



New York State Comptroller
THOMAS P. DiNAPOLI

2021 – 2022

Annual Report on Audits

of State Agencies and

Public Authorities

January 2023

Message from the Comptroller

January 2023

One of the chief responsibilities of my Office is to audit State agencies, public authorities, and public programs to help establish whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate waste and prevent and detect fraud. This, in turn, helps promote transparency and accountability in New York State government, which benefits each and every one of us.

State government officials are the stewards of the State's assets and the public's trust. Our audits keep New Yorkers informed on how well agencies and authorities are living up to that responsibility, and sound a call to action when needed. This annual report summarizes the results of the State government audits my staff conducted for the 2021-22 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets. I hope that New York public officials and citizens will find this report useful and informative.

Thomas P. DiNapoli
State Comptroller



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About the Annual Report

As required by law, this annual report summarizes the results of all the State agency and public authority audit reports issued by the Office of the State Comptroller from October 1, 2021 through September 30, 2022. It does not include audits of New York City agencies, local governments, or other entities, as these are not included in the statutory requirements. The audit summaries in this report are divided into nine areas: Health and Human Services; Education; Transportation; Criminal Justice and Judicial Administration; Government Support; Economic Development and Housing; Other State Agencies and Public Authorities; Multi-Agency; and Special Reports. An accompanying volume lists, by State agency or public authority, the audit reports issued during the preceding five-year period—October 1, 2016 through September 30, 2021.

To obtain any of the audits cited in this report, visit www.osc.state.ny.us or contact the State Comptroller's Office of Public Information at (518) 474-4015.

Introduction

The New York State Constitution designates the State Comptroller as the State's Auditor. Within the Office of the State Comptroller (OSC), the Office of State and Local Government Accountability (SLGA) is the primary office that carries out the State Comptroller's functions as State Auditor. The Division of State Government Accountability (SGA) is a component of SLGA and conducts audits of New York State and New York City agencies and public authorities. Audits of New York City agencies, while not included in this report, are accessible at www.osc.state.ny.us/state-agencies/audits/by-agency.

SGA employs more than 250 professional auditors, many of whom hold advanced degrees and professional certifications in the accounting and auditing fields, including Certified Internal Auditors, Certified Fraud Examiners, Certified Information Systems Auditors, and Certified Public Accountants. SGA also employs staff with other professional expertise, including in the social sciences, health, and computer science. OSC is dedicated to protecting the public interest and promoting government accountability.

Fiscal Impact

For the reporting year 2021-22 (October 1, 2021 through September 30, 2022), SGA issued 80 reports addressing the operations of State agencies and public authorities. Auditors identified over \$1.7 billion in actual cost savings at these agencies and authorities. These savings have already been achieved, or will be achieved, with the implementation of audit recommendations. Auditors also identified over \$168 million in potential savings. In these cases, more action is usually required to realize the savings (e.g., legislative action or agency follow-up investigations with vendors to determine exact amounts).

The following table provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2021-22. Auditors estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize substantial monetary benefits, potentially nearly \$5.31 billion (which includes non-recoverable overpayments that, once corrective actions are taken, can be avoided in the future).

Audit Cost Savings for Reporting Year 2021–22

| Fiscal Category | Actual | Potential | Totals |
|--|------------------------|----------------------|------------------------|
| Cost Recovery | \$1,703,707,777 | \$66,994,342 | \$1,770,702,119 |
| Cost Avoidance | – | 140,391 | 140,391 |
| Revenue Enhancement | – | 101,746,536 | 101,746,536 |
| Subtotals | \$1,703,707,777 | \$168,881,269 | \$1,872,589,046 |
| Non-Recoverable Overpayments & Questionable Transactions | | | \$3,436,981,949 |
| Total Fiscal Impact | | | \$5,309,570,995 |

Agency Accountability

According to Section 170 of the Executive Law, when a State entity is audited by the State Comptroller, the executive of that entity must report to the Governor, the State Comptroller, and the leaders of the Legislature and the legislative fiscal committees, advising them on steps taken to implement the State Comptroller's recommendations and, where any particular recommendations were not implemented, explaining the reasons why. (Section 170 is not applicable to New York City agencies.) The State Comptroller also performs follow-ups to assess auditees' progress in implementing prior audit recommendations.

In reporting year 2021-22, SGA issued 29 follow-ups, reviewing progress on a total of 119 recommendations. Of these recommendations, 99 (83 percent) have been fully or partially implemented, as detailed in the following table:

| Agency | Report Number | Number of Recommendations | | |
|---|---------------|---------------------------|-------------|------------|
| | | Total | Implemented | Percentage |
| Health and Human Services | | | | |
| Department of Health | 2020-F-29 | 3 | 2 | 67% |
| | 2022-F-2 | 6 | 2 | 33% |
| | 2022-F-7 | 5 | 2 | 40% |
| | 2022-F-14 | 1 | 0 | 0% |
| | 2022-F-15 | 6 | 6 | 100% |
| Office of Children and Family Services | 2021-F-24 | 3 | 2 | 67% |
| Education | | | | |
| State Education Department | 2021-F-25 | 3 | 3 | 100% |
| | 2022-F-5 | 4 | 2 | 50% |
| Transportation | | | | |
| Metropolitan Transportation Authority | 2021-F-14 | 7 | 5 | 71% |
| | 2021-F-15 | 8 | 6 | 75% |
| | 2021-F-26 | 7 | 5 | 71% |
| | 2021-F-27 | 14 | 12 | 86% |
| Criminal Justice and Judicial Administration | | | | |
| Division of Criminal Justice Services | 2021-F-21 | 1 | 1 | 100% |
| Division of State Police | 2021-F-19 | 1 | 1 | 100% |
| Government Support | | | | |
| Department of Civil Service / New York State Health Insurance Program | 2021-F-17 | 5 | 5 | 100% |
| | 2021-F-18 | 2 | 2 | 100% |
| | 2022-F-13 | 2 | 2 | 100% |
| Office of General Services | 2021-F-20 | 6 | 6 | 100% |

| Other State Agencies and Public Authorities | | | | |
|---|------------|------------|-----------|------------|
| Department of Agriculture and Markets | 2022-F-9 | 2 | 2 | 100% |
| Department of Environmental Conservation | 2021 -F-16 | 4 | 4 | 100% |
| | 2022-F-1 | 3 | 3 | 100% |
| Department of Taxation and Finance | 2021-F-10 | 2 | 2 | 100% |
| | 2021-F-30 | 2 | 2 | 100% |
| Division of Military and Naval Affairs | 2021-F-22 | 5 | 5 | 100% |
| | 2022-F-4 | 9 | 9 | 100% |
| Office of Parks, Recreation and Historic Preservation | 2021-F-29 | 2 | 2 | 100% |
| | 2022-F-16 | 2 | 2 | 100% |
| Olympic Regional Development Authority | 2022-F-6 | 2 | 2 | 100% |
| State Liquor Authority | 2022-F-12 | 2 | 2 | 100% |
| Totals | 29 | 119 | 99 | 83% |

Audit Impairments and Impediments

State agency and public authority officials have a responsibility to the public to provide access to information to those who oversee their actions, such as OSC. Transparency and accountability are essential cornerstones of good government. When public officials are not transparent about and accountable for their actions, there is an increased risk that internal controls will not function properly—and less assurance that program goals and objectives will be accomplished efficiently and effectively. Denial of, or excessive delay in, auditors’ access—or refusal of their direct access—to relevant documents or key individuals leads to incomplete, inaccurate, or significantly delayed findings or recommendations. This, in turn, may prevent agencies from promptly addressing serious problems, and deprives decision makers and the public of timely critical information regarding the agency’s performance.

In accordance with professional standards, OSC auditors are required to report instances where management’s refusal to share all available, relevant evidence constitutes an impairment of audit work. For the reporting year 2021-22, two agencies significantly delayed, obstructed, or otherwise impaired the scope of audits.

- **Office for the Aging (NYSOFA): Monitoring of Select Programs (2020-S-47).** During the course of the audit, auditors experienced delays in and denial of access to essential data. As a result, there was considerable risk that material information concerning NYSOFA’s administration of Unmet Need funds was withheld, which ultimately limited the scope and depth of the audit conclusions.

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- **Department of Health (DOH): Use, Collection, and Reporting of Infection Control Data (2020-S-55).** DOH introduced delays during the audit, with auditor requests for information languishing at times for months. Further, DOH officials frequently would not answer auditor questions posed during scheduled meetings, and instead asked auditors to submit questions in writing afterward, to be answered at a later date.

Audits of Special Significance

During the past year, in addition to its ongoing audits of State agencies' fiscal responsibility and controls intended to safeguard assets, SGA allotted more resources to socio-economic issues that impact some of New York's most vulnerable populations, especially in light of the COVID-19 pandemic. Some of SGA's most significant audit findings in 2021-22 are discussed below.

Fiscal

- **Medicaid Program.** Medicaid is a federal, State, and locally funded government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. Fourteen Medicaid reports were issued during this period and, together, they identified more than \$1.7 billion in actual and potential cost savings and over \$3.4 billion in questionable and non-recoverable payments. This included more than \$913 million in actual cost savings and nearly \$49 million in questionable payments for claims that were not in compliance with ordering, prescribing, referring, and attending provider requirements (2019-S-72). Auditors also identified cost savings of more than \$700 million and over \$2.8 billion in questionable payments of Medicaid managed long-term care premiums (2020-S-52).
- **New York State Health Insurance Program (NYSHIP).** NYSHIP provides health insurance coverage to more than 1.2 million active and retired State, local government, and school district employees, and their dependents. Five reports were issued during this period. This included two that identified \$7.2 million in actual cost savings to the State from improper payments made for ineligible members (2021-F-17, 2021-S-18), and one that found \$7.3 million in actual and potential cost savings from overpayments for services (2020-S-7). Another audit identified over \$21 million in questionable payments related to dual coverage under NYSHIP (2022-F-13).

Health

- **Department of Health (DOH): Use, Collection, and Reporting of Infection Control Data (2020-S-55).** DOH was ill-prepared to respond to any infectious disease outbreak, COVID-19 or otherwise, at nursing homes due to a persistent lack of funding for public health. With the onset of the highly contagious COVID-19, DOH operated without the critical information systems, reliable data, and adequate staff necessary to control its spread at nursing homes. Whether due to the poor-quality data that it was collecting initially or, later, a deliberate decision to mislead, for certain periods during the pandemic, DOH understated the number of deaths at nursing homes by as much as 50 percent.

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- **State Education Department (SED): Oversight of Mental Health Education in Schools (2020-S-63).** In light of the escalating mental health crisis among students, SED should, but does not, have a means to assure itself that school districts statewide have established a mental health curriculum, as required by law, and that schools are implementing it. For many school districts, mental health teams—school-employed psychologists, counselors, and social workers—are understaffed. With staff-to-student ratios that often fall well below recommended levels, students may not be getting the mental health support they need.

Environment

- **Department of Environmental Conservation (DEC): Oversight and Enforcement of the Rechargeable Battery Law (2021-S-19).** DEC was performing almost no monitoring or enforcement of rechargeable battery manufacturers' and retailers' compliance with the Rechargeable Battery Law, undermining the law's intent to ensure appropriate recycling of rechargeable batteries and reduce the harmful consequences to the environment when they are otherwise improperly disposed of.
- **DEC: Oversight of New York State Forest Tax Programs (2020-S-51).** Weaknesses in DEC's oversight of the 480a Program—namely, monitoring and enforcement—undermined its ability to ensure that 480a Program forest land continued to be protected through sustainable management, and that only landowners who comply with program requirements were benefitting from the local tax exemptions. For a sample of 135 properties (of 6,858) enrolled in the 480a Program, 45, with a land value of nearly \$8.2 million, were not in compliance with program requirements and/or may have improperly benefited from the local tax exemption. To visually engage readers, this audit was accompanied by SGA's first interactive story map.
- **New York Power Authority (NYPA): Selected Management and Operations Practices (2020-S-38).** NYPA is behind schedule in installing electric vehicle (EV) chargers, delaying the State's strategy for switching to EVs in order to lower emissions. In addition, EV charging ports were not installed where they're needed most, leaving nearly half the State's counties without any NYPA-installed ports.

Elder Care

- **Office of Children and Family Services (OCFS): Oversight of Adult Protective Services Programs (2020-S-2).** OCFS did not effectively monitor its Adult Protective Services providers and their activities to ensure vulnerable adults were protected and received the services they need.
- **New York State Office for the Aging (NYSOFA): Monitoring of Select Programs (2020-S-47).** Despite \$15 million in appropriations over three years intended to reduce or eliminate reported Unmet Need, weaknesses in NYSOFA's methodology for allocating Unmet Need funds to Area Agencies of Aging (AAAs) and its oversight of AAAs may undermine this goal. As a result, there is no assurance that funding is being allocated appropriately, based on need, and that older New Yorkers are receiving the services they need.

Audit Summaries

Health and Human Services

Department of Health

(DOH)

DOH promotes and protects the health of New Yorkers through prevention, science, and the assurance of quality health care delivery, and administers a wide range of public health programs, including the State's Medicaid Program.

Audits of the Medicaid Program

The New York State Medicaid program is a federal, State, and locally funded program that provides a wide range of medical services to individuals who are economically disadvantaged and/or have special health care needs. The Medicaid Program pays health providers through the fee-for-service (FFS) method or through managed care. Under FFS, DOH makes Medicaid payments directly to health care providers for services rendered to Medicaid recipients. Under managed care, DOH pays managed care organizations (MCOs) a monthly premium payment for each Medicaid recipient enrolled in the MCOs. The MCOs are then responsible for ensuring recipients have access to a comprehensive range of health services. The MCOs make payments to health care providers for the services rendered to recipients and are required to submit encounter claims to inform DOH about each medical service provided. DOH's eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and it generates payments to reimburse providers for their claims. Many of the State Medicaid recipients are also enrolled in Medicare (referred to as "dual-eligibles"). According to the Centers for Medicare and Medicaid Services (CMS), in these cases, Medicare is the primary payer for items and services that both programs cover; and Medicaid is the secondary payer (typically covering a coinsurance or deductible). The Office of the Medicaid Inspector General (OMIG) is an independent office that works with DOH to prevent and detect fraudulent, abusive, and wasteful practices and recover improper Medicaid payments. For the 2021-22 reporting year, OSC issued 14 Medicaid program reports.

Improper Payments for Services Related to Ordering, Prescribing, Referring, or Attending Providers No Longer Participating in the Medicaid Program (2019-S-72).

Pursuant to the Affordable Care Act, New York's Medicaid program requires that physicians and other health care professionals who order, prescribe, refer, or attend (OPRA) Medicaid services be appropriately screened and enrolled in Medicaid. Through the screening and provider enrollment process, DOH gains a level of assurance of the OPRA provider's validity to provide Medicaid services. Additionally, DOH must verify that providers are not prohibited from participating in a Medicaid program by the federal government. **Key findings:** System processing weaknesses in eMedNY allowed improper payments for claims that reported a provider in a required OPRA field who was no longer actively enrolled in the Medicaid program at the time of the service (inactive provider). This resulted in \$965 million in payments for claims that reported an inactive OPRA provider on the claim's order

or service date, including \$5.8 million for providers who were excluded from participating in Medicaid due to past misconduct. DOH enhanced eMedNY claim edits in February 2018 and, subsequently, auditors found a significant drop in the amount of improper payments. However, for the period March 2018 through December 2019, auditors identified about \$45.6 million in claim payments for 135,476 services that reported an inactive OPRA provider. **Key recommendations:** Review the \$965 million in payments to providers for Medicaid claims that reported inactive OPRA providers and determine an appropriate course of action; enhance controls to prevent improper Medicaid payments for claims that do not report an active OPRA provider; and update guidelines to clarify OPRA billing requirements.

Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients

(2020-S-35). Under the Medicare Buy-in Program, administered by CMS, Medicaid pays Medicare premiums for individuals who meet Buy-in Program eligibility requirements. Local Departments of Social Services (Local Districts) determine eligibility and authorize and process enrollment in the Buy-in Program; certain other individuals are automatically enrolled by CMS. Medicaid should not pay premiums for Buy-in Program coverage on behalf of individuals who do not have a benefit eligibility period established in eMedNY. For the period January 1, 2015 through December 31, 2019, New York's Medicaid program paid \$8 billion in Buy-in Program premiums for 1,025,008 individuals. **Key findings:** DOH lacked adequate controls to ensure Buy-in Program eligibility determinations were made in a timely manner and to prevent improper payments. Medicaid spent \$31.7 million to purchase Medicare coverage for 42,586 individuals who did not have corresponding benefit eligibility periods in eMedNY, and also paid \$372,716 in Medicare premiums for 282 individuals who were identified as deceased. According to CMS, improper premium payments beyond two months for reasons other than death are not recoverable. In addition, Medicaid paid \$23.6 million in Medicare premiums for 3,439 individuals whom CMS automatically added to the Buy-in Program with a retroactive begin date of more than two years, despite limitations on Medicaid's liability beyond two years. Auditors estimated the State may be eligible for \$13 million in equitable relief from CMS for these transactions. **Key recommendations:** Increase oversight of Local Districts to ensure accurate eligibility determinations and timely closure of Buy-in Program cases for ineligible individuals; review the active cases of Buy-in Program coverage for individuals without a benefit eligibility period in eMedNY and remove them from the Buy-in Program, as warranted; follow up with CMS to request payment relief on the 3,439 cases where recipients were added to the Buy-in Program retroactively beyond the two-year limit; and review and recover the premiums paid for deceased individuals, as warranted.

Recovering Managed Care Overpayments for Pharmacy Services on Behalf of Recipients With Third-Party Health Insurance (2020-S-39). Many managed care recipients have other third-party health insurance (TPHI) in addition to Medicaid; however, Medicaid is considered the payer of last resort, and as such, MCOs are required to coordinate benefits with the recipient's TPHI prior to paying for Medicaid services. OMIG contracted with Health Management Systems, Inc. (HMS) to identify and recover payments made for services that should have been paid for by a recipient's TPHI. During the audit period, HMS' third-party liability recoveries on MCO pharmacy payments totaled about \$118 million. **Key findings:** DOH and OMIG lacked adequate oversight of the third-party liability recovery process

to ensure that all available recoveries were made, and improvements could be made in HMS' processes for recovering claims. Specifically, HMS did not bill TPHI carriers for the recovery of about \$292 million in pharmacy claims paid by MCOs for recipients who had TPHI drug coverage. Additionally, third-party insurers often denied claims HMS submitted for recovery for reasons that could be rectified, but follow-up actions by HMS to get payment on those claims were limited, and potentially tens of millions of dollars were never recouped. Further, neither DOH nor OMIG performed reviews, reconciliations, or other monitoring of HMS' recoveries by comparing claims MCOs paid on behalf of recipients with TPHI drug coverage to claims reviewed and recovered by HMS; and OMIG and HMS were unable to determine why payments for specific pharmacy services auditors provided for review were not recovered. **Key recommendations:** Review the \$292 million in MCO payments for pharmacy services and ensure appropriate recoveries are made; and implement ongoing monitoring of the TPHI recovery process for pharmacy services on behalf of managed care members to ensure all appropriate recoveries are made.

