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

Division of State Government Accountability

Contracted Programs With Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc.

Office of Alcoholism and Substance Abuse Services

Report 2015-S-24

June 2016

Executive Summary

Purpose

To determine whether the Office of Alcoholism and Substance Abuse Services (OASAS) is effectively monitoring funding provided under its contract with the Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc. (PROMESA) to ensure that claims are allowable, properly supported, and consistent with contract terms.

Background

OASAS oversees programs for the prevention and treatment of alcohol and substance abuse. OASAS entered into a five-year contract with PROMESA covering the period July 1, 2009 through June 30, 2014, totaling $12.5 million, to in part conduct a Methadone to Abstinence Residential Treatment program (MTAR program). PROMESA is one of 21 individual entities organized under the parent corporation Acacia Network, Inc. (see Exhibit), which provides various community services in the New York City metropolitan area. Under the MTAR program, PROMESA administers methadone by prescription, in conjunction with a variety of other rehabilitative assistance that seeks to control the physical problems associated with heroin dependence and to provide the opportunity for clients to make major lifestyle changes over time. According to the contract, OASAS reimburses PROMESA for the net costs it incurs to provide the services for each contracted program, up to the maximum budgeted amount. Costs are reported via an annual Consolidated Fiscal Report (CFR), which is a common system used by several New York State agencies to monitor and oversee contract activity. Between July 1, 2012 and June 30, 2014, for the MTAR program, PROMESA reported about $6.5 million in costs, which were offset by $3.7 million in revenues. The MTAR program incurred a reported deficit of $2.8 million, of which OASAS funded $2.3 million.

Key Findings

- We found that, despite two relatively recent audits by OASAS, claims submitted by PROMESA for the two years ended June 30, 2014 continued to include costs that were not valid or consistent with the CFR Manual and OASAS guidelines. PROMESA reported about $23 million in costs associated with contracted OASAS programs during the period. Our audit examined about $9 million of these expenses and identified problems with over 90 percent – $8.2 million.
- About one-quarter of these expenses ($2.1 million) were clearly unallowable under OASAS and CFR guidelines, including over $940,000 charged to the State-funded MTAR program. This included almost $600,000 of "bad debt expense," the majority of which actually represented funds paid to OASAS for audit disallowances it imposed as a result of its most recent audit of PROMESA.
- The remaining $6.1 million represents expenses that we deemed questionable, in large part because they either: (1) involve related-party transactions for which required competition was not sought and PROMESA was unable to demonstrate that the costs were reasonable or, in some cases, that the services were actually provided; or (2) represent portions of costs allocated to PROMESA from other parts of the Acacia Network, Inc., which are not readily verifiable without also auditing the records of those entities. Over $1.8 million of these questionable costs were charged to the MTAR program.
- Although we found OASAS has made reasonable efforts to monitor and oversee the PROMESA

contract through its risk-based audit approach, we concluded that complete and adequate oversight within the confines of the current funding systems is beyond its capacity, in large part because of the nature and complexity of the organizations with which it contracts. Net-deficit funded contracts, like the one with PROMESA, require a significant commitment of resources to adequately address the scope of work required to ensure that claimed costs are both program related and allowable. These tasks are especially difficult when assessing the reasonableness of costs that have been allocated to a provider by other parts of complex entities like the Acacia Network, Inc., which is composed of more than 20 affiliated entities, including PROMESA. Portions of these costs, in turn, are then allocated again – and in the case of PROMESA among at least 10 programs, including the MTAR program. As a result, as this audit illustrates, as organizational complexity increases, it becomes much more difficult to definitively audit providers' requests for program funding under cost-based contracts.

- OASAS officials recognize the difficulties inherent in the fiscal oversight of the current system and report that they have already begun in-house consideration of alternative program funding methods, indicating they are planning for a statewide expansion of the Medicaid Managed Care model and are evaluating changing over to a more traditional flat-rate fee for service system. Such a change could reduce the challenges posed by the current systems and therefore lead to efficiencies in OASAS' management and oversight of programs. However, officials do not expect wholesale changes to begin for several years, and then only incrementally. In the meantime, the agency's ability to properly oversee the fiscal aspects of many of its provider service contracts will continue to be significantly hampered.

Key Recommendations

- Establish additional monitoring controls to ensure that PROMESA only claims expenses that are reasonable, necessary, allowable, supported, and consistent with both the CFR Manual and OASAS guidelines.
- Recover from PROMESA the $940,493 in expenses claimed that are not allowable, and take steps to ensure the organization does not re-claim these costs for funding in the future.
- Follow up with PROMESA to formally assess the $6,109,916 of questioned expenses discussed in this report which were not competitively bid, with special focus on related-party transactions, to determine if additional disallowances are warranted.
- Require that PROMESA consistently use a documented, competitive process to provide assurance that reasonable prices are being paid for services that are actually rendered.
- Continue to explore alternative funding methods to more efficiently manage and oversee contracted service programs.

