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

Division of State Government Accountability

Selected Financial Management and Administrative Practices

Office of the Nassau County Public Administrator

Report 2013-S-37

April 2015

Executive Summary

Purpose
To determine whether the Office of the Nassau County Public Administrator (NCPA) operates in compliance with governing statutes and guidelines. Our audit covers the period January 1, 2010 to February 28, 2014.

Background
The New York State Surrogate's Court Procedure Act establishes a Court-appointed Public Administrator in 11 counties in the State, including Nassau County. Public Administrators are responsible for administering the estates of individuals who die intestate (without a will) and leave either no known heirs or heirs who are not qualified or willing to administer the estate. They are responsible for collecting, securing, and liquidating each assumed estate's assets in order to pay valid claims against that estate. After all reasonable expenses have been paid, the Public Administrator is responsible for distributing any residual value to estate beneficiaries. Any unclaimed funds are remitted to New York State after the statutory time period. Each Public Administrator maintains a suspense account to pay estate-related expenses not covered by the Public Administrator's appropriated county budget and prior to liquidating estate assets. The suspense accounts are funded by a fee set by the Surrogate's Court on the closing value of each administered estate. As of December 31, 2013, the NCPA reported a caseload of 168 open estates with an estimated gross value in excess of $44 million.

Key Findings
- The NCPA did not have documentation to support the hiring and compensation of employees who are paid through the suspense account, as otherwise required by governing regulations and guidelines.
- The average monthly balance in the NCPA's suspense account dropped from $241,214 in 2010, to $74,442 in 2013 – a decrease of $166,772 (69 percent).
- Although the NCPA publicly advertised for vendors annually, it did not prepare the required list of preferred vendors until 2013. Additionally, several vendors did not complete the required "Application to Provide Services." The NCPA also did not maintain written documentation justifying the selection of particular vendors as required by the governing Guidelines. Thus, it was not clear the NCPA used the most qualified vendors at the best available prices.
- Certain estate assets were put up for sale without the documented formal prior approval of the Surrogate's Court pursuant to statute.
- The NCPA's Annual Reports to the State Comptroller did not list non-cash estate assets as required by statute. Thus, the values of many estates were significantly underreported.

Key Recommendations
- Document the justification for the hiring of, and related payments to, employees financed by the NCPA suspense account.
- Determine ways to minimize expenses associated with the suspense account.
- Update the outside vendor list annually, justify the placement of each vendor on the list, and do not use vendors that have not properly applied.

- Prepare each Annual Report to the State Comptroller in compliance with the Regulation.

Other Related Audit/Report of Interest

Niagara County Public Administrator: Internal Controls Over Estate Assets (2009M-238)

State of New York
Office of the State Comptroller

Division of State Government Accountability

April 28, 2015

Mr. Jeffrey DeLuca
Public Administrator
Office of the Nassau County Public Administrator
240 Old Country Road
Mineola, NY 11501

Dear Mr. DeLuca:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government-funded services and 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 the Nassau County Public Administrator entitled *Selected Financial Management and Administrative Practices*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article 3 of the General Municipal 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 draft 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 New York State Surrogate's Court Procedure Act (Act) establishes a Court-appointed Public Administrator in 11 counties in the State, including Nassau County. The Public Administrator is responsible for administering the estates of individuals who die intestate (without a will) and leave either no known heirs or heirs who are not qualified or willing to administer the estate. The Office of the Nassau County Public Administrator (NCPA) is the subject of this audit.

Under the authority granted by the Surrogate's Court, the NCPA collects, secures, and liquidates estate assets in order to pay valid claims against the assumed estates, such as those for the decedent's funeral and taxes. After all reasonable expenses have been paid, the NCPA is responsible for distributing any residual value to estate beneficiaries. As of December 31, 2013, the NCPA reported a caseload of 168 open estates with an estimated gross value in excess of $44 million.

The NCPA is required to file an Annual Report with the Office of the State Comptroller that lists, among other items, the gross value of each estate. The purpose of these reports is to document the expeditious handling of the estates. Undistributed estate assets are remitted to the State as unclaimed funds after the statutory time period.

