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July 2016

Thomas J. Santulli, County Executive
Members of the County Legislature
Chemung County Legislature
John H. Hazlett Building
203 Lake Street
PO Box 558
Elmira, New York 14902

Report Number: S9-15-27

Dear County Executive Santulli and Members of the County Legislature:

The Office of the State Comptroller works to help county officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support county operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six counties throughout New York State. The objective of our audit was to determine if counties are monitoring community-based agencies to ensure that services provided and payments made are in accordance with contractual agreements. We included Chemung County (County) in this audit. Within the scope of this audit, we examined the procedures of the County and various contracts in place for the period January 1 through December 31, 2013. Following is a report of our audit of the County. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the County. We discussed the results of our audit and recommendations with County officials and considered their comments, which appear in Appendix B, in preparing this report. County officials generally agreed with our recommendations and indicated they have taken or plan to take corrective action. At the completion of our audit of the six counties, we prepared a global report that summarizes the significant issues we identified at all the municipalities audited.

Summary of Findings

We found the County could do more to ensure each community-based agency service contractor¹ provides services in accordance with the contract terms.

To determine if the County was effectively monitoring its community-based agency service contracts, we sampled five contracts totaling \$903,875. We found one manager does not always comply with the Department of Social Services' (Department) contract monitoring expectations. The manager said that he relied on the contractors' integrity to self-report their contractual performance and he did not confirm billed services were provided or reported performance levels were accurate before making payments. The contract has a value of \$307,445. When managers do not effectively monitor contracts, there is less assurance that the Department is receiving the contracted services or programs are operating as intended.

We also found that although the New York State Social Services Law (SSL) requires counties to use performance-based contracts when contracting for work activities, if practicable, the County does not use them. Officials said performance-based contracts are not practicable because the County has a small population, a limited number of service providers and it is challenging to find service providers willing to accept a performance-based contract.

Background and Methodology

The County has a population of approximately 89,000 residents and is governed by a 15-member Board of Legislators (Board). The County Executive is the County's chief executive officer and is responsible for oversight of County operations. The County's 2014 budget totaled \$218.6 million and included the Department budget of \$63.9 million. A Commissioner oversees the general management of the Department and enforcement of SSL.

The Department is responsible for providing temporary help to eligible individuals and families with financial and social service needs to assist them with leading safe, healthy and independent lives. The Department provides and manages a wide range of social welfare programs. To accomplish its mission, the Department enters into contracts with community-based agencies to provide services that enhance the ability of families to live together, enable individuals to remain in their homes, minimize the risk of abuse or neglect and provide for specialized care in residential settings when necessary. SSL requires the Department, when contracting for work activities, to use performance-based contracts, when practicable. The Department has 134 service contracts totaling \$11.3 million.² Seven managers monitor these contracts.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

¹ Contractor that generally provides services to a client of the County's Department of Social Services

² As of December 31, 2013

Audit Results

Contract Monitoring – Contract monitoring is essential to ensure that services provided are consistent with the contract terms. The seven managers responsible for monitoring contracts should be familiar with and have copies of the contracts they monitor and adhere to the Department’s contract monitoring practices. Managers should hold each contractor accountable to the terms of their contract, such as providing agreed-upon reports and evaluating services provided. Managers should also ensure that information reported by the contractor meets the performance outcomes outlined in the contract. In addition, if a contractor self-reports contract performance data, the manager should verify the contractor’s information.

The Department’s contracts require contracted agencies to periodically provide progress reports. The reports should account for each performance measure defined in the contract. The Department’s management expects its managers to review appropriate supporting documentation to ensure that they receive all required progress reports, the contractor submits payment vouchers in accordance with contract terms, they received billed services and the contractors accurately report self-reported performance outcomes.

To determine if managers were monitoring the contractors in accordance with the Department’s direction, we reviewed five contracts valued at \$903,875. Figure 1 in Appendix A shows a breakdown of the contracts we examined and the performance expectations. For each contract, we determined if the contractor submitted all required progress reports; determined if the contractor met performance expectations; examined the Department’s documentation, when possible, to confirm services were provided; examined and recalculated the contractor’s payment vouchers to confirm they were prepared in accordance with the contract terms; and confirmed the Department reviewed and approved each voucher for payment.

