2018–2019 Annual Report on Audits of State Agencies and Public Authorities

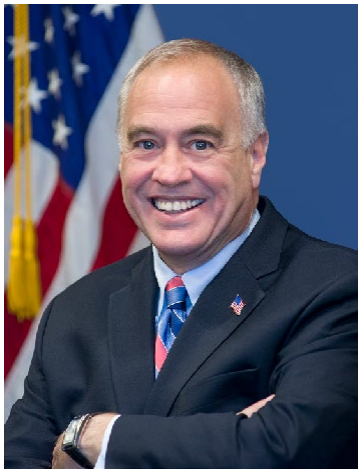
OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

JANUARY 2020

Contents

Message from the Comptroller



January 2020

One of the chief responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that the public's 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 2018-19 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets. I hope that New York public officials and citizens will find this report useful and informative.

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, 2018 through September 30, 2019. 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, 2013 through September 30, 2018.

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 2018-19 (October 1, 2018 through September 30, 2019), SGA issued 111 audit reports addressing the operations of State agencies and public authorities. Auditors identified more than $254 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 $26 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 following table provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2018-19. We estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize a total of more than $526 million in monetary benefits.

Audit Cost Savings for Reporting Year 2018-19

Fiscal Category	Actual	Potential	Totals
Cost Recovery	$230,744,300	$25,990,085	$256,734,385
Cost Avoidance	9,953,952	0	9,953,952
Revenue Enhancement	13,577,701	121,818	13,699,519
Subtotals	**$254,275,953**	**$26,111,903**	**$280,387,856**
Questionable Transactions			245,756,597
Total Fiscal Impact			**$526,144,453**

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, explaining 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 2018-19, SGA issued 34 follow-up reports, reviewing progress on a total of 145 recommendations. Of these recommendations, 122 (84 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	2018-F-10	7	7	100%
	2018-F-13	1	1	100%
	2018-F-14	4	4	100%
	2018-F-26	4	4	100%
	2018-F-28	7	7	100%
	2019-F-2	8	7	88%
	2019-F-10	2	1	50%
Office of Children and Family Services	2019-F-27	2	2	100%
Education				
State Education Department	2018-F-17	2	1	50%
State University of New York	2019-F-21	4	4	100%
City University of New York	2018-F-29	7	6	86%
Transportation				
Department of Transportation	2019-F-24	2	2	100%
Metropolitan Transportation Authority	2018-F-20	11	10	91%
	2019-F-7	6	4	67%
	2019-F-8	2	2	100%
Thruway Authority	2019-F-14	2	2	100%
Criminal Justice and Judicial Administration				
Department of Corrections and Community Supervision	2018-F-21	5	5	100%
State Commission of Correction	2019-F-4	5	5	100%
Government Support				
Department of Civil Service/New York State Health Insurance Program	2018-F-31	2	1	50%
	2018-F-32	2	1	50%
Department of State	2018-F-22	4	4	100%
Dormitory Authority of the State of New York	2018-F-30	2	2	100%
Office of General Services	2018-F-23	2	2	100%

Economic Development and Housing				
Homes and Community Renewal	2018-F-18	3	1	33%
	2019-F-9	6	3	50%
Other State Agencies and Public Authorities				
Department of Agriculture and Markets	2019-F-5	3	2	67%
	2019-F-11	4	4	100%
Department of Homeland Security and Emergency Services	2018-F-27	3	3	100%
	2019-F-13	2	2	100%
Department of Labor	2018-F-24	2	0	0%
	2019-F-12	5	5	100%
Department of Motor Vehicles	2018-F-25	3	3	100%
New York Power Authority	2017-F-16	9	6	67%
	2017-F-17	12	9	75%
Totals		**145**	**122**	**84%**

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 2018-19, four agencies significantly delayed, obstructed, or otherwise impaired the scope of audits.

- **Department of Financial Services (DFS)**

  Oversight of the Title Insurance Industry (2017-S-10). Auditors encountered various delays throughout the audit – some for information that should have been readily available. DFS officials hampered auditors' progress in obtaining independent, reliable information and, throughout the audit, refused to allow DFS staff to meet with members of the audit team without the presence of a member of DFS' upper management. In addition, DFS officials required that all audit team requests be funneled through upper management and that all information provided to the auditors be funneled back through upper management. Therefore, auditors had limited assurance that the data presented was complete and unmodified.

- **Department of Transportation (DOT)**

  Welcome Center and Rest Area Planning and Implementation (2017-S-25). Throughout the audit, DOT did not provide key supporting documentation to auditors when requested.

For example, multiple requests during the survey phase of the audit for detailed plans and supporting documentation on how the plans were developed for completed Welcome Centers or those under development were unfulfilled. Some of the documentation received was limited, as it lacked support for decision-making, planning, design, and construction detail for individual Welcome Centers. Further, DOT officials did not provide documentation to support that they adhered to their own policies and procedures for the effective planning of facilities. Additionally, DOT's representation letter provided limited assurance regarding audit evidence provided and auditors deemed the letter unacceptable for the purposes of the audit.

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

  Access Controls Over Selected Critical Systems (2017-S-56). OCFS officials hindered auditors' progress, not only by delaying access to pertinent individuals and information, but also by presenting contradictory information, which ultimately caused auditors to limit their audit work and, therefore, their conclusions. It is important to note that this particular audit experience is not an isolated incident; rather, following similar OCFS responses to previous audits (see, e.g., 2017-S-16), it constitutes a pattern of poor cooperation by OCFS and evidences a disregard for transparency and accountability.

- **Port Authority of New York and New Jersey (PANYNJ)**

  Selected Aspects of Leasing Practices for Real Estate Services Department and Port Commerce (2017-S-58). Throughout the audit, PANYNJ did not provide access to staff to obtain information unless PANYNJ management was present. Further, officials significantly delayed providing documents to auditors and withheld information that impacted the audit conclusions.

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. For the fiscal year ended March 31, 2019, New York's Medicaid program had approximately 7.3 million enrollees and about $67.4 billion in claim costs. Fourteen Medicaid audits identified more than $225 million in actual and potential cost savings to the State, including more than $102 million in Medicaid premium payments for recipients with duplicate Client Identification Numbers (2018-S-24). In addition, our audit of Medicaid claims processing activity identified nearly $124 million in questionable payments made to recipients who had concurrent comprehensive third-party health insurance (2018-S-13).

- **Special Education**

  SGA issued 20 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, the Executive 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 $13.3 million stemming from unsupported and/or inappropriate costs charged to the audited programs, with over $5.4 million charged by one provider alone (2017-S-86).

- **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 ten reports on the MTA, including a series of audits covering its homeless outreach efforts. Auditors found that the MTA and its constituent agencies did not have sufficient oversight and monitoring controls over homeless outreach services on MTA properties. (2019-D-1).

AUDIT SUMMARIES

HEALTH AND HUMAN SERVICES

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 reasonably ensured that 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 2018-19 reporting year, OSC issued three such audits, as follows:

- **Medicaid Program: Medicaid Claims Processing Activity October 1, 2017 Through March 31, 2018** (2017-S-63). During the six-month period ended March 31, 2018, eMedNY processed over 184 million claims, resulting in payments to providers of more than $31 billion. The audit identified over $119 million in Medicaid payments that required DOH's prompt attention, including: $107.7 million in managed care premiums paid on behalf of recipients with concurrent comprehensive third-party health insurance (TPHI); $3.2 million for claims billed with incorrect information pertaining to recipients' other health insurance coverage; $2.1 million for claims involving the Medicare Savings Program; $1.7 million in fee-for-service claims paid for recipients enrolled in managed care; $1.6 million paid for incorrect newborn birth claims; $1.4 million for an inpatient claim billed at a higher level of care than was provided; $609,915 for Comprehensive Psychiatric Emergency Program claims billed in excess of permitted limits; $360,651 in overpayments on clinic and inpatient claims; $357,020 in overpayments for drugs purchased through the federal 340B program; and $290,676 for episodic home health care claims that did not comply with Medicaid policies. By the end of the audit fieldwork, about $6.7 million of the improper payments had been recovered. Further, of the $107.7 million in premiums paid on behalf of Medicaid recipients with concurrent comprehensive TPHI, about $5.7 million pertained to Nassau County. During the audit, auditors assisted Nassau County officials in identifying Medicaid recipients who had comprehensive TPHI while enrolled in Medicaid managed care. Nassau County officials subsequently disenrolled 619 Medicaid recipients who were improperly enrolled in managed care, saving Medicaid an estimated $2.1 million in managed care premiums. Auditors also identified 38 active Medicaid providers who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had terminated 21 of the providers, entered in Medicaid settlements with 14, and needed to make a decision on the program status of the remaining three active providers. Auditors made 14 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

- **Medicaid Program: Medicaid Claims Processing Activity April 1, 2018 Through September 30, 2018** (2018-S-13). During the six-month period ended September 30, 2018, eMedNY processed over 154 million claims, resulting in payments to providers of more than $35 billion. The audit identified over $134 million in improper Medicaid payments, including: $123.9 million in Medicaid

managed care premiums paid on behalf of 86,475 Medicaid recipients who had concurrent comprehensive third-party health insurance (TPHI); $6.1 million for an inpatient claim that contained an inaccurate deductible amount; $1.1 million for inpatient claims billed at a higher level of care than was actually provided; $1 million for claims billed with incorrect information pertaining to other health insurance coverage recipients had; $977,817 for newborn birth claims that contained inaccurate birth information, such as birth weight; $515,615 for psychiatric claims billed in excess of permitted limits; and $504,679 for practitioner, pharmacy, and clinic claims and $326,697 for episodic home health care claims that did not comply with Medicaid policies. By the end of the audit fieldwork, about $8.2 million of the improper payments had been recovered. Also, according to DOH officials, as of January 31, 2019, they had successfully disenrolled 9,334 individuals from Medicaid managed care due to comprehensive TPHI. Auditors also identified 32 Medicaid providers who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had removed 28 of the providers from the Medicaid program, entered into a settlement with one provider, and was determining the program status of the remaining three providers. Auditors made 11 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

- **Medicaid Program: Medicaid Claims Processing Activity October 1, 2018 Through March 31, 2019** (2018-S-55). During the six-month period ended March 31, 2019, eMedNY processed over 142 million claims, resulting in payments to providers of more than $36 billion. The audit identified over $5.7 million in Medicaid payments that require DOH's prompt attention, including: $1.9 million paid for inpatient claims billed at a higher level of care than was provided; $1.4 million for newborn birth claims that contained inaccurate birth information, such as birth weight; $1 million for practitioner, pharmacy, inpatient, lab, and clinic claims that did not comply with Medicaid policies; $852,295 for claims billed with incorrect information pertaining to other health insurance coverage recipients had; $278,850 for psychiatric claims billed in excess of permitted limits; and $215,673 for episodic home health care claims that did not comply with Medicaid policies. Additionally, $32,326 in costs were avoided due to an averted overpayment of a provider refund. By the end of the audit fieldwork, about $3.9 million of the improper payments had been recovered. Auditors also identified 29 Medicaid providers who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had removed 22 of the providers from the Medicaid program, entered into settlements with six, and was determining the program status of the remaining provider. Auditors made ten recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Medicaid Program: Medicaid Overpayments for Medicare Part B Services Billed Directly to eMedNY (2017-S-36). Individuals enrolled in both Medicaid and Medicare are commonly referred to as "dual-eligible." Medicare Part B provides supplementary medical insurance coverage for a range of outpatient medical services, physician services, and medical supplies. Medicare enrollees are responsible for paying all costs of Part B services until their annual deductible is met. After the deductible is met, Medicare begins to pay its share and the enrollee is responsible for any coinsurance. Generally, Medicaid will pay the deductibles and coinsurance on behalf of dual-eligibles. In December 2009, DOH implemented its automated Medicare/Medicaid crossover system, which enforces payment controls. With this system, providers submit medical claims for dual-eligibles to Medicare; Medicare processes the claims; and the claims are then automatically transferred to DOH's eMedNY system for payment of deductibles and coinsurance. In certain instances, providers may still submit these claims directly to eMedNY for payment.

In these situations, the claims bypass the payment controls enforced by the crossover system. Auditors identified up to $8.7 million in improper Medicaid payments for costs related to Medicare Part B deductibles and coinsurance between June 1, 2012 and May 31, 2017, including: questionable payments totaling $5.3 million to providers who claimed excessive Part B coinsurance amounts; overpayments totaling $2.3 million to providers for the Part B coinsurance on services that Medicaid did not cover; and overpayments totaling $1.1 million to providers for Part B deductibles that exceeded dual-eligibles' yearly limits. Auditors' key recommendations to DOH included: reviewing the payments identified by the audit and recovering overpayments, as appropriate; formally advising providers to report accurate claim information when billing Medicaid for Part B deductibles and coinsurance on direct-bill claims to help ensure claims are paid appropriately; and enhancing system controls to detect and prevent overpayments for Part B deductibles and coinsurance on direct-bill claims.

Medicaid Program: Improper Medicaid Payments for Childhood Vaccines (2017-S-41). The Vaccines for Children Program (VFC Program) is a federally funded Medicaid benefit that provides free vaccines to eligible children younger than 19 years of age whose parents or guardians may not be able to afford them. The federal Centers for Disease Control and Prevention purchases vaccines from drug manufacturers at a discount and distributes the vaccines to state health departments and certain local and territorial public health agencies at no cost. These agencies then distribute the vaccines at no cost to physicians and public health clinics enrolled in the VFC Program. Because the federal government purchases the vaccines, providers are not reimbursed for the cost of the vaccines, but are paid a fee for administering them. For children enrolled in Medicaid, the Medicaid program pays the vaccine administration fee. Auditors identified $32.7 million in improper Medicaid payments to health care providers for costs related to administering VFC Program vaccines between January 1, 2012 and May 31, 2017. Medicaid payments were made for free vaccines, and payments of the fee to administer the vaccines were not always accurate. Managed care organizations (MCOs) made improper payments totaling $29.8 million due to control weaknesses in the MCOs' claims processing systems, and Medicaid made improper fee-for-service payments totaling $2.9 million because providers did not bill claims according to Medicaid policies and eMedNY lacked controls to prevent overpayments. Auditors' key recommendations to DOH were to: review the $32.7 million in improper MCO and fee-for-service payments and ensure proper recoveries are made; formally instruct MCOs on the proper payment of administered VFC Program vaccines; formally advise providers to report accurate claim information when billing Medicaid for administered VFC Program vaccines; and ensure claims processing controls prevent improper MCO and fee-for-service VFC Program payments.

Medicaid Program: Medicaid Overpayments for Medicare Advantage Plan Services (2017-S-46). Many Medicaid recipients are also enrolled in Medicare Part C, under which private managed care companies administer Medicare benefits and offer different health care plans (referred to as Medicare Advantage plans [Plans]) tailored to the specific needs of Medicare beneficiaries. Plans reimburse health care providers for services provided to enrollees. Generally, Medicaid is the secondary payer, and covers any financial balances not covered by the Plans (typically deductibles and coinsurance). If Plans deny a claim or pay a different amount than a provider billed, Plans must communicate the reason to providers on the Explanation of Benefits (EOB) using Claim Adjustment Reason Codes (CARCs). Providers submit claims for unpaid amounts to Medicaid through the eMedNY system. When submitting claims, providers are required to include the Plan-reported CARCs. The eMedNY system uses the CARCs to determine whether a billed service is eligible for payment as well as the correct payment amount. During the audit period, January 1, 2013 through July 31, 2017, Medicaid was the primary payer on 92,296 claims totaling almost $12.8 million for services typically covered by a recipient's Plan. For a sample of 266 such claims (totaling $220,661 in Medicaid payments), auditors found 187 claims (70 percent) where the provider never billed

the Plan for the services, incorrectly indicated a Plan payment of zero on its Medicaid claim, or did not follow the Plan's billing guidelines. Medicaid paid $183,019 on these claims, while its actual obligation amounted to only $5,484. During the audit, certain providers repaid Medicaid $25,300, leaving $152,235 to be recovered. Auditors also found that DOH does not enforce the CARC requirement on claims. Of 108 claims for which auditors obtained EOBs from providers, 98 were submitted to eMedNY without a CARC and five were submitted with an incorrect CARC. Without the appropriate CARC, eMedNY is at risk of improperly adjudicating – and overpaying – claims. Auditors recommended that DOH: review and recover the remaining overpayments totaling $152,235, as appropriate; formally assess the 92,030 higher-risk claims totaling almost $12.6 million and recover overpayments, as warranted, while ensuring prompt attention is paid to providers that received the largest dollar amounts of payments; and develop a process to monitor whether providers are reporting CARCs appropriately.

Oversight of Food Service Establishments (2017-S-62). DOH is responsible for ensuring that the State's more than 90,000 food service establishments (Establishments) adhere to the State Sanitary Code (Code). DOH's oversight is implemented at the local level through designated health departments, which are responsible for permitting and inspecting Establishments to ensure Code compliance. Designated health departments must also maintain a surveillance system to record complaints and identify possible foodborne illness outbreaks. Auditors found that, while DOH has implemented inspection, complaint and outbreak investigation, and enforcement procedures and requirements, designated health departments have not conducted inspections as frequently as recommended, and not all high-risk Establishments are inspected by more highly trained inspectors, as DOH recommends. Further, designated health departments are not adequately ensuring enforcement of, or documenting justifications for the absence of, actions to address Category I public health hazards (critical violations that pose the greatest risk), as directed by DOH. Auditors also found systemic issues with the quality of data DOH relies on for its oversight of Establishments. Error-prone reporting and problems transmitting data from designated health departments to DOH's Environmental Health Information and Permitting System (EHIPS) have resulted in data inaccuracies. Auditors recommended that DOH: implement procedures to incorporate periodic data analysis and consistent use of EHIPS reporting mechanisms to assess the performance of designated health department functions that need improvements, identify patterns and/or areas of concern involving non-compliance with the Code, and provide information to regional offices and designated health departments to assist them in the most effective allocation of staff resources; ensure that designated health departments take enforcement action for Category I violations or document justification for not doing so, especially for Establishments that demonstrate a pattern of repeated violations; and take steps to improve the accuracy and completeness of EHIPS data, including implementing procedures for input, quality assurance, and utilization of information and developing fixes for data errors and the inability to transmit data from designated health departments to EHIPS.

Medicaid Program: Opioid Prescriptions for Medicaid Recipients in an Opioid Treatment Program (2017-S-66). Opioid treatment programs (Treatment Programs) provide medication-assisted treatment, including certain opioid medications, for people diagnosed with an opioid use disorder. New York State maintains a database of controlled substance prescriptions, the Internet System for Tracking Over-Prescribing (I-STOP), to monitor prescription drug use. To maximize patient safety, Treatment Programs should check I-STOP and, with a patient's consent (as required by federal law), seek coordination of care with the patient's other opioid prescribers. Per federal and State laws, however, opioid medications dispensed by Treatment Programs are not included in I-STOP for review by other practitioners. For the period October 1, 2013 through September 30, 2017, Treatment Programs provided services to 57,032 Medicaid recipients at a cost to Medicaid of $916 million. Auditors found that 33 percent (18,786) of these Medicaid recipients in Treatment Programs – and receiving opioids for opioid use disorder – also received

prescription opioids outside of their Treatment Programs. Recipients may have received inappropriate, unnecessary, and/or dangerous opioid prescriptions if Treatment Programs did not check I-STOP and, where authorized, coordinate care with other prescribers. Based on a sample of medical records, auditors determined that Treatment Programs were not consistently checking I-STOP and also not checking it before dispensing an opioid treatment-assistive medication for take-home use, as required by State law. Auditors recommended that DOH: take steps to ensure Treatment Programs appropriately check I-STOP; and evaluate steps to improve scrutiny over opioid prescriptions for Medicaid recipients who are being treated for opioid use disorder.

Medicaid Program: Improper Fee-for-Service Payments for Services Covered by Managed Care (2017-S-74). DOH pays Medicaid providers using the fee-for-service (FFS) or the managed care method. Under the FFS method, DOH pays providers directly, through eMedNY, for services rendered to Medicaid recipients. Under the managed care method, DOH pays managed care plans a monthly premium for each Medicaid recipient enrolled in managed care, and the managed care plans pay providers for services rendered to their members. The Medicaid program should not pay claims on a FFS basis when the services are covered by managed care. Most Medicaid recipients are enrolled in mainstream managed care plans (Plans), which provide comprehensive medical services, including for newborns whose mothers are Plan enrollees. However, some services are excluded (carved out) from the Plans' benefit packages and paid separately through FFS. Medicaid FFS claims are subject to various payment controls through eMedNY. For example, eMedNY edits determine whether recipients are enrolled in Plans, and will deny FFS claim payments unless the services are carved out. The carved-out services are controlled by the scope of benefits information maintained in eMedNY. Auditors found that Medicaid made over $36 million in improper FFS payments for inpatient, practitioner, and dental services that should have been covered by Plans. Many of the improper payments identified were for newborn-related medical services. Improper payments occur when newborns are not enrolled in the Plans timely, and hospitals inappropriately bill Medicaid FFS for the services. Auditors also concluded that DOH has not taken effective steps to ensure Plans promptly report enrollee pregnancies to the entities responsible for managed care enrollment of newborns, and DOH does not track or penalize lateness when hospitals do not report live births within five business days. DOH also does not have a process to routinely or timely identify and recover all improper FFS payments that result from retroactive updates to a recipient's Plan eligibility (including retroactive newborn enrollment in the mother's Plan) or from retroactive updates to the scope of benefits information in eMedNY. Auditors recommended that DOH: review the $36 million in FFS claim payments and recover overpayments, as appropriate; work with the entities responsible for managed care enrollment to help ensure timely enrollments of newborns; and develop a process for timely identification and recovery of improper FFS Medicaid payments for managed care services resulting from retroactive managed care enrollments and retroactive updates to the scope of benefits information in eMedNY.

