH had made some progress in correcting the problems identified in the initial audit report, but significant actions were still needed. Of the 11 recommendations, two had been implemented, four had been partially implemented, and five had not been implemented.

Medicaid Program: Improper Episodic Payments to Home Health Providers (Follow-Up) (2018-F-2). Effective May 1, 2012, DOH implemented the new Episodic Payment System (EPS) to reimburse Certified Home Health Agencies (CHHAs) for health care services provided to Medicaid recipients in the home. EPS is based on 60-day episodes of care. CHHAs can be paid for a full episode (when the episode of care is 60 days) or for a partial episode (when the episode of care is less than 60 days). The initial audit report (2016-S-4) identified $16.6 million in improper Medicaid payments to 95 CHHAs, including: $8.2 million in overpayments to CHHAs for recipients who were transferred into Managed Long Term Care during a 60-day episode of care (the CHHAs should have received pro-rated payments for the partial episodes of care rather than full 60-day payments); $7.1 million in overpayments to CHHAs that improperly billed multiple episodes for the same recipient within 60 days of the recipient's original episode start date; and $1.3 million in overpayments to CHHAs that improperly received full 60-day payments for recipients who subsequently obtained services from a different CHHA within 60 days of an episode of care. Auditors recommended that DOH review and recover the improper payments, and develop and implement mechanisms to identify and recover overpayments when CHHAs do not bill according to DOH guidelines. The follow-up review found that DOH had made some progress in addressing the problems identified in the initial audit report. However, further actions were still needed as only $590,455 of the $16.6 million in improper Medicaid payments had been recovered. Also, DOH had not developed mechanisms to identify and recover overpayments when CHHAs do not bill according to DOH guidelines.

Medicaid Program: Reducing Medicaid Costs for Recipients With End Stage Renal Disease (Follow-Up) (2018-F-8). Medicaid recipients with end stage renal disease (ESRD) who meet certain criteria are eligible for Medicare coverage. When Medicaid recipients with ESRD are enrolled in Medicare, Medicare becomes the primary payer. As the secondary payer, Medicaid pays the recipient's Medicare premiums, deductibles, and coinsurance amounts, which allows for a significant cost avoidance. The initial audit report (2015-S-14) found that DOH did not effectively control the Medicaid costs of recipients diagnosed with ESRD. Auditors identified 3,015 Medicaid recipients with ESRD who met the Medicare eligibility criteria but were not enrolled in Medicare at the time medical services were provided. Had DOH informed the recipients about their entitlement to Medicare and helped them enroll, the Medicaid program could have saved as much as $146 million over the six-year audit period ended December 31, 2015. Furthermore, auditors estimated that the Medicaid program could have saved as much as $69 million over the three years subsequent to the initial audit period. Auditors recommended that DOH: identify Medicaid recipients diagnosed with ESRD and instruct them on how and where to apply for Medicare; develop an outreach program that encourages ESRD-related providers and stakeholders to inform ESRD recipients about Medicare benefits and actively aid recipients in applying for Medicare; follow up with Medicaid recipients who do not apply for Medicare; and recover Medicaid claims paid for any retroactive Medicare enrollments of ESRD recipients. The follow-up review found that DOH officials had made progress addressing the problems identified in the initial audit. Of the five audit recommendations, one had been implemented, three had been partially implemented, and one was not applicable at the time of follow-up.

Erie County Medical Center Corporation
(ECMCC)

Employee Incentive and Bonus Payments (Follow-Up) (2018-F-6). ECMCC is a public benefit corporation created to manage the Erie County Medical Center health network. ECMCC offers two incentive programs, based on performance and productivity, to certain physicians. Performance incentives reward a physician for meeting certain criteria specified in the ECMCC employment agreement. Productivity incentives reward physicians based on the time and intensity associated with providing patient care services, which are measured and calculated using agreed-upon values specified in the ECMCC employment agreement. The initial audit report (2016-S-29) found that ECMCC did not properly administer certain incentive payments made to its employees. For the period reviewed, auditors identified $76,254 in incentive payments that were either not justified under the terms of the relevant incentive plan, distributed in error, or miscalculated, and that should be recovered. In addition, ECMCC did not maintain documentation to support the validity of another $86,261 paid to four physicians. Auditors recommended that ECMCC: recover the $76,254 in unwarranted performance and productivity incentives; further assess the $86,261 in unsupported incentive payments and determine if additional disallowances and recoveries are warranted; and, for all incentive and bonus programs and payments, improve monitoring, maintain appropriate supporting records, and ensure that payments are in full compliance with contractual stipulations and commensurate with actual achievements. The follow-up audit found that ECMCC had made progress addressing the recommendations in the initial audit, having fully implemented three and partially implemented one.

Office for People With Developmental Disabilities
(OPWDD)

Lifespire, Inc.: Compliance With the Consolidated Fiscal Reporting and Claiming Manual (2016-S-2). Lifespire provides services to individuals with mental developmental disabilities in New York City as well as in Westchester, Greene, and Ulster counties. Lifespire receives funding from Medicaid, OPWDD, the Office of Mental Health, and the U.S. Social Security Administration. Lifespire's funding from OPWDD is a combination of Medicaid and State appropriations. For the fiscal year ended June 30, 2014, Lifespire claimed $91.8 million in costs ($82.1 million Medicaid and $9.7 million State) on its Consolidated Fiscal Report (CFR), and for the fiscal year ended June 30, 2015, it claimed $94.8 million ($84.6 million Medicaid and $10.2 million State). This audit focused on the State funds for non-Medicaid costs. For the two fiscal years ended June 30, 2015, auditors identified $167,041 in claimed costs that did not comply with the State's Consolidated Fiscal Reporting and Claiming Manual (Manual) requirements. Auditors recommended that: OPWDD review the disallowances identified in the report and make the appropriate adjustments to the costs reported on Lifespire's CFRs and its reimbursements, and review Lifespire's supporting documentation to ensure that it is following all contract/program guidelines and regulations; and that Lifespire ensure that costs reported on future CFRs comply with the requirements in the Manual and contract terms.

Oversight of Young Adult Institute, Inc.'s Family Support Services Contracts (2017-S-29). OPWDD is responsible for coordinating services for New Yorkers with developmental disabilities. OPWDD contracts with nonprofits to provide services, such as Family Support Services (FSS), which are designed to help families care for a relative with a developmental disability at home. As of July 1, 2014, there were seven active FSS contracts between OPWDD and the Young Adult Institute Network (YAI Network), totaling about $3 million per year. OPWDD reimburses providers, based on actual program expenses, up

to the contracted amount. FSS providers report program expenses on their annual Consolidated Fiscal Reports (CFRs); reported expenses must fully comply with the Consolidated Fiscal Reporting and Claiming Manual (Manual) regarding eligibility and documentation requirements. Auditors found that OPWDD had not established controls necessary to ensure the expenses claimed by YAI Network were reasonable, necessary, allowable, supported, and consistent with requirements. In addition, YAI Network claimed $47,418 for personal service costs that were not properly supported and inappropriately billed OPWDD for $15,042 in estimated related fringe benefit costs. The provider also claimed, and billed OPWDD $28,553 for, 2,362.5 FSS units of service to 30 individuals, but did not maintain supporting documentation showing who received the services or when the services were provided. Auditors recommended that OPWDD: establish additional monitoring controls to ensure that YAI Network claims only reasonable, necessary, allowable, and supported expenses that are consistent with both the Manual and OPWDD guidelines; establish and distribute formal policies and procedures to regional offices for reviewing CFRs and quarterly fiscal reports, and provide training to regional offices to ensure compliance; follow up with YAI Network to formally assess the $47,418 in personal service expenses, the related estimated $15,042 in fringe benefit expenses, and the $28,553 for the units of service claimed that are not allowable; and take steps to ensure the organization does not re-claim these costs in the future.

Office of Alcoholism and Substance Abuse Services
(OASAS)

Drug and Alcohol Treatment Program: Provider Claiming of Depreciation Expenses (Follow-Up) (2018-F-11). OASAS oversees the nation's largest and most diverse addiction treatment system, and seeks to provide accessible, cost-effective, quality services that strengthen communities, schools, and families through alcohol and drug prevention and treatment and to meet clients' individual needs through specialized services. OASAS enters into agreements with providers for delivery of specific alcohol- and drug-related services, and reimburses providers for their net costs to provide the services for each contracted program, up to the maximum budgeted amount. Providers are not allowed to budget for or claim any type of depreciation expense for reimbursement. In the initial audit report (2015-S-84), auditors found that OASAS was not effectively monitoring its Drug and Alcohol Treatment program contracts to ensure provider claims did not include State reimbursement for depreciation expenses. Providers inappropriately claimed $2,675,045 in depreciation expenses between January 1, 2010 and June 30, 2014, of which $2,220,807 was funded by OASAS and $454,238 could potentially have been used for inappropriate increases to providers' future program budgets. Auditors recommended that OASAS: recover the $2,220,807 in depreciation expenses that were not allowable; make sure the $454,238 in non-funded depreciation expenses were not used to increase provider budgets; and establish effective monitoring controls to ensure provider claims do not include depreciation expenses. In their follow-up review, auditors found that OASAS had implemented all three recommendations.

Office of Children and Family Services
(OCFS)

Financial Oversight of the Advantage After School Program (2016-S-39). New York's Advantage After School Program (Program) was created to provide high-quality youth development opportunities to school-age children and youth during the hours directly after school. Administered by OCFS, the Program offers educational, recreational, and cultural age-appropriate activities and encourages active participation among children, youth, and parents in the design and delivery of activities. Providers must

describe how they will meet program outcomes and target measures, and provide an annual budget and their Maximum Average Daily Attendance (MADA), which is defined as the maximum number of children expected to be served in the Program on any day during the year. As of September 1, 2016, OCFS had contracts with 137 providers to operate programs at 176 sites serving about 17,000 children and youth. State funding for the Program was $19.3 million and $22.3 million in State fiscal years 2015-16 and 2016-17, respectively. Auditors found that OCFS had some appropriate controls to limit Program contract spending, including a maximum cost per child of $1,375 and a maximum allowable contract budget, which is calculated by multiplying providers' MADAs by the $1,375 maximum per child. OCFS reimbursements to Program providers did not exceed the maximum contract budget. However, there is a risk that providers can exceed the maximum cost per child if they serve significantly fewer children than their MADA but do not reduce their expenditures proportionally. Auditors recommended that OCFS: use available information, such as average attendance on quarterly reports, contract expenditure data, and attendance reviewed during Program Manager visits, to identify contracts with an increased risk of exceeding the maximum cost per child and/or serving significantly fewer children than their MADA; and, for contracts with increased risk, implement steps to monitor contract service levels and spending, and take appropriate corrective action, which may include redirecting future funds to other sites or providers.

Oversight of Residential Domestic Violence Programs (2017-S-16). OCFS' Division of Child Welfare and Community Services oversees the Office of Prevention, Permanency and Program Support at the Central Office, which is tasked with oversight of domestic violence (DV) programs in New York State. Central Office carries out the licensing and oversees six Regional Offices, which conduct the various inspection functions and provide oversight of residential and non-residential DV programs. In 2016, 11,338 individuals (including adults and children) were admitted to a residential DV program. During the audit period, there were 95 residential DV programs in the State operating 162 DV residences. Auditors determined that Central Office does not maintain adequate oversight of DV residences, as OCFS was unable to provide all program and fire safety inspection reports for the scope period and, throughout the audit – in some cases four months after its start – provided inconsistent information on applicable policies and procedures. Additionally, OCFS would not allow auditors access to either the Domestic Violence Information System or SharePoint, which it uses to monitor DV programs. Given the length of time it took OCFS to provide auditors with inspection reports, coupled with the state of discrepancy of the various reports submitted, auditors' access to these systems was critical to verify the reliability of information provided. Auditors' risk assessment was necessarily limited due to OCFS' delays in providing information. Although auditors found that the 53 DV residences they visited were in adequate condition, when considered in the context of additional reports OCFS provided after the fact showing instances of more serious issues, auditors question whether they would have found more serious issues had all reports been made available during the risk assessment. Given OCFS' constraints on the audit, including delays in and denial of access to records, there is considerable risk that material information was withheld. This, in addition to the contradictory information OCFS officials provided, raises serious concerns about the adequacy of OCFS' oversight of the DV program. Auditors recommended that OCFS: develop a centralized method for tracking and maintaining all DV program information, procedures to ensure consistency in reporting across all regions, and procedures for monitoring the Regional Offices' oversight of residential DV programs and each of their respective residences; and formally assess the adequacy of the internal control environment, and take necessary steps to ensure it is adequate, including cooperation with authorized State oversight inquiries.

Office of Temporary and Disability Assistance
(OTDA)

Oversight of Undistributed Child Support Funds (2017-S-17). OTDA's oversight responsibilities of New York's child support program include monitoring the efforts of 58 local social services district offices (districts) located in New York City and the State's other counties. Districts are each required to establish a support collection unit to collect and disburse child support funds. When child support funds have been undistributed for more than four months, districts must determine why and undertake "diligent efforts" to locate the payee (e.g., the custodial parent). When these funds remain undistributed for at least two years, the district is required to petition Family Court. Making the necessary diligent efforts and reporting these undistributed collections (UDCs) to Family Court initiates the escheatment process. Accordingly, if Family Court determines the district made appropriate efforts to locate the payee, the court can order that the money be returned to the payer or deposited with the County Treasurer or, in New York City, the Commissioner of Finance. Funds that remain with a County Treasurer or the Commissioner of Finance for more than three years are required to be escheated (turned over) as abandoned property to OSC's Office of Unclaimed Funds, which will then expand outreach efforts to find the appropriate party. Auditors found that OTDA has made improvements to the way child support funds are distributed, such as increasing electronically disbursed child support payments to help lessen the likelihood that payments will be returned and become undistributable. However, OTDA needs to increase its oversight of districts and provide more guidance to help ensure that districts process UDCs timely and in accordance with regulations, because UDCs that continue to age become more difficult to distribute to the rightful owner. Auditors recommended that OTDA develop specific policies and guidelines to help districts reduce UDC balances, including: providing clear and measurable guidance for what constitutes diligent efforts and measurable guidelines for the districts to meet this definition; establishing an expected time frame for when districts should petition Family Court regarding UDCs; and developing uniform procedural steps that the districts can use to initiate the escheatment process.

