



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

Division of State Government Accountability

Oversight of Undistributed Child Support Funds

Office of Temporary and Disability Assistance



Executive Summary

Purpose

To determine if the Office of Temporary and Disability Assistance's (OTDA) oversight and guidance are sufficient for local social service districts to effectively reduce undistributed child support balances and initiate the process that would allow these funds to be escheated, as required by law. The audit covered the period January 1, 2014 to December 31, 2016.

Background

The federal Social Security Act requires states to operate child support programs. Child support programs help enhance the well-being of children in many ways, including by enforcing child support obligations. OTDA oversees New York's child support program. OTDA's responsibilities include monitoring the efforts of 58 local social services district offices (districts) located in New York City and the State's 57 other counties (the five counties of New York City comprise one district). Districts are each required to establish a support collection unit (SCU) to collect and disburse child support funds. When child support funds have been undistributed for more than four months, districts must determine why and undertake "diligent efforts" to locate the payee (e.g., the custodial parent). When these funds remain undistributed for at least two years, the district is required to petition Family Court. Making the necessary diligent efforts and reporting these undistributed collections (UDC) to Family Court initiates the escheatment process. Accordingly, if Family Court determines the district made appropriate efforts to locate the payee, the court can order that the money be returned to the payer or deposited with the County Treasurer or, in New York City, the Commissioner of Finance. Funds that remain with a County Treasurer or the Commissioner of Finance for more than three years are required to be escheated (turned over) as abandoned property to the Office of the State Comptroller's Office of Unclaimed Funds (OUF), which will then expand outreach efforts to find the appropriate party.

Key Findings

We found OTDA has made improvements to the way child support funds are distributed, such as increasing electronically disbursed child support payments to help lessen the likelihood that payments will be returned and become undistributable. We also determined, however, that OTDA needs to increase its oversight of districts and provide more guidance to help ensure districts process UDC timely and in accordance with regulations because UDC that continues to age becomes more difficult to distribute to the rightful owner.

- From 2014 to 2016, UDC statewide dropped by about \$19 million. However, nationwide, New York had the second-highest UDC balance – approximately \$59 million – at the end of federal fiscal year 2016.
- Aged UDC is a problem that persists. As of December 31, 2016, approximately \$6 million¹ in UDC had been undistributed for three years or more, comprising 12 percent of the State's total UDC. For example, three districts had UDC accounts that were 38 years old, 37 years old, and 35 years old.

¹ The \$6 million excludes UDC that, for various reasons, have no date associated with the UDC balance; therefore, this amount may be understated.

- Most county offices (53 of 58) have not taken steps to escheat UDC to OUF. Of five counties that did escheat UDC, only one escheated UDC all three years of our audit period.
- We surveyed 20 districts. The districts stressed the need for additional guidance from OTDA. Only three districts had a process in place to petition Family Court – initiating the process to escheat UDC to OUF – and those counties had escheated funds during the audit period; two districts were unaware of the regulatory obligation to report UDC to Family Court or that UDC should be escheated; 15 districts were aware of their ability to petition Family Court and were interested in implementing a process for doing so. Five districts had reached out to OTDA for guidance – they expressed confusion about the definition of diligent efforts and were unsure of the appropriate steps needed to petition Family Court in conformity with State law. Despite this, the guidance they received typically included only a reference to applicable statutes.
- Prior to our audit, OTDA had taken very few steps to ensure all districts were aware of the various regulations surrounding UDC. OTDA officials acknowledged that districts need additional guidance and stated they have been researching methods to improve the processes related to UDC and escheatment since mid-2016. Also, in 2017, OTDA began one-on-one outreach efforts to explain certain procedures to districts.

Key Recommendation

- Develop specific policies and guidelines to help districts reduce UDC balances, including:
 - Providing clear and measurable guidance for what constitutes diligent efforts and measurable guidelines for the districts to meet this definition;
 - Establishing an expected time frame for when districts should petition Family Court regarding UDC; and
 - Developing uniform procedural steps that the districts can use to initiate the escheatment process.

Other Related Audits/Reports of Interest

[Office of Temporary and Disability Assistance: Use of Electronic Benefit Cards at Prohibited Locations \(2016-S-52\)](#)

[Office of Temporary and Disability Assistance: Wage Subsidy and Transitional Employment Programs \(2015-S-58\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

February 9, 2018

Mr. Samuel D. Roberts
Commissioner
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, NY 12243

Dear Commissioner Roberts:

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

Following is a report of our audit entitled *Oversight of Undistributed Child Support Funds*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

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

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: Andrea Inman

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The child support program, which was enacted in 1975 as part of Title IV of the federal Social Security Act, encourages responsible parenting, family self-sufficiency, and the well-being of children by providing assistance in locating parents, establishing paternity, and enforcing, collecting, and disbursing child support. The federal Office of Child Support Enforcement (OCSE), which oversees the national child support program, helps child support agencies develop, manage, and operate their programs effectively according to federal law. OCSE does not provide services directly to families; rather, it partners with state and other local child support agencies to encourage parental responsibility and ensure that children receive financial, emotional, and medical support from their parents, even when they live in separate households.

The Office of Temporary and Disability Assistance (OTDA) oversees and supervises New York's child support program through its Division of Child Support Enforcement, also known as Child Support Services (CSS). CSS oversight includes supervising and monitoring the efforts of the 58 local social services district offices (districts) located in New York City and the State's 57 other counties (the five counties [boroughs] of New York City comprise one district). The child support program is governed by federal and State laws as well as OTDA regulations. Federal law requires each district to establish a support collection unit (SCU) to administer its child support program. SCUs are responsible for case-level management, including case and account maintenance, paternity and support establishment, and administrative and judicial support enforcement. In State fiscal year 2016, the State distributed over \$1.7 billion in child support funds on behalf of custodial parents and their children.

