

Department of Health Office of General Services

State Public Health Emergency Medical Stockpile

Report 2023-S-14 | April 2025

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine what steps the Department of Health (DOH) and the Office of General Services (OGS) have taken during the procurement process for medical equipment for public health emergencies to ensure usability of the equipment purchased and whether DOH and OGS have managed and maintained—in functioning condition—the inventory of the State’s medical stockpile. Our audit scope covered the period from January 2020 through June 2024.

About the Program

DOH’s Office of Health Emergency Preparedness (OHEP) is responsible for coordinating and managing all activities for public health and health care facility emergency preparedness. This includes planning for public health emergencies and ensuring emergency plans work in drills, exercises, and real life, such as during the COVID-19 pandemic. OHEP is responsible for purchasing, receiving, maintaining, and managing DOH’s Medical Emergency Response Cache (MERC), which is located at warehouses across the State and includes pharmaceuticals and medical supplies, equipment such as beds and ventilators, and personal protective equipment (PPE) such as masks and gloves. During emergencies, as needed, OHEP may distribute PPE or durable medical equipment (DME) from its MERC. For the purposes of this audit, we concentrated on DME that was necessary in response to the COVID-19 public health emergency, such as ventilators and X-ray machines. Unlike normal procurement circumstances, DOH was not involved in decisions regarding ordering supplies and DME during the onset of COVID-19. According to DOH officials, the “former Executive Chamber” was responsible for DME procurement decisions at that time, with direction from a consultant who, according to OGS, was responsible for projecting the quantity of DME the State would need to respond to COVID-19. During the public health emergency, based on paid vouchers and credit card transactions provided by DOH, we determined DOH incurred costs of \$452.8 million to procure 247,343 items of DME. As of June 2024, DOH had 9,519 DME items stored in its warehouses, and 240,051 DME items were stored in the Division of Homeland Security and Emergency Services (DHSES) warehouses as of March 2024, for a total State DME inventory of 249,570.

OGS Procurement Services is the State’s centralized procurement office. It solicits, administers, and manages approximately 1,500 contracts on behalf of State agencies and authorities, local governments, school districts, colleges and universities, and other qualifying non-profit organizations. Procurement Services also educates vendors and public purchasers regarding how to participate effectively in the State’s procurement process.

Key Findings

To compete for the purchase of medical equipment to protect the public health and prepare health care facilities during the onset of the pandemic, the State took steps to expedite its procurement process, out of alignment with OGS Procurement Services’ guiding principles. The former Executive’s chamber dictated the procurement orders, with (according to OGS) the quantity of DME projected by the consultant, and when the MERC received the procured DME, OHEP was often unaware of and unable to account for what had been purchased. Specifically, credit card transactions appeared to be an issue; from four out of five credit card transactions sampled worth \$329,790, we found that DOH could not provide proof of delivery for 140 pieces of DME (e.g., ventilators) totaling \$312,644. While factors beyond OHEP’s control initially contributed to OHEP being unable to confirm receipt of all DME

procured during the pandemic, developing new guidance for future public health emergency disasters could provide the direction needed for staff to ensure transactions are recorded and communicated and purchases are received.

Based on paid vouchers and credit card transactions provided by DOH, we determined it incurred costs of \$452.8 million to procure 247,343 items of DME and received 51 items donated by others or received from the federal government, for a total of 247,394 items procured during the onset of COVID-19 (as of November 2020). Of the total DME available for use (including pre-COVID-19 inventory), only 324 items were distributed during the public health emergency, and only three from the 247,343 DME purchased during COVID-19. This leaves a significant amount of DME purchased during the pandemic (247,340 items) still unused in boxes at warehouses, for which the State continues to incur contracted warehouse management costs.

After the COVID-19 public health emergency ended, according to DOH officials, a Medical Stockpile Steering Committee recommended DOH retain 51,140 items of DME in its cache, of which 4,468 items (9%) should receive scheduled preventive maintenance, leaving almost 200,000 DME items without a strategic plan for utilization. Further, DOH stated it could not provide documentation supporting how the Steering Committee reached these decisions regarding how much DME to retain and preventively maintain. Therefore, we could not analyze the Steering Committee's decisions and conclusions regarding specific DME and quantities of DME to be retained and maintained. Additionally, DOH has conducted surveys of the medical community, with facilities expressing interest in 24,585 DME items, but has taken limited action overall to reduce its stockpile. Reducing inventory that does not have a strategic plan could reduce State spending on warehousing unused equipment and assist the State's medical community.

Early in the pandemic, DOH contracted with a vendor to perform initial inspections of the DME in the MERC warehouses, as well as preventive maintenance and repairs on certain equipment. That contract ended in December 2023, and DOH has not been able to secure another. As of December 2024, 4,036 (90%) of the 4,468 DME items recommended to have scheduled preventive maintenance were overdue. Missed preventive maintenance may affect product warranties and risk additional costs to the State for repairs that could have been covered. In addition, failure to maintain DME increases the risk that equipment will need more costly repairs or will not be ready for emergency distribution or work as intended on patients in need.

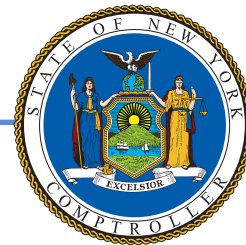
Key Recommendations

To DOH:

- Maintain basic internal controls during emergency scenarios to ensure stewardship over State assets that address concepts such as conducting transactions in an ordinary manner, recording transactions, effective communication, and documenting receipt of purchases.
- Document and preserve the process and/or key factors used when making significant decisions, and keep documentation of key events, such as the Steering Committee's recommendation of DME to be retained and to receive preventive maintenance.
- Develop and implement a statewide public health strategic plan to utilize surplus DME.
- Develop and implement a strategic plan for DME preventive maintenance so that it is ready and reliable for use during public health emergencies.

To OGS:

- Develop and issue statewide guidance for State agency procurements during declared State emergency disasters in conjunction with the State Procurement Council.