We found the Department obtained the required progress reports, reviewed and approved all vouchers and made payments in accordance with the contract terms. One of the five contracts we reviewed has a value of \$307,445, and the manager who monitors this contract said he does not always comply with the Department’s contract monitoring expectations. The manager said that he relies on the contractors’ integrity to self-report contractual performance. Contrary to the Department’s expectations, he did not obtain data or evidence to confirm the contractors’ reported performance statements were accurate. In addition, the outpatient medical facility contractor self-reported that it failed to ensure program participants who were seeking treatment had an appointment scheduled within five days. The contractor did not meet this performance expectation for nine consecutive months. While the manager said he was aware of the contractor’s underperformance and had several conversations with the contractor about improving their timeliness, he did not document the conversations, and he did not have other documentation to support actions taken to address the contractor’s underperformance. Maintaining such evidence may help the County terminate a contractor who consistently underperforms.

The Department does not have written policies and procedures to guide the managers in monitoring contracts. Department management orally conveyed the contract monitoring policies and procedures. Having policies and procedures that are not formalized leads to misunderstandings and inconsistent application of the policies and procedures. When managers do not effectively monitor contracts, there is less assurance that the Department is receiving the contracted services or programs are operating as intended.

Performance Contracting – The Department is required by SSL to use performance-based contracting, if practicable, when contracting for work activities.³ Although not defined in the SSL, performance-based contracting generally includes a clear definition of a series of objectives and indicators by which to measure contractor performance, collection of data on the performance indicators and consequences for the contractor based on performance (e.g., agreed upon amounts of consideration for meeting or exceeding indicators, or termination of the contract or reduced amounts, as set forth in the agreement, for not meeting or exceeding those indicators). Performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that the consideration is related to the degree that services performed meet or exceed contract standards.

Performance-based contracts should:

- Describe the requirements in terms of results required rather than the methods of performance of the work;
- Use measurable performance standards;
- Specify procedures for reductions of fees or for reduction to the price of a fixed-price contract when services are not performed or do not meet contract requirements; and
- Include performance incentives where appropriate.

The Department does not use performance-based contracting. While we found the Department incorporated performance statements in the five contracts we reviewed, the contracts do not contain incentives if the contractor meets or exceeds performance expectations or penalties if the contractor fails to meet minimum contract performance. Officials said performance-based contracts are not practicable because the County has a small population, with a limited number of service providers, and it is challenging to find service providers willing to accept a performance-based contract.

For example, the County entered into a contract that requires several measurable performance standards, such as having 15 percent of program applicants gain employment (20 or more hours a week) before the applicant completes the program. However, the contract lacks reward and sanction provisions for good and poor performance, respectively. Officials told us if a contractor continuously failed to meet the minimum performance standards, they would terminate the contract or allow the contract to lapse and negotiate a new contract with another vendor.

Department officials told us they have not implemented performance-based contracting because they believe it is not practicable. However, they could not provide written analysis to support this conclusion. Because the Department does not follow performance-based contracting, it may be paying for services that are not effective.

Invoice Processing – Auditing invoices should be a thorough and deliberate examination to determine that the invoice is a legal obligation and proper charge against the County. Further, the original invoice submitted by the service provider should agree with contractual terms. The various required supporting documentation should also agree with amounts charged on the invoices.

³ Paid or unpaid activities that help improve an individual's employability

To determine if payments are allowable according to the contract and that they are a proper charge against the County, a thorough review of invoices provided by the contractor is required. This review should verify that payment is allowed according to the terms of the contract and that the required supporting documentation supports and agrees to the amounts charged on the invoices. In addition, these invoices should be submitted within timeframes established in the contract.

To determine the accuracy of invoices and associated payments, we reviewed 60 invoices totaling \$744,778 related to the same five contracts discussed previously. We found the contractors provided the required supporting documentation, payments were made in accordance with contract terms and the invoices were submitted within the contract timeframes.

Recommendations

Department officials should:

1. Develop and implement written contract monitoring policies and procedures and ensure managers follow them.
2. Use performance-based contracting, when practicable. If the County does not use performance-based contracting techniques, consider adding contractual language to service contracts that detail recourse actions the County may take when performance measures are not met.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the Clerk's office.