Pursuant to the authority granted by the Act, the Administrative Board for the Offices of the Public Administrators has prepared "Guidelines for the Operations of the Offices of the Public Administrators of New York State" (Guidelines). According to Section I.D.1 and I.D.2 of the Guidelines, each Public Administrator may maintain a suspense account to make estate-related payments not funded by the Public Administrator's appropriated county budget and prior to liquidating estate assets. The suspense accounts are then reimbursed upon asset liquidation. The suspense accounts are funded by a fee (commission) set by the Surrogate's Court on the value of each estate upon closing. The Guidelines also state that the Public Administrator shall be guided by established principles of fiduciary accountability, statutory authority, and/or direction by the court.

Audit Findings and Recommendations

We determined that the Office of the Nassau County Public Administrator needs to improve its administration of estates to ensure compliance with governing statutes and guidelines. In addition, we determined that its internal controls over certain financial management functions were inadequate.

Financial Management Practices

Suspense Account Employees

The NCPA's annual budget financed by Nassau County covers the salaries of seven employees, including the Public Administrator and the Deputy Public Administrator, and office-related expenses. In addition, the NCPA employs two full-time workers, an office manager and an estate administrator, and until 2012 one part-time accounting clerk, whose salaries and benefits are paid through the suspense account.

According to the Guidelines, the NCPA may use the suspense account to pay the salaries and benefits of office personnel provided that the office maintains records justifying the hiring of these employees as well as their respective salaries and benefits. However, the NCPA does not maintain such records. In addition, the NCPA does not maintain personnel files for these suspense account employees setting forth their duties and responsibilities. The only personnel-related documents we received for these employees was a May 2013 job description questionnaire that was completed for Nassau County – approximately two years after their employment began.

The Public Administrator advised us that he used his personal judgment in the hiring of the suspense account employees based on an increased office workload. However, he did not provide us with the required records to support the hiring.

The three suspense account employees filled the following positions:

- Office manager: full-time position, created in April 2011, with a pay rate of $35 per hour.
- Estate administrator: full-time position, created in September 2011, with a pay rate of $20 per hour.
- Accounting clerk: part-time position, created in January 2011 until February 2012, with a pay rate of $20 per hour.

From February 2011 through July 2013, these employees were paid a total of $358,103 in wages and benefits from the suspense account. We noted that these suspense account employees received pay raises and other benefits during this time period without documented justification. For example, the office manager received two hourly pay rate increases that brought her pay rate from $35 to $42 per hour during her first year of employment. The estate administrator also had a pay increase from $20 to $23 per hour during her first year of employment. These pay increases resulted in an additional $38,157 in costs to the suspense account from September

2011 to October 2013.

Pursuant to Section 162 of the State Labor Law, an employee who works a shift of more than six consecutive hours is entitled to at least a 30-minute meal break. The NCPA's Nassau County employees, including the Public Administrator and Deputy Public Administrator, are not paid for their lunch breaks. However, suspense account employees are paid for every hour in attendance whether or not they break for lunch. When asked, the office manager told us that the suspense account employees work through their lunch period (30 minutes) because they need to be available to perform their daily job functions. We note that the suspense account employees do not have job duties that would require them to be in the office for their entire shifts. The additional cost to the suspense account totaled $17,832 over the three-year audit period.