Other Related Audit/Report of Interest

Office of Alcoholism and Substance Abuse Services: Samaritan Village, Inc.: Chemical Dependency Services Program (2011-S-38)

State of New York
Office of the State Comptroller

Division of State Government Accountability

June 8, 2016

Ms. Arlene González-Sánchez
Commissioner
Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, NY 12203

Dear Commissioner González-Sánchez:

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

Following is a report of our audit of the Office of Alcoholism and Substance Abuse Services entitled *Contracted Programs With the Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc*. This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

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

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The Office of Alcoholism and Substance Abuse Services (OASAS) oversees programs for the prevention and treatment of alcohol and substance abuse. OASAS entered into a five-year contract with Puerto Rican Organization to Motivate, Enlighten and Serve Addicts, Inc. (PROMESA) covering the period July 1, 2009 through June 30, 2014, totaling $12.5 million to, in part, conduct a Methadone to Abstinence Residential Treatment Program (MTAR program).

PROMESA is a member of the Acacia Network, Inc. (Acacia Network), which, as shown in the Exhibit, includes 20 other affiliate entities. Acacia Network is also related to at least another nine associated entities, with which it shares common management, as well as their attendant subsidiaries. Some of these 30-plus related entities provide health and human services to the communities they serve, while other entities in the network exist to provide internal support services to the other entities, including human resource management, accounting, payroll, information technology, and property management. PROMESA Administrative Services Organization, Inc. (PASO) and Bronx Addiction Services Integrated Concepts Systems, Inc. (BASICS) are two of these entities. PASO provides administrative services directly and through a consulting contract with BASICS to PROMESA. BASICS also provides other administrative services directly to PROMESA.

PROMESA's MTAR program, operating in the New York City metropolitan area, administers methadone by prescription, in conjunction with a variety of other rehabilitative assistance, to control the physical problems associated with heroin dependence and to provide the opportunity for clients to make major lifestyle changes over time. According to OASAS' net-deficit contract, OASAS will reimburse PROMESA for the net costs it incurs to provide the contracted services, up to the contract amount. Between July 1, 2012 and June 30, 2014, for the MTAR program, PROMESA reported about $6.5 million of program expenses, which were offset by $3.7 million in revenues. Overall, the program incurred a reported deficit of $2.8 million, of which OASAS funded $2.3 million.

In addition to the MTAR program, OASAS administers other programs, some of which are offered by PROMESA. While these programs are not currently funded by OASAS because they do not operate a deficit, they are covered under the contract and PROMESA is required to comply with the reporting requirements set forth in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) and OASAS' Administrative and Fiscal Guidelines for OASAS-Funded Providers (OASAS guidelines). Although these other programs do not result in direct payments of State funds by OASAS to PROMESA, accurate reporting about their costs and revenues is still important for two reasons. First, should any of these programs generate deficits in the future, OASAS could use the information reported on the annual Consolidated Fiscal Report (CFR) to reconcile reported expenses and generate budgets for non-funded contracted programs. Second, costs often benefit and are allocated among more than one program. As a result, examining the reported activity of one program often requires an understanding of how it relates to others.

OASAS' Office of Audit Services unit uses a risk-based approach to select providers for on-site examinations. As a result, prior to our audit, OASAS did its own reviews of PROMESA's funding in both 2009 and 2013. In the 2013 review, OASAS officials found issues with claimed expenses, irregularities with competitive bidding, and in some cases a lack of supporting documentation, resulting in disallowance and recovery of $383,338 from PROMESA. OASAS officials stated that PROMESA was scheduled for another audit on their current annual audit plan.

Audit Findings and Recommendations

We found that despite the two relatively recent audits by OASAS, claims submitted by PROMESA for the two years ended June 30, 2014 continued to include costs that were not valid or consistent with the CFR Manual and OASAS guidelines. In many cases, we found a continuation of issues that OASAS identified in its 2013 audit. In total, PROMESA reported about $23 million in costs associated with contracted OASAS programs during the audit period. Our audit examined about $9 million of these expenses and identified problems with over 90 percent – $8.2 million.

As shown in the following table, over $2.1 million of these expenses were clearly unallowable under OASAS and CFR guidelines, including over $940,000 charged to the State-funded MTAR program. The remaining $6.1 million represents expenses that we deemed questionable, in large part because they either (1) involve related-party transactions for which required competition was not sought and PROMESA was unable to demonstrate that the costs were reasonable or, in some cases, that the services were actually provided; or (2) represent portions of costs allocated to PROMESA from other parts of the Acacia Network, which are not readily verifiable without also auditing the records of those entities. Over $1.8 million of these questionable costs were charged to the MTAR program.

Audit Determination	MTAR Program (Funded)	Non-Funded Programs	Total	
Non-Allowable Costs	$940,493	$1,161,142	$2,101,635	23.3%
Questionable Costs	1,845,845	4,264,071	6,109,916	67.8%
Total Non-Allowable & Questionable Costs	**$2,786,338**	**$5,425,213**	**$8,211,551**	**91.1%**
Costs Deemed Acceptable	601,093	196,105	797,198	8.9%
Total Costs Reviewed	**$3,387,431**	**$5,621,318**	**$9,008,749**	

Although we found OASAS has made reasonable efforts to monitor and oversee the PROMESA contract through its risk-based audit approach, our findings show that complete and adequate oversight within the confines of the current funding systems is beyond the agency's current capacity, in large part because of the nature and complexity of the organizations with which it contracts. Net-deficit funded contracts, like the one with PROMESA, require a significant commitment of resources to adequately address the scope of work required to ensure that claimed costs are both program related and allowable. These tasks are especially difficult when assessing the reasonableness of costs that have been allocated to a provider by other parts of complex entities like the Acacia Network, which is composed of more than 20 affiliated entities including PROMESA. Portions of these costs, in turn, are then allocated again – and in the case of PROMESA among at least 10 programs, including the MTAR program. As a result, as this audit illustrates, as organizational complexity increases, it becomes much more difficult to definitively audit providers' requests for program funding under cost-based contracts.