Oversight of Hotels and Motels Used for Homeless and Mixed-Use Temporary Residency (Follow-Up) (2018-F-12). According to U.S. Department of Housing and Urban Development 2017 data, of the 89,503 homeless people in New York State, 13,002 live in areas outside of New York City (NYC). Counties throughout the State utilize hotels and motels to house a substantial portion of their homeless populations. In fact, for many rural counties, hotels and motels are the only option, as there are no formal shelters. OTDA has assigned responsibility for the inspection of hotels and motels housing the homeless to local Social Services Districts (SSDs) and to the NYC Department of Homeless Services, but remains responsible for monitoring their activities. Similarly, DOH oversees its own district offices and county health offices across the State, excluding NYC, which are responsible for permitting and inspecting temporary residences (hotels and motels). In the initial audit report (2016-S-49), auditors concluded that, of the 80 hotels and motels visited, 24 (30 percent) were in generally unsatisfactory condition, exhibiting problems such as mold, water damage, structural damage, and fire safety issues, such as exposed wiring and missing smoke detectors. Further, OTDA had not provided SSDs with sufficient guidance about corrective action plans to address unsatisfactory conditions. Also, while material aspects of OTDA's inspection program were similar to activities performed by DOH, neither agency had investigated the possibility of sharing information concerning their hotel and motel inspections to minimize duplication of efforts. Auditors recommended that OTDA: provide additional guidance and establish uniform procedures for SSD staff to ensure full understanding of the goals of the inspection checklist as well as the inspection function; establish clear and concise policies and

procedures for recommended action to be taken by SSDs in the case of hotel and motel inspections that are found to be unsatisfactory; and establish a process to capture and analyze data from the six-month inspections submitted by the SSDs to better monitor habitability standards of hotels and motels used for homeless housing. In addition, auditors recommended that OTDA and DOH improve communication and collaboration among pertinent State and local government agencies to prevent duplication of efforts, strengthen the current inspection system, and ensure the most efficient use of public resources to inspect temporary residences used to house the homeless. In the follow-up report, auditors found that OTDA and DOH had implemented all four recommendations.

Use of Electronic Benefit Cards at Prohibited Locations (Follow-Up) (2018-F-15). OTDA is responsible for supervising programs that provide assistance and support to eligible families and individuals. OTDA receives federal funds under the Temporary Assistance for Needy Families (TANF) program to provide benefits and services, and delivers payments from this and other assistance programs through electronic benefit transfer (EBT) cards. Recipients can use the cards to make purchases or withdraw cash from a portion of their monthly benefits at participating automated teller machines (ATMs) and point of sale terminals throughout the State. The initial report (2016-S-52) found OTDA's monitoring of EBT transactions to be adequate, but identified certain strategic refinements that could help OTDA to better monitor transactions and identify violations. For instance, OTDA was not performing comprehensive data analysis testing of monthly transactions, focusing on repeated violations at the same potentially prohibited locations. Additionally, OTDA was not including out-of-state transactions in its monthly reviews nor notifying other states where potential violations had been identified. Also, OTDA's Audit Director was responsible for EBT cash transaction monitoring, limiting supervision and the independence of the internal audit function. Auditors recommended that OTDA: develop comprehensive data analysis testing of monthly transactions, focusing on repeated violations at the same potentially prohibited locations; include transactions occurring in other states in monthly reviews, and notify the other states where potential violations are identified; and reassign responsibility for EBT cash transaction monitoring to allow for both effective supervision and independence of the internal audit function. The follow-up audit found that OTDA had made progress addressing the issues identified, having implemented two recommendations and partially implementing the third.

EDUCATION

Several State agencies are responsible for providing and overseeing educational services in New York State. The following summarizes the results of our audits during the past year at these State agencies.

Higher Education Services Corporation/Tuition Assistance Program *(TAP)*

TAP is the largest student grant program administered by the Higher Education Services Corporation (HESC). The program provides grants to State residents attending postsecondary institutions in New York State. Most of our audits of TAP are designed to determine whether the institutions comply with program requirements established by the State Education Department (SED) in certifying students as eligible for TAP awards.

New York College of Health Professions (2016-T-4). New York College of Health Professions (College of Health) operates five locations: a campus in Syosset, Long Island; three locations in Manhattan; and one in China. College of Health offers graduate and undergraduate degrees in Acupuncture, Oriental Medicine, Advanced Asian Bodywork, and Massage Therapy. For the 2016-17 academic year, the school enrolled 554 students. College of Health's undergraduate tuition is $390 per credit. For the three academic years ended June 30, 2015, College of Health officials certified 1,553 awards totaling $2.1 million on behalf of 637 students. Auditors determined that College of Health was overpaid $298,224 because school officials incorrectly certified some students as eligible for State financial aid awards. Incorrect certifications included 11 students who received awards but did not demonstrate academic preparedness and eight students who did not meet the requirements for full-time status. Auditors recommended that: HESC recover $298,224 plus applicable interest from College of Health; College of Health should comply with the State Education Law and the Commissioner of Education's Rules and Regulations when certifying students for State financial aid; and SED and HESC work with College of Health officials to help ensure future compliance with the eligibility requirements cited in the report.

State Education Department *(SED)*

Compliance With the Reimbursable Cost Manual. Private special education providers can be for-profit or not-for-profit organizations. These providers must be approved by SED to deliver special education services to children in New York. SED annually develops rates for preschool special education programs operated by approved providers based on actual costs reported to SED. These rates are used to reimburse providers for eligible costs, which must be in compliance with comprehensive instructions and guidelines set forth in SED's Consolidated Fiscal Reporting and Claiming Manual (Manual) and its Reimbursable Cost Manual (RCM). Chapter 545 of the Laws of 2013 requires the State Comptroller to audit the expenses reported to SED by every program provider of special education services for preschool children with disabilities, subject to the funding made available by the Legislature for such purpose. In the 2017-18 reporting year, OSC issued 16 such reports, as follows:

- **Advanced Therapeutic Concepts, Inc.** (2016-S-42). Advanced Therapeutic Concepts (ATC), which operates in New York City (excluding Staten Island) as well as Westchester and Rockland counties, is

approved by SED to provide preschool special education services to children with disabilities who are between three and five years of age. This audit involved ATC's Special Education Itinerant Teacher (SEIT) program. During the three fiscal years ended June 30, 2015, ATC served between 162 and 213 students, and reported approximately $5.5 million in reimbursable costs for its cost-based programs, including SEIT. Auditors identified $181,938 in reported costs that did not comply with the RCM's requirements, including: $70,992 for computer software with insufficient documentation supporting the purchase and/or how it was used in operations; $53,569 in health insurance reimbursements to employees that lacked documentation to support that the employees actually incurred any cost or provided ATC with documentation supporting the reimbursement; $31,535 paid to nine teachers at an hourly rate above the per-session rate stated in their contracts; and $25,842 in various other than personal service costs that are not eligible for reimbursement. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to the costs reported on ATC's CFRs and tuition reimbursement rates, and work with ATC to help ensure compliance with the provisions in the RCM; and that ATC ensure that costs reported on future CFRs comply with the requirements in the RCM.

- **HeartShare Human Services, Inc.** (2016-S-45). HeartShare Human Services (HeartShare) is a New York City-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the audit period, among other programs, HeartShare operated two SED cost-based preschool special education programs. For the three fiscal years ended June 30, 2014, HeartShare reported approximately $38 million in reimbursable costs for its two SED preschool cost-based programs. Auditors identified $1,529,789 in costs that did not comply with RCM requirements, including: $891,018 in compensation for 71 individuals who did not work for HeartShare's SED preschool cost-based programs; $204,855 in employee bonuses that did not comply with SED's reimbursement requirements; $201,237 in personal and other than personal service expenses that were overallocated to the programs; $118,199 in ineligible compensation to HeartShare's Executive Director, Assistant Executive Director, and Chief Financial Officer; $63,675 in expenses for non-auditing services that are ineligible for reimbursement; and $50,805 in other ineligible and insufficiently documented expenses. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to HeartShare's CFRs and tuition reimbursement rates, as warranted, and work with HeartShare to ensure compliance with SED's reimbursement requirements; and that HeartShare ensure that all costs reported on future CFRs comply with RCM requirements.

- **Birch Family Services, Inc.** (2016-S-74). Birch Family Services (Birch) is a New York City-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. For the two fiscal years ended June 30, 2013, Birch reported approximately $52.1 million in reimbursable costs for its SED preschool cost-based programs. Auditors identified $1,376,319 in reported costs that did not comply with RCM requirements, including: $605,667 in compensation to employees who did not work for Birch's SED preschool cost-based programs; $403,640 in incorrectly allocated personal and other than personal service costs; $227,831 in compensation costs that should have been charged to other Birch programs rather than the SED preschool cost-based programs; $88,266 in insufficiently documented costs; and $38,096 in excessive executive compensation and $12,819 in bonus payments. Auditors also determined that Birch allocated $284,063 in compensation costs for seven administrative, non-direct care employees whose titles were classified instead as direct

care positions. As SED's tuition rate-setting methodology limits reimbursable non-direct care costs to 42.86 percent of the provider's reimbursable direct care costs, auditors recommended that SED investigate the allocation of these expenses and determine if a disallowance is warranted. Auditors also recommended: that SED review the other disallowances identified and make the appropriate adjustments to Birch's CFRs and reimbursement rates, as warranted, and work with Birch to help ensure compliance with SED's reimbursement requirements; and that Birch ensure that costs reported on future CFRs comply with the RCM's requirements.

- **Brookville Center for Children's Services, Inc.** (2016-S-75). Brookville Center for Children's Services (Brookville) is a Nassau County-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities between the ages of three and five years. During the 2013-14 school year, Brookville served about 456 students. For the three fiscal years ended June 30, 2014, Brookville reported approximately $72.2 million in reimbursable costs for the audited programs. During the same three fiscal years, NYSARC, Inc.-Nassau County Chapter (AHRC), a related party, provided Brookville with management services under the Corporate and Administrative Services Agreement (Management Agreement). Auditors identified $1,089,215 in reported costs that did not comply with the RCM's requirements, including: $305,207 in administrative costs for services performed by Brookville employees that should have been covered under the Management Agreement and, as such, were unnecessary and duplicative; $240,673 in lease expenses that were not in compliance with the RCM, including costs attributable to excessive space (square footage) allocations; $273,100 in ineligible management fees, including $42,897 in non-reimbursable bonuses paid to AHRC officials and $41,594 in unsupported vehicle expenses; and $234,291 in ineligible and/or insufficiently documented fringe benefit expenses. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to Brookville's CFRs and reimbursement rates, as warranted, and work with Brookville to help ensure compliance with the provisions of the RCM; and that Brookville ensure that all costs reported on future CFRs fully comply with the requirements in the RCM.

- **Lifeline Center for Child Development, Inc.** (2016-S-95). Lifeline Center for Child Development (Lifeline) is a Queens-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the 2014-15 school year, Lifeline served about 52 students. For the three fiscal years ended June 30, 2015, Lifeline reported approximately $9.8 million in reimbursable costs for its SED preschool cost-based program. Auditors identified $304,192 in reported costs that did not comply with the guidelines in the RCM, including: $80,506 in bonuses that either were given to non-eligible employees, exceeded the 3.5 percent limit set by SED, or were not supported by performance evaluations; $75,569 in property-related expenses that were incorrectly allocated to the SED preschool cost-based program; $53,742 in staffing costs where Lifeline exceeded the SED-approved staff-to-student ratios; $31,313 in ineligible expenses; $39,475 in employee compensation that was improperly allocated to the SED cost-based program; and $23,587 in undocumented and/or insufficiently documented expenses. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to Lifeline's CFRs and tuition reimbursement rates, as warranted, and work with Lifeline to ensure compliance with SED's reimbursement requirements; and that Lifeline ensure that all costs reported on future CFRs comply with the requirements in the RCM.

- **Building Blocks Developmental Preschool, Inc.** (2017-S-1). Building Blocks Developmental Preschool (Building Blocks), an SED-approved not-for-profit special education provider located in Commack, provides preschool special education services to children with disabilities who are between three and five years of age. For the three fiscal years ended June 30, 2015, Building Blocks reported over $16 million in reimbursable costs on its CFRs for the four rate-based preschool special education programs (Programs) it operated. Auditors identified $56,966 in reported costs that were ineligible for reimbursement, including: $53,073 in non-reimbursable lease costs, $3,497 in non-reimbursable consultant costs, and $396 in non-reimbursable food costs. Auditors recommended: that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on Building Blocks' CFRs and to Building Blocks' tuition reimbursement rates, and remind Building Blocks officials of the pertinent SED requirements that relate to the deficiencies identified; and that Building Blocks ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Hawthorne Foundation, Inc.** (2017-S-3). Hawthorne Foundation (Hawthorne), an SED-approved, not-for-profit special education provider in Westchester County, provides preschool special education services to children with disabilities who are between three and five years of age. For the fiscal year ended June 30, 2015, Hawthorne reported approximately $2.8 million in reimbursable costs on its CFR for the one rate-based preschool special education program that it operated. Auditors identified $75,189 in ineligible costs for that program, including: $56,619 in personal service costs for insufficiently documented staff time; and $18,570 in other than personal service costs, which consisted of $11,419 in expensed equipment that was not properly capitalized and depreciated, $4,483 in non-program-related expenses, $1,378 in real estate taxes that was not properly allocated, and $1,290 in other non-reimbursable expenses. Auditors also determined Hawthorne did not disclose related-party transactions with three entities on its CFR, as required. Auditors recommended that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on Hawthorne's CFR and to Hawthorne's tuition reimbursement rates, and remind Hawthorne officials of the pertinent SED requirements that relate to the deficiencies identified. Furthermore, auditors recommended that Hawthorne ensure that costs and staff hours reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed, and properly disclose related-party transactions on the CFR in accordance with SED's requirements.

- **Kennedy Child Study Center** (2017-S-7). Kennedy Child Study Center (Kennedy) is a New York City-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, Kennedy reported approximately $41.7 million in reimbursable costs for its SED preschool cost-based programs. Auditors identified $612,781 in reported costs that did not comply with the guidelines in the RCM, including: $583,400 in excessive compensation costs charged to the SED cost-based programs for six psychologists who also worked for Kennedy's fixed-fee Evaluations program; $24,106 in ineligible expenses; and $5,275 in bonuses that were not in compliance with RCM requirements. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to Kennedy's CFRs and tuition reimbursement rates, as warranted, and work with Kennedy to ensure compliance with SED's reimbursement requirements; and that Kennedy ensure that all costs reported on future CFRs comply with the requirements in the RCM.