In addition to overseeing the districts and monitoring their performance, CSS issues policy, operates the statewide child support system (an automated system for the case management and financial management of child support), and provides technical assistance and training. Further, CSS operates the Statewide Disbursement Unit (SDU), a federally required unit for the centralized collection and disbursement of child support payments throughout the State. The SDU receives child support funds and acts as a processing center, creating a payment file, identifying and processing these funds, and then disbursing these funds as appropriate. Some funds, however, are not immediately disbursed. Custodial and noncustodial parents are required to keep their addresses up-to-date with the district to ensure payments and notices are successfully delivered. The failure to inform districts regarding contact information can lead to undistributed child support funds.

The undistributed collections (UDC) fall into two categories: UDC pending distribution and UDC pending resolution. In general, funds pending distribution are withheld for an identifiable reason, including payments received in the last two business days, payments received before the obligation is due, and tax refunds from joint tax returns that are placed on a six-month hold. Funds pending resolution are unidentified or returned payments, including those with an incorrect address or stale-dated/returned checks (checks too old to be processed), which require additional research before they can be disbursed to the appropriate party.

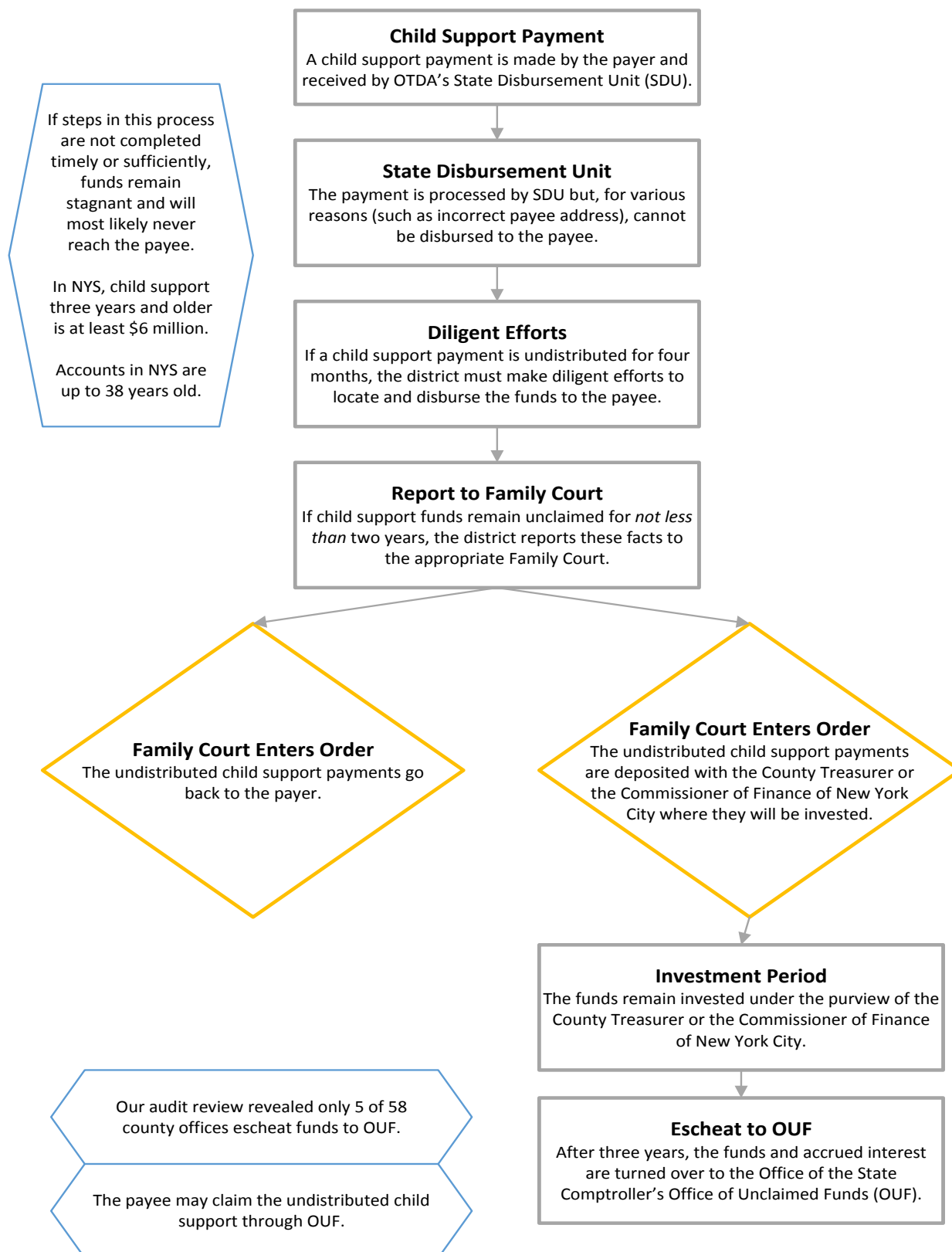
When funds are classified as undistributed, it is up to the districts to determine why, and if necessary, begin “diligent efforts” to locate the rightful owner. State Social Services Law (Law) requires the districts to make diligent efforts to locate the payee (e.g., the custodial parent) for all funds that go unclaimed for more than four months. However, the Law describing diligent efforts is vague and does not specify what constitutes diligent efforts.

There is also no definitive time frame for petitioning Family Court when these efforts fail. According to the Law, if child support funds have remained unclaimed for not less than two years, the commissioner of the district is required to report this to the appropriate Family Court. It is then up to the court to determine if the district made appropriate efforts to locate the payee; if so, the money can be returned to the payer or deposited with the County Treasurer or, in New York City, the Commissioner of Finance. According to the Abandoned Property Law, funds that remain with a County Treasurer or the Commissioner of Finance of New York City are to be escheated (turned over) to the Office of the State Comptroller’s Office of Unclaimed Funds (OUF) as abandoned property after a period of three years. The flowchart on page 7 illustrates the process for handling UDC.

During the three-year period ended December 31, 2016, UDC statewide dropped by approximately \$19 million (see Exhibit A). However, nationwide, New York had the second-highest UDC balance at the end of federal fiscal year 2016, as shown Table 1. Although New York State has reduced the outstanding UDC balance, this continues to be an issue and may negatively impact the financial well-being of the families entitled to these funds.