Oversight of Managed Long-Term Care (MLTC) Member Eligibility (2020-S-52). Many of the State's Medicaid recipients are enrolled in MLTC plans, which provide long-term care services, such as home health care and nursing home care, for people who are chronically ill or disabled. For the year ended December 31, 2020, Medicaid paid MLTC plans \$15.5 billion in premiums for 329,618 recipients enrolled in MLTC. DOH contracts with Maximus Health Services, Inc. (Maximus) to conduct initial eligibility assessments for individuals who choose to voluntarily enroll in MLTC (other individuals meeting certain criteria are automatically enrolled). To be eligible, all individuals must be assessed as needing community-based long-term care (CBLTC) services for more than 120 days. After the initial assessment, MLTC plans were responsible for performing semi-annual assessments of their own members to determine whether the members should remain in their plans. MLTC plans are responsible for initiating disenrollment of enrollees when it is determined they are no longer MLTC eligible (e.g., enrollees who did not receive any CBLTC services in a month, deceased recipients), and Maximus is responsible for processing the disenrollments. DOH can recover premium payments made to MLTC plans for ineligible enrollees. **Key findings:** Medicaid paid about \$701 million in improper MLTC premium payments on behalf of 52,397 recipients who were no longer eligible for MLTC. DOH had not developed adequate oversight to ensure MLTC plans identified in a timely manner individuals who were ineligible for MLTC. In addition, Medicaid paid \$2.8 billion in MLTC premium payments on behalf of 51,947 recipients who received a limited number of CBLTC services. For instance, 22,048 recipients only received between one and 30 days of services during six-month assessment periods. **Key recommendations:** Review the \$701 million in premium payments and make recoveries, as appropriate; develop a process to ensure timely MLTC disenrollment of recipients who are no longer eligible; and monitor MLTC recipients to ensure they were properly assessed for enrollment and are receiving the appropriate level of care.

Claims Processing Activity October 1, 2020 Through March 31, 2021 (2020-S-54).

During the six-month period ended March 21, 2021, eMedNY processed over 313 million claims, resulting in payments to providers of more than \$36 billion. **Key findings:** The audit identified nearly \$7.4 million in improper Medicaid payments, including: \$3.3 million for FFS inpatient claims that should have been paid by managed care, or that were also reimbursed by managed care; \$1.5 million for inpatient claims that were billed at a higher level of care than what was actually provided; \$1.1 million for claims that were billed with incorrect information pertaining to other health insurance coverage that recipients had, or where Medicaid was incorrectly designated as the primary payer; \$1 million for practitioner, clinic, inpatient, durable medical equipment, episodic home health care, and psychiatric claims that did not comply with Medicaid policies, such as billing in excess of permitted limits; \$357,066 for newborn birth claims containing inaccurate information, such as birth weight; and \$46,193 for services rendered prior to, but billed during, the COVID-19 state of emergency that would have been denied had certain eMedNY edits not been relaxed in response to the crisis. By the end of the audit fieldwork, about \$5.6 million of the improper payments had been recovered. Auditors also identified 34 Medicaid providers who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had removed eight of the providers from the Medicaid program. **Key recommendations:** Auditors made 12 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Improper Supplemental Maternity Capitation Payments to Managed Care Organizations (2020-S-57).

In addition to monthly managed care premiums, MCOs can receive a one-time Supplemental Maternity Capitation Payment (SMCP) for the prenatal and postpartum physician care and hospital or birthing center delivery costs associated with the maternity care of a recipient. However, MCOs are not eligible to receive SMCPs for maternity cases that end in termination or a miscarriage, as these are considered reimbursed to the MCO through the monthly premium for the recipient. Further, an MCO is only eligible to receive the SMCP if it submits encounter data as evidence of the delivery and any other inpatient and outpatient services for the maternity care of the recipient. From August 1, 2015 to July 31, 2020, Medicaid SMCPs totaled almost \$4.7 billion. **Key findings:** Auditors identified about \$55 million in improper and questionable SMCPs to MCOs, as follows: \$29.1 million paid without the required supporting encounter data; \$23.4 million paid where the encounter data or other evidence indicated the maternity case ended in termination or miscarriage; and \$2.4 million paid when the SMCP date of service preceded the birth by one to six months. In many instances, MCOs agreed their SMCP claims were inappropriately billed and, by the end of the audit fieldwork, had reversed about \$1.8 million of the payments. Additionally, DOH's eMedNY claims processing system did not have access to maternity encounter data to verify that SMCP claims were eligible for reimbursement. Instead, DOH relied on audits by OMIG to identify and recoup inappropriate SMCPs. However, OMIG did not perform these audits in a timely manner, and its last such audit, with a scope period ended December 31, 2016, was not sufficiently inclusive to capture all improper SMCPs. **Key recommendations:** Review the remaining payments of approximately \$53 million and make recoveries, as appropriate; monitor the accuracy of SMCP claims; and take formal corrective actions with non-compliant MCOs.

Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes (2020-S-61).

Medicaid recipients, including those enrolled in managed care, generally receive necessary durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as a benefit of the program. Durable medical equipment encompasses devices and equipment, such as walkers and wheelchairs, that can withstand repeated use and that have been ordered by a practitioner in the treatment of a specific medical condition. A prosthetic device replaces a missing body part, while an orthotic device supports a weak or deformed body part. Medical supplies are disposable items for medical use such as gauze and wipes. Recipients in nursing homes are often provided DMEPOS as part of the Medicaid nursing home reimbursement rates. **Key finding:** For the period January 2016 through December 2020, auditors identified \$9.6 million in potential MCO overpayments for DMEPOS items that likely should have been provided by nursing homes as part of the daily all-inclusive rate paid to those facilities. **Key recommendations:** Review the \$9.6 million in potential overpayments for DMEPOS and recover as appropriate; remind DMEPOS providers to confirm recipients' locations and, if a recipient is in a nursing home, to ensure the items are not included in the facility's rate before billing MCOs; advise MCOs to evaluate the feasibility of developing controls to prevent these types of overpayments; and monitor DMEPOS claims paid by MCOs to ensure payments are in compliance with policies for DMEPOS provided to individuals residing in nursing homes.

Claims Processing Activity April 1, 2021 Through September 30, 2021 (2021-S-7). During the six-month period ended September 30, 2021, eMedNY processed over 121 million claims, resulting in payments to providers of more than \$38 billion. **Key findings:** The audit identified over \$36.1 million in improper Medicaid payments, including: \$28.5 million for managed care premiums on behalf of enrollees who also had concurrent comprehensive third-party health insurance; \$3.7 million for FFS inpatient claims that should have been paid by managed care or that were also reimbursed by managed care; \$1.4 million for claims where Medicaid was incorrectly designated as the primary payer; \$847,926 for FFS inpatient claims on behalf of recipients with multiple client identification numbers; \$714,336 for inpatient claims that were billed at a higher level of care than what was actually provided; \$482,074 for practitioner, clinic, inpatient, episodic home health care, and psychiatric claims that did not comply with Medicaid policies, such as billing in excess of permitted limits; \$354,475 for newborn birth claims that contained inaccurate information, such as birth weight; and \$132,108 for services rendered prior to, but billed during, the COVID-19 state of emergency that would have been denied had certain eMedNY edits not been relaxed in response to the crisis. By the end of the audit fieldwork, about \$5.5 million of the improper payments had been recovered. Auditors also identified seven Medicaid providers who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had removed all seven providers from the Medicaid program. **Key recommendations:** Auditors made 18 recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Improper Managed Care Payments for Misclassified Patient Discharges (2021-S-8).

MCOs use the All Patient Refined Diagnosis Related Groups methodology to reimburse hospitals for inpatient medical care. When a hospital bills an MCO for an inpatient stay, the hospital reports certain information on its claims, such as the patient's diagnoses and services received. Hospitals must also use certain codes to indicate whether the patient was transferred or discharged at the end of their stay. These codes are important because payments may vary significantly depending on whether a patient is transferred or discharged.

Key findings: The audit identified 2,808 managed care inpatient claims totaling \$32.3 million for Medicaid recipients who were reported as discharged from a hospital but then admitted to a different hospital within the same day or the following day, which often meets the definition of a transfer. Such claims are at a high risk of overpayment if the first hospital inappropriately reported an actual transfer as a discharge. For a judgmental sample of 166 claims totaling \$2,474,162 from six hospitals, auditors reviewed the associated patients' medical records and found: 47 claims were overpaid by \$323,531 because they were incorrectly coded as discharges when the patients were actually transferred to another facility; and 13 claims totaling \$101,447 were incorrectly billed as inpatient claims when outpatient services were actually provided. **Key recommendations:** Review the identified overpayments and make recoveries, as appropriate; review the remaining high-risk claims totaling \$29.8 million and recover overpayments, as appropriate, and give prompt attention to providers who received the highest payments; and ensure MCOs develop processes to identify and recover overpayments for inpatient claims that have a high risk of incorrect discharge codes.

Overpayments for Therapy Services and Prescription Drugs Covered by Medicare

(Follow-Up) (2020-F-29). The Medicare program covers physical, occupational, and speech therapy services as well as prescription drugs. When these services are rendered to dual-eligible recipients (i.e., those who are eligible for both Medicare and Medicaid), health care providers are required to bill Medicare, which is generally the primary payer, before billing Medicaid.

Initial Audit (2016-S-73). **Key findings:** The Medicaid program paid \$20.1 million for services that, according to the claims data, were Medicare-covered services and should have instead been paid by Medicare. The payments included \$18.6 million for physical, occupational, and speech therapy services and \$1.5 million for prescription drugs. Many providers were generally unaware that Medicare covers therapy services, particularly maintenance therapy provided by licensed therapists. As a result, the providers often did not bill Medicare for the services or incorrectly reported a modifier code, which caused Medicare to automatically deny the claims. Also, over half of the prescription drug claims were paid for recipients whose Medicare Part D coverage was retroactively updated; therefore, the recipients' Medicare coverage information was not available to providers on the service dates.

Follow-up findings: DOH had made some progress in addressing the problems identified in the initial audit report, having partially implemented two of the three recommendations. However, after the initial audit, auditors identified over \$17.7 million in new improper payments, indicating that additional action is still needed to prevent overpayments for therapy services and prescription drugs.

Improper Medicaid Payments Involving Fee-for-Service Claims for Recipients With Multiple Client Identification Numbers (Follow-Up) (2022-F-2). Each individual who applies for Medicaid benefits is assigned a Client Identification Number (CIN), a unique identifier. Medicaid recipients may have more than one CIN assigned to them during the time they are receiving benefits; however, only one CIN should have active eligibility at a time.

Initial Audit (2019-S-22). **Key findings:** For the period January 1, 2014 through March 31, 2019, Medicaid made \$47.8 million in payments on behalf of recipients with multiple CINs, as follows: \$32.6 million in improper premiums for inappropriate managed care enrollments of recipients concurrently enrolled in FFS foster care under different CINs; \$12.7 million in improper premiums for managed care enrollments of recipients concurrently enrolled in FFS under different CINs; and \$2.5 million in potential duplicate FFS payments made on behalf of recipients with concurrent FFS enrollments under different CINs. OMIG recovers improper premium payments for foster care recipients with multiple CINs and, by the end of fieldwork, \$16.6 million of the \$32.6 million in improper payments identified had been voided. However, auditors determined that OMIG did not have a process to recover improper payments for non-foster care recipients with concurrent FFS enrollment or improper FFS payments for recipients with multiple FFS enrollments.

Follow-up findings: DOH had made little progress in addressing the problems identified in the initial audit report, and significant action is still required. Further, OMIG had done very little to review and recover the outstanding Medicaid overpayments. Of the initial report's six audit recommendations, two had been partially implemented and four had not yet been implemented.

Improper Medicaid Payments for Terminated Drugs (Follow-Up) (2022-F-7). The Medicaid program covers medically necessary prescription and non-prescription drugs. Drugs may be removed from the market (i.e., terminated) for safety or commercial reasons. To ensure terminated drugs will not be dispensed or paid for, CMS requires state Medicaid programs to reject these claims on the basis of the drug's termination date (defined as either the expiration date of the final batch produced or the date the drug was recalled for health and safety reasons). Pursuant to CMS guidelines, DOH maintains drug termination dates in eMedNY, its claims processing and payment system.

Initial Audit (2019-S-45). **Key finding:** For the period July 1, 2014 through June 30, 2019, the Medicaid program improperly paid \$29 million for drugs dispensed after their termination date.

Follow-up findings: DOH had made minor progress in addressing the problems identified in the initial audit report. Of the initial report's five audit recommendations, two had been implemented and three had not been implemented. Significant action was still required to prevent future Medicaid overpayments. Auditors determined that, since the initial audit, Medicaid improperly paid another \$11 million for drugs dispensed after their termination date, some of which were recalled for safety reasons.

Cost Saving Opportunities on Payments of Medicare Part C Claims (Follow-Up)

(2022-F-14) Many of the State's Medicaid recipients are also enrolled in Medicare and are, therefore, "dual-eligibles." Medicare Part A provides hospital insurance and Part B provides medical insurance for doctors' services and outpatient care. Under Medicare Part C, companies administer Medicare benefits through different health care plans, known as Medicare Advantage plans, that provide the services covered under Medicare Parts A and B. When a dual-eligible recipient receives services, Medicaid will typically pay for any cost-sharing liabilities including Medicare deductibles, coinsurance, and copayments. CMS allows state Medicaid programs to determine the payment methodology used for Part C cost-sharing liabilities. State Medicaid programs can opt to pay: the full Medicare cost-sharing liability, the state's standard Medicaid fee, or a rate between those two amounts approved by CMS. In New York, Medicaid pays 85% of dual-eligibles' copayment or coinsurance on Medicare Part C outpatient claims, except for ambulance and psychology services.

Initial Audit (2020-S-65). **Key findings:** New York's current Medicaid payment rules for Medicare Part C cost-sharing liabilities, compared to the allowable alternatives, have significantly higher costs. Additionally, there is a clear inconsistency in Medicaid payment rules for Medicare Part B and Part C outpatient services that allows Medicaid's payment of Part C cost-sharing to be greater than Part B cost-sharing for the same services. If New York's Medicaid program had limited cost-sharing so that the total payment to a provider (Medicare's payment plus Medicaid's payment of what was billed for the copayment or coinsurance) was no more than the typical Medicaid fee, it could have saved over \$419 million during the audit period. With changes to the Part C cost-sharing payment methodology, the Medicaid program could save over \$122 million annually.

Follow-up finding: DOH declined to take any action to implement the audit recommendation and address the significant potential cost savings identified.

Accuracy of Medicaid Eligibility Determined by NY State of Health (Follow-Up) (2022-F-15). NY State of Health (NYSOH) is the online health plan marketplace organized under DOH where people can enroll in Medicaid. An individual's Medicaid eligibility and enrollment information is transmitted from NYSOH to eMedNY, which relies on accurate and timely information from NYSOH to update the eligibility and enrollment data necessary to make appropriate claim payments.

Initial Audit (2019-S-43). **Key findings:** For the period January 1, 2014 through February 28, 2020, auditors identified system processing weaknesses in NYSOH that caused improper transmissions of eligibility and enrollment information to eMedNY. There was also a lack of eligibility and enrollment data reconciliations between NYSOH and eMedNY, which led to recipients, including some who were deceased, remaining eligible beyond their actual eligibility period. As a result, DOH made \$16.6 million in improper and questionable Medicaid payments during the audit period.

Follow-up findings: DOH officials had made some progress in addressing the problems identified in the initial audit report, such as correcting certain deficiencies in NYSOH data processing. However, further actions are required. For example, very little of the

overpayments from the initial report have been recovered. DOH officials stated that federal restrictions and the ongoing public health emergency adversely affected their ability to disenroll recipients and recoup improper payments in a timely manner. In addition, DOH needs to perform timely, periodic reconciliations of death data between NYSOH and eMedNY to prevent additional improper payments, as well as to address the causes that allow differences to continue. Of the initial report's six audit recommendations, four were partially implemented and two were implemented.

Other Audits of DOH Oversight

Use, Collection, and Reporting of Infection Control Data (2020-S-55). Infection control is a key concept in achieving DOH's mission to protect and promote the health of New Yorkers through prevention, science, and the assurance of quality health care delivery. Infection control, involving measures as simple as handwashing and as sophisticated as disinfection of surgical instruments or the use of personal protective equipment, is an essential component of any health care delivery. Although strong infection control practices were always essential, the COVID-19 pandemic elevated their importance. Older people are at a greater risk of developing severe and life-threatening symptoms, and the highly contagious nature of COVID-19 had devastating consequences for older populations residing in congregate settings. DOH is responsible for overseeing health care facilities (nursing homes, hospitals, and long-term care facilities—collectively referred to as facilities) and ensuring they comply with federal and State regulations. Facilities are required to establish and maintain an infection control program, with written policies and procedures designed to provide a safe, sanitary, and comfortable environment and help prevent the development and transmission of disease and infection. DOH collects and reports infection control data via the Nosocomial Outbreak Reporting Application (NORA), Health Electronic Response Data System (HERDS), and nursing home and infection control surveys. **Key findings:** Instead of providing accurate and reliable information during the COVID-19 public health emergency, DOH conformed its presentation to the Executive's narrative, often reporting data in a manner that misled the public. DOH was not transparent in its reporting of COVID-19 deaths at nursing homes, and for certain periods during the pandemic understated the number of deaths at nursing homes by as much as 50 percent. From April 2020 to February 2021, DOH failed to account for approximately 4,100 deaths due to COVID-19. Despite collecting a substantial amount of different data from NORA, HERDS, and its nursing home surveys, DOH does not routinely analyze the data broadly, nor does it take advantage of certain other data sources, to detect interfacility outbreaks, geographic trends, and emerging infectious diseases or to shape its infection control practices and policies and its oversight of facilities. Auditors also found varying degrees of reliability with the data DOH uses, reducing its effectiveness for informed decision making and for promoting strong infection prevention and control policy recommendations. Persistent underinvestment in public health over the last decade may have limited DOH's ability to prepare and respond in the most effective way. However, better data and information systems and an established system of proactive infection control reviews for facilities prior to the pandemic would have provided DOH with more accurate and complete information early on and would have helped facilities be better prepared. Moreover, once

the pandemic began, rapid and sustained public health interventions, including surveillance, infection control, and mitigation efforts, were critical to curtailing COVID-19 transmission to decrease the impact on vulnerable populations. However, such efforts are resource-intensive, and DOH was not adequately equipped. DOH does not use the various data sources at its disposal to promote strong infection control practices through policy recommendations and oversight in response to this—or any other—infectious disease event. **Audit impairment:** DOH introduced delays during the audit, with auditor requests for information languishing at times for months. Further, DOH officials frequently would not answer auditors' questions posed during scheduled meetings, and instead asked auditors to submit questions in writing, to be answered at a later date. **Key recommendations:** Auditors made numerous recommendations to both DOH and the Governor to address the issues identified in the audit to strengthen the State's ability to address public health emergencies effectively, efficiently, and transparently.