- **The Child Study Center of New York** (2017-S-13). The Child Study Center of New York (CSC), a not-for-profit organization located in Jericho, is authorized by SED to provide preschool special education services to children with disabilities who are between three and five years of age. For the fiscal year ended June 30, 2014, CSC reported approximately $5.9 million in reimbursable costs on its CFR for two rate-based preschool special education programs (Programs) it operated. Auditors identified $127,101 in ineligible costs for the Programs, including $121,255 in employee fringe benefit costs that were incorrectly allocated to the Programs and $5,846 in ineligible costs for food, personal travel, gifts, and other non-reimbursable expenses. Auditors recommended: that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on CSC's CFR and to CSC's tuition reimbursement rates, and remind CSC officials of the pertinent SED requirements that relate to the deficiencies identified; and that CSC ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

- **The New Interdisciplinary School** (2017-S-20). The New Interdisciplinary School (NIS) is an SED-approved, not-for-profit special education provider located in Suffolk County that provides preschool special education services to children with disabilities who are between three and five years of age. For the two fiscal years ended June 30, 2015, NIS reported approximately $11.6 million in reimbursable costs on its CFRs for the five rate-based preschool special education programs (Programs) it operated. Auditors identified $119,752 in ineligible costs for the Programs, including: $83,192 in personal service costs ($76,277 in improperly allocated salaries and fringe benefit costs, $5,658 in non-reimbursable bonuses and associated mandated fringe benefits, and $1,257 in compensation and associated mandated fringe benefits related to a health insurance incentive program); and $36,560 in other than personal service costs ($30,978 in unsupported consulting costs, $3,826 in ineligible auditing fees, and $1,756 in other non-reimbursable expenses). Auditors recommended that: SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on NIS' CFRs and to NIS' tuition reimbursement rates, and remind NIS officials of the pertinent SED requirements that relate to the deficiencies identified; and that NIS ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

- **Infant and Child Learning Center - The Research Foundation for the State University of New York** (2017-S-22). Infant and Child Learning Center (ICLC), a Brooklyn-based organization affiliated with the Research Foundation for the State University of New York, is approved by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. In 2011, the State University of New York Downstate Medical Center purchased the Long Island College Hospital, including its Stanley S. Lamm Institute Preschool (Lamm). Lamm's costs are reported on ICLC's CFRs. During the 2014-15 school year, ICLC served about 291 students. For the three fiscal years ended June 30, 2015, ICLC reported approximately $19.1 million in reimbursable costs for its SED cost-based preschool special education programs. Auditors identified $1,727,960 in reported costs that did not comply with the requirements in the RCM, including: $1,519,114 in improperly calculated parent agency administrative allocation costs; $99,276 in insufficiently documented and/or undocumented costs; $68,537 in ineligible fringe benefits ($46,906 in vacation and sick leave costs and $21,631 in Metropolitan Commuter Transportation Mobility Taxes); $25,606 in personal service expenses ($12,994 in excess staffing expenses and $12,612 in ineligible bonuses); and $15,427 in other ineligible other than personal service expenses. Auditors recommended: that SED review the disallowances identified and make the appropriate

adjustments to ICLC's CFRs and tuition reimbursement rates, as warranted, and work with ICLC officials to ensure their compliance with SED's reimbursement requirements; and that ICLC ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

- **Interdisciplinary Center for Child Development** (2017-S-31). Interdisciplinary Center for Child Development (ICCD) is a New York City-based for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the 2014-15 school year, ICCD served about 282 students at locations in Queens and Nassau County. For the three fiscal years ended June 30, 2015, ICCD reported approximately $30.2 million in reimbursable costs for its SED preschool special education cost-based programs. Auditors identified $453,670 in reported costs that did not comply with the requirements in the RCM, as follows: $274,830 in a less-than-arm's-length lease transaction where the reimbursed costs exceeded the owner's actual cost; $176,793 in compensation related to excess staffing of teacher aides/assistants; $1,765 in overallocated and/or excess employee compensation; and $282 in non-program-related expenses. Auditors recommended: that SED review the disallowances identified and make the appropriate adjustments to ICCD's CFRs and reimbursement rates, as warranted, and work with ICCD officials to ensure their compliance with the provisions in the RCM; and that ICCD ensure that costs reported on future CFRs comply with the RCM's requirements.

- **Alternatives for Children** (2017-S-44). Alternatives for Children (Alternatives) is a Long Island-based not-for-profit special education provider authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2015, Alternatives reported approximately $25.9 million in reimbursable costs for the five rate-based preschool special education programs (Programs) that it operated. Auditors identified $253,494 in ineligible costs for the Programs, including: $122,966 in personal service costs (salary improperly charged directly to the Programs) and $130,528 in other than personal service costs ($37,446 in expensed equipment that was not properly capitalized and depreciated; $35,956 in rent expenses for a location that was no longer being used; $25,430 in non-audit services that were performed by the same CPA firm Alternatives contracted with for its annual audit; $21,843 in costs that were not allocated according to the methodologies prescribed in the RCM; $7,852 in lobbying expenses; and $2,001 in other non-reimbursable expenses). Auditors recommended: that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on Alternatives' CFRs and to Alternatives' tuition reimbursement rates, and remind Alternatives officials of the pertinent SED requirements that relate to the deficiencies identified; and that Alternatives ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **School for Language and Communication Development** (2017-S-59). The School for Language and Communication Development (SLCD) is a Nassau County-based not-for-profit special education provider authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2015, SLCD reported approximately $8.1 million in reimbursable costs for the three rate-based preschool special education programs (Programs) that it operated. Auditors identified $38,741 in ineligible costs for the Programs, including: $28,271 in pension benefits for administrative employees that exceeded the benefits available to direct care preschool employees; $7,152 in costs for a teacher assistant that was incorrectly charged to the Programs; $3,220 in compensation that

exceeded the regional median for an executive; and $98 in other than personal service costs. Auditors recommended: that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on SLCD's CFRs and to SLCD's tuition reimbursement rates, and remind SLCD officials of the pertinent SED requirements that relate to the deficiencies identified; and that SLCD ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

- **Programs For Little Learners** (2017-S-87). Programs For Little Learners (PFLL) is an SED-approved, for-profit special education provider located in Westchester County. PFLL provides preschool special education services to children with learning disabilities who are between three and four years of age. For the three fiscal years ended June 30, 2015, PFLL reported approximately $2.3 million in reimbursable costs on its CFRs for one rate-based preschool special education program (Program) that it operated. Auditors identified $66,597 in ineligible costs for the Program, including $58,481 in personal service costs and $8,116 in other than personal service costs. Auditors recommended: that SED review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on PFLL's CFRs and to PFLL's tuition reimbursement rates, and remind PFLL officials of the pertinent SED requirements that relate to the deficiencies identified; and that PFLL ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

- **The Network for Children's Speech, Occupational and Physical Therapy, LLC** (2017-S-79). The Network for Children's Speech, Occupational & Physical Therapy (Children's Therapy Network [CTN]) is an SED-approved, for-profit special education provider located in Onondaga County. CTN provides preschool special education services to children with disabilities who are between three and five years of age. For the three fiscal years ended June 30, 2015, CTN reported approximately $2.5 million in reimbursable costs on its CFRs for the one rate-based preschool special education program (Program) that it operated. Auditors identified $707,677 in ineligible costs for the Program, including $668,259 in personal service costs ($511,672 in overstated personal service costs for special education itinerant teachers [SEITs], $93,445 in unsupported personal service costs for office workers, $63,039 in excessive compensation to a SEIT teacher who had an ownership interest in CTN, and $103 in improper bonus payments); and $39,418 in other than personal service costs ($13,574 in insufficiently documented expenses, $13,491 in related-party lease expenses that exceeded the owner's actual cost, $10,067 in overallocated expenses due to inappropriate allocation methods, and $2,286 in other ineligible expenses). Additionally, auditors determined that CTN did not disclose related-party transactions with Vector Management Solutions, Inc. on its CFR, as required. Auditors recommended that SED: review the disallowances identified and, if warranted, make the necessary adjustments to the costs reported on CTN's CFRs and to CTN's tuition reimbursement rates; and remind CTN officials of the pertinent SED requirements that relate to the deficiencies identified. Auditors also recommended that CTN ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed, and that related-party transactions are properly disclosed on the CFR in accordance with SED's requirements.

Implementation of the Dignity for All Students Act (2016-S-28). The Dignity for All Students Act (DASA) seeks to provide students in New York with a safe and supportive environment free from discrimination, harassment, and bullying on school property, on school buses, and at school functions. Its initial provisions, which took effect July 1, 2012, included curriculum and annual reporting requirements and

required schools to designate a trained Dignity Act Coordinator (DAC). An amendment effective July 1, 2013 defined cyberbullying and added requirements for investigating and reporting alleged incidents. SED provides guidance to assist school districts in complying with DASA requirements, and makes school incident data available to the public on its website. For the school year ended June 30, 2016, school districts (excluding New York City) reported 19,410 incidents statewide under DASA. Also, recently revamped regulations that took effect July 1, 2017 changed the way schools report incidents. Auditors found that SED had issued adequate DASA guidance to schools in a timely manner. However, while most schools that auditors visited had implemented key requirements, such as designating DACs, many had not implemented some critical requirements, such as ensuring that DAC contact information is widely accessible. Some schools also did not provide DASA training to noninstructional personnel. SED's guidance addressing transgender and gender non-conforming students has been both timely and adequate. However, certain schools may not be accurately reporting some DASA incidents or may not be reporting them at all. In addition, several schools were not able to identify which DASA incidents they reported to SED, and incident records often were not adequate to clearly demonstrate whether the incidents were reportable. Officials at most schools visited were not aware of DASA record retention requirements, and some indicated that they purge DASA records sooner than DASA allows. Auditors recommended that SED: develop a risk assessment that incorporates known and suspected weaknesses in DASA implementation and commit sufficient resources to promote school compliance with DASA requirements; work with training partners, such as the Center for School Safety, to enhance DASA training to better meet user needs; and remind school and district officials of DASA record retention requirements and address areas of confusion that compromise compliance with these requirements.

Oversight of Chronic Absenteeism (2017-S-52). Chronic absenteeism, which SED defines as a student missing at least 10 percent of enrolled school days, is a widespread problem. Absences – attributed to issues such as poor school performance, bullying, unwelcoming school climates, and challenges related to homelessness – increase students' risk for disengagement, low achievement, and dropping out. Chronic absenteeism emphasizes individual student attendance by tracking missed instructional time, which takes into account both excused and unexcused absences. School districts and other local education agencies (LEAs), such as charter schools and Boards of Cooperative Educational Services, report student daily attendance information, which SED uses to calculate chronic absenteeism rates. Individual school districts and LEAs also maintain their own attendance information. As of June 2017, approximately 2,630,000 K–12 public school students were enrolled in the State. Auditors found that SED had taken steps to address chronic absenteeism by encouraging schools to track student absenteeism and develop strategies to increase student engagement and reduce chronic absences. SED also incorporated chronic absenteeism into its Every Student Succeeds Act plan as one of several factors that together will measure school climate and quality. SED's actions will require implementation over multiple years, and some results will not be evident for several more years. Auditors also identified risks to the implementation of SED's chronic absenteeism initiatives, such as discrepancies between student attendance data in SED's system and data provided by individual school districts for the 2016-17 school year, related to 89 of 200 (45 percent) students tested. Auditors determined that variations in collecting and reporting attendance will affect the reliability of chronic absenteeism data when using it to compare districts. Auditors also determined that certain districts were more aware of SED's expectations to address chronic absenteeism than others: 22 percent (4 of 18) of districts auditors contacted did not recall key SED memos issued in 2016 and 2017 that focused on chronic absenteeism. These memos also encouraged rather than required districts to take actions to address chronic absenteeism, resulting in districts placing varying priority on the actions suggested. Auditors

recommended that SED: take steps to ensure the accuracy of attendance data in its system used to calculate chronic absenteeism rates; and ensure communications to school districts and LEAs contain sufficient detail outlining expected actions to address chronic absenteeism.

Oversight of School Fire Safety Compliance (Follow-Up) (2017-F-22). SED is responsible for overseeing school fire safety, including mandatory fire and building inspections, and for ensuring schools' compliance with fire safety provisions established in the State Education Law, the State Uniform Fire Prevention and Building Code, and SED regulations. In the initial audit report (2015-S-86), auditors determined that SED was not adequately monitoring schools' compliance with all fire safety regulations and their reporting of violations. For instance, many of the 25 schools visited did not complete the required number of fire drills, and six schools' emergency evacuation plans did not include evacuation procedures for students with disabilities or special needs. Almost 50 percent of private schools did not submit required inspection reports for the 2015-16 school year. Auditors recommended that SED: develop a risk-based approach for verifying, by site visit or other means, whether information provided in fire inspection reports is accurate and schools are complying with fire safety requirements; formally assess the need to issue guidance to school districts regarding whether school emergency management plans should address any unique evacuation procedures for people with special needs; develop and implement actions to follow up with non-compliant private schools to encourage and improve their submission of annual fire safety inspection reports; and, in conjunction with information technology staff, develop the capabilities and data reliability of the new fire inspection data system, so that it can be used to easily access, analyze, and generate management reports on relevant inspection information for all schools. In the follow-up review, auditors determined that SED had made significant progress in correcting the problems identified. Of the four recommendations, two had been implemented and two had been partially implemented.

Universal Pre-Kindergarten Program: Monitoring of Health and Safety Requirements (Follow-Up) (2017-F-30). The Universal Pre-Kindergarten (UPK) program provides four-year-old children access, at no charge, to comprehensive early childhood education experiences that promote their social-emotional, creative expressive/aesthetic, physical, cognitive, linguistic, and cultural development. SED regulations require buildings and classrooms used for UPK to be safe and to comply with applicable fire safety, health, and building codes, and for equipment and furnishings to be safe and suitable for children and maintained in a state of good repair and sanitation. The initial audit report (2016-S-10) found that SED did not directly monitor UPK providers for health and safety, and instead relied on the school district operating the UPK program, or the Office of Children and Family Services, to ensure that UPK providers were complying with health and safety requirements. Auditors found a wide disparity in the way UPK providers were being monitored for health and safety – with some being inspected regularly for health and safety and others being reviewed mainly for program curriculum safety – and a lack of consistency in how school districts were inspecting their UPK provider locations. Auditors recommended that SED develop requirements and issue guidance for school districts to follow when performing health and safety inspections of UPK facilities, and implement a structured system to monitor school districts' oversight and inspections of health and safety compliance of all UPK providers. The follow-up review found that SED had made some progress in addressing the issues identified. Of the two prior audit recommendations, one had been implemented and one had been partially implemented.

State University of New York
(SUNY)

Oversight of Campus Foundations (2016-S-93). SUNY's State-operated campuses are authorized to contract with foundations (private, not-for-profit corporations) to support fundraising efforts, real property management, or other activities and functions that are not specifically vested with the campus. Generally, foundations receive and manage donations and make these resources available to the campus to support approved programs and activities. SUNY's Board of Trustees grants oversight responsibility of the campus foundations to the University Controller's Office (UCO) and the Office of the University Auditor (OUA). Both OUA and UCO are part of SUNY's System Administration (SSA). OUA is responsible for conducting periodic audits of the foundations, while UCO is responsible for ensuring the foundations have the required contracts with the campuses and for reviewing the foundations' annual audited financial statements, management letters, and corrective action plans. As of June 30, 2015, SUNY's 30 campus-related foundations had net assets totaling $2.1 billion. Auditors identified deficiencies in SSA's oversight of the campus foundations and in certain areas of the foundations' operations. Specifically: 10 of 30 foundations were operating without the required contracts with the campuses; 16 foundations had not been audited since at least 2007; SSA did not routinely obtain or review certain available documentation that could be used to assess risk, such as the foundations' policies and IRS Form 990; and certain foundations did not establish required policies and procedures for key business functions, or their policies were inadequate or contained questionable provisions. Auditors recommended that SSA: work with campuses to ensure all foundation contracts are executed on a timely basis; routinely evaluate relevant, available information to assess risk in the foundations' operations; incorporate identified risks into the audit planning process and consider performing audits that address high-risk areas; ensure all foundations have thorough policies and procedures that adequately address all areas specified in the Guidelines for Campus-Related Foundations; review the questionable expenditures identified and determine whether they are reasonable and consistent with the foundations' mission to support campus programs and activities; and advise the foundations to take corrective measures to resolve the identified deficiencies, as warranted.