OASAS recognizes the difficulties inherent in the fiscal oversight of the current system and reports that it has already begun informal, in-house consideration of possible alternative program funding methods that could reduce the challenges posed by the current systems and lead to efficiencies in OASAS' management and oversight of programs. These range from planning for a statewide expansion of the Medicaid Managed Care model to evaluating changing over to a more traditional flat-rate fee for service system. However, officials do not expect wholesale changes to even begin for several years, and then only incrementally. In the meantime, the agency's ability to properly oversee the fiscal aspects of many of its provider service contracts will continue to be significantly hampered.

Unallowable Expenses

The CFR system is a standardized reporting method used by several State agencies, including OASAS, to capture financial information for service provider budgets and claims for reimbursement. Providers that receive funding from, or operate programs certified by, these agencies are required to complete and file a CFR annually. Between July 1, 2012 and June 30, 2014, PROMESA reported over $23.3 million in expenses for contracted OASAS programs on its CFRs. We reviewed $9,008,749 of these expenses and found PROMESA reported $2,101,635 in unallowable expenses, including $940,493 charged to the MTAR program and $1,161,142 for other non-funded OASAS programs.

According to the CFR Manual, certain specific expenses are not allowed to be claimed for reimbursement. We found PROMESA claimed and was reimbursed $940,493 under the MTAR program for non-allowable expenses, including:

- **"Bad Debt" Expense - ($593,612):** OASAS conducted an audit of PROMESA's MTAR program during 2013 and recovered disallowed costs totaling $383,338. During OASAS' audit, PROMESA established a bad debt reserve of $500,000 in anticipation of disallowed costs, along with a corresponding expense account. A bad debt expense account is established to write off an amount of non-collectable accounts receivable and is an unallowable expense under the CFR manual. PROMESA charged and recouped the entire $500,000 on its fiscal year 2012-13 CFR. Subsequently, PROMESA repaid OASAS the $383,338; however, PROMESA made no adjustments to the fiscal year 2012-13 or the fiscal year 2013-14 CFRs for the repayment amount of $383,338 or the remaining $116,662. In essence, PROMESA initially billed OASAS for almost $400,000 of unallowable expenses and, after repaying, sought to recover their repayment plus another $116,000 to make itself more than whole. The remaining $93,612 charged to this account represents other bad debts claimed as a program expense.
- **Lobbying - ($38,648):** We found payments to four lobbying firms for services. PROMESA officials stated that these costs were not for lobbying for legislation, but rather for public relations. They cited an example of a firm working with a county executive to establish a service program in that locality, which we believe meets the definition of lobbying.
- **Depreciation - ($185,841):** PROMESA representatives referred to a section of the CFR Manual where it states depreciation is allowable. However, according to both the CFR Manual and OASAS, depreciation may be allowed to be claimed by providers rendering services for some other State agencies, but is not allowable for reimbursement for any OASAS programs.

- **Unreasonable and/or Unnecessary Expenses - ($55,733):** Included in this amount are payments for a holiday party, retreats, and meals for executives and employees totaling $27,863. Some of these expenses included entertainment, food, alcohol (including an open bar), unused rooms, and a golf charge. Such expenses are not allowed under the provisions of the CFR Manual because they are not necessary for providing services. The remaining $27,870 included expenses unrelated to the MTAR program.
- **Interest Payments - ($38,857):** Included in this amount is over $33,900 in interest for a $900,000 loan from a related entity and $4,957 in other interest.
- **Other Unallowable Costs - ($27,802):** Included in this amount are expenses related to fines and violations (e.g., motor vehicle infractions) and insurance to protect against such violations ($19,501), related-party (PASO) vacation accruals ($5,575), an unsupported expense ($1,862), and charitable donations ($864).

PROMESA representatives disagreed with our determination regarding these unallowable expenses. They expressed their belief that the costs should be allowed because the funds were available within the approved budget and were properly expensed. However, our determination is that these costs were, in fact, not allowable pursuant to the CFR Manual and should not have been claimed on the CFR for reimbursement.

In addition to the non-allowable expenses that were reimbursed, PROMESA also claimed $1,161,142 in non-allowable expenses charged to other non-funded OASAS programs. These expenses all fell within the categories listed above. While these programs may not presently be funded by OASAS, they could be in the future. If any of these other programs are funded, OASAS would likely use information about these non-allowable costs to develop future program budgets.

Questionable Expenses

Between July 1, 2012 and June 30, 2014, PROMESA allocated the varying portions of expenses associated with 207 vendors to the MTAR program. We selected a sample of 14 of these vendors with costs totaling $6,442,269 to determine whether PROMESA complied with OASAS requirements to competitively bid the goods and services to ensure that a reasonable price was paid. We found PROMESA engaged 12 vendors whose costs totaled $6,109,916 without proper competition, including three that were related parties. Of this amount, $1,845,845 was reimbursed by OASAS for the MTAR program and the remaining $4,264,071 was charged against other non-funded OASAS programs.

Related-Party Transactions

We found three of the 14 vendors we sampled, whose costs totaled $4,722,665, were related parties. As detailed in the following sections, we could not determine whether PROMESA paid a reasonable price for these services, largely because it engaged these parties without proper competition. Further, we found these costs were reported on the CFR incorrectly and there was no support for how the costs were allocated to OASAS programs, including MTAR.