Management of Indoor Air Quality for Individuals With Asthma (2020-S-59). Asthma is a significant public health problem in the United States, often requiring emergency care and hospital admission, and is responsible for a high number of missed school and/or work days. According to the Centers for Disease Control and Prevention, in 2018, asthma accounted for 178,530 hospitalizations and over 1.6 million emergency department visits, and in 2019 accounted for 3,524 deaths. COVID-19 has only worsened these risks. In New York State, it is estimated that 1.4 million adults and 400,000 children have asthma. DOH's Healthy Neighborhoods Program (HNP), which is designed to provide environmental health services to targeted high-risk neighborhoods, strives to reduce hospitalizations due to asthma and limit exposure to indoor air pollutants that are known asthma triggers. High-risk areas sometimes include environmental justice communities and are usually home to at-risk populations, including low-income and minority families, living in homes and neighborhoods with a disproportionate number of residential hazards. The HNP contracts with Local Health Departments (LHDs) to perform in-home visits and assessments to raise awareness of asthma in targeted areas and help families manage asthma in order to reduce asthma-related illness and hospitalizations. From October 31, 2016 through January 19, 2021, LHDs visited 31,302 households, 5,643 (18%) of which had at least one individual with asthma. **Key findings:** While DOH, through its LHDs, identified poor indoor environmental conditions that impact residents with asthma, it needs to improve its oversight and monitoring of LHDs to ensure that individuals identified with asthma in targeted areas continue to receive appropriate assistance. DOH does not assess whether LHDs are providing services in their contracted areas and has not conducted an overall evaluation of the HNP to determine program effectiveness since 2017, nor has it performed any evaluations of LHDs as outlined in the contracts. Auditors also found that LHDs did not sufficiently perform the required one-year follow-up visits to households where at least one individual was identified as having asthma during the initial home visit; however, DOH took no action on the lack of LHD compliance. Separate from the HNP, DOH has a public-facing Asthma Dashboard (Dashboard), which, according to DOH, is updated annually. However, the Dashboard that was publicly available during the scope of the audit was significantly outdated. DOH indicated that it was unable to update the Dashboard due to the COVID-19 pandemic; however, the

majority of the data, such as the asthma indicators, hadn't been updated in the four to six years prior to the onset of the pandemic. Without current data, DOH, public health programs, policy makers, and other health care providers cannot adequately recognize the scope of the asthma problem, design and implement solutions, and evaluate impacts in reducing the levels of asthma in the State. **Key recommendations:** Improve oversight of program performance and assess whether LHD services are provided in the target areas identified; collect missing LHD annual reports, cost-benefit analyses, and quarterly reports, where feasible, and ensure all reports are collected going forward; ensure all LHDs are conducting the one-year asthma follow-up visits and using the required form; update the Dashboard annually, according to policy, and use this data to assess the impact of the HNP on the asthma burden in the State; and develop an evaluation to determine the overall effectiveness of the HNP and performance of the LHDs.

Office for the Aging (NYSOFA)

NYSOFA's mission is to help older New Yorkers be as independent as possible for as long as possible through advocacy, development, and delivery of person-centered, consumer-oriented, and cost-effective policies, programs, and services. Its programs are administered at the county level through a network of 59 Area Agencies on Aging (AAAs).

Monitoring of Select Programs (2020-S-47). NYSOFA's Community Services Program encompasses a range of specialized programs for the elderly, including the Expanded In-Home Services for the Elderly Program (EISEP) and Community Services for the Elderly Program (CSE). If an AAA is unable to fulfill a client's request for EISEP or CSE services (referred to as Unmet Need), the client is placed on a wait list. AAAs report Unmet Need to NYSOFA as part of their annual on-site evaluation. In recent years, NYSOFA and the AAAs identified long wait lists for services, with the wait for some services taking as long as a year and affecting more than 10,000 older New Yorkers. In response, the State's enacted budget allocated \$15 million for Unmet Need for each of the years 2019-20, 2020-21, and 2021-22. **Key findings:** Auditors identified weaknesses in NYSOFA's methodology for allocating funds to AAAs and its oversight of AAAs that may undermine the goal of reducing or eliminating Unmet Need. While the initial allocation in 2019-20 was based on the AAAs' reported Unmet Need in 2017-18, for 2020-21 and 2021-22—when more senior citizens likely required home services due to the isolation and restrictions imposed with the COVID-19 pandemic—NYSOFA did not reassess and revise its allocation plan based on AAAs' most current reported Unmet Need. Of the \$30 million in appropriations for 2019-20 and 2020-21, a total of \$5.9 million allocated to 29 AAAs remained unspent as of July 30, 2021. NYSOFA did not make allocation adjustments for those AAAs that did not spend or need their full allocation, nor did it redistribute the unused funds to AAAs most in need. Further, for the four years of the audit period, only in 2017-18 did NYSOFA perform on-site evaluations for all 59 AAAs; NYSOFA performed fewer evaluations each year thereafter and conducted no evaluations in 2020-21. As such, NYSOFA had no assurance that AAAs were adequately monitoring the services provided. **Audit impairment:** NYSOFA officials placed constraints

on the audit, including delays in and denial of access to essential data. As a result, there is considerable risk that material information concerning NYSOFA's administration of Unmet Need funds was withheld and ultimately limited the scope and depth of the audit conclusions.

Key recommendations: Maintain documentation to support the allocation of Unmet Need funds among the AAAs and promote transparency; periodically reassess allocations based on the AAAs' most current information available; and take steps to strengthen monitoring efforts of the AAAs to ensure both program and fiscal reviews are conducted according to NYSOFA policies.

Office of Addiction Services and Supports (OASAS)

OASAS oversees one of the nation's largest and most diverse programs for the prevention and treatment of alcohol and substance abuse. Its approximately 1,700 prevention, treatment, and recovery programs provide services for over 680,000 New Yorkers each year, including inpatient and residential services for about 8,000. Its mission is to improve the lives of New Yorkers by leading a comprehensive system of addiction services for prevention, treatment, and recovery.

Oversight of Chemical Dependence Residential Services (2020-S-49). OASAS oversees Chemical Dependence Residential Services, which includes 64 Community Residential and 32 Supportive Living programs (Programs). OASAS is responsible for certifying residential services and issuing operating certificates, pursuant to requirements established in State law and New York Codes, Rules and Regulations (NYCRR). A Program's eligibility for certification is contingent on the results of an OASAS inspection of the Program's compliance with all applicable laws, rules, and regulations. Depending on their compliance rating, Programs may be certified to operate for a six-month or one-, two-, or three-year period before their next recertification review is due. For Programs whose certification is due for renewal, OASAS is required to conduct a recertification review before the current operating certificate expires. Recertification reviews include an on-site inspection of facility conditions and safety, review of patient records, examination of staffing patterns and staff qualifications, and assessment of compliance with reporting requirements. Where OASAS identifies any regulatory deficiencies, the Program is required to take all actions necessary to correct them and submit a corrective action plan of the specific actions planned or taken to bring the Program into compliance. During the COVID-19 pandemic, OASAS suspended all on-site recertification reviews. OASAS also performs interim or focused reviews to determine whether Program residences are operating in a manner that is safe and suitable for residents and whether several key policies, procedures, and methods are up to date, fully implemented, and being adhered to.

Key findings: OASAS was not adequately monitoring the Programs as prescribed by the NYCRR. OASAS did not meet the recertification review requirements, and many Programs' operating certificates were past their end date, nor did it always conduct appropriate follow-up of Programs to verify that all deficiencies had been addressed, increasing the risk of safety and security issues for the vulnerable populations served. For the 76 Programs that were due for recertification during the audit period, all recertification reviews were past due, including

49 (64 percent) that were more than a year past due even before the COVID-19 pandemic. In addition, for a judgmental sample of 25 Programs—and where OASAS found a total of 243 regulatory deficiencies at the last recertification review— auditors determined that 10 (40 percent) did not receive any type of documented on-site visit during the recertification period. Furthermore, for 98 of these 243 (40 percent) deficiencies, the Programs did not provide OASAS with adequate documentation of specific actions planned or taken to achieve compliance, nor did OASAS follow up with the Programs to obtain documentation or verify that corrective actions had been taken. **Key recommendations:** Perform recertification reviews for all Programs that are overdue; implement an effective monitoring system to ensure that all recertification reviews are performed in a timely manner; and implement procedures to ensure that OASAS staff conduct appropriate follow-up of Programs with deficiencies identified during recertification reviews.

Office of Children and Family Services (OCFS)

OCFS is charged with promoting the safety, permanency, and well-being of children, youth, families, and vulnerable populations in New York State. Its responsibilities encompass a wide range of social services programs, including foster care and adoption; child and vulnerable adult protective services; and juvenile justice. OCFS programs are administered by 58 local Departments of Social Services (Local Districts) throughout the State.

Oversight of Adult Protective Services Programs (2020-S-2). OCFS administers the Adult Protective Services (APS) program to assist vulnerable adults who, because of mental or physical impairments, are unable to meet their essential needs (e.g., food, shelter, clothing, medical care); are in need of protection from abuse, neglect, financial exploitation, or other harm; or have no one available who is willing and able to assist them responsibly. Services range from safety monitoring, linkages with other service providers (e.g., health, mental health, aging), and assistance in obtaining benefits to informal money management and court petitions to appoint a guardian or other legal intervention. OCFS' Bureau of Adult Services (Bureau) oversees local APS programs statewide. OCFS' network of APS providers encompasses the 57 county Local Districts and the St. Regis Mohawk Tribe Department of Human Services, responsible for APS referrals outside of New York City (rest of State, or ROS), and 10 field offices and/or contractors in New York City, responsible for APS referrals in the five boroughs (collectively referred to as APS providers.) APS providers are responsible for assessing adult clients' needs and risk of harm, which may also require coordination with law enforcement and other agencies. Where they determine that services are necessary, they must take action to provide the services voluntarily, and services should be as least restrictive as possible. OCFS' policy requires APS providers to sufficiently document the assessment of each client's needs, their due diligence in helping the client obtain services, and if services were not warranted, the reasons why. To ensure that APS activities meet State standards, the Bureau conducts Practice Reviews (Reviews) of each APS provider. For the period April 1, 2017 through December 31, 2020, New York City received 102,687 unique referrals (i.e., excluding duplicate referrals of the same individual), and the ROS received 82,995 unique

referrals. **Key findings:** OCFS did not effectively monitor APS providers and their activities to ensure vulnerable adults were protected and received the services they need. While OCFS had established processes, as well as policies and procedures, to review APS activities, it did not always ensure these processes were being executed as required. For instance, for a sample of Reviews, many were not conducted in a timely manner, did not contain all required information critical to an accurate assessment, and lacked documentation that deficiencies were followed up on. Further, the policies and procedures lacked explicit guidance on critical aspects of the Review process, including the target time frames for conducting Reviews (i.e., every three to four years), the follow-up of APS providers regarding deficiencies and program improvement plans, and documentation of these efforts. Generally, APS providers' case file documentation for referrals sufficiently explained clients' risks and needs, supported their assessment to either open or close a referral, and supported the need for the specific services provided to the clients. However, progress notes were not always entered into the case files within the required 30-day time frame and thus may not have captured the most accurate or detailed record of client events to ensure that APS activities and services were appropriate and that clients' needs were being met. **Key recommendations:** Revise existing policies and procedures to include written guidance on the frequency of Reviews as well as practices for following up on and documenting that deficiencies have been corrected; and work with APS providers to improve case file documentation, including case notes that are sufficiently detailed and entered in a timely manner to ensure that required visits are made to adequately assess the needs of the clients.

Oversight of Runaway and Homeless Youth (Follow-Up) (2021-F-24). Runaway and homeless youth (RHY) can be fleeing neglect, abuse, or conflict in their homes. These youths are generally still physically and emotionally developing and may not have completed their education, may lack general life skills, and may have little or no work experience. Homelessness can make youths vulnerable to violence, crime, and sexual exploitation. According to the U.S. Department of Housing and Urban Development, on any given night in January 2020, New York reported over 3,000 homeless, unaccompanied youths. OCFS oversees a network of supports designed to meet the needs of RHY. Counties with approved RHY programs can opt in to receive RHY funding from OCFS. Twenty-five counties and the municipality of New York City opt to receive funding; the other counties do not, and certified residential RHY programs do not operate in those counties. Every county, regardless of whether it receives OCFS funding, is required to complete and submit a Child and Family Services Plan (Services Plan). The Services Plan is a local, five-year plan (with annual updates) for the provision of services and the allocation of resources, including RHY. OCFS is responsible for reviewing and approving all county Services Plans. Additionally, OCFS is required to perform program and fire safety inspections annually (within 364 days of the prior inspection) for all certified RHY programs and facilities.

Initial Audit (2019-S-47). **Key findings:** While OCFS generally had established controls to ensure it is conducting program and fire safety inspections for certified RHY programs and facilities, it did not always conduct inspections within established time frames, and supporting documentation was not always complete or provided in a timely manner by or

to program staff after the conclusion of an inspection. For a sample of 20 RHY programs visited, while overall conditions generally met program and fire safety requirements, auditors identified 32 deficiencies across many of the programs visited, including missing smoke detectors, dirty bathroom vents, missing outlet covers, and water-damaged ceilings with possible mold. Additionally, for counties that did not opt in to receive RHY funding and did not operate certified RHY programs, the Services Plans were not always sufficiently detailed to determine whether they support positive local programming within the county.

Follow-up findings: OCFS had made some progress in addressing the problems identified in the initial audit report. However, improvements were still needed. Of the three audit recommendations, one had been fully implemented, one had been partially implemented, and one had not been implemented.

Office of Mental Health (OMH)

OMH operates psychiatric centers across the State and regulates, certifies, and oversees more than 4,500 programs operated by local governments and non-profit agencies that assist New Yorkers with their mental health needs. OMH also administers several employment programs that help people develop the skills they need to attain and sustain competitive, integrated employment. The New York Employment Service System (NYESS) is used to coordinate services.

Maximizing Incentives for Individuals With Disabilities (2021-S-26). According to the 2020 American Community Survey (ACS), there were approximately 1 million working-age adults (ages 21–64) with a disability in New York State. The employment rate of working-age adults with a disability was 33 percent compared to 74 percent for working-age adults statewide. Further, working-age New Yorkers with a disability are more than twice as likely to be living in poverty than working-age New Yorkers statewide (28 percent vs. 12 percent, respectively). NYESS, which is administered by OMH, was cited by New York’s 2015 Employment First Commission as a key resource for improving competitive employment opportunities and outcomes for all individuals with a disability who desire services and supports. NYESS is a statewide comprehensive, single point of access to job matching, employment supports coordination, and data warehouse system. OMH is also responsible for operating the NYESS Administrative Employment Network, which provides employment services and support for individuals including those with a disability in the Ticket to Work program (TTW). TTW is a voluntary program funded by the Social Security Administration (SSA) with the goal of assisting SSA beneficiaries (i.e., Supplemental Security Income and Social Security Disability Insurance recipients) reach employment goals and reduce reliance on benefits. Six State agencies in addition to OMH, including the Department of Labor, Office of Addiction Services and Supports, Office for People With Developmental Disabilities, New York State Commission for the Blind, Office for the Aging, and the State Education Department’s Adult Career and Continuing Education Services—Vocational Rehabilitation, are responsible

for licensing or contracting with providers for employment-related supports and services. **Key findings:** Auditors found low utilization of NYESS by State agencies and employment service providers. Of the approximately 621 employment service providers, only about a third (199) participate in NYESS and only one of the seven State agencies uses NYESS. In addition, the TTW provider affiliates do not fully utilize NYESS' reporting capabilities. OMH has not developed written policies and procedures related to NYESS or TTW, nor does it monitor the TTW provider affiliates and their efforts to ensure that customers are provided services as set forth in their individual work plans and that services are properly entered into the NYESS system and tracked to ensure progress toward achieving employment goals. Furthermore, data entered into NYESS is not actively monitored or verified for completeness, accuracy, and validity. **Key recommendations:** Take steps to increase utilization of NYESS such as better informing State agencies about NYESS' capabilities and benefits so agency officials may educate their employment service providers about NYESS and collaborating with State agencies and employment service providers to assess their needs; ensure TTW provider affiliates have the knowledge and resources available to use NYESS to monitor the TTW program, including periodic refresher trainings on generating reports; develop written policies and procedures related to NYESS and the monitoring and administration of the TTW program; and monitor and verify data entered in NYESS to ensure its completeness, accuracy, and validity.

Office of Temporary and Disability Assistance (OTDA)

OTDA administers programs that provide housing, financial, and other forms of assistance to eligible low-income New Yorkers and provides support to Local Departments of Social Services (Local Districts)—comprising the New York City Department of Homeless Services and 57 county offices throughout the rest of the State—in the operation of these programs.

Reimbursement of Homeless Shelter Providers—Westhab Inc.'s Coachman Family Center (2020-S-56). Homeless shelters across the State provide an array of services to families and adults, including assessment and case management, access to health care and childcare services, and assistance with finding permanent housing. As of October 2021, the Office oversees 627 shelters and 195 shelter providers. OTDA's funding of shelter services is administered through the Local Districts, which either operate shelters directly or contract with providers to operate them. As reported in prior audits of OTDA's homeless shelter program (2015-S-23 and 2018-S-52), OTDA's annual reimbursements to Local Districts for homeless housing total in the billions of dollars, generally increasing each year. Local Districts submitted \$1.6 billion in gross claims for calendar year (CY) 2017, \$2 billion for CY 2018, \$1.9 billion for CY 2019, and \$2.1 billion for CY 2020. Since 1996, the Westchester County Department of Social Services (WCDSS) has contracted with Westhab Inc. (Westhab) to operate the Coachman Family Center (Coachman) as a certified shelter for families with children. The five-year contract term to operate Coachman, which began January 1, 2015, totaled \$20,120,166. For CY 2019, the contract's approved budget for operating Coachman was \$4,180,802, with actual expenditures of \$3,784,968. To guide its oversight of contracts

and services and ensure that expenses are allowable and supported, OTDA follows its own Fiscal Reference Manual (Fiscal Manual), the federal Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as well as the contract, which provide guidance on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses related to multiple contracts. The contract requires providers, such as Westhab, to submit to the Local District monthly invoices of actual expenses as well as supporting documentation, such as receipts, invoices, proof of payment, and allocation methodologies. Expense documentation must comply with the requirements of the Fiscal Manual, Uniform Guidance, and contract. **Key findings:** OTDA was not adequately monitoring and properly approving reimbursements for Westhab's homeless shelter program. For CY 2019, auditors identified \$1,304,695 in reported costs for Coachman that did not comply with cost requirements. OTDA had not established an effective budget review process for shelter budgets, which are the basis of the per diem that is paid to the shelter. OTDA's budget review and approval process compares the current year's budget to the prior year's estimated budget and does not consider prior year actual costs. For Coachman specifically, the unused budget for 2019 of \$395,834 was not factored in when reviewing and approving future years' budgets. Additionally, OTDA did not approve Coachman's CY 2019 budget until almost the end of September 2019, well into the budget year. This can result in costs exceeding approved levels or in the allocation of money year after year that historically has not been expended and that could be used elsewhere. **Key recommendations:** Review and recover, as appropriate, the identified overpayments totaling \$1,304,695, including: \$751,273 in personal service costs, \$509,920 in overstated depreciation from WCDSS, \$40,162 in indirect costs, and \$3,340 in other than personal service costs from Westhab; establish additional monitoring controls and improve oversight to ensure that providers claim only actual expenses and that those expenses are allowable, allocable, reasonable, supported, and consistent with the Uniform Guidance, Fiscal Manual, and contract; implement measures for cost savings such as monitoring and capturing actual costs reimbursed to shelter providers to be used in the budget approval process to ensure appropriate reimbursement of the program and future funding; and implement a budget process that is timely so that intended spending controls are meaningful and effective.