Compliance With Payment Card Industry Standards (Follow-Up) (2017-F-24). All entities that accept credit cards as a method of payment must comply with technical and operational Data Security Standards (DSS) established by the Payment Card Industry (PCI) Security Standards Council, which were designed to protect cardholder data. As the governance arm of the SUNY system, SUNY System Administration defines policies and procedures applicable to all SUNY schools, including procedures that address the actions required of all institutions to protect the confidentiality of sensitive data and ensure compliance with applicable industry standards. The initial audit report (2015-S-65) found that SUNY schools were generally knowledgeable about PCI compliance and the need to protect credit card data from unauthorized access; however, auditors identified a range of weaknesses concerning the completeness of systems' component inventories, network segmentation, the resolution of compliance deficiencies, and the oversight of affiliated campus organizations. Auditors' three recommendations addressed the implementation status of recommendations made separately to the various SUNY schools, the enhancement of compliance and monitoring of PCI compliance at SUNY schools, and the revision of contract templates by System Administration. In the follow-up review, auditors found that SUNY schools and System Administration had made significant progress in implementing the recommendations identified in the initial report. Of the three prior audit recommendations, two had been implemented and one had been partially implemented.

City University of New York
(CUNY)

Central Office: Controls Over Bank Accounts (2015-S-94). CUNY is the public university system of New York City, and the largest urban university in the United States, consisting of 24 institutions. CUNY Central Office provides administrative support and business services to its institutions. CUNY's Cash Management and Banking Policy (Policy) requires the University Controller to ensure that each bank account complies with University policies and procedures. The Office of the University Controller (OUC) is responsible for managing centralized cash collections, including tuition and fees. Additionally, the Treasurer oversees Cash Management, Student Financial Aid Distributions, and the University Bursar. Auditors identified multiple internal control weaknesses related to the use of bank accounts, increasing the risk of fraud, waste, and/or abuse from unauthorized bank accounts and expenditures. In addition, CUNY lacked a formal policy to address custodial credit risk, as it had Money Market balances of $163 million that were uninsured and uncollateralized beyond the Federal Deposit Insurance Corporation limit of $250,000. Auditors recommended that CUNY: fully comply with prescribed procedures for opening new bank accounts and monitoring existing accounts; strengthen controls to ensure that funds are appropriately disbursed from bank accounts; and develop and implement formal policies and procedures for repurposing bank accounts and ensuring that large bank account balances are adequately collateralized or otherwise secured.

Medgar Evers College: Controls Over Bank Accounts (Follow-Up) (2017-F-14). Medgar Evers College (MEC) maintains various bank accounts to fulfill its mission to develop and maintain high quality, professional, career-oriented undergraduate degree programs. Findings in the initial audit (2015-S-92) indicated weaknesses in MEC's controls of bank accounts that pose risks. For instance, all 14 MEC accounts were opened after CUNY's bank authorization policy was established in 2008. However, CUNY Central Office did not have any of the required notification forms for these accounts. Additionally, auditors' inquiry of banks located in the proximity of the college found an additional two accounts that were not on MEC's list, which increases the risk that MEC personnel could conduct transactions using unauthorized accounts. Auditors also found that of 54 payments, totaling $810,608, from six judgmentally selected bank accounts, 26 payments, totaling $118,782, either did not comply with CUNY and/or State and City policies and procedures and/or were unsupported. In some transactions, funds were not used for their intended purposes. The follow-up found that MEC had made progress in addressing the issues identified: Both of the two prior audit recommendations had been partially implemented.

Lehman College: Controls Over Bank Accounts (Follow-Up) (2017-F-18). Lehman College (Lehman) maintains bank accounts for various purposes, such as tuition and fees. As of October 11, 2017, CUNY Central Office reported 484 bank accounts for the 24 CUNY institutions, including 22 active accounts at Lehman. Findings in the initial audit (2014-S-69) indicated weaknesses in Lehman's controls of bank accounts that pose risks. For instance, auditors found two accounts not on the Central Office's list that Lehman opened prior to the implementation of the 2008 banking policy, including a Certificate of Deposit account totaling $65,034. In addition, of 72 payments, totaling $1,248,139, from five judgmentally selected bank accounts, 25 payments, totaling $114,554, either did not comply with CUNY and/or State and City policies and procedures and/or were unsupported. Auditors also found that a nontax levy account contained tax levy dollars that Lehman should have turned over to the State. As of March 2015, these funds totaled over $1 million. Auditors recommended that Lehman: comply with prescribed procedures for opening new bank accounts and monitoring existing accounts, and develop

and implement additional policies and procedures to administer bank accounts, as warranted; transmit all funds due to the State Treasury on a timely basis; and effectively separate the duties related to the administration of bank accounts so that no one person has control over incompatible functions. The follow-up review found that Lehman had made progress in addressing the issues identified. Of the four recommendations in the initial audit report, two had been implemented and two had been partially implemented.

Borough of Manhattan Community College: Controls Over Bank Accounts (Follow-Up) (2017-F-25). The Borough of Manhattan Community College (BMCC) maintains bank accounts for various purposes, such as tuition and fees. As of October 31, 2017, it maintained 23 active bank accounts with balances totaling $29.9 million. The initial audit report (2015-S-93) identified multiple internal control weaknesses related to the use of bank accounts that pose certain risks. As of July 1, 2008, CUNY colleges are required to notify CUNY Central Office when opening and closing bank accounts. Of the seven BMCC bank accounts that required such a notification, CUNY Central did not have the required notification form for one, which was opened in May 2014. Additionally, auditors identified two accounts for the BMCC Foundation that were not on CUNY Central's list. These findings point to weaknesses in the monitoring of bank accounts, which increase the risk that BMCC personnel could conduct transactions using unauthorized accounts. A review of the source of funds in BMCC's accounts found $120,116 that BMCC officials should have transferred to the City of New York. Of 78 payments, totaling $3,136,579, from six judgmentally selected bank accounts, 45 payments, totaling $563,605, did not comply with CUNY, State, and/or City policies and procedures and/or were unsupported. Auditors recommended that BMCC: fully comply with prescribed procedures for opening new bank accounts and the monitoring of existing accounts, and develop and implement additional policies and procedures to administer bank accounts, as warranted; ensure that funds that should be transmitted to the State and the City are sent timely; and strengthen the control environment to ensure that funds are appropriately disbursed from bank accounts. The follow-up review found that BMCC had made some progress in addressing the issues identified, having partially implemented each of the three recommendations.

Controls Over CUNY Fully Integrated Resources and Services Tool (Follow-Up) (2018-F-4). The CUNY Fully Integrated Resources and Services Tool (CUNYfirst) is an Enterprise Resource Program used for various applications including student administration, financial administration, and human resources. As of February 15, 2018, there were 1.64 million CUNYfirst users, consisting of both active and inactive employees and current and former students. The initial audit (2015-S-34) found that CUNY's processes and controls did not adequately ensure that CUNYfirst users had access only to functions that were necessary to meet their needs. For example, CUNY Central Office granted 60 roles to Application Security Liaisons (information technology personnel who grant access to CUNYfirst at the campuses) without adequate justification. In addition, for 27 employees who had left CUNY, their roles were not removed until three to 32 months after their departure. Auditors made nine recommendations designed to assist CUNY in strengthening its controls over user groups' access to the CUNYfirst system. At the follow-up review, auditors found that CUNY officials had made progress in addressing the issues identified. Of the nine prior audit recommendations, one had been implemented, six had been partially implemented, and two had not been implemented.

TRANSPORTATION

Several State agencies and public authorities are responsible for maintaining and regulating various types of transportation systems in New York State. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Central New York Regional Transportation Authority
(CNYRTA)

Compliance With Payment Card Industry Standards (Follow-Up) (2018-F-5). CNYRTA is a public benefit corporation created in 1970 to provide transportation services in Onondaga, Oswego, Cayuga, and Oneida counties. CNYRTA accepts credit cards as a method of payment for bus fares and parking fees. In calendar year 2017, CNYRTA reported 32,925 credit card transactions totaling about $866,500 in revenue. All organizations that accept credit cards as a method of payment must comply with Data Security Standards (DSS) established by the Payment Card Industry (PCI) Security Standards Council. The PCI DSS are a comprehensive set of technical and operational requirements designed to protect cardholder data. Entities that do not comply with the PCI DSS may be subject to fines and penalties, and lose the public's confidence as well as the ability to accept credit card payments. In the initial audit report 2016-S-31, auditors determined that CNYRTA did not have a developed information security policy that addressed all of the requirements in the PCI DSS. Auditors also identified certain other technical safeguards over the cardholder data that could be improved. CNYRTA took immediate actions to address security over cardholder data; however, additional steps were needed to improve its overall information security program for PCI DSS compliance. Auditors recommended that CNYRTA develop strategies to enhance compliance with PCI DSS, and implement recommendations made in a preliminary report and confidential draft report. In the follow-up review, auditors found that CNYRTA officials had made significant progress in correcting the problems identified in the initial report. However, improvements were still needed. Of the two prior audit recommendations, one had been implemented and one had been partially implemented.

Metropolitan Transportation Authority
(MTA)

The MTA is a public benefit corporation providing transportation services in and around the New York City metropolitan area, fanning out to Long Island, southeastern New York State, and Connecticut. The MTA has six constituent agencies: New York City Transit (Transit), which operates bus and subway service; MTA Bus Company; Long Island Rail Road (LIRR), the largest commuter railroad in the country; Metro-North Railroad; Triborough Bridges and Tunnels Authority (TBTA), which operates seven toll bridges and two tunnels that interconnect parts of New York City; and MTA Capital Construction. The MTA also has a headquarters, which provides administrative support. Staten Island Railway (SIR) is a subsidiary agency that operates a single rapid transit line on Staten Island.

Operational Training and Medical Assessments of Train Crews (2016-S-26). Transit train crews consist of two members: a Train Operator and a Conductor, both of whom have direct responsibility for the safe, timely, and proper operation of Transit trains. Transit also has Train Service Supervisors (TSS), who, among other duties, supervise the day-to-day operations of Train Operators and Conductors,

evaluate and monitor train service personnel for fitness of duty, and respond to and investigate operational incidents and take corrective action if necessary. Employees new to these positions go through Induction Training, where they learn how to operate trains, prepare trains for road service and switch cars in the yards, and learn the components of a train and gain familiarity with operating procedures, including emergency situations. To pass the course, employees must achieve a minimum grade of 80 percent on each written exam. All quizzes and examinations are to be retained in the employee's training files. Once on the job, Train Operators and Conductors are required to have periodic Refresher Training every three years. Train crews are also required to have annual hearing tests and to pass a medical assessment prior to assuming new responsibilities and undergo periodic medical assessments. This audit found that Transit was not in compliance with Induction Training curriculum requirements. Further, train crews were not always meeting Refresher Training requirements, and were not in compliance with medical and hearing assessment requirements. Auditors recommended that MTA: require all training instructors to review the class files periodically during and at the end of training to ensure that all quizzes, tests, and examinations are documented, graded, and retained, along with attendance sheets; evaluate the Refresher Training to determine the reason for the low passing rate and implement corrective action; and develop a system that properly tracks and monitors employee medical assessments, hearing tests, and revisits against the scheduled time intervals.

Triborough Bridge and Tunnel Authority: Selected Aspects of Collection of Bridge and Tunnel Tolls and Fees (2016-S-64). The TBTA serves more than 290 million vehicles per year and carries more traffic than any other bridge or tunnel authority in the nation. TBTA toll revenues help subsidize MTA's transit and commuter rail services. TBTA's total operating revenue for 2016 was approximately $1.9 billion. For most TBTA bridges, drivers can pay tolls in cash, by credit card at certain plazas, or by E-ZPass. TBTA's E-ZPass On-the-Go (OTG) tag is another prepay option that can be purchased in the cash lanes of TBTA facilities, allowing motorists to open an E-ZPass account without completing an application or waiting in line. Motorists who have no means to pay a toll at a TBTA gated facility are issued a Deferred Toll Payment Request form, enabling them to remit their toll payment later either electronically or by check. In November 2012, to improve efficiency in toll collection, TBTA implemented cashless tolling at the Henry Hudson Bridge (HHB). Cashless tolling uses the E-ZPass system, but replaces cash with Tolls by Mail. Under Tolls by Mail, cameras take photos of license plates, and the toll bills are mailed to the registered vehicle owners. In December 2016, the MTA announced that, as part of cashless tolling, it was moving to "open road" tolling, dismantling the tollbooths from seven bridges and two tunnels by the end of 2017. To deter nonpayment of tolls, TBTA can add an administrative fee to each unpaid toll. Also, as of January 2016, DMV is allowed to suspend vehicle registrations for owners with five or more unpaid toll violations on different days within an 18-month period. While TBTA makes efforts to collect unpaid tolls, auditors found that, during the audit period, $11.3 million in tolls were either written off or uncollected, and TBTA had more than $72 million in unpaid fees for the HHB from 2013 through 2015. TBTA also did not fully utilize the DMV registration suspension program for toll enforcement: From April 28, 2016 to September 28, 2016, of 4,645 plates eligible for registration suspension, TBTA submitted only 225 plates (5 percent) to DMV. TBTA ascribed the low number of plates submitted for enforcement action to a lack of manpower. Auditors made recommendations for the MTA to: revise the OTG tag program to prevent loss of revenue from customers who fail to register tags, as required; develop a system to collect the unpaid tolls in the Deferred Toll database; partner with DMV to alert motorists of the consequences of not paying toll bills as well as E-ZPass options; evaluate options to ensure that fee collections are maximized without being unduly punitive on motorists; examine resources allocated to weekly submissions to DMV; and prioritize the implementation of controls relating to deterrence at sites where open road tolling will be allowed.

Long Island Rail Road: Utilization of the Arch Street Yard and Shop Facility (2016-S-78). As part of the its mammoth East Side Access (ESA) project, with an expected 2022 opening, the MTA constructed the Arch Street Yard and Shop Facility (Facility) in Long Island City to provide inspections, maintenance, and cleaning for trains that will operate into Grand Central Terminal. The Facility was completed in December 2004 at a cost of $81.4 million. Funding for the project was provided by federal ($60.3 million) and non-federal sources ($21.1 million). Auditors found that the Facility was constructed before it was needed for ESA. The LIRR requested that this Facility be built as early as possible so it could be used as an acceptance and inspection facility for its new M-7 electric rail cars, which Bombardier began delivering in 2002. However, the Facility was never used as intended for the acceptance and inspection of the M-7 cars. Moreover, except for occasional use of the wheel truing equipment to round off flat spots on rail car wheels, the Facility was also not used for periodic inspections or repairs by the Maintenance of Equipment Department. Since its construction in 2004, the Facility has undergone periods when it was vacant (for over 3.5 years), leased to the M-7 vendor to make warranty repairs, and licensed twice: once as a parking lot to accommodate a tenant displaced from an MTA project, and once to a contractor to perform modifications on Metro-North Railroad cars. The LIRR incurred costs of $2.43 million to maintain and secure the facility from January 1, 2013 to June 30, 2016. Auditors recommended that MTA perform a written cost-benefit analysis to determine the best use for the Facility and the equipment until ESA is open.