Table 1 - Undistributed Child Support Top Ten States September 30, 2016 (Federal Fiscal Year)		
1.	California	\$59,448,701
2.	New York	\$58,903,277
3.	Florida	\$53,400,479
4.	Ohio	\$31,000,866
5.	Michigan	\$27,868,684
6.	New Jersey	\$25,333,571
7.	Alabama	\$22,032,600
8.	Tennessee	\$18,879,173
9.	Illinois	\$17,416,436
10.	North Carolina	\$16,651,444

Process for Handling Undistributed Collections



Audit Findings and Recommendations

Although UDC has been declining, nationwide, the State continues to have the highest amount of UDC that is more than five years old.² Further, our analysis of escheatment data and testimonial evidence from 20 districts indicated several areas of concern. While OTDA shows a commitment to providing guidance to districts and has taken some positive steps to mitigate risks and improve the process of reducing UDC statewide, additional guidance and uniform procedures are necessary for districts to better serve the needs of child support recipients.

OTDA Process Improvements

Over the last two years, OTDA has made improvements to its child support distribution processes at the State and local levels, including increasing electronically disbursed payments via direct deposit and debit cards. Disbursing funds electronically lessens the likelihood that funds will be returned due to an outdated address or stale-dated check. Currently, 95 percent of payments are made electronically. Further, enhanced SDU procedures have been implemented that require call center operators to verify addresses and immediately update case records with any changes. System enhancements have also been implemented to streamline and simplify the process of issuing refunds to noncustodial parents, and additional guidance has been distributed to districts to address specific issues, such as when a party related to a child support case is deceased.

Escheatment Statistics

Districts making diligent efforts to locate payees and reporting UDC to Family Court initiates the escheatment process. As previously stated, once UDC is reported to Family Court, the court can order the UDC to be deposited with the County Treasurer or Commissioner of Finance of New York City. If three years pass after the court ordered the funds to be deposited with the County Treasurer or Commissioner of Finance, any undistributed funds must be escheated to OUF as abandoned property.

Our analysis of county escheatment data provided by OTDA shows the majority of county offices (53 of 58) have not escheated UDC. For the three-year period ended December 31, 2016, only five of the 58 – Nassau, New York City, Oneida, Suffolk, and Wyoming – escheated UDC to OUF. Of these five, Suffolk was the only one that escheated funds all three years. As illustrated in Table 2, escheatment varied considerably among the counties over the three-year period. In addition, aged UDC is a problem that still persists, as indicated in the next section of the report.

² OCSE FY 2016 Child Support Enforcement Preliminary Report; Table P-20 Net UDC by Age, FY 2016.

Table 2 - Total County Escheatment			
County	2014	2015	2016
New York City	-	\$714,588	\$1,043,159
Wyoming	-	-	93,129
Suffolk	\$12,033	3,970	4,616
Oneida	259	-	-
Nassau	-	-	50
Totals	\$12,292	\$718,558	\$1,140,954

UDC Three Years and Older

As of December 31, 2016, we identified approximately \$6 million in UDC that was aged three years or more, comprising 12 percent of the State's total UDC (see Exhibits A and B; note: the \$6 million excludes UDC that, for various reasons, have no date associated with the UDC balance; therefore, this amount may be understated). We analyzed UDC at the three-year mark to account for the initial four months that child support funds remain undistributed and the subsequent two years during which districts are required to make diligent efforts to locate a payee before reporting UDC to Family Court. The aging of accounts was based on the last date a payment was made from a given account.

For a majority of districts (50 of 58), the average UDC account age was two years or less. However, for six districts (Erie, Hamilton, Nassau, Otsego, Yates, and Warren), the average UDC account age was three to four years, and two districts (Albany and Oneida) averaged five years.

Further, there were significantly older accounts in many districts. For example, Nassau had an account aged 38 years, while Rockland and Albany had accounts aged 37 years and 35 years, respectively. In Suffolk, which was the only county that escheated funds all three years of the audit period, UDC that was more than three years old comprised about 10 percent of its total UDC, as of December 31, 2016. For counties of similar size (based on total UDC balances) that did not escheat funds during the audit period (Nassau, Erie, and Albany), UDC more than three years old represented a larger portion of their overall totals (16, 16, and 33 percent, respectively).

Our review of the Law found there is no definitive time frame for petitioning Family Court when diligent efforts fail, and we determined OTDA has not established an expected time frame for when districts should petition Family Court. According to the Law, a district must wait at least two years from the time the funds have remained undistributed before reporting UDC to Family Court. Accordingly, districts can wait more than two years to take action with the court. If districts do not process UDC on a timely basis (report UDC to Family Court for the subsequent transfer to the payer or to the County Treasurer or Commissioner of Finance of New York City for later escheatment to OUF), then UDC balances will increasingly be made up of older accounts that will become more difficult to distribute as time goes on. Furthermore, this has led to less UDC being escheated to OUF, where more of an effort could be made to find the rightful party.

Limited Efforts to Initiate the Escheatment Process

We conducted in-person interviews at 12 districts (Broome, Chenango, Fulton, Lewis, Montgomery, New York City, Orange, Putnam, Schuyler, Seneca, Suffolk, and Wyoming) and sent questionnaires to eight additional districts (Albany, Dutchess, Erie, Monroe, Onondaga, Rensselaer, Ulster, and Rockland). Only three of the districts (New York City, Suffolk, and Wyoming) had a process in place to petition Family Court – initiating the process to escheat UDC to OUF – and those counties had escheated funds during the audit period. Two districts (Chenango and Schuyler) were unaware of the regulatory obligation to report UDC to Family Court or that UDC should be escheated. For the remaining 15 districts, officials indicated they were aware of their ability to petition Family Court to initiate the escheatment process and were also interested in implementing a process for doing so. Officials from five districts (Lewis, Onondaga, Putnam, Seneca, and Wyoming) stated they previously reached out to OTDA for guidance regarding implementation of processes related to reporting UDC to Family Court, but the guidance they received typically included only a reference to applicable statutes. They also expressed confusion about the definition of diligent efforts, and were unsure of the appropriate steps needed to petition Family Court and begin the process that would allow for the escheatment of funds in conformity with the Law. Districts stressed the need for additional guidance in order to implement adequate processes.