Education

State Education Department (SED)

SED's range of responsibilities includes oversight of pre-kindergarten through 12th grade programs and higher education as well as the licensure and practice of 58 professions.

Audits of Preschool Special Education Programs

Private special education providers can be for-profit or not-for-profit organizations. These providers must be approved by SED to deliver special education services, such as Special Education Itinerant Teacher (SEIT), Special Class (SC), and Special Class in an Integrated Setting (SCIS) programs, to children in New York. SED annually develops rates for preschool special education programs operated by approved providers based on actual personal service and other than personal service (OTPS) costs reported to SED on annual Consolidated Fiscal Reports (CFRs). These rates are used to reimburse providers for eligible costs, which must be in compliance with comprehensive instructions and guidelines set forth in SED's Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) and its Reimbursable Cost Manual (RCM). Chapter 545 of the Laws of 2013 requires the State Comptroller to audit the expenses reported to SED by every program provider of special education services for preschool children with disabilities, subject to the funding made available by the Legislature for such purpose. In the 2021-22 reporting year, OSC issued 12 such reports, as detailed below. For these providers, auditors identified a total of more than \$9 million in reported costs that were ineligible for reimbursement. Generally, auditors recommended that, in each case, SED review the disallowances identified and make the necessary adjustments to the costs reported on the provider's CFRs and to the provider's tuition reimbursement rates, as warranted, and remind providers of the pertinent SED requirements that relate to the deficiencies identified; and that the provider ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification, as needed.

- **Omni Childhood Center, Inc. (2019-S-66).** Omni Childhood Center, Inc. (Omni), a New York City-based proprietary organization, provides preschool SEIT services to 3- to 5-year-olds with disabilities. For the three fiscal years ended June 30, 2015, Omni reported approximately \$29.4 million in reimbursable costs on its CFRs for its SEIT cost-based program. **Key finding:** Auditors identified \$1,588,037 in reported costs that were ineligible for reimbursement.
- **All My Children Day Care (2020-S-3).** All My Children Day Care (AMC), a New York City-based not-for-profit organization, provides SEIT services to 3- to 5-year-olds with disabilities, among other programs. For the three fiscal years ended June 30, 2015, AMC reported approximately \$8 million in reimbursable costs on its CFRs for its SEIT cost-

based program. **Key finding:** Auditors identified \$5,300,127 in reported costs that were ineligible for reimbursement.

- **Life Skills Home Training Tutorial Program for Preschoolers, Inc. (2020-S-37).** Life Skills Home Training Tutorial Program for Preschoolers, Inc. (Life Skills), a New York City-based not-for-profit organization, provides full-day SC, half-day SC, and SCIS special education services to 3- to 5-year-olds with disabilities. For the three fiscal years ended June 30, 2018, Life Skills reported approximately \$19 million in reimbursable costs on its CFRs for its SED cost-based programs. **Key finding:** Auditors identified \$278,815 in reported costs that were ineligible for reimbursement.
- **E&D Children Center, Inc. (2020-S-44).** E&D Children Center, Inc. (E&D), a New York City-based proprietary organization, provides SEIT services to 3- to 5-year-olds with disabilities. For the three fiscal years ended June 30, 2015, E&D reported approximately \$11.8 million in reimbursable costs on its CFRs for its SEIT cost-based program. **Key finding:** Auditors identified \$711,676 in reported costs that were ineligible for reimbursement.
- **These Our Treasures, Inc. (2020-S-60).** These Our Treasures, Inc. (TOTS), a New York City-based non-for-profit organization, provides preschool special education services to 3- to 5-year-olds with disabilities. For the three fiscal years ended June 30, 2017, TOTS reported approximately \$5 million in reimbursable costs on its CFRs for its SED cost-based programs. **Key finding:** Auditors identified \$182,856 in reported costs that were ineligible for reimbursement.
- **Canarsie Childhood Center, Inc. (2021-S-2).** Canarsie Childhood Center, Inc. (CCC), a proprietary organization located in New York City, provides preschool special education services to 3- and 4-year-olds with disabilities. For the three fiscal years ended June 30, 2018, CCC reported approximately \$8 million in reimbursable costs on its CFRs for its full-day SC cost-based program. **Key finding:** Auditors identified \$193,420 in reported costs that were ineligible for reimbursement.
- **Little Meadows Early Childhood Center, Inc. (2021-S-4).** Little Meadows, a New York City-based proprietary organization, provides full-day SC, half-day SC, full-day SCIS, and half-day SCIS special education services to 3- to 5-year-olds with disabilities, among other programs. For the three fiscal years ended June 30, 2018, Little Meadows reported approximately \$10.2 million in reimbursable costs on its CFRs for its cost-based programs. **Key finding:** Auditors identified \$395,644 in costs that were ineligible for reimbursement.
- **Franziska Racker Centers, Inc. (2021-S-5).** Franziska Racker Centers, Inc. (Racker), a non-profit provider located in Tompkins County, provides preschool special education services to 3- to 5-year-olds with disabilities. For the fiscal year ended June 30, 2018, Racker reported approximately \$4.36 million in reimbursable costs on its CFR for its SCIS—over 2.5 hours per day cost-based program. **Key finding:** Auditors identified \$199,372 in reported costs that were ineligible for reimbursement.

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- **Kids First Evaluation & Advocacy Center (2021-S-12).** Kids First, a for-profit provider located in Westbury, provides preschool SEIT services to 3- and 4-year-olds with disabilities. For the fiscal year ended June 30, 2015, Kids First reported \$488,182 in reimbursable costs on its CFR for its SEIT cost-based program. **Key finding:** Auditors identified \$22,713 in reported costs that were ineligible for reimbursement.
 - **Kids in Action of Long Island, Inc. (2021-S-13).** Kids in Action, a for-profit organization located in Suffolk County, Long Island, provides preschool SEIT services to 3- and 4-year-old children with disabilities, among other programs. For the fiscal year ended June 30, 2015, Kids in Action reported \$393,508 in reimbursable costs on its CFR for its SEIT cost-based program. **Key finding:** Auditors identified \$41,897 in reported costs that were ineligible for reimbursement.
 - **United Cerebral Palsy Association of Nassau County, Inc. (2021-S-14).** United Cerebral Palsy Association of Nassau County, Inc. (CPN), a non-profit provider located in Roosevelt serving students from 28 school districts throughout Nassau County on Long Island, provides preschool special education services to 3- to 5-year-olds with disabilities, among other programs. For the fiscal year ended June 30, 2018, CPN reported approximately \$3.8 million in reimbursable costs on its CFR for its two rate-based programs: SC—over 2.5 hours per day and SC – 2.5 hours per day. **Key finding:** Auditors identified \$159,069 in costs that were ineligible for reimbursement.
 - **Empowering Minds Therapy Inc. (2021-S-21).** Empowering Minds, a for-profit provider located in Holbrook, provides preschool special education services to 3- and 4-year-old children with disabilities. For the fiscal year ended June 30, 2015, Empowering Minds reported \$235,364 in reimbursable costs on its CFR for its SEIT cost-based program. **Key findings:** Auditors identified \$7,811 in costs that were ineligible for reimbursement and found that Empowering Minds did not disclose related-party transactions on its CFR-5 as required by the CFR Manual.

Other Audits of SED Oversight

Adult Career and Continuing Education Services – Vocational Rehabilitation Supported Employment Program (2020-S-46). SED’s ACCES-VR program provides vocational rehabilitation services for and supports the employment goals of people with a disability. The approximately one million working-age adults with a disability in New York State are more than twice as likely as those without a disability to be unemployed and to live in poverty. While the COVID-19 pandemic led to soaring unemployment rates for all New Yorkers, the impact on those with a disability was even more significant. For the one-year period between September 2020 and August 2021, unemployment rates for people with a disability averaged 15.2 percent, rendering ACCES-VR’s unique customized services and support more important than ever. To help program participants achieve and maintain employment, counselors jointly develop an Individualized Plan for Employment (IPE) with each participant, identifying employment goals, services to be provided, and how progress will be measured along the way. SED’s Vocational Rehabilitation Policies and Procedures (Policy) calls for

certain information to be present within each IPE. Additionally, federal law and the Policy require that participant eligibility determination must be made within 60 days of receipt of an application; IPEs must be developed and finalized within 90 days of eligibility determination; and IPEs must be reviewed by the counselor and participant at least annually. **Key findings:** SED did not always meet time frames for eligibility determinations, finalization of IPEs, and ongoing annual reviews of IPEs, as required by federal law and SED's Policy. In addition, IPEs—an essential roadmap to employment—did not contain all the required information in sufficient detail, with vague or boilerplate language rather than specific, customized, or detailed language. Further, SED did not provide any documented evaluations to show it was adequately monitoring the ACCES-VR program. Inadequate monitoring, incomplete IPEs, and delays in an already complex process can deter participants from gaining employment, which can result in disruption to the participants' goals of independent living and rising out of poverty. **Key recommendations:** Develop and implement improved controls to ensure eligibility determinations, IPE finalizations, and IPE annual reviews are being completed in a timely manner; develop and implement procedures to ensure that IPEs are fully developed with sufficient detail for each participant who requires one; and develop a process to periodically evaluate the effectiveness of the ACCES-VR program based on individual participants' goals and achievements to ensure that participants are receiving the full benefit of its services and ACCES-VR is meeting the goals of its mission.

Oversight of Mental Health Education in Schools (2020-S-63). Each day in the United States, millions of children and adolescents go to school with mental health concerns that threaten their well-being and educational performance. Rates of childhood mental health concerns and suicide have been increasing steadily since 2010. According to the Centers for Disease Control and Prevention, among the New York State high school student population in 2017 (approximately 808,150), 17.4 percent (140,618) seriously considered suicide and 10.1 percent (81,623) have made non-fatal suicide attempts. The stress brought on by the COVID-19 pandemic has only escalated the problem as a result of schools being closed, physical distancing guidelines and isolation, and other unexpected changes, with the nation's leading pediatric health experts calling the mental health crisis among children a national emergency. New York State's Education Law (Law) mandates all school districts to ensure that their health education programs include mental health instruction to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity. However, the Law stopped short of requiring that all students have access to in-school mental health services despite schools often being considered the natural and best setting for comprehensive prevention and early intervention services for all students. **Key findings:** SED has taken steps to aid school districts in implementing mental health education into their health education curriculum, namely in the form of issued guidance and resources made available on its website. Additionally, during the COVID-19 pandemic, it issued guidance to schools with recommendations on how to help students, along with available resources. While not assigned specific oversight responsibilities under the Law, SED does not require school districts to submit any documentation or other information to verify their compliance with the Law. Given the magnitude of the escalating mental health crisis among students, SED should have a means to assure itself that school districts statewide have established a mental health

curriculum and that schools are implementing it. For a sample of 22 school districts, all were able to describe the mental health curriculum they implemented, but only 19 actually provided supporting documentation to show they implemented some sort of mental health education and met the minimum requirements of the Law, and the mental health curricula varied among these 19 school districts. Auditors also determined that, for many school districts, their mental health teams—comprising school-employed psychologists, counselors, and social workers—are understaffed, based on staff-to-student ratios recommended by the National Center for School Mental Health and the National Association for School Psychologists.

Key recommendations: Develop a mechanism to determine if school districts are providing mental health education, as required by Law; and explore partnering with State and local entities to determine whether school districts should maintain certain staffing levels for mental health professionals.

Facility Planning Bureau Project Review (Follow-Up) (2021-F-25). SED is responsible for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Code) for all district construction projects, exclusive of New York City. The Code applies to every facility owned or operated by school districts or Boards of Cooperative Educational Services (collectively referred to in this report as Districts). These facilities include, but are not limited to, school and administration buildings, bus/maintenance garages, public school libraries, storage buildings/sheds, press boxes, and concession stands. SED ensures all planned projects comply with the Code and the Commissioner of Education's Regulations by reviewing and approving plans and specifications for all capital construction projects involving these facilities, based on procedures established by SED's Facilities Planning Bureau (Bureau), and, upon completion of review, issues building permits. Per State Education Law, Districts must obtain final approval from SED for a project before commencing construction.

Initial audit (2018-S-2). **Key findings:** The Bureau did not perform project plan reviews in a timely manner, taking six months or longer to finalize its approval for 2,764 (43.8 percent) of the 6,315 projects analyzed. The Bureau also lacked guidelines that define a reasonable time period to review a project. Further, as of August 2018, the Bureau estimated a lag time to begin its architectural and engineering reviews as two to four weeks and 38 to 40 weeks, respectively. In addition, the Bureau did not monitor project construction (e.g., conduct site visits), including whether Districts began construction before receiving final approval. Furthermore, the systems the Bureau used to capture and monitor project status were antiquated and not designed to allow staff to perform data analyses of projects, limiting the Bureau's ability to monitor and improve its oversight performance.

Follow-up findings: SED had made progress in addressing the problems identified; however, additional improvements were still needed. Of the initial report's three audit recommendations, one had been implemented and two had been partially implemented.

Oversight of Pupil Transportation Services (Follow-Up) (2022-F-5). SED is responsible for overseeing pupil transportation services provided by public school districts (School Districts) to 2.3 million children across the State. SED sets qualification requirements for school bus drivers, monitors, and attendants; and New York Codes, Rules and Regulations sets safety training requirements to help ensure safe transportation. As part of these requirements, SED administers the School Bus Driver Safety Training Program, which provides school bus drivers, monitors, and attendants with required initial and annual refresher trainings. SED also contracts with the Pupil Transportation Safety Institute (PTSI) to provide resources and training and maintain databases of training and school bus accident information.

Initial Audit (2019-S-49). **Key findings:** SED was not sufficiently monitoring School Districts' compliance with requirements and, consequently, had no assurance that school bus drivers, monitors, and attendants were qualified and had completed the required training. Without training, employees may not be aware of proper procedures, including for emergency events. Furthermore, a review of driver, monitor, and attendant files at School Districts and busing contractors found that a significant amount of required safety and discrimination/harassment training documentation was missing. A lack of communication with PTSI, School Districts, and busing contractors resulted in an unclear understanding of SED's requirements. Additionally, PTSI's school bus accident database was incomplete and did not account for all reportable accidents statewide, which negatively impacts SED's ability to effectively develop future safety training programs.

Follow-up findings: SED made limited progress in addressing the issues identified in the initial audit report. Of the initial report's four audit recommendations, one had been implemented, one had been partially implemented, and two had not been implemented.

State University of New York (SUNY)

SUNY is the largest comprehensive system of public education in the nation, comprising 64 institutions, serving nearly 1.3 million students with approximately 91,000 faculty and staff. Of the 64 institutions, 28 offer graduate programs. Campuses are located throughout the State, and SUNY maintains a central administrative office in Albany. For fiscal year 2020-21, SUNY had a budget of \$11.9 billion and revenue of \$13 billion, including State support totaling \$3.6 billion and over \$1.6 billion in tuition and fees.

Determination of Residency for Tuition Purposes (2019-S-58). Graduate applications to SUNY are processed directly through the campus where the student is applying, and as stated in SUNY's Residency Policy, each campus is responsible for making the final determination of students' residency status and tuition charges. To be considered a State resident and receive in-state tuition, a student must show proof of domicile within the State, such as voter registration, driver's license, State tax return, proof of property ownership, and vehicle registration. In addition, students must have established their domicile in the State for a 12-month period immediately preceding their registration. **Key findings:** Based on a sample of seven campuses, auditors determined that SUNY did not have

adequate assurance that, at the graduate level, campuses were making accurate residency determinations for students and that students were being charged the appropriate tuition rate. Each of the seven SUNY campuses reviewed applied its own interpretation of the Residency Policy requirements, and some campus officials were not aware there was a policy applicable to graduate students. In many cases, the campuses relied solely on the residency status self-reported by students. A random sample of 1,207 graduate student tuition assessments of the 150,116 total assessments for these seven campuses identified 421 assessments with either no or inadequate documentation of domicile, resulting in potential undercharges totaling \$1,343,051 for students charged the in-state rate as well as potential overcharges totaling \$44,171 for students charged the out-of-state rate. Projecting the results of these findings to the total enrollment for each of these campuses resulted in an estimate of at least 52,484 graduate student tuition assessments with unsupported residency determinations. **Key recommendations:** SUNY administration should provide guidance to campus officials in interpreting and implementing the Residency Policy to ensure tuition is charged correctly, and work with campuses to ensure all student residency documents are maintained for at least six years from the time the student separates from the campus. The SUNY campuses should ensure tuition is charged correctly by obtaining sufficient proof of residency for purposes of determining eligibility for in-state tuition, as well as properly maintaining student residency documents.

Transportation

Department of Transportation (DOT)

DOT's mission is to ensure that its customers—those who live, work, and travel in New York State—have a safe, efficient, balanced, and environmentally sound transportation system.