Medicaid Program: Improper Medicaid Payments for Recipients in Hospice Care (2017-S-76). Hospice provides care to terminally ill individuals, with a focus on easing symptoms rather than treating the disease. Generally, when eligible Medicaid recipients elect hospice care, they waive their right to use Medicaid for curative services, and a hospice organization assumes responsibility for all medical care related to the terminal illness. Medicaid reimburses hospice organizations an all-inclusive daily rate that covers all hospice services. From January 1, 2013 to December 3, 2017, the Medicaid program paid hospice providers about $184 million on behalf of 14,933 Medicaid recipients. Medicaid also paid about $54 million for other (non-hospice) medical services provided to the recipients while they were receiving hospice care. Auditors identified about $8 million in inappropriate Medicaid payments for services provided to hospice recipients, including: $2.9 million paid to non-hospice providers for services such as private duty nursing that were not allowed in combination with the daily hospice rate; $2.4 million paid

to non-hospice providers for drugs, durable medical equipment, home care, and other services covered under the daily hospice rate; $2.6 million paid for hospice services that should have been covered by Medicare or a Medicaid managed care organization; and $107,141 paid for hospice services while the patient was in the hospital. Auditors recommended that DOH: review the $8 million and ensure proper recoveries are made; clarify hospice program billing requirements and advise providers accordingly; and improve controls to prevent improper payments for services provided to recipients receiving hospice care.

Medicaid Program: Improper Medicaid Payments for Recipients Diagnosed With Severe Malnutrition (2017-S-85). Malnutrition can result from the general deterioration of an individual's health, inadequate treatment or neglect, or the treatment of another condition. Once malnutrition is identified, a hospital must use the appropriate International Classification of Diseases code on its claim to reflect the diagnosis. Generally, as the severity of the malnutrition diagnosis increases, Medicaid's payment to a hospital will increase. Medicaid will only pay for medical care and services that are medically necessary, the necessity of which is evident from documentation in the patient's medical record, and that meet existing standards of professional practice. For the five-year period ended December 31, 2017, Medicaid paid about $521 million for inpatient claims that included a severe malnutrition diagnosis. Auditors identified $416,237 in overpayments to certain hospitals for claims where the patient's medical record did not appear to support a severe malnutrition diagnosis. In addition, the hospitals were not following recommended guidelines for identifying and documenting severe malnutrition on these claims. Auditors recommended that DOH: review the overpayments identified and make recoveries, as appropriate; and formally remind all hospitals to ensure clinical assessments for severe malnutrition meet existing standards of professional practice, to only bill for severe malnutrition that meets accurate clinical assessments and Medicaid billing rules, and to properly document severe malnutrition in a patient's medical record.

Lead Poisoning Prevention Program (2018-S-12). Lead poisoning poses a major health risk to children, and can result in anemia, hearing loss, lower IQ, growth and behavioral problems, kidney damage, and even death. DOH is responsible for administering the State's Lead Poisoning Prevention Program (Program), which is implemented through local health departments (LHDs). LHDs create programs to address lead-poisoning prevention requirements and provide case management and follow-up services for children based on their elevated blood lead levels (BLLs). The goal of follow-up for children with elevated BLLs is to coordinate the services required to reduce their BLLs below thresholds recommended by the Centers for Disease Control and Prevention (CDC) (historically, 10 micrograms per deciliter [µ/dL] but lowered to 5 µ/dL in 2012). LHDs track BLLs through LeadWeb, a DOH-maintained system. DOH's regional offices are responsible for scheduling and conducting reviews of LHDs' Program implementation once every three years or more frequently for cause. While auditors found that, in general, the LHDs are providing required Program services, DOH should improve its monitoring of the Program. Auditors found DOH regional staff were not consistently scheduling and conducting on-site reviews of LHDs' Program implementation – four LHDs had not received a review since 2010. Auditors also found significant issues with the reliability of LeadWeb's data and identified discrepancies between LeadWeb and LHD data. Notably, with more recent studies showing that no amount of lead exposure is safe for children, in April 2019, New York Public Health Law lowered the acceptable BLL standard from 10 to 5 µ/dL, the level currently recommended by the CDC, effective October 2019 – a threshold that, applied to the audit period, would mean a 69 percent increase in the number of elevated BLL test results requiring follow-up services. That LHDs will be managing significantly more elevated BLL cases underscores the importance of improved Program monitoring. Auditors recommended that DOH: ensure that the risk of lead exposure is minimized through compliance with Program monitoring requirements; implement the proper internal controls and quality assurance measures to provide adequate assurance that LeadWeb data is complete and accurate before it is used by LHDs or for DOH monitoring purposes; and develop and enforce regulations requiring LHDs to perform

follow-up services for all children whose BLLs meet or exceed the statutorily set levels, or lower levels as may be established, according to rule or regulation.

Medicaid Program: Improper Payments for Sexual and Erectile Dysfunction Drugs, Procedures, and Supplies Provided to Medicaid Recipients, Including Sex Offenders (2018-S-16). Federal and State laws prohibit Medicaid payment of drugs for the treatment of sexual or erectile dysfunction (ED) for all Medicaid recipients, including registered sex offenders. In addition, Medicaid must not pay for an ED drug unless it has another Food and Drug Administration-approved use and the treatment is for that other use. State laws also prohibit Medicaid payment of procedures and supplies to treat ED for registered sex offenders. For the audit period April 1, 2012 to July 1, 2018, Medicaid made improper payments of $933,594 for drugs, procedures, and supplies to treat ED. Of this amount, $63,301 was paid on behalf of 47 sex offenders, 30 of whom were classified as a level 3 (high risk) or a level 2 (moderate risk) sex offender. Auditors also identified questionable payments – totaling between $2.8 and $5.2 million – for ED drugs approved to treat other medical conditions (primarily benign prostatic hyperplasia [BPH] and pulmonary arterial hypertension) prescribed for recipients who may not have had these diagnoses. While managed care organizations (MCOs) were responsible for most of the improper payments, auditors found DOH did not monitor utilization of ED drugs, procedures, and supplies, including payments by MCOs. Further, auditors found that some MCO controls are not designed to prevent sex offenders from obtaining treatment for ED. Auditors also observed that certain Medicaid laws and policies are inconsistent: State policy does not allow payment of ED drugs for the treatment of BPH under fee-for-service, but allows payment of these drugs under managed care. Finally, auditors found that State law prohibits payment of ED procedures and supplies for sex offenders, whereas federal laws do not address this. Auditors recommended that DOH: review the payments identified and ensure recoveries are made, as appropriate; regularly provide MCOs with detailed lists of all ED drugs, procedures, and supplies that are excluded or have limited Medicaid coverage; periodically monitor coverage, utilization, and payment of ED drugs, procedures, and supplies and take corrective actions to ensure compliance with laws, policies, and procedures; and improve DOH's eMedNY computer system controls to (a) apply sex offender status in the processing of certain claims and (b) prevent the processing of incomplete Division of Criminal Justice Services sex offender registry files.

Medicaid Program: Improper Managed Care Premium Payments for Recipients With Duplicate Client Identification Numbers (2018-S-24). Many of the State's Medicaid recipients receive their services through managed care, whereby DOH pays managed care organizations (MCOs) a monthly premium for each enrolled recipient and, in turn, the MCOs pay for services their members require. Each individual who applies for benefits under Medicaid or another public assistance program is assigned a unique Client Identification Number (CIN). Medicaid recipients may have more than one different CIN assigned to them (i.e., duplicate CINs) during the time they are in receipt of benefits, but only one CIN should have active managed care eligibility at a time. Individuals have several options for enrolling in Medicaid, including through Local Departments of Social Services (Local Districts) and the NY State of Health (NYSOH), the State's online health plan marketplace. Local Districts use the State's Welfare Management System (WMS) to process applicant data through both a downstate and an upstate system, and the NYSOH system processes its applicants' data. All WMS and NYSOH enrollment information is transmitted to DOH's eMedNY claims processing system, where is it used to update eligibility and enrollment data necessary to make appropriate claim payments. When an individual is assigned duplicate CINs, each with its own record of eligibility and managed care enrollment within eMedNY, Medicaid is at risk of making improper concurrent monthly premium payments for each CIN. Auditors found Medicaid made over $102.1 million in improper managed care premium payments on behalf of recipients with duplicate CINs. According to Local District officials, incorrect/missing recipient demographic information and limited access to the

multiple eligibility systems during application lead to improper duplicate CINs. Although DOH, Local Districts, MCOs, and the Office of the Medicaid Inspector General all have processes to identify and resolve duplicate CINs, their systems and processes are not fully integrated, and many duplicate CIN cases have not been identified, have not been resolved in a timely manner, or remain unresolved. There also is no central tracking database for duplicate CINs. DOH has established a unit within the Division of Eligibility and Marketplace Integration (DEMI) to track and resolve duplicate CINs. However, during the audit period, the unit was primarily responsible for researching potential duplicates involving at least one CIN created by NYSOH only, not cases that only involved non-NYSOH-created duplicate CINs and, further, did not consider the active eligibility status of the potential duplicate CINs or the cost of associated managed care premiums when prioritizing cases for review. Auditors recommended that DOH: review the $102.1 million in improper premium payments and make recoveries, as appropriate; ensure Local Districts make timely, accurate updates to demographic information on all Medicaid cases to allow proper CIN assignment for new applications and efficient reconciliation of existing duplicates; evaluate the feasibility of building a central tracking database of potential duplicate CINs that shows the status of each case and can be shared among all the stakeholders in the duplicate CIN research and resolution process; ensure that the DEMI unit takes steps to improve efficiency and timeliness, including expanding the prioritization methodology to include active eligibility status of the potential duplicate CINs and the cost of associated managed care premium payments, and establishing a benchmark for the time it takes to resolve duplicate CINs; and evaluate the feasibility of creating a control to prevent confirmed duplicate CINs from being reused in the future.

Medicaid Program: Medicaid Overpayments for Inpatient Care Involving Mechanical Ventilation Services (2018-S-45). For patients who are unable or have diminished ability to breathe on their own, mechanical ventilation is used to do the work of inflating and deflating their lungs for them. Hospitals use International Classification of Diseases (ICD) procedure codes on their claims to report mechanical ventilation services to Medicaid for reimbursement. Hospitals use a specific code to report longer-duration mechanical ventilation services of 96 consecutive hours (i.e., four days) or more, which may cause Medicaid's payment to the hospital to increase. For the period January 1, 2014 through December 31, 2018, Medicaid paid over $522 million to hospitals for 4,874 inpatient medical claims that included an ICD procedure code for 96 consecutive hours or more of mechanical ventilation services. Auditors identified $975,795 in overpayments on 32 inpatient claims that incorrectly reported 96 consecutive hours or more of mechanical ventilation services, and identified claims processing control weaknesses that prevent eMedNY from identifying claims where this duration of mechanical ventilation services was not possible. Auditors recommended that DOH: review the overpayments identified and make recoveries, as appropriate; formally remind hospitals to use the procedure code that represents the duration of time the patient received mechanical ventilation services; and establish payment controls that validate the duration of mechanical ventilation services that hospitals claim.

Mainstream Managed Care Organizations: Administrative Costs Used in Premium Rate Setting (Follow-Up) (2018-F-10). DOH is responsible for setting managed care organizations' (MCOs) monthly Medicaid managed care premium rates, which are based, in part, on MCOs' allowable administrative costs. For this purpose, DOH relies on financial data reported by MCOs on the Medicaid Managed Care Operating Reports (MMCORs). DOH issues MMCOR instructions to guide MCOs on reporting administrative expenses. The initial audit (2014-S-55) found that DOH overpaid MCOs more than $18.9 million in mainstream managed care premiums for the State fiscal year 2014-15 due to a flaw in DOH's rate-setting methodology. Auditors also determined DOH provided insufficient and conflicting MMCOR cost-reporting guidance that allowed MCOs to misreport non-allowable marketing expenses. Also, DOH did not assess any contracted actuarial costs against the MCOs, as required by law. Auditors made seven

recommendations to DOH to: modify the rate-setting methodology to ensure certain taxes are properly factored into the methodology; recalculate the administrative cost components of the mainstream managed care premiums based on the audit's findings; recover the corresponding overpayments from all mainstream MCOs based on the recalculated premiums; determine the extent to which MCOs report non-allowable marketing expenses as facilitated enrollment; and assess the costs of the actuary contract against the MCOs. The follow-up review found that DOH had made some progress in addressing the problems identified in the initial audit report, but additional actions were needed. Beginning with the State fiscal year 2015-16 premium rates, DOH updated the managed care rate-setting methodology to correct flaws related to certain taxes included in the calculation of the administrative component of the managed care premium but did not recalculate premium rates for State fiscal year 2014-15 to remove such taxes and, as a result, did not recover any overpayments for that year. Additionally, although DOH revised MMCOR instructions regarding marketing and facilitated enrollment expenses, these changes were inadequate and, furthermore, there were no changes to instructions on reporting legal fees and fines. However, auditors found DOH had assessed contracted actuarial costs to MCOs, as required.

Criminal History Background Checks of Unlicensed Health Care Employees (Follow-Up) (2018-F-13). DOH's Criminal History Record Check (CHRC) Legal Unit is responsible for conducting criminal history background checks of unlicensed persons in facilities such as nursing homes and adult care facilities (ACFs), as well as home health care (HHC) providers. Providers submit a background check request through the CHRC system and receive results from the Federal Bureau of Investigation and the New York State Division of Criminal Justice Services through DOH. CHRC legal assistants "perfect" the criminal history records (i.e., rap sheets) received, ensuring that the charges and convictions are correct and fairly represented. Once a rap sheet has been perfected, a lawyer reviews the CHRC file and makes a legal employment determination. A positive legal determination results in a letter to the provider, who then chooses whether to employ the individual. For a negative legal determination, a pending denial letter is issued to the provider and the employee. The initial audit (2016-S-65) determined that DOH generally met its obligations for conducting background checks on unlicensed employees of nursing homes, ACFs, and HHCs according to State requirements. However, some determination letters were not completed timely and, as a result, individuals could have been allowed to work without final clearance. Auditors also found that providers were unable to provide required documentation to support that all applicants were adequately supervised while background checks were pending, potentially placing vulnerable persons at risk. Auditors recommended that DOH continuously monitor and analyze CHRC data to ensure determination letters are sent to applicants and employers timely for all rap sheets that staff have reviewed and perfected. The follow-up review found that DOH had made significant progress with addressing the issues identified in the initial audit, having implemented the single recommendation.

Medicaid Program: Errors in Identification of 340B Providers in the Medicaid Drug Rebate Program (Follow-Up) (2018-F-14). The Medicaid Drug Rebate Program requires drug manufacturers to pay rebates to state Medicaid programs for prescriptions dispensed to Medicaid recipients. The 340B Drug Pricing Program requires drug manufacturers to discount the price of drugs sold to eligible health care providers (i.e., non-profit health care organizations that have certain federal designations or receive funding from specific federal programs and that are enrolled with the 340B program). Federal law prohibits duplicate discounts, which occur if manufacturers pay Medicaid rebates on drugs sold at the already-discounted 340B price. Consequently, to collect allowable rebates and avoid duplicate discounts, states must accurately exclude 340B drugs from the Medicaid Drug Rebate Program. The initial audit (2016-S-6) found that DOH had incorrectly identified Medicaid providers as 340B providers, thereby excluding their drug claims from the Medicaid Drug Rebate Program, which, undetected, could have resulted in over $10.5 million in uncollected rebates. Auditors made four recommendations to DOH to: review the drug rebates

identified and seek retroactive rebates where appropriate; determine whether rebates can be collected for 26 providers not listed in the Medicaid Exclusion File and seek retroactive rebates where appropriate; ensure that rebates from July 1, 2015 and thereafter are appropriately claimed and collected for the providers identified; and monitor providers' use of 340B claim level identifiers to ensure they properly identify 340B drugs. The follow-up review found that DOH had invoiced about $15.6 million in drug rebates and contracted with a vendor to perform its rebate invoicing and to monitor and make recommendations for rebate process improvements. Of the initial audit report's four recommendations, two had been implemented and two had been partially implemented.

Medicaid Payments for Pharmacy Claims: Joia Pharmacy and a Related Prescriber (Follow-Up) (2018-F-26). From January 1, 2008 through December 31, 2012, DOH paid Joia Pharmacy, Inc. (Joia) more than $7.7 million for 50,060 pharmacy claims on behalf of 706 Medicaid recipients. One particular doctor (Doctor) was listed as the prescriber on 31,351 (63 percent) of the 50,060 claims. The initial audit (2013-S-4) found that, based on a statistical projection of the audit sample results, DOH made improper payments totaling approximately $1.5 million to Joia for pharmacy claims that did not comply with Medicaid laws, rules, regulations, and policies. Further, the audit identified other practices of both Joia and the Doctor that warranted further review. Auditors recommended that DOH: review the Medicaid payments made to Joia and recover any improper payments, as warranted; formally review the factors that led to Joia's submission of improper claims; follow up on all other matters from the audit report, including having a DOH physician review the issues involving the Doctor; and assess the appropriateness of the providers' future participation in the Medicaid program. The follow-up review found that DOH had implemented three of these recommendations and partially implemented one. After reviewing the payments identified, the Office of the Medicaid Inspector General (OMIG) determined that most of the payments were no longer recoverable due to regulatory look-back rules. Its review of the remaining claims resulted in minimal or no findings and the determination that no recoveries or remedial actions were warranted. While OMIG's review of Joia's practices and the Doctor's prescription activity did not result in findings, auditors noted that OMIG did not review all issues identified by the audit, including controlled substances dispensed in quantities greater than allowed by law and medication labels with incorrect or incomprehensible directions, which could have a significant impact on patient health and safety.

Improper Medicaid Payments to Eye Care Providers (Follow-Up) (2018-F-28). Under federal and State regulations, providers must apply for enrollment into the Medicaid program and meet requirements in order to provide services to Medicaid recipients. In addition, Medicaid providers must revalidate their enrollment every five years. The initial audit (2015-S-6) identified vulnerabilities in DOH's provider enrollment and revalidation processes that undermine DOH's ability to ensure that only qualified providers participate in the Medicaid program and to prevent improper payments for services by providers who do not meet federal and State requirements. As a result of these weaknesses, six eye care professionals who did not comply with DOH's Medicaid policies for enrollment and revalidation were able to obtain Medicaid eligibility under 34 provider identification numbers without disclosing all their apparent affiliations. Auditors recommended that DOH: review the appropriateness of the providers' enrollments; enhance controls over DOH's enrollment process; monitor the appropriateness of the providers' Medicaid claims; and recover improper payments. The follow-up review found that DOH had made progress addressing the problems identified in the initial audit. For instance, DOH improved enrollment and revalidation procedures to verify the accuracy and completeness of ownership, control interest, and affiliation data. DOH also established pre-payment reviews of claims for eight of the 34 provider identification numbers, and the Office of the Medicaid Inspector General opened investigations into the providers that auditors identified as having received improper payments. Of the initial report's seven audit recommendations, four had been implemented and three had been partially implemented.

Managed Care Organizations: Payments to Ineligible Providers (Follow-Up) (2019-F-2)**.** Medicaid providers who violate statutory or regulatory requirements related to the Medicaid or Medicare programs or who have engaged in other unacceptable insurance practices can be excluded from the Medicaid program. These ineligible providers should not receive payments from Medicaid Managed Care Organizations (MCOs) for services rendered to Medicaid recipients. The initial audit (2016-S-59) found that, during the five-year audit period ended December 31, 2016, MCOs improperly paid $50.3 million to providers who were excluded from the Medicaid program or otherwise ineligible to receive Medicaid payments. Auditors also identified 22.5 million MCO claims (totaling over $2 billion) that lacked the provider identification information needed to assess the propriety of payments. Auditors recommended that DOH: ensure that MCOs recover the improper payments; obtain the missing provider IDs on the claims that lacked this information, assess the claims, and ensure recoveries are made; and improve monitoring efforts to aid MCOs in detecting and recovering improper payments to ineligible providers. The follow-up review found that DOH had made progress in addressing the problems identified in the initial audit; however, additional action was needed. DOH did not distribute the claims data supporting the $50.3 million in findings to the MCOs until after the follow-up was initiated, and was in the process of compiling responses from the MCOs at the end of the review. DOH obtained the missing provider IDs for 19.3 million of the 22.5 million claims, and the Office of the Medicaid Inspector General was reviewing the appropriateness of the corresponding payments. Also, DOH had enhanced certain monitoring efforts. Of the initial report's eight audit recommendations, two had been implemented, five had been partially implemented, and one had not been implemented.

Inappropriate Payments Related to Procedure Modifiers (Follow-Up) (2019-F-10). Per State Medicaid policies, payment for a surgical procedure includes all services normally performed during the preoperative, intraoperative, and postoperative periods, commonly known as the global surgery period. All routine services related to the surgery, such as evaluation and management (E/M) services, are included in Medicaid's payment for the procedure. E/M services unrelated to the original procedure that occur during the global surgery period may be reported, and reimbursed, by adding the appropriate modifier code to the E/M service. The initial audit (2016-S-63) determined that DOH did not correctly implement claims processing system controls to prevent inappropriate payments for E/M services during the global surgery period, which resulted in Medicaid overpayments totaling about $2.6 million; DOH corrected the controls during the audit fieldwork. Auditors recommended that DOH review and recover the inappropriate payments identified, and advise providers to report accurate claim information when billing Medicaid for E/M services during global surgery periods. The follow-up review found that DOH had made some progress in addressing the problems identified in the initial audit report: DOH had issued billing guidance regarding E/M services, but had not taken action to review and recover the inappropriate payments identified.