OTDA disagreed with our finding that two districts were unaware of their responsibility to report UDC to Family Court and that UDC should be escheated. However, the fact that there was approximately \$6 million in UDC aged more than three years indicates that more efforts are needed to reduce this balance.

We found that OTDA does not consistently monitor the steps districts take in order to petition Family Court (which initiates the escheatment process). Even though OTDA tracks the overall age of UDC accounts and escheatment amounts by county, in previous years, OTDA had taken very few steps to ensure that all districts were aware of the various requirements governing UDC, Family Court, and escheating funds. OTDA provides districts with the Fiscal Reference Manual, a handbook that references the laws pertaining to UDC and Family Court, escheatment, and other legal requirements; however, no relevant guidance to aid districts in establishing processes for properly initiating the escheatment of UDC has been developed.

Through discussions during the course of the audit, OTDA officials acknowledged that districts need additional guidance regarding these processes, and said they have been actively researching methods to improve in this area since the summer of 2016. OTDA further acknowledged the need to work with the Unified Court System and develop uniform tools to aid the districts in implementing these processes. OTDA is currently working to develop a streamlined process for initiating the escheatment of UDC; however, these efforts are ongoing and, at the time of this report, had not yet been implemented.

Differing Levels of Diligent Efforts

Districts are required to make diligent efforts to locate the payee (e.g., custodial parent) of child support payments that go unclaimed for more than four months. The development and implementation of procedures to investigate and distribute UDC has generally been left up to the districts. Further, there is a lack of uniformity in the current processes used to assess UDC across the State, leading to some districts having more success distributing UDC than others.

Although districts understand that they must attempt to investigate and distribute UDC, there is confusion about how to successfully go about this process. Generally, the district officials we spoke with indicated they focus mostly on UDC that is easy to distribute; usually, this means recent UDC with issues that can be rectified quickly. For UDC that has not been disbursed for less obvious reasons, districts commented that they were unsure of the best methods for investigating these accounts and rely on previous practices utilized by their district.

In 2005, OTDA implemented requirements and criteria for coding UDC accounts to categorize funds that cannot be disbursed at the time of the initial case review. The codes indicate the reason why the funds cannot be disbursed and can be used to help monitor, assess, identify, and process UDC later on. Despite this requirement, 26 districts had less than 20 percent of their UDC accounts coded, as of December 31, 2016.

Sixteen of the 20 districts we interviewed said they need additional guidance and training specific to investigating UDC. Districts responded positively to OTDA's previously distributed written guidance regarding the death of a party; however, this only pertained to a portion of the issues that districts can encounter. Based on audit interviews and questionnaire responses, districts need additional guidance on the following topics:

- Methods for interpreting and data mining OTDA UDC reports;
- Specific steps to meet the diligent efforts requirement;
- Available tools and methods to inform the general public about undistributed funds;
- Procedural steps for handling nominal accounts (\$1 or less); and
- Easy access to procedural reference material related to handling and investigating UDC accounts.

During the course of our audit, in April 2017, OTDA began one-on-one outreach efforts to explain coding procedures and inform districts of the importance of coding UDC accounts. Of the 20 districts we interviewed, ten had already participated in these new outreach efforts and had responded positively to the guidance OTDA provided related to code usage. The majority of them reported that increased coding is helping their districts manage their UDC, and they are eager to increase their coding percentages and reduce their overall UDC balance; however, not all districts have received individual attention.

OTDA officials stated they plan to eventually reach all districts. As of July 10, 2017, OTDA had engaged 17 districts in teleconferences, and meetings with eight additional districts had been scheduled. As a result of one-on-one discussions with districts, OTDA officials are developing online

training, to be available via OTDA's intranet, that will highlight various data mining techniques for UDC reports. The training will be announced via email to all district county coordinators and discussed at the next quarterly meeting. While officials said the web-based training is almost complete, it was not yet available to districts at the time of this report.

Recommendations

1. Develop specific policies and guidelines to help districts reduce UDC balances, including, but not limited to:
 - Providing clear and measurable guidance for what constitutes diligent efforts and measurable guidelines for the districts to meet this definition;
 - Establishing an expected time frame for when districts should petition Family Court regarding UDC; and
 - Developing uniform procedural steps that the districts can use to initiate the escheatment process.
2. Expand current outreach efforts to include all districts. In addition to explaining procedures, identify best practices statewide for reducing UDC and initiating the escheatment process.
3. Develop additional guidance to help districts improve their current processes for reducing UDC and initiating the escheatment process, to include information on best practices and how to use the available tools.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether OTDA's oversight and guidance were sufficient for local social service districts to effectively reduce undistributed child support balances and initiate the process that would allow these funds to be escheated, as required by law. The audit covered the period January 1, 2014 through December 31, 2016.

To accomplish our objective, we reviewed relevant laws and regulations and OTDA's policies related to undistributed child support funds. We also became familiar with and assessed OTDA's internal controls as they relate to these funds. We held meetings with OTDA officials to gain an understanding of their oversight of UDC. Additionally, we performed site visits to 12 districts (Broome, Chenango, Fulton, Lewis, Montgomery, New York City, Orange, Putnam, Schuyler, Seneca, Suffolk, and Wyoming) and sent questionnaires to eight additional districts (Albany, Dutchess, Erie, Monroe, Onondaga, Rensselaer, Ulster, and Rockland). To select our judgemental sample of districts, we considered the following criteria: percentage of coded UDC accounts, average age of UDC accounts, average amount of UDC accounts, UDC trend for the three-year scope period, and amount of UDC escheated during the scope period. We also considered districts' geographic location to ensure our sample covered a cross-section of the State. Additionally, we analyzed UDC account data from January 1, 2014 to December 31, 2016 and OTDA's escheatment data for the same period. Specifically, we analyzed the data for trends related to increases and decreases in

distributions over the three-year period, account age, and percentage of UDC compared with total child support collections.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to OTDA officials for their review and formal comment. We considered OTDA's comments in preparing this report and have included them in their entirety at the end of this report. In their response, OTDA officials generally disagreed with the audit recommendations, stating that the recommendations have been implemented. However, several of OTDA's comments are misleading and/or incorrect. Nevertheless, OTDA officials did indicate that they remain committed to addressing and decreasing UDC balances and providing guidance and outreach efforts to the districts. Our rejoinders to certain OTDA comments are embedded within the text of OTDA's response as State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Temporary and Disability Assistance shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