Controls Over Vehicle Use and Transportation-Related Expenses (2019-S-37). DOT is composed of 11 regional offices across the State, of which 10 operate repair shops responsible for the maintenance of DOT vehicles. These 11 regions typically serve their local surrounding counties and are responsible for overall management of vehicles in their region, including vehicle repairs and procurement of parts. DOT also uses a centralized procurement contract (Contract), negotiated and entered into on behalf of the State by the Office of General Services, for fleet management and repair services, administered by the Contractor. Along with DOT's 10 regional repair shops, the Contractor provides a network of authorized private repair shops across the State for routine maintenance and repairs and roadside assistance and towing. The regional repair shops either perform maintenance and service in-house or use the authorized private repair shops for parts and/or service, depending on the vehicle type and service needed. As of March 2020, DOT's fleet included both passenger and construction vehicles totaling 4,283 State-owned and 527 leased vehicles. Between January 1, 2017 and December 31, 2019, DOT's vehicle repair and maintenance expenses totaled approximately \$153 million. **Key findings:** DOT had not established adequate controls to effectively monitor and ensure accountability over maintenance expenses. For example, DOT performed limited to no central monitoring of procurements made through the Contractor, relied on the Contractor to monitor its own service costs, and did little to hold the Contractor accountable for ensuring costs are competitive and reasonable and to avoid duplicate or unnecessary repairs. In addition, DOT needs to improve controls over recalls, warranties, and oversight of fuel and mileage usage. Auditors identified 137 vehicles with 198 open manufacturer recalls, setting the stage not only for potential safety issues but also unnecessary future costs of repairs that could result from using a vehicle with defects. Also, DOT did not issue written guidance or establish agency-wide policies regarding warranties. As a result, regional fleet shops do not always attempt to maximize warranty agreements to reduce State costs. **Key recommendations:** Implement procedures to monitor repair and maintenance costs agency-wide and hold the Contractor accountable for its responsibilities under the Contract; develop a process to track vehicle recalls and provide written guidance to regional offices on their responsibility to ensure recalls are repaired in a timely manner; and develop and communicate procedures to the regional offices that maximize the utilization of warranties.

Metropolitan Transportation Authority

(MTA)

The MTA is a public benefit corporation, overseen by a 23-member Board of Directors (Board), providing transportation services in and around the New York City metropolitan area. The MTA has six agencies: New York City Transit (Transit), which operates bus and subway service; MTA Bus Company (MTA Bus), which provides bus services in the Bronx, Brooklyn, and Queens; Long Island Rail Road (LIRR), the largest commuter railroad in the country; Metro-North Railroad (Metro-North); Triborough Bridges and Tunnels Authority (TBTA), which operates seven toll bridges and two tunnels that interconnect parts of New York City; and MTA Construction and Development. The MTA also has a headquarters, which provides administrative support. Staten Island Railway (SIR) is a subsidiary agency that operates a single rapid transit line on Staten Island. Manhattan and Bronx Surface Transit Operation Authority (MaBSTOA), a subsidiary of Transit, operates bus services in upper Manhattan and the Bronx.

Rolling Stock Programs Department – Selected Aspects of the M9 Rail Car Project Management (2020-S-50)

In September 2013, LIRR awarded a contract to procure new M9 train cars. The procurement, which was funded by MTA's capital program, was managed by LIRR's nine-employee Rolling Stock Programs Department, with the assistance of subject matter experts representing LIRR's operating departments. The contract included a firm initial base order of 92 cars with options for an additional 584 M9 cars for LIRR and/or Metro-North. In July 2017, LIRR exercised its first option for an additional 110 cars for a total of 202 LIRR M9 cars. The cars were assembled at the contractor's plant in Lincoln, Nebraska with final assembly in Yonkers. The first M9 cars entered revenue service on September 11, 2019. **Key findings:** Auditors determined that LIRR was behind schedule for delivery of the initial base order of 92 cars by almost three years and over budget by \$8.9 million. In addition, LIRR did not assess or collect liquidated damages of \$5.5 million from the contractor for delays as of September 2020. Further, LIRR accepted 62 rail cars, as of July 31, 2020, with deficiencies under a Conditional Acceptance (CA) agreement—deficiencies that were not corrected in a timely manner. **Key recommendations:** Account for the MTA capital program funds as originally budgeted; create a formal procedure to periodically assess and collect the liquidated damages; and prioritize the correction of all outstanding items on CA cars so that they can be finally accepted.

Maintenance and Inspection of Event Recorder Units (Follow-Up) (2021-F-14). In 2000, Transit began to deploy its New Technology Train (NTT) cars (R142, R142A, R143, R160, and R188). In June 2020, the R179 train cars were deployed into revenue service. The NTTs are installed with Event Recording Units (ERUs) or "black boxes." ERUs are a valuable safety feature that allow for the monitoring of the train equipment and technical analysis of incidents/accidents based on data they record. ERUs are installed in the cars used by train operators and conductors. Each ERU has different capacities and attributes based on the model and age of the unit. In 1998, the Federal Railway Administration established that the ERUs must have a minimum of 48 hours of recording memory capacity.

Initial audit (2018-S-19). *Key findings:* Transit was not in compliance with its ERU maintenance and inspection policy. For instance, train car inspections were not always done in a timely manner, and for 129 inspections, maintenance personnel did not provide evidence that they downloaded information from ERUs to ensure that they were functioning correctly, as required by Transit’s work manuals. Model R142 cars, which were brought into revenue service in 2000 after the federal guidance was issued, were also not up to industry standards of 48 hours of recording capacity, and Transit could not retrieve a download when it was requested for a non-emergency incident/accident, primarily in cases where the ERUs have only 12 hours of memory capacity before their data is overwritten. Transit did not fulfill some download requests as a result of this.

Follow-up findings: Transit had made progress in addressing the issues identified. Of the seven prior audit recommendations, four had been implemented, one had been partially implemented, and two had not been implemented.

Efforts to Collect Tolls and Fees Using License Plate Images and Law Firms (Follow-Up) (2021-F-15). TBTA serves more than 329 million vehicles per year and carries more traffic than any other bridge or tunnel authority in the nation. Toll revenues from TBTA help subsidize MTA’s public transit services. TBTA’s total operating revenue for 2020 was approximately \$1.7 billion. Cashless tolling—via either E-ZPass, a Short Term Account, or Tolls by Mail—is used at all MTA tunnels and bridges. All vehicles traveling through a crossing without an E-ZPass transponder are sent a toll bill for facility usage. License plate images are used to retrieve the motorist’s registration information in order to mail the bill. The Open Road Tolling in-lane toll collection system captures up to six images per vehicle (two front, four rear). The system selects the “best” front and rear images and sends them to the NY Customer Service Center system electronically, where they are reviewed to identify the license plate and state associated with the vehicle. If either of these cannot be identified, the image is “rejected.” TBTA defines “leakage” or “rejected images” as unbillable transactions. E-ZPass violations that have unpaid tolls after the due date on the second violation notice are sent to a collection agency. Tolls by Mail violations that have unpaid tolls after the due date on the violation notice are also sent to the collection agency. The Top 200 list of violators from the Tolling Operations are assigned to outside counsel for collection.

Initial Findings (2017-S-70). *Key findings:* TBTA did not maximize toll collection because license plate images could not always be processed, resulting in potential lost revenue of \$2.4 million. Additionally, TBTA’s contracted law firms were not effective in collecting outstanding receivables from persistent toll violators.

Follow-up findings: TBTA had made progress in addressing the issues identified; however, more needs to be done. For example, under ORT, the number of unbilled transactions due to poor images increased significantly, resulting in an increased revenue loss of \$2.9 million. Of the eight recommendations, two had been implemented, four had been partially implemented, and two had not been implemented.

Selected Performance Measures (Follow-Up) (2021-F-26). The MTA is required under the Public Authorities Law to report annually on its performance, including specific performance measures for each of its agencies, such as ridership and mean distance between failures (MDBF). Performance and other measures are also reported to committees of the MTA Board monthly, and certain measures are reported on the Performance Metrics Dashboards on the MTA's website and during public meetings as well as to government oversight agencies. These performance data are critical to evaluating actual service and conditions and are the basis for federal funding.

Initial audit (2018-S-18). *Key findings:* For the two key performance measures examined—MDBF and ridership—auditors identified deficiencies and inconsistencies in agencies' methodology and calculations that may result in misleading or inaccurate results. Not only is accurate information important to the millions of people who rely on MTA transportation but understating or overstating of ridership may result in the reporting of misleading and inaccurate information and may impact funding.

Follow-up findings: MTA had made some progress in implementing the recommendations contained in the initial prior report. Of the seven audit recommendations, one had been implemented, four had been partially implemented, and two had not been implemented.

Employee Qualifications, Hiring, and Promotions (Follow-Up) (2021-F-27). Unlike MTA Bus, SIR, and MaBSTOA, Transit is governed by the provisions of the Civil Service Law, including the appointment, promotion, and continuance of employment for all employees. The hiring and promotion processes used by Transit are determined by title classification. Competitive titles are subject to a Civil Service examination to establish eligibility for appointment; non-competitive titles are not. For Transit-specific titles, Transit administers all operating and non-operating title examinations. Examinations for job titles that are also used at other NYC agencies are administered by the Department of Citywide Administrative Services (DCAS). Transit uses the resulting eligibility lists to appoint or promote employees. Non-Transit and non-operating job titles are filled through Job Vacancy Notices (JVNs); Transit also hires and promotes using JVNs when a list is not available. The MTA also allows interagency arrangements where employees may work for one agency while being paid by another agency—an arrangement that enables qualified staff to transfer among agencies while remaining in the same pension system and tier and retaining existing longevity and benefits.

Initial audit (2017-S-48). *Key findings:* Auditors found that employees had been hired or promoted into non-operating MaBSTOA, MTA Bus, and SIR titles with lower education and experience than that established by DCAS for Civil Service competitive titles and, in some cases, did not meet required qualifications in the JVNs. In addition, interagency transfers were done without the required documentation related to dual employment and residency, and employee files lacked required documents meant to prevent nepotism in the workforce.

Follow-up findings: MTA officials made progress in addressing the issues identified in the initial report. Of the 14 prior audit recommendations, four had been implemented, seven had been partially implemented, two had not implemented, and one was no longer applicable.

Criminal Justice and Judicial Administration

Department of Corrections and Community Supervision (DOCCS)

DOCCS is responsible for the confinement and rehabilitation of approximately 31,000 individuals under custody held at 44 State facilities and the supervision of over 27,000 parolees throughout seven regional offices statewide.

Oversight of Transportation Services and Expenses (2021-S-1). DOCCS' work requires a diverse fleet of both passenger vehicles (e.g., cars, SUVs, vans, pickup trucks) and large transportation vehicles (e.g., inmate buses, tractor trailers). At the time of the audit, DOCCS operated 50 correctional facilities (but closed six as of March 10, 2022) and seven regional offices (Community Supervision) that provide supportive services for parolees. Of the 50 facilities, 45 manage the repairs and procurement of parts for their assigned vehicles. The other five facilities as well as Central Office and Community Supervision use a centralized procurement contract (Contract) for fleet management and repair services, administered by the Contractor. In addition, 42 facilities provide on-site fueling for DOCCS' vehicles at discounted prices through State contract pricing. As of February 2021, DOCCS' fleet comprised 2,572 State-owned and 31 leased vehicles. During the period April 1, 2016 through March 19, 2021, DOCCS' vehicle repair and maintenance expenses totaled approximately \$18.4 million, including payments of nearly \$6.5 million to the Contractor, as well as fuel expenditures of \$14.4 million. Between March 1, 2019 and July 30, 2021, DOCCS made \$1.4 million in fuel purchases using the WEX statewide refueling credit card. **Key findings:** Auditors determined that DOCCS had not established adequate controls to effectively monitor and ensure accountability over transportation expenses. DOCCS performed limited to no central monitoring of vehicle repair costs, nor did it perform periodic reviews of transactions to ensure that maintenance and repairs were appropriate and costs were reasonable. Auditors found 1,725 Contractor transactions, totaling more than \$55,000, that were inappropriately charged to DOCCS, including nearly \$46,000 related to vehicles that were no longer in use at the time of the transaction. DOCCS could also improve controls over vehicle warranties and fueling for additional cost savings. For example, from March 4, 2019 to July 23, 2021, auditors identified 3,518 fuel transactions totaling \$101,700 at commercial fueling stations that were within two miles of a State-owned fueling station, resulting in 2,862 transactions with higher costs, totaling \$10,616. Deficiencies in DOCCS' monitoring also have safety implications. Auditors determined four vehicles had open manufacturer safety recall notices that went unrepaired, including one that had been operating unrepaired for over five years. Furthermore, DOCCS did not monitor employees' driving histories or vehicle logs to ensure only properly licensed employees were operating State vehicles. Out of a sample of 24 employees whose driving record restricted them from operating a State vehicle at some point between April 1, 2016 and September 21, 2021, auditors found three who operated DOCCS vehicles with an expired or suspended license. Furthermore, DOCCS' vehicle logs, which were the basis for this finding, were often incomplete, illegible, or otherwise lacking required information. **Key recommendations:** Implement department-wide procedures to monitor

the Contractor's performance regarding repair and maintenance costs; ensure that DOCCS employees use the most cost-effective method for fuel purchases, when practical; and monitor correctional facilities' vehicle logs and inmate transportation logs to ensure records are complete and accurate, in accordance DOCCS' procedures.

Division of Criminal Justice Services (DCJS)

DCJS is responsible for law enforcement training; collection and analysis of statewide crime data; maintenance of criminal history information and fingerprint files; funding and oversight of probation and community correction programs; and administration of federal and State criminal justice funds.

Monitoring and Administration of Public Protection Grant Programs (Follow-Up)

(2021-F-21). DCJS administers 11 State and federal grant programs aimed at crime prevention and control, including the Gun Involved Violence Elimination (GIVE) program and the SNUG ("guns" spelled backward) program. GIVE is a crime-fighting program designed to assist the 17 counties that account for more than 80% of violent crime—such as aggravated assault, forcible rape, murder, and robbery—in the State, excluding New York City. In previous years, some GIVE contracts included confidential funds, which are those paid by law enforcement agencies—generally in cash—to confidential informants for tips and information. To help establish accountability over the funds and promote their appropriate use, DCJS contract language required that grantees that received confidential funds have a record of the signatures of fund recipients, the officer authorizing the funds, and the approving officer. SNUG is a violence-reduction initiative that uses street outreach to address the issues causing gun violence and reduce gun-related incidents. DCJS awards SNUG contracts to not-for-profit organizations that use community outreach and involve residents, businesses, and community-based organizations in implementing strategies to reduce and prevent shootings and gun-related deaths. For the contract year ending June 30, 2022, DCJS awarded \$13.3 million in GIVE contracts and \$4.9 million in SNUG contracts.

Initial audit (2019-S-21). **Key findings:** DCJS' administration and monitoring of the GIVE and SNUG grant programs were adequate to ensure that the related grant expenses were supported and allowable. Of the \$3.1 million in combined GIVE and SNUG grant expenditures reviewed from the three years ended December 31, 2019 (of \$57.3 million expended during the period), auditors identified one exception related to a GIVE grantee's payments of confidential funds, some of which, totaling \$1,652, lacked documentation of approval or receipt.

Follow-up finding: DCJS reduced and ultimately eliminated confidential funds from its GIVE contract awards, rendering the recommendation from the initial audit report not applicable.

Government Support

Department of Civil Service

(Civil Service)

Civil Service is the principal human resources provider for the Executive Branch of State Government, serving approximately 150,000 employees. It also administers the New York State Health Insurance Program (NYSHIP), which covers more than 1.2 million current and retired State and local government employees and their family members. NYSHIP's primary health insurance program is the Empire Plan, which costs the State and local governments about \$10.8 billion each year. Civil Service contracts with: UnitedHealthcare (United) to process medical/surgical claims; Empire BlueCross (Empire) to process hospital claims; CVS Health to process prescription drug claims; and Beacon Health Options (Beacon) to process mental health and substance abuse claims for the plan. Civil Service also maintains the New York Benefits Eligibility and Accounting System (NYBEAS), the system of record for Empire Plan member enrollment and eligibility information.

NYSHIP: UnitedHealthcare – Improper Payments for Acupuncture and Acupuncture-Related Services (2020-S-7). Medical/surgical benefits cover a range of services, including acupuncture—a technique for treating certain painful conditions by passing long thin needles through the skin to specific points. Acupuncture is sometimes provided at the same time as other services, including heat therapy, massage therapy, electrical stimulation, and evaluation and management, collectively referred to as acupuncture-related services. From January 1, 2015 to December 31, 2019, United paid more than \$247 million for acupuncture services and more than \$48 million for acupuncture-related services that occurred during the same visit as the acupuncture service. **Key findings:** Auditors identified \$7,331,458 in actual and potential overpayments for services not supported by provider documentation and for duplicate payments during the audit period. **Key recommendations:** Review the \$7,331,458 in audit findings and make recoveries, as warranted; and enhance controls designed to prevent duplicate payments for the same service.

Payments by Beacon Health Options for Mental Health and Substance Abuse Services for Ineligible Members (2021-S-18). Civil Service provides Beacon with a daily update file of NYBEAS changes, and Beacon has access to NYBEAS to confirm eligibility information against its claims processing system, Connections Administrative System (CAS). Eligibility information is entered into NYBEAS by a participating employer's health benefits administrator (HBA) as well as by Civil Service. Timely and accurate member eligibility information is crucial to ensure members are disenrolled promptly and to prevent payment of ineligible claims on their behalf. **Key findings:** Beacon paid over \$3.21 million on 5,059 claims on behalf of members who were not eligible for Empire Plan coverage. The majority of the improper payments (over \$2.94 million) occurred because the member was retroactively disenrolled. In many cases, member disenrollment in NYBEAS was delayed for extended periods, taking an average of 300 days to cancel coverage. The remaining improper payments (nearly \$270,000) stemmed from other causes, such as data transfer

issues between NYBEAS and CAS and errors of oversight in Beacon’s manual processing of claims. **Key recommendations:** Civil Service and Beacon should review the \$3.21 million in ineligible payments; ensure appropriate recoveries are made; and take steps to ensure eligibility information is complete, accurate, and up to date including but not limited to continuing to perform periodic reconciliations and improving the reconciliation process. Civil Service should continue to take steps to ensure HBAs are properly informed of their responsibilities (including the importance of timely and accurate coverage updates) and monitor whether HBAs are up to date on relevant training.

NYSHIP: Payments by Empire BlueCross for Hospital Services for Ineligible Members (Follow-Up) (2021-F-17). Civil Service provides Empire with a daily update file of NYBEAS changes, and Empire also has access to NYBEAS to confirm eligibility information. Eligibility information is entered into NYBEAS by a participating employer’s health benefits administrator (HBA) as well as by Civil Service. If a NYBEAS disenrollment is entered after the date the change in eligibility takes effect, it is considered a retroactive disenrollment. Empire processes claims for hospital services according to contracts it negotiates with member hospitals. These contracts typically limit the recovery period for claims paid for retroactively disenrolled members to one year or less. For contracts that do not include this language, recoverability is based on Empire’s Provider Manual, which allows up to six years from the end of the year in which the claim was submitted for payment.

Initial audit (2019-S-32). **Key findings:** The audit identified 3,177 claims totaling \$18.2 million that were paid for hospital services provided during periods when members were not eligible. The claims were paid due to various reasons, including retroactive disenrollments and errors in Empire’s processing of certain claims. Of the \$18.2 million identified, Empire had recovered \$11.5 million and \$2.1 million was beyond recoverability time frames, leaving \$4.6 million yet to be recovered.

Follow-up findings: Civil Service and Empire made significant progress in addressing the problems identified. In particular, Empire recovered over \$5.4 million on behalf of the Empire Plan. Of the initial report’s five audit recommendations, two had been implemented and three had been partially implemented.