<u>Promesa Administrative Services Organization, Inc.</u>

Both PROMESA and PASO are members of the Acacia Network. In October 2001, PROMESA entered into an agreement with PASO, a related party, to provide administrative services. The agreement does not expire unless terminated by either party. There was no evidence to support that this contract was competitively bid or that the price for services, either paid at that time or currently, is reasonable. Between July 1, 2012 and June 30, 2014, allocated PASO charges totaled $3,772,633, of which $1,221,077 was charged to the MTAR program. We are questioning the reasonableness of these expenses for several reasons: first, because PROMESA misreported them on the CFR; and second, because in many cases the charges lacked support and included unallowable expenses. As a result, we are unable to determine the appropriate amount of the PASO administrative expenses that should be funded by OASAS.

The fees charged to PROMESA include a personal service component of PASO's administrative expenses, which is composed of certain PASO personal service costs and a portion of the cost of certain consultants hired from another related firm, BASICS. The consultant fee for BASICS employees is comprised of the salaries and fringe benefits for five individuals who are also the Chief Executive Officer (CEO), Chief Operating Officer (COO), Deputy COO, Executive Assistant, and Administrative Assistant to CEO for the Acacia Network.

We found no support for the allocation of the administrative salaries and fringe benefits from PASO to PROMESA for the period of July 2012 to December 2013. There are no time records kept to show for which program or entity these individuals worked. We also interviewed several PASO administrative employees and reviewed their personnel files to determine if the allocations of their salaries to PROMESA appeared reasonable. Of the 62 PASO employees whose salaries were charged, in part, to the MTAR program, we judgmentally selected a sample of 28. Allocations for 11 individuals (39 percent) were improper for most, if not all, of the two-year period ending June 30, 2014. Of these 11 people, three should not have been charged to the MTAR program at all and the cost allocations for the remaining eight were incorrect.

Furthermore, PROMESA did not follow the procedures outlined in the CFR Manual for calculating and reporting any of the administrative expenses allocated from PASO to PROMESA. For example, providers are required to use the prescribed "ratio value methodology" programmed into the CFR software to distribute administrative expenses among programs. However, PROMESA circumvented this process and improperly applied its own allocation methodology. PROMESA representatives told us that, beginning January 2014, they adjusted their methodology for the allocation of administrative costs and that they made the adjustment in response to an OASAS review. PROMESA representatives asserted that they had provided OASAS officials with support for their new methodology, but later stated it was only a verbal discussion with OASAS.

We found no evidence to support OASAS' approval of this change in methodology. OASAS officials indicated they did not approve an alternative allocation method and PROMESA should be following the ratio value allocation using the CFR process. At the same time, officials stressed that it is not possible to determine the full validity and accuracy of the submitted CFR without a physical examination of the organization's financial books and records as compared with the

CFR entries. While that may be accurate in the broadest sense, OASAS does have the capability to identify cases where a provider has deviated from or overridden the prescribed procedures – including use of the ratio value methodology – without performing such a review. However, OASAS does not incorporate such steps into its monitoring process.

In discussions with PROMESA officials, we recommended they seek out further training and develop a better working knowledge of the CFR Manual and CFR reporting practices. PROMESA representatives responded that they have a good working knowledge of the CFR Manual and the CFR reporting practices, and believe that their allocation methodology was consistent with OASAS-approved budgets.

Bronx Addiction Services Integrated Concepts Systems, Inc.

PROMESA also entered into an agreement in October 2009 directly with another related party, BASICS, to provide additional administrative services. This agreement also does not expire unless terminated by either party, and we found no evidence to support that these services were competitively bid at that time or that the price for these services is reasonable. In fact, we interviewed one of the employees whose salary and fringe benefits were being allocated to the MTAR program and found the allocation was improper. We captured these costs under the category of Unallowable Expenses. Similar to the PASO charges, because these services were not competitively bid, we are unable to determine whether PROMESA paid a reasonable price for $368,012 charged to OASAS programs, of which $33,204 was charged to the MTAR program.

SERA Security Services, Inc.

PROMESA also paid SERA Security Services, Inc. (SERA), another related entity, for security services. According to the rules in the CFR Manual and OASAS guidelines, related-party transactions are required to be disclosed in the CFR; however, this arrangement was not disclosed. PROMESA representatives indicated they do not believe SERA is a related entity and that the transactions are arm's-length. We disagree for several reasons, including the fact that the organizations share common management as follows:

- PROMESA's CEO is listed as the Registered Agent for SERA as part of its registration with the New York State Department of State.
- PROMESA's CEO and Chief Financial Officer are listed as two of the three managers shown for SERA. (When we discussed this issue with PROMESA representatives, they responded that as *managers* for SERA, they are not necessarily *management.*)
- Acacia Network's organizational chart shows both SERA and PROMESA as affiliate entities of the network.