Andrea Inman, Audit Director
Ed Durocher, CIA, Audit Manager
Ann Marsh, CPA, Audit Supervisor
Marisa Sutliff, Examiner-in-Charge
Bruce Brimmer, Senior Examiner
Matthew Conway, Senior Examiner
Brian Supple, Senior Examiner
Brian O'Connor, Staff Examiner
Kevin Fung, Senior Editor

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Ken Shulman, Assistant Comptroller
518-473-0334, kshulman@osc.state.ny.us

Vision

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

Mission

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

Exhibit A

Undistributed Child Support By District for the Calendar Years Ended 2014, 2015, and 2016

District	2014	2015	2016
Albany	\$2,242,994	\$2,152,470	\$1,925,706
Allegany	58,864	80,090	43,240
Broome	388,596	479,121	487,495
Cattaraugus	181,673	202,914	168,129
Cayuga	124,301	141,580	79,263
Chautauqua	359,918	419,176	388,724
Chemung	226,348	214,782	127,976
Chenango	93,073	84,223	50,153
Clinton	144,657	150,536	80,889
Columbia	91,425	103,794	57,145
Cortland	88,955	72,233	68,004
Delaware	82,831	95,390	68,335
Dutchess	502,025	565,451	441,052
Erie	4,226,739	4,466,898	3,408,096
Essex	54,860	66,941	38,032
Franklin	79,946	107,523	103,612
Fulton	65,145	65,378	40,487
Genesee	78,890	71,664	46,100
Greene	68,936	78,022	56,273
Hamilton	2,172	3,950	1,224
Herkimer	60,522	77,839	51,926
Jefferson	383,139	452,723	402,563
Lewis	33,566	53,193	26,794
Livingston	94,081	112,930	70,178
Madison	91,112	98,059	51,107
Monroe	1,457,904	1,694,138	1,454,422
Montgomery	310,234	398,530	296,483
Nassau	5,693,058	6,516,987	4,533,323
New York City	36,345,525	33,541,123	22,353,080
Niagara	454,006	419,851	286,867
Oneida	472,351	551,248	522,019
Onondaga	1,392,729	1,521,832	1,506,897
Ontario	107,137	139,723	92,427

District	2014	2015	2016
Orange	689,144	821,327	667,967
Orleans	55,480	75,164	51,730
Oswego	231,194	226,777	150,782
Otsego	105,725	108,710	72,358
Putnam	321,399	328,438	305,583
Rensselaer	321,233	442,514	438,455
Rockland	909,294	955,410	832,427
Saint Lawrence	71,671	96,547	99,179
Saratoga	337,833	396,996	262,194
Schenectady	567,146	655,143	489,041
Schoharie	50,925	50,494	33,575
Schuyler	25,759	85,311	14,282
Seneca	20,669	26,632	12,912
Steuben	169,323	160,521	118,897
Suffolk	6,414,052	6,244,829	4,909,055
Sullivan	341,354	314,782	212,373
Tioga	66,341	66,318	62,061
Tompkins	94,264	97,245	84,962
Ulster	441,694	459,264	320,766
Warren	103,945	131,056	101,022
Washington	172,878	178,689	101,768
Wayne	137,573	145,364	125,605
Westchester	1,999,797	2,276,096	1,803,255
Wyoming	88,266	101,795	95,188
Yates	33,358	44,443	54,609
Totals	\$69,828,029	\$69,690,177	\$50,748,067

Exhibit B

Undistributed Child Support 3 Years and Older By District as of December 31, 2016 *

District	3 -5 Years	5 -7 Years	7 - 10 Years	10 -15 Years	15 - 20 Years	Over 20 Years	Total 3 Years and Older
Albany	\$151,262	\$104,409	\$129,500	\$85,853	\$74,254	\$98,687	\$643,965
Allegany	13	108	2	285	1	0	\$409
Broome	13,227	19,833	934	2,056	90	224	\$36,364
Cattaraugus	0	1	0	0	0	0	\$1
Cayuga	624	81	0	51	0	0	\$756
Chautauqua	7,453	48	1,200	544	77	0	\$9,322
Chemung	3	1	1	0	0	502	\$507
Chenango	2	2	5	7	0	0	\$16
Clinton	0	0	0	0	0	0	\$0
Columbia	298	2	1	0	0	0	\$301
Cortland	0	0	0	0	0	0	\$0
Delaware	7	265	15,934	4,758	1,044	615	\$22,623
Dutchess	1,234	1	1	52	0	0	\$1,288
Erie	167,466	151,706	88,460	63,041	39,266	28,335	\$538,274
Essex	0	0	0	0	0	2,464	\$2,464
Franklin	9	690	0	0	0	0	\$699
Fulton	3,973	0	1	0	0	0	\$3,974
Genesee	47	0	0	0	0	0	\$47
Greene	0	0	0	0	0	3,802	\$3,802
Hamilton	38	0	1	0	0	267	\$306
Herkimer	0	0	2,541	0	0	0	\$2,541
Jefferson	25,025	1,634	46	6,823	0	0	\$33,528
Lewis	1	0	0	0	0	0	\$1
Livingston	404	16	8	359	0	125	\$912
Madison	1	1	2	4	106	0	\$114
Monroe	8,573	207	20	1	0	0	\$8,801
Montgomery	29,866	6,535	840	10,187	1,465	3,043	\$51,936
Nassau	272,268	176,197	114,308	92,312	40,348	12,214	\$707,647
New York City	498,351	287,193	588,319	756,910	270,233	233,787	\$2,634,793
Niagara	766	2,363	116	0	46	0	\$3,291
Oneida	2,463	828	2,676	27,145	85	0	\$33,197
Onondaga	50,965	39,724	60,109	86,053	33,735	45,750	\$316,336
Ontario	150	0	0	0	0	0	\$150