NYSHIP: CVS Health – Accuracy of Drug Rebate Revenue Remitted to the Department of Civil Service (Follow-Up) (2021-F-18). The cost of the prescription drug program averaged \$2.4 billion per year during the contract period January 1, 2014 through December 31, 2018. In accordance with its contract, CVS Health was required to negotiate agreements with drug manufacturers for rebates, discounts, and other consideration (collectively referred to as rebates) and remit the rebate revenue to Civil Service. During the contract period, Civil Service received more than \$1 billion in commercial drug rebates (rebates exclusive of Medicare Part D rebates).

Initial audit (2019-S-51). **Key findings:** CVS Health did not collect and remit all rebate revenue that it invoiced to drug manufacturers for rebate-eligible prescription drug claims paid on behalf of the Empire Plan; therefore, Civil Service did not receive all rebate

revenue to which it was entitled. As a result, Civil Service was due \$453,029 in rebate revenue for the period of January 1, 2014 through December 31, 2018.

Follow-up finding: CVS Health addressed most of the problems identified in the initial audit, having partially implemented the report's two recommendations.

NYSHIP: Empire Plan Members With Dual Family Coverage (2022-F-13). NYSHIP offers several coverage options, including Individual and Family coverage. The State does not permit two Family coverage for its employees; if a member and their spouse/domestic partner are both eligible to enroll in NYSHIP, only one may elect Family coverage (the other may either elect lower cost Individual coverage or waive coverage). Participating organizations (such as local government entities and public authorities), however, may allow for dual Family coverage, whereby each employee has Family coverage.

Initial audit (2019-S-23). **Key findings:** The audit concluded there were 696 employees and retirees of participating organizations who had dual Family coverage at a total cost to the members and participating organizations of \$39,777,772 for the second Family coverage. Participating organizations may be unaware that an employee has dual Family coverage because they do not have information to determine if a member is a dependent on another NYSHIP policy with the State or a different participating organization.

Follow-up findings: While Civil Service officials addressed the issues identified in the initial audit, they cited the Health Insurance Portability and Accountability Act (HIPAA) as a limitation to more effective information sharing with participating organizations regarding dual Family coverage. However, auditors communicated HIPAA exceptions that allow for certain information sharing and encouraged officials to reconsider those exceptions. Of the report's two recommendations, both were implemented.

Office of General Services (OGS)

OGS is responsible for providing essential support services for the operations of State government, including architectural, engineering, and construction management services; building management, energy saving operations, and maintenance services; and the administration of centralized procurement contracts for goods, services, and technology.

Monitoring of Construction Management (2020-S-42). Construction contracts are managed either by OGS' Design & Construction Group (D&C) or construction management consultants who fulfill all or portions of D&C's responsibilities to complete OGS' construction projects. After completing the bid process for services, the construction management consultant with the highest score is awarded the construction management contract and must adhere to the contract, which includes compliance with OGS' minority- and women-owned business enterprise (MWBE) participation goals. Between April 1, 2015 and March 31, 2020, there were a total of 3,238 ongoing construction contracts with a value of approximately \$3.3 billion and 25 active construction management contracts assigned to construction projects valued at approximately \$308 million. **Key findings:** For a sample of five construction

management projects, valued at \$63.8 million, auditors determined that, generally, OGS adequately monitored the contracts to ensure that the terms and requirements were met and that costs were supported and related. However, several areas of oversight need improvement: OGS' process for reviewing bid proposals and consultants' MWBE goals. OGS' process for evaluating proposals did not ensure that only bids that met all requirements in the Request for Proposals (RFP) were advanced for further review. For example, one contract in the sample, valued at approximately \$1.8 million, did not meet specific experience requirements outlined in the RFP, but this was not reflected in the scoring for this particular bidder. In addition, OGS does not verify its construction management consultants' reporting of MWBE claims—a gap in oversight that enabled three construction management consultants to claim a total of \$207,316 in MWBE payments for services that were actually performed by a non-MWBE independent contractor—a pass-through arrangement that is in opposition to the spirit and intent of the law. For two other contracts, the consultants overstated \$50,539 in MWBE utilization that was unsupported by their documentation. State agencies' MWBE utilization data are reported to Empire State Development as well as the Executive and other stakeholders; because the data is the basis for decision-making strategies to increase MWBE participation, accuracy of the reported data is critical. **Key recommendations:** Continue efforts to revise the RFP templates and requirements to ensure all information required to validate proposal submissions is obtained; verify the accuracy of the information in the proposals submitted to OGS; and develop and implement a process to ensure that MWBE subconsultant payments claimed to meet MWBE participation goals are for MWBE work that has served a commercially useful function.

Efficiency of Warehouse Space (Follow-Up) (2021-F-20). The Spending and Government Efficiency (SAGE) Commission was formed to streamline State government operations by eliminating redundancies and implementing cost-savings measures. As part of these efforts, the Warehouse Consolidation Initiative (Initiative) was implemented to achieve cost savings through the consolidation of warehouse space used by State agencies. At the start of the Initiative, a survey was issued to all State agencies inquiring about warehouse and storage space and the associated costs because there was no central source for this information.

Initial Audit (2019-S-1). **Key findings:** OGS had reduced leased warehouse space by 434,266 square feet and realized a cost savings of \$1,699,020; however, OGS had not yet reduced any State-owned warehouse space. Auditors could not determine the Initiative's overall success, as an inventory of all State warehouses—leased and State owned—did not exist. In response to the onset of the COVID-19 pandemic in March 2020, OGS shifted its priorities, requiring it to pivot and perform a variety of different services outside of its mission. These responsibilities included the purchase, receipt, and storage of millions of pieces of personal protective equipment (PPE) as well as entering into additional warehouse leases to receive and store this equipment.

Follow-up findings: Based on the shift in priorities during the pandemic, OGS was limited in its efforts to consolidate warehouse space for cost-saving opportunities. Despite this, all six recommendations had been implemented.

Economic Development and Housing

Empire State Development (ESD)

ESD promotes the State's economy, encourages business investment and job creation, and supports local economies through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance.

Project Tracking Systems and Economic Assistance Program Evaluations (2019-S-48).

Over the years, ESD has used a mix of desktop applications and server-based platforms to track the growing complexity of its various economic development programs. In 2016, ESD's Board of Directors voted to replace its project tracking system with Microsoft Dynamics (Dynamics) to reduce duplicative data entry, facilitate greater sharing of information, simplify project reporting, and create a central data warehouse. Replacement of ESD's old tracking system and migration of ESD's loan and grant projects to Dynamics was completed in early 2019. ESD budgeted \$2.9 million for the implementation and support of Dynamics, and as of November 2020 had spent just under \$2 million. ESD is statutorily required to report on its economic assistance programs as well as perform periodic program evaluations to assess the effectiveness of certain programs. Notwithstanding these mandated reporting and evaluation requirements, good business practices suggest that all ESD programs be evaluated periodically to ensure they are meeting their goals and fulfilling ESD's mission. **Key findings:** With few exceptions, such as the film tax credit programs, ESD did not evaluate its economic assistance programs to ensure they were meeting their intended goals and furthering ESD's mission. Since implementing Dynamics, ESD onboarded several programs and continued to assess its programs for future migration. ESD generally collected and maintained relevant information to effectively manage, track, and report on its economic assistance projects; however, after implementing its new project system, ESD continued to use multiple systems to capture such data. **Key recommendations:** Conduct and document periodic program evaluations of economic assistance programs to assess performance and ensure programs are meeting desired outcomes; and identify additional economic assistance programs that would benefit from migration to Dynamics.

New NY Broadband Program (2020-S-19). Broadband is a critical aspect of economic growth, job creation, and increasingly an essential part of how we conduct our everyday life. Across all industries, broadband has reimagined how we provide education and health care, manage energy, and ensure public safety, as well as how information is stored, accessed, and shared. During the COVID-19 pandemic, many New Yorkers were forced to rely on high-speed Internet to work, attend school and medical appointments, and connect with family and friends from their homes—further exposing that high-speed broadband remains inaccessible and/or too costly for many New Yorkers. Moreover, equity remains an issue, with Black and Hispanic households in New York more likely not to have a subscription than white households. In 2015, about 30 percent of all New Yorkers lacked access to high-speed Internet, including 65 percent of the upstate New York region. Recognizing this, the

State created the \$500 million New NY Broadband Program (Program) to ensure that every New Yorker had access to high-speed broadband at Internet download speeds of at least 100 megabits per second (Mbps) by the end of 2018, except in the most remote areas of the State where such speeds were not feasible. In those areas, download speeds of 25 Mbps were deemed acceptable. ESD's Broadband Program Office (BPO) is responsible for managing the Program, which includes identifying census blocks eligible for funding and establishing grant disbursement agreements with internet service providers (ISPs).

Key findings: Although BPO stated that 98.95 percent of New Yorkers now had access to broadband Internet, auditors found this to be overstated as it was based, in part, on FCC data that considers an entire census block as being served if at least a single housing unit within that block has broadband availability. Once fully implemented, the Program will have connected 255,994 housing units across the State; however, auditors found that the Program fell short of achieving its overall goal of providing statewide broadband access. Over half of the 126 projects experienced some type of delay, ranging from one to 48 months. As of January 2022, nine projects had yet to complete network construction, with six projects—for a single ISP affecting about 25,500 housing units—not expected to be completed until December 2022. Further, the Program connected 78,690 of the 255,994 housing units (31 percent) using satellite technology, which is a less viable option to meet the needs of today's Internet users, at maximum download speeds of 25 Mbps. **Key recommendations:** Work with ISPs to complete outstanding projects as soon as practical and ensure any future State-funded projects are based on reliable and accurate broadband availability data and utilize technologies providing reliable high-speed Internet.

Homes and Community Renewal (HCR)

HCR is the State's affordable housing agency, with a mission to build, preserve, and protect affordable housing and increase homeownership throughout New York State. HCR is comprised of several different offices and agencies, including the Housing Trust Fund Corporation (HTFC). Among other programs, HTFC administers the Community Development Block Grant (CDBG) program and HOME Investment Partnerships Program (HOME) through federal funding from the U.S. Department of Housing and Urban Development (HUD).

HTFC: Internal Controls Over and Maximization of Federal Funding for Community Development Block Grant & HOME Investment Partnerships Programs (2021-S-10). While HCR administered a variety of programs prior to the COVID-19 pandemic, the unprecedented housing crisis caused by the pandemic escalated the need for programs that provide housing stability. The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) provided funding for emergency economic relief for individuals, families, and businesses affected by COVID-19, and the American Rescue Plan Act of 2021 enhanced this assistance. Between April 1, 2017 and June 6, 2022, HUD allocated over \$244 million in CDBG funds to HCR for grant years 2017 through 2021 and about \$127 million in additional funding from CDBG COVID-19 relief aid (CDBG-CV) through the CARES Act. During the same period, HUD allocated about \$120 million in HOME funds to HCR, as

well as approximately \$93 million more in HOME COVID-19 relief aid through the HOME American Rescue Plan Program (HOME-ARP). HCR functions as a pass-through entity, awarding CDBG and HOME grants to Local Program Administrators (LPAs). LPAs may, in turn, elect to further subgrant all or portions of their CDBG funds to a Subrecipient or contract with another entity (Contractor). LPAs are responsible for monitoring all grant-supported activities provided by the Subrecipient or Contractor to ensure their compliance with applicable State and federal requirements as well as their achievement of performance goals. HCR is responsible for overseeing the activities of LPAs to ensure their compliance with federal requirements and that performance expectations are being achieved. **Key findings:** Despite receiving \$127 million in CDBG-CV funding, as of June 9, 2022—more than two years after the start of the pandemic—HCR had only committed about \$98 million, of which less than \$5 million had been reimbursed. To meet HUD’s requirements, HCR must expend over \$96 million of the CDBG-CV funds—more than 19 times the amount it was able to spend since the funds were received in September 2020—by September 23, 2023 to avoid potentially losing the funding. In addition, the audit found problems with HCR’s oversight of three (\$2 million) of eight grants (\$5 million) reviewed at three LPAs, attributable to less stringent monitoring policies for Contractors versus Subrecipients. Auditors also identified potential vulnerabilities in the handling of confidential information. **Key recommendations:** Work with LPAs to ensure the timely obligation and spending of CDBG-CV and HOME-ARP funded projects; and improve internal controls over the administration of the CDBG including developing methods to better monitor Subrecipients and Contractors, helping LPAs to reduce the use of local funds to cover project costs before reimbursement from the State where practicable, and correcting weaknesses in controls over confidential information.

Olympic Regional Development Authority (ORDA)

ORDA, headquartered in Lake Placid, is responsible for operating and maintaining the facilities developed for the 1980 Winter Olympics, including the Olympic Center, the Olympic Jumping Complex, and the Olympic Sports Complex in Lake Placid and the Whiteface Mountain Ski Center. ORDA is also responsible for operating and maintaining Gore Mountain and Belleayre Mountain. Its venues include a museum, training facilities, restaurants and banquet facilities, and other amenities providing access to various year-round recreational activities.

Compliance With Executive Order 95 (Open Data) (Follow-Up) (2022-F-6). State government entities possess large amounts of valuable information on subjects such as health, business, public safety, parks, recreation, labor, and transportation. Executive Order 95 (EO 95) established an online Open Data Website ([Open Data](#)) for the collection and public dissemination of publishable State data maintained by covered State entities (generally, those headed by individuals appointed by the Executive). Open Data should provide ongoing “single-stop” access to publishable State data and make such data freely available in accessible formats for public use. As of March 2022, there were over 5,400 data items on Open Data.

Initial Audit (2020-S-36). *Key finding:* ORDA did not begin to take action to meet the requirements of EO 95 until after the start of the audit. In addition to not having any data item published, it did not designate a Data Coordinator, complete a comprehensive catalogue of publishable data, submit a master schedule of publishable data sets to the Office of Information Technology Services, or incorporate Open Data into its ongoing core business planning and strategies. However, as a result of the audit, ORDA began taking steps to comply with these EO 95 requirements.

Follow-up finding: ORDA had made significant progress addressing the issues identified during the initial audit, having implemented both recommendations.

Other State Agencies and Public Authorities

Department of Agriculture and Markets

(Ag&Mkts)

Ag&Mkts promotes New York State agriculture and its high-quality and diverse products, fosters agricultural environmental stewardship, and safeguards the State's food supply, land, and livestock to ensure the viability and growth of New York's agriculture industries.

Oversight of the Farm-to-School Program (2022-F-9). New York's Farm-to-School Program (Program) was established to promote school districts' and individual schools' purchase of local specialty crops and, in so doing, strengthen local agriculture, improve student health, and promote regional food system awareness. Ag&Mkts competitively awards grant funding, on a contract basis, to schools for eligible projects that align with the goals of the Program. Grant recipients are required to submit quarterly reimbursement requests for expenses as well as reports summarizing the services rendered and progress toward goals listed in the contract's work plan. From January 2015 to July 2022, Ag&Mkts granted 90 Program awards totaling \$7.77 million to 57 different entities, and reimbursed recipients over \$2.8 million for Program expenses.

Initial audit (2020-S-9). **Key findings:** Ag&Mkts needed to improve monitoring of both Program expenditures and recipient performance to ensure recipients use funds as intended and achieve Program goals. Auditors determined that, of a sample of 21 contracts totaling \$2.27 million, 17 contracts reported a total of \$1.17 million (68%) in expenses that either lacked sufficient supporting documentation or were not authorized under the contract. Further, 19 of the 21 contracts had missing, late, and/or incomplete quarterly progress reports, which undermined Ag&Mkts' ability to monitor and ensure contractors are performing as required.

Follow-up finding: Ag&Mkts had made significant progress in addressing the problems identified in the initial audit report, having implemented both recommendations.

Department of Environmental Conservation

(DEC)

As the State's environmental regulatory agency, DEC's mission is to conserve, improve, and protect New York's natural resources and environment and to prevent, abate, and control water, land, and air pollution.

Oversight of New York State Forest Tax Programs (2020-S-51). New York State's land area includes almost 19 million acres of forest—a resource that provides immeasurable public benefits, including clean air and water, carbon storage, forest products, jobs, scenic beauty, and outdoor recreation opportunities. About 14 million of these acres (74%) are privately owned. New York's 480a Program, established in 1974, created a tax incentive to encourage landowners to commit to the long-term management of their woodlands to help

ensure healthy forests and a stable forest economy. DEC has general oversight responsibility for the 480a Program, including enforcing program eligibility. To be eligible for the program, a forest tract must be at least 50 adjoining acres exclusively devoted to forest crop production and stocked with a stand of forest trees sufficient to produce a merchantable forest crop within 30 years from when it is certified by DEC. Enrolled forest land receives an annual property tax exemption of up to 80 percent; in return, the landowner commits to following a DEC-approved land management plan for the next 10 years. Recommitment is annual. From 2017 to 2019, 480a program landowners benefited from an approximate local tax reduction of \$62 million. The 480a Program is the second iteration of New York's forest tax program; the original 480 Program dates back to 1926, and the land management goals and requirements reflected the needs of the time. The 480 Program landowners were "grandfathered" into the 480a Program; these landowners have been benefiting from local tax reductions—and lesser qualifying standards—for over 45 years. With few exceptions, the local costs associated with the tax exemptions from both the 480a and 480 Programs are borne by owners of taxable property in the jurisdictions where the certified lands are located. To visually engage SGA's readers, this audit was accompanied by SGA's first interactive [story map](#). **Key findings:** Auditors found weaknesses in several aspects of DEC's oversight of the 480a Program—namely, monitoring and enforcement—that undermined its ability to ensure 480a Program forest land continued to be protected and that only eligible properties received local tax exemptions. For a sample of 135 properties (of 6,858) enrolled in the 480a Program, 45, with a land value of nearly \$8.2 million, were not in compliance with Program requirements and/or may have improperly benefited from the local tax exemption. From 2017 to 2019, the landowners received an annual reduction (\$6,150,842) on their land and paid approximately \$525,745 less in local taxes. In one instance, due to a lack of monitoring by DEC, a landowner/developer was able to inappropriately take advantage of the 480a Program's tax benefit for a period of years when the committed lands were, in fact, being converted to a three-phase housing development. Additionally, there were 795 properties, spanning 260,669 acres, in the grandfathered 480 Program that had gone largely unmonitored by DEC. **Key recommendations:** Improve communication and partnerships with local assessors to ensure that appropriate properties are enrolled, eligible, and benefiting from the 480a and 480 Programs and that management plans are followed, adequate records are maintained, enforcements are applied when violations occur, and penalties are satisfied; and develop and maintain a centralized statewide database to improve oversight and administration of statewide forest tax programs, including compliance with management plans, work schedules, and annual commitments.