Office of the New York State Comptroller Division of State Government Accountability

April 11, 2025

James V. McDonald, M.D., M.P.H.
Commissioner
Department of Health
Corning Tower Building
Empire State Plaza
Albany, NY 12237

Jeanette M. Moy
Commissioner
Office of General Services
Corning Tower, 41st floor
Albany, NY 12242

Dear Dr. McDonald and Commissioner Moy:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *State Public Health Emergency Medical Stockpile*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

- Glossary of Terms** **6**
- Background** **7**
- Audit Findings and Recommendations** **11**
 - Procurement and Receiving **11**
 - Recommendations **14**
 - Management of DME Inventory **15**
 - Recommendations to DOH **18**
 - DME Not Receiving Preventive Maintenance **18**
 - Recommendations to DOH **21**
- Audit Scope, Objective, and Methodology** **22**
- Statutory Requirements** **23**
 - Authority **23**
 - Reporting Requirements **23**
- Agency Comments - DOH and State Comptroller’s Comments** **24**
- Agency Comments - OGS and State Comptroller’s Comment** **28**
- Contributors to Report** **30**

Glossary of Terms

Term	Description	Identifier
DOH	Department of Health	<i>Auditee</i>
OGS	Office of General Services	<i>Auditee</i>
DHSES	Division of Homeland Security and Emergency Services	<i>NYS Agency</i>
DME	Durable medical equipment	<i>Key Term</i>
MERC	DOH's Medical Emergency Response Cache	<i>Key Term</i>
MERITS	DOH's Medical Emergency Response Inventory Tracking System	<i>System</i>
OHEP	Office of Health Emergency Preparedness	<i>Office within DOH</i>
PPE	Personal protective equipment	<i>Key Term</i>
QMG	Quality Medical Group	<i>Key Term</i>
RFP	Request for proposals	<i>Key Term</i>
TecSys	DHSES' inventory database	<i>System</i>

Background

The Department of Health's (DOH) Office of Health Emergency Preparedness (OHEP) is responsible for public health and health care preparedness in accordance with the Public Health Emergency Preparedness and Hospital Preparedness Cooperative agreements, as well as the coordination of DOH's Incident Management System. State and federal regulations require additional preparedness activities by other DOH program areas, including the Office of Primary Care & Health System Management, Office of Aging & Long-Term Care, and Office of Public Health.

Additionally, OHEP's responsibilities include planning for public health emergencies and ensuring emergency plans work in drills, exercises, and real life, such as during the COVID-19 pandemic. OHEP is also responsible for purchasing, receiving, maintaining, and managing DOH's Medical Emergency Response Cache (MERC), which is located at warehouses across the State and includes pharmaceuticals and medical supplies; equipment such as beds, ventilators, and respirators; and personal protective equipment (PPE) such as masks and gloves. MERC assets also include durable medical equipment (DME), which encompasses repeat-use devices and equipment. For the purposes of this audit, we concentrated on DME that was necessary in response to the COVID-19 pandemic, such as ventilators, bilevel positive or continuous positive airway pressure (BiPAP/CPAP) machines, and X-ray machines.

The first case of COVID-19 in the United States was confirmed in the state of Washington on January 20, 2020. By the end of January 2020, the World Health Organization had declared the 2019 Novel Coronavirus, or COVID-19, to be a public health emergency of international concern. The first case in New York State was confirmed on March 1, 2020. Just 10 days later, the World Health Organization declared COVID-19 a pandemic.

With worldwide market demands rapidly increasing as individual consumers went into a panic attempting to purchase excess supplies such as toilet paper, cleaning products, and groceries, governments around the world were also competing to purchase medical equipment to protect public health and prepare health care facilities.

On March 7, 2020, the former Executive issued Executive Order 202, *Declaring a Disaster Emergency in the State of New York*. The executive order authorized all necessary State agencies to take appropriate action to assist local governments and individuals in containing, preparing for, responding to, and recovering from the COVID-19 public health emergency. To expedite the State's procurement process in a changing environment, the executive order temporarily suspended typical procurement such as State Finance Section 112 (requiring Accounting Systems and New York State Comptroller Approval of Contracts), Section 163 (requiring a competitive process for Purchasing Services and Commodities), and Section 97-G (Centralized Services Funds).

Due to the worldwide demand for DME, State officials had limited time when vetting vendor responsibility and purchasing DME. OGS was responsible for identifying vendors the State could purchase DME from. OGS began with known

contracted vendors that could provide DME, followed by vendors who had previously participated in the State’s bidding process but had not been awarded a State contract or that had been vendors for other states. OGS then contacted familiar entities that did not manufacture DME (e.g., General Electric, Ford). Finally, when the former Executive issued an “all-out-call” for any vendor who could provide the needed DME as a last resort, OGS reached out to vendors previously unknown to the State. According to OGS, vetting for the unknown vendors was done by a risk committee that consisted of members of the Executive Chamber, OGS legal counsel, Division of the Budget, and DOH (but not OGS). DOH officials advised us they were involved in vetting some vendors in the DME industry that OGS identified.

According to DOH officials, prior to COVID-19, there were three MERC warehouses in the State. The number of warehouses used to accommodate the influx of PPE supplies and DME expanded to around 20 during the COVID-19 public health emergency. By April 2024, MERC equipment was consolidated down to two DOH and three Division of Homeland Security and Emergency Services (DHSES) warehouses, with the DHSES warehouses managed by the contractor LifeScience Logistics. OHEP uses its in-house database, the Medical Emergency Response Inventory Tracking System (MERITS), to track its inventory, and LifeScience Logistics uses a separate database, TecSys, to track inventory in the DHSES warehouses. These systems are independent, and OHEP does not have access to TecSys.

As of June 2024, DOH had 9,519 DME items stored in its warehouses, and as of March 2024, 240,051 DME items were stored in the DHSES warehouses, for a total State DME inventory of 249,570. During the COVID-19 public health emergency, based on paid vouchers and credit card transactions provided by DOH, we determined the State incurred costs of \$452.8 million to procure 247,343 items of DME and received 51 items either donated by others or the federal government, for a total of 247,394 items as of November 2020. Purchases included pulse oximeters, oxygen tanks, infusion pumps, oxygen concentrators, BiPAP/CPAP machines, ventilators, and X-ray machines.

New York Responds is an online management system used to coordinate the sharing of emergency resources across the State. To meet an emergency need for supplies or equipment, a facility contacts its county emergency manager to request equipment through New York Responds. DHSES then validates the request and sends the request to the appropriate State agency to be fulfilled. Requests for DME are then sent to OHEP.

When OHEP “forward deploys” DME to a hospital or medical facility, DOH retains ownership and may recall the equipment if necessary. Typically, DOH signs a Letter of Agreement with the requester before forward deploying items. During the COVID-19 public health emergency, DOH did not enter into Letters of Agreement, but



Pallets of ventilators in their boxes, plugged in, and charging at the Guilderland MERC warehouse



Pallets of ventilators in their boxes at the Guilderland MERC warehouse

did record any DME sent (but not sold) to requesters in MERITS as being forward deployed.

To ensure readiness for forward deployment, maintain manufacturer warranties, and extend the useful life of DME, preventive maintenance is performed. DOH is responsible for tracking and coordinating preventive maintenance for its DME at all warehouses. DOH entered into a contract with Quality Medical Group (QMG) in April 2020 to perform initial inspections of the DME as well as preventive maintenance and repairs on certain equipment. Facilities with forward-deployed DME are responsible for the preventive maintenance and repairs while the DME is in their possession.