District	3 -5 Years	5 -7 Years	7 - 10 Years	10 -15 Years	15 - 20 Years	Over 20 Years	Total 3 Years and Older
Orange	753	1,814	396	2,760	16,708	8,347	\$30,778
Orleans	0	0	0	0	0	0	\$0
Oswego	608	104	557	32	0	0	\$1,301
Otsego	54	27	172	7	0	0	\$260
Putnam	13,073	18,120	3,581	4,686	3,517	0	\$42,977
Rensselaer	8,583	815	348	18	28	0	\$9,792
Rockland	20,905	11,592	10,132	2,899	2,967	73,200	\$121,695
Saint Lawrence	6	15	0	548	0	0	\$569
Saratoga	359	10	0	0	8,010	0	\$8,379
Schenectady	29,634	25,328	15,574	5,076	4,759	3,727	\$84,098
Schoharie	0	262	194	0	0	0	\$456
Schuyler	0	0	0	0	0	339	\$339
Seneca	0	0	1	0	0	0	\$1
Steuben	30	175	0	142	416	0	\$763
Suffolk	163,728	94,500	68,689	53,307	25,060	71,960	\$477,244
Sullivan	11,172	1,348	1,185	95	0	0	\$13,800
Tioga	128	16	291	487	1,722	417	\$3,061
Tompkins	6	100	0	0	1,430	0	\$1,536
Ulster	945	1	2,242	877	8,978	13,060	\$26,103
Warren	556	1	1	0	0	845	\$1,403
Washington	1,684	7,533	4,799	3,818	153	2,097	\$20,084
Wayne	25	3,551	87	288	181	1,602	\$5,734
Westchester	680	0	0	0	0	0	\$680
Wyoming	465	4	1,350	0	2,059	0	\$3,878
Yates	2	1	0	19	0	8	\$30
Totals	\$1,487,885	\$957,162	\$1,114,624	\$1,211,500	\$536,738	\$605,417	\$5,913,326

* These totals exclude UDC that, for various reasons, have no date associated with the UDC balance. Therefore, these figures may be understated. As of December 31, 2016, total undated UDC was \$ 6,966,130.

Agency Comments and State Comptroller's Comments



ANDREW M. CUOMO
Governor

Office of Temporary and Disability Assistance

SAMUEL D. ROBERTS
Commissioner

BARBARA C. GUINN
Executive Deputy Commissioner

December 11, 2017

Andrea Inman
Audit Director
Office of the State Comptroller
Division of Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

RE: Oversight of Undistributed Child Support Funds,
2017-S-17

Dear Ms. Inman:

This letter responds to the Draft Report ("Draft Report") released by the Office of the State Comptroller ("OSC") regarding OSC's audit of the Office of Temporary and Disability Assistance's ("OTDA") oversight of undistributed child support funds (the "Audit"). As set forth below, OTDA provides vital services to children and families, has and continues to provide guidance, training and support which have helped districts to significantly reduce undistributed collections within the existing process, and will continue to work with districts to further reduce these amounts. Overall, OSC fails to fully recognize these efforts and the statutory parameters which govern the escheatment process and within which OTDA must operate in their supervision of the districts.¹

¹ For example, OSC incorrectly references the Abandoned Property Law throughout the Draft Report noting UDC is to be escheated to the OSC's Office of Unclaimed Funds as abandoned property after a period of three years. However, as OTDA stressed throughout the Audit and articulated in responses to OSC's requests for information, UDC is governed by Social Services Law (SSL) § 111-h which requires that funds be held by a County Treasurer or the Commissioner of Finance of New York City for a period of five years prior to being transferred to OSC. OTDA requests that OSC correct the inaccurate regulatory reference and update the narrative and flow chart accordingly throughout the Draft Report.

State Comptroller's Comment – OTDA is incorrect. Although Social Services Law Section 111-h(5) provides that UDC will be deposited with the County Treasurer or the Commissioner of Finance of New York City for a period of five years, this provision was enacted in 1977 (Chapter 516 of the Laws of 1977) at a time when the dormancy period under Section 600 of the Abandoned Property Law was also five years. However, the Abandoned Property Law was amended in 2011 (Chapter 61 of the Laws of 2011), shortening the dormancy period for funds held by the County Treasurers and the Commissioner of Finance of New York City from five to three years. Under the rules of statutory construction, since the provision of the Social Services Law and the provision of the Abandoned Property Law are in conflict, the repeal of the earlier statute (in this instance, Social Services Law Section 111-h(5)) is implied (see McKinney's Statutes Section 391). Accordingly, our presentation is correct and the UDC is to be reported to the State Comptroller's Office of Unclaimed Funds after being held for three years.

State Comptroller's Comment – Contrary to OTDA's statement, we recognized the statutory parameters governing the escheatment process, which is stated on page 6 and depicted in the chart on page 7 of this report. Further, we recognized the efforts that OTDA has made to improve its child support distribution processes at the State and local levels. Despite these efforts, however, there are breakdowns – statewide – in the processes for handling UDC, and officials from multiple districts expressed the need for additional guidance and direction from OTDA to address concerns they have regarding the handling of UDC. As such, we maintain that our presentation is appropriate.