Oversight and Enforcement of the Rechargeable Battery Law (2021-S-19). DEC oversees the State's recycling and waste disposal efforts. Every year in the United States, millions of single-use and rechargeable batteries are bought, used, and recycled or disposed of in the trash. Batteries can contain toxic metals such as mercury, lead, cadmium, and lithium-ion, all of which pose environmental and health hazards when improperly disposed of—and, in the case of lithium-ion batteries, can ignite fires at various points in the waste stream. In 2010, the Rechargeable Battery Law (Law) was enacted to reduce rechargeable batteries' negative impact on the environment. The Law prohibits consumers from discarding

used rechargeable batteries into the trash and takes a “product stewardship” approach to promoting the recycling program among consumers. Specifically, the Law requires rechargeable battery manufacturers to finance the collection and recycling of rechargeable batteries and to submit a collection and recycling plan to DEC for approval. Retailers are required to accept used rechargeable batteries from consumers and post signage informing consumers that used rechargeable batteries can be returned to the retailer for recycling and that they are prohibited from knowingly disposing of such batteries as waste. Manufacturers must also report annually to DEC on their volume of rechargeable batteries recycled; DEC is required to analyze this data and report the results to the Executive and Legislature every two years. Call2Recycle (C2R), a recycling program funded by the rechargeable battery and portable electronic product industry, is the major vehicle for recycling rechargeable batteries. For manufacturers and retailers that enroll in the program, C2R fulfills their responsibilities under the Law. C2R also works to identify potentially non-compliant manufacturers by auditing their recycling bins and notifies DEC of these manufacturers. DEC is responsible for enforcing compliance, including imposing penalties on violators. **Key findings:** DEC was performing almost no monitoring or enforcement of manufacturers and retailers to promote compliance with the Law, and there was limited assurance that rechargeable batteries were being recycled properly rather than disposed of into the waste stream. Short of C2R’s work, DEC could not verify or quantify the volume of rechargeable batteries recycled in the State and had only limited information on the population of manufacturers and retailers it is responsible for monitoring. DEC did not have procedures in place to identify non-compliant manufacturers, nor did it actively investigate C2R’s reports of non-compliant manufacturers. Consequently, DEC had no basis for enforcement and had not issued a fine or penalty to any manufacturer or retailer since the Law was enacted. Furthermore, since the Law was passed, DEC had never submitted an annual report to the Executive or Legislature as required. Therefore, these decision makers had no way of knowing whether the Law was achieving its desired outcomes and whether additional actions, including any legislative changes, were needed. **Key recommendations:** Develop and implement processes and procedures to monitor and enforce, as well as promote, compliance with the Law; and prepare and submit the biennial reports to the Executive and the Legislature, as required by the Law.

Management of Invasive Species (Follow-Up) (2021-F-16). Many species of plants and animals currently found in New York State are not indigenous, but rather have been introduced by humans. Subsets of these species may cause habitat degradation, loss of native species, risks to public safety, human illness, or damage to crops and livestock, and are deemed “invasive.” Invasive species are generally classified as aquatic invasive species (AIS) or terrestrial invasive species (TIS). AIS are commonly spread via fishing and boating activities. DEC is authorized to enact AIS preventive measures, including public education (e.g., boat steward education/inspection programs, warning signage at public boat launches), and is responsible for implementing and maintaining a statewide, coordinated management program, including a permit system to control activities (e.g., dredging, mining, construction) that could inadvertently spread AIS or TIS. DEC also performs assessments to categorize and quantify the “invasiveness” of non-native species and their social and economic implications.

Initial audit (2019-S-26). *Key findings:* While DEC was active in establishing programs to address invasive species, improvements in its oversight, monitoring, and communication relating to boat inspections, permits, and early detection and assessment of invasive species could strengthen its ability to mitigate the spread of invasive species. For example, DEC did not consistently apply or monitor its permit system to control activities, such as mining, dredging, and construction, that can trigger invasive species. Additionally, its assessments of non-native species were not always completed or were missing information.

Follow-up findings: DEC had made progress in addressing the problems identified. However, additional improvements were still needed. Of the initial report's four audit recommendations, two had been fully implemented and two had been partially implemented.

Compliance With the Sewage Pollution Right to Know Act and Monitoring and Enforcement of State Pollutant Discharge Elimination System Permit Requirements (Follow-Up) (2022-F-1). Wastewater has been identified as one of the top sources of pollutants, including bacteria and other pathogens, that impact the quality of State waters and pose health risks to those who use them. Two key pieces of legislation specifically related to wastewater were enacted to protect the State's natural resources and the health of its residents: the 2013 Sewage Pollution Right to Know Act (Act) and Article 17 of the Environmental Conservation Law, which created the State Pollutant Discharge Elimination System program (SPDES). The Act requires publicly owned (e.g., municipal) treatment works (POTWs) and publicly owned sewer systems (POSSs) to report untreated and partially treated sewage discharges to DEC and the local health department within two hours of discovery and to notify the public and affected and adjoining municipalities within four hours of discovery. To this end, DEC requires POTWs and POSSs to register for and use its NY-Alert electronic notification system to report overflow events and updates. The SPDES was created as a means to maintain reasonable standards of water purity by controlling discharges via a permit system. SPDES permit holders have certain discharge reporting responsibilities, depending on permit type. DEC monitors compliance by analyzing the discharge reports, conducting periodic facility inspections, responding to citizen complaints, and issuing enforcements.

Initial Audit (2019-S-54). *Key findings:* DEC had established procedures to help ensure that applicable entities complied with the Act; however, auditors identified many potential POSSs that were not registered for NY-Alert and were not reporting overflow events. In addition, DEC had not followed up with potentially non-compliant facilities or verified whether events were reported in a timely manner. Auditors also found inaccuracies in DEC's historical overflow reporting. Further, DEC had established procedures to ensure that SPDES permit requirements were met; however, some permit holders did not respond in a timely manner to actionable follow-ups resulting from inspections and/or did not submit reports of non-compliance, as required.

Follow-up findings: DEC had made progress in addressing the problems identified. Of the initial report's three recommendations, one had been implemented and two had been partially implemented.

Department of Labor (DOL)

DOL enforces New York Labor Laws (Laws) and promotes education about the protections they offer to workers, the unemployed, and job seekers. Its mission is to protect workers, assist the unemployed, and connect job seekers to jobs.

Overlap, Duplication, Gaps, and/or Fragmentation in Workforce Development

Programs and Services (2020-S-45). DOL, along with other agencies, authorities, and local providers, delivers workforce development (WFD) programs and services that seek to address current and emerging workforce needs. These programs and services comprise New York's workforce development system (System). DOL is the lead State agency in the System. Workforce development is particularly critical as the State recovers from the pandemic downturn, including, as of fall 2021, a job deficit three times greater than the national average and higher by some measures than any other state. Employers in some high-demand industries have seen a surge in open positions, while those in some essential sectors are struggling to retain and recruit top talent. More investments are needed to help workers and businesses alike. A workforce with appropriate skills, in combination with available opportunity, helps ensure employment that sustains individuals and families and contributes to prosperity. Under the federal Workforce Innovation and Opportunity Act (WIOA), states must have a governance body and must align their WFD programs by developing a shared comprehensive understanding of WFD needs statewide. In New York, this governance body is the State Workforce Investment Board (SWIB). The State must also submit, for federal approval, a four-year plan (Plan) that describes its WFD strategy. State legislation enacted in 2018 requires DOL to maintain and annually update an online database (Catalogue of Funding) of WFD programs that provides information about eligibility and funding. **Key findings:** Auditors identified more than 500 WFD programs and services, covering a wide range of areas such as training, transportation assistance, and child care, that were offered by 22 State agencies and public authorities. Despite the number and variety of these services, weaknesses in the System, including a governance body (SWIB) that had been dormant for five years and a delay in approval of New York's guiding Plan for WFD, rendered it inadequately positioned to address the State's workforce needs. In the absence of a functioning SWIB, DOL and its partners may not have been adequately considering the needs of job seekers and employers, and the risk of overlap, duplication, gaps, and/or fragmentation in programs and services increased. In addition, DOL had not updated its Catalogue of Funding since August 2019. **Key recommendations:** Promptly request replacement for SWIB members no longer willing and/or able to serve to assist in reconstituting a functioning SWIB as required by WIOA; update the Catalogue of Funding as soon as feasible to reflect current information about programs, eligibility, and funding and, thereafter, update it on an annual basis; and take steps to address actual and potential overlap, duplication, gaps, and/or fragmentation among WFD programs and services.

Department of Motor Vehicles

(DMV)

DMV is responsible for issuing secure identity documents, delivering essential motor vehicle and driver-related services, and administering motor vehicle laws enacted to promote safety and protect consumers.

Assessable Expenses of Administering the Motor Vehicles Financial Security Act and the Motor Vehicle Safety Responsibility Act for the Three State Fiscal Years Ended March 31, 2021 (2021-M-2). The Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act (collectively, Acts) help ensure that the operators of motor vehicles driven in New York State possess adequate insurance coverage, or are financially secure, to compensate those persons they might injure or whose property they might damage as a result of an accident. According to Vehicle and Traffic Law, DMV is responsible for tracking its expenses of administering the Acts and assessing these expenses on insurance carriers that issue policies or contracts of automotive bodily injury insurance. Auditors performed certain procedures, which were agreed to by DMV, to ascertain the expenses it incurred in administering the Acts for the three State fiscal years ended March 31, 2021. **Key finding:** On average, DMV incurred \$23.7 million in expenses to administer the Acts for each of the three State fiscal years.

Department of Taxation and Finance

(Tax and Finance)

Tax and Finance is responsible for administering more than 40 State and local taxes and fees and enforcing the State's tax laws.

Sales Tax Vendor Registration Practices (2020-S-40). Provisions of State Tax Law impose a tax on sales of tangible personal property and certain services, with some exemptions, and require vendors that make these sales to register for a Certificate of Authority (COA), collect the tax from customers, and remit the tax to the State. The use tax is imposed on taxable items or services used in New York when a sales tax has not been paid. Vendors without a physical presence in New York must register if they have both sold more than \$500,000 of tangible personal property that was delivered in New York and conducted more than 100 sales of tangible personal property delivered in New York during the preceding four tax quarters. Tax and Finance may deny a COA in some circumstances, such as when a vendor submits an incomplete application or has unpaid tax debts. It may also assess penalties of up to \$10,000 on vendors that make taxable sales without a valid COA. As of August 5, 2020, there were approximately 540,955 active registered vendors in New York. **Key findings:** Tax and Finance generally had taken steps to ensure that entities required to register as sales tax vendors, including those with no physical presence in the State, have done so. However, auditors identified instances where vendors that were denied a COA continued to operate and likely made taxable sales—collecting taxes from customers but not remitting them to the State. Auditors also identified unregistered vendors that submitted sales tax returns showing taxable sales. For the two samples of 50 and 43 vendors tested in these areas,

auditors identified 18 vendors that either reported taxable sales or were potentially making taxable sales without a valid COA. These 18 vendors may have been subject to penalties totaling up to \$180,000. These findings were attributable, in part, to the lack of information sharing among the Tax divisions and the lack of relevant follow-up. **Key recommendations:** Improve internal communication and follow-up measures to identify and address unauthorized sales activity among vendors that were denied a COA; and provide better assurance that unregistered vendors that are notified of the conditions requiring them to register as sales tax vendors have done so where necessary.

Administration and Collection of Real Estate Transfer Taxes (Follow-Up) (2021-F-10).

The Real Estate Transfer Tax (RETT) applies to sales or conveyances of New York real property or interests in real property when the consideration exceeds \$500, at a rate of \$2 for every \$500 of consideration exchanged. The base tax is generally paid by the seller (grantor), unless the seller is exempt from the tax or does not pay, in which case the buyer (grantee) must pay the tax. An additional RETT of 1 percent applies to conveyances of residential real property when the consideration is \$1 million or more and is often referred to as the “mansion tax,” which is required to be paid by the buyer. A 2019 amendment to the tax law provides that when the buyer fails to pay the mansion tax, the seller is required to pay, and the tax then becomes the joint and several liability of the seller and the buyer. Beginning July 1, 2019, additional taxes apply to some conveyances of real property, or interests in real property, in New York City. RETT is generally paid during deed recording at county clerk offices, which then remit the tax to Tax and Finance. State RETT collections for each of the two State fiscal years ended March 31, 2021 and March 31, 2020 totaled about \$1.1 billion and \$949 million, respectively.

Initial audit (2017-S-88). **Key findings:** Tax and Finance had, with certain exceptions, adequate systems and practices in place that allowed it to effectively administer and collect RETT. However, nearly all State counties submitted RETT information in hard copy form (vs. electronic submission), of which only a small portion was entered into an electronic system and capable of being analyzed. As a result, Tax and Finance’s ability to efficiently and effectively analyze information to identify higher-risk transactions was limited. Auditors also identified certain RETT errors in one of Tax and Finance’s internal systems.

Follow-up finding: Tax and Finance had made significant progress in addressing the issues identified, having implemented both of the recommendations from the initial audit report.

Collection of Petroleum Business Tax and Motor Fuel Excise Tax (Follow-Up)

(2021-F-30). Petroleum Business Tax (PBT) is paid by registered distributors of applicable types of fuel at a cents-per-gallon rate at different points in the distribution chain, depending on the product involved. Fuels subject to PBT include motor fuel and highway diesel fuel. New York also has a Motor Fuel Excise Tax (MFT) on gasoline and similar motor fuels that is imposed when motor fuel is first produced or imported or when diesel fuel is first sold or used in the State. For the two State fiscal years ended March 31, 2021 and 2020, PBT collections totaled \$942 million and \$1.2 billion, respectively; MFT collections for the same two years

totalled \$425 million and \$512 million, respectively. A portion of revenues from PBT and MFT is used to support investment in the State's mass transportation systems, including highways and bridges. Diesel and motor fuel distributors must register with Tax and Finance to legally conduct petroleum transactions in the State and may also be required to provide collateral security. Distributors whose combined PBT and MFT liability exceeds \$5 million for Tax and Finance's reference period must enroll in its PrompTax electronic filing and payment program and prepay a portion of each month's tax liability. As of January 2022, there were more than 1,300 PBT licensees that hold a Distributor of Motor Fuel and/or Distributor of Diesel Fuel and/or Residual Petroleum Product license.

Initial audit (2018-S-28). **Key findings:** In general, Tax and Finance had systems and practices in place that allow it to appropriately collect PBT and MFT, as required by relevant law and regulation. However, it did not review distributors' existing collateral security amounts to determine if they continued to be appropriate based on Tax and Finance criteria. Auditors also identified distributors that were not enrolled in PrompTax and were not prepaying their PBT and/or MFT tax liability as required.

Follow-up finding: Tax and Finance had made significant progress in addressing the issues identified, having implemented both recommendations from the initial audit report.

Division of Homeland Security and Emergency Services (DHSES)

DHSES works to protect New Yorkers, their property, and the State's economic well-being from natural and human-caused emergencies and disasters by improving readiness and response through planning, training, and programs and partnerships with government, private sector, and other organizations. DHSES also coordinates response and recovery efforts of State agencies during emergencies and disasters in support of local government and its constituents.

Cyber Incident Response Team (2020-S-58). DHSES' Cyber Incident Response Team (CIRT) was created in 2017 to provide cybersecurity support to more than 2,800 non-Executive agencies (i.e., those not supported by the Office of Information Technology Services), local governments, and public authorities. Its mission is to provide leadership, coordination, and support for efforts to prevent, protect against, prepare for, respond to, and recover from terrorism and other man-made and natural disasters, threats, fires, and other emergencies. Currently, there are a total of nine members of CIRT—seven Division employees and two members of the National Guard. **Key findings:** CIRT developed three areas of focus, referred to as lines of service, to guide its work: Cyber Incident Response Services, Technical Cyber Services, and Information Sharing and Outreach. However, it did not establish specific and measurable objectives that clearly define what is to be achieved, who is to achieve it, how it will be achieved, or the time frames for achieving its lines of service. Further, it did not establish quantifiable goals that can be measured to evaluate its accomplishments. Generally, CIRT provided technical cyber services at the request of the entities that it supports; however, it did not seek to proactively obtain information from these

entities to evaluate their needs on a broad basis. Such information would allow CIRT officials to better understand and plan for entities that may benefit from their services in a more targeted manner. **Key recommendations:** Develop specific, measurable objectives and quantifiable, attainable goals, along with associated reporting mechanisms, to allow CIRT to evaluate if it is achieving its mission; and take steps to determine the cybersecurity needs of the non-Executive agencies, local governments, and public authorities CIRT is charged with supporting.

Division of Military and Naval Affairs (DMNA)

DMNA is the State's executive agency responsible for managing New York's Military Forces, which consist of nearly 20,000 members of the New York Army National Guard, New York Air National Guard, New York Naval Militia, and New York Guard.

Internal Controls Over Selected Financial Operations (Follow-Up) (2022-F-4). A Master Cooperative Agreement (MCA) between DMNA and the federal National Guard Bureau (NGB) allows DMNA to be reimbursed by NGB for expenses it incurs in operations and training of the State Army and Air National Guard, including facilities, equipment, training, personnel, and travel expenses. NGB will reimburse DMNA for up to five years after the close of the federal fiscal year in which DMNA paid for covered costs. A provision in the MCA requires that DMNA retain financial and other records that relate to its performance under the MCA.

Initial Audit (2018-S-66). **Key findings:** Auditors identified numerous weaknesses in DMNA's internal controls, perhaps most notably in its handling of reimbursement requests to NGB, which resulted in nearly \$1.27 million in lost reimbursements. In addition, DMNA did not maintain an internal audit function despite the requirement that it do so. Auditors also identified significant weaknesses in DMNA's controls over accounting for employee credit card purchases, including lack of follow-up on unsubmitted support for credit card purchases that were made up to two years prior. There were also weaknesses in the areas of purchasing policies, weapons records, and pension payments.

Follow-up finding: DMNA had made significant progress in addressing the problems identified in the initial audit report, having implemented all nine audit recommendations from that report.

Lead Contamination of State Armories (Follow-Up) (2021-F-22). Historically, armories were built with an indoor firing range (IFR), used for training purposes. The firing of weapons inside the IFR resulted in lead dust accumulation throughout. Personal exposure to lead can occur through ingestion, inhalation, and dermal contact, and can have health consequences such as growth disorders and damage to the nervous system, the kidneys, and the reproductive system. Exposure to lead is especially dangerous for young and unborn children. In September 2015, the federal National Guard Bureau's Army National Guard (ARNG) issued guidance to all states regarding a possible lead dust hazard in ARNG

armories. The 2015 guidance issued a new acceptable level for surface lead dust. It required that all facilities be tested, and if lead surface contamination above the acceptable level was confirmed, public rental of the armory must be immediately suspended—and access to family members, the general public, and pregnant women no longer permitted—until the armory was remediated and lead testing confirmed compliance. The guidance also required the implementation of safety measures such as posting warning signs and training all armory employees in lead hazard awareness.