The focus of this audit is on DOH, as OHEP is typically responsible for the MERC, and OGS, as the State's centralized procurement office. However, we note that during the early stages of the pandemic, several entities, including DOH, OGS, DHSES, and the New York National Guard may have assisted with purchasing, storing goods in warehouses, or transporting PPE or DME, as well as confirming the receipt of equipment when DME was delivered at warehouses throughout the State. We did not engage the other entities.

OGS Procurement Services is the State's centralized procurement office. It solicits, administers, and manages approximately 1,500 contracts on behalf of authorized contract users including State agencies and authorities, local governments, school districts, colleges and universities, and other qualifying non-profit organizations. Its contract offerings include a wide range of commodities, services, and technology available at competitive, volume-discounted/reduced prices while maintaining statutory compliance. Procurement Services also educates vendors and public purchasers regarding how to participate effectively in the State's procurement process.

OGS has issued Procurement Guidelines, developed by the State Procurement Council in accordance with the State Finance Law for State agencies, that provide an overview of procedural requirements and procurement methodologies. According to the guidelines, the primary responsibility for procurement decisions rests with the State agency procuring the commodity, service, or technology. The guidelines also discuss the values of public procurement including transparency, accountability, and fair competition and operating principles designed to protect the interests of the State and its taxpayers.

The Procurement Guidelines also define an emergency procurement as "one in which an urgent and unexpected situation occurs where health and public safety or the conservation of public resources is at risk" and states that "State agencies shall document in the procurement record the circumstances and the material and substantial reasons why a formal competitive process is not feasible." The procurement record documents purchasing decisions made.

State agencies are responsible for recording transactions in the Statewide Financial System, New York State's accounting and financial management system. This system is also where agencies record purchase orders and create and approve vouchers.

DOH policies and procedures establish controls for its procurement, receiving, inventory, and shipping. During normal circumstances, OHEP completes its own purchasing and, in advance of receiving the items, is aware of and documents the quantity and description of the products ordered, the receiving date, the vendor, and the purchase order number. This allows OHEP to control and communicate information for the procurement, receipt, payment, and inventory of equipment. For example, when purchases are received as scheduled, OHEP is responsible for entering the product information into MERITS and the Statewide Financial System, as well as ensuring the items received match the intended procurement. Additionally, OHEP staff are responsible for filling out a carrier delivery receipt, including the carrier, supplier quantity, purchase order number, type of item, and any damage to the items.

Executive Order 202, and subsequent orders, suspended OGS Procurement Guidelines during the COVID-19 public health emergency, yet bulletin H-0501 issued by the Division of the Budget clarified the following were still required:

- reasonableness of cost/price
- documented rationale and need for purchases
- quotes from multiple vendors or documentation that vendors could not supply needed items
- use of OGS Procurement Services
- use of purchase and receiving orders, and procurement card reconciliation

Audit Findings and Recommendations

Lack of controls during the COVID-19 pandemic contributed to OHEP being unable to account for all DME purchased. Specifically, credit card transactions appeared to be an issue: from four of five credit card transactions sampled worth \$329,790, we found that DOH could not provide proof of delivery for 140 pieces of DME totaling \$312,644. While factors beyond DOH's control affected its ability to account for all DME procured during the pandemic public emergency disaster, developing State guidance for future State emergency disasters could help ensure transactions are recorded and communicated and purchases are received.

Unlike normal procurement circumstances, DOH was not involved in decisions regarding the ordering of supplies and DME during the onset of COVID-19. According to DOH officials, the former Executive Chamber was responsible for DME procurement decisions at that time, with direction from a consultant who, according to OGS, was responsible for projecting the quantity of DME the State would need to respond to COVID-19. A significant amount of DME (247,391 items) was acquired during the pandemic. Of the total DME available for use (including pre-COVID-19 inventory), only 324 items were distributed during the public health emergency, only three of which were from the 247,343 DME purchased at the onset of COVID-19 at an estimated cost of \$452.8 million. This leaves a significant amount of DME purchased during the pandemic (247,340 items) still unused in boxes at MERC or DHSES warehouses even though, according to DOH officials, medical facilities in the State have expressed interest in acquiring it. By not disbursing the unused DME items, the State continues to incur contracted warehouse management costs. After the COVID-19 public health emergency ended, according to DOH officials, a steering committee recommended keeping 51,140 DME items, leaving a surplus of almost 200,000 items without a strategic plan for utilization. DOH has taken limited action to address the surplus DME stockpile and, according to officials, is in the process of finalizing how the remaining DME will be distributed.

The contract to perform initial inspections of the DME in the MERC warehouses, as well as preventive maintenance and repairs on certain equipment, ended in December 2023, and DOH has not secured another contract for these services. With no preventive maintenance contract in place, as of December 2024, 4,036 of 4,468 DME items (90%) recommended to receive this maintenance were overdue, along with six items that do not have a preventive maintenance due date listed. DME that does not receive preventive maintenance may not work immediately when needed for a patient, as users may have to order parts or make repairs. Furthermore, failing to meet preventive maintenance requirements can invalidate warranties and increase the risk that the State will be responsible for repairs or replacements otherwise covered at the manufacturer's expense.

Procurement and Receiving

Lack of controls during the pandemic contributed to OHEP being unable to account for all DME purchased. Purchasing equipment without confirming its receipt leaves the State with less assurance that all goods paid for have been received and potentially wastes funds that could have been used for other purposes.

To compete for the purchase of medical equipment during the onset of the COVID-19 pandemic, the State took steps to expedite its procurement process in a changing environment. These steps included purchases without formal purchase orders, purchase orders with incomplete information, down payments on DME prior to receiving equipment, and credit card purchases. As a result of the expedited process, the State also failed to follow the OGS Procurement Guidelines. While those involved in procuring DME were most likely under a great deal of pressure to secure medical equipment for the people of New York, they did not fulfill their stewardship obligation: responsible management and planning and use of public resources for the protection of the State and taxpayers' interests. Additionally, the basic concepts of internal controls—recording transactions and communicating information—did not occur.

