



Executive Office

44 Holland Avenue
Albany, NY 12229-0001

TEL: 518.473.1997
FAX: 518.473.1271
TTY: 866.933.4889

omr.state.ny.us

November 10, 2009

Transmitted Via Email

The Honorable Thomas P. DiNapoli
New York State Comptroller
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: OSC Audit Report 2008-S-7

Dear Comptroller DiNapoli:

Attached is the Office of Mental Retardation and Developmental Disabilities' (OMRDD) comments on the Office of the State Comptroller's Final Audit Report (No. 2008-S-7) entitled: "Hudson Valley DDSO Administration of Preservation Funds."

This response is being submitted to you in accordance with Section 170 of the Executive Law.

Sincerely,

Diana Jones Ritter
Commissioner

DJR/mep
Attachment

Office of Mental Retardation and Developmental Disabilities (OMRDD)
Response to the Office of the State Comptroller's (OSC)
Final Audit Report (2008-S-7)
Hudson Valley DDSO Administration of Preservation Funds

TO OMRDD

Recommendation #1:

Provide guidance and assistance to responsible Hudson Valley officials regarding the importance of and the need for consistent enforcement of controls over Preservation Funding.

Response:

OMRDD and the Hudson Valley Developmental Disabilities Services Office (HVDDSO) are fully committed to comprehensively addressing all of the serious monitoring and oversight issues cited in this report.

- OMRDD's Division of Fiscal and Administrative Solutions (DFAS) completed revising its Voluntary Preservation Fund Guidelines in July 2009. The revisions were made to provide stronger and more consistent guidance and oversight regarding the use and monitoring of Preservation Funds.
- DFAS also conducted an interactive conference call in July 2009 with Hudson Valley DDSO senior management and program staff to discuss the changes to the Voluntary Preservation Fund Guidelines, the issues raised in this draft report, and our expectations going forward. Also in July 2009, the revised Voluntary Preservation Fund Guidelines were shared with the other DDSOs; in July and August 2009, interactive conference calls were then conducted with the other DDSOs. A final version of the guidelines was issued in August 2009, addressing any issues or points of clarifications that were discussed in the conference calls with the DDSOs.
- The DDSO Deputy Directors will coordinate oversight at the local level and provide regular updates to the Director. DFAS will provide central oversight and monitoring.

Recommendation #2:

Investigate the circumstances surrounding contract awards to Hudson Valley agencies. If possible fraud is identified, take appropriate action including referrals to law enforcement.

Response:

Regarding the two agencies specifically identified in the draft report, a CPA firm under contract with OMRDD conducted an investigation at one of the agencies, the findings of

which were shared with your office. It was determined that the bids in question were created as a matter of convenience, and not to benefit agency staff or the contractor. While unacceptable, we do not believe that their actions were done with the intent to commit fraud. As such, we will not be referring the matter to a law enforcement agency. OMRDD's BCM has scheduled a review for the second agency to start in December 2009; included in the review will be the issue raised in the report.

Accountability and governance are integral elements of our culture here at OMRDD and we have a zero tolerance for fraud and/or fiscal mismanagement. Our responsible stewardship of State resources is intrinsically linked to the quality of services that we provide to the individuals in our care. As such, we continually strive to create a culture that supports not only doing the right things, but doing things right. To that end, we have also taken the following steps:

- OMRDD's Bureau of Compliance Management (BCM) has provided training to all the DDSOs regarding effective bidding and procurement procedures.

The BCM has scheduled to start an audit at Hudson Valley DDSO in early 2010; the audit will include a review of bidding and procurement procedures. If deficiencies are identified, BCM will recommend appropriate corrective measures and will monitor implementation of the recommendations.

- The Public Officers Law is posted on the intranet for all employees. Additionally, the Office of Counsel has developed a Code of Conduct for all employees. This will be incorporated in to our new Employee Handbook, which is being developed by the Division of Workforce and Talent Development.
- In February 2009, the DDSO Directors, OMRDD's Internal Control Officer and Ethics Officer partnered with the Commission of Public Integrity (CPI) to hold Ethics and Integrity training at all 16 of our Business Office locations. This training covered the Public Officers Law, OMRDD's outside activity policy, and the responsibilities of all State employees. Additionally, due to the recent opinion issued by CPI related to gifts, the Division of Workforce and Talent Management is in the process of providing this training to all OMRDD staff.

We believe that the actions discussed above, in concert with our response to the first recommendation, will increase our employees' understanding of the importance of following established procurement guidelines, and their individual roles in ensuring a fair, open, and competitive bidding process, both in fact and appearance.

TO HVDDSO

Recommendation #3:

Redistribute Preservation Funding procurement policies and procedures to all pertinent staff and take the steps necessary to ensure that the policy and procedures are fully understood and consistently enforced.