Office for People With Developmental Disabilities
(OPWDD)

Oversight of Passenger Safety (2017-S-50). OPWDD provides long-term care and residential supports and services to New Yorkers with developmental disabilities. Regional Developmental Disabilities State Operations Offices administer and oversee State operations for OPWDD, including the direct delivery of services to people with developmental disabilities by State staff. These services include transporting clients from OPWDD-run residences to service providers or medical appointments. In the New York City region, there are 115 such residences overseen by four local Developmental Disabilities

Services Offices (DDSOs). The DDSOs are assigned a total of 450 vehicles (as of June 26, 2018), and each residence is assigned one or two vehicles depending on the number of clients. Auditors identified numerous critical driving-related issues among these DDSOs that placed clients and the public at risk, including: violations for serious traffic infractions, such as running red lights and speeding in school zones; employees with suspended driver licenses continuing to drive OPWDD vehicles assigned to transport clients; vehicles operating with expired inspection/registration; and vehicle repairs related to manufacturer recalls not being done timely or at all. Further, for the period April 1, 2015 through February 7, 2018, OPWDD paid about $200,000 in fees and penalties for the more than 1,700 violations incurred by its New York City drivers. OPWDD did not provide the DDSOs with guidance addressing how traffic violations should be handled and, a result, most of the violations had not been recouped from the drivers responsible. Auditors' key recommendations to OPWDD included: analyzing drivers' traffic violations and driving histories to identify whether training, counseling, or reassignment is warranted; establishing procedures to identify employees responsible for traffic violations so that fines are paid timely and/or can be recouped; strengthening monitoring to ensure employees with suspended licenses do not drive OPWDD vehicles; and ensuring recall repairs are made timely.

Accountability and Surplussing of Vehicles (2018-S-42). State agencies are responsible for keeping accurate inventory records of their assigned State vehicles, including current status and location. In addition, vehicles must be used for official State business only, and each use must be recorded in a log. Vehicles that are determined to be underutilized, unnecessary, or past their useful lives should be surplussed and sold at auction through the Office of General Services (OGS). In the New York City region, OPWDD's 115 residences are overseen by four local Developmental Disabilities Services Offices (DDSOs), which, as of October 2018, had a fleet of about 484 vehicles. Auditors found OPWDD lacked sufficient controls over fleet vehicle management at the four DDSOs. All four DDSOs had a significant number of missing and/or incomplete vehicle logs. Due to poor monitoring, OPWDD lost track of one vehicle and could not rule out its possible theft. Of 12 vehicles surplussed and auctioned at the Staten Island DDSO, five were purchased by a supervisor at the facility or a member of his immediate family. The supervisor was directly involved in the selection of vehicles to be surplussed. In addition, OPWDD did not ensure that license plates for surplussed vehicles were promptly returned to OGS and/or the Department of Motor Vehicles, increasing the risk that these still-valid plates could have been used inappropriately. Auditors recommended that OPWDD: require DDSOs to maintain complete vehicle logs for all vehicles to ensure that vehicles are used solely for State business; establish surplussing policies and procedures that address the deficiencies identified, including employees (and family members) purchasing surplussed vehicles and the time frames for sending surplussed vehicles to auction and turning in associated license plates; and issue guidelines that require DDSOs to conduct periodic inventories to account for their vehicles.

Office of Addiction Services and Supports
(OASAS) (formerly Office of Alcoholism and Substance Abuse Services)

Oversight of Contract Expenditures of Phoenix House New York (2017-S-21). OASAS oversees one of the nation's largest and most diverse programs for the prevention and treatment of alcohol and substance abuse. In 2009, OASAS entered into a five-year, $47.6 million net deficit funding contract with Phoenix House New York (PHNY) for drug and alcohol addiction treatment services. The contract was renewed in 2014 for another five-year term at a total cost of $51.4 million. According to the contracts, OASAS reimburses PHNY for its net operating expenses, up to the maximum budgeted amount, for providing the contracted services. The expenses are reported by PHNY on its annual Consolidated Fiscal Reports (CFRs) and are subject to the requirements in the Consolidated Fiscal Reporting and Claiming Manual (CFR

Manual), OASAS' Administrative and Fiscal Guidelines for OASAS-Funded Providers (Guidelines), Phoenix House Personnel Policies and Procedures (Policies), and the contracts. Auditors found OASAS did not adequately monitor the expenses PHNY reports on its CFRs. Consequently, PHNY was able to claim reimbursement for the higher budgeted expenses rather than actual expenses. For the three years ended June 30, 2016, PHNY claimed and received reimbursement for approximately $2.9 million in unallowable and unsupported parent agency administrative expenses because OASAS did not request, nor did PHNY disclose and document, the composition of parent agency administrative expenses. PHNY also claimed and received reimbursement for an additional $851,428 in personal service expenses and $169,856 in other than personal service expenses that did not meet the requirements of the CFR Manual, Guidelines, Policies, and/or contracts. Auditors recommended that OASAS: establish additional monitoring controls and improve oversight to ensure that PHNY only claims actual expenses and that those expenses are allowable, reasonable, supported, and consistent with the CFR Manual, Guidelines, Policies, and contracts; ensure that PHNY discloses all expenses during its budget process, specifically the details of those expenses included in parent agency administrative costs; and recover $3.9 million in unallowable and/or unsupported costs from PHNY and take steps to ensure that PHNY only claims costs that are allowable and supported.

Problem Gambling Treatment Program (2018-S-39). OASAS offers problem gambling treatment services through 20 problem gambling-only outpatient programs, six inpatient Addiction Treatment Centers, the Queens Center for Excellence, and a toll-free HOPEline, which provides callers with information and referrals. As administrator of the State's problem gambling treatment programs since 2005, OASAS is responsible for developing a sufficient system of problem gambling treatment programs that are accessible to all New Yorkers in need. Auditors found that, while OASAS has taken steps to develop the infrastructure for the State's problem gambling treatment program, it has not, since 2006, conducted a comprehensive needs assessment or social impact study to identify the number or location of individuals in need of problem gambling treatment services (even though four commercial casinos opened in New York State in 2013), preventing auditors from determining whether OASAS has sufficient treatment programs available. Of the State's 62 counties, 40 do not have an OASAS problem gambling treatment program, and for some areas, the nearest OASAS treatment program is more than one county away. In March 2018, OASAS acknowledged the limited access to care for problem gambling throughout the State and began efforts to identify and address gaps in service. Auditors recommended that OASAS: conduct a comprehensive needs assessment and social impact study for problem gambling; and continue efforts to ensure problem gambling treatment programs are reasonably accessible to all State residents.

Office of Children and Family Services
(OCFS)

Access Controls Over Selected Critical Systems (2017-S-56). To support its activities, OCFS owns approximately 60 computer systems, which contain a broad range of sensitive information that is considered confidential. OCFS' system infrastructure is maintained by the Office of Information Technology Services. To ensure that only authorized users are allowed to access sensitive information, agencies, such as OCFS, must follow New York State Information Technology (NYS IT) security policy and standards. Auditors found that: access controls over six OCFS systems containing confidential information were insufficient to prevent unnecessary or inappropriate access; 367 user accounts with access to six OCFS systems were inappropriate because OCFS had not performed the required annual reviews of user accounts; and OCFS did not keep accurate records of individuals authorized to approve or manage access to its systems, maintain an accurate inventory of systems, or classify the data on those systems, as

required. Additionally, auditors encountered significant delays during the audit due to a lack of cooperation and timely access to information. As a result, their work in certain areas was limited. Auditors recommended that OCFS: develop a program to ensure controls over user access to OCFS' systems meet applicable NYS IT requirements, including maintaining and regularly reviewing user lists for each application, developing and maintaining an up-to-date list of administrators for each application, developing and maintaining an up-to-date inventory of systems, and formally classifying all information assets; and improve the timeliness of cooperation with authorized State oversight inquiries to ensure transparent and accountable agency operations.

Financial Oversight of the Advantage After School Program (Follow-Up) (2019-F-27). OCFS is responsible for administering the Advantage After School Program (Program), which offers activities that integrate the school day and less formal learning experiences and encourages active participation. OCFS awards contracts to eligible organizations (Providers) based on work plans that describe Program implementation. These plans must include the maximum number of children expected to participate on any given day of the year, referred to as the Maximum Average Daily Attendance (MADA). Program funding for State fiscal year 2019-20 totaled $33 million. The initial audit (2016-S-39) identified a risk that Providers who serve significantly fewer children than their MADA but who did not reduce their expenditures proportionately could exceed their maximum cost per child. Based on observations of selected Providers during a sample time period, the cost per child on five contracts ranged from $1,981 to $5,332. Additionally, auditors identified $38,514 that OCFS paid to six Providers for Program expenses that could not be supported or included errors. Auditors recommended that OCFS use available information 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 take appropriate corrective action. In addition, based on identified risk factors, OCFS should incorporate a review of selected approved claims in existing Program monitoring efforts. The follow-up review found OCFS had made progress in addressing the problems identified in the initial audit, implementing one audit recommendation and partially implementing the second. OCFS had taken steps to identify Providers with Program attendance below their contracted MADA and to help them improve attendance. According to OCFS officials, where their efforts are not successful, they will reject the Provider's voucher and require resubmission based on revised attendance. However, OCFS did not provide auditors with supporting documentation of instances where it has adjusted funding amounts or redirected funds. OCFS also had implemented a claims review process that requires Providers to submit all supporting documentation for a quarterly claim.

Office of Mental Health
(OMH)

Compliance With Jonathan's Law (2018-S-22). Jonathan's Law expanded parents', guardians', and other qualified persons' access to records relating to incidents involving family members residing in facilities operated, licensed, or certified by the Office for People With Developmental Disabilities, OMH, or the Office of Addiction Services and Support. Under the law, facility directors are required to: provide telephone notification to a qualified person within 24 hours of the initial reporting of an incident; upon request by a qualified person, promptly provide a copy of the written incident report; offer to hold a meeting with a qualified person to further discuss the incident; and, within ten days, provide the qualified person with a written report on the actions taken to address the incident (Actions Taken Report). In addition, upon written request to the provider, qualified persons may obtain records and documents related to reportable incidents within 21 days of either the conclusion of the investigation or the written request, whichever is later. OMH operates 24 psychiatric centers across the State and has oversight of

over 650 licensed providers that operate private facilities (collectively, Facilities) subject to Jonathan's Law requirements. OMH developed the New York State Incident Management and Reporting System (NIMRS) for Facilities to record and report incidents to OMH's central office. Auditors found that, while Facilities had established practices for notifying qualified persons within 24 hours of initial reporting of incidents, 20 percent of the incidents reviewed lacked support that the required notification had been made. OMH did not use NIMRS to capture information related to Jonathan's Law compliance and could not readily determine whether Facility officials were meeting the law's requirements. Auditors also found that Facilities did not always provide all records to qualified persons when requested or did not provide them within the required time frame. Auditors recommended that OMH incorporate the reporting of actions taken to comply with Jonathan's Law into NIMRS so it can more readily track Facilities' efforts to meet requirements, and provide updated guidance to Facilities on their responsibilities related to Jonathan's Law requirements – including clear and consistent implementation procedures – and require Facilities to implement them.

EDUCATION

Higher Education Services Corporation
(HESC)

Oversight of the STEM Incentive Program (2017-S-75). HESC administers 27 State scholarship and loan forgiveness programs, including the Science, Technology, Engineering, and Mathematics (STEM) Incentive Program (Program). The Program provides a full tuition scholarship to State high school graduates who, among other requirements, pursue a STEM degree and agree to work in a STEM field in the State for five years after graduation. Starting with the 2014–15 academic year, Program awards cover tuition equal to the lesser of the amount charged to State residents or actual tuition charged. Recipients who fail to meet Program requirements have their awards converted into ten-year student loans with interest. Auditors found that: HESC did not always ensure that applicants met Program eligibility requirements, identifying $81,198 in payments on behalf of 20 recipients who did not meet the Program requirements; HESC's STEM Compliance Procedures included a policy to prorate loans, out of compliance with HESC regulations; and HESC's data systems are somewhat antiquated and restrictive, limiting their usefulness for tracking Program compliance and award repayments. Auditors recommended that HESC: strengthen oversight of Program recipient eligibility requirements and ensure receipt of required documentation; review the $81,198 in ineligible award payments and make recoveries, as appropriate; ensure that its policies and procedures comply with the regulations governing the Program; and strengthen the database systems used to administer the Program.

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 on annual Consolidated Fiscal Reports (CFRs). 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 2018-19 reporting year, OSC issued 20 such reports, as follows:

- **Manual Therapy Center, Inc.** (2016-S-38)**.** Manual Therapy Center (Manual Therapy), a New York City-based for-profit organization, provides preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities who are between the ages of three and five years. For the three fiscal years ended June 30, 2014, Manual Therapy reported approximately $15.6 million in reimbursable costs for its SEIT cost-based program. Auditors identified $818,286 in reported costs that did not comply with the requirements in the RCM, including: $179,312 in compensation costs that were not supported by time and attendance records; $144,676 in a less-than-arm's-length lease transaction wherein the reimbursed costs exceeded the owner's actual cost; $130,457 in excess compensation paid to two employees who were reported as working in positions that did

not reflect their actual duties; and $111,425 in inadequately supported other than personal service expenses. Auditors recommended: that SED review the recommended disallowances and make the appropriate adjustments to Manual Therapy's CFRs and tuition reimbursement rates, and work with Manual Therapy officials to ensure their compliance with SED's reimbursement requirements; and that Manual Therapy ensure that all costs reported on future CFRs comply with the RCM's requirements.

- **New York Therapy Placement Services, Inc.** (2016-S-87). New York Therapy Placement Services (NYTPS), a for-profit organization, provides preschool special education services in Farmingdale and Port Jefferson Station to children with disabilities who are between three and five years of age. For the three fiscal years ended June 30, 2014, NYTPS reported $23.5 million in reimbursable costs on its CFRs for its rate-based preschool special education program. Auditors identified $841,392 in reported costs that did not comply with SED's requirements, including: $420,281 in employee salaries that lacked sufficient documentation to support the amount allocated to the preschool special education program; $308,761 in agency administration costs that were inappropriately allocated and overcharged to the preschool special education program; $62,855 in executive compensation that exceeded median salaries for comparable administrative job titles of public school districts in the region; and $49,495 in ineligible non-personal service costs. Auditors recommended: that SED review the disallowances identified by the audit and make the necessary adjustments to the costs reported on NYTPS' CFRs and to NYTPS' tuition reimbursement rates, and remind NYTPS officials of the pertinent SED requirements that relate to the deficiencies identified; and that NYTPS ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Bank Street College of Education** (2017-S-5). At New York City-based Bank Street College of Education (Bank Street), the Family Center is a not-for-profit organization authorized by SED to provide Preschool Special Education Itinerant Teacher services and a Preschool Integrated Special Class–Over 2.5 Hours per Day to children with disabilities who are between the ages of three and five years. For the fiscal year ended June 30, 2014, Bank Street reported approximately $2.3 million in reimbursable costs for the audited cost-based programs. Auditors identified $585,047 in ineligible costs that Bank Street reported on its CFR, including: $252,276 in employee compensation that was not properly supported by time and attendance records; $246,707 in parent agency administrative overhead costs that were not adequately supported; and $85,899 in fringe benefits that were not allowable by the RCM or were insufficiently documented. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to the costs reported on Bank Street's CFR and tuition reimbursement rates, and work with Bank Street officials to help ensure their compliance with the provisions in the RCM; and that Bank Street ensure that costs reported on future CFRs comply with the requirements in the RCM.

- **Northside Center for Child Development** (2017-S-15)**.** Northside Center for Child Development (Northside) was established in 1946 and was reapproved by SED on July 1, 2012 to provide full-day Preschool Special Class and full-day Preschool Special Class in an Integrated Setting (collectively, cost-based programs) to children with disabilities who are between three and five years of age. For the fiscal year ended June 30, 2014, Northside reported approximately $2.5 million in reimbursable costs for the audited cost-based programs. Auditors identified $270,040 in ineligible costs reported to the cost-based programs, including: $75,737 in salaries charged to the cost-based programs where Northside did not provide documents to support that five

employees worked for the program or to support the allocation of costs for one employee; $66,228 in non-mandated fringe benefits due to a lack of documentation regarding the allocations charged to the cost-based programs; and $5,986 in unsupported agency administration costs. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to the costs reported on Northside's CFR and tuition reimbursement rates, and work with Northside officials to help ensure their compliance with the provisions in the RCM; and that Northside ensure that costs reported on future CFRs comply with the RCM requirements.

- **Association to Benefit Children** (2017-S-28). Association to Benefit Children (ABC), a not-for-profit State-approved private school, is authorized by SED to operate preschool Special Class in an Integrated Setting half-day classes and full-day classes to children who are between three and five years of age. For the fiscal year ended June 30, 2014, ABC reported approximately $4.8 million in reimbursable costs for the audited cost-based programs. Auditors identified $263,196 in ineligible costs that ABC reported on its CFR, including $164,004 in personal service costs, $13,696 in other than personal service costs, and $85,496 in depreciation expenses. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to the costs reported on ABC's CFR and tuition reimbursement rates, and work with ABC officials to help ensure their compliance with the provisions in the RCM and the Manual; and that ABC ensure that costs reported on future CFRs comply with the requirements in the RCM and the Manual.

- **Volunteers of America – Greater New York, Inc.** (2017-S-32). Volunteers of America – Greater New York (VOA-GNY), a New York City-based not-for-profit organization, provides 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, VOA-GNY reported approximately $38.2 million in reimbursable costs for its SED cost-based preschool special education programs. Auditors identified $1,557,827 in reported costs that did not comply with the RCM's requirements, including: $541,775 in non-program compensation paid to 38 individuals who did not work in VOA-GNY's SED preschool cost-based programs; $340,663 in insufficiently documented parent agency administrative allocation costs; $257,536 in non-program other than personal service expenses; and $144,148 in consultant costs that were undocumented, insufficiently documented, and/or not related to the preschool cost-based programs. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to VOA-GNY's CFRs and tuition reimbursement rates, and work with VOA-GNY officials to ensure their compliance with SED's reimbursement requirements; and that VOA-GNY ensure that all costs reported on future CFRs comply with the RCM's requirements.

- **NYSARC, Inc. – NYC Chapter** (2017-S-47). NYSARC – NYC Chapter (NYSARC), a New York City-based not-for-profit organization, is 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, NYSARC operated full-day and half-day special education classes and a full-day Integrated Special Class. For the three fiscal years ended June 30, 2015, NYSARC reported approximately $61.8 million in reimbursable costs for the audited cost-based programs. Auditors identified $1,311,070 in reported costs that did not comply with the RCM's requirements, including $519,956 in ineligible rent expenses; $402,520 in employee bonuses that were not in compliance with the RCM's guidelines; $132,026 in costs applicable to a 1:1 Aides program incorrectly allocated to the SED cost-based programs; and $121,570 in non-mandated fringe benefit

contributions that were not proportionately similar to the amounts received by other classes or groups of NYSARC employees. Auditors also identified $4,938,101 in agency administration costs that NYSARC charged to the SED cost-based programs. As NYSARC did not maintain records of actual costs associated with providing management and administrative services to its affiliates, auditors could not determine if the $4,938,101 should have been charged to the SED cost-based programs. Auditors recommended that SED: review the recommended disallowances resulting from the audit and make the appropriate adjustments to NYSARC's CFRs and reimbursement rates; work with NYSARC officials to help ensure their compliance with the provisions of the RCM; determine how much of the $4,938,101 in agency administration costs should be allocated to the SED cost-based programs; and work with NYSARC officials to formulate an allocation methodology that meets the requirements of the RCM and will result in a fair and reasonable allocation of agency administration costs to the SED cost-based programs. Auditors also recommended that NYSARC ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

- **Leake and Watts Services, Inc.** (2017-S-73). Leake and Watts Services, Inc. (Leake and Watts), a Westchester County-based not-for-profit organization, provides preschool special education services to children with learning disabilities who are between three and five years of age. For the fiscal year ended June 30, 2015, Leake and Watts reported approximately $6 million in reimbursable costs on its CFR for the seven rate-based preschool special education programs that it operated. Auditors identified $228,071 in ineligible costs, including: $158,044 in salaries and fringe benefits for staff working outside the rate-based programs; $2,747 in executive compensation that exceeded the regional median compensation level; $1,962 in costs for seven administrative staff whose compensation exceeded one full-time equivalent; $53,960 in insufficiently documented expenses; and $11,358 in ineligible expenses. Auditors recommended that: SED review the disallowances identified by the audit and make the necessary adjustments to the costs reported on Leake and Watts' CFR and tuition reimbursement rates, and remind Leake and Watts officials of the pertinent SED requirements that relate to the deficiencies identified; and that Leak and Watts ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **NYSARC, Inc. – NYC Chapter (School-Age Program)** (2017-S-82). NYSARC – NYC Chapter (NYSARC), a New York City-based not-for-profit organization, provides special education services to children with disabilities who are between the ages of 5 and 21 years through its School-Age Program. For the three fiscal years ended June 30, 2015, NYSARC reported approximately $38 million in reimbursable costs for its school-age cost-based program. Auditors identified $513,279 in reported costs that did not comply with the RCM's requirements, including $403,915 in personal service costs, $82,634 in other than personal service costs, and $26,730 in parent agency administration costs. Auditors also identified $3,022,083 in agency administration costs that NYSARC charged to the school-age cost-based program. As NYSARC did not maintain records of actual costs associated with providing management and administrative services to its affiliates, auditors could not determine if the $3,022,083 should have been charged to the school-age cost-based program. Auditors recommended that SED: review the recommended disallowances resulting from the audit and make the appropriate adjustments to NYSARC's CFRs and reimbursement rates; work with NYSARC officials to help ensure their compliance with the provisions of the RCM; and determine how much of the $3,022,083 in agency administration costs should be allocated to the school-age cost-based program; and work with NYSARC officials to formulate an allocation methodology that meets the requirements of the RCM and will result in

a fair and reasonable allocation of agency administration costs to the school-age cost-based program. Auditors also recommended that NYSARC ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

- **ADAPT Community Network** (2017-S-86). ADAPT Community Network (ADAPT), a New York City-based not-for-profit organization, provides full-day Special Class and full-day Special Class in an Integrated Setting 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, ADAPT reported approximately $53 million in reimbursable costs for the SED preschool cost-based programs. Auditors identified $5,418,457 in reported costs that did not comply with the RCM and the Manual's requirements, including: $3,342,387 in non-allowable occupancy costs related to a leased building that ADAPT did not occupy during the audit period; $670,715 in unsupported depreciation costs; $437,052 in interest costs; and $207,703 in compensation costs for six employees that should not have been charged to the SED cost-based programs. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to ADAPT's CFRs and reimbursement rates, and work with ADAPT officials to help ensure their compliance with the provisions of the RCM and the Manual; and that ADAPT ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