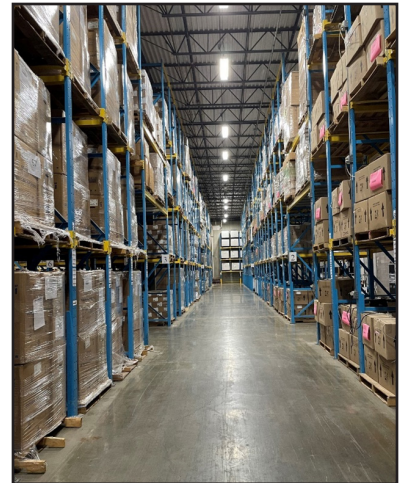
Unlike normal procurement circumstances, DOH was not involved in decisions regarding ordering supplies and DME during the onset of COVID-19. According to DOH officials, the former Executive Chamber was responsible for DME procurement decisions at that time, with direction from a consultant who, according to OGS, was responsible for projecting the quantity of DME the State would need to respond to COVID-19. The former Executive Chamber entered into a contract with the consulting company, McKinsey & Company (McKinsey), on March 9, 2020. The contract ended in July 2020 with a total cost of \$5.1 million. DOH then entered into another contract with McKinsey in July 2020 with a total cost of \$10.1 million, which ended on April 30, 2021.

According to DOH officials, the former Executive Chamber ultimately dictated the DME and quantities to be procured early in the pandemic. OGS officials stated McKinsey was responsible for projecting the quantity of DME the State would need to respond to COVID-19. Initially, according to OGS' Chief Procurement Officer, at the start of COVID-19, McKinsey provided OGS with a list of DME (e.g., ventilators, CPAPs, X-ray machines) and the recommended quantities to be procured.

During the course of the audit, we requested OGS provide the DME procurement list prepared by McKinsey; however, the individual who was OGS Chief Procurement Officer at the time has since left State service, and OGS could not locate the requested information. OGS further clarified that it should be part of the procurement records for the purchasing agencies. As DOH was not involved in ordering supplies and DME for the State during the pandemic, we were unable to obtain many details regarding these purchases. For example, we requested the documentation of McKinsey's recommended DME procurement from DOH, but DOH officials also stated they did not have it. Additionally, DOH officials stated the decision-makers from the prior administration are no longer available to ask for more specific details, further illustrating the need for appropriate documentation during the purchasing process. Only after we presented written findings did DOH find a "Pending supply list." Officials stated the list was after a majority of the purchasing was done with bigger projections, but the larger projections were not provided to us.

Although the MERC was receiving DME during COVID-19, OHEP was often unaware of what had been purchased. While DOH was the funding stream for DME, DOH officials stated DOH did not approve the type of DME or the quantities

procured. Consequently, at the onset of COVID-19, deliveries of DME, some scheduled and some unscheduled, would arrive at warehouse locations and DHSES, the New York National Guard, OGS, or OHEP—whoever was staffing the warehouse at the time—would record receipt. Shipments were sometimes received with purchase order information, with partial purchase order information, or with no purchase order at all. Regardless, OHEP would determine what was received and enter the equipment received into MERITS and the Statewide Financial System. OHEP would then provide detailed information about what was received to DHSES through email. As the COVID-19 pandemic continued, OHEP began to require that shipments include purchase order information prior to accepting them or at least that purchase order numbers be included with each shipment to ensure what was received was actually ordered. At the height of the pandemic, MERC officials estimated that as many as 12 trucks arrived at a MERC with DME and PPE per day, and 10 trucks would deliver the equipment across the State.



Pallets of oxygen concentrators and ventilators in their boxes at the Brentwood MERC warehouse

Based on paid vouchers and credit card transactions provided by DOH, we determined the State incurred costs of \$452.8 million to procure 247,343 items of DME and received 51 items donated by others or received from the federal government, for a total of 247,394 items as of November 2020. Overall, between DME owned before the pandemic and DME acquired during COVID-19, we determined that DOH owned and was responsible for tracking 252,235 items of DME as of June 2024 (see Table 1).

Table 1 – DOH Durable Medical Equipment Inventory Responsibility

DME Before and During COVID-19	
Pre-COVID-19 inventory	4,841
Purchases during COVID-19	247,343
Donated by others or received from the federal government	51
Inventory DOH must track (including forward-deployed DME)	252,235

*This table represents information from beginning inventory March 2020 and January 2024 inventory provided by DOH and LifeScience Logistics inventory provided March 2024.

To assess whether specific purchased items were received into the warehouse, we compared voucher payment information to inventory data. However, we found transactional information was not always recorded with details such as serial numbers for goods shipped. DOH did not have a methodology for tracing voucher data to the inventory, as there were no common identifiers or fields, and voucher information did not contain the quantity purchased. When we asked DOH how they accounted for the transactions, DOH officials stated that they cannot trace a voucher to a specific item of equipment or the inverse.

While the vouchers and invoices did not contain enough information to relate to specific items in inventory, we attempted to verify the delivery of goods by matching purchase orders to the paid voucher data. Purchase orders included the specific type of equipment (e.g., an LTV 1200 Ventilator or a GE AMX-4 Plus Portable X-Ray system) and the quantity ordered.

We requested proof of delivery for a sample of nine purchases totaling more than \$62 million, out of 80 purchase orders totaling more than \$452 million, that DOH identified as DME purchases. Of the 80 DME purchase orders, 26 totaling more than \$297 million were payment advances and five were procurement credit card purchases totaling \$329,790. We judgmentally selected nine transactions—four purchase orders and five procurement credit card transactions—for testing. For the four purchase orders totaling 1,270 pieces of DME worth \$61,973,800, DOH was able to provide either proof of delivery or an explanation regarding the purchases.

When purchases are made by procurement credit card, a purchase order is not used and a receiving order is not generated, resulting in warehouses receiving unscheduled shipments without notice. Of the five procurement credit card transactions for 444 items of DME totaling \$329,790, we found DOH could not provide proof of delivery for four transactions for 140 pieces of DME totaling \$312,644. Although DOH is required to enter receiving documents when reconciling the charges in the Statewide Financial System, there were no system checks because these were pre-payments. According to DOH, it does not have documentation showing proof of delivery for these four purchase orders. As a result, there was no assurance that the equipment ordered—and already paid for—was received. For the remaining transaction for 304 pieces of DME totaling \$17,146, DOH provided proof of delivery.

The steps taken by the State to expedite the procurement process at the onset of COVID-19, although well intended, resulted in breakdowns of the control environment for communication and the recording and documenting of transactions, limiting OHEP's ability to account for DME. Stronger controls could have aided in the overall management of DME by maintaining a perpetual quantity of items purchased, their cost, anticipated arrival, and the logistics to serve those in need.

Without minimal controls, purchases and receiving were not appropriately documented, and assurances do not exist that the goods ordered and paid for were actually received. While factors beyond OHEP's control prevented it from confirming receipt of all procured DME during the pandemic, moving forward, developing new guidance for future State disaster emergencies could provide the direction needed for staff to ensure transactions are recorded and communicated and purchases are received.

Recommendations

To OGS:

1. Develop and issue statewide guidance for State agency procurements during declared State emergency disasters in conjunction with the State Procurement Council.