OTDA's Child Support Program Provides Vital Services

OTDA oversees the New York State child support enforcement program ("Program") which helps parents obtain child support and health care coverage for children by locating parents, establishing paternity, establishing and modifying child support orders, and collecting and distributing child support payments. The Program serves nearly 809,000 children, collecting more than \$1.8 billion annually for the benefit and well-being of New York's children. New York State has been a national leader in streamlining the collection and disbursement of child support payments on behalf of families. Today, the Program processes approximately 10 million payments annually with over 90% of those payments distributed electronically by direct deposit or debit card. On average, 98% of payments are processed the same day they are received. During the audit period, between 2014 and 2016, OTDA distributed approximately \$5.5 billion in child support providing the necessary financial resources for custodial parents and their families to obtain and maintain self-sufficiency and decrease the need for income supports paid by taxpayers.

OSC Recognizes OTDA's Successful Efforts to Reduce and Prevent UDC

In its Draft Report, OSC recognizes the important efforts and resources devoted by child support professionals at both the State and local level in actively addressing existing undistributed collections ("UDC") and preventing the accumulation of future UDC. The improvement of practices and processes has been an on-going priority for several years, began well before the Audit commenced, and will continue when the Audit is closed. As OSC correctly points out, OTDA's efforts to work with districts to reduce UDC have resulted in a decrease of approximately \$19.1 million over the course of the 2014 – 2016 audit period, a decrease of approximately 27.3% over this short timeframe. Between December 2010 and December 2016, UDC has decreased from approximately \$80.0 million to \$50.7 million – a significant decrease of over \$29 million or 36.6%.

OSC also recognizes that UDC is inherent to the operation of any child support program. A significant portion of UDC is appropriate and associated with the day-to day operations of the Program as defined by governing rules and regulations. Moreover, there are and will always be UDC including but not limited to payments received within the past two business days, payments received in advance of when a child support obligation is due, and tax offset collections from a joint return which are appropriately held for a minimum of six months. The \$50.7 million in total UDC as of December 2016 referenced by OSC in Exhibit A is a cumulative amount from the inception of the Program in 1975 and includes UDC associated with the business processes referenced.

State Comptroller's Comment – While we commend OTDA for the efforts it has made to reduce UDC and improve upon its child support distribution processes at the State and local levels, our audit work indicates that more improvements are needed to better serve the needs of child support recipients. OTDA does not dispute the minimal effort being made at the district level to get the millions of dollars in UDC aged three years or more into the hands of the intended recipients. Further, for the three-year period ended September 30, 2016, New York's UDC aged

five years or more compared to total child support distributions was 26 percent, which was only exceeded by three other states (Hawaii, Maine, and South Carolina). For the majority of states, this percentage was less than 10 percent. As such, we maintain that improvements are needed to reduce UDC.

As noted above, between 2014 and 2016, OTDA distributed approximately \$5.5 billion in child support providing the necessary financial resources for custodial parents and their families to obtain and maintain self-sufficiency and decreasing the need for income supports paid by taxpayers. Since 1994, OTDA distributed approximately \$32.1 billion in child support. The UDC total as of the end of calendar year 2016 comprised 0.16% of that total. The \$5.9 million in UDC older than three years noted in Exhibit B of the Draft Report represents 0.02% of the total child support collected over the course of the twenty-two years.

Between federal fiscal years 2012 and 2016, New York had the tenth largest decrease in UDC at 21.1%.² Nationwide, for the same period, the decrease was 9.4%. Thirty-two or roughly 60% of states and territories saw increases to their UDC balances. New York's focus and efforts on addressing UDC is evident and acknowledged in the Draft Report. New York has made great strides in honoring its commitment to address UDC that has accumulated over decades and will continue to prioritize the reduction of UDC moving forward.

OTDA Response to Recommendation 1: OTDA has Implemented Training and Procedures that Prioritize Location of Parents and Case-By-Case Determinations of when to Seek a Court Order

OTDA disagrees with this recommendation as it has already been implemented. Despite OSC recognizing some, but not all, of OTDA's efforts, it issued recommendations that fail to consider the legal environment within which OTDA is required to operate. For example, OTDA is unable to implement OSC's recommendation that OTDA define "diligent efforts" because that role has been assigned to the courts. Efforts to locate parties to a support order in the context of UDC must be appropriate based on the circumstances of each case and the information available to the support collection unit. Whether these efforts meet the "diligent effort" standard must be determined by the court when ruling upon the petition filed pursuant to SSL § 111-h. This determination lays outside the control of the child support program and will be made by the courts on a case by case basis.

² This is an especially impressive result considering that most states in the nation have a streamlined, administrative child support process. In comparison, New York law requires a laborious court process followed by lengthy holding times before funds may be deposited with OSC. See SSL § 111-h (5)-(7). OSC failed to consider this distinction when it compared New York to other states.

State Comptroller's Comment – We recognize the various statutory requirements and that New York's process for handling UDC involves court proceedings. Nevertheless, this does not excuse OTDA and the districts from ensuring that these statutory requirements are met (making the proper diligent efforts, timely reporting of UDC to Family Court, and escheating UDC to the Office of Unclaimed Funds after three years). As indicated on page 8 of this report, 53 of 58 districts have not taken the steps to escheat UDC. Unless this is resolved, the \$6 million in UDC has little chance of getting to the intended recipients, and if escheatment is not implemented, the balance will likely grow in time.

State Comptroller's Comment – OTDA officials state they disagree with the recommendation to develop certain guidelines and procedures to help districts reduce UDC (pertaining to diligent efforts to locate payees, petitioning Family Court, and initiating the escheatment process) because the recommendation has been implemented. Officials then conclude their response by stating they will continue to enhance procedures to assist districts in locating parents and completing the escheatment process – efforts that will help reduce UDC. As evidenced by the work we recently conducted at 20 districts, district officials expressed confusion about the definition of diligent efforts and were unsure of the appropriate steps to initiate the escheatment process. The districts stressed the need for additional guidance from OTDA. Given the level of confusion that currently exists at the districts, we encourage OTDA to focus its efforts on the numerous breakdowns our audit identified and better communicate to all districts the steps needed to reduce UDC balances. Also in their response, OTDA officials state they cannot define diligent efforts because that role has been assigned to the courts. While the courts determine whether a district made appropriate diligent efforts to locate a payee, as the administrator of New York's child support program, OTDA is responsible for ensuring adequate guidance on location efforts is developed and communicated to all 58 districts.