- **Developmental Disabilities Institute, Inc.** (2018-S-3). Developmental Disabilities Institute (DDI), a not-for-profit special education provider based in Suffolk County, provides preschool special education services to children with disabilities who are between the ages of three and five years. For the three years ended December 31, 2015, DDI reported approximately $39.8 million in reimbursable costs on its CFRs for its preschool cost-based special education programs. Auditors identified $138,718 in ineligible costs reported to the programs, including: $69,350 in unsupported or insufficiently documented vehicle expenses; $34,302 in excess staffing expenses; $18,733 in executive compensation above the median compensation levels; $13,438 in non-mandated fringe benefits that were insufficiently documented and not program-related; $2,004 in legal costs that were insufficiently documented or charged to the incorrect period; and $891 in non-allowable lobbying, food for parents, and personal expenses. Auditors recommended: that SED review the recommended disallowances and make the appropriate adjustments to DDI's CFRs and tuition reimbursement rates, and work with DDI officials to ensure their compliance with SED's reimbursement requirements; and that DDI ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

- **Pinnacle Organization** (2018-S-6). Pinnacle Organization (Pinnacle), a not-for-profit special education provider located in Oswego County, provides preschool special education services to children with disabilities between three and five years of age. For the three fiscal years ended June 30, 2015, Pinnacle reported approximately $2.8 million in reimbursable costs on its CFRs for the two rate-based preschool special education programs that it operated. Auditors identified $103,220 in ineligible costs reported to the programs, including: $66,329 in other than personal service costs, which consisted of $58,667 in contracted personal services payments related to less-than-arm's-length (LTAL) transactions, $3,550 in lease payments related to LTAL transactions, and $4,112 in non-reimbursable expenses; and $36,891 in personal service costs, which consisted of $35,770 in non-reimbursable compensation for Pinnacle employee lunch breaks. Auditors recommended: that SED review the identified disallowances and make the necessary adjustments to the costs reported on Pinnacle's CFRs and to Pinnacle's tuition reimbursement rates, and

remind Pinnacle officials of the pertinent SED requirements that relate to the deficiencies identified; and that Pinnacle ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Amerimed Kids, LLC** (2018-S-17). Amerimed Kids, a New York City-based for-profit organization, provides Preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities between the ages of three and five years. The New York City Department of Education refers students to Amerimed Kids and pays for its services using rates established by SED. In addition to owning and operating the Amerimed Kids SEIT program, the Assistant Executive Director also owns and operates at least one private business and a Department of Health Early Intervention (EI) program. Amerimed Kids shares office space and certain employees with the private business and the EI program. Auditors repeatedly requested support from Amerimed Kids for the expenses allocated to the SEIT program, but the provider did not comply with these requests. On December 18, 2018, Amerimed Kids informed SED of its intent to close the SEIT program. For the three fiscal years ended June 30, 2015, Amerimed Kids reported approximately $3.8 million in reimbursable costs for the SEIT cost-based program. Auditors identified $975,845 in reported costs that did not comply with the requirements in the RCM, including: $797,472 in insufficiently documented personal service costs ($479,500 in compensation to the Executive and Assistant Executive Directors, $237,927 in compensation to ten employees who worked for SED and non-SED programs, $54,221 in bonuses that were not based on merit, and $25,824 in incorrectly reported compensation); $116,920 in insufficiently documented rent expenses; and $61,453 in other-than-personal service expenses for space shared by the SED program and the Assistant Executive Director's other businesses. Auditors recommended that SED review the exceptions identified by the audit and take appropriate actions to recover the disallowed expenses.

- **Kinderwise Learning Associates, LLC** (2018-S-21). Kinderwise Learning Associates (Kinderwise), a for-profit special education provider located in North Salem, provides preschool special education services to children with disabilities between three and four years of age. For the fiscal year ended June 30, 2015, Kinderwise reported approximately $1.65 million in reimbursable costs on its CFR for the one rate-based preschool special education program it operated. Auditors identified $1,946 in ineligible costs that Kinderwise reported on its CFR for the program, including $1,194 incorrectly allocated to the program and $492 in unsupported compensation for a program teacher. Auditors recommended: that SED review the disallowances identified and make the necessary adjustments to the costs reported on Kinderwise's CFR and to Kinderwise's tuition reimbursement rates, and remind Kinderwise officials of the pertinent SED guidelines that relate to the deficiencies identified; and that Kinderwise ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

- **Head Start of Rockland, Inc.** (2018-S-25). Head Start of Rockland (HSOR), a not-for-profit special education provider located in Rockland 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, HSOR reported $869,436 in reimbursable costs on its CFR for the two rate-based preschool special education programs it operated. Auditors identified $7,958 in ineligible costs that HSOR reported on its CFR for the programs, including $6,841 in personal service costs ($5,466 in salaries and $1,375 in associated fringe benefits) and $1,117 in other than personal service costs. Auditors recommended: that SED review the identified disallowances and make the necessary adjustments to the costs reported on HSOR's CFR and to HSOR's tuition reimbursement rates, and remind HSOR officials of the pertinent SED requirements that relate to the deficiencies

identified; and that HSOR ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Family and Educational Consultants** (2018-S-29). Family and Educational Consultants (FEC), an Ulster County-based for-profit organization, provides 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, FEC reported approximately $1.1 million in reimbursable costs for preschool Special Education Itinerant Teacher services (i.e., the Program). Auditors identified $161,956 in reported costs that did not comply with the requirements in the RCM, including: $73,902 in salary costs for five office workers and the Executive Director that were improperly charged directly to the Program; $22,104 for one teacher who did not work in the Program; $47,273 in agency administration costs that were improperly charged directly to the Program; $12,200 for costs unrelated to the Program, food for meetings and for staff, gifts, bank charges and late fees, and certain unsupported costs; and $6,477 in working capital interest. Auditors recommended: that SED review the disallowances identified by the audit and make the necessary adjustments to the costs reported on FEC's CFRs and to FEC's tuition reimbursement rates, and remind FEC officials of the pertinent SED requirements that relate to the deficiencies identified; and that FEC ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Children's Unit for Treatment and Evaluation** (2018-S-47). Children's Unit for Treatment and Evaluation (CUTE), a Broome County-based organization, 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, 2016, CUTE reported approximately $1.8 million in reimbursable costs for the Preschool Special Class that it provided. Auditors identified $232,606 in reported costs that did not comply with the RCM's requirements, including $232,464 in parent agency administrative costs and $142 in non-reimbursable consultant travel expenses. Auditors recommended: that SED review the findings identified by the audit and make the necessary adjustments to the costs reported on CUTE's CFRs and to CUTE's tuition reimbursement rates, and remind CUTE officials of the pertinent SED requirements that relate to the deficiencies identified; and that CUTE ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Bilingual Care, Inc.** (2018-S-51). Bilingual Care, Inc. (Bilingual), a New York City-based for-profit organization, provides preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities between the ages of three and five years. In addition to the SEIT cost-based program, Bilingual operated one other SED-approved preschool special education program: Evaluations. Payments for services under the Evaluations program are based on fixed fees. The New York City Department of Education refers students to Bilingual and pays for those services using rates established by SED. For the three fiscal years ended June 30, 2015, Bilingual reported approximately $8.9 million in reimbursable costs for the SEIT cost-based program. Auditors identified $370,685 in reported costs that did not comply with the requirements in the RCM, including: $236,117 in excess executive compensation; $47,945 in unapproved rent; $37,287 in ineligible other than personal service costs, such as Evaluations expenses, personal vehicle expenses, non-reimbursable income taxes, and other miscellaneous expenses charged to the SEIT program; $27,887 in ineligible bonus payments; and $21,449 in non-allowable health insurance costs. Auditors recommended: that SED review the recommended disallowances resulting from the audit and make the appropriate adjustments to Bilingual's CFRs and tuition reimbursement

rates, as warranted, and work with Bilingual officials to ensure their compliance with the provisions of the RCM; and that Bilingual ensure that all costs reported on future CFRs comply with SED's reimbursement requirements.

- **Springbrook NY, Inc.** (2018-S-63). Springbrook NY, Inc. (Springbrook), located in Otsego County, provides, among other programs, 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, Springbrook reported approximately $1 million in reimbursable costs on its CFR for the Preschool Integrated Special Class (Program) that it operated. Auditors identified $56,183 in ineligible costs that Springbrook reported on its CFR for the Program, including: $39,579 in personal service costs, consisting of $38,106 in excessive salary costs and $1,473 for certain life insurance costs; and $16,604 in other than personal service costs, consisting of $10,368 in undocumented vehicle and staff travel costs, $3,414 in costs unrelated to the Program, and $2,822 in other ineligible expenses. Auditors recommended: that SED review the disallowances identified by the audit and, if warranted, make the necessary adjustments to the costs reported on Springbrook's CFR and to Springbrook's tuition reimbursement rates, and remind Springbrook officials of the pertinent SED requirements that relate to the deficiencies identified; and that Springbrook ensure that all costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

- **Early Childhood Learning Center of Greene County** (2018-S-67). Early Childhood Learning Center of Greene County (ECLC), a not-for-profit private school, provides preschool special education services to children with developmental disabilities. For the fiscal year ended June 30, 2015, ECLC reported $547,761 in reimbursable costs on its CFR for the rate-based preschool special education programs that it provided. Auditors identified $12,843 in reported other than personal service costs that did not comply with SED's requirements, including $12,198 in expenses that lacked sufficient supporting documentation. Auditors recommended: that SED review the disallowances identified by the audit and, if warranted, make the necessary adjustments to the costs reported on ECLC's CFR and to ECLC's tuition reimbursement rates, and remind ECLC officials of the pertinent SED guidelines that relate to the deficiencies identified; and that ECLC ensure that all costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Facilities Planning Bureau Project Review (2018-S-2). SED is responsible for administering and enforcing the New York State Uniform Fire Prevention and Building Code (Code) in relation to district construction projects. The Code applies to every facility owned or operated by districts or Boards of Cooperative Educational Services (collectively, Districts). SED enforces the Code by reviewing and approving plans and specifications for all capital construction projects involving these facilities and issuing building permits. Per the State Education Law, Districts must obtain final approval for a project before commencing construction. State aid is available for certain projects with construction costs of $10,000 or more. Districts that begin capital construction projects prior to receiving final approval risk losing State aid. Auditors found that SED's Facilities Planning Bureau (Bureau) did not perform project plan reviews timely and lacked guidelines that define a reasonable time period to review a project. As of August 2018, the Bureau estimated a lag time to begin its architectural and engineering reviews as 2–4 weeks and 38–40 weeks, respectively. While the Bureau had taken some proactive steps to address this issue, staff vacancies and new responsibilities contributed to the project review backlog, affecting Districts' ability to complete projects in a timely fashion and causing them to reduce the scope of their projects or increase expected costs (due to inflation and fluctuations in the price of building materials during the delay). Additionally,

auditors found that the Bureau did not monitor project construction, including whether Districts begin construction before the final approval and any on-site confirmation of completed projects, and the Bureau's systems for tracking project information were antiquated and were not designed to allow project data analyses, limiting the Bureau's ability to monitor and improve its oversight performance. Auditors recommended that SED: take steps to develop clear criteria and goals for project review timeliness; develop a risk-based approach for conducting site visits of projects under construction to gain reasonable assurance that consultants and contractors are not beginning construction before receiving final project approval, and that projects are being constructed in accordance with approved plans and specifications; and take steps to improve the information technology systems used to track and monitor capital construction projects. At a minimum, this should include the development of a reliable web-based portal and the ability to generate management reports on relevant capital construction project information for all Districts.

Oversight of School Safety Planning Requirements (2018-S-34). Since 2000, New York State schools have been required to develop and regularly review school safety plans as part of the Safe Schools Against Violence in Education (SAVE) Act. Among its key provisions, the SAVE Act created Section 2801-a of the Education Law (Law) requiring public school districts, charter schools, and Boards of Cooperative Educational Services programs (collectively, School Districts) to develop district-wide safety plans (District Plans) and building-level emergency response plans (Building Plans). The safety teams include stakeholders from the School Districts such as representatives from school boards and parent, teacher, and administrator organizations; school safety personnel; community members; and first responders. The Law also requires School Districts to review and adopt their plans and submit them to law enforcement agencies and to provide training on those plans to staff. Auditors determined that, overall, SED was not sufficiently monitoring School Districts' compliance with the requirements for school safety planning and lacked assurance that the requirements were being met. SED efforts primarily focused on ensuring that School Districts submitted their Building Plans to the State Police annually. However, SED did not similarly monitor submission of Building Plans to local law enforcement. Consequently, there is no assurance that local law enforcement – a group more likely to be among the first responders to the scene of an emergency – is receiving the Building Plans as required. Auditors also found that, due to SED's lack of oversight, School Districts did not consistently: annually adopt their safety plans in accordance with SED guidance; hold public hearings on the plans; appoint district-wide safety teams including all required representatives; or train employees on the plans. SED also never submitted a report on the implementation of and compliance with the provisions of the Law to the Executive and the Legislature, although it had been required to do so annually since 2000. As a result, lawmakers do not have the information necessary to evaluate whether the Law is achieving its desired outcomes. Auditors recommended that SED: develop a program to monitor School Districts' compliance with school safety planning requirements outlined in the Law, regulations, and SED guidance; clarify its expectations for compliance with requirements under the Law, regulations, and SED guidance, including expectations for public comment periods, public hearings, plan adoption, and training requirements; and prepare and submit the required annual reports to the Executive and the Legislature.

Audit of the Tuition Reimbursement Account for the Five Fiscal Years Ended March 31, 2018 (2019-S-3). Students are eligible for a tuition refund when they are enrolled in a post-secondary private school licensed by SED or a business school registered with SED that closes before their education is completed. When such schools violate the Education Law – but remain in operation – students who drop out are also eligible for a tuition refund. These students are also eligible to have their student loans repaid by SED. Chapter 887 of the Laws of 1990 created the Tuition Reimbursement Fund, now titled the Tuition Reimbursement Account (TRA), to protect the financial interests of these students. Auditors found that,

for the five fiscal years ending March 31, 2018, the financial statements presented fairly, in all material respects, the financial position of the TRA for that period.

Security Over Critical Information Systems (Follow-Up) (2018-F-17). SED operates 120 computer systems to help support its activities. The initial audit focused on four systems that were deemed critical to SED's operations. Each of the four systems supports crucial SED services to the general public and contains sensitive personal data, such as personally identifiable information and student records. SED is responsible for safeguarding its data and for ensuring the confidentiality, integrity, and availability of its systems. The initial audit (2016-S-69) determined that, although SED had taken steps to secure its critical information systems and associated data, there was still a risk that unauthorized persons could access these systems, largely because SED had not taken fundamental steps, such as completing a full data classification process, adopting adequate information security policies and procedures, and improving certain technical controls over its critical systems. Auditors recommended that SED develop strategies to enhance security controls over critical systems and implement the recommendations detailed during the audit to strengthen technical controls over critical systems. The follow-up review found that SED officials had not made significant progress in correcting the problems identified in the initial report: SED had not adopted policies and procedures to address all aspects of information security; had not completed its enhancements to its disaster recovery plan; and had not strengthened its technical controls over critical systems. Of the two initial recommendations, one had been partially implemented and one had not been implemented.

State University of New York
(SUNY)

Oversight of Hazardous Materials and Waste (2017-S-51). SUNY System Administration's Environmental Health & Safety Office provides tools, training, and communication for the campuses on best practices and compliance issues, including compliance with SUNY's own requirements and local, State, and federal regulations for environmental management and occupational safety and health. Hazardous materials are generally defined as any item or agent (biological, chemical, radiological, and/or physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors. The Environmental Protection Agency defines a hazardous waste as a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment. Based on our visits to two University Centers and five campuses, we found significant variation in the adequacy of controls over hazardous materials. At most of the non-university center campuses, we found select areas in which controls over hazardous materials could be improved. However, unlike at University Centers, weaknesses at non-university centers were not pervasive throughout all areas of internal controls. These issues notwithstanding, auditors determined that SUNY officials had established controls over and complied with hazardous waste regulations, providing reasonable assurance that students and communities are safeguarded against exposure to hazardous waste. Auditors recommended that SUNY Administration: provide guidance and support to campus officials in designing and implementing a system of internal controls that provide reasonable safeguards against intentional or accidental misuse of hazardous materials; and work with campuses to improve controls over access, procurement, or accounting for hazardous materials as necessary to further reduce risks relating to controls over hazardous materials. Auditors also recommended that SUNY institutions improve controls over access, procurement, or accounting for hazardous materials as necessary to further reduce risk relating to hazardous materials.

State University of New York Upstate Medical University: Human Resource Practices (2018-S-57). At SUNY Upstate Medical University (Upstate), the Human Resource Department (HR) develops local human resource-related policies in conjunction with SUNY System Administration, maintains personnel records, and oversees many other daily activities. When reviewing HR oversight, auditors found Upstate paid 12 employees a total of $4.7 million in additional compensation for work beyond their regular job duties (known as an "Also Receives" [ALR] allowance), but did not maintain adequate documentation to support the basis for the dollar amount or the additional duties employees were tasked with. Auditors also found Upstate had not established policies for alternate work (off-campus) assignments (Assignments). Auditors reviewed 38 Assignments, for which Upstate paid $1,374,670, and found 20 (amounting to nearly $940,000 in payroll costs) that were deemed not useful, of poor quality, or otherwise inadequate by the supervisors. Additionally, System Administration continued to pay a former President her presidential salary of $608,000 while she was on leave in the job title of Special Assistant to the President – and while Upstate was also paying an interim President a presidential salary – but could not provide documentation to justify this decision. Auditors found HR does not adequately enforce policies that address when employees leave Upstate, increasing safety and security risks and rendering Upstate vulnerable to inappropriate access of confidential data and loss of property. Lastly, auditors found HR did not maintain documentation to support that the required two references had been checked for all new hires. Auditors recommended that HR: develop written procedures for ALR-related transactions, including documenting the specific duties that justify additional pay and obtaining and retaining the justification for decisions concerning the dollar amount associated with each ALR; establish and enforce policies and procedures to require stronger oversight of Assignments, including more clearly defined processes for work product submission and retention to ensure work products are useful and sufficient given the duration of the Assignments; formally document leave salary decisions to justify that the amount granted is commensurate with the job title and duties performed; and develop, monitor, and enforce a comprehensive set of policies and procedures that address hiring and separation.

Oversight of Campus Foundations (Follow-Up) (2019-F-21). SUNY's State-operated campuses are authorized to contract with foundations, which are 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. In 2017, SUNY's 31 campus-related foundations had net assets totaling $2.3 billion. Two foundations, Stony Brook Foundation, Inc. and University at Buffalo Foundation, Inc., controlled $1.2 billion, more than half of the total foundation assets. 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 UCO and OUA are part of SUNY's System Administration. The initial audit (2016-S-93) found System Administration should improve its oversight of campus foundations. For example, UCO did not ensure each campus had an executed contract with its foundations, yet the foundations continued to oversee and manage donations and resources on behalf of the campuses. Auditors made four recommendations to System Administration: work with campuses to ensure foundation contracts are executed timely; evaluate information such as the foundations' Internal Revenue Service (IRS) Form 990s and their policies and procedures to assess risk in the foundations' operations; ensure all foundations have thorough policies and procedures; and review the questionable expenditures identified in the audit. The follow-up review found System Administration had made significant progress in addressing the problems identified in the initial audit report. UCO had taken steps to ensure timely execution of foundation contracts and OUA had audited foundations' written policies and procedures and reviewed the questionable expenditures. However, while OUA reviews select IRS Form 990s as part of its audit selection process and for foundations under audit, it does not routinely obtain and review all foundations' IRS Form 990s and, therefore, may not be aware of potential risks. Of the four prior audit recommendations, three had been implemented and one had been partially implemented.

City University of New York
(CUNY)

Selected Aspects of Central Office Disbursements From the Tuition and Fees Refund Bank Account (2016-S-35). CUNY Central Office provides administrative support and business services to its institutions. Central Office began centralizing its disbursement process of tuition and fees and financial aid refund checks in 2012. The centralized process is a component of CUNY's Fully Integrated Resources and Services Tool (CUNYfirst), which replaced legacy computer systems. Refunds issued through CUNYfirst are usually posted to Central Office's general ledger automatically. To centralize the refund process, Central Office established a Tuition and Fees Refund bank account to reimburse students when the payments they make exceed their tuition and fees (e.g., due to out-of-pocket payments or withdrawal from classes). The account is also used to issue advance payments, enabling students to purchase books and supplies before the semester begins. The account is a zero balance account – a balance of zero is maintained by automatically transferring funds from another account in an amount to cover checks presented – and is linked to CUNY's Tuition and Fees Collection account. Refunds may be subject to federal and State regulations, which can also impact the timing and amount of a refund, the appropriate bank account for a refund, and the appropriateness of a refund. CUNY made 440,537 payments totaling $305,754,246 to students from the Tuition and Fees Refund bank account during the period January 4, 2013 to January 22, 2016. Auditors found that controls over payments from the Tuition and Fees Refund bank account need significant improvement. Thirteen of 100 randomly selected payments between $100 and $15,000 (totaling $125,762) were either miscalculated or not supported. Seventeen payments were made prematurely and 17 financial aid payments were incorrectly made from the Tuition and Fees Refund bank account. Overpayments were also identified for large-dollar refunds (i.e., $15,000–$20,000) that were not always supported by the records provided by the colleges. Similar problems were found with a random sample of book advances, but at a significantly lower level of 5 percent. Auditors recommended that CUNY: strengthen the internal control environment by monitoring compliance with all applicable policies and procedures regarding the refund process and by ensuring all refunds are appropriate; and develop procedures to delineate the use of the bank accounts, specifying which accounts are to be used for financial aid payments and which are to be used for tuition and fee refunds.