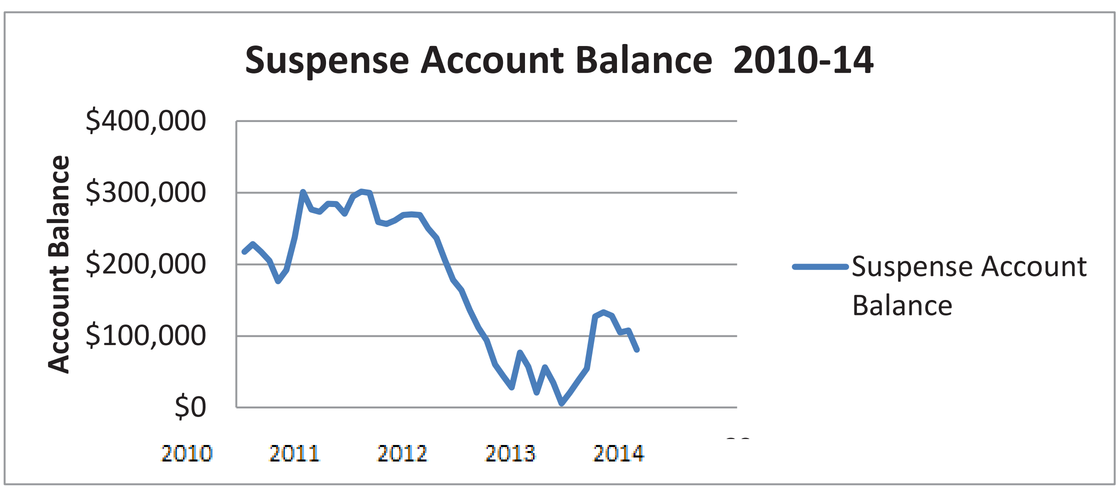
We also note that Nassau County employees receive health insurance benefits after completing six months of government service. However, the NCPA's suspense account employees were not required to wait that long. We found that the NCPA provided health insurance coverage for the office manager just four months after she was hired; the estate administrator received health insurance benefits after only one month of employment. These benefits cost the suspense account $6,846 during the first six months of employment.

When questioned, the Public Administrator advised us that employees paid through the suspense account were not subject to Nassau County regulations, and that he determined they should receive health insurance benefits without the full waiting period.

Suspense Account Balance

Given the irregular nature of the funding sources for the suspense account, it is reasonable to expect that the balance in the account will fluctuate, as estate disbursements are made and assets and commissions are collected. However, over the scope of our audit, the average monthly balance in the suspense account steadily declined.

The chart below shows the average monthly suspense account balance from 2010 to 2014.



A review of expenses shows that in 2010, for every $1 earned in commissions, $0.58 was spent on office expenses. However, from 2011 through 2013, for every $1 earned in commissions, an average of $1.50 was spent on office expenses. The primary reason for the increase in office expenses was the salary and benefits paid to the suspense account employees (office manager, estate administrator) mentioned earlier in the report.

At the current rate of disbursements, there is a possibility that the suspense account may become insolvent. If that were to occur, there would be no funds available for estate disbursements. With respect to the suspense account becoming insolvent, the Public Administrator told us that he has the ability to request that the Surrogate increase the commission fee from 1 percent to 1.5 percent.

Use of Outside Vendors

According to the Guidelines, the Public Administrator may employ outside vendors (e.g., appraisers, contractors) to perform services that are necessary to properly administer estates. From 2010 through 2013, the NCPA paid 52 vendors a total of $1.7 million to provide such services. To help ensure an open competitive vendor selection process, and to promote the hiring of qualified vendors, the Guidelines require Public Administrators to publicly advertise. The NCPA also established an internal policy to request that all interested vendors complete an "Application to Provide Services."

The application asks vendors to denote the type of services offered, their previous experience, applicable license numbers, insurance coverage, and requested compensation (e.g., fees, billing rates). The Guidelines also require the Public Administrator to create an annual list of outside (preferred) vendors based on these applications, the vendors' respective reputations, and the Public Administrator's past experiences with them.

However, although the NCPA publicly advertised for vendors, we were informed that they did not maintain their annual lists of preferred vendors until 2013. Thus, we cannot be assured the lists were in fact prepared. We also found that 10 of the 52 vendors used during the audit period, who received $434,931 in payments, did not have a vendor application on file, nor were they on the 2013 list. Further, the NCPA did not maintain written documentation justifying the selection of these particular vendors as required by the Guidelines. Thus, it is not clear that the NCPA used the most qualified vendors at the best available prices.

When we discussed this matter with NCPA officials, they agreed to update the list annually as required.