We also found no support that the services provided before December 12, 2013 were competitively bid and therefore are unable to determine if a reasonable price was paid. For services provided between December 13, 2013 and June 30, 2014, we found flaws in the procurement process, including problems with the solicitation of bids, awarding process, and the contract. For example:

- We found that all the companies that were solicited for bids were not given an equal amount of time to respond. SERA and another security company were allowed an additional five days to prepare their bids.
- When it came to reviewing the bids, PROMESA reached out to some, but not all, bidders to gather additional information lacking from their proposals. For example, PROMESA reached out to SERA for additional cost information related to the Affordable Care Act (Act). The original proposal did not apply a value but instead stated that SERA would increase its rates when the Act took effect. On the same day the bids were due, SERA amended its proposal to state that they would absorb these health costs.
- When it came to scoring the proposals, PROMESA did not use the same methodology for SERA as it did for the others. While we were unable to determine if this was intentional or just a lack of oversight, the process was unfair. PROMESA stated that SERA was selected because it was the lowest cost bidder on an hourly basis. However, while the scoring method used for the other bidders did incorporate hourly guard costs, the scoring method used for SERA did not.

Due to these flaws in the procurement process, we were unable to be reasonably assured that PROMESA paid a fair price for these security services, which totaled $582,020 allocated to OASAS programs, of which $113,014 was charged to the MTAR program.

Other Non-Competitive Purchases

We found that PROMESA is not routinely ensuring the price it pays for services is reasonable. OASAS' Administration and Fiscal Guidelines require that, when goods or services are purchased in excess of $25,000, at least three written bids must be obtained. For goods or services valued between $10,000 and $25,000, telephone quotes must be documented and retained.

We found nine of the remaining 11 vendor contracts sampled were also engaged without a competitive process. Goods and services provided by these nine vendors included food services, lobbying services, elevator services, telecommuting services, equipment purchases and services, and insurance. We found no support to show that any of these goods and services were competitively bid and therefore we are unable to determine if a reasonable price was paid for the entire $1,387,251, including the $478,550 charged to the MTAR program.

OASAS Oversight

OASAS is responsible for inspecting and monitoring programs it funds to ensure State resources are used only for expenses that are program appropriate and supported. We found that despite the two relatively recent audits by OASAS in 2009 and 2013, claims submitted by PROMESA for the two years ended June 30, 2014 continued to include costs that were not valid or consistent with the CFR Manual and OASAS guidelines. In many cases, we found a continuation of issues that OASAS identified in prior audits. During these reviews, OASAS noted issues with PROMESA's claiming of Other Than Personal Service costs, irregularities in its competitive bidding practices, and a lack of supporting documentation, particularly for cost allocations. For example, during the

2009 review, OASAS noted the lack of support for the salary allocations for the CEO and COO. We found the same issues in this audit several years later.

If the current system of net-deficit funding continues, it is clear that OASAS needs to more closely review expenditures and allocations to ensure PROMESA is receiving only the funds it is due. At the same time, in discussing our audit findings, OASAS officials stated that it is not possible to determine the full validity and accuracy of PROMESA's CFR without an examination of its financial books and records to compare with the CFR entries.

We agree that from an audit perspective, as well as from OASAS' fiscal oversight perspective, net-deficit funded contracts like the one between OASAS and PROMESA require a significant commitment of resources to adequately address the scope of work required to ensure that costs claimed are program related and allowable. We concluded that, with an audit function composed of just nine staff, it is unlikely that OASAS could adequately evaluate the fiscal affairs of its 321 service providers under the current system, let alone achieve its goal of a three- to four-year audit cycle.

When the CFR process was established more than 25 years ago through an inter-agency effort, many non-profit service providers were smaller entities that had a specific focus and few discrete lines of business. As a result, the CFR was an efficient and effective means of determining the reimbursements due these groups under net-deficit funding contracts. However, as decades have passed, many non-profits have grown and expanded to meet the social needs of their communities. Currently, an increasing number of service providers are more properly classified as large inter-related organizations with multiple affiliated entities that often provide services not only to various State agencies but also to other parts of their own networks. PROMESA is a good example of just such a complex organization.

PROMESA's audited financial statements show its unrestricted net assets grew by $5.1 million to $11.6 million from 2012 to 2013. At the close of that period, PROMESA was owed $4.4 million from ten affiliated entities, while PROMESA itself owed $1.9 million to four affiliated entities, including PASO and BASICS. In some instances, the costs charged for these internal services are concerning because, as we noted previously, the transactions are not negotiated at arm's-length and the services have not been competitively bid to ensure a reasonable price is paid. These variables begin to add complexity and time to the review process if the goal is to ensure that the costs associated with transactions are reasonable when reported on the CFR.

Especially difficult is assessing the reasonableness of administrative costs assessed first by complex parent entities, like the Acacia Network, which, as depicted in the Exhibit, is both composed of more than 20 affiliated entities, including PROMESA, and associated with another nine companies and their subsidiaries through common management. Some of these 30-plus related entities provide direct health and human services to the communities they serve, while others provide internal support services in areas such as human resources, accounting, payroll, information technology, and property management. Costs accumulated under this complex structure must then be allocated by each contracted provider among its various programs. In this case, PROMESA allocates costs among 10 programs, including the MTAR program.

Specifically, as discussed earlier, PROMESA has an agreement in place with PASO for administrative services that was not competitively bid and documentation provided to support the cost for services has not been updated since the agreement was entered into in 2001. As a result, to determine what the services represent and the reasonableness of price, one needs to gain access to and become familiar with PASO's operations to ensure these costs are related to the program and should be reimbursed. In this instance, access to PASO's records and management is necessary to obtain an understanding of PASO's administrative cost allocation methodology, which allows costs to flow to PROMESA and to other entities, and to determine if the allocation methodology is reasonable and applied consistently. Subsequently, the costs then need to be tested for support and accuracy, and determined if allowable and properly reported on the CFR.