We thank County officials and staff for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

SUPPLEMENTAL INFORMATION

Figure 1: Contracts Reviewed		
Description	Performance Expectation(s)	Value
Outpatient medical facility	<p>90% of all individuals seeking treatment will be offered an appointment within five business days.</p> <p>58% of patients will show evidence of discontinued drug use.</p> <p>57% of patients will maintain improved status.</p> <p>55% of patients will successfully complete the program or be referred to an appropriate level of care.</p>	\$307,445
Supervision, education and recreational youth services	<p>85% of youth in program will demonstrate an improvement in school performance and behavior as reported by school district.</p> <p>85% of youth will show a reduction or no further criminal activity for up to one year after exiting the program as reported by law enforcement, court or probation reports.</p> <p>85% of youth will engage in additional recommended services or wrap-around supports.</p> <p>85% of youth will identify a natural support system while in the program.</p>	\$193,263
Job development program to assist in developing job opportunities and work experience	<p>15% of individuals completing program will gain employment by the completion of the program.</p> <p>All individuals completing program were assessed for childcare and/or transportation service needs.</p> <p>90% of individuals completing program will have complete case record files.</p>	\$214,530
Emergency temporary shelter	<p>90% of residents will not exceed 45-day stay at the safe house.</p> <p>90% of residents will leave the shelter with needs identified and services either offered or in place, per needs assessment checklist.</p> <p>90% of residents will have a safety plan in place and know what community services are available.</p>	\$157,087
Work key assessments	<p>Contractor provides one staff member to perform various services to help document work-ready skills of individuals receiving social service benefits, such as enroll 125 employable recipients in Key Train, set up and hold weekly information sessions, monitor weekly participation and enter data in computer system.</p>	\$31,550
Total		\$903,875

APPENDIX B

RESPONSE FROM COUNTY OFFICIALS

The County officials' response to this audit can be found on the following page.



Thomas J. Santulli
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September 23, 2015

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Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417

RE: Chemung County Response to Draft Audit Report Number S9-15-27

Dear Ms. Singer:

This letter is in response to the Office of the State Comptroller's recent draft findings from the Chemung County Department of Social Services Service Contracts examination:

The Department of Human Services has updated written policies and procedures to guide managers in monitoring contracts under their responsibility. All managers have reviewed and agreed to the updated written policies. In addition, since the time of the audit, the Department has hired a Quality Assurance Director to assist the managers in the oversight of contracts. The Director is currently reviewing all contracts and refining the performance outcomes of each contract. The Director will be monitoring contract compliance and requesting formal corrective action for all contracts not meeting performance outcomes beginning in January 2016.

The Department will consider adding contractual language to detail recourse actions for noncompliance of the stated contract requirements. However, it should be noted that the Department cannot make a unilateral decision to withhold funding designated by State Aid letters issued by OHM, OASAS and OPWDD, \$307,445 of the total tested was designated by a State Aid letter.

If you need any further information or clarification, please do not hesitate to contact me, or Jennifer Stimson, the County's Commissioner of Human Services at jstimson@co.chemung.ny.us or 607-737-5309.

Sincerely,

Thomas J. Santulli
Chemung County Executive

cc:



Jennifer Stimson
Joseph Sartori

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To complete our objective, we interviewed County and Department officials and identified practices used to monitor Department contracts to determine whether the County is effectively monitoring these contracts. We performed procedures that include the following steps:

- We interviewed key officials to identify the Department's community-based agency service contract monitoring process and gained an understanding of the components of a typical Department contract, established how service providers invoiced the County for services and determined how those invoices were reviewed and payments were made. Further, we obtained an understanding of how the contractual agreements were monitored.
- We obtained a list of community-based agency service contracts and verified that list to the Department's budget and accounting records. We judgmentally selected two employment-related contracts and three additional contracts. We considered the contract values and funding sources when selecting contracts to review.
- We obtained and reviewed the five contracts to determine the terms of the agreement.
- We obtained and reviewed the invoices for each contract that were paid between January 1 and December 31, 2013 to determine if payments were made in accordance with the contract and the Department's policy.
- We obtained and reviewed the performance reports submitted to the Department by the service providers to evaluate whether contractual requirements were met.
- We interviewed the managers to determine how each one monitors whether the service providers are complying with contractual obligations.
- We reviewed invoices to determine whether the manager was approving invoices for payment, the amount billed matched the amount paid by the Department and the supporting documentation substantiated the amount billed.
- We traced a sample of payments from the invoices to the general ledger.

We conducted this performance audit in accordance with GAGAS. 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.