Initial audit (2019-S-50). **Key findings:** DMNA had generally established adequate controls to ensure that the federally funded areas of all armories were tested for lead and that necessary steps were taken to address remediation when high levels were detected. Based on site visits to a sample of 12 armories undergoing lead remediation, auditors found DMNA was generally abiding by ARNG requirements to protect the health and safety of soldiers and armory employees in these areas. While DMNA's controls provided reasonable assurance that the public was not being unnecessarily exposed to lead at most armories, in certain instances, more could be done.

Follow-up findings: DMNA had made progress in addressing the issues identified in the initial audit report. Of the initial audit report's five recommendations, four had been implemented and one had been partially implemented.

Division of State Police

(State Police)

State Police works to ensure the safety of the State's roadways, prevent and investigate crime, prepare for and respond to emergencies and disasters, and provide support to other law enforcement agencies.

Processing of Sexual Offense Evidence Collection Kits (Follow-Up) (2021-F-19). Medical professionals use Sexual Offense Evidence Collection Kits (kits) provided to hospitals and other health care providers to collect DNA and other evidence during the physical exam of an alleged sexual assault victim. The victim has the right to choose whether to report the incident to law enforcement and consent to have the kit released by the hospital for forensic testing. Once a victim provides consent, the investigating law enforcement agency collects the kit and sends it to a forensic laboratory for analysis and to attempt to obtain a DNA profile. If a DNA profile is developed and meets specific requirements, it is entered into the Combined DNA Index System, a federally administered database of DNA profiles from convicted persons, crime scenes, and unidentified human remains, which can help link violent crimes and known offenders. Pursuant to a February 2017 amendment to Executive Law Section 838-a, Maintenance of Sexual Offense Evidence Kits (Executive Law), law enforcement agencies were required to submit all untested kits in their custody—regardless of age—to a forensic laboratory by December 28, 2017 for processing. Kits received by law enforcement agencies prior to February 26, 2017 were required to be processed within 210 days of receipt at the lab, and kits received by law enforcement agencies on or after February 26, 2017 were required to be processed within 90 days of receipt at the lab. The amendment also

required law enforcement agencies to begin submitting kits received after February 26, 2017 to forensic laboratories within 10 days. State Police’s Forensic Investigation Center (FIC) processes kits and provides forensic analysis support to all State criminal justice agencies.

Initial audit (2019-S-44). **Key findings:** From November 28, 2017 to October 31, 2019, FIC processed 1,656 kits, but only 356 of them were completed within the time frames prescribed by law. Also, as of October 31, 2019, FIC had 1,916 unprocessed kits, and the required processing time frame had elapsed for 1,681 of them. During the audit, FIC had taken steps to speed up kit processing; however, it was not able to meet the required time frames.

Follow-up finding: State Police implemented the recommendation made in the initial audit report, resulting in significant progress in addressing the issues identified.

Environmental Facilities Corporation (EFC)

EFC is a public benefit corporation that provides financial and technical assistance primarily to municipalities for their water quality infrastructure projects. Its mission is to assist communities throughout the State to undertake critical water quality infrastructure projects by providing access to low-cost capital, grants, and expert technical assistance.

Oversight of the Clean Water State Revolving Fund (2020-S-64). EFC, along with the Department of Environmental Conservation (DEC), is responsible for administering the Clean Water State Revolving Fund (CWSRF). Established in 1990, the CWSRF provides communities low-cost financing for a wide range of water quality infrastructure projects. The federal Environmental Protection Agency annually provides a grant to the State to fund the CWSRF program, which allows EFC to provide interest-free or low-interest rate financing (i.e., loans) and grants to municipalities throughout the State to support a variety of eligible water quality improvement projects. Since the inception of the CWSRF, EFC, in conjunction with DEC, has provided more than \$30 billion in low-cost financing to communities. EFC enters into a project financing agreement (PFA) with each loan recipient and has responsibility for the overall administration of CWSRF projects, including monitoring compliance with the provisions of the PFA. **Key findings:** EFC generally had adequate controls to ensure projects were awarded according to established scoring criteria, met the requirements of the CWSRF, and were repaid in a timely manner. Also, EFC adequately monitors projects during construction to project completion through a combination of on-site inspections, communication with recipients, and receipt of fiscal and project progress documentation such as photographs and on-site inspection reports. However, EFC could improve post-construction performance and maintenance monitoring to determine whether projects continue to operate as intended and whether the maintenance terms of the PFA are being met. **Key recommendation:** Develop a structured process between DEC and EFC for communicating post-construction project maintenance and operating status, including information that would enable EFC to determine whether recipients are complying with the PFA.

New York Power Authority

(NYPA)

Established as a public authority in 1931, NYPA is authorized by the Power Authority Act to help provide a continuous and adequate supply of dependable electricity to the people of the State. It generates, transmits, and sells electricity, principally at wholesale. NYPA's primary customers are municipal and investor-owned utilities, rural electric cooperatives, high-load-factor industries, and other businesses located throughout New York State, various public corporations located in southeastern New York within the metropolitan area of New York City, and certain out-of-state customers.

Selected Management and Operations Practices (2020-S-38). NYPA's Charge NY program, unveiled in 2013, sought to get more electric vehicles (EVs) on the road by raising awareness of the technology and making more EV charging stations—up to 3,000 public and workplace stations—available statewide within the following five years. In 2018, NYPA announced a new \$250 million EV expansion initiative—EVolve NY—focused on installing high-speed EV chargers in “key places along major highways and at the airports” and raising awareness of the benefits of EVs. **Key findings:** NYPA did not place charging stations in locations that supported the programs' intentions, installing public charging ports in only 32 of the 62 counties in the State. In addition, NYPA did not review and analyze usage data for charger placement in areas with higher numbers of registered EVs, nor did it use outreach efforts to encourage EV charger installation by its customers. Auditors also found that NYPA did not complete any of the planned projects for phase 1 of the EVolve NY program by its 2019 deadline. For instance, NYPA did not install any of the planned 200 high-speed chargers by the deadline and, as of March 5, 2021, had installed only 29 EVolve NY chargers at seven locations, putting installation as much as two years behind schedule. **Key recommendations:** Develop a formal process for evaluating new initiatives that includes the expected results and performance measures that will be used to determine the accomplishments within a specified time frame; develop a formal marketing strategy to increase awareness of the features of and educate motorists on the benefits of owning EVs; incorporate an analysis of usage data for use with NYPA customers in an effort to promote the installation of additional EV units; and work with State agencies, public authorities, and local governments to roll out EV charging stations to demonstrate to motorists that facilities are available to charge EVs in a shorter period.

New York Racing Association

(NYRA)

NYRA, organized in 1955, is a not-for-profit corporation that holds the exclusive franchise rights to operate New York State's three major thoroughbred racetracks: Aqueduct Racetrack, Belmont Park, and Saratoga Race Course.

Purchasing and Procurement Practices (2020-S-67). In November 2006, NYRA filed for bankruptcy due to its poor financial condition, which included a cumulative operating deficit of more than \$135 million. In September 2008, upon renewal of its exclusive Franchise Agreement (Agreement), NYRA entered into a bankruptcy settlement agreement conveying all rights, titles, and interests in its racetracks, such as properties (land and buildings), leasehold improvements, and works of art to the State. In return, the State forgave nearly all of NYRA's debt obligations. In addition, a Franchise Oversight Board (FOB) was established to oversee NYRA's financial operations. According to NYRA's FOB-approved Purchasing Policy and Procedures Manual (Manual), "Company employees who are entrusted to purchase goods and services are expected to spend the Company's money in a prudent manner." Toward this end, and pursuant to Section 208 of the Racing, Pari-Mutuel Wagering and Breeding Law, the Manual also established requirements for competitive bidding and the purchasing of goods and services at various dollar thresholds. Between January 1, 2018 and December 31, 2020, NYRA's expenditures were about \$250.3 million for goods and services. **Key findings:** NYRA did not adequately monitor and oversee purchasing and procurement to ensure that transactions were in compliance with the Manual and that costs were reasonable, justified, and appropriate. For example, during the three-year scope period, NYRA used Bid Exemption Memos to purchase goods and services, totaling \$30.5 million, that should have instead been competitively bid; documentation justifying its circumvention of competitive bidding was very limited. Other deviations from the Manual allowed NYRA to make over 15,000 transactions, each under \$1,000 and totaling approximately \$4.79 million, for goods or services purchased from non-approved vendors; and allowed an employee to select his company to do business with NYRA and receive payments totaling almost \$200,000. NYRA also could not provide copies of change orders to support the payment of \$787,517 to a construction contractor. The audit also found weaknesses in NYRA's purchasing system and processes, a lack of segregation of duties, and a lack of risk assessment and analysis. **Key recommendations:** Strengthen the integrity of the purchasing and procurement process by updating the Manual and obtaining FOB approval and adhering to the approved policy when procuring goods and services; monitor purchases and analyze historical purchasing data to identify categories of items that, in the aggregate, are budgeted for greater than \$50,000 and obtain competitive bids; conduct periodic risk assessments of procurement operations to identify vulnerabilities and take action to address, as necessary; and conduct periodic audits of NYRA's purchasing and procurement process.

New York State Liquor Authority (SLA)

The SLA and its agency arm, the Division of Alcoholic Beverage Control (ABC), were established in 1934 as part of the ABC Law. SLA promotes the health, welfare, and safety of the people of the State, and—to the extent possible—supports economic growth, job development, and the State's alcoholic beverage production, tourism, and recreation industries. In December 2021, the Office of Cannabis Management was established and became part of SLA.

Internal Controls Over Selected Financial Operations (Follow-Up) (2022-F-12). SLA issues both on- and off-premises licenses (e.g., for bars and grocery stores, respectively) as well as manufacturing and wholesale licenses, special event and brand label permits, and miscellaneous permits such as those for brewery tastings. For calendar year 2020, SLA reported that its Licensing Bureau generated about \$49 million in revenues.

Initial audit (2019-S-69). **Key findings:** SLA generally had adequate internal controls over selected financial operations to provide reasonable assurance that State assets and information were appropriately managed and safeguarded. However, auditors found six travel card charges by two employees for which SLA lacked employee expense reports and made two related recommendations.

Follow-up finding: SLA implemented both recommendations from the initial report.

Office of Parks, Recreation and Historic Preservation *(Parks)*

Parks is responsible for operating and maintaining the State park, recreation, and historic site system to conserve, protect, and enhance the natural, ecological, historic, cultural, and recreational resources of New York State. This system includes 180 State parks with opportunities for hiking, camping, swimming, golfing, and snowmobiling as well as 38 historic sites.

Compliance With Executive Order 95 (Open Data) (Follow-Up) (2021-F-29). State government entities possess large amounts of valuable information on subjects such as health, business, public safety, parks, recreation, labor, and transportation. Executive Order 95 (EO 95) established an Open Data Website ([Open Data](#)) for the collection and public dissemination of publishable State data maintained by covered State entities (generally, those headed by individuals appointed by the Executive). EO 95 implementation was phased in beginning in March 2013, and covered entities were required to be in full compliance by December 2019. As of January 2022, there were over 5,300 data items on Open Data. Open Data should provide ongoing “one-stop” access to publishable State data and make such data freely available in accessible formats for public use. Publishable State data should include comprehensive metadata and documentation to help maximize citizens’ understanding, and the public should be able to easily access the data using common software applications. Each covered State entity was required, within 180 days of the issuance of EO 95, to provide the Office of Information and Technology Services (ITS) with a catalogue of its publishable State data, along with a proposed schedule for making the data available on Open Data. Parks published its first data item to Open Data on February 15, 2013, and, as of January 2022, had published 24 data items (10 maps, 11 data sets, two filtered views, and one chart). The last data item was published on December 31, 2021.

Initial audit (2019-S-65). **Key findings:** Parks had taken steps to meet the requirements of EO 95; however, certain aspects of EO 95 had not been fully addressed. Parks appointed a qualified Data Coordinator responsible for EO 95 compliance within

the required time frame, and the data Parks posted to Open Data was reliable (both accurate and complete) and easily accessible, with minor formatting issues. However, Parks did not identify the total population of publishable State data that it maintains. Therefore, there was limited assurance that Parks provided a complete catalogue or accompanying schedules for making the data public, as required by EO 95. Also, Parks had not incorporated compliance with EO 95 into its core business functions, and there were no processes to identify new publishable data to post on Open Data.

Follow-up finding: Parks had made significant progress addressing the issues identified during the initial audit, having implemented both recommendations.

Oversight of Construction Management Contracts (Follow-Up) (2022-F-16). To better ensure that certain capital projects are executed and constructed properly, Parks occasionally contracts with firms that specialize in providing construction management (CM) services. In 2012, Parks entered into a contract with the Dormitory Authority of the State of New York (DASNY) to serve as the construction manager of a \$25 million Niagara Falls State Park revitalization project. After several amendments, this contract remained active until November 30, 2021 and totaled \$14 million. In addition to the DASNY contract, Parks enters into three-year contracts with private firms to serve as the construction manager (term contracts). At the time of the audit, Parks had 10 active CM term contracts with private firms totaling \$24.6 million for 108 projects, of which 44 are completed.

Initial audit (2020-S-43). Key findings: Parks paid over \$229,000 in fees under the contract with DASNY that could have been avoided if it had used a term contract. Furthermore, Parks officials do not receive detailed support for payments made under the DASNY contracts; therefore, they cannot monitor payments made under this contract as effectively as term contracts.

Follow-up findings: Parks had made progress in addressing the issues identified. Of the initial report's two recommendations, one was implemented and one was partially implemented.

Multi-Agency

Department of Financial Services (DFS)

Department of State (DOS)

New York State Office for the Aging (NYSOFA)

Office of Temporary and Disability Assistance (OTDA)

State University of New York (SUNY)

DFS is the State’s financial regulatory agency, responsible for overseeing nearly 3,000 financial institutions. Its goals are not only to ensure the health of these entities but also to empower consumers and protect them from financial harm.

DOS serves to make New York State’s communities more resilient and progressive; to improve the lives of its residents by helping launch new businesses across the State; and to reinvigorate the State’s economy.

NYSOFA, the State’s primary aging services agency, is responsible for serving its constituency through advocacy, development, and delivery of person-centered, consumer-oriented, and cost-effective policies, programs, and services.

OTDA is responsible for supervising programs that provide assistance and support to eligible families and individuals.

SUNY is the largest comprehensive system of public education in the nation, serving nearly 1.3 million students.

Selected State Agencies’ Roles in Financial Literacy (2020-S-53). According to the New York State Comptroller’s internal Executive Order on Financial Literacy, financial literacy, including a strong understanding of the basic principles of managing personal finances, borrowing, debt, and investing, directly affects citizens’ prosperity and quality of life and is inextricably linked to the economic health of the State. Nevertheless, many Americans remain unprepared for financial emergencies—a point that the COVID-19 pandemic brought greater attention to. That Americans continue to struggle to recover from the financial fallout of the pandemic, including a highly volatile economy, reinforces the need for personal financial awareness and preparedness and has inspired renewed efforts to deliver comprehensive financial literacy education for all Americans. In 2021, New York State enacted legislation that created a single repository of links to all State agency and authority financial literacy information and programs. All agencies and authorities are required to provide all relevant new and updated financial literacy-related education information to DFS, which is responsible for posting the information on its website. **Key findings:** Although each of the audited agencies are involved, to some degree, in financial literacy efforts, and some collaboration exists, there does not appear to be a coherent strategy or plan to coordinate these efforts statewide, which would provide a stronger level of service to New Yorkers. While DFS posts links on its website of financial literacy information provided by agencies and authorities, as required, at the time of the audit work, it had taken no action to help ensure that all agencies subject to the law provided relevant information and/or links. As of June 2022, fewer than

15 of the State's 100-plus entities were represented on DFS' Financial Help for New Yorkers webpage. Of the four agencies audited, only three—NYSOFA, OTDA, and SUNY—were represented; DOS was not. While DOS, OTDA, and SUNY generally seek to identify and reach critical and vulnerable consumer groups through their financial literacy efforts, SUNY is the only agency that attempts to measure gains in individuals' knowledge after participating in financial literacy offerings. Further, despite its advocacy role on behalf of the elderly—one of the State's most critical and vulnerable consumer groups—NYSOFA disclaimed having any role in administering or overseeing any financial literacy programs. DOS, OTDA, and SUNY have access to information and data that may help them evaluate and improve their financial literacy offerings but generally don't use this information or, where applicable, communicate it to partners to identify potential strengths, weaknesses, and topic areas that warrant greater focus. **Key recommendations:** DFS—work with agencies and authorities that are subject to the law to ensure they are providing the required information to enhance consumer financial literacy and education and that it is accessible on DFS' website; DOS—work with DFS to ensure that access to information about DOS' financial literacy-related content and efforts is available on DFS' website; NYSOFA—identify and pursue ways to enhance financial education and literacy among older New Yorkers; OTDA—implement a method to obtain program participants' input to identify potential strengths and weaknesses in financial literacy offerings and share this information with partners as appropriate; and SUNY—in coordination with the Smart Track vendor, where appropriate, use available information and user metrics to identify potential areas of focus and improvement.

Special Reports

Fiscal Impact

Improving Government Efficiency and Effectiveness: Lessons Learned from Past OSC Audits (2021-D-2). The COVID-19 pandemic resulted in widespread loss of employment and wages due to the economic shutdown and continued business restrictions, while also driving increases in State expenses such as health care. While the pandemic had a large impact on the State's sales tax collections in State fiscal year 2020-21—a decline of 11.2 percent—total tax receipts were less than 1 percent lower than in the prior fiscal year, buoyed by growth in the personal income tax. The State fiscal outlook improved due to an easing of restrictions, a recovering economy, extraordinary federal financial assistance, and temporary new tax increases. Supported by these conditions, the enacted budget for State fiscal year 2021-22 was the largest in State history and added significant new recurring spending, particularly in education and Medicaid. To help stabilize State finances over the long term, State leaders must be vigilant in ensuring that they effectively and efficiently utilize their available resources.

Over the five-year period ended September 30, 2020, SGA audits identified almost \$5 billion in fiscal impacts, including \$2.5 billion in actual and potential cost savings and \$2.4 billion in non-recoverable overpayments and questionable transactions.

This report summarized select audits that highlight SGA's efforts to promote fiscal responsibility, bringing renewed attention to ideas that could result in cost savings or revenue enhancements for the State and New York City. Where auditors identified room for improvement in the administration of public funding, several common themes emerged across the audits, namely collaboration, enforcement, and oversight. These themes apply to many more programs. When programs miss opportunities to share knowledge and systems, they also miss opportunities to save money for New York State, New York City, and public authorities. When entities fail to use existing deterrents or create more effective means to enforce collection of fees and fines, revenue is lost. When agencies do not adequately control project and program spending through consistent and careful monitoring, money is potentially misspent. Attention to these underlying issues, and the corrective actions recommended by SGA, would assist in putting New York State and New York City on sounder financial ground as the State recovers from the financial effects of the pandemic and rebuilds funding for essential programs and services.

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