To DOH:

2. Maintain basic internal controls during emergency scenarios to ensure stewardship over State assets that address concepts such as conducting

transactions in an ordinary manner, recording transactions, effective communication, and documenting receipt of purchases.

Management of DME Inventory

The purpose of managing inventory is to ensure that there is enough stock to meet demands by ensuring the right items are available in the right quantities at the right time, without creating an overstock. This may include analyzing demands and historical trends, tracking inventory levels, and placing orders to replenish inventory to maintain an optimal level of stock while preventing shortages. Excess stock can lead to excessive storage costs as well as items becoming obsolete or expiring or needing repairs from not being used. Storing unused DME in warehouses is costing the State annually, while the medical community has also expressed interest in this equipment. Finding new solutions for distributing this stockpile would reduce State spending on warehousing and assist the State's medical community.

Unused Stockpile of DME

According to DOH officials, a Medical Stockpile Steering Committee (Steering Committee) was created to recommend the quantity and type of DME to be retained in the MERC's emergency stockpile. From May 2021 through January 2022, the Steering Committee identified 51,140 DME items to be retained, leaving a surplus of 198,430 DME in State warehouses without a strategic plan for utilization. Additionally, the Steering Committee recommended that a subset of 4,468 DME items continue to receive preventive maintenance. According to DOH officials, the Steering Committee's recommendations were subsequently forwarded to subject matter experts from DHSES and the former Executive Chamber for review and acceptance. On multiple occasions, we requested documentation of the Steering Committee's decisions and decision-making process on the quantity and type of DME to retain and to receive preventive maintenance. DOH did not provide the requested documentation. Without the requested documentation, we cannot analyze the information or the processes used to understand how or why the Steering Committee made the decision to keep over 51,000 items when the MERC originally had 4,481 and only disbursed 324 items during the COVID-19 public health emergency disaster.

When DME is forward deployed to a hospital or medical facility, DOH retains ownership and may recall the equipment if necessary. Typically, DOH signs a Letter of Agreement with the requester before forward deploying items. During the COVID-19 public health emergency, DOH did not enter into Letters of Agreement, but did record DME sent to requesters in MERITS as being forward deployed. According to DOH officials, very few deployed items have been returned. Usually, they are kept at the location to which they had been deployed or sent to another facility that needs them.

Of the total DME available (according to MERITS), only 324 items were forward deployed during the public health emergency. According to DOH records, of the 324 forward-deployed DME items, 321 came from the pre-COVID-19 DME stock and

three from the 247,394 DME acquired during COVID-19. This leaves a significant amount of DME purchased during the pandemic still unused in boxes at warehouses for which the State continues to incur contracted warehouse management costs.

Table 2 illustrates DOH’s DME stockpile before, during, and after COVID-19 (as of June 2024).

Table 2 – DOH Durable Medical Equipment Stockpile

Pre-COVID-19 DME	
DOH-owned DME	4,841
DME forward deployed pre-COVID-19	(1,046)
DME forward deployed during COVID-19	(321)
COVID-19 Acquired/Purchased DME	
Purchases and donations	247,394
DME forward deployed during COVID-19	(3)
Total Owned and Forward-Deployed DME	
Total DOH-owned DME	252,235
Total forward-deployed DME	(1,370)
Total DME available for use	250,865*

*This table represents information from beginning inventory March 2020 and January 2024 inventory provided by DOH and LifeScience Logistics inventory provided March 2024.

In the years following the height of the COVID-19 pandemic, DOH began to seek ways to reduce its inventory, but has not finalized a process or created written procedures. As part of determining how to manage the surplus DME, DOH conducted a survey in December 2021 to gauge health care facilities’ interest. DOH surveyed 829 medical facilities and received 546 responses. The responses indicated interest in 24,585 items of DME. DOH conducted a follow-up survey to ensure that there was still interest. According to DOH officials, to receive the DME, any facility that replied to the survey would have to sign a Letter of Agreement. In August 2023 and February 2024, DOH sent Letters of Agreement and forward deployed four corresponding items of DME to two facilities that responded to the survey. DOH officials stated that they are in the process of finalizing how the remaining DME will be forward deployed.

The ongoing DHSES contract with LifeScience Logistics to manage the DHSES warehouses’ storing of PPE and DME runs from November 2020 to November 2025. A significant amount of DME purchased (247,391 items) during the pandemic is still unused in boxes at MERC or DHSES warehouses, even though, according to DOH officials, medical facilities in the State have expressed a need for it. By not forward deploying the DME stockpile prudently, the State continues to incur related contracted warehouse management costs.

State Finance Law Section 167 provides specific manners in which agency heads may transfer or dispose of State property that has been deemed no longer useful. Disposal may include using the property as a partial payment on a new item—such as for a trade-in—or placing the property in OGS custody or control for reuse by other State agencies. Where the fair market value of the property is less than an

amount established from time to time by OGS, the agency may dispose of such property by such means as the agency head deems “to be in the best interest of the State.” Also, where personal property has been purchased from special funds, a State agency, upon designation of the source of funds from which such property was purchased, may condition the disposal of such property. All proceeds realized on the sale or other transfer not authorized to be deposited in a special fund shall be deposited in the general fund of the State.

Overall, DOH has taken limited action to address the DME surplus of just under 200,000 items, stating State Finance Law Section 167 prevents surplus DME from being given to facilities. DOH said it is considering a new forward deployment program as an alternative. As of December 2024, 3 years after starting the process, DOH has done little to reduce its inventory. DOH is in the process of final reviews that would allow forward deployment of DME to facilities that expressed interest and is still finalizing how the remaining DME will be forward deployed.

While DOH was unable to control the acquisition of DME early in the pandemic, it does have the ability to reduce inventory moving forward, which could reduce State spending on warehousing unused equipment and assist the State’s medical community. As of December 17, 2024, DOH stated it continues to re-evaluate the stockpile.

Tracking of Equipment

As of June 2024, DOH had 9,519 DME items stored in its warehouses, and as of March 2024, DHSES warehouses held 240,051 DME items, for a total State DME inventory of 249,570.

DOH initially provided us with DME inventory data as of October 2023 and updated data in June 2024; however, the data provided did not include DOH-owned DME stored in DHSES warehouses and maintained in TecSys, as DOH does not have access to the vendor’s (LifeScience Logistics) inventory records or physical inventory. DOH requested TecSys inventory data from DHSES and provided it to us as of March 2024. From this, we judgmentally selected a sample of DME to test at each warehouse.

We visited and toured each of the five warehouses. Across the five warehouses, our sample included 4,728 DME items. During our visits, for each item sampled, we verified that it existed and was in its proper location. For DME items in our sample that were on the preventive maintenance cycle, we verified that the most recent preventive maintenance had been properly recorded. For DME still in individual manufacturer sealed boxes, we verified the items using the information on the product’s packaging.