York College: Time and Attendance Practices for Public Safety Staff (Follow-Up) (2018-F-29). York College (York) is a senior CUNY college located in Jamaica, Queens, with an enrollment of over 8,770 students on its 50-acre campus. York's Department of Public Safety (Department) is responsible for the enforcement of all college rules, as well as State and local laws, throughout the campus. The Department consists of a director, campus Public Safety officers, and campus security assistants. The Department's security staff is augmented by contract security officers. The initial audit (2013-S-65) concluded that neither CUNY nor York College had adequate internal controls over time and attendance for Public Safety officers. No one was responsible for verifying the hours worked by Department staff, and officers could alter time cards by writing over time stamps from punch clocks. Auditors also found that the Department's overtime process could result in the payment of unauthorized and/or excessive overtime costs. Additionally, video from surveillance cameras found that security officers assigned to the fire watch spent long periods of time in one area instead of patrolling the entire building, as required. One officer turned off the light, sat in a reclined position, and remained motionless for nearly five hours. Auditors recommended that Central Administration develop and implement formal comprehensive policies and procedures for Public Safety officer timekeeping and overtime at the colleges and provide oversight to ensure compliance with such policies and procedures. In addition, auditors recommended that York: develop and implement formal

comprehensive policies and procedures for Public Safety officer timekeeping; actively monitor compliance with such policies and procedures; prepare an overtime budget for the Department, and compare budgeted and actual overtime; and minimize overtime costs by establishing regular shifts or using contracted officers in cases where the shifts are anticipated for an extended period. The follow-up review found that York had made significant progress in addressing the issues identified in the initial report: York had developed and implemented timekeeping policies and procedures; prepared an overtime budget for the Department and compared the budgeted amount to the actual overtime each month; implemented a policy in October 2015 requiring all overtime to be pre-approved by the Assistant Director of Public Safety; and hired a timekeeper. According to Department officials, there had not been any scheduled or recurring overtime shifts since the end of fire watch in May 2017. However, Central Administration had not developed or implemented comprehensive policies and procedures for Public Safety officers' timekeeping and overtime for all CUNY colleges.

TRANSPORTATION

Department of Transportation
(DOT)

Welcome Center and Rest Area Planning and Implementation (2017-S-25). DOT plans and implements capital projects for its transportation system, including projects to construct and improve Rest Areas on interstate highways. Rest Areas are defined as facilities that: exist on interstate highways; are built to American Association of State Highway and Transportation Officials (AASHTO) standards; are no more than 20 years old; and are open and staffed 24 hours a day, 365 days a year and, at a minimum, provide certain services. The Rest Area Plan supports providing Welcome Centers located within 20 minutes of key entry points to the State or within tourist regions for providing information to travelers. Auditors found that DOT did not follow its own policies and procedures for capital project planning and implementation for Welcome Centers and Rest Areas, prioritizing Welcome Centers and Rest Areas ahead of other projects. They also found that DOT: lacked policies and procedures for recording and substantiating deleted, deferred, and withdrawn capital projects; incurred cost overruns of more than $8.8 million and needlessly spent approximately $4 million due to poor planning for one Rest Area and four Welcome Center capital projects; did not provide detailed plans for individual completed Welcome Centers or those under development; was not in compliance with AASHTO Rest Area spacing standards on Interstates 81 and 495; and did not have a Memorandum of Understanding with any State or local agency occupying space in DOT's Rest Areas or Welcome Centers. Auditors recommended that DOT: follow the capital plan and document the reasons for any deviations from the plan; strengthen planning for Rest Areas and Welcome Centers by following its policies and procedures related to capital project planning and implementation; develop and implement detailed policies and procedures regarding the processing of deleted, deferred, and withdrawn projects; create and maintain a transparent environment that allows for the examination of the decision-making process and use of public resources in a State government agency; update planning guidance, including DOT's Rest Area Plan and Interstate 87 corridor plan, both of which were last issued in 1998; identify solutions to bring the Interstate 81 corridor and Interstate 495 in compliance with AASHTO standards; and maintain current Rest Area Plans and Rest Area corridor plans.

Collection of Special Hauling and Divisible Load Overweight Permit Fees (Follow-Up) (2019-F-24). DOT is responsible for regulating the movement of oversize and overweight vehicles and loads on the State highway system through a permitting process. A special hauling permit is generally used to move a single piece of equipment or other item that exceeds legal dimensions for the highway but cannot be broken down into smaller shipments. Special hauling permits are issued by both the Central Permits Bureau (Bureau) and the regional offices. In contrast, a divisible load is any cargo that can be separated into units of legal weight without affecting the physical integrity of the load, such as sand, soil, or gravel. Divisible load overweight permits are issued only by the Bureau. The initial audit (2014-S-52) found significant weaknesses in the internal controls over the special hauling permits issued by four regional offices that auditors visited, including poor accountability over permits issued and fees collected, a lack of segregation of duties for permit transactions, and minimal oversight by management at both the central and regional levels. Auditors recommended that DOT: improve internal controls over permits issued by regional offices by separating key duties and functions, improving accountability over all permits, and increasing oversight over permit transactions; and explore additional options for payments made at the regional level so as to eliminate responsibility for pre-signed checks submitted by select customers. The follow-up review found

DOT had made significant progress in addressing the issues from the initial audit report, having implemented both recommendations.

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 (MTA Bus); Long Island Rail Road (LIRR), the largest commuter railroad in the country; Metro-North Railroad (Metro-North); 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.

New York City Transit: Signal Maintenance, Inspections, and Testing (2017-S-6). Within Transit, the Department of Subways' (Subways) Maintenance of Way division has six operating subdivisions; among them, Electrical is responsible for Power and Signals (Signals). Signal maintenance is critical in preventing subway delays. Transit employs Signal Maintainers, who are responsible for the maintenance, inspection, and testing (MIT) of the equipment at their assigned section locations. Each section location has a logbook that Signal Maintainers use to record MIT information. Maintenance Supervisors are required to inspect all the devices within their section locations annually or as directed by Signals management. In New York State, the Public Transportation Safety Board (PTSB) reviews and approves Transit's System Safety Program Plan (SSPP), which outlines when MIT is required. Transit is required to review the SSPP annually and submit any modifications to the PTSB for review and approval. Auditors sampled devices at four section locations and found that Signals did not always perform MIT of its signal equipment within the required intervals. For the 51,603 annual inspections with complete information from January 1, 2016 to May 16, 2017, auditors found that 39,194 (76 percent) were done late. Transit also did not update its SSPP with guidelines, resulting in work being performed that was no longer required. Additionally, despite the significant investment Transit's assets represent, Signals does not have an inventory system to account for all the equipment it maintains. Auditors recommended that Transit: review and allocate resources to ensure that all signal devices are maintained and tested in accordance with applicable procedures and standards; improve the monitoring of MIT activities by Signal Maintainers and Supervisors to ensure that Transit's power and signal systems (including switches) are checked as required; document and communicate changes and updates to the SSPP internally and to the PTSB in a timely manner; and develop a perpetual inventory system for signal maintenance equipment.

Long Island Rail Road: Maintenance, Inspection, and Testing of the Event Recorder System (2017-S-8). As part of its railway intermodal transportation mission, the LIRR installed various safety features within its infrastructure and trains. A key feature is the Event Recoder System (ERS) – a device that simultaneously monitors and records key functions (e.g., speed, brakes) of the train and the actions of the engineer. The Federal Railroad Administration (FRA) requires all locomotives to be equipped with ERS. Under FRA regulation, as stated in the Code of Federal Regulations (CFR), periodic maintenance for the railroad is considered effective if 90 percent of the recorders on locomotives inbound for periodic inspection (PI) in any calendar month are still fully functional. Auditors determined that, while the LIRR had a maintenance and inspection program for ERS, it was not always in compliance with the program. For example, from January 1, 2014 to February 27, 2017, there were five months when the non-

functioning ERS exceeded the 10 percent "effective maintenance standard" established by the FRA. Moreover, of the 243 inspection dates reviewed, there were 55 occurrences of train cars sitting idle for more than two days before an ERS PI was performed, thereby causing the last 48 hours of train activities to be recorded as idle time and not revenue passenger service, time-limiting the availability of data to assess if the ERS is functioning properly. The LIRR also did not have a corrective action plan/program to ensure defects are addressed and corrected on a timely basis. Auditors recommended that the MTA: develop detailed inspection, testing, and maintenance policies and procedures; identify the tasks related to the inspection, testing, and maintenance required by the CFR; expand ERS testing to determine and ensure that the channels are functioning and document the tests were performed for each PI; maintain physical and electronic copies of ERS downloads from PIs; document the job titles that can perform the ERS tests and ensure that employees testing the ERS receive the required initial and periodic refresher training; and prepare and maintain detailed documentation of the repair work done to make the ERS fully functional.

New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Bus Company, and Staten Island Railway: Employee Qualifications, Hiring, and Promotions (2017-S-48). Employment practices of all Transit employees are subject to the provisions of the New York State Civil Service Law (Law) while the Manhattan and Bronx Surface Transit Operating Authority (MaBSTOA), MTA Bus, and SIR employment practices are not. Transit employees are assigned to job titles generally classified as competitive and non-competitive and operating (e.g., Train Operators, Conductors) and non-operating (e.g., Electrical Engineers, Attorneys). Competitive titles are subject to a Civil Service examination to establish eligibility; non-competitive titles do not require an exam. For Transit-specific titles, Transit administers all operating and non-operating title examinations. Transit is responsible for developing, administering, and scoring competitive Civil Service examinations. The resulting eligibility lists are provided to the New York City (NYC) Department of Citywide Administrative Services (DCAS), which is responsible for administering the lists in accordance with the Law. For job titles also used at other NYC agencies, the examinations are administered by DCAS. Transit uses the lists to appoint or promote employees in these titles. For operating titles, Transit administers the examinations for MaBSTOA and MTA Bus. For non-operating titles and, since August 2016, SIR operating titles, Job Vacancy Notices (JVNs) posted on the MTA website are used to hire and promote without any examinations. Transit officials also hire and promote using JVNs for these types of titles when a list is not available. MTA Headquarters also permits yogis (employees paid by one MTA agency but who work for another) so MTA agencies can transfer staff while allowing them to remain in the same pension system and tier and retain longevity and benefits. Auditors found that, although Transit officials claimed that their non-operating titles mirror MaBSTOA and MTA Bus, education and experience requirements at Transit, MaBSTOA, and MTA Bus were not similar for employees in the same or similar titles. Moreover, Transit, MaBSTOA, and MTA Bus JVNs did not mirror DCAS requirements for education and experience, and employees at these agencies did not meet the DCAS education and experience requirements. Auditors found that 9 of 115 sampled non-operating employees were hired or promoted with lower education and experience requirements than those established by DCAS for Civil Service competitive titles and, in some cases, did not meet required qualifications in the JVNs. Additionally, personnel records for the sample of 110 employees did not contain evidence that all operating employees hired and promoted had undergone drug/alcohol screening (71) and medical examinations (24) required for their job titles, resulting in lack of assurance that all employees, including Train and Bus Operators, were fit and qualified to perform their jobs. Further, auditors found that: non-operating employees were hired and promoted to full-time Transit subway work by MaBSTOA through JVNs instead of through the Civil Service list; required documentation and pension evaluations were largely not completed, and inconsistencies within the yogi process allowed employees to move freely across MTA agencies without resigning from their current agency of employment, potentially circumventing the Civil Service process;

and lack of required documentation in employee files, including forms meant to prevent workplace nepotism, increased the risk that required Human Resources (HR) policies were not being followed. Auditors recommended that the MTA: ensure that employees hired or promoted meet all the requirements in the job specifications and that Transit JVNs follow all DCAS requirements; comply with the Civil Service regulations that require the use of DCAS-certified lists when hiring/promoting employees at Transit; ensure that employees doing Transit work at the support departments are hired using the Civil Service examination process; review education and experience requirements for all positions at all four agencies to identify any differences and take steps to revise and document changes and advise all HR officials; develop policies and procedures for Transit to use when creating job specifications, qualifications, and examinations on behalf of MaBSTOA; and implement proper documentation policies to ensure all required forms are collected and retained in employee files.

New York City Transit and MTA Bus Company: Bus Wait Assessment and Other Performance Indicators (2017-S-54). Transit and MTA Bus report key bus service performance statistics monthly to the MTA Board's Transit and Bus Committee (Committee), including Wait Assessment (WA) – the percentage of bus arrivals that occur within three minutes of the scheduled interval time during peak periods or within five minutes of the scheduled interval time during non-peak hours – and Mean Distance Between Service Interruptions, which measures the average distance traveled by a bus before an interruption in service occurs. MTA Bus also monitors on-time performance: the requirement that each bus trip of a particular route be no earlier than one minute before or no later than five minutes after its scheduled departure time at each of its assessed time points. Schedulers are responsible for reviewing the need for bus service and aim to schedule service that meets the demand within the official service guidelines. MTA Road Operations dispatching staff are responsible for overseeing bus service, making adjustments based on field conditions. Transit's Service Guidelines Manual (Guidelines) contains minimum service frequency standards. Auditors found that Guidelines were not always met and found insufficient documentation to determine if scheduled service was reasonable. They found that the computer model Transit uses to determine demand (the basis of determining service) relied on numerous assumptions, for example, regarding boarding and exiting points. However, the computer model's algorithm was not provided and its assumptions are not documented; therefore, the accuracy of the model's logic cannot be verified. Auditors found that, while Transit and MTA Bus record and report bus operation statistics to both management and the public, they questioned whether WA was always accurate due to discrepancies in calculations. For the first six months of 2015, the MTA-reported WA was 75.5 percent, but auditors calculated 80.3 percent. For September 2017, the MTA reported 76 percent WA, but auditors calculated 80.4 percent. Also, despite calculating WA declines of 5.9 percent in the Bronx and 4.4 percent in Brooklyn during the period March 2016 to March 2017, Road Operations could provide no support for actions taken to specifically address the underlying cause. Additionally, auditors found that while Transit and MTA Bus calculate WA for weekends, they do not publish the statistic (weekend ridership is about 2.2 million). Auditors recommended that the MTA: ensure the WA statistics reported to the Committee and the public are accurate; document the procedure for creating the daily bus ridership file used for scheduling; analyze the methodologies used to assess demand for service and document the results that show the best outcome for the organization and customers; calculate the weekend WA and share the results with the Committee and the public; and develop and document proactive corrective action plans and procedures to improve WA performance.

New York City Transit: Selected Aspects of Capital Program Project Management (2018-S-15). In 1981, the State Legislature mandated that the MTA prepare five-year capital programs to rebuild and improve its transit network. The latest approved capital program has an amended budget of $33.27 billion, with Transit's portion at $16.74 billion. As of May 30, 2018, Transit's Department of Capital Program

Management (CPM) had 2,111 projects in its Project Status Report system. During the construction phase, a Construction Manager (CM) takes over the project and additional work orders (AWOs) may be used to address any issues. Transit has also developed a set of Project Management Procedures (PMPs) and guidelines to help ensure capital projects are completed on time and within budget. From a sample of six projects with a total budget of $815.7 million, auditors determined that Transit's PMPs were not always followed, and that process deficiencies contributed to delays and additional costs, including design errors and omissions, contractor non-conformances, and insufficient contractor personnel on site. In one project, an omission by Transit's design team discovered during construction resulted in ten AWOs and additional costs of $617,000. Non-compliance with documented requirements resulted in work needing to be corrected, such as broken speed bumps and debris left by the contractor within train yards. For four of the sampled projects, auditors determined that the contractor's scheduled personnel were not always present at the site, with an average attendance rate as low as 52 percent on one of the projects. Additionally, based on reported construction start and substantial completion dates, auditors estimated that Transit should have completed about 101 Quarterly Quality Assessment Reports (Assessments) for the six projects reviewed. As of February 6, 2019, auditors had not received 53 Assessments. Auditors recommended Transit determine the root cause of the design errors or omissions and develop corrective action plans (e.g., additional training) to avoid recurrence; and require the CM office to verify the number and title of employees on site on a daily basis, determine whether they are authorized to be on site, and document the results. Further, when all scheduled employees do not report on site, the alternate work site should be recorded and payroll documents should be cross-referenced to daily access reports. Additionally, auditors recommended that Transit: ensure all Assessments are performed and document any exceptions to this requirement; require the CM office to document specific lessons learned in the AWO; and monitor the lessons learned for all projects and exchange information among CMs to determine if there are trends or patterns that can be applied to future projects.

New York City Transit: Maintenance and Inspection of Event Recorder Units (2018-S-19). In 2000, Transit began to deploy its New Technology Trains (i.e., Models R142, R142A, R143, R160, and R188) and train locomotives (Model R156), which included event recorder units (ERUs), or "black boxes." ERUs allow for the monitoring of train equipment and technical analysis of incidents or accidents based on data they record. Only the cars with cabs used by train operators and conductors are equipped with ERUs. Auditors determined that Transit did not comply with its ERU maintenance and inspection policy. Of the 822 timed inspections during the audit scope, 70 were late. For 129 inspections, maintenance personnel did not provide evidence that they had downloaded information from ERUs to ensure that they were functioning correctly, as required by Transit's work manuals. Model R142 cars, which comprise a significant portion of Transit's fleet, contain ERUs with a memory capacity that is not up to industry standards. Auditors identified discrepancies between the Rolling Stock Management Information System (RSMIS) and source documents, resulting in Transit not being able to effectively track the maintenance and inspection of the ERUs or work orders through its system. Transit also did not have a plan to fix deficiencies identified during the maintenance and inspection of ERUs. Auditors recommended that Transit: ensure ERUs are inspected in accordance with Transit's maintenance and inspection policy and procedures; increase the hard memory module capacity for R142s and R142As to be in compliance with the industry standard; develop a more detailed work manual to include specific steps pertaining to ERUs and ensure consistency in testing across ERU models; designate personnel within each maintenance shop to perform data entry so the RSMIS for the maintenance department is comprehensive; and develop a plan with steps that, at a minimum, address identifying an ERU malfunction, removing and replacing an ERU, and sending and repairing the ERU at the Central Electronics Shop.

Long Island Rail Road: Unexpected Delays and Events (2018-S-30). The LIRR's Public Information Office is responsible for communicating with train crews, the media, and the public via methods such as phone, web, email, tweet, and station message board postings and displays. The Transportation Services Department's Movement Bureau communicates with train crews and signal towers across the railroad to prioritize train movements and handle incidents and unusual occurrences. To address the needs of its passengers during an incident, the LIRR may request that MTA Bus and Transit cross-honor LIRR tickets or provide emergency bus service. It can also call upon the six bus companies under contract to perform bus services as required to transport passengers. Auditors reviewed 49 events over 2½ years and found that, in some cases, the needs of passengers were not adequately addressed. All notifications or appropriate communications were not always made, alternative transportation arrangements were not documented, and procedures were not clear. For example, in eight of the 49 events, customers either were not informed about late trains or were told about late trains after the train was supposed to arrive. While the LIRR noted that 204 buses were "delivered," it could not document that the buses had arrived and were used to move passengers for any of these events because there were no LIRR representatives on site. The LIRR held 24 "Lessons Learned" meetings during the scope period and generated 217 recommendations from the participants, some of which addressed the customer experience. However, the LIRR did not compile and track the status of these recommendations. Auditors recommended that the LIRR: work with other constituent agencies to develop procedures for cross-honoring, including specific parameters that would require cross-honoring; and compile a list of all Lessons Learned recommendations and the status of each, and document when and how each recommendation was implemented and by whom.

Homeless Outreach on MTA Properties. The presence of homeless people on MTA properties is a growing concern for LIRR, Metro-North, and Transit customers and staff, and sometimes presents law enforcement issues. In an effort to better address the issue and to assist homeless individuals as much as possible, the MTA, LIRR, and Metro-North entered into separate contracts with not-for-profit contractors – Bowery Residents' Committee (BRC) and Services for the UnderServed (SUS) – for homeless outreach services on their properties, as outlined below. In January 2018, OSC initiated a series of audits to determine whether the MTA and constituent agencies have appropriate oversight and monitoring controls over homeless outreach services on MTA properties and whether they have met the goal of maintaining a safe, secure transit environment by assisting homeless individuals to appropriate shelters off MTA properties. Overall, OSC determined that the MTA and its constituent agencies do not have sufficient oversight and monitoring controls over the homeless outreach contracts or over homeless outreach services on MTA properties.

- **Homeless Outreach Program at Penn Station, Grand Central, and Outlying Stations Within New York City** (2018-S-5). Since March 2010, the MTA has contracted with BRC for homeless outreach services on MTA railroad property. BRC is responsible for regular visits to MTA properties to observe and record homeless outreach activity and to engage in homeless outreach, and is required to produce standardized activity reports related to its performance measures and to submit these reports to MTA officials. BRC is also responsible for entering the data into the MTA's Homeless Outreach Program database. Auditors determined BRC is providing only limited outreach services, despite outreach being one of its primary contract responsibilities. On average, BRC outreach workers spent only about 26 percent of their time providing actual outreach services (compared with 53 percent of time spent in the BRC office). During unannounced visits, auditors witnessed BRC outreach workers appearing to intentionally close the office and isolate themselves from active outreach. The homeless outreach data BRC reported was not accurate or complete, and the MTA did not have a process in place to verify the data. Further, Penn Station is the responsibility of not only the MTA, but also Amtrak and NJ Transit, and although MTA's

contract with BRC at Penn Station intended to focus primarily on the MTA's portion of the property, auditors found outreach workers spent a disproportionate amount of their workday on outreach in the Amtrak area. Auditors recommended the MTA: ensure BRC meets established performance measures, and develop and establish additional quantifiable performance measures for the contract; monitor outreach workers to ensure they are providing a sufficient level of outreach services; develop and establish internal controls to ensure that BRC's reported data is accurate and complete, and use the available data to make informed managerial decisions; and negotiate with each of the railroads operating within Penn Station to provide proportionate levels of resources to support homeless outreach services.