New York City Transit: Selected Safety and Security Equipment at Subway Stations (2016-S-92). Transit's Electronic Maintenance Division (EMD) is responsible for maintaining and monitoring the safety and security equipment installed in subway stations in the boroughs of Manhattan, Brooklyn, Queens, and the Bronx. Transit's equipment inventory includes 7,152 closed-circuit television (CCTV) surveillance cameras, 1,746 monitors, 332 digital video recorders, 5 videocassette recorders, and related accessories at 322 subway stations (as of June 1, 2016) as well as 2,633 Help Point Intercoms (HPIs) (as of July 29, 2017), which provide customers with access to travel information or emergency assistance. EMD has a preventive maintenance schedule for all installed CCTV cameras and recording devices and is responsible for repairing video system equipment, except for equipment still under warranty. EMD has set three days as a target for when repairs should be completed. For HPIs, EMD uses a software program, SolarWinds, to monitor their working condition. EMD responds to SolarWinds alerts by creating a trouble ticket in the Remedy Management System, which tracks repairs. Preventive maintenance and timely repair of equipment are essential to deterring break-ins and theft and ensuring continuous surveillance and the overall security of the area being monitored. However, based on a review of safety and security equipment at ten judgmentally selected stations, auditors found that EMD is not always performing preventive maintenance in accordance with Transit's scheduled frequency levels: Of 4,219 expected preventive maintenance visits for CCTV cameras and their affiliated monitors, 1,328 (31 percent) were not done. Furthermore, of 9,223 trouble calls for cameras and recording devices reported to EMD, 2,367 (26 percent) took longer than the three-day target to be repaired or addressed. Additionally, EMD had not established a preventive maintenance timetable for its HPIs. Auditors' key recommendations to Transit were to: focus resources on meeting preventive maintenance targets; ensure defective cameras are repaired timely; and promptly establish and document a preventive maintenance schedule for HPIs.

Long Island Rail Road: Management of Unexpected Delays and Events During Winter 2017-18 (2017-S-37). OSC's Office of the State Deputy Comptroller for the City of New York issued a report in March 2018 stating that, in 2017, the LIRR had its worst on-time performance since 1999. An estimated 9.2 million riders were inconvenienced by trains that were late, canceled at the terminal before departing,

or terminated en route before reaching their destinations. Service significantly deteriorated in December 2017 and January 2018. For example, in January 2018, on-time performance was 83.9 percent, 8.5 points below the 92.4 percent achieved in January 2017. In January 2018 alone, 3,333 trains were canceled, partially canceled, or were late (arriving six minutes or more after the scheduled time). Auditors found that the LIRR did not have plans covering unexpected events such as derailments in the yard or collisions between a person and a train, which kept it from providing scheduled train service. The LIRR did not have a plan for 5 of the 11 events sampled. Of the remaining six events with plans, none followed all the required steps. Communications to passengers in four incidents were not made or were made late. Auditors made six recommendations to the LIRR, including to: review the nature of incidents that occurred in winter 2017-18 and ensure that plans are developed to cover the major types of incidents that have had a significant impact on passengers; develop a process to manage bus service during an incident, including notifications to customers of the availability of bus service; and ensure customers are notified in a timely and continuous manner throughout an incident.

Triborough Bridge and Tunnel Authority: Efforts to Collect Tolls and Fees Using License Plate Images and Law Firms (2017-S-70). Since November 2012, the TBTA has used electronic tolls systems at the Henry Hudson Bridge (HHB) – first the All Electronic Tolling (AET) and as of November 2016 Open Road Tolling (ORT) – as an efficient way to collect tolls, provide seamless travel for drivers, and benefit the environment. The TBTA extended ORT to the other eight crossings throughout 2017. AET and ORT use E-ZPass and Tolls by Mail to collect tolls. Both E-ZPass and Tolls by Mail make use of camera technology to capture motorists' license plates and retrieve registration information for billing purposes. The ORT in-lane toll collection system captures up to six images per vehicle, whereas the E-ZPass New York Customer Service Center (NYCSC) accepts only two. Where images may not be captured or are illegible, transactions cannot be collected ("leakage"). Auditors found that TBTA did not maximize toll collection because license plate images could not always be processed, resulting in potential lost revenue of $2.4 million. The number of unbilled toll transactions increased exponentially during 2017 as ORT expanded to all TBTA facilities. Additionally, TBTA's contracted law firms were not effective in collecting outstanding receivables from persistent toll violators. Auditors made eight recommendations to TBTA, including: improve NYCSC access to the complete image files to decrease leakage; periodically review and monitor the rejected image review process to ensure staff is accurately categorizing the rejected images; and document the review of reports sent by NYCSC to show what, if anything, was done to correct identified maintenance issues.

Staten Island Railway: Operational Training and Medical Assessments of Train Crews (2017-S-71). SIR train crews consist of two members: a Locomotive Engineer (Engineer) and a Conductor. SIR train crews report to a Train Dispatcher. Induction Training is required for all employees new to their positions and is conducted both in the classroom and in various train yards. Additionally, train crews are required to take Refresher Training courses (Book of Rules [BOR] biennially and Roadway Worker Protection [RWP] and Signals annually), intended to update the employees on current operating, communications, fire, and evacuation procedures. Employees new to these positions are also required to pass a medical assessment at a Transit Medical Assessment Center. Medical assessments are required every two years for Engineers and every five years for Conductors. Auditors determined that SIR employee training files should evidence satisfactory completion of each test and the Induction Training course overall. Auditors found that: SIR's records were insufficient to document that training was satisfactorily completed in all cases; records to support that SIR's Conductors and Engineers are taking required Refresher Training courses on BOR biennially and on RWP and Signals annually were missing in some cases; and train crews were not in compliance with medical assessment requirements. Auditors recommended that SIR:

require all instructors to review the class files periodically during and at the end of training to ensure that all quizzes, tests, and final examinations are documented and graded, and are retained in the training files; emphasize the importance of Refresher Training to ensure compliance by instructors and train crews, evidenced by complete records, including documents showing the employee attained passing grades; and develop a system that properly tracks and monitors employee medical examinations against the scheduled time intervals.

Staten Island Railway: Selected Safety and Security Equipment at Train Stations (2017-S-84). SIR's Electronic and Electrical Maintenance Division (EEMD) is responsible for preventive maintenance and repairs on safety and security equipment. SIR's closed-circuit television (CCTV) coverage comprises an old, stand-alone system of equipment (e.g., cameras and digital video recorders) and a new system of cameras and Customer Assistance Intercoms (CAIs), which are intended for customer use in emergencies. As of June 8, 2017, SIR had 199 CCTV cameras, 42 stand-alone cameras, and 43 CAIs. Although not required, SIR inspects and tests the old system equipment monthly and performs maintenance of the new CCTV system every 90 days. Preventive maintenance and timely repair of these systems are essential to deterring break-ins and theft and ensuring continuous surveillance, passenger safety, and the overall security of the area being monitored. However, auditors found that SIR did not always perform security equipment inspections and maintenance on a timely basis. Furthermore, up until September 12, 2017, SIR did not have written preventive maintenance procedures for security equipment. At that time, SIR officials developed new inspection and preventive maintenance procedures for security equipment; however, it was unclear if they include CAIs. Auditors recommended that SIR: develop a repair frequency standard and ensure compliance with preventive maintenance and repair frequency standards; and clarify whether the newly developed inspection and preventive maintenance procedures include CAIs.

New York City Transit: Subway Wait Assessment (Follow-Up) (2017-F-7). Transit serves an average 5.6 million weekday passengers on its 24 subway lines (including three shuttle lines). Wait assessment is a statistic that measures Transit's ability to provide evenly spaced subway service in conformance with the headways (time between trains) in the official schedule. The assessment reflects the number of intervals between trains that meet the standard (headway plus 25 percent) and those that do not. The initial audit (2014-S-23) found that, although MTA stated that wait assessment is the best way to measure customer experience with respect to service reliability, Transit generally did not meet its overall wait assessment goals during our audit period. Furthermore, Transit did not use appropriate weightings of line data to calculate overall system performance, likely skewing system-wide averages for wait assessment toward the higher end, as lines with lower frequency and shuttles tend to have better wait assessment rates than lines that run more frequently – and the public was not made aware of this. Also, while Transit addresses on a day-to-day basis the immediate causes for not meeting wait assessment goals, it had not developed a full and comprehensive plan to deal with the long-term causes of service disruptions. In the follow-up review, auditors found that, although Transit had made some progress in addressing the problems identified in our prior report, additional actions were warranted. Of the five prior audit recommendations, three had been partially implemented, one had not been implemented, and one was no longer applicable.

Niagara Frontier Transportation Authority
(NFTA)

Capital Planning (Follow-Up) (2018-F-16). NFTA is a multi-modal transportation authority responsible for air and public transportation in Erie and Niagara counties in New York State. NFTA businesses include a bus, light rail, and paratransit system and two international airports. NFTA records list 3,770 capital assets costing approximately $1.6 billion. The Public Authorities Law requires NFTA to prepare a five-year capital plan, along with annual capital spending plans. NFTA's fiscal 2018-19 capital spending plan totaled $87 million, of which NFTA provided $10.4 million. The remaining capital funds were provided by either the State or the federal government. In the initial audit report (2015-S-37), auditors determined that NFTA had prepared a multi-year and annual capital budget plan as required, but could not demonstrate how these plans addressed its highest capital needs. In addition, NFTA management did not maintain documentation to support its decisions on the projects selected for the capital plan. Also, NFTA had not established a documented system for ranking assets by importance, nor a schedule of replacement based on asset condition. Auditors recommended that NFTA: require divisions to consistently prioritize projects submitted for the capital plan, per established NFTA guidance; maintain documentation for a reasonable period to support the decisions submitted in the capital plan; and complete the Transit Asset Management Plan in progress at the time of the audit, keeping in mind likely future regulatory changes. The follow-up review found that NFTA had implemented all three recommendations.

CRIMINAL JUSTICE AND JUDICIAL ADMINISTRATION

Several State agencies are responsible for the administration and support of New York State's criminal justice system and its unified court system. The following summarizes the results of our audits during the past year at these State agencies.

Division of State Police
(State Police)

Seized Assets Program (Follow-Up) (2017-F-21). During the course of an investigation or an arrest, law enforcement agencies may seize assets, including cash, personal property, real property, vehicles, or other items that are suspected of being used to conduct criminal activity, are the proceeds from a criminal activity, or were purchased with the proceeds of a criminal activity. As of October 2017, State Police was tracking 3,193 pending seized assets valued at $582.4 million. In the initial audit report (2013-S-46), auditors concluded that State Police did not properly account for or track seized assets. Specifically: State Police did not maintain complete and/or up-to-date information on case disposition status, number and value of assets, and amount of proceeds received in its Asset Seizure Tracking System. Of 107 seized assets that State Police records noted were pending disposition, 56 were actually closed. The 56 forfeited assets were valued at $992.7 million; State Police received $12.2 million. State Police had custody of more than $700,000 in seized assets classified as abandoned. When rightful owners cannot be located, State Police should turn the assets over to OSC's Office of Unclaimed Funds. Individual troops did not always report asset seizures to State Police headquarters; auditors identified 16 cash seizures totaling $39,967 and three vehicles that were not reported. Auditors' key recommendations to State Police included ensuring that it obtains its requested share of any proceeds from forfeited assets and that records accurately reflect up-to-date information about all seized assets. In their follow-up review, auditors determined that State Police had largely implemented the six recommendations identified in the prior audit report. Auditors noted, however, that, for two recommendations, federal agencies do not share the information needed for State Police to implement every aspect of the recommendations.

State Commission of Correction
(SCOC)

Facility Oversight and Timeliness of Response to Complaints and Inmate Grievances (2017-S-2). SCOC is responsible for oversight of all 561 correctional facilities throughout the State, including 54 Department of Corrections and Community Supervision (DOCCS) facilities, four Office of Children and Family Services facilities, 74 local correctional facilities (county jails and New York City facilities), and 429 local lockups. To provide a safe, stable, and humane correctional system in the State, SCOC has promulgated regulations governing the operation and construction of correctional facilities and the treatment of inmates, and conducts periodic inspections to ensure compliance. SCOC is also responsible for responding to complaints and inmate grievances in a timely manner. Auditors found that SCOC largely devotes its resources to oversight and inspection of local facilities because they operate independently without centralized oversight, and generally does not inspect DOCCS facilities because of its limited resources and oversight by DOCCS' main office. Although SCOC receives data such as complaints and unusual incidents regarding various aspects of DOCCS facility operations, it does not analyze and track the information and thus may not identify patterns or trends in a timely manner. In

addition, while SCOC improved its response time to complaints and inmate grievances from 2014 to 2016 despite a significant increase in volume, auditors determined timeliness could be further improved with enhanced interim-status monitoring and data analysis capabilities. Auditors recommended that SCOC: implement a system to retain and analyze information for DOCCS correctional facilities, such as incidents, complaints, and other issues, to identify patterns or trends that may warrant monitoring or targeted reviews; and, using the analysis of complaint and inmate grievance data, identify ways to further improve the timeliness of responses.

GOVERNMENT SUPPORT

Some State agencies and public authorities provide services that support the operations of State and local governments. These activities involve billions of dollars annually. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Civil Service
(Civil Service)

New York State Health Insurance Program

Under the New York State Health Insurance Program (NYSHIP), Civil Service administers health insurance programs for active and retired State, local government, and school district employees and their dependents. The primary such program is the Empire Plan (Plan), which costs the State and local governments about $8.4 billion each year. Civil Service contracts with UnitedHealthcare (United) to process medical claims, Empire BlueCross BlueShield (Empire) to process hospital claims, CVS Caremark to process prescription drug claims, and Beacon Health Options to process mental health and substance abuse claims for the Plan.

UnitedHealthcare: Overpayments for Out-of-Network Anesthesia Services Provided at In-Network Ambulatory Surgery Centers (2017-S-35). United processes and pays claims from health care providers for services provided to Plan members, and Civil Service reimburses United for the payments it makes. United contracts with in-network (participating) health care providers who agree to accept payments, at rates established by United, to furnish medical/surgical services to Plan members. Members may also choose to receive services from out-of-network (non-participating) providers. United's contracts with certain in-network Ambulatory Surgery Centers (ASCs) contain contract provisions that require all anesthesia services provided to Plan members at their facilities to be performed by in-network providers. This acts to reduce Plan costs, because United's payments for services by in-network providers are generally lower than the rates United pays to out-of-network providers for the same services. Auditors identified overpayments totaling $991,357 that occurred because United paid for out-of-network anesthesia services provided at ASCs that were contractually required to use in-network anesthesia providers. Auditors recommended that NYSHIP recover the $991,357 in overpayments and refund Civil Service accordingly, and enhance controls designed to prevent as well as identify and recover improper payments for out-of-network anesthesia services provided at in-network ASCs, including instructing providers on the proper use and billing of out-of-network anesthesia services.