Overall, we found the warehouses to be generally organized, clean, and well-maintained, with the majority of items in the locations reflected in each database. For our sample of 4,728 DME items, we could not locate 12 pulse oximeters that should have been at the Brentwood warehouse. DOH officials

said that it is possible that they were put into use at some point and not recorded. Given the physical size and dollar value, we found this explanation to be reasonable. Additionally, during our preventive maintenance analysis and physical inventory testing, we found 1,008 infusion pumps listed as being located in the Amsterdam warehouse, but 12 were not included in either MERITS or TecSys, the warehouse's inventory systems. The missing infusion pumps were initially warehoused with DHSES and sent to QMG for servicing. According to DOH officials, the infusion pumps that received preventive maintenance were directly returned to DHSES with the exception of a few that needed repairs; these were replaced to avoid repair costs and returned to the MERC. According to DOH, DHSES picked up these infusion pumps to return to the DHSES warehouse. According to DHSES warehouse officials, after being serviced, these infusion pumps were not returned to DHSES' warehouse. Based on purchase orders, the 12 pumps were valued at \$23,940. Since sharing our findings with DOH, officials stated they have found all but two of the pumps, but did not share supporting documentation with us. This further illustrates the need for DOH to have access to the inventory data.



Pallets of infusion pumps in their boxes at the Geneva DHSES warehouse

Recommendations to DOH

3. Develop and implement a statewide public health strategic plan to utilize surplus DME.
4. Document and preserve the process and/or key factors used when making significant decisions, and keep documentation of key events, such as the Steering Committee's recommendation of DME to be retained and to receive preventive maintenance.
5. Obtain and maintain access to DOH's inventory and inventory records at non-DOH warehouses as part of asset management.

DME Not Receiving Preventive Maintenance

According to OHEP, certain DME needs preventive maintenance—which includes activities such as replacing batteries or power boards or cleaning internal components—to comply with the manufacturer's specification, maintain the manufacturer's warranty and the equipment's readiness for use and forward deployment, reduce the need for larger repairs, and extend the equipment's useful life.

DOH officials stated that any equipment that has not received preventive maintenance would not be forward deployed, except as a last resort, and that there are standards for equipment being tested and inspected after being transported. Per The Joint Commission—an independent, non-profit organization and, founded in 1951, the nation's oldest and largest standards-setting and accrediting body in health care—any equipment that has been transported between locations should be tested

to ensure its electrical safety and that proper operation has not been compromised during transit. Similarly, the Centers for Medicare & Medicaid Services states that all equipment must be inspected and tested for performance and safety before initial use and after major repairs or upgrades.

As previously stated, the Steering Committee recommended 51,140 DME items be kept in the cache, of which 4,468 items (9%) should receive scheduled preventive maintenance. DOH stated that, going forward, providing preventive maintenance for only the specified items would reduce the annual maintenance costs and the need for related coordination and logistical efforts. However, as there are no immediate plans to forward deploy the stockpile, this leaves a significant amount of the DME in the MERC (91%) without preventive maintenance, which could potentially invalidate the manufacturer's warranty or reduce its immediate usability in an emergency.

On multiple occasions, we requested documentation regarding how the Steering Committee determined the amount of DME to be retained and the quantity to receive preventive maintenance. DOH did not provide us with the requested documentation or a reason that it could not do so. DOH's response to us—a list of DOH units that participated in the process and a meeting agenda without meeting minutes—did not address our request. DOH did state that the May 2023 request for proposals (RFP) for preventive maintenance represents the DME to be retained and maintained on the preventive maintenance cycle. However, without additional information, we could not analyze the Steering Committee's decisions and conclusions regarding specific DME and quantities of DME to be retained and maintained.

Early in the pandemic, DOH contracted with QMG to work in the MERC warehouses to perform initial inspections of the DME as well as preventive maintenance and repairs on certain equipment. The QMG contract ended in December 2023, and DOH did not issue an RFP for a replacement contract until May 2023, with a deadline for proposals due in June 2023 and an anticipated contract start date of January 2024. DOH officials stated a normal contract process takes, on average, 12 months to complete; therefore, DOH may not have allowed enough time for the contract to be processed prior to the expiration of the prior contract. Additionally, DOH submitted documentation to the Division of the Budget in August 2023 and it was not approved.

As of December 2024, a contract had not been awarded. DOH is still reassessing the amount of DME and plans to issue a new RFP in the future. As a result, a preventive maintenance contract has not been in place for at least 12 months since the expiration of the QMG contract. A large portion of the DME is on a similar 2-year preventive maintenance schedule and is due for preventive maintenance in the same quarter, which, compounded by the expiration of the prior contract, has significantly added to number of items behind on preventive maintenance.



Oxygen concentrator at the Brentwood MERC warehouse

Given that some equipment warranties are contingent on preventive maintenance, we requested—on multiple occasions—a list of DME items with invalid warranties as the result of not receiving the required preventive maintenance. However, DOH stated that it does not have this information because it did not make the DME purchases.

According to DOH officials, OHEP is required to track due dates and schedule and record completed preventive maintenance and new due dates in MERITS. Based on MERITS data, we determined that at least 4,036 of the 4,468 DME items recommended to receive preventive maintenance (90%) are past due as of December 2024 (see Table 3).

Table 3 – DME With Past Due Preventive Maintenance

Date Range	DOH Warehouse Items*	DHSES Warehouse Items**	Total Items
Due before Oct. 2023	16	2	18
Due Oct.–Dec. 2023	19	–	19
Due Jan.–Mar. 2024	699	991	1,690
Due Apr.–June 2024	2,236	9	2,245
Due July 1–Sept. 30, 2024	32	–	32
Due Oct. 1–Dec. 31, 2024	32	–	32
Due in 2025	414	–	414
Forward deployed	12	–	12
No preventive maintenance due date listed	–	6	6
Totals	3,460	1,008	4,468
Past due as of December 2024	3,034	1,002	4,036

*Determined based on October 2023 DOH data

**Determined based on March 2024 DHSES data

With no preventive maintenance contract in place, DOH has 4,036 DME items overdue for preventive maintenance, along with six DME items that do not have a preventive maintenance due date listed.

Essentially, all equipment must be inspected, tested, and maintained to ensure its safety, availability, and reliability. However, while this minimizes the risk to patients using equipment, it does not mean the equipment will be usable when forward deployed. If preventive maintenance is not completed and the equipment is forward deployed in an emergency, this increases the chance that facilities may not be able to use the DME immediately on a patient in need as they may have to order parts or make needed repairs before the DME is functional. Furthermore, failing to meet preventive maintenance requirements as specified by the manufacturers for potentially thousands of DME items can invalidate their warranties and increase the chances that necessary repairs or replacements will not be covered at the manufacturers' expense.