Estate Administration

After the NCPA is notified of an intestate death in Nassau County, it conducts an initial search of the decedent's residence. During that initial search, the NCPA also reaches out to neighboring residents to obtain additional information regarding the decedent, his or her family, and the estate. When available, to protect the integrity of estate assets, an independent witness, such as a building superintendent, landlord, or police officer, is present at the initial search.

Recording and Reporting Estate Assets

According to the Guidelines, the Public Administrator must maintain an electronic case-management system containing a record of each estate under administration. The system should provide an inventory of each item of real and personal property of saleable value in each estate and the location of such assets. The NCPA's electronic inventory records consist of individual inventory sheets that provide detailed information on the assets of each estate and their disposition; these are updated continuously. In addition, the NCPA utilizes a manual inventory record-keeping system to document estate assets stored in its safe room.

We determined that the safe room inventory is not sufficient because it does not contain relevant information, such as the date an asset was disposed. As a result, NCPA staff cannot fully track the history of an estate asset prior to and after its disposal. According to the New York State Comptroller's Office Local Government Guide for Capital Assets, a perpetual inventory system enables municipalities to maintain both physical control and accountability over their capital assets. It also provides managers with direct access to reliable information on current capital assets throughout the year. It was not until August 1, 2013, after we discussed this issue with NCPA officials, that the office implemented a perpetual inventory record-keeping system for the assets it recovered from each decedent's estate and stored in its safe room.

Auctioning of Estate Assets

As part of the asset liquidation process, the NCPA auctions off any real and personal property owned by the decedent in order to pay valid claims against the estate. During 2010 through 2013, the NCPA held seven public real estate auctions at which it put up for bid a total of 50 homes. Of these, 48 were sold either through the public auctions held by the NCPA or through private auctions held by an outside vendor. The remaining two residences had not been sold as of March 2014.

Before any real or personal property items are to be sold, the NCPA submits a request to the Surrogate's Court for "Letters of Administration" (Letters). The Letters denote what items can be sold after a determination of existing estate beneficiaries – if any. We found that in two of the 50 home sales noted above, the homes were put up for sale before the NCPA was issued the Letters granting it the authority to auction off these assets.

We brought this matter to the attention of both the Nassau County Surrogate's Court Judge and NCPA's legal counsel for comment. They advised us that, according to Section 1212(5) of the Surrogate's Court Procedures Act, the Public Administrator may sell, when authorized by the court, "perishable property" or "such other property … as the preservation of the estate requires" before Letters of Administration are issued. They also told us that the Letters for the two estates were issued within 30 days of the respective auctions, so the NCPA was legally authorized to transfer title by the closing dates of the sales.

We note that we were not provided with any documentation demonstrating the Surrogate's Court's approval for these items to be auctioned before the Letters were issued. We question whether estate assets should be put up for auction until the NCPA is formally authorized by the Surrogate's Court to do so. Such documentation should be maintained for independent review.

Annual Report to the State Comptroller

We also note that, according to the New York Codes, Rules and Regulations (NYCRR) Part 71.1, the NCPA is required to submit an Annual Report to the State Comptroller (Report). The Report is to list, among other information, the name of each estate (decedent) in the custody of the NCPA; the date each of the listed estates was assumed by the NCPA; and the gross value of each listed estate. Staff at the Office of the State Comptroller use the Reports to monitor the activities of public administrators, including the timeliness of their handling of estates. In accordance with statute, undistributed estate assets are eventually remitted to the State as abandoned property.

Although we found that the NCPA does submit the Report annually as required, it does not properly prepare the Report. The NCPA does not report the "gross value" of the listed estates. The values reported for each estate omit non-cash assets (e.g., real estate, automobiles), which are often the most valuable items in an estate. Thus, the values of many estates are significantly underreported. Further, since no one at the NCPA reconciles all ultimate sales to each annual report, it is possible that missing assets would go undetected by an independent party.