UnitedHealthcare: Improper Payments for Medical Services Designated By Modifier Code 59 (Follow-Up) (2017-F-23). United's payments to medical providers are based, in part, on procedure codes billed on claims that indicate the medical services performed. Modifier code 59 is used to indicate that a provider performed a procedure that was distinct or independent from another procedure that was performed on the same day for the same patient. Modifier 59 is used to identify procedures or services that are not normally billed together, but are appropriate under the circumstances. In the initial audit report (2013-S-82), auditors identified 13 claims that were overpaid by $39,345 because a distinct or independent service had not been provided despite the claims' modifier 59 designation. Using statistical sampling techniques to project the 13 overpayments to the population of modifier 59 claims, auditors estimated that United overpaid between $1.6 million and $5.2 million for services that included

modifier 59 during the one-year period ending August 31, 2013. Auditors recommended that United: recover the $39,345 in overpayments and credit Civil Service; formally remind providers of the proper use of modifier 59; and perform a formal risk assessment to identify providers with unusual modifier 59 billing patterns and take appropriate actions, including recovery of overpayments. In their follow-up review, auditors found United had made significant progress in addressing the issues identified. Of the initial report's three audit recommendations, two had been implemented and one had been partially implemented. United had recovered $29,856 of the $39,345 in identified overpayments and, in addition, published guidance on the proper usage of modifiers. Further, as a result of the initial audit and direction from Civil Service, United had implemented a new fraud and abuse detection program to identify aberrant billing patterns, including inappropriate uses of modifier 59.

Office of General Services
(OGS)

Service-Disabled Veteran-Owned Business Program Implementation (Follow-Up) (2017-F-28). New York State's 2014 Service-Disabled Veteran-Owned Business Act (Act) was designed to encourage and support eligible veteran-owned businesses in playing a greater role in the State's economy by increasing their participation in State government contracting opportunities. The Act establishes a 6 percent goal for participation by Service-Disabled Veteran-Owned Businesses (SDVOBs) in State contracts. To qualify as a SDVOB, business owners must have received a service-related disability rating of 10 percent or greater from the U.S. Department of Veterans Affairs. The Act also created the Division of Service-Disabled Veterans' Business Development (Division) within OGS to oversee the State's SDVOB Program and to certify eligible businesses. The initial audit report (2015-S-81) found that the Division had made substantial progress carrying out its responsibilities to implement the Program during the 18 months since the Act was created. However, it had not yet developed a written, comprehensive statewide plan for implementing the Program that includes progressive milestones and participation goals. The Program could also have benefited from additional efforts to identify and address barriers to SDVOB development, which, if not addressed, could present challenges to agencies' and authorities' efforts to meet the State's 6 percent participation goal. Auditors recommended that OGS develop a formal strategic plan to guide the Program's future development, and expand efforts to gather and analyze information on agency contracting needs and potential service gaps, working with strategic partners to increase the pool of certified SDVOBs to address any unmet needs. In the follow-up review, auditors found that OGS had addressed the problems identified in the initial audit, having implemented both of the prior audit's recommendations.

Office of Information Technology Services
(ITS) (formerly New York State Office for Technology)

Disaster Recovery Planning (2016-S-97). ITS is responsible for providing centralized IT services to 46 executive State agencies, as well as setting statewide technology policy for all executive branch State agencies and monitoring large technology expenditures in the State. ITS also operates a statewide data center at the College of Nanoscale Science and Engineering (CNSE). To ensure continued operation of critical State systems, ITS should have a complete, functional, and tested disaster recovery plan that covers all aspects of its operations, including the CNSE data center and the centralized IT services it provides to the 46 executive agencies. That plan should comply with State laws and ITS policies and should also conform to guidance issued by the National Institute of Standards and Technology (NIST). Auditors found that ITS had made some efforts toward disaster recovery planning; however, there was

not a complete, functional, and tested disaster recovery plan that covered all aspects of its operations. Auditors also found that ITS was working on completing a disaster recovery plan for the CNSE data center, to be completed in late 2018. Auditors recommended that ITS: finalize the State's Disaster Recovery Project: Disaster Recovery Draft Plan (Draft Plan) in accordance with ITS policies, NIST, and other relevant guidance; ensure the finalized Draft Plan covers ITS' own operations, including the centralized IT services it provides to 46 executive agencies; and review the disaster recovery plan regularly, documenting changes needed and when those changes were made.

Effectiveness of the Information Technology Transformation (Follow-Up) (2017-F-19). ITS was established in November 2012 as part of an Information Technology Transformation to consolidate and merge State agencies' operations and streamline information technology services. In the initial audit report (2015-S-2), auditors found significant deficiencies in ITS' planning for the execution of the Transformation, with little to no evidence that basic planning steps had been performed. Also, ITS was still working toward the completion of four major technology initiatives: Email Consolidation and Integration, Data Center Modernization, Digital Network Consolidation, and Enterprise Identification and Access Management. In addition, ITS often did not provide timely or independent access to certain data and staff, thus limiting the reliability of some of the data that auditors received and the interviews the auditors conducted. Among auditors' key recommendations, ITS should: formally assess the adequacy of the internal control environment at ITS and take necessary steps to ensure the control environment is adequate; complete an overall risk assessment of ITS and incorporate it into the new fiscal year 2016-17 project plan; and work with State agencies to facilitate their sharing of successful and innovative practices to more efficiently and effectively manage ITS resources and assets. In their follow-up review, auditors found that ITS officials had made progress in correcting the problems. Of the four prior audit recommendations, two had been implemented and two had been partially implemented.

ECONOMIC DEVELOPMENT AND HOUSING

Several State agencies and public authorities seek to promote commerce, economic development, and affordable housing. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Homes and Community Renewal
(Community Renewal)

Enforcement of the Mitchell-Lama Surcharge Provisions (2017-S-12). The Mitchell-Lama program was created in 1955 to provide affordable rental and cooperative housing to middle-income families. In exchange for low-interest mortgage loans and real property tax exemptions, the program required limitations on profit, income limits on tenants, and supervision by Community Renewal's Division of Housing and Community Renewal (DHCR). Apartments are rented or sold to prospective tenants from waiting lists maintained by DHCR's Automated Waiting List System. Applicants must meet eligibility requirements related to income limits, family size, and apartment size prior to taking occupancy of the apartment, and continue to meet income eligibility requirements on an ongoing basis during occupancy. Each year occupants are required to submit an income affidavit attesting to their income and certain deductible expenses for the preceding calendar year. Mitchell-Lama housing developments are responsible for distributing and collecting these annual income affidavits. If the reported aggregate annual income of all occupants in an apartment exceeds the development's maximum income limit for that apartment, building management is required to add a surcharge, up to a maximum of 50 percent, to the monthly rent or carrying charge. Auditors' testing focused on the three developments that were expected to receive the highest surcharge income for 2012: Co-op City (Bronx); Rochdale Village (Queens); and Electchester First through Fifth Houses (Queens). Auditors determined that, with some exceptions, surcharges were generally properly calculated and assessed for the tested transactions at the sampled developments. However, there were significant deficiencies in the practices used to confirm the accuracy of tenants' self-reported income at two of the developments. Income verification audits were required for 110 of the selected tenants, but only 33 (30 percent) had been done. Developments were not charging tenants the maximum allowable surcharges when tenants did not provide a certified tax return to substantiate self-reported income. Auditors made several recommendations to DHCR, including: monitor building managers to ensure that follow-up verification audits are completed properly and timely and surcharges are correctly assessed; follow up on the occupant-related matters at the three developments examined; and develop formal policies and protocols regarding tenants whose incomes exceed the maximum allowable household income limit.

Office of Rent Administration: Administration of Tenant Complaints (Follow-Up) (2018-F-3). Community Renewal's Office of Rent Administration (Office) is responsible for administering New York State's rent laws. These laws are designed to provide decent, affordable housing for millions of New Yorkers. According to Office records, between January 1, 2010 and December 31, 2012, the Office received 19,653 tenant complaints, of which 17,716 were resolved by March 6, 2014. Office records indicate that 5,883 tenant complaints were open as of May 15, 2014, including complaints received prior to and after our three-year scope period. The most common tenant complaints relate to rent overcharges and decreased landlord services. In their initial audit report (2013-S-72), auditors found that the Office had not established criteria for how long it should take to assign, address, or resolve tenant complaints. A review of Office records determined that a significant number of tenant

complaints may have been unresolved for anywhere between one to four years, including an average time of 6.7 months just for an incoming complaint to be assigned to an examiner. Furthermore, the Office had not performed any examiner staffing or productivity analysis to determine what the examiners' workload should be and whether current staffing met Office needs. Also, the Office's computerized database did not readily provide meaningful information for decision makers. Auditors recommended that Community Renewal: establish criteria for the amount of time it should take to assign, address, and resolve tenant complaints, and document why cases are not resolved within the prescribed time frames; investigate the circumstances surrounding long-term open cases and take steps to resolve them; and conduct an examiner staffing/productivity analysis and redeploy Office staff, if necessary and as appropriate, to align with complaint caseloads and complexity. In their follow-up review, auditors found that Community Renewal had made some progress in addressing the issues identified. Of the report's four recommendations, three had been partially implemented and one had not been implemented.

OTHER STATE AGENCIES AND PUBLIC AUTHORITIES

Various State agencies and public authorities perform such functions as protecting natural resources, managing parks, and regulating and licensing certain activities. The following summarizes the results of our audits during the past year at these State agencies and public authorities.

Department of Agriculture and Markets
(*Agriculture and Markets*)

Oversight of Weights and Measures Programs (2016-S-98). Agriculture and Markets' Bureau of Weights and Measures (Bureau) is charged with ensuring measurement accuracy and uniformity in commerce to help ensure that consumers get what they pay for and that competition is fair. Agriculture and Markets regulations specify that all commercial devices (e.g., gas pumps, grocery scales) used to weigh and measure commodities sold on the basis of weight, volume, or size are to be inspected and tested for accuracy at least annually. Gasoline and diesel fuels sold for use in motor vehicles are also subject to inspection to ensure they meet quality standards and are properly labeled. Agriculture and Markets and 60 municipalities share responsibility for inspecting devices. Auditors found systemic issues with the quality of data that Agriculture and Markets relies on to administer the State's weights and measures program. In addition, site visits to seven municipalities found most of them did not complete all their mandated annual inspections. Such deficiencies diminish Agriculture and Markets' and municipalities' ability to ensure fair competition and foster producer and consumer confidence in the goods sold in the State. Auditors recommended that Agriculture and Markets implement procedures to incorporate periodic data analysis to identify municipal functions that need improvement as well as patterns, outliers, and/or areas of concern for petroleum quality testing. Agriculture and Markets should also provide information to municipalities to assist in managing allocation of staff resources as effectively as possible, and develop and implement procedures for input, quality assurance, and utilization of the information in each of the Bureau's systems.

Safety of Seized Dogs (2017-S-49). Under New York's Agriculture and Markets Law (Law), Agriculture and Markets sets standards for the humane care of seized dogs and inspects municipal dog shelters outside of New York City. The Law mandates that a dog must be seized if it: is unlicensed; is an immediate threat to the public safety; does not have an official identification tag while not on the owner's premises; or is licensed but not in the control of or on the property of its owner or custodian and is believed to be dangerous. Municipalities that issue dog licenses are required to establish and maintain a shelter for dogs or to contract for those services, and to appoint at least one dog control officer or contract with another municipality for dog control services. As of June 30, 2017, Agriculture and Markets oversaw 294 shelters and 599 officers. The Law sets specific time frames that shelters must hold seized dogs, known as the redemption period, during which time a dog may be redeemed by its owner. The minimum period a seized dog must be held is five days. Dogs that are not claimed during the redemption period are put up for adoption, transferred to another shelter, or euthanized. The Law requires that seized dogs be properly sheltered, fed, and watered and receive proper care for the redemption period. Agriculture and Markets performs inspections of shelters to ensure that seized dogs are being treated correctly and held for the appropriate length of time, and inspects officers' records and equipment to ensure owners of seized dogs are properly notified and seized dogs are safely captured and transported. From January 1, 2015 through June 30, 2017, Agriculture and Markets

conducted 1,054 shelter and 1,853 officer inspections. Auditors found that Agriculture and Markets was adequately overseeing the seizure of dogs to ensure their safety and protect the rights of owners. The 48 shelters that auditors visited generally provided appropriate shelter, food, water, and care, although some relatively minor deficiencies (e.g., peeling paint, undersized cages, leaking roof, recently expired food) were noted at four. Auditors also found that nine seized dogs had not been held for the full redemption period at eight shelters. The majority of these instances of premature disposition were not identified in Agriculture and Markets' most recent inspection reports for the respective shelters. In addition, 290 shelter and officer inspections exceeded the time frame for completion by 30 days or more, including 100 that were follow-ups to a prior inspection with an unsatisfactory rating. Auditors recommended that Agriculture and Markets: review the specific deficiencies identified and work with the shelters to take corrective action; evaluate the current dog record sampling process to determine ways to improve the detection of dogs not held for the required redemption period; and take steps to ensure that inspections are completed within the designated time period, particularly those following an unsatisfactory rating.

Department of Environmental Conservation
(DEC)

Drug Management and Disposal (2016-S-82). Unused pharmaceuticals present a range of harmful environmental and societal consequences: namely, contamination of the environment and water resources when flushed down drains and increased risk of drug abuse and addiction if not disposed of at all. Since 2008, DEC has recommended that, in most instances, drugs not be flushed, and has supported pharmaceutical collection as a best management practice alternative. Drug disposal options for the public include permanent drop-off collection boxes, take-back events (generally held at locations across the State twice a year), and mail-back programs. To foster public awareness of the State's policy on proper drug disposal, the State Drug Management and Disposal Act of 2008 formally required DEC to develop and maintain a public information program on the proper disposal of drugs and to establish a notice containing information on the proper storage and disposal of drugs, to be displayed in every pharmacy and every retail business authorized to sell drugs. Auditors found that DEC had developed and implemented a public information program on the proper storage and disposal of drugs and had created a notice regarding the proper storage and disposal of drugs for display in pharmacies and other drug retailers. However, there was no way to determine the effectiveness of its public information program because DEC had not measured public awareness, nor was it mandated to do so. DEC had also engaged in other initiatives, beyond those mandated, to promote proper drug collection and disposal (e.g., partnering with other government agencies and advocacy groups). Despite DEC's efforts, auditors found significant disincentives that likely discourage some entities from voluntarily operating drug collection boxes and some citizens from properly disposing of drugs. Auditors recommended that DEC assess additional strategies to continue raising public awareness of proper drug disposal and implement those deemed to be optimal, and work with stakeholders to identify and attempt to reduce disincentives to drug collection and proper disposal.

Collection and Use of Oil Spill Funds (Follow-Up) (2017-F-13). Chapter 845 of the Laws of 1977 established the New York Environmental Protection and Spill Compensation Fund to pay for the cleanup and removal of petroleum spills. The statute assigns the State Comptroller administrative and operational responsibility for the Fund. DEC is charged with implementing the program by providing technical assistance and oversight for cleanup and removal activities and ensuring that only allowable costs are charged to the Fund. In the initial audit report (2014-S-59), auditors identified weaknesses in

DEC's oversight of Major Oil Storage Facilities' reporting and facility registration as well as a lack of facility data analysis to identify and correct discrepancies. Auditors recommended that DEC: improve monitoring activities to verify the accuracy of information that facilities report, as well as their licensing status, to identify those most at risk of inaccurate reporting; follow up on the licensing status of the Petroleum Bulk Storage facilities identified as potentially misclassified; provide guidance to licensees and registrants; and share facility information among staff responsible for monitoring facilities and collecting revenues for the Fund. In the follow-up report, auditors determined that DEC had made significant progress in correcting the problems identified in the initial report. All four of the initial report's recommendations had been implemented.