Further, the scenario at PROMESA becomes more intricate considering that PASO hired BASIC – another related affiliate – for consulting services and that a portion of those services were then provided to PROMESA. This arrangement raises further questions, such as:

- If PASO had the skills to provide needed administrative services, why did it need to hire BASICS as a consultant?
- If BASICS' services were necessary, why didn't PROMESA hire BASICS directly, or utilize its existing agreement with BASICS to acquire the services that PASO could not provide?

Finally, the environment becomes more convoluted when considering that the individual assigned as audit liaison was not a PROMESA official, but rather a BASICS consultant paid through the PASO contract. As a result, with each succeeding level of organization involved, determining the reasonableness of the transactions and their relation to the program becomes increasingly more complex, time consuming, and difficult to trace through the CFR.

OASAS recognizes the difficulties inherent in the fiscal oversight of the current system and that an eventual move away from the challenges of net-deficit contracts could lead to efficiencies in OASAS' management and provider oversight. Officials report that they have already begun in-house consideration of alternative program funding methods, indicating they are planning for statewide expansion of the Medicaid Managed Care model recently implemented for New York City-based programs. Other efforts include engaging a consultant to explore options for better and more comprehensive fee for service schedules, researching how other states and programs provide funding, determining how best to track Medicaid and non-Medicaid services, and redesigning residential service programs. While OASAS anticipates a period of continuous change, it does not expect full implementation of any comprehensive reimbursement redesign to take place for several years.

Recommendations

1. Establish additional monitoring controls to ensure PROMESA only claims expenses that are reasonable, necessary, allowable, supported, and consistent with both the CFR Manual and OASAS guidelines.

2. Recover from PROMESA the $940,493 in expenses claimed that are not allowable, and take

steps to ensure the organization does not re-claim these costs for funding in the future.

3. Follow up with PROMESA to formally assess the $6,109,916 of questioned expenses discussed in this report which were not competitively bid, with special focus on related-party transactions, to determine if additional disallowances are warranted.

4. Require that PROMESA consistently use a documented, competitive process to provide assurance that reasonable prices are being paid for services that are actually rendered.

5. Continue to explore alternative funding methods to more efficiently manage and oversee contracted service programs.

Audit Scope and Methodology

Our audit sought to determine whether OASAS is effectively monitoring the PROMESA contract to ensure reimbursed claims are supported and program appropriate (e.g., allowable and consistent with contract terms) for the period July 1, 2012 through June 30, 2014.

To accomplish our objectives, we reviewed the NYS Consolidated Fiscal Reporting and Claiming Manual and the OASAS Administrative and Fiscal Guidelines for OASAS-Funded Providers to gain an understanding of the appropriate reporting and claiming of revenues and expenses, and assessed OASAS' related internal controls. We also interviewed officials and staff of OASAS, PROMESA, and PASO (including BASIC consultants) to obtain an understanding of their services, policies, and procedures. We also reviewed PROMESA's financial records and supporting schedules for claimed expenses and offsetting revenues. We judgmentally selected our sample of transactions from accounts related to other than personal services (OTPS). We based our selections on various risk factors, including the transaction amount, description, and vendor, as well as the OTPS account the transaction is reported under on the CFR. We looked for accounts and specific transactions that would appear to be not allowable according to the Reimbursable Cost Manual. We also judgmentally sampled 28 PASO employees and interviewed them to determine if they were working on OASAS programs. We based our judgmental sample on a number of different factors, such as tier, compensation, title, and percent of compensation charged to PROMESA. We also performed third-party verification of selected revenue categories.

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

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. Therefore, in our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed according 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.

Reporting Requirements

We provided a draft copy of this report to OASAS officials for their review and formal comment. We considered OASAS' comments in preparing this final report and have attached them in their entirety to it. In their response, OASAS officials indicated certain actions that have been taken to address our recommendations. Also, our rejoinders to certain OASAS comments are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of OASAS 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 if the recommendations were not implemented, the reasons why.