For example, the NCPA's 2013 Report listed the gross value of one estate as $47,086, which included cash and other liquid assets (e.g., bank accounts). The decedent's home, appraised at $265,000 – and eventually sold for $348,000 – was not listed on the Report. In another case on the same Report, the gross value of the estate was listed as $26,804, once again limited to cash and other liquid assets. This decedent's home, which was appraised for $268,000 and eventually sold for $400,000, was not listed.

The NCPA staff person responsible for preparing the Report, one of the suspense account employees, told us that the gross value of estate assets was historically listed in this manner. It was the practice of the prior administration, and they just continued that practice.

Recommendations

1. Document the justification for the hiring of, and related payments to, employees financed by the NCPA suspense account.

2. Develop and implement comprehensive policies and procedures for the suspense account employees regarding lunch breaks and health benefits.

3. Determine ways to minimize expenses associated with the suspense account.

4. Update the outside vendor list annually, justify the placement of each vendor on the list, and do not use vendors that have not properly applied.

5. Retain approval from the Surrogate's Court if a pre-Letters sale is warranted.

6. Prepare each Annual Report to the State Comptroller in compliance with the Regulation.

Audit Scope and Methodology

We audited the NCPA for the period January 1, 2010 to February 28, 2014. The objective of our audit was to determine whether the Nassau County Public Administrator operates the NCPA in compliance with the governing statutes and Guidelines.

To accomplish our objective, we reviewed the Public Administrator's governing statutes, Guidelines, and financial records. We interviewed NCPA officials and staff to obtain an understanding of their financial and business practices, their policies and procedures, and the Guidelines. In addition, we interviewed the Nassau County Surrogate's Court Judge. To complete our audit work, we reviewed check registers, time records, vendor applications, and estate files. The scope of audit work on internal control focused on gaining an understanding of the NCPA's business operations and practices. We identified certain control deficiencies that were significant to the audit's objective. These are discussed in the appropriate sections of our audit report.

We conducted our compliance audit in accordance with generally accepted government auditing standards. These 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. 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. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

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 3 of the General Municipal Law.

Reporting Requirements

We provided a draft copy of this report to NCPA officials for their review and formal comment. We considered the comments of NCPA officials in preparing this report and have included them in their entirety at the end of it. Generally, NCPA officials concurred with our report's recommendations and indicated that certain actions have been or will be taken to address them. Also, our rejoinders to certain NCPA comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Nassau County Public Administrator 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 recommendation was not implemented, the reasons why.

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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.

Agency Comments

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February 26, 2015

Frank Patone, CPA
Audit Director
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Division of State Government Accountability
123 William Street, 21st Floor
New York, N. Y. 10038

Re: Audit Report #2013-S-37

Dear Mr. Patone,

Enclosed is the Nassau County Public Administrator's response to your draft of the audit report entitled "Selected Financial Management and Administrative Practices".

I would like to take this opportunity to thank your office for your comments and suggestions designed to improve both the security and efficiency of this office.

Should you have any questions regarding this response, please do not hesitate to contact the undersigned.

Very truly yours,

Jeffrey E. DeLuca
Public Administrator

Enc.

2013-S-37

Financial Management Practices

Suspense Account Employees

Prior to the current Public Administrator assuming office in January of 2011, the Nassau County Public Administrator's (NCPA) annual budget provided for the salaries of five (5) county employees, the Public Administrator and the Deputy Public Administrator. The office also employed two suspense account employees – a P/T Case Worker/Paralegal and a CPA – who were employed by the NCPA for an excess of ten (10) years (2001-2010).

When the current Public Administrator took office, January 1, 2011, he immediately set out to familiarize himself with the workings of the office. He quickly became aware that many of the administrative functions, which should have been performed by the NCPA in his fiduciary capacity, were being performed by the then attorney for the Public Administrator's Office and that it was necessary and required for the Public Administrator's Office to assume these administrative duties. It is established law in NY that "services that are executorial or ministerial in nature are not subject to compensation as legal expenses because the fiduciary is compensated to perform those services out of commissions". See in this regard Matter of Cook, 2012 N.Y. Misc. LEXIS 4523; 2012 NY Slip Op 32400(U)

This prior practice from 2001-2010 resulted in additional legal fees being inappropriately billed to many estates.