OTDA further asserts that its focus on helping districts improve location efforts is a better solution for resolving UDC. Better location efforts help get the funds to the family (rather than to the abandoned property fund). Support collection workers benefit from training on tools and methods to locate parents. To that end, OTDA has made additional training specific to UDC processes available to districts. In addition, better location efforts will ultimately satisfy the statutory diligent efforts requirement if the case ultimately must go before the court.

State Comptroller's Comment – In accordance with our recommendation to provide guidance on diligent location efforts, OTDA's focus on improving location efforts is laudable. However, not properly addressing the escheatment process and the problem of aged UDC that currently exists at the districts also prevents UDC from getting to families. We maintain that our recommendation to address this matter is appropriate.

OTDA also cannot establish a shorter timeframe for when districts should petition Family Court regarding UDC. In enacting SSL § 111-h (5-7), the Legislature created a two-year minimum, with no maximum limit, for support collection units to attempt to locate the parent to whom UDC is owed. OTDA is not empowered to administratively reduce the statutory timeframe. However, OTDA does provide guidance and best practices to help districts complete diligent efforts to locate parents and, when necessary, petition the Court to escheat UDC. This is an important component of OTDA's current outreach and training.

State Comptroller's Comment – We are not suggesting that OTDA establish shorter time frames for when districts should petition Family Court regarding UDC. However, as OTDA points out, there is no maximum time limit for petitioning Family Court. As such, we recommended that OTDA establish expectations for such a time frame because allowing districts to maintain UDC for decades does not help the families owed these funds. OTDA needs to take steps to help districts meet the two-year minimum time frame for petitioning Family Court regarding UDC (our work at the districts revealed that they need additional guidance and direction in this area).

OTDA will continue its efforts to enhance its existing procedures and training to assist the districts to locate parents and, where appropriate, initiate and complete the escheatment process where

location efforts are unsuccessful. As noted above, due to the priority given to this issue by OTDA and the local districts' efforts to reduce UDC, New York has seen a decrease of approximately \$19.1 million over the course of the 2014 – 2016 audit period; a decrease of approximately 27.3%.

OTDA Response to Recommendation 2: OTDA has and will Continue to Conduct Outreach with all Districts to Prioritize Efforts to Locate Parents and Address UDC

OTDA disagrees with this recommendation as it has already been implemented. OTDA has already implemented a number of procedures to reach out to all local districts to address UDC including: quarterly calls with districts, updates to OTDA's Fiscal Reference Manual, training sessions at conferences such as the those held biannually by the New York Public Welfare Association, as well as one-on-one trainings to discuss UDC issues and trends, tools to manage it effectively, and proactive case management practices to limit its occurrence. As noted in the Draft Report, a series of one-on-one meetings with districts is currently underway and web-based training will soon take place. OTDA will continue to provide training to inform, educate and update districts on UDC.

State Comptroller's Comment – We are pleased OTDA is taking action to provide guidance and direction to all districts regarding their UDC practices, and we encourage OTDA to continue with these efforts (including identifying the various root causes of UDC at the districts, identifying corrective actions, and sharing all best practices for reducing UDC). However, at the time of our audit, this initiative had not been fully implemented. As reported on page 11 of this report, OTDA had only reached out to 17 of the 58 districts.

Moreover, a specialized unit within OTDA's child support program was established in February 2016 to focus on local district support collection unit outreach and technical assistance, including for UDC. Efforts spearheaded by the specialized unit has increased the monitoring of local district functions including the handling of UDC and has accomplished the following: completed a special project resulting in the release of more than \$1 million in UDC; conducted on-site visits to provide technical assistance and training related to UDC; developed and offered workshops on Support Collection Unit processes and best practices, including managing and reducing UDC; and, conducted 51 calls with local districts to discuss the status of their UDC.

OTDA Response to Recommendation 3: OTDA has Developed Procedures and Training to Help Districts Locate Parents and Initiate the Escheatment Process and will Provide Additional Guidance as Needed

OTDA disagrees with this recommendation as it has already been implemented. OTDA has provided guidance, procedures and training to help districts locate parents and, where appropriate, initiate and complete the escheatment process when location efforts are unsuccessful. The draft Final Report specifically acknowledges that OTDA has done the following:

- Increasing the percentage of child support disbursed electronically to decrease the accumulation of UDC;
- Enhancing procedures to verify addresses and immediately update case records if needed;
- Streamlining the issuance of refunds to non-custodial parents;
- Issuing additional guidance to districts including regarding the death of a party;
- Increasing training on use of system reporting tools that provide the ability to sort, prioritize and analyze UDC; and
- Releasing an on-demand training tool providing guidance on the use of data mining.

State Comptroller's Comment – We acknowledge the efforts that OTDA has taken to provide training and direction to the districts. However, we maintain that this recommendation is appropriate given the lack of escheatment that is taking place at the districts (as stated on page 8 of this report, only 5 of 58 districts escheated UDC to the Office of Unclaimed Funds) and the many recent concerns district officials raised regarding the handling of aged UDC.

As noted above, best practices for locating payees and payors on techniques and resources for location of the parties to the order has been provided through various live and on-demand training courses. Location efforts are a routine part of many child support cases, not just when there is UDC. In January 2017, the Program distributed 500 outreach posters to districts for posting in public locations that reminded parents of the importance of keeping their addresses up to date. Updated addresses are a vital component to ensure that child support payments are distributed timely and decreases the likelihood of UDC.

OTDA remains committed to addressing and decreasing accumulated UDC balances building on an already robust framework of systems design, processes and procedures, guidance and outreach efforts to local districts. As needed, OTDA will work with districts to provide additional guidance.

If you have any questions regarding this response, please contact me at 518-473-6035 or at Kevin.Kehmna@otda.ny.gov.

Respectfully,

Kevin Kehmna

Kevin Kehmna
Director, Audit & Quality Improvement