Contributors to This Report

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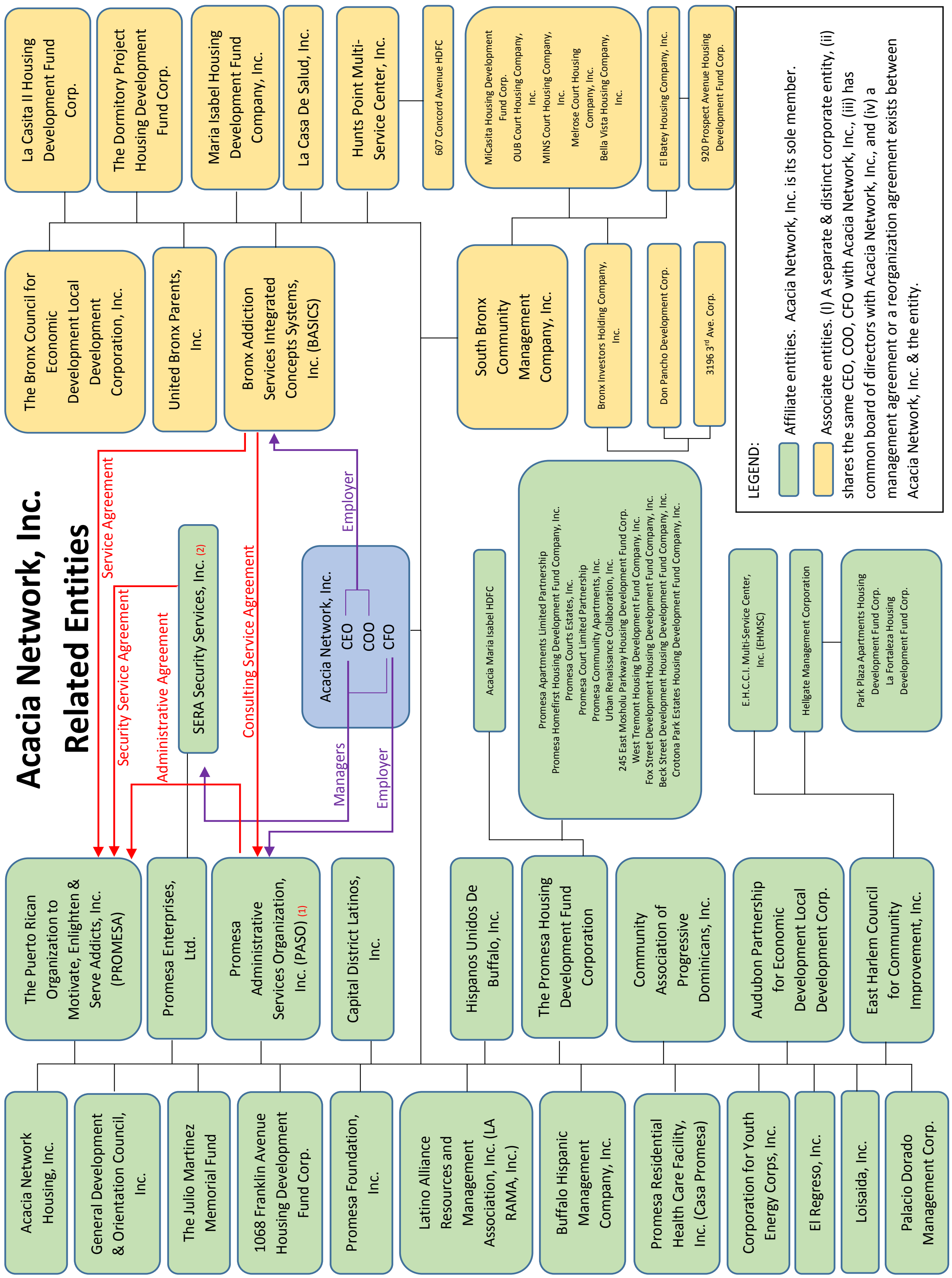
Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit



(1) Provides administrative services to multiple affiliated & associated entities (2) Provider security services to multiple affiliated & associated entities

As of 2/3/2015

Agency Comments

NEW YORK STATE | Office of Alcoholism and Substance Abuse Services

ANDREW M. CUOMO
Governor

ARLENE GONZÁLEZ-SÁNCHEZ, M.S., L.M.S.W.
Commissioner

February 12, 2016

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

Re: Draft Report of the Audit of PROMESA (2015-S-24)

Dear Mr. Buyce:

Thank you for the opportunity to respond to the draft audit report of the Office of the State Comptroller's (OSC) audit conducted of the Puerto Rican Organization to Motivate, Enlighten and Service Addicts, Inc. (PROMESA). As is our practice, upon receipt of the OSC's final audit report, OASAS will conduct a follow up financial analysis to confirm the findings and take appropriate remedial action. Below you will find specific comments to each section of your draft findings.

Background

Under the section on Background, in the last sentence on the first page, OASAS' Internal Audit unit should be corrected to OASAS' Office of Audit Services. Thank you for acknowledging the work that was done by OASAS in the prior fiscal examinations of PROMESA, acknowledging the financial recoveries that were obtained based on our determined disallowances, and for recognizing that we delayed going back in to conduct follow up work so as not to interfere with your examination. The period of your audit commenced exactly at the end of our July 2009 - June 2012 audit period and we were happy to provide you with the results of our efforts and suggestions of areas that were worthy of your follow up.

* Comment 1

Audit Findings and Recommendations

We appreciate your acknowledgment that providers of this size and complexity, with more than 20 affiliated entities, are difficult to monitor for contract compliance without the commitment of substantial resources. That being said, and given the various OSC findings that echoed many of our prior findings, OASAS is proud of its past efforts and results that we have obtained specific to this provider.

The representation that starts on the bottom of page 7 and continues on the next page leaves the reader with the impression that OASAS is attempting to change its funding methodology from Net Deficit Funding to Fee for Service as a way to "lead to efficiencies in our management and oversight of programs." While it may in fact make fiscal oversight easier to accomplish, the driving force behind this change has been and continues to be assisting funded-providers to better deliver services to our target population. OASAS has engaged Mercer, an industry leading consultant, to evaluate and facilitate the changeover to Fee for Service, and it is believed that this change can be accomplished within the next 18-24 months.

While complex organizations such as the Acacia Network, that includes a program such as PROMESA, create challenges for fiscal oversight and monitoring, we take exception to the characterization that until a new funding model is adopted "the agency's ability to properly oversee the fiscal aspects of many of its provider service contracts will continue to be severely hampered." We strongly believe that given our currently allotted staffing levels OASAS does a better job of fiscal oversight than is acknowledged. In the

* Comment 2

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*See State Comptroller's Comments, Page 22.

specific case of PROMESA, had we not delayed our return engagement so as not to interfere with the OSC's work, we are confident we would have found most if not all of the areas of concern raised in the draft report.