Upon assessing the skills and qualifications of his staff, the NCPA determined that in order to carry out the fiduciary and administrative functions of the office he needed an individual capable of overseeing the performance of these duties. In order to satisfy this need, he secured the services of the Office Manager who demonstrated extensive experience in banking, accounting and estate administration.

* Comment 1

The Public Administrator then instructed his attorney that effective July, 2011, the asset collection of all new estates would be undertaken by the staff of the PA's Office. Prior to this date, all asset collection functions were being performed by the former attorney. These fiduciary duties were then assigned to the P/T Case Worker/Paralegal.

By September, 2011, it became evident that the asset collection function could not be performed on a part-time basis, as it requires constant follow-up with financial institutions, and that it would be necessary to hire additional staff to perform this important fiduciary duty. The Public Administrator hired the Estate Administrator who had previous experience in both asset collection and creditor claims.

The NCPA currently maintains personnel files for its suspense account employees which include the justification for their hiring as well as the justification for their pay rate increases.

*See State Comptroller's Comments, page 19.

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As of July, 2014 suspense account employees were converted from hourly paid to salaried employees and have been included on the county's time record system, "In Time". The In Time system automatically deducts time for lunch and, accordingly, we are now in compliance with Section 162 of the State Labor Law.

The NCPA has now instituted a policy whereby any new full time suspense account employees would have to complete six months of service prior to receiving health insurance benefits.

It should be noted that due to a mandatory budget cut affecting all county departments and agencies, the NCPA's annual budget for 2012 was reduced. The annual budget currently provides funding for four (4) county employees, the Public Administrator and the Deputy Public Administrator. Without the services provided by the suspense account employees, the NCPA would be unable to fulfill his fiduciary responsibilities.

Suspense Account Balances

Although we acknowledge that there has been an increase in the amount of office expenses paid from the suspense account, it should be noted that during the years of 2011 and 2012, the office employed a Part-Time (P/T) Case Worker/Paralegal whose job duties were the same as the Estate Administrator and who received $35/hour and a Certified Public Accountant (CPA) who performed many office functions and was also paid for these duties from the suspense account. The CPA received $75/hour for providing these services. All of these functions have now been assumed by the Office Manager, who receives $42/hour. This redistribution of work assignments, which was completed by the end of 2012, is more cost effective and beneficial to the suspense account. As stated previously, both the P/T Case Worker and the CPA were employed at the Public Administrator's Office for an excess of 10 years and were hired during a prior administration.

*
Comment
2

With regard to the concern over the suspense account becoming depleted, a review of this account reveals that in 2014 for every $1 earned in commissions, $ .60 was spent on salaries and benefits. Should the suspense account balance become a concern in the future, the NCPA does have the ability to request that the Surrogate increase the fee to 1.5%. As stated above, the suspense account employees are essential personnel.

The NCPA has instituted a number of internal procedures to secure against lost revenue in the suspense account by carefully screening potential cases to determine the value of the assets prior to petitioning for Letters of Administration. For those estates owning real property, the NCPA reviews the County Clerk files for outstanding mortgages, judgments and liens, as well as, contacting the Nassau County Treasurer to confirm that there are no outstanding taxes. This greatly eliminates the chance of accepting an estate where the liens exceed the value of the property.

These procedures were not employed by the previous administration and resulted in write-offs in excess of $90,000.

2013-S-37

Use of Outside Vendors

As prescribed in Section V.A. of the Guidelines, the NCPA does advertise in the local newspaper for all vendors annually. We additionally respond to inquiries on our website, by mail and also by phone throughout the year. The NCPA requires that all vendors provide a completed vendor's application annually.

The assertion that the NCPA did not maintain an annual vendor's list until 2013 is incorrect. Our vendor list is updated regularly; however, the office did not retain the year end vendor's list. We will maintain this annual list in the future.