- **Homeless Outreach Program at the Long Island Rail Road** (2018-S-35). Under its homeless outreach services contract with the LIRR, SUS is responsible for performing outreach services by carrying out regular visits to the LIRR stations in Nassau and Suffolk counties and for observing, recording, and reporting homeless outreach activity. The contract, initially for a period of three years beginning November 2015 through October 2018 and totaling $512,498, was extended for an additional two years, resulting in a five-year total value of $860,291. Auditors found that: the LIRR had not developed any performance standards in its contract with SUS and, as a result, had no basis for determining whether SUS' homeless outreach services were meeting expectations; the homeless outreach data reported by SUS to the LIRR contained inaccuracies and was not complete; and the LIRR did not have a process in place to verify data. Based in part on observations, SUS was failing to assist homeless people to the extent possible under its contract responsibilities and, consequently, LIRR's homeless clients were not receiving the services they need. Auditors recommended that the LIRR: develop and establish performance measures to be included in monthly reports; develop and establish internal controls to ensure the reported homeless outreach data is complete and accurate, and use the available data to make informed decisions; analyze the available outreach data, and provide input to SUS when preparing the outreach schedule; and monitor SUS' performance to ensure it is providing satisfactory outreach services.

- **Homeless Outreach Program at the Metro-North Railroad** (2018-S-36). In June 2017, Metro-North entered into a five-year contract (totaling $2,142,399) with BRC for homeless outreach services, including regular visits to the Metro-North stations to observe, record, and engage in homeless outreach activity. BRC is required to produce reports related to its established performance measures and submit these reports to Metro-North officials, and is also responsible for entering the data from its daily activity reports into the MTA Homeless Outreach Program (HOP) database. Auditors determined that: despite contract requirements, Metro-North had not developed any quantifiable performance measures for the BRC contract and, as a result, had no basis for determining whether BRC's outreach services are meeting expectations for assisting homeless clients; the homeless outreach data BRC reported was not accurate or complete; and Metro-North did not have a process in place to verify reported data (in fact, Metro-North did not even have access to the database that BRC uses to report the results of its outreach). Based in part on their observations, auditors determined BRC is providing only limited outreach services – one of the primary responsibilities under its contract. Auditors found that outreach workers spent, on average, only about 21 percent of their time providing actual outreach services (compared with 43 percent of time spent in their office and 36 percent of time spent traveling between stations). For the period September 5, 2017 to July 31, 2018, BRC only visited 27 of Metro-North's 123 stations for homeless observations. Auditors recommended that the MTA: develop and establish quantifiable performance measures for the contract; develop and establish internal controls to

ensure the reported homeless outreach data is complete and accurate, and use the data to make informed managerial decisions; and monitor outreach workers' performance to ensure they are providing a sufficient level of services.

New York City Transit: Practices Used by the Transit Adjudication Bureau to Collect and Account for Fines and Fees (Follow-Up) (2018-F-20). The Transit Adjudication Bureau (TAB) provides a forum for processing and adjudicating summonses for violations of Transit Rules of Conduct governing public use of the transit system. Respondents who decide to contest a Notice of Violation (NOV, or summons) are offered the opportunity to receive a prompt, fair, and impartial hearing. Rule violations can include fare evasion, smoking, or interference with the movement of a transit vehicle. Fines range from $25 (for actions such as carrying an open container of liquid) to $100 (for actions such as vandalism or carrying a weapon). Fees and interest are added if a summons is not satisfied in a timely manner. TAB also processes NOVs, including scanning images and entering data, processing payments, and pursuing unpaid fines. From September 1, 2016 through August 31, 2018, TAB reported processing 288,076 new summonses. The total fines and fees amounted to $36.8 million, of which approximately $14 million was reported as collected. According to TAB officials, as of August 31, 2018, about 137,027 summonses were outstanding with fines of $13 million and fees of $8.5 million. The initial audit (2015-S-33) determined that about half of NOVs are never fully collected. In addition, inaccurate information written on summonses, such as bad addresses and false telephone numbers, contributes to collection difficulties. Even for fines with accurate information, TAB did not do enough to enforce the collection of outstanding fees and fines. In the first nine months of 2015, TAB purged $66.8 million in uncollected summons fines and fees because their 20-year limit had been reached. Auditors made 11 recommendations to Transit, including to: ensure sufficient staff allocation; establish performance metrics and incentives for NOV collection calls; work with other entities to improve the quality of the identifying information in summonses; ensure all NOVs not paid within nine months of issuance are referred for collection timely; and explore other means of collecting fines and fees. Auditors found that the MTA had made some progress in implementing the recommendations from the initial audit. Of the 11 prior audit recommendations, seven had been implemented, three had been partially implemented, and one had not been implemented.

New York City Transit: Selected Safety and Security Equipment at Subway Stations (Follow-Up) (2019-F-7). Transit's Electronic Maintenance Division (EMD) is responsible for maintaining and monitoring the equipment used to ensure the safety and security of its subway passengers. Transit's safety and security equipment includes closed-circuit television (CCTV), a system in which input from strategically placed cameras is observed on monitors off site. As of May 16, 2019, Transit had installed 9,290 CCTV surveillance cameras, 1,712 monitors, 334 digital video recorders, four video cassette recorders, and related accessories (e.g., camera components, power supplies, cables). As of May 22, 2019, 2,918 Help Point Intercoms (HPIs), which customers may use to obtain travel information or emergency assistance, had been installed in 459 subway stations. The initial audit (2016-S-92) determined that preventive maintenance on the security equipment was not performed within the scheduled frequency levels set by Transit. Additionally, EMD did not establish a timetable for preventive maintenance for HPIs. Moreover, when a problem was identified, repairs were not always timely. Auditors made six recommendations to the MTA, including 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. In the follow-up review, auditors found that the MTA had made progress in addressing the problems identified in the initial audit report. Of the six audit recommendations, two had been implemented, two had been partially implemented, and two had not been implemented. EMD established and documented a six-month preventive schedule for HPIs and an acceptable occurrence rate for each

type of repair ticket. However, the MTA disagreed with recommendations to focus resources on meeting preventive maintenance targets and to reassess the training program for new employees.

Staten Island Railway: Selected Safety and Security Equipment at Train Stations (Follow-Up) (2019-F-8). SIR's management oversees capital projects at its 21 train stations, maintains the stations' structural components, and ensures that security equipment installed at the stations is working, monitored, and tested. SIR's Electronic and Electrical Maintenance Division (EEMD) technicians perform preventive maintenance and repairs on safety and security equipment such as closed-circuit television (CCTV) cameras, customer assistance intercoms (CAIs), monitors, and digital video recorders. If a CAI malfunctions, SIR receives an alert from a monitoring system. When an alert lasts 15 minutes or longer, the Information Technology manager sends EEMD an email and a technician will address the condition. The initial audit report (2017-S-84) determined that SIR did not always perform timely inspection and maintenance of security equipment. In September 2017, SIR officials developed a new maintenance procedure for security equipment. However, it was unclear if the new procedure included CAIs. Auditors recommended that the MTA: 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 procedure includes CAIs. In the follow-up review, auditors found that the MTA had made progress in addressing the problems identified in the initial audit report. For the most part, SIR had complied with maintenance and prevention standards, but still had not completed all preventive maintenance timely. SIR also clarified that CAIs were included in the newly issued procedure. Of the two audit recommendations, one had been implemented and one had been partially implemented.

New York State Thruway Authority

(Thruway Authority)

Compliance With Payment Card Industry Standards (Follow-Up) (2019-F-14). All Thruway E-ZPass customers have prepaid accounts, from which tolls are electronically deducted when the vehicle passes through toll points. Most E-ZPass accounts are automatically replenished with the customer's credit card on file, and the Thruway Authority contracts with a third-party vendor to manage E-ZPass accounts. The Thruway Authority also directly handles in-person credit card payments for E-ZPass tags or other charges in some cases and accepts credit card payments over the phone and online. All organizations that accept credit cards must comply with the Data Security Standards (DSS) established by the Payment Card Industry (PCI) Security Standards Council. The PCI DSS is a comprehensive set of technical and operational requirements designed to protect cardholder data. The initial audit (2017-S-11) found the Thruway Authority did not have an information security policy that addressed all the requirements in the PCI DSS, and could improve certain other technical safeguards over the cardholder data it processes. As a result of the audit, the Thruway Authority took immediate actions to address the security over cardholder data, but needed to take additional steps to improve its overall information security program to meet the PCI DSS. The initial audit contained two recommendations to the Thruway Authority to develop strategies to enhance compliance with PCI DSS and implement recommendations made in a preliminary report and confidential draft report. The follow-up review found the Thruway Authority had made significant progress in addressing the issues identified, having developed strategies to enhance compliance with the PCI DSS, conducted risk assessments on an inventory of assets it has developed, and created a policy for protecting credit card information. The Thruway Authority had also addressed the recommendations not noted in the initial public report due to confidentiality reasons. Of the initial report's two recommendations, one had been implemented and one had been partially implemented.

Port Authority of New York and New Jersey
(PANYNJ)

Selected Aspects of Leasing Practices for Real Estate Services Department and Port Commerce (2017-S-58). The PANYNJ conceives, builds, operates, and maintains infrastructure critical to the New York/New Jersey region's trade and transportation network. The PANYNJ uses two systems to track the status of its properties and to track rent and revenues – SAP and YARDI. SAP is used as the system of record; YARDI is a real estate investment and property management software used primarily for reporting occupancies and vacancies. The information contained in YARDI is downloaded from the SAP system and, thus, the two systems' data should match. Auditors found that the PANYNJ did not always accurately account for its leases. Discrepancies existed in the lease information contained in SAP and YARDI. Moreover, neither system accounted for all PANYNJ leases. In one case in 2015, the PANYNJ executed a permit for a property that it did not own. Auditors also found two properties that were previously leased and were vacant for a combined 45 months, resulting in approximately $828,290 in forgone revenue. According to officials, in some cases, the properties that the PANYNJ leases contain unique features not shared by comparable properties, making them more desirable. These include features such as water access, an internal rail distribution system, and access to the northeast coast of the United States. Based on our analysis of 11 segments where a comparable property existed, we estimated the PANYNJ did not realize revenues of approximately $4.3 million. Auditors recommended that PANYNJ: ensure SAP and YARDI accurately reflect the agreed-upon terms, conditions, and specifications in its contracts; create a formal marketing strategy to proactively seek out tenants to rent vacancies and take proactive, documented steps to minimize idle time for vacant properties; conduct market research to ensure rents charged are consistent with market prices and rental properties generate optimal rental income; and implement formal policies and procedures to ensure that leases for similar types of properties follow a standard format and that files include complete documentation of the leasing process.

Rochester-Genesee Regional Transportation Authority
(RGRTA)

Compliance With Requirements to Maintain Systems at Vendor-Supported Levels (2019-S-6). RGRTA owns IT resources including desktops/workstations, servers, and databases used to help carry out its mission. As a public benefit corporation, RGRTA must adhere to the State Information Security Policy (Policy), which defines the minimum information security requirements that all State entities must follow. This includes requirements for ensuring systems are maintained at vendor-supported levels (i.e., systems continue to be updated and patched by the system's vendor). Auditors determined that, generally, RGRTA maintained its systems at vendor-supported levels. However, they did identify unsupported systems used by RGRTA on 14 devices. The unsupported systems on six of the 14 devices (43 percent) were the responsibility of third-party vendors. In these cases, auditors determined that RGRTA was not providing sufficient oversight to ensure the vendors were meeting their obligations to keep systems up to date. Auditors recommended that RGRTA take steps to ensure that systems are maintained at vendor-supported levels, including: developing policies and procedures related to software updates and vulnerability analysis and monitoring vendors to ensure they are keeping the systems they are responsible for up to date; and implementing the remaining recommendation detailed in the preliminary report.

CRIMINAL JUSTICE AND JUDICIAL ADMINISTRATION

Department of Corrections and Community Supervision
(DOCCS)

Oversight of Sex Offenders Subject to Strict and Intensive Supervision and Treatment (Follow-Up) (2018-F-21). The Sex Offender Management and Treatment Act (Act) applies to offenders who have been legally determined to suffer from a mental abnormality that predisposes them to committing a sex offense and that results in their difficulty in controlling this behavior. The most dangerous of these sex offenders are denied release and are confined. Others judged to be less dangerous can be released to the community, but remain subject to DOCCS' Strict and Intensive Supervision and Treatment (SIST) supervision regimen, and are referred to as respondents. Under SIST, Parole Officers monitor respondents' compliance with court-ordered conditions of their release. The Act requires Parole Officers to have a minimum number of face-to-face contacts with respondents. From the initial audit (2014-S-50), auditors concluded that DOCCS was monitoring and enforcing SIST conditions for respondents placed in the community, but identified areas needing improvement. For example, Parole Officers did not always complete all required monthly activities, and compliance varied significantly among locations. Parole Officers made virtually all required home visits each month for the respondents tested, but more than 20 percent of the time, they did not make the minimum six monthly face-to-face contacts. Only 38 percent of photographic records of SIST offenders were updated at least every 90 days as required. Auditors also concluded that DOCCS lacked some records related to respondents' interviews at initial entry to SIST, and its record of responses to certain electronic alerts of potentially high-risk respondent behavior was at times overly general and vague. Auditors made five recommendations aimed at enabling DOCCS to determine the reasons for variances in meeting certain requirements of the Act and other requirements; and to improve the oversight and documentation of supervision in these areas. The follow-up review found that DOCCS had made significant progress in addressing the issues identified in the initial audit, having implemented all five prior recommendations.

State Commission of Correction
(SCOC)

Facility Oversight and Timeliness of Response to Complaints and Inmate Grievances (Follow-Up) (2019-F-4). SCOC is responsible for oversight of all 561 correctional facilities throughout the State, including 54 State facilities operated by the Department of Corrections and Community Supervision (DOCCS), four Office of Children and Family Services facilities, 74 local correctional facilities (county jails and New York City facilities), and 429 local lockups. SCOC is charged with both the periodic inspection of all correctional facilities throughout the State and the timely response to complaints and inmate grievances, which number more than 4,000 annually. The initial audit (2017-S-2) found that SCOC largely devotes its resources toward oversight and inspection of local facilities because they are operated independently without centralized oversight, and generally does not inspect DOCCS facilities because of its limited resources and the existing oversight by DOCCS' main office. Although SCOC receives data on complaints and unusual incidents regarding DOCCS facility operations, it does not analyze and track the information to identify patterns or trends, such as a significant increase in complaints at a specific facility or system-wide, in a timely manner. Auditors determined SCOC could improve its responsiveness to complaints and inmate grievances by better monitoring their status and by capturing and analyzing the resolution of complaints and inmate grievances. Auditors made five recommendations, including that SCOC: implement

a system to retain and analyze complaint and inmate grievance information for DOCCS correctional facilities to identify patterns or trends that may warrant monitoring or targeted reviews; and use the analysis of complaint and inmate grievance data to identify ways to further improve the timeliness of responses. The follow-up review found that SCOC had made significant progress in addressing the issues identified in the initial report, having implemented all five recommendations.

GOVERNMENT SUPPORT AGENCIES

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, which costs the State and local governments about $9.1 billion each year. Civil Service contracts with UnitedHealthcare (United) to process medical claims, with Empire BlueCross BlueShield (Empire) to process hospital claims, with CVS Health to process prescription drug claims, and with Beacon Health Options to process mental health and substance abuse claims for the plan.

- **CVS Health: Accuracy of Drug Rebate Revenue Remitted to the Department of Civil Service** (2016-S-41). In accordance with the contract, CVS Health was required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations (herein collectively referred to as "rebates") and remit the rebate revenue to Civil Service. During the 3½-year audit period January 1, 2014 through June 30, 2017, Civil Service received more than $600 million in commercial drug rebates. Auditors reviewed the rebate revenue generated from agreements with six drug manufacturers and found that CVS Health did not always invoice drug manufacturers for rebates (in a timely manner, or at all) or remit all rebate revenue to Civil Service. As a result, Civil Service is due $2,052,653 in rebates. Auditors recommended CVS Health: remit $2,052,653 in rebate revenue to Civil Service; establish a formal process to document, track, and resolve disputes, including issues affecting rebate allocation, so disputes can be resolved in a timely manner; and ensure all the Empire Plan's rebate-eligible drug utilization is invoiced and the resultant revenue is remitted to Civil Service.

- **UnitedHealthcare: Out-of-Network Providers Upcoding Selected Evaluation and Management Services** (2017-S-34). Evaluation and Management (E/M) billing codes are used by most physicians to report a significant portion of their services. The E/M codes are divided into broad categories such as office visits, hospital visits, and consultations. Within each category, providers bill either three or five levels of care. The amount of United's reimbursement depends on the level of care billed: the higher the level billed, the greater the reimbursement. Billing for a higher level of care, which is higher paying, than the service actually provided is a practice known as upcoding. From January 1, 2016 to December 31, 2016, United paid out-of-network providers over $65.6 million for E/M services, of which 57 percent, or $37.4 million, represented high-level E/M services. Auditors found that United needed to improve its method for monitoring out-of-network providers who bill for higher-level E/M services. The system that United uses can miss providers who routinely bill the majority of their claims improperly at higher-level E/M codes. Additionally, based on a test of 90 claims from nine providers, which paid $72,245 for high-level E/M services, 42 claims (47 percent) totaling $28,731 were upcoded or unsupported for the higher level of care billed. Auditors recommended that NYSHIP: improve the monitoring of claims submitted for E/M services by assessing out-of-network providers who routinely bill the majority of their claims at high-level E/M codes; and review the $28,731 and make recoveries, as warranted, and expand the review of the at-risk providers identified and recover other improper payments.

- **CVS Health: Accuracy of Drug Rebate Revenue Remitted to the Department of Civil Service** (2018-S-50). In accordance with the contract, CVS Health was required to negotiate agreements with drug manufacturers for rebates, discounts, and other considerations (herein collectively referred to as "rebates") and remit the rebate revenue to Civil Service. During the 4½-year audit period January 1, 2014 through June 30, 2018, Civil Service received more than $850 million in commercial drug rebates (exclusive of Medicare Part D rebates). Auditors reviewed the rebate revenue generated from agreements with six drug manufacturers and found that CVS Health did not always invoice drug manufacturers for rebates, collect rebates from the manufacturers, or remit all rebate revenue to Civil Service. As a result, Civil Service is due $2,240,798 in rebates. Auditors recommended CVS Health remit $2,240,798 in rebate revenue to Civil Service and ensure all the Empire Plan's rebate-eligible drug utilization is invoiced, collected from the manufacturers, and remitted in a timely manner to Civil Service.

Office of General Services
(OGS)

Compliance With Executive Order 88: Energy Efficiency of State Buildings (2018-S-62). Executive Order 88 (EO 88) is the centerpiece of BuildSmart NY, the State's program for pursuing energy efficiency in State government buildings. EO 88 is intended to accomplish broader State policy goals, such as reducing State government's utility expenses, fostering investment in smart buildings, protecting the environment and public health by reducing emissions, and supporting economic growth through green jobs, clean energy, and energy-efficient products and services. EO 88 mandated a 20 percent collective improvement in the energy performance of all covered agencies and authorities by April 1, 2020. Auditors found that, generally, OGS had developed targets and plans to contribute toward EO 88 and complied with EO 88 Guidelines. However, OGS had relied on one particular project (the Sheridan Avenue Project) to provide the majority of its energy savings. This project met criticism from environmental and community advocates because of health concerns related to the burning of natural gas, and its implementation was in doubt. Should the project fail to move forward, OGS is unlikely to meet its goal of reducing energy usage by 20 percent. Auditors recommended that OGS: develop a contingency plan to replace the Sheridan Avenue Project; continue implementing capital projects that reduce energy usage; and continue developing energy-saving capital projects to contribute toward the collective 20 percent energy reduction.

Food Metrics Implementation (Follow-Up) (2018-F-23). Section 165 of the State Finance Law (Law) promotes the sustainability of local farms by tracking how State agencies' food dollars are spent and identifying opportunities for additional purchases of local foods. The Law requires OGS and the Department of Agriculture and Markets (Ag&Mkts) to develop regulations, establish guidelines, and provide training on New York State food purchasing to agency personnel involved in the acquisition process. OGS is also responsible for tracking data on State agencies' food purchases – both from inside and outside the State – and for providing a Food Metrics Annual Report to the Executive and the Legislature detailing these purchases. Since the Law was implemented, OGS had issued reports for three years: 2014, 2015, and 2016. The initial audit (2017-S-18) found that OGS' Food Metrics Annual Reports contained calculation errors and lacked complete information on statewide food purchasing. For example, the 2015 Annual Report omitted two months of purchase data from a contractor, resulting in an understatement of 66,369 transactions valued at more than $5 million, including 3,689 transactions worth $245,000 involving New York sources. The report also improperly included purchases made by entities not operated by the State, estimated to total about $11 million. Auditors also concluded that OGS and

Ag&Mkts had neither developed guidelines to direct and assist State agencies in procuring New York State food products, nor provided training to agency personnel, as required by the Law. In response to the audit, in May 2017, OGS and Ag&Mkts had finalized and published the required guidelines for State agencies. These guidelines now direct agencies to submit more complete reporting of food purchases to OGS. Auditors recommended that OGS: develop and provide training to agencies and vendors on reporting and purchasing of New York State foods; and develop and implement adequate controls to detect and correct anomalies and inaccuracies in data used to create the Food Metrics Annual Report. The follow-up review found that OGS had made significant progress in addressing the issues identified in the original audit, having implemented both recommendations.

Office of Information Technology Services
(ITS)

Oversight of Information Technology Consultants and Contract Staffing (2018-S-38). ITS procures services through consultants and contract staff and is responsible for monitoring services to ensure compliance with contract terms and deliverables. Generally, contracts contain reporting requirements for contractors (e.g., performance metrics), which serve as a means for ITS to accurately monitor contractor deliverables. In addition to the terms outlined in their contract or task order, contractors and consultants must comply with the predefined standards outlined within the State ITS Standard Contract Clauses. Auditors found that, in general, ITS is monitoring IT services procured from consultants and contract staff. For 14 of the 20 contracts reviewed, ITS had provided adequate oversight to ensure that the contractor or consultant met the deliverables. For the remaining six contracts, for which ITS paid out more than $156 million, deficiencies in contract monitoring create a risk that ITS may not have received the required deliverables. Auditors found significant monitoring deficiencies for the International Business Machines (IBM) Service Desk contract. ITS did not require IBM to submit summary reports that contained all the information required under the contract and that was necessary to monitor contract deliverables. Furthermore, one year after the contract start date, ITS executed a Project Change Request (PCR), including a pricing rate change, that removed Service Level Credits, eliminating the possibility for reduced payments to IBM if certain performance metrics were not met. ITS did not provide documentation showing the PCR was necessary or in the best interest of the State, nor did it obtain appropriate OSC approval for the PCR, as required. For the five other agreements, ITS similarly did not obtain required reports or other documentation from contractors or consultants or did not verify contractor or consultant performance. Auditors recommended that ITS: strengthen monitoring of all agreements for more consistency across ITS and ensure that all deliverables are met and received within the required time frame to protect the interests of the State; and formally evaluate the IBM Service Desk contract and take necessary steps to ensure that the IBM contract staff are in compliance.