X-ray machines in plastic wrap at the Amsterdam DHSES warehouse

Recommendations to DOH

6. Develop and implement a strategic plan for DME preventive maintenance so that it is ready for use during public health emergencies.
7. Finalize analysis on DME to keep and preventively maintain, and issue an RFP for any needed services.
8. As part of creating a transparent environment, maintain records and supporting documentation for decision-making so that requests for public information can be fulfilled.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine what steps DOH and OGS have taken during the procurement process for medical equipment for public health emergencies to ensure usability of the equipment purchased and whether DOH and OGS have managed and maintained—in functioning condition—the inventory of the State’s medical stockpile. Our audit scope covered the period from January 2020 through June 2024.

To accomplish our objective and assess related internal controls, we reviewed relevant laws, policies, procedures, guidelines, executive orders, ongoing contracts, and RFPs. We met with DOH, OGS, DHSES, and LifeScience Logistics employees. We also reviewed inventory data and Statewide Financial System data such as paid voucher data, purchase order information, and invoices; and we visited five warehouses.

We used a non-statistical sampling approach to provide conclusions on our audit objective and to test internal controls. We selected judgmental samples; because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations, even for the samples. Our samples, which are discussed in the detail in the body of the report, include:

- Judgmental samples at each of the five warehouses (for a total of 4,728 of the 249,570 DME items at these warehouses) selected based on past-due dates and an assortment of types of DME.
- A judgmental sample of nine transactions—four purchase orders (1,270 pieces of DME worth \$61,973,800) and five procurement credit card transactions (444 items of DME with a value of \$329,790)—for testing out of 80 procurement transactions totaling \$452 million.

We obtained data from both DOH’s MERITS and LifeScience Logistics’ TecSys databases used to track DME inventory owned by DOH. Both datasets included the product, its location, and serial number. Additionally, MERITS tracks the most recent preventive maintenance date and when the next is due. We verified this information was accurate by reviewing source documentation at the warehouses. We also selected DME items while on site to trace back to the databases. Through our testing, we determined that the data from both these systems were sufficiently reliable for the purposes of this report.

Due to the lack of documentation throughout our audit, we had to rely on testimonial evidence regarding what occurred during COVID-19 and we use the term “some,” as the actual quantity was unknown or could not be documented. Therefore, we reviewed the processes followed and the documentation available to understand the procurement process during COVID-19 and identified opportunities to provide guidance for improvement in advance of another statewide disaster emergency.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II and Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties could be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of DOH and OGS oversight and administration of the State's public health emergency medical stockpile.

Reporting Requirements

A draft copy of this report was provided to DOH and OGS officials for their review and formal comment. We considered their comments in preparing this final report, and they are attached in their entirety at the end of the report. DOH officials took exception to certain statements in the report while OGS generally agreed with our recommendation. Our responses to certain DOH and OGS remarks are embedded within their responses as State Comptroller's Comments.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioners of the Department of Health and the Office of General Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments - DOH and State Comptroller's Comments



**Department
of Health**

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

March 10, 2025

Nadine Morrell
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Nadine Morrell:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2023-S-14 entitled, "State Public Health Emergency Medical Stockpile."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Johanne E. Morne".

Johanne E. Morne, M.S.
Executive Deputy Commissioner

Enclosure

cc: Melissa Fiore
Michael Atwood

**Department of Health
Comments on the
Office of the State Comptroller’s
Draft Audit Report 2023-S-14 entitled,
“State Public Health Emergency Medical Stockpile”**

The following are the Department of Health’s (DOH) comments in response to the Office of the State Comptroller’s (OSC) Draft Audit Report 2023-S-14 entitled, “State Public Health Emergency Medical Stockpile.”

Audit Recommendation Responses

Recommendation #2

Maintain basic internal controls during emergency scenarios to ensure stewardship over State assets that address concepts such as conducting transactions in an ordinary manner, recording transactions, effective communication, and documenting receipt of purchases.

DOH Response #2

DOH maintains appropriate internal controls and processes to maintain appropriate stewardship over State assets. As noted in the report, DOH was not involved in decisions to order supplies and DME during the onset of the COVID-19 pandemic.

State Comptroller’s Comment – Throughout the report, we note that DOH was not involved in decisions regarding the ordering of supplies and DME and was often unaware of what had been purchased. However, DOH was responsible for other internal control processes such as credit card transactions, paying vouchers, and receiving equipment—over which it did not maintain appropriate controls. When we asked DOH officials how they accounted for these transactions and receipt of DME purchases, officials stated they cannot trace a voucher to a specific item of equipment or the inverse.

Recommendation #3

Develop and implement a statewide public health strategic plan to utilize surplus DME.

DOH Response #3

DOH has confidence in its utilization of surplus DME. DOH conducts surveys of healthcare facilities to assess need and interest level specific DME and, upon issuing a Letter of Agreement, forward deploys based on the results. All other surplus DME will follow OGS rules and regulations for surplus of equipment.

State Comptroller’s Comment – DOH has only deployed another four pieces of surplus DME in the years following the height of the COVID pandemic, in August 2023 and February 2024, utilizing Letters of Agreements. There are still 198,430 items of surplus DME in State warehouses. In addition, as noted on page 16 of the report, DOH officials stated that they are in the process of finalizing how the remaining DME will be forward deployed.

Recommendation #4

Document and preserve the process and/or key factors used when making significant decisions, and keep documentation of key events, such as the Steering Committee's recommendation of DME to be retained and to receive preventive maintenance.

DOH Response #4

Steering Committee decisions were documented and forwarded to subject matter experts from other state agencies for review. The former Executive Chamber provided final approval for the preventative maintenance recommendation. DOH provided OSC with a sample Steering Committee agenda and the methodology that the Steering Committee used, including factors it considered. Additionally, workgroup meetings are now documented with more in-depth notes.

State Comptroller's Comment – DOH itself did not document or preserve the process and key factors used when making significant decisions. DOH did not provide us with the requested documentation or a reason that it could not do so. DOH's response to us—a list of DOH units that participated in the process and a meeting agenda without meeting minutes—does not provide evidence that a meeting was held or how participants may have made decisions.

Recommendation #5

Obtain and maintain access to DOH's inventory and inventory records at non-DOH warehouses as part of asset management.

DOH Response #5

Access to non-DOH warehouses is at the discretion of the owner of the warehouse.

State Comptroller's Comment – As part of asset management, DOH should have access to records of inventory owned by DOH. DME equipment is consolidated into two DOH and three DHSES warehouses, yet DOH does not have direct access to the inventory or the inventory tracking system used in DHSES warehouses for DOH-owned DME equipment. DOH also doesn't receive any periodic inventory reports. During the audit, DOH could not provide us with an inventory listing of DME in the DHSES warehouses and had to obtain this information from DHSES.