* Comment 3

On January 1, 2011, the NCPA's vendors list consisted of one vendor in each category. The current Public Administrator has increased this list to include at least two vendors in each category, where practicable. This practice affords a basis for comparison between vendors preforming the same or similar duties.

The Public Administrator has contacted various vendors to request a price adjustment at such times when he became aware of a significant difference in prices between vendors within the same category. If the vendor chooses not to comply with the request for a price reduction, the office no longer uses that vendor.

The NCPA will maintain a log justifying vendor selection within each category as recommended.

Estate Administration

Section 4 A3 of the "Guidelines for the Operations of the Offices of the Public Administrators of New York State" require that "At least two employees employed by the PA's office shall be present during the initial search…" The NCPA is, and has always been, in full compliance with this procedure.

Although, on occasion, independent witnesses such as a landlord or building superintendent have been present during this initial search, this practice is not encouraged.

On the initial search of a decedent's residence, as set forth in the Guidelines, it is the primary concern of the NCPA to document the contents and condition of the residence by photograph or video recording; to secure decedent's valuables, search for a will and a cemetery deed, as well as any other documentation which can help identify assets or possible family members. The presence of a third party may create an unsecure and or unsafe situation which could compromise the integrity of the initial search of the premises thereby exposing the Public Administrator to potential liability.

2013-S-37

Recording and Reporting Estate Assets

As stated, the NCPA is in compliance with the Guidelines as we maintain inventory records for each individual estate detailing the value and disposition of estate assets. Items of personal property, assets which are awaiting appraisal or assets which have been appraised and are being held for distribution to family are given inventory control numbers and are kept in the saferoom. Although the authority referenced – the New York State Comptroller's Office Local Government Guide for Capital Assets – refers to capital assets belonging to municipalities, the NCPA recognizes the value of maintaining a perpetual inventory record-keeping system. The NCPA implemented this system on August 1, 2013 and has continued to maintain it in the ordinary course of business.

Auctioning of Estate Assets

It is a function of the NCPA to auction real property belonging to estates. These auctions are held approximately twice a year. The frequency of these auctions is dependent upon the number of properties being maintained by the NCPA. Section 1212(5) of the Surrogate's Court Procedure Act states that the Public Administrator may sell, when authorized by the court, "perishable property" or such other property ... as the preservation of the estate requires" before Letters of Administration are issued.

In the two instances cited, the NCPA had petitioned for Letters of Administration and had been advised by Court personnel that the issuance of Letters was imminent. It was prudent for the NCPA to sell these properties at the earliest auction available. In addition to saving the estate the additional costs of property taxes, maintenance fees and insurance, the NCPA also protected the estates from exposure to liability due to potential damage to the property. The NCPA will, however, in the future secure written authorization from the Court to sell estate properties prior to Letters of Administration being issued as recommended.

Annual Report to the State Comptroller

Prior to this audit, it was the longstanding interpretation of New York Codes, Rules and Regulations (NYCRR) Part 71.1 by the NCPA to include only those assets which had been collected or liquidated in the "Amount of Gross Estate" column on the annual report to the New York State Comptroller's Office. Having received clarification of the requirement of this regulation from your office, the NCPA intends to implement a procedure by which all identified assets which have not been liquidated will be included at their appraised value and, in the case of bank and brokerage accounts, included at their date of death value.

State Comptroller's Comments

1. However, as noted in the report, the NCPA did not maintain records justifying the hiring of the employees in question, as otherwise required by the Guidelines for the Operations of the Offices of the Public Administrators. Specifically, there were no formal assessments of staff's skills and qualifications nor formal analysis of workloads to support the need for the additional staff.
2. We acknowledge that a decrease in hourly rates can reduce costs. However, such cost reductions could be offset by increases in the number of hours paid. Moreover, as noted in the report, the costs for the new staff contributed to material decreases in the suspense account fund balance.
3. We revised our report, as appropriate, to note officials' comment that the NCPA's annual vendor lists were prepared; however, they were not maintained on file.