We are unclear as to your reference to the Medicaid Managed Care Long Term Care Model. This is not a program that OASAS created nor is it a remedy for issues surrounding fiscal oversight and monitoring of programs. The Long Term Care Model relates to services delivered to Medicaid Managed Care enrollees receiving long term care services such as nursing home and care at home. Substance Use disorder services delivered to adult Medicaid enrollees by OASAS New York City providers were moved into the Medicaid Managed care benefit package in October 2015. In July 2016 these services will move into the benefit package for adults in the remainder of New York State. Services for children will begin transitioning into the benefit package in early 2017. To clarify what it is, please note the following language derived from the Medicaid.gov web site:

* Comment 1

Managed Care is a health care delivery system organized to manage cost, utilization, and quality. Medicaid managed care provides for the delivery of Medicaid health benefits and additional services through contracted arrangements between state Medicaid agencies and managed care organizations (MCOs) that accept a set per member per month (capitation) payment for these services. By contracting with various types of MCOs to deliver Medicaid program health care services to their beneficiaries, states can reduce Medicaid program costs and better manage utilization of health services. Improvement in health plan performance, health care quality, and outcomes are key objectives of Medicaid managed care. Some states are implementing a range of initiatives to coordinate and integrate care beyond traditional managed care. These initiatives are focused on improving care for populations with chronic and complex conditions, aligning payment incentives with performance goals, and building in accountability for high quality care.

Unallowable Expenses

A clarification should be noted to the language of the CFR system as it applies to OASAS as this agency does not receive or process quarterly claims for reimbursement. Historically there has been a mid-year submission that is evaluated to ensure that the agreed upon funding advances are still appropriate, and then four months after the end of the calendar/fiscal year, a year-end claim as part of the annually required CFR submission, is received and processed to reconcile the entire prior years' funding.

* Comment 1

OASAS concurs with the recommendation that, to the extent validated in a follow-up review, all non-allowable claimed expenses should be disallowed and recouped as deemed appropriate. Given our past experience with auditing PROMESA, we are confident these are all areas that would have been discovered in the normal course of an OASAS fiscal follow up examination.

Questionable Expenses

In our prior fiscal analysis of PROMESA, OASAS focused on the lack of proper competitive bidding and the awarding of contracts for goods and services. We certainly recognized the intertwining of relationships between the related organizations/individuals and even raised those concerns with PROMESA officials in 2013 subsequent to the issuance of our report and the receipt of $383,338 in restitution. It is OASAS's intention to review each and every situation presented in the OSC report and to recover every last dollar that may have been inappropriately claimed.

Recommendations

In response to recommendations #2, #3 and #4, OASAS is committed to confirming the existence of all non-allowable and inappropriately claimed expenses and recovering the corresponding dollars. With regard to recommendation #5, OASAS will continue with its current process to change its funding methodology.

With regard to recommendation #1 OASAS has commenced a number of new initiatives geared towards enhancing its fiscal oversight. These include:

- enhanced risk assessment factors used by the OASAS Fiscal Audit and Review Unit (FARU) to ensure that we correctly prioritize the providers who require more immediate analysis;
- a CFR desk review by the OASAS Bureau of Provider Monitoring and Funding to more quickly determine the inclusion of non-allowable claimed expenses and incorrectly stated Medicaid revenue;
- a desk review by the OASAS Bureau of Provider Monitoring and Funding of required audited financial statements to stay on top of changing fiscal conditions;
- the revision of the FARU fiscal review instrument to ensure specific steps geared to uncover non-allowable and inappropriately claimed expenses (As acknowledged in the draft report and confirmed by the OSC itself, it is not possible to determine the propriety all areas represented on the annually submitted CFR without going into the provider and analyzing their financial books and records);
- adding an additional attestation to the required annual CFR filing that requires each provider to make an affirmative statement pertaining to the operations of their organization that includes, but is not limited to, that their CFR submission does not claim any non-allowable expenses, that their Medicaid revenue is accurately stated, and that they are up to date with their required Federal and State tax filings;
- limited OASAS Field Office fiscal site reviews of funded providers to fill the gap in between FARU fiscal reviews; and
- a revision of the Fiscal Viability rating ratios to ensure that from a Fiscal Viability standpoint, the operating certificate renewal term awarded to a provider is commensurate with their actual fiscal condition.

Once again, thank you for the opportunity to respond to the draft report and we look forward to receipt of the final document.

Very truly yours,

Steven J. Shrager
Director, Office of Audit Services

Cc: David Sawicki
Robert A. Kent
Trisha Schell-Guy

State Comptroller's Comments

1. We revised our report as appropriate to improve its technical accuracy.
2. We acknowledge and laud the efforts of OASAS' Office of Audit Services (Office), including audit work which led to a material funding recovery from PROMESA. Nevertheless, it is unclear that the Office's current resources will be sufficient to adequately examine and investigate, as necessary, the claims filed by OASAS' 321 providers. Moreover, our intent was to recognize the challenges OASAS and the Office face in providing sufficient fiscal oversight to and monitoring of organizations like PROMESA, which have complex organizational affiliations and structures. Also, we made a minor revision to our phraseology of this matter.