ECONOMIC DEVELOPMENT AND HOUSING

Homes and Community Renewal
(HCR)

Housing Finance Agency: The 80/20 Housing Program (Follow-Up) (2018-F-18). The Housing Finance Agency's (HFA) 80/20 Housing Program (Program) provides low-interest financing to multifamily rental developers who commit at least 20 percent of a development's units to low-income individuals and families. The initial audit (2015-S-83) examined whether developers participating in the Program complied with requirements regarding the number of designated affordable units and tenant eligibility. Based on the rents charged for four sampled developments, auditors concluded that the proper number of affordable units had been made available to low-income tenants. Auditors found that, in most cases, the developments used reasonable judgment in determining eligibility, but, for some cases, questioned whether the developers had exercised reasonable judgment in evaluating tenant file information. They also found that developments did not consistently verify applicant incomes with the Internal Revenue Service (IRS) and that the financial benefits received by the owners of the four sampled developments could not be fully calculated. Auditors recommended that the HFA: require Program developments to verify the incomes of all prospective tenants – prior to moving into an apartment – with the IRS; work with the management staff at participating Program developments to develop sound and consistent methodologies to project applicant income when determining eligibility; and ensure that adequate information is collected to enable decision makers to adequately assess the costs and benefits of the Program. The follow-up review found that HFA had made some progress in addressing the issues identified in the prior report, requiring Program developments to verify the incomes of all prospective tenants with the IRS prior to their moving into an apartment. Of the three recommendations, one had been implemented and two had not been implemented.

Division of Housing and Community Renewal: Enforcement of the Mitchell-Lama Surcharge Provisions (Follow-Up) (2019-F-9). The Mitchell-Lama program, supervised by the Division of Housing and Community Renewal (DHCR), provides affordable housing to middle-income families. Residents must meet DHCR's income eligibility requirements and, every year, are required to submit an affidavit attesting to their income to their housing development. If the reported aggregate annual income of all occupants in an apartment exceeds the development's maximum income limit, building management must add a surcharge, up to a maximum of 50 percent, to the monthly rent or carrying charge. Surcharge income is used to meet development operating costs. The initial audit (2017-S-12) found that surcharges were generally properly calculated and assessed for the tested transactions, but there were significant deficiencies in the processes. Only 30 percent of the required income verification audits for the sample had been done. Auditors also found developments were not charging the maximum allowable surcharges when tenants did not provide a certified tax return to substantiate self-reported income. Additionally, DHCR was several years behind in generating the match between tenants' self-reported information and their tax records. Further, by law, tenants whose income exceeds the maximum by 25 percent or more require DHCR's approval to remain in their units. The initial audit identified 29 units at the sampled developments that exceeded the limit, but found no evidence that DHCR had approved these tenants' residency. The follow-up review found DHCR had made some progress in addressing the issues identified in the initial report. Of the six recommendations, three had been partially implemented and three had not been implemented. DHCR officials stated they had provided training on surcharge and income verification procedures to employees of nine of their 140 developments, although the documentation provided to auditors only supported training at six. Officials began requiring follow-up verification audits to be

submitted electronically to facilitate monitoring, but were not sending follow-up emails for outstanding audits timely. Additionally, they completed the annual tenant income matches with tax records for 2013 and were working on matches for 2017. DHCR officials stated they are prioritizing the most recent years first and will evaluate completing the income matches for 2014 and 2015 if resources permit. They also stated that they plan to hire a new third-party vendor to prepare the data file for the income matches. DHCR officials declined to follow up on the occupant-related matters detailed in the initial report, stating that policy changes regarding tenants whose incomes exceed the maximum would require legislative action.

Homeless Housing and Assistance Corporation
(HHAC)

Homeless Housing and Assistance Program: Project Selection and Maintenance (2018-S-4). HHAC administers the Homeless Housing and Assistance Program (HHAP), which provides funding for the establishment of homeless projects in the form of grants, loans, or loan guarantees to acquire, construct, or rehabilitate supportive housing for the homeless. Financial assistance is provided through direct contracts with municipalities, not-for-profits, charitable organizations, and public corporations. Projects eligible for HHAP funding may serve families, single persons, youth, and the elderly, as well as a range of persons with special needs. HHAC's contractors are required to provide supportive services to these clients to assist them in maintaining their residence. HHAP performs monitoring inspections to ensure the projects are adequately maintained. In addition, all project providers must submit detailed annual reports that include information related to budget, finances, milestones, proof of insurance and tax payments, and various other fiscal and program information. HHAP analyzes this data to ensure that projects adhere to standards and have a reasonable budget for the coming year. During the three-year period ending March 31, 2016, HHAP awarded funding for 51 projects that it concluded met the scoring criteria, including 31 completed projects and 20 in the pre-construction or construction phase; all but one were operational or in the pre-construction or construction phase within two to four years of being awarded funding. Auditors found that HHAP completed or scheduled monitoring visits for 326 HHAP projects; however, for 32 projects, the visits were not done timely, with delays ranging from one to nine months. In addition, 46 required annual reports were delinquent, with delays ranging from 94 to 980 days. Also, HHAP officials disclosed that the HHAP project management database is not always reliable for its intended uses and, since July 2016, they had been seeking replacement solutions. Auditors also noted that, over the audit scope period, HHAP had taken steps to improve its monitoring efforts and had been seeking solutions to replace its project management database. Auditors recommended that HHAC: continue improving the timeliness of monitoring site visits and ensure all projects are visited within a 12-month cycle; make sure that all annual reports are received and reviewed timely to ensure the projects meet the milestones, and take appropriate action to acquire delinquent annual reports; and continue taking the needed steps to implement a reliable management information system.

OTHER STATE AGENCIES AND PUBLIC AUTHORITIES

Department of Agriculture and Markets
(Ag&Mkts)

Annual Assessment of Market Orders for 2015 and 2016 (2018-S-44). Pursuant to Article 25 of the Agriculture and Markets Law (Article 25), which was in effect during the audit period April 1, 2014 through March 31, 2016, Ag&Mkts was responsible for the administration of all farm product market orders (except those involving dairy products): the Apple Marketing Order, Sour Cherry Marketing Order, Apple Research and Development Program, Onion Research and Development Program, and Cabbage Research and Development Program. Each specific market order is established in Ag&Mkts regulations to assist the industry in achieving objectives, including product promotion, advertising, and research. Ag&Mkts is required to report its assessable expenses related to its administration of Article 25. Article 25 authorized market orders and allowed for the collection of funds by assessing growers to cover expenses. (The Laws of 2016 later repealed Article 25 and transferred administration responsibility to the New York State Urban Development Corporation [UDC].) Auditors found that Ag&Mkts had established procedures to accurately report its assessable expenses for the two years ended June 30, 2016 for the Apple and Sour Cherry Market Orders and for the two years ended March 31, 2016 for the Apple, Cabbage, and Onion Research and Development Programs. However, Ag&Mkts did not always enforce contract provisions that limit expense amounts, nor did it provide adequate guidance regarding allowable expenses. Auditors identified more than $1.5 million in questionable reimbursements for goods or services that were not competitively bid in accordance with contract requirements and $23,000 in expenses that were ineligible for reimbursement. Auditors recommended that Ag&Mkts work with UDC to: strengthen policies and enforce provisions of the Apple Market Order contract; review the expenses identified by the audit and seek repayment for inappropriate, excessive, or ineligible expenses from the New York Apple Association, Inc.; and implement procedures to more effectively monitor market order expenses, such as obtaining electronic expense documentation and performing periodic analyses to identify questionable or unallowable expenses.

Safety of Seized Dogs (Follow-Up) (2019-F-5). New York's Agriculture and Markets Law (Law) empowers Ag&Mkts to set standards for the humane care of seized dogs and to inspect municipal dog shelters outside of New York City. The Law sets time periods that shelters must hold seized dogs, known as the redemption period, during which time the dog may be redeemed by its owner. The Law requires that seized dogs be properly sheltered, fed, and watered and receive proper care for the redemption period. The initial report (2017-S-49) determined Ag&Mkts was adequately overseeing the seizure of dogs to ensure dogs' safety and protect the rights of owners. However, auditors identified four relatively minor deficiencies at four of the 48 shelters visited, including peeling paint, undersized cages, and expired food. They also found nine seized dogs at eight shelters that were not held for the full redemption period, and the majority of the instances of premature disposition were not identified in Ag&Mkts' most recent inspection reports. Furthermore, the audit found 290 shelter and officer inspections that exceeded the time frame for completion by 30 days or more, including 100 that followed an inspection with an unsatisfactory rating. Auditors recommended that Ag&Mkts: 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. The follow-up review found Ag&Mkts had made progress in addressing

the problems identified in the initial audit report. Ag&Mkts had: inspected the four shelters with deficiencies and taken corrective action; implemented a new process and updated procedures to help ensure inspections were being completed within the designated time frame; and taken steps to ensure seized dogs are held for the proper redemption period. However, it had not evaluated its record sampling process, as recommended. Of the three prior audit recommendations, two had been implemented and one had not been implemented.

Oversight of Weights and Measures Programs (Follow-Up) (2019-F-11). Ag&Mkts oversees the inspections of: all commercial devices used to measure commodities sold on the basis of weight, volume, or size to ensure accuracy of measurement; packaged goods to ensure the accuracy of product contents indicated on labels; and gasoline and diesel fuels sold for use in motor vehicles to ensure quality standards are met and labeling is accurate. Its Bureau of Weights and Measures (Bureau) shares inspection responsibility with 60 municipal weights and measures offices. Generally, the municipalities perform inspections within their jurisdictions, while the Bureau performs inspections that require special equipment or expertise. Ag&Mkts supervises municipal activities; provides training to municipalities; and develops regulations, procedures, and guidelines to ensure uniformity in the conduct of the inspections and the enforcement of the law and regulations. Municipalities are required to maintain documentation supporting their program activities and to submit an annual report detailing their results. Ag&Mkts uses several databases to collect data for monitoring and tracking purposes. The initial audit report (2016-S-98) identified systemic issues with the quality of the data Ag&Mkts relies on to administer the State's weights and measures program. The Bureau did not have written procedures for standards of quality control or data utilization for its databases, or a process for verifying data entry. Additionally, not all municipalities completed their mandated annual inspections, and municipalities reported that they needed training focused on reporting, workload prioritization, and record keeping to help them perform their duties more effectively. Furthermore, site visits to seven municipalities found most of them did not complete all their mandated annual inspections. The follow-up review found Ag&Mkts had made significant progress addressing the problems identified in the initial audit report, having implemented all four prior audit recommendations.

Department of Environmental Conservation
(DEC)

Oversight of the Pesticide Reporting Law (2017-S-57). DEC administers the Pesticide Reporting Law (PRL), which requires every certified commercial pesticide applicator, certified commercial pesticide technician, and commercial permit holder to report regulated pesticide sales and use occurring each calendar year to DEC. The PRL provides for the compiling of pesticide sales and data that would be useful and applicable to human health issues and research, such as cancer research and education, and also makes the compiled data available to the public in aggregate form. The Department of Health's Health Research Science Board (HRSB) considers requests for confidential information from the PRL database for purposes of health-related research projects. DEC, in cooperation with Cornell University (Cornell), operates the pesticides sales and application database. Electronic submissions are entered directly into the database and DEC reviews paper submissions for legibility and submits them to a data entry vendor to be converted for the database. Cornell subjects the data to two validation steps designed to identify errors, and DEC staff investigate and correct errors. Based on tests of samples, auditors found that pesticide application and sales data entries, as well as corrected error reports, were reasonably accurate. However, while the data system has controls to identify errors, reports with low rates of errors are being entered into the database without being corrected. While DEC attempts to fix as many as possible, many remain in the database

uncorrected, attributable to limited resources. For calendar year 2013, 81,176 of the 259,705 errors identified were not corrected. Auditors found that DEC had begun migrating the PRL database to its systems, but according to Office of Information Technology Services (ITS) officials, the procurement process for this work was not to begin until at least 2019 or 2020. Auditors also found that the PRL data is being used to make aggregate pesticide sales and use data available to the public, but it is not being used for human health research. According to the HRSB, researchers do not request access to the PRL database because correlating pesticides with human health issues requires exposure data, such as blood and tissue samples, rather than locations of applications. However, DEC, the HRSB, and Cornell indicate that the data has value for other purposes. Auditors recommended that DEC work with ITS to improve the PRL database reporting system, including increasing efficiencies for identifying and correcting errors to improve the accuracy and timeliness of the data reported on the website, and collaborate with ITS during the PRL migration to develop and implement an effective process to ensure that all reports received from registered applicators and sellers are entered into DEC's pesticide systems.

Report of Title V Operating Permit Program Revenues, Expenditures, and Changes in Fund Balance for the Eight Fiscal Years Ended March 31, 2017 (2017-S-81). The Title V Operating Permit Program (Program) was established under Title V of the federal Clean Air Act Amendments of 1990 (Act) to help control excessive industrial pollution by requiring states to monitor pollutant output and to remedy violators that produce pollutant quantities in excess of established limits. Pursuant to New York's Clean Air Compliance Act of 1993 (CACA), DEC is responsible for developing and administering the Program. Air pollution sources subject to the Program must obtain an operating permit and pay annual fees established by the Act. OSC is required to perform a biennial audit of the Program. Auditors found that DEC generally had adequate procedures to capture the Program's revenues, expenditures, and changes in fund balance transaction data. However, their review of 32 invoices totaling $8,328,281 billed to Title V facilities found that seven (22 percent), totaling $3,214,420, were billed incorrectly by $352,418 (11 percent), and that $142,932 in direct non-personal service expenses for DEC was overcharged to the Program Fund. In addition, Program revenues were insufficient to cover Program expenses, as required by the Act and CACA. As of March 31, 2017, DEC reported a Program Fund deficit of more than $20.3 million. However, the reported deficit did not include almost $50.4 million in Program expenses that DEC paid primarily from its General Fund appropriations. Considering the expenses paid with non-Program funds, the Program's effective operating deficit would be $70.7 million as of March 31, 2017. Auditors recommended that DEC: take steps to improve monitoring systems to ensure expenses are appropriately charged to the Program; and work with relevant stakeholders to develop a strategy to bring the Program into self-sufficiency, in compliance with the Act.

Oversight of Waste Tire Site Cleanup and Use of Waste Tire Fees (2018-S-43). In 2003, the Waste Tire Management and Recycling Act (Act) was enacted to ensure the proper management of waste tires in the State. DEC is responsible for enforcement and abatement (cleanup) of waste tire sites. The Act established a fee of $2.50 for each new tire sold, all fees are deposited in the Waste Management and Cleanup Fund (Fund), and DEC is authorized to use those fees to administer the Act and dispose of refuse and other solid waste. Auditors found DEC had made significant progress abating identified waste tire sites. Of 187 non-compliant sites identified by DEC, nearly 44 million tires (99 percent) had been abated at 160 sites (86 percent) as of October 2018. However, auditors identified delays establishing a new abatement contract through the Office of General Services (OGS) after the prior contract expired, partially because DEC had not promptly obtained consent orders (which allow the contractor access to the sites) for a sufficient number of sites to be included in the contract. Auditors also found some expenses charged to the Fund that did not appear to be related to activities allowable under the Law. DEC officials told the auditors that they had developed a process that allows divisions with mandated responsibilities that include, but are

not limited to, activities covered under the Law to charge certain amounts to the Fund. However, the methodology was neither retained nor provided for review. Auditors recommended that DEC: collaborate with OGS in the future to renew or establish new abatement contracts in a timely manner; take steps to initiate enforcement actions as promptly as possible for non-compliant sites, especially for those sites that demonstrate a lengthy period of non-compliance and where the owner has not agreed to or begun voluntary abatement activities; and establish and document a methodology to estimate the portion of expenses to be charged to the Fund consistent with the authorized purposes under the Law, especially for those divisions that carry out multiple mandates.

Department of Financial Services
(DFS)

Oversight of the Title Insurance Industry (2017-S-10). DFS regulates title insurance, which protects the property owner and mortgage lender against future claims for any unknown defects in the title to the property at the time of sale. DFS is required to conduct an examination at least once every five years of every authorized domestic insurer that makes or files rates. Additionally, DFS reviews specific functions that the Title Insurance Rate Service Association (TIRSA), which is a statistical agent of DFS and a rate service organization, performs for its members and DFS. As of 2014, every title insurance agent is required to be licensed by DFS. DFS is authorized to monitor abuses by agents and to suspend or revoke licenses when necessary. Additionally, compensating someone for a referral for title insurance is a violation of the Insurance Law. DFS has been working to address activities and expenses that officials say are inappropriate and that have unnecessarily increased the cost of title insurance for New Yorkers. Auditors found that, while DFS has worked to strengthen its oversight through the regulatory process, enforcement of the existing regulations has lagged. As of August 2018, 2,727 title agents had been licensed by DFS. Between September 2014 and March 2018, DFS issued 27 fines for licensing, totaling just over $57,000. Of those fines, only four – for just under $23,000 – were for business conduct. Additionally, during the audit period, no title insurance companies were fined. While DFS' most recent TIRSA examination yielded a report with 21 recommendations, including some to address weaknesses related to data reasonableness, compliance with recommendations from previous examinations, and lack of policies and procedures, DFS officials could not support that corrective action had been taken. DFS also conceded that it has been aware of reliability issues with data generated or used by TIRSA since March 2009. Additionally, DFS officials placed impediments on the audit, including delays in access to records needed to evaluate the effectiveness of their oversight. As a result, there is a risk that material information concerning DFS' oversight of the industry was withheld. Auditors recommended that DFS: formally assess enforcement actions and monitoring activities to determine if its oversight is effective; develop and implement procedures for the utilization and quality assurance of information it uses to make decisions related to the title insurance industry; follow up to ensure recommendations resulting from examinations are monitored and implemented; and allow unfettered access to people and documents relevant to audits and create a plan of action to fully comply with all future audit requests.

Department of Labor
(DOL)

Protection of Child Performers (Follow-Up) (2018-F-24). Within DOL, the Child Performers Unit (Unit) is responsible for monitoring compliance with the New York Codes, Rules and Regulations (NYCRR) and State Labor Laws, which were established to protect child performers whose interests and well-being during employment may be vulnerable to exploitation. The Unit facilitates compliance through the use of an

electronic permit application system (System) and permit requirements for child performers and certification of employers. The initial audit (2016-S-70) examined whether DOL adequately ensured that parents/guardians and employers complied with the legal requirements that help protect the welfare of child performers. Auditors found that DOL had not created a sound and effective system of internal controls for the Unit, and did not have the necessary controls to monitor and enforce compliance with regulations designed to protect child performers' earnings. In addition, the System had significant data entry, maintenance, and functionality deficiencies that limited its effectiveness and reliability as a monitoring tool. Additionally, DOL did not properly use data analysis or System data reports to identify and correct potential System flaws. Auditors recommended that DOL: design and implement a system of internal controls to ensure that the welfare of child performers is protected and that parents/guardians and employers comply with the requirements of the law and the NYCRR; and, in conjunction with the Office of Information Technology Services, develop a System that can easily and readily store, access, and analyze required child performer and employer information and develop a process to identify and correct apparent System flaws. The follow-up review found that DOL officials had not made progress in addressing the issues identified in the initial report, having implemented neither of the two recommendations.

Restrictions on Consecutive Hours of Work for Nurses (Follow-Up) (2019-F-12). DOL is responsible for enforcing the Restrictions on Consecutive Hours of Work for Nurses Law (Law), which limits the consecutive hours of work by Registered Nurses and Licensed Practical Nurses in non-emergency situations. Nurses who feel their employers have violated the Law may file complaints with DOL's Division of Labor Standards (Division), which will conduct investigations. The initial audit (2017-S-14) found the Division lacked policies and procedures to guide its complaint investigations, resulting in missing documentation, inconsistent application of the Law, delayed investigations of State-operated facilities, and poor communication with complainants. Additionally, the Division's Worker Protection Monetary System (WPM System) lacked the functionality to provide useful information to Division management to effectively oversee complaint investigations. The Division was also unaware of all employers that fall under the Law. 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; 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. The follow-up review found the Division had made some progress in addressing the problems identified in the initial audit report. The Division had improved its communication to facilities and complainants, began addressing complaints individually, made changes to facilitate handling of complaint information, developed a partial listing of employers to whom the Law may apply, and initiated a proposal to publicly list employers who violate the law. However, the Division had not established policies to ensure the timely investigation of complaints and had more work to do to complete some of its other actions taken to address the original audit's recommendations. Of the five prior audit recommendations, one had been implemented and four had been partially implemented.