Department of Labor
(DOL)

Restrictions on Consecutive Hours of Work for Nurses (2017-S-14). Section 167 of the New York State Labor Law (Restrictions on Consecutive Hours of Work for Nurses) (Law) and Title 12, Part 177 of the New York Codes, Rules and Regulations (NYCRR) protect the public health and quality of patient care by limiting consecutive hours of work for Registered Nurses and Licensed Practical Nurses in non-emergency situations. The Law does not preclude nurses from volunteering to work overtime. The NYCRR requires health care employers to establish Nurse Coverage Plans to address typical patterns of staff absenteeism due to illness, leave, bereavement, and other similar factors, and identify alternate staffing methods to avoid the use of mandatory overtime. Employers must document their attempts to seek alternative staffing before resorting to mandatory overtime. If nurses feel that their employers violated the Law, they may file a complaint with DOL's Division of Labor Standards (Division). In turn, DOL initiates cases to investigate single or multiple complaints against employers to determine compliance with the Law. Between January 1, 2015 and May 23, 2017, the Division closed 186 cases regarding 540 complaints. Auditors found that the Division lacks policies and procedures to effectively investigate complaints, resulting in inconsistent application and enforcement of the Law, and does not investigate nurse overtime complaints for State agencies on a timely basis. In addition, the Worker Protection Monetary (WPM) System lacks the functionality for management to oversee complaint investigations and effectively enforce the Law. Furthermore, the Division is unaware of which employers are subject to the Law, which limits DOL's ability to provide outreach and education to all employers on the requirements of the Law, increasing the risk that some employers may be unfamiliar with the Law's requirements. Auditors recommended that DOL: establish policies and procedures to ensure that nurse overtime complaints are investigated timely using consistent methods and application of the Law; improve the functionality of the WPM System to better assist management in tracking nurse overtime complaints and investigations in a comprehensive manner; develop and maintain a listing of all employers covered by the Law; establish an outreach and education program to ensure that all covered employers are aware of the Law and its requirements; and explore feasible actions to strengthen the Division's enforcement options.

Department of State
(DOS)

Do Not Call Enforcement Efforts (2017-S-55). The New York State Do Not Call Law, which took effect in 2001, allows consumers to register their personal mobile and landline phone numbers on a central national registry to reduce unsolicited telemarketing calls. DOS' Division of Consumer Protection (Division) is responsible for enforcing the Law. As of 2003, New York consumers register their phone

numbers on a national Do Not Call Registry. The Division uses the national Registry to retrieve New York complaints and also receives complaints by phone and email. The Division investigates complaints to determine if a violation of law has occurred, takes actions to enforce and resolve complaints, and provides information and outreach to consumers. Violators may be subject to penalties up to a maximum of $11,000 per violation. According to the Registry, there were 454,100 New York Do Not Call complaints during the federal fiscal year ended September 30, 2017, up from 217,031 in 2014. As of December 31, 2017, the Registry contained more than 14 million New York phone numbers. Based on auditors' review of the Division's statistics, the number of cases referred for enforcement actions declined in recent years. Whereas Registry complaints by State residents more than doubled since 2014, the number of cases referred to counsel for further action decreased in each of the two subsequent years, and just one case was referred to counsel in 2017. Auditors also found that the data maintained by the Division to document its Do Not Call enforcement efforts was sometimes inaccurate, incomplete, or inconsistent with other information the Division maintained, and these deficiencies reduce the data's usefulness for enforcement, monitoring, and external reporting purposes. Finally, auditors determined that the Division may be able to use aspects of the Federal Trade Commission's (FTC) enforcement process (such as strategies to make the best use of Registry data) to enhance the effectiveness of its Do Not Call enforcement efforts. Auditors recommended that DOS: assess current and planned Do Not Call enforcement activities to determine appropriate staffing levels, identify timing benchmarks for key enforcement efforts, and identify improvement opportunities; develop, implement, and communicate written procedures to Division staff that address the accuracy, completeness, and comparability of internally maintained Do Not Call information; and evaluate the potential for using FTC resources and strategies (including expanded use of the FTC's free investigative capabilities) and consumer-friendly alternatives to notarized affidavits to enhance the Division's Do Not Call enforcement capabilities, and document the resulting decisions.

Department of Taxation and Finance

(Tax and Finance)

Controls Over the Collection of the Public Safety Communications Surcharge (2016-S-84). The Public Safety Communications Surcharge (Surcharge) is imposed on wireless communications services provided to customers whose primary place of use is within New York State. Levied at a rate of $1.20 per device per month, Surcharge revenue is used to, among other purposes, support emergency operations, make improvements to 911 call centers, and enhance the capabilities of first responders. Each provider that supplies qualifying wireless communications services in the State is required to act as a State collection agent for the Surcharge. To cover their administrative costs, providers retain an administrative allowance equal to 1.166 percent of the Surcharges collected, contingent on their timely reporting and remitting of Surcharges. In fiscal years 2014 and 2015, providers remitted Surcharges totaling $183.9 million and $185.3 million, respectively, and retained administration allowances totaling about $2.2 million annually during the audit period (April 1, 2014–January 31, 2017). Auditors determined that Tax and Finance had not established policies and systems to sufficiently ensure that providers collect, report, and remit the Surcharges for all eligible devices, and that Tax and Finance appropriately pursue payment from customers who have not paid the Surcharge to providers. Auditors recommended that Tax and Finance implement effective internal controls over the administration of Surcharges, and establish proactive methods of communication with providers to ensure that they are aware of current Surcharge collection and remittance requirements and that their customer service policies are consistent and compliant with the Tax Law.

Controls Over Unclaimed Bottle Deposits (2016-S-96). New York State's Returnable Container Act (Act) requires a 5-cent deposit on certain beverage containers sold in the State to incentivize their collection, recycling, and reuse across the State, thereby reducing litter and mitigating the threat that discarded beverage containers pose to the health and safety of citizens and the environment. Beverage bottlers, distributors, dealers, or agents that register with Tax and Finance as "deposit initiators" serve as the catalyst for the bottle deposit process, collecting deposits for the cans/bottles they sell, and then refunding deposits on those that are returned for recycling. Deposit initiators are required to establish an interest-bearing refund value account for the sole purpose of refunding deposits. The Act requires that all deposit initiators registered with Tax and Finance to remit 80 percent of any unclaimed bottle deposits on a quarterly basis. Along with the remittance, deposit initiators are required to keep track of all deposits collected and file quarterly reports with Tax and Finance. Tax and Finance has the authority to penalize deposit initiators that fail to register with them or fail to file quarterly reports. The Act requires that all unclaimed deposits collected by Tax and Finance be deposited in the State's General Fund. Tax and Finance collected $109.5 million and $102.7 million in unclaimed bottle deposits in State fiscal years 2015 and 2016, respectively. Auditors found that Tax and Finance had deposited all funds received into the General Fund, as required. However, there were weaknesses in Tax and Finance's monitoring of deposit initiator reporting and enforcement for initiator non-compliance with the Law. For instance, Tax and Finance did not assess penalties on 39 deposit initiators that failed to file quarterly reports as required, and took little action to improve compliance. Furthermore, Tax and Finance did not have procedures in place to verify the data that deposit initiators submit in their quarterly reports. Auditors' analysis identified multiple red flags potentially indicating material errors and/or fraudulent reporting. Auditors' key recommendations to Tax and Finance included: assessing penalties on initiators that fail to file quarterly reports; reviewing the red flags identified and taking appropriate corrective action, such as requesting supporting documentation or conducting investigations; and, along with their quarterly reports, requiring deposit initiators to submit documentation supporting their reported amounts.

Oversight of the Agricultural Assessment Program (2017-S-26). The 1971 New York Agricultural Districts Law protects and promotes the availability of land for farming purposes. The Law allows for reduced property tax bills for land in agricultural production by limiting the property tax assessment of the land to its prescribed per-acre Agricultural Assessment Value (AAV). Tax and Finance's Office of Real Property Tax Services (ORPTS) annually calculates and certifies the per-acre AAV for soil groups, aquaculture, and farm woodland. Local assessors determine whether land is eligible for the Agricultural Assessment Program (Program) by evaluating the property owner's application. Auditors found an error in an ORPTS calculation in 2006 that caused subsequent years' AAVs to be incorrect, including those certified and communicated to local assessors during the audit period. Assessors' use of the incorrect AAVs resulted in about $10.4 million in excess agricultural exemptions granted to Program property owners during the three-year period 2014 through 2016 for 10,416 properties in the eight counties analyzed. Because of the excess exemptions, an estimated $349,069 in real property taxes had not been collected from Program property owners. Auditors recommended that Tax and Finance take corrective action, where warranted and appropriate, relating to the error that affected the AAV used in arriving at agricultural property assessments and the related exemptions, and take steps to prevent and detect future errors in certified per-acre AAVs.

Division of Homeland Security and Emergency Services
(DHSES)

Continuity of Operations Planning (2017-S-33)**.** DHSES is responsible for coordinating emergency management planning efforts in New York State. DHSES encourages and supports State agency efforts to develop agency-specific Continuity of Operations Plans (COOPs), which each State agency is required to have in place for each of its facilities, and has developed a series of guidance documents intended to aid agency planning teams when they prepare COOPs. A COOP can help government agencies ensure the stability of essential functions through a wide range of emergencies and disasters. Effective COOPs include plans and procedures that delineate essential functions; specify lines of succession and the emergency delegation of authority; provide for the safekeeping of vital records and databases; identify alternate operating facilities; provide for interoperable communications; and validate capability through tests, training, and exercises. During their testing of a sample of 11 State agencies, auditors found that they had incorporated certain essential features of the COOP best practices endorsed by DHSES. However, auditors also identified some opportunities for improvements to COOP practices that would enable the agencies to handle emergency or disaster situations more effectively. Auditors recommended that DHSES incorporate the results of the audit into upcoming COOP training to State agencies, and provide technical assistance to State agencies in developing a COOP risk assessment, business impact analysis, and business process analysis.

Environmental Facilities Corporation
(EFC)

Monitoring the Green Innovation Grant Program (2017-S-19). EFC administers the State's Green Innovation Grant Program (GIGP), which supports projects that utilize unique stormwater infrastructure design and create cutting-edge green technologies to address stormwater runoff – a major cause of water pollution in urban areas. From the GIGP's inception in 2009 through the end of 2016, EFC awarded $135 million for 167 selected projects throughout the State. EFC bases award decisions on, among other factors, grantees' project maintenance and performance monitoring plans, as described in the grant application. Under EFC's grant agreement, grantees are required to: design the project in accordance with DEC's New York State Stormwater Management Design Manual; provide EFC with project progress photographs at intervals of 30, 60, and 90 percent completion; properly maintain and operate the project; and install on-site educational signage to inform the public about its green innovation objectives. Auditors determined that, while EFC properly monitored some aspects of the construction cycle (e.g., project progression through communication with grantees, including progress photographs; review of fiscal documentation), other areas needed improved oversight. Despite a goal of mid-construction site visits (i.e., at 50–75 percent completion), EFC's on-site monitoring frequently occurred near the end of the construction cycle for the 16 projects that auditors sampled. EFC does not perform site visits after project completion to determine if grantees installed the required signage and are properly maintaining projects. Auditors found that: grantees for five of the sampled projects did not consistently maintain their project, thereby weakening its effectiveness; three grantees did not comply with the educational signage requirement; and several grantees did not measure project performance in a manner consistent with their grant applications. Auditors recommended that EFC implement steps to: increase site visits during the 50–70 percent completion window; develop and implement a plan for post-construction monitoring of grantees' compliance with project maintenance and signage requirements and, when applicable, performance monitoring consistent with the grant application; and remind grantees of their responsibility to fulfill these requirements.

New York Racing Association, Inc.
(NYRA)

Capital Program Revenue and Expenses (Follow-Up) (2017-F-26). NYRA holds the exclusive franchise to operate the State's three major thoroughbred racetracks: Aqueduct Racetrack, Belmont Park, and Saratoga Race Course. In 2011, Resorts World New York City Casino (Resorts) opened adjacent to Aqueduct Racetrack. According to NYRA's Franchise Agreement with New York State, a percentage of Resorts' Video Lottery Terminal (VLT) revenues is to be directed to NYRA for capital expenses, capital program operational support, and enhanced purses. For the period January 1, 2016 through June 30, 2017, NYRA received about $177 million in revenue from Resorts: $37 million for operations; $91 million for purses; and $49 million for NYRA's capital program. The initial audit report (2014-S-54) found that NYRA had adequate controls in place over the VLT revenues collected by Resorts and transferred to NYRA. However, NYRA lacked a formal long-term capital planning process given the magnitude of those revenues. Further, the annual capital plans used by NYRA lacked supporting documentation for the resources and/or costs associated with the listed projects. In addition, NYRA did not have a formal project management system to effectively monitor capital project status. Auditors also found that NYRA used VLT revenues for operating expenses (e.g., routine maintenance), which was not in accordance with prescribed professional standards. Auditors recommended that NYRA: develop long-term (multi-year) capital plans that outline how available capital program monies will be used to promote NYRA's long-term capital program goals and operational goals; develop annual capital plans that detail each project's need/justification, time frame for completion, and project cost estimates; develop and implement a formal project management system to effectively monitor the status of projects in long-term and annual capital plans; and minimize the extent to which VLT capital revenues are used for non-capital (operational) purposes. The follow-up review found that NYRA had made some progress in addressing the issues identified. Of that report's four recommendations, two had been partially implemented and two had not been implemented.

Financial Condition and Selected Expenses (Follow-Up) (2017-F-27). The initial audit report (2015-S-21) assessed NYRA's financial condition and selected expenses for the period January 1, 2012 through December 31, 2014. Auditors found NYRA's overall financial condition to be sound because of Video Lottery Terminal (VLT) revenue subsidies. However, its traditional racing operations (which exclude VLT revenues) generated multi-million dollar annual deficits. Auditors determined that NYRA officials' claim of a $1.7 million surplus in 2014, excluding the VLT subsidies, was overstated, because they excluded certain ordinary and necessary expenses (e.g., pension contributions, post-employment health benefits), and that NYRA had actually lost $11.5 million. Auditors also questioned certain expenses that were not properly supported or did not appear to be ordinary or necessary for racing operations, which contributed to NYRA's racing operation deficits. Auditors recommended that NYRA: calculate the results of racing-related financial operations including all ordinary and necessary expenses; develop a detailed plan to eliminate annual deficits from racing operations (excluding VLT subsidies); formally assess the propriety of the questionable expenses identified and develop and implement written policies to minimize the risk of excessive payments for the goods and services in question; determine general horse racing industry practices regarding the questionable expenses identified and other material cost items and identify opportunities to enhance revenues and reduce costs; and survey other race tracks as necessary or use other available sources to obtain information on general industry and best practices. The follow-up review found that NYRA had made some progress in addressing the issues identified. Of the initial report's four audit recommendations, two had been partially implemented and two had not been implemented.