Response

As discussed in our response to the first recommendation, the Voluntary Preservation Fund Guidelines have been revised and were issued in July 2009. DFAS conducted an interactive conference call in July 2009 with Hudson Valley DDSO senior management and program staff to discuss the changes to the Voluntary Preservation Fund Guidelines, the issues raised in this draft report, and our expectations going forward. The revised Voluntary Preservation Fund Guidelines were shared with the other DDSOs and in July and August 2009, interactive conference calls were conducted with the other DDSOs. In August 2009, the final version, which included issues or points of clarifications that were discussed in the conference calls with the DDSOs, was formally issued.

In addition to the staff training provided by DFAS, Hudson Valley DDSO's Community Supports team is training the voluntary agencies within its district, communicating OMRDD's expectations regarding the appropriate use and documentation of all Preservation Funds.

Recommendation #4:

Stop reimbursing agencies for projects that did not have prior approval for Preservation Funding. Take corrective action with those agencies that have repeatedly sought such reimbursements to make certain they comply with funding requirements.

Response

The DDSO staff will ensure that all projects have the appropriate approvals prior to processing any reimbursements. Furthermore, the DDSO will meet with those voluntary agencies that have repeatedly violated this policy in order to advise them of our expectations and ensure their future compliance.

The Hudson Valley DDSO Deputy Director is reviewing all potential projects for approval and providing periodic updates to the Director.

Recommendation #5:

When reviewing agency requests for reimbursements on Preservation Fund projects, ensure that all required documentation (such as copies of bids) has been submitted by the agencies and all bidding and related requirements (e.g. comprehensive bid specifications) have been met.

Response

The DDSO will ensure that all required documentation has been submitted by the voluntary agencies prior to issuing any approvals for reimbursement. A comprehensive checklist, reviewed by the Hudson Valley DDSO Community Supports Team Leader and

the Deputy Director, has been developed to ensure consistency in this process across the four counties.

The Hudson Valley DDSO Deputy Director is monitoring oversight activities at the local level and providing periodic updates to the Director

Recommendation #6:

Periodically review the procurement controls and contract award practices at agencies to ensure that they comply with OMRDD's requirements, and take corrective action when inappropriate practices are identified.

Response

As part of the Hudson Valley DDSO's internal control process, the Community Supports team will annually review a percentage of the contracts awarded and the related procurement documentation to audit compliance with OMRDD's policies and procedures. When deficiencies are noted in these reviews, corrective actions will be taken.

Also, please see our response to Recommendations #3 and #5 for related information on training and monitoring of the voluntary agencies.

Recommendation #7:

Remind the agencies of the need to prevent conflicts of interest in the contract award process, and the steps that should be taken when such conflicts arise.

Response

The training to be given to the voluntary agencies will include the subject of conflicts of interest during the award process, and the actions that the DDSO will take when such conflicts arise. In an ongoing effort to reinforce both the significance of this issue and our commitment to enforcing compliance, the Community Supports team will include voluntary preservation projects in the development meetings and discussions.

Also, please see our response to Recommendation #3 for related information on training for the voluntary agencies.

Recommendation #8:

Require Preservation Fund reimbursement requests from voluntary agencies to include documentation showing (a) steps were taken to ensure project work was satisfactorily completed before payment was made and (b) any additional project costs were valid, reasonable and necessary.

Response

The DDSO has established procedures to document that projects have been satisfactorily completed. Providers are now required to submit photos to document the completed work and DDSO staff will make onsite visits to a sample of projects awarded each fiscal year.

Any work that requires additional funding will require written documentation that the costs were valid, reasonable and necessary (e.g., the scope of work including costs), and will not be reimbursed unless the DDSO staff, after review of the documentation, provides written authorization to the provider.

Also, please see our response to Recommendations #3 and #5 for related information on training and monitoring of the voluntary agencies.

We would like to take this opportunity to thank Comptroller DiNapoli's audit team for their professionalism, and also for the opportunity to respond to the findings contained in this audit report. Should you have any questions, please don't hesitate to contact Mary Peck, Director of Internal Control, at 518.474.4376 or Mary.E.Peck@omr.state.ny.us.



OMRDD-Commissioners
Correspondence Unit
<Commissioners.Corresponde
nce.Unit@omr.state.ny.us>

11/10/2009 12:50 PM

To "contactus@osc.state.ny.us" <contactus@osc.state.ny.us>

cc

bcc

Subject OMRDD Final Audit Report attached

IMPORTANT NOTICE: This message and any attachments are solely for the intended recipient and may contain confidential information which is, or may be, legally privileged or otherwise protected by law from further disclosure. If you are not the intended recipient, any disclosure, copying, use, or distribution of the information included in this e-mail and any attachments is prohibited. If you have received this communication in error, please notify the sender by reply e-mail and immediately and permanently delete this e-mail and any attachments.



2008-5-7.DINAPOLI.PDF 08S007_OMRDD_RESPONSE.PDF