Recommendation #6

Develop and implement a strategic plan for DME preventive maintenance so that it is ready for use during public health emergencies.

DOH Response #6

DOH conducts preventive maintenance programs pursuant to manufacturers' recommendations.

State Comptroller's Comment – As noted on page 19 of our report, as of December 2024, there was no preventive maintenance contract in place for DME and one had not been in place for at least 12 months. In fact, 90% of the DME with scheduled preventive maintenance was past due. DOH also noted it was still reassessing the amount of DME and planned to issue an RFP in the future.

If preventive maintenance is not completed and the equipment is forward deployed in an emergency, this increases the chance that a facility may not be able to use the DME immediately on a patient in need, as the facility may have to order parts or make needed repairs before the DME is functional. Failing to meet preventive maintenance requirements as specified by the manufacturers for potentially thousands of DME items can invalidate their warranties and increase the chances that necessary repairs or replacements will not be covered at the manufacturer's expense.

Recommendation #7

Finalize analysis on DME to keep and preventively maintain and issue an RFP for any needed services.

DOH Response #7

DOH utilizes a medical warehouse workgroup, which meets every two weeks. Once the workgroup compiles an approved list of necessary DME preventative maintenance, an RFP will be issued for all necessary services.

State Comptroller's Comment – As noted on page 19 of our report, as of December 2024, there was no preventive maintenance contract in place for DME and one had not been in place for at least 12 months. DOH should ensure this is done as soon as possible.

Recommendation #8

As part of creating a transparent environment, maintain records and supporting documentation for decision-making so that requests for public information can be fulfilled.

DOH Response #8

DOH maintains such records which are available to fulfill requests for public information.

State Comptroller's Comment – Throughout our audit, there were multiple times when DOH could not provide records or supporting documentation related to decisions that it or the former Executive made but that affected DOH responsibilities. Examples include documentation of recommended DME for purchase, proof of delivery for 140 pieces of DME totaling \$312,644, and documentation of the Steering Committee's decision on the quantity and type of DME to retain.

Agency Comments - OGS and State Comptroller's Comment



KATHY HOCHUL
Governor

JEANETTE M. MOY
Commissioner

February 25, 2025

Nadine Morrell, Audit Director
NYS Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: Draft Audit Report- 2023-S-14, Emergency Medical Stockpile

Dear Nadine Morrell,

Thank you for the opportunity to respond to the Office of the State Comptroller's ("OSC") draft audit report referenced above (the "Report"). On behalf of the Office of General Services ("OGS") and pursuant to Executive Law § 170, I am submitting our response to the following recommendation.

OGS generally agrees with the recommendation outlined in the report. We would also like to highlight how the recommendation is currently being implemented through *The New York State Procurement Guidelines* and *The New York State Guide to Financial Operations*.

OGS Response:

Recommendation from the report:

1. Develop and issue statewide guidance for State agency procurements during declared State emergency disasters in conjunction with the State Procurement Council.

New York State Procurement Guidelines

The *New York State Procurement Guidelines* are established by the State Procurement Council pursuant to State Finance Law § 161(2)(d). The Council consists of 21 members, plus two non-voting observers. Ex officio members include the Commissioner of General Services (Chair), the State Comptroller, the Director of the Budget, the Chief Diversity Officer, and the Commissioner of Economic Development or their respective designees.

Emergency Procurement: An emergency procurement is one in which an urgent and unexpected situation occurs where health and public safety or the conservation of public resources is at risk. Where an emergency exists, an Agency may issue procurement contracts without complying with formal competitive bidding requirements. However, an Agency should make a reasonable attempt to obtain at least three oral quotes. An Agency's failure to properly plan in advance – which then results in a situation where normal practices cannot be followed – does not constitute an emergency. OSC approval must be obtained for an emergency procurement if the value is over the Agency's contract approval threshold as set forth in State Finance Law § 112. In addition, if the

Mayor Erastus Corning 2nd Tower, Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242 | www.ogs.ny.gov

Nadine Morrell
Page 2
November 9, 2023

Agency is seeking a waiver from advertising in the New York State Contract Reporter, OSC must approve the exemption. State Agencies shall minimize the use of emergency procurements and shall use emergency procurements only when a formal competitive process is not feasible. **State Agencies shall document in the procurement record the circumstances and the material and substantial reasons why a formal competitive process is not feasible.**

Reference: [New York State Procurement Guidelines \(Revised September 2023\)](#)

State Comptroller's Comment – Our report acknowledges that OGS issued Procurement Guidelines that include emergency procurement. However, the emergency guidelines do not include an agency's responsibilities during a declared State disaster emergency—particularly when the duration of the disaster extends beyond a one-time emergency situation. Additional written guidance could provide the direction needed for agency staff to ensure transactions are recorded and communicated, including when purchases are received.

New York State Guide to Financial Operations

The New York State Guide to Financial Operations serves as a reference for statewide accounting policies, procedures and the OSC related mandates for use by State agencies. This guide is established and maintained by the New York State Comptroller's Office.

Receiving: The purpose of this section is to provide guidance to ensure that agencies receive the goods and services they ordered in the proper condition and in accordance with the terms and conditions of the purchase agreement. **The agency must complete the receiving processes timely to establish what was received, the quantity or amount received, the date of receipt, and who received the goods or services.** Agencies should use the receiving module in SFS to store documentation supporting receipt of goods or services. Prior to certifying a claim for payment for goods and services, agency staff must confirm the agency received the quantity and quality of goods or services from the vendor based on the agency's expectations,

Reference: [NYS Guide to Financial Operations, Receiving](#)

We appreciate the opportunity to review and provide comments on the Report. Please feel free to contact me if you have any questions or require further clarification.

Sincerely,



David Sears
Director of Internal Audit

Contributors to Report

Executive Team

Andrea C. Miller - *Executive Deputy Comptroller*

Tina Kim - *Deputy Comptroller*

Stephen C. Lynch - *Assistant Comptroller*

Audit Team

Nadine Morrell, CISA, CISM - *Audit Director*

Bob Mainello, CPA - *Audit Manager*

Theresa M. Nellis-Matson, CPA - *Audit Supervisor*

Adriane Inman - *Examiner-in-Charge*

Ryan Chauvin - *Senior Examiner*

Dustin Moore - *Senior Examiner*

Andrea Majot - *Senior Editor*

Contact Information

(518) 474-3271

StateGovernmentAccountability@osc.ny.gov

Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236



For more audits or information, please visit: www.osc.state.ny.us/state-agencies/audits