New York State Energy Research and Development Authority
(NYSERDA)

NY-Sun Incentive Program (Follow-Up) (2018-F-7). NYSERDA is charged with oversight of the NY-Sun Incentive Program (NY-Sun), which was launched in 2012 by the Public Service Commission (PSC) to help establish a self-sustaining, self-sufficient solar industry in the State. The PSC established objectives for NYSERDA in its oversight of NY-Sun, including: confirming geographic equity of investment; ensuring NY-Sun projects are increasing renewable energy in New York's power system; and properly administering NY-Sun. The initial audit (2015-S-91) found NYSERDA's oversight of NY-Sun to be adequate, but identified two areas where additional controls were necessary: monitoring of open projects and inspection of new installers' systems. Auditors recommended that NYSERDA: develop and implement a more formal process to follow up on the status of projects that remain open for more than 300 days; and re-examine priorities to determine if a new solar project installer inspection requirement needed to be modified due to an increase in program volume and, where NYSERDA was unable to obtain approvals from homeowners to schedule post-installation inspections, document the reasons for the deviation. Upon follow-up, auditors found that NYSERDA had addressed the problems identified in the initial audit, having implemented both recommendations.

Office of Victim Services
(OVS)

Controls Over Selected Expenditures (2017-S-72)**.** OVS' mission is to provide compensation to innocent victims of crime and their families in a timely, efficient, and compassionate manner; to fund direct services to crime victims through a network of community-based Victim Assistance Programs (VAPs); and to advocate for the rights and benefits of all innocent crime victims. Eligible claimants must generally be either an innocent crime victim or a dependent relative, and must report the crime within one week; must file a claim within one year of the crime; and must cooperate with police, the district attorney's office, and OVS. OVS also assists sexual assault survivors by directly reimbursing licensed providers for forensic rape examination (FRE) services. In addition, OVS awards grants to VAPs that serve crime victims. OVS is a payer of last resort, and therefore claimants must exhaust all other sources of compensation before it pays for their crime-related losses. OVS receives State funding from the Criminal Justice Improvement Account and receives federal funding for compensation and grants from the Crime Victims Fund, which was established by the Victims of Crime Act of 1984. During the State fiscal year ended March 31, 2017, OVS awarded 223 grants totaling $45.5 million to 169 VAPs; paid $22.5 million for 13,033 claims covering personal injury, death, essential personal property, and FRE claims; and approved $823,267 for 415 emergency awards. Auditors found that: OVS' internal controls generally ensure that its expenditures for crime victim compensation claims, FRE exams, and VAP grants were made only to eligible victims and for eligible victim services. In response to auditors' finding of minor discrepancies in OVS' verification of FRE provider licenses, OVS stated it had begun to take steps to address the problem. Auditors recommended that OVS implement a risk-based approach to verify and validate provider licenses on submitted claims.

Public Service Commission
(PSC)

Pipeline Safety Oversight (Follow-Up) (2017-F-20). The State's pipelines transmit, gather, and distribute gas and other hazardous liquids (crude oil, refined petroleum products, and other highly volatile, flammable, or toxic liquids). According to U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA) records, between 1997 and 2016, New York had 207 pipeline incidents, resulting in 24 fatalities, 109 injuries, and $80 million in property damage. The PSC operates a federally certified safety program for intrastate and interstate pipelines. Department of Public Service (DPS) staff, who report to PSC, conduct investigations of accidents and perform Operator inspections, which typically include a review of operations, maintenance, and construction. Operators include any entity that engages in the transportation of gas. The initial audit report (2015-S-31), covering the period April 1, 2013 through October 21, 2015, found that DPS staff did not verify the accuracy of the information on employee/contractor qualifications maintained by individual Operators, which DPS staff rely on during field audits. In addition, DPS had not set up a process to identify instances where Operators failed to notify DPS of specific gas-related incidents as required. Auditors determined that Operators did not notify DPS of six such incidents in 2015 that should otherwise have been reported. These incidents involved evacuations, road closures, a business closure, and other situations that left businesses and residents without gas. Finally, DPS did not perform analyses of all available data to better identify potential high-risk areas. The follow-up found that DPS officials had made progress in addressing the issues identified, having implemented two recommendations and partially implementing one.

Workers' Compensation Board
(WCB)

Assessment of Costs to Administer the Workers' Compensation Program for the Three Fiscal Years Ended March 31, 2017 (2017-S-64). The WCB ensures that employees who are unable to work due to injury or illness are compensated under programs covering both occupational and non-occupational disabilities and sickness. Coverage for these benefits, with limited exception, is to be provided by their employers. The WCB is also responsible for tracking its costs to administer the Workers' Compensation Program (Program) and assessing these costs on participating insurance carriers, self-insurers, and self-insured political subdivisions of the State. Auditors found that the WCB had adequate procedures in place to ensure that it accurately identifies and reports its assessable expenses in all material respects. However, the WCB had made payroll allocation errors in its 2014-15, 2015-16, and 2016-17 fiscal year statements for the Self-Insurers assessment (Workers' Compensation Law, Section 50(5)), resulting in a net underassessment of $1,124,833. In addition, the WCB had only partially implemented the recommendations from a prior audit (2015-S-12), stating that the incomplete implementation was due to a misunderstanding and that, with the findings in this report, it will implement the remaining recommendation. Auditors recommended that the WCB: verify that personnel associated with the Self-Insurers program are accurately identified as such, and ensure required corrections to inaccurate records are made timely; make necessary adjustments to future assessments for the errors made to personal service expenses for the three fiscal years ended March 31, 2017 as a result of inaccurate records; and establish a consistent and accurate method to ensure the costs charged for personal service under the self-insurance assessment are representative of the WCB's actual costs to administer the provisions of Workers' Compensation Law, Section 50(5).

MULTI-AGENCY

State Education Department/Division of State Police

Compliance With the Enough is Enough Act (2017-S-38). The Enough is Enough Act (Act), signed into law on July 7, 2015, established policies to prevent and respond to sexual assault on college campuses and assure students of their right to have sexual violence investigated and prosecuted. The Act amended the Education Law to add Article 129-B, which requires colleges and universities that maintain campuses in New York to implement sexual assault, dating violence, domestic violence, and stalking prevention and response policies, and amended Rule 3016 of the Civil Practice Law and Rules to maintain student anonymity. Institutions are also required to adopt an amnesty policy for alcohol and drug use, a students' bill of rights, and comprehensive training requirements for administrators, staff, and students. Institutions must annually submit to SED their aggregate data on reported incidents of sexual violence as well as their adjudication and handling. The Act charges SED and State Police with responsibilities to assist institutions and ensure their compliance with its provisions. Auditors found that: SED had made progress in complying with some of its key responsibilities under the Act, but had fallen behind meeting or completing others; SED's implementation time frames resulted in delays in its meeting certain requirements, including reporting critical incident data to the Governor and the Legislature; and State Police had met its responsibilities under the Act, having created a Campus Sexual Assault Victims Unit that had received specialized training, trained campus communities, and responded to cases of sexual assault and other incidents at institutions or involving college students. Auditors recommended that, as soon as practicable, SED collect aggregate incident data from covered institutions, and, using the information acquired, issue a report on sexual assault incident data to the Governor and the Legislature.

Office of General Services/State Education Department

Preferred Source Contracting (Follow-Up) (2017-F-15). The State's Preferred Source Program grants "preferred source" status to Corcraft and not-for-profit organizations that serve and employ the blind, the severely disabled, and veterans, with the intent to advance their social and economic opportunities. As the State's central procurement agency, OGS is responsible for approving pricing for preferred source contracts over $50,000 and for maintaining a List of Preferred Source Offerings, which includes the categories of available preferred source commodities and services. New York State Industries for the Disabled (NYSID) is the agency designated by the Commissioner of Education to facilitate orders among agencies for the severely disabled and veterans' workshops. SED is responsible for monitoring and overseeing NYSID and ensuring compliance with all applicable regulations. The initial audit (2014-S-77) found that SED had provided only minimal oversight, offering little assurance that NYSID was awarding contracts in a manner that best met the program purpose and requirements. In addition, the program was extremely vulnerable to possible manipulation and circumvention of the competitive bid process to increase profits for corporate partners and revenue for NYSID itself. Many NYSID contracts awarded for reproduction services appeared to have circumvented the competitive process. In the follow-up review, auditors found that OGS had implemented all three recommendations from the initial audit report, and SED had only partially implemented its two recommendations. Although SED had entered into a new designation agreement with NYSID requiring it to make changes that would address many of the issues initially identified, additional progress was needed by NYSID in implementing changes required by the agreement. Further, SED had not taken appropriate steps to ensure compliance with the designation agreement or verify self-reported contract data.

SPECIAL REPORTS

Health Related

Preventing Inappropriate and Excessive Costs in the New York State Health Insurance Program: A Summary of Audits Identifying Out-of-Network Providers Engaged in Routine Waiving (2016-D-1). The New York State Health Insurance Program (NYSHIP), one of the nation's largest public sector health insurance programs, offers various plans for coverage. The Empire Plan is, by far, the most popular, covering 1.1 million people, or 89 percent of NYSHIP's members. As administrator of the medical/surgical portion of the Plan, UnitedHealthcare (United) processes and pays medical and surgical claims submitted by health care providers on behalf of Plan members. United contracts with a large network of health care providers who agree to be reimbursed at rates established by United. Members also pay a nominal copayment to the in-network provider. Plan members may also choose to receive medical and surgical services from out-of-network providers. United's out-of-network service reimbursements are usually higher than its in-network reimbursements for the same services. Also, when Plan members elect to use an out-of-network provider, they are required to pay higher out-of-pocket costs (deductibles, co-insurance). After members reach their annual deductible, United will generally reimburse them 80 percent of the "reasonable and customary" charge for the out-of-network service. Members remit United's payment to the provider, and are responsible for paying the remaining 20 percent. In 2017, United processed claim payments totaling almost $2.9 billion. Of that amount, $1 billion (37 percent) was for out-of-network services.

Starting in 2007, OSC conducted a series of audits to determine whether out-of-network providers routinely waived members' out-of-pocket costs. OSC found that this practice caused United to make overpayments on claims for out-of-network services. Between 2007 and 2017, OSC completed 35 audits and found that 32 of 35 out-of-network providers routinely waived Plan members' out-of-pocket costs, resulting in $22.8 million in overpayments. Because a claim should reflect the provider's actual charge (the amount the provider intended to accept as payment-in-full) for the service, if an out-of-network provider waives a member's out-of-pocket costs, the provider should reduce the claim to United by the waived amount. Failing to do so can result in United paying 80 percent of an inflated charge. The submission of an insurance claim with false information, such as inaccurate service charges, may constitute insurance fraud pursuant to State Law. The State Insurance Department (now the Department of Financial Services [DFS]) concluded that the routine waiving of out-of-pocket cost obligations and accepting amounts from the insurer as payment-in-full may constitute a fraudulent billing practice and a violation of the State Insurance Law. In November 2016, the DOH and DFS sent a joint letter to New York State physicians reminding them that, by regulations, they must charge all patients the same price for the same service.

As a result of OSC's audits, the State Insurance Department conducted its own investigation, and in 2010 reported that New York State recouped over $11.5 million from 13 providers found to be routinely waiving members' out-of-pocket costs. In addition, some providers agreed to discontinue the practice of waiving and join the Plan network, which led to significant additional savings over the years subsequent to the audits. OSC's follow-up review of seven providers who joined the Plan network as a result of the audits identified over $70 million in subsequent NYSHIP savings due to United paying providers at lower in-network rates. Auditors determined significant cost savings to NYSHIP could be achieved if more out-of-network providers who improperly waive members' out-of-pocket costs discontinued this practice and joined the Plan network. Additionally, out-of-network providers who join the Plan benefit plan members by expanding the choice of in-network providers. Auditors

recommended that DFS and United take a course of action to recover overpayments and prevent out-of-network providers from improperly waiving members' out-of-pocket costs.

Noise in New York City Neighborhoods: Assessing Risk in Urban Noise Management (2016-D-4). Despite an overhaul of New York City's Noise Code — which took effect in 2007, and established more stringent regulations for construction sites, nightclubs, and other sources of noise disturbances — noise complaints made to the City's 311 Customer Service Center (311) are on the rise. Based on OSC's 2016 public opinion survey (Noise Survey), in tandem with analysis of 311 system complaint data, auditors identified several major sources of noise disturbance: sirens and alarms, residential noise, outside noise, nightlife noise, construction, mass transit, air traffic, and motor vehicle traffic. Of these, nightlife and construction have clear criteria to guide government oversight, yet using the 311 system – the primary means for New Yorkers to make a noise complaint – did not resolve the majority of these complaints. From 2010 through 2015, there were 154,587 nightlife noise complaints, with concentrations in the Lower East Side and Chinatown. Of these, about 76,000 were complaints against 8,700 addresses. Notably, for the same period, the State Liquor Authority issued 36,581 new and renewal licenses to entities in New York City Community Districts, and in 2013, the number of licenses issued began increasing, reaching 5,464 in 2013 and 12,346 in 2015. From 2010 through 2015, New York City residents made 132,717 complaints about construction noise. More than 1,000 addresses had ten or more complaints each. Noise Survey respondents expressed the view that the timing of noise complaint inspections was not consistent or productive, and were generally critical of inspections being performed at times when the reported noise was not occurring. It is within City and State agencies' control to both investigate and prevent harmful noise from nightlife and construction. If not mitigated, repeated exposure to noise — whether it be loud music or jackhammers — can have long-term consequences for public health. As a result of auditors' research on and risk assessment of urban noise management, OSC engaged two audits of nightlife and construction noise management by New York City and New York State governmental entities, which will provide decision-makers with critical information on the root causes of these problems as well as recommendations for both City and State agencies that will enable them to more effectively deal with what is a significant issue for many New York City residents.

Housing

Homeless Veterans in New York State (2017-D-3). Veterans of U.S. military service have made up a disproportionate share of the homeless population, both in New York State and nationally. Veterans experience homelessness for some of the same economic reasons as do civilians, such as a lack of affordable housing, low wages, and long-term unemployment. However, they may also experience post-traumatic stress disorder, traumatic brain injury, and other traumas that can increase the risk of homelessness. Similar to a national trend, there tend to be "pockets" of homeless veterans located around New York: New York City has the highest number, with communities located in the Long Island, Mid-Hudson Valley, Capital District, Central, Finger Lakes, and Western regions also experiencing higher numbers of homeless veterans. However, as a result of efforts at the county and local community levels, the number of homeless veterans in the State has dropped dramatically: from 5,765 to 1,248 for the period from 2011 to 2016, a decline of 78.4 percent. Counties and cities across the State rely on a mix of local, State, and federal dollars to support their programs, among them the Mayor's Challenge to End Veteran Homelessness, with more than two dozen mayors, town supervisors, and county executives participating to ensure that all homeless veterans in their jurisdictions have quick access to housing services. Other efforts in the State have also reported promising results. Based on information provided by representatives of the New York City Continuum of Care, community partners have

leveraged relationships and enhanced systems already in place to serve the City's homeless veteran population. From 2011 through 2016, the homeless veteran population in New York City decreased from 4,677 to 559. Despite the reported success and progress made in assisting homeless veterans and their families, some of these programs may be in jeopardy due to uncertainty of some federal funding. At the federal, State, and local levels, continued attention to housing and other challenges facing veterans remains critically important. It is incumbent upon officials at all levels of government to do their part for those who have served this nation by ensuring their essential needs are met. At a minimum, this should include a place to call home.

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