Department of Motor Vehicles
(DMV)

Enforcement of Article 19-A of the Vehicle and Traffic Law (2018-S-7). Article 19-A of the New York State Vehicle and Traffic Law (Law) creates standards for the qualification of bus drivers including: physical examinations; criminal background checks; review of driving records; and written, behind-the-wheel, and

oral tests. The DMV establishes and enforces policies for the State's Article 19-A Program (Program) to support the Law's requirements. Motor carriers that meet the Law's criteria are required to enroll in the Program, to be instructed in and comply with the Program's requirements, and to document and maintain records showing that these standards have been met. The DMV reviews drivers' records at enrolled motor carriers at least once every three years to determine compliance. Entities that believe they do not meet the Law's criteria for enrollment can apply for an exemption. Auditors identified deficiencies in DMV policies and procedures that could result in motor carriers operating out of compliance with Program requirements – with the associated risk that underqualified or unqualified drivers who do not meet State standards are operating buses. For instance, due to a lack of clarity regarding certain regulatory terms, the DMV did not always handle exemption requests consistently across motor carriers with similar busing services, granting some – potentially improperly – while denying others. Nor did the DMV consistently document the basis for an entity's exemption or review past exemptions to determine if they were still appropriate. In addition, the DMV did not use all readily available information to identify entities that may be subject to, but were not enrolled in, the Program. For example, auditors identified 311 entities that appeared to meet the Law's criteria but were neither enrolled in the Program nor exempted. Furthermore, in January 2018, the DMV launched a streamlined process for reviewing motor carriers' compliance that gives motor carriers advance notice of the driver files coming under review – and also the opportunity for less scrupulous motor carriers to come into compliance, or give the appearance of compliance, upon review. Auditors recommended that the DMV: develop and consistently apply policies and procedures and issue detailed guidance that clearly explains which entities are required to comply with the Law; develop a process to periodically review entities that previously received exemptions and determine if their exemption status remains applicable; determine if the 311 entities auditors identified are subject to the requirements of the Law, and require their enrollment in the Program, as warranted; develop a process to identify motor carriers using all relevant information that is available; and formally assess the new record review program to determine its effectiveness, and include a risk assessment of motor carriers to determine if it is necessary to incorporate on-site unannounced evaluations into future motor carrier reviews.

Assessable Expenses of Administering the Motor Vehicle Financial Security Act and Motor Vehicle Safety Responsibility Act for the Four State Fiscal Years Ended March 31, 2018 (2019-M-1). The Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act (collectively, Acts) help ensure that the operators of motor vehicles driven in New York State possess adequate insurance coverage, or are financially secure, to compensate those persons they might injure or whose property they might damage as a result of an accident. According to Vehicle and Traffic Law, the DMV is responsible for tracking its expenses of administering the Acts, and assessing these expenses on insurance carriers that issue policies or contracts of automotive bodily injury insurance. Auditors performed certain procedures, which were agreed to by the DMV, to ascertain the expenses it incurred in administering the Acts for the four State fiscal years ended March 31, 2018. On average, the DMV incurred $20.4 million in expenses to administer the Acts for each of the four State fiscal years.

Registration and Enforcement of Automotive Service, Sales, and Salvage Facilities (Follow-Up) (2018-F-25). The Vehicle and Traffic Law outlines the DMV's responsibilities for administering the registration and licensing for certain types of automotive businesses, including the registration of repair shops, dealers, dismantlers, and junk and salvage facilities and the licensing of inspection stations. The DMV is also responsible for issuing and enforcing regulations of these automotive businesses and for receiving, investigating, and responding to complaints from the public relating to the types of automotive businesses it regulates. Where facilities are found to be in violation of laws, rules, or regulations, the DMV may issue penalties, suspend or revoke registrations/licenses to operate, or refer the operator or facility for criminal

prosecution. The initial audit (2016-S-71) identified many automotive facility locations where businesses could potentially be operating without a license and delays in the DMV's process for handling consumer complaints. At the time of the follow-up review, DMV officials had made significant progress in correcting the problems identified in the initial report. However, while the DMV had taken steps to improve its identification of potentially unregistered facilities and to determine whether they continue to operate, it had not yet established a periodic analysis of publicly available information. Of the three prior audit recommendations, two had been implemented and one had been partially implemented.

Department of Taxation and Finance

(Tax and Finance)

Administration and Collection of Real Estate Transfer Taxes (2017-S-88). Tax and Finance's mission is to efficiently collect tax revenues in support of State services and programs while acting with integrity and fairness in the administration of State tax laws. The Real Estate Transfer Tax (RETT), a tax on the transfer of real property, applies to sales or conveyances of real property or interests in real property when the consideration exceeds $500, at a rate of $2 for every $500 of consideration exchanged. The tax is paid by the grantor (seller), unless the grantor is exempt from the tax or does not pay, in which case the grantee (buyer) must pay the tax. State RETT collections total about $1.1 billion annually. Transfers of interests in real property, including those of real estate investment trusts, easements, and leases, are subject to RETT, although transactions involving properties given as bona fide gifts or sold at tax sale, for example, are exempt. RETT is generally paid during deed recording at county clerk offices, which then remit the tax to Tax and Finance. As of June 2018, 57 New York counties were remitting RETT information to Tax and Finance in hard copy form. The remaining five counties were remitting this information electronically, including four that used the same electronic system. Auditors found that Tax and Finance had – with certain exceptions – adequate systems and practices in place that allow it to effectively collect RETT. However, reliance on hard copy RETT returns and related information from most State counties limits Tax and Finance's ability to efficiently and effectively analyze information to identify higher-risk transactions. Auditors also identified certain RETT errors in Tax and Finance's internal transaction-level system. Auditors recommended that Tax and Finance pursue options for collaborating with county recording officers to develop solutions for collecting RETT electronically, and ensure that planned improvements to existing systems address the issues identified in their report.

Department of State

(DOS)

Monitoring of Not-for-Profit Cemeteries for Fiscal Stability and Adequate Facility Maintenance (Follow-Up) (2018-F-22). DOS's Division of Cemeteries (Division) oversees the establishment, maintenance, and preservation of burial grounds for all not-for-profit cemetery corporations (cemeteries) in New York State. The initial audit (2016-S-79) examined whether the Division sufficiently monitors cemeteries to ensure fiscal stability and adequate facility maintenance. Auditors found that, as of September 30, 2016, Division records indicated 37 percent of the 1,745 cemeteries under the Division's jurisdiction had overdue audits, 16 percent had delinquent annual reports, and 8 percent had overdue audits and delinquent annual reports. In addition, as of December 1, 2016, 22 percent of cemeteries had not been inspected in over seven years. Auditors also found that weaknesses in data integrity, entry, and access pose challenges in terms of data reliability and the usefulness of DOS's mainframe data application as a risk assessment tool. (Division officials acknowledged that the mainframe is in need of improvement, and indicated they are developing a new, more comprehensive database.) In addition, auditors' analysis of the fiscal condition of

64 cemeteries using two measures developed by the Division found Permanent Maintenance Funds at 37 locations to be underfunded by a median of at least $25,500. All 71 cemeteries that auditors visited appeared to be well maintained, but 54 percent did not have all the proper information posted for visitors, as required. Auditors also determined that the Division's internal policies and procedures and manuals for cemeteries had not been updated to reflect the latest laws and regulations. The follow-up review found that DOS had made some progress in addressing the problems identified in the initial audit report, having implemented a new data management system in 2018 and taken steps to remind staff of their responsibilities to check cemeteries for required information for visitors. Additionally, DOS had made progress on updating operational manuals used by the Division and on working with cemeteries to ensure sufficient funding. Of the four original recommendations, two had been implemented and two had been partially implemented.

Division of Homeland Security and Emergency Services
(DHSES)

Awarding and Oversight of Statewide Interoperable Communications Grants (Follow-Up) (2018-F-27). DHSES oversees and directs the development, coordination, and implementation of policies, plans, standards, programs, and services related to interoperable and emergency communications. The initial audit (2016-S-90) examined whether DHSES awarded contracts to entities that met eligibility requirements and provided adequate oversight of Statewide Interoperable Communications Grant (SICG) awards to ensure grant funds were allocated and spent for intended purposes. Auditors concluded that DHSES had awarded SICG funding to qualified recipients in accordance with its requirements and had assessed and re-evaluated its eligibility criteria after each round of awards was issued to ensure that the SICG program achieved its intended goal of statewide interoperability. While auditors identified certain process deficiencies in the areas of monitoring and documentation that could increase the risk of inappropriate use of funds and hinder DHSES' progress toward statewide interoperability, they found that DHSES was generally meeting its obligations for ensuring that grant funds were appropriately allocated. The follow-up review found that DHSES had significantly addressed the issues identified in the original audit, having implemented all three prior recommendations.

Continuity of Operations Planning (Follow-Up) (2019-F-13). 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 should have in place for each of its facilities. Toward this end, DHSES has developed a series of guidance documents (Guidance) intended to aid agency planning teams when they prepare COOPs. Further, DHSES has supported agencies' COOP efforts through workshops, presentations, and hands-on technical planning assistance. COOPs can help government agencies ensure the stability of essential functions through a wide range of emergencies and disasters. The initial audit (2017-S-33) examined the adequacy of State agencies' continuity of operations planning for major unexpected events. Auditors tested a sample of 11 State agencies and found they had incorporated certain essential features of the COOP best practices endorsed by DHSES. They also identified some opportunities for improvements to COOP practices that would enable the agencies to handle emergency or disaster situations more effectively. The follow-up review found that DHSES had addressed the issues identified, having implemented both recommendations from the initial audit.

Dormitory Authority of the State of New York
(DASNY)

Monitoring of Prevailing Wage Compliance on Construction Contracts (Follow-Up) (2018-F-30). DASNY is a public benefit corporation whose purpose is to finance and construct buildings for a variety of public and not-for-profit entities, including universities, health care facilities, and State agencies. Most DASNY construction contracts require the contractors to pay prevailing wages in accordance with Article 8, Section 220 of the State Labor Law (Article 8). Under Article 8, projects must be identified as public work at the bid solicitation; contractors must file an original payroll that includes each worker's name, address, hours and days worked, hourly rate, and job title; wages should not be paid at less than the prevailing wage rate for the locality where the work is performed; prevailing wage notification must be conspicuously posted at the job site; and all prevailing wage rate complaints must be investigated. The Department of Labor (DOL) is responsible for enforcing Article 8 requirements and for investigating all prevailing wage complaints. DOL requires that agencies that let contracts for public work projects (such as DASNY) advertise a project as public work, provide contractors with the appropriate prevailing wage rate schedule for the project, and perform a payroll review of the certified payrolls submitted by contractors. DASNY has an agreement with DOL to fund an Investigator dedicated to enforcement of the prevailing wage law on DASNY projects in the New York City area. The initial audit (2015-S-99) found that DASNY had implemented appropriate controls to meet its specific Article 8 responsibilities. However, although DASNY project managers and field representatives visited construction project sites, they did not routinely inspect the sites to ensure that prevailing wage rates were posted, as required. Auditors also found that DASNY could improve its monitoring of the Investigator's efforts and results by obtaining detailed evidence of the Investigator's actual work. The follow-up review found that, while DASNY had made progress addressing the issues identified in the original audit, it had not developed a process to document its efforts to ensure that prevailing wage rates are posted. Of the two prior audit recommendations, one had been implemented and one had been partially implemented.

Gaming Commission
(Gaming)

Equine Health and Safety (2017-S-77). Gaming supervises four thoroughbred tracks and seven privately owned harness tracks in the State. Gaming's Equine Medical Director (Director) is responsible for all aspects of equine health, safety, and welfare at State racetracks, including supervision of equine testing procedures and veterinary protocols and investigation of racing incidents. Auditors found that, while the Director had implemented many new measures to improve Gaming's practices to promote equine health and safety, Gaming could better document daily operating policies and procedures, improve how incident information is recorded, and ensure adherence to drug testing requirements. Also, despite an internal audit recommending that Gaming create a comprehensive database of drug testing samples, Gaming has yet to do so. Auditors recommended that Gaming: develop and ensure adherence to written policies and procedures for operations pertaining to equine health and safety for both harness and thoroughbred racetracks; and, as soon as practicable, develop and implement a comprehensive database that more effectively tracks each drug test sample from receipt through final disposition.

New York Power Authority
(NYPA)

Real Estate Portfolio (Follow-Up) (2017-F-16). Under Public Authorities Law, Section 2896, NYPA is required to maintain adequate inventory controls for its property, to report annually on all property held, to determine which property shall be disposed of, and to transfer or dispose of such property as promptly as possible for fair market value. The initial audit (2013-S-32) found that NYPA: did not include all its property in the reports it submits to the State and posts on its website; has not been consistent in how it reports disposal of real property; and does not regularly review its real estate portfolio, as required, to identify properties it no longer needs. Additionally, auditors determined that NYPA property with a fair market value of more than $15,000 had been leased for less than fair market value without notifying the Executive and the Legislature, as the Law requires. Among auditors' key recommendations, NYPA should: ensure that information systems used to track real estate holdings are updated timely to reflect when property is acquired or disposed of; evaluate the continued need for property owned and property leased from other entities; and notify the Executive and the Legislature when property is leased for less than the fair market value, and provide the justification for such action. The follow-up review found that NYPA had made some progress in addressing the problems identified in the prior report. However, additional actions are warranted. NYPA had not updated its information systems in a timely manner, nor had it formally reviewed its properties to determine whether they needed to be retained. Of the nine prior audit recommendations, two had been implemented, four had been partially implemented, and three had not been implemented.

Selected Management and Operations Practices (Follow-Up) (2017-F-17). State law requires the State Comptroller to conduct an audit of NYPA's management and operations practices at least once every five years. The initial audit (2015-S-20) encompassed a review of three areas: (1) ReCharge New York (RNY), to determine whether NYPA managed the RNY program according to statute, accurately reported job creation goals and other program metrics, and phased out customers of the former discounted energy programs as provided in the RNY law; (2) Disposition of Personal Property, to determine if NYPA disposed of personal property valued over $5,000 in accordance with its procedures; and (3) the Energy Efficiency Project, to determine if the savings reported as of April 9, 2015 were properly supported. Auditors found that NYPA had reported some incomplete information to the public, which could lead the public to draw incorrect conclusions about RNY. For example, NYPA publicly reports the power allocations that it offers to RNY applicants, but not the power that applicants actually accept. NYPA also reported job commitments and included businesses that were awarded a power allocation but were in pending status because they did not sign a contract. In some cases, these businesses later declined the contracts. In June 2015, this resulted in an overstatement of job commitments reported by 29,795 (7.7 percent). Auditors also determined that NYPA sold scrap metal and plant equipment without appropriate controls and accountability, and it had poor controls over the disposition of fleet vehicles. In addition, NYPA's claimed energy efficiency savings were not always properly supported. Auditors presented 12 recommendations, including that NYPA: clarify its reporting; establish controls over valuation and sale of scrap metal and disposition of fleet vehicles; and require project managers to prepare and maintain records to support energy efficiency savings. The follow-up review found that NYPA had made progress in addressing the issues identified. NYPA had changed its annual report to more clearly identify pending allocations and related job commitments, but the total number of jobs remained overstated. Additionally, NYPA had issued procedures for sale of scrap metal, but had not implemented all requirements. Auditors also found that NYPA could improve its documentation showing how savings are calculated. Of the 12 prior audit recommendations, two had been implemented, seven had been partially implemented, and three had not been implemented.

MULTI-AGENCY

Office of Temporary and Disability Assistance, New York City Department of Social Services, and New York City Department of Health and Mental Hygiene

Oversight of Certified Homeless Shelter Food Services (2017-S-53). Shelter operators are required to provide meals that are balanced, nutritious, and adequate in amount to meet residents' dietary needs. All food served in New York City shelters must comply with New York City Food Standards (Food Standards), which set minimum nutrition requirements. Food service workers should also be regularly tested for tuberculosis (TB). The Office of Temporary and Disability Assistance (OTDA) oversees food services in certified shelters; the New York City Department of Homeless Services (DHS), an administrative unit of the Department of Social Services, is responsible for ensuring that shelters in the City meet standards established in the New York Codes, Rules and Regulations and local laws and codes; and the New York City Department of Health and Mental Hygiene (DOHMH) inspects and issues permits to food establishments, including to shelters that serve food to residents. Auditors found that OTDA, DHS, and DOHMH did not provide adequate oversight of food services for certified homeless shelters. Specifically, for the 15 shelters sampled, on average, only 59 percent of the food inspections by the three agencies had been completed, with DHS completing only 18 percent; 75 of 95 adult shelter food service workers (79 percent) at the 15 shelters sampled did not comply with State regulations regarding TB testing requirements; and, due to insufficient documentation, there was no assurance that meals were balanced and nutritious and complied with State regulations and Food Standards. Among auditors key recommendations, the responsible agencies should: enhance monitoring and oversight of food services by performing inspections in accordance with applicable regulations and policies; finalize and implement shelter food inspection policies and procedures; ensure that food service workers remain current with TB testing requirements; and require shelter providers and caterers to submit menus and other supporting documentation that clearly denote nutritional information for all individual food items served.

Department of Labor and Department of Taxation and Finance

New York Youth Jobs Program (2017-S-69). Under the New York Youth Jobs Program (Program), eligible employers may receive tax credits when they hire unemployed, disadvantaged youth ages 16 to 24 who live in the State. The Department of Labor (DOL) certifies both employer and youth eligibility, while the Department of Taxation and Finance (Tax and Finance) establishes procedural requirements for claiming Program tax credits and determines whether claimed credits are allowable. Auditors found that DOL could improve its methods for verifying youth eligibility, and Tax and Finance could better ensure that the tax credits granted are accurate and for only Program-eligible youth. Auditors identified 209 of 359 individuals in the audit sample who were certified by DOL and were either not Program-eligible or potentially not eligible or whose employer records did not support the claimed full-time high school status, with employers claiming and receiving $191,336 in tax credits that they may not have been entitled to for the 209 individuals. Auditors also found Program tax credits were granted by Tax and Finance for 145 employees whose eligibility was in question, whose eligibility was inadequately supported, or who were inaccurately claimed, including tax credits allowed for 29 employees who were not certified by DOL as Program-eligible. Auditors recommended that: DOL develop risk-based procedures to ensure that only eligible youth are certified for the Program; and that Tax and Finance improve procedures to help ensure Program tax credits are appropriately claimed and allowed, such as providing clarified tax credit instructions to employers, and take appropriate action to investigate and recover – where applicable – the $191,336 in excess tax credits allowed.

SPECIAL REPORTS

Education

2018 Annual Report on Preschool Special Education Audit Initiative. The State Education Department (SED) oversees special education programs providing services to students with disabilities between the ages of 3 and 21 in New York State. While most school-age students with disabilities in New York receive their educational services from public school districts, preschool special education services are predominantly provided by private providers. SED reports that about 79,000 preschool students with disabilities received services throughout the State from over 400 approved providers at an annual cost of almost $1.4 billion to the State and its local governments.

In 2018, OSC completed 18 audits of expenses submitted to SED by special education providers, including 17 preschool special education providers and one school-age special education provider. These audits cumulatively identified almost $14.8 million in recommended disallowances, or about 4 percent of the total claimed expenses of $372 million for the audit period. In addition, OSC auditors questioned almost $8 million in other costs. Disallowed expenses range from claimed costs for services provided directly to children to administrative functions. OSC's audits have uncovered inaccurate and inappropriate self-reported program costs, as well as ineffective program monitoring and oversight.

The audits completed in 2018 indicate that there continue to be inaccuracies in cost reporting by special education providers to SED. The dollar amount of audit findings increased, from $12.5 million (or 2.76 percent of the total claimed) in 2017 for 23 audits completed, to almost $14.8 million (or 3.97 percent of the total claimed) in 2018 for 18 audits completed. The number of findings in certain categories continues to be of concern. In particular, errors related to the allocation and/or the inappropriate claiming of personal service and other than personal service expenses claimed from other programs and parent company agency administration costs remain widespread.

Housing

Metropolitan Transportation Authority: Homeless Outreach Programs on MTA Properties (2019-D-1). The MTA and its constituent agencies — Long Island Rail Road (LIRR) and Metro-North Railroad (Metro-North) — provide commuter rail service throughout the region, carrying an average of 600,000 customers daily to their destination via Pennsylvania Station and Grand Central Terminal. In addition, New York City Transit (Transit) operates the New York City subways.

The presence of homeless people on MTA properties has been a growing concern for LIRR, Metro-North, and Transit customers and staff, sometimes presenting law enforcement issues. In an effort to better address the issue and to assist homeless individuals as much as possible, the MTA, LIRR, and Metro-North entered into separate contracts with not-for-profit contractors for homeless outreach services on their properties. To further support its efforts, the MTA also entered into a Memorandum of Understanding (MOU) in September 2013 with the New York City Department of Homeless Services (DHS), an administrative unit of the New York City Department of Social Services, to provide homeless outreach services to reduce the number of homeless individuals sheltering on subway premises. According to the MOU, DHS agreed to enter into a contract with an outreach provider to perform the homeless outreach services on behalf of itself and the MTA. Subsequently, in June 2014, DHS contracted with the Bowery Residents' Committee (BRC) to provide homeless outreach services. Since 2015, the MTA and its

constituent agencies, as well as DHS, entered into contracts totaling almost $35 million for homeless outreach services.

In January 2018, OSC initiated a series of audits to determine whether the MTA and its constituent agencies have appropriate oversight and monitoring controls over homeless outreach services on MTA properties and whether they have met the goal of maintaining a safe, secure transit environment by assisting homeless individuals to appropriate shelters off MTA properties. Despite the significant allocation of resources, OSC generally found no discernible decrease in the number of homeless sheltering on MTA properties based on reported data. Overall, OSC determined that the MTA and its constituent agencies do not have sufficient oversight and monitoring controls over the homeless outreach contracts or over homeless outreach services on MTA properties.

Across all audits, for instance, OSC found the contracts with the not-for-profit contractors did not include adequate performance measures, criteria, or sufficiently explicit language to hold contractors accountable for meaningful results. Further, the standardized activity reports that contractors are required to produce — and which the MTA uses to track success and inform decision making — were based on inaccurate and/or incomplete data. Consequently, the MTA has no assurance that outreach workers are providing an adequate level of services and cannot trust that homeless clients are being served as intended and that outreach is being directed to where it is needed most.

In each of the first three completed audit reports, OSC made recommendations to improve the MTA's oversight of homeless outreach services on MTA properties. In their responses, the MTA and constituent agency officials generally agreed with the recommendations and stated that they had taken the necessary steps toward addressing those weaknesses and had implemented corrective measures to ensure improvements within the homeless outreach program. However, as valuable as these respective actions by the MTA and its constituent agencies may be, given the scope of the problem and the commonality of outreach issues, OSC believes their hoped-for outcomes can be even better served through a concerted, unified effort involving all stakeholders.

Contact

Office of the New York State Comptroller
110 State Street
Albany, New York 12236

(518) 474-4044

www.osc.state.ny.us

Prepared by the Division of State Government Accountability

Like us on Facebook at facebook.com/nyscomptroller
Follow us on Twitter @nyscomptroller