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May 28, 2013

Dr. Thomas Farley, M.D., M.P.H.
Commissioner
NYC Department of Health and Mental Hygiene
42-09 28th Street
Long Island City, NY 11101

**Re: Final Letter Report on the Audit of the
Department of Health and Mental Hygiene's
Fiscal Monitoring Practices over the Prison Health Services Contract
(Audit Number FM13-055AL)**

Dear Dr. Farley:

We are sending this Letter Report to provide the results of the audit regarding the New York City Department of Health and Mental Hygiene's (DOHMH) Fiscal Monitoring Practices over the Prison Health Services (PHS) contract. Our objective was to determine how effective DOHMH practices are in ensuring that it was billed accurately by PHS for Personal Service (PS) and Other Than Personal Service (OTPS) costs.

We found that DOHMH adequately monitors the fiscal aspect of the PHS contract. Except for minor exceptions noted below, our audit found that DOHMH ensures PHS only bills the City for goods and services necessary to comply with the agreement, obtains necessary DOHMH approvals, and maintains adequate records to support all the PS and OTPS costs.

Background

On December 19, 2000, New York City Health and Hospitals Corporation (HHC) awarded a contract to Prison Health Services, Inc., to provide health care services to approximately 14,000 inmates held daily in the custody of the New York City Department of Correction (DOC). On April 15, 2003, the existing agreement between HHC and PHS was assigned to DOHMH for the term of July 1, 2003, to December 31, 2004. PHS was awarded another contract in 2005, which was renewed in 2008 and further extended in 2010. Our review covered the 2010 agreement, which was in effect from January 1, 2011, through the December 31, 2012, contract extension period. PHS, now known as Corizon Health, will remain the provider of those services until December 31, 2015, with the newest three-year agreement awarded in October 2012. Under the agreements, PHS was, and still is, responsible for providing a variety of health services to New York City inmates such as health examinations during the intake process, care for inmates and follow-up visits, laboratory and pharmacy services, specialty and emergency care, chronic condition care, and substance abuse treatment. PHS was paid \$250,801,798 out of the total maximum reimbursable amount of \$309,525,039 in accordance with the 2010 agreement for the period January 1, 2011, through December 31, 2012.

Findings and Recommendations

We found that DOHMH adequately monitors the fiscal aspect of the PHS contract. In that regard, DOHMH reviews monthly expense reports and performs quarterly adjustments to reconcile semi-monthly fixed payments with the actual expenses incurred. DOHMH reviews the payroll reports, fringe benefit reports, and OTPS invoices for reasonableness and accuracy of the actual expenses reported. Except for minor exceptions noted below, our audit found that DOHMH ensures PHS only bills the City for goods and services necessary to comply with the agreement, obtains necessary DOHMH approvals, and maintains adequate records to support all the PS and OTPS expenses. However, our audit found that the invoices related to one subcontractor did not have detailed time records to support hours worked, sales tax was paid by PHS and reimbursed by DOHMH, and PHS was reimbursed for expenses at the end of Fiscal Year 2012 for services that were performed in Fiscal Year 2013.

Specifically, Urgicare Medical Associates, PC (Urgicare), a PHS subcontractor providing emergency medical services, did not provide a professional time record invoice as required nor used the Kronos timekeeping system (Kronos) to record hours worked as did all other PHS employees, subcontractors, and temporary employees. Instead, Urgicare submits semi-monthly invoices indicating the total number of hours worked during the billing period by the four physicians employed by Urgicare. The Urgicare invoices do not record the time of arrival or time of departure for each employee. PHS can easily verify the hours reported by its other subcontractors by matching the hours worked to the Kronos timekeeping system. It is difficult for PHS to verify the hours worked by Urgicare employees because they do not use Kronos. Urgicare total PS billings were \$3 million for the two-year period covering January 1, 2011, through December 31, 2012.

Our testing of software maintenance expenses submitted by PHS for the months of June and July 2012 found that PHS paid \$820,171 for purchases of office equipment, computer equipment, and maintenance services, etc., which included \$62,746 in sales tax. DOHMH fully reimbursed PHS for software maintenance expenses including the sales tax paid. As a government agency, DOHMH is exempt from paying sales tax. We were informed by PHS officials that, prior to 2006, PHS used a DOHMH tax exemption certificate for purchases of goods and services from third-party vendors. In 2006, PHS reviewed New York State Publication 765, and according to its own interpretation, concluded that it is no longer eligible for sales tax exemption because it is an independent contractor. Because PHS needs DOHMH pre-approval before it can purchase equipment and that equipment becomes DOHMH property upon its arrival, this interpretation may not be correct. PHS was unable to provide any legal opinion to support its interpretation. After the exit conference, DOHMH agreed to obtain a legal opinion to clarify whether sales tax should be paid.

Currently, PHS obtains certain items from a DOHMH warehouse instead of purchasing them from outside vendors. If it is determined that PHS must pay sales tax on these items, DOHMH and PHS should consider if it is more cost effective to obtain these items directly from DOHMH.

Our review of PHS OTPS expenses, submitted on the monthly expense reports, found that in the month of June 2012, PHS included expenses for services provided in the following fiscal year. Specifically, PHS included future expenses for Urgicare services of \$737,022 and office rent of \$153,925.

According to the DOHMH/PHS agreement:

“For contracts wholly or partially funded with City tax levy funds, funds remaining unspent or unobligated at the end of the fiscal year cannot be used for goods or services performed in subsequent fiscal years. Therefore, all services contemplated hereunder must be performed and all goods must be received by the end of each applicable fiscal year within the term of the Agreement in order to obligate the funds for reimbursement.”

We recommend that DOHMH should ensure that:

1. Urgicare physicians use Kronos or another professional timekeeping invoice system as required under the contract.
2. It obtains legal guidance as to whether PHS is required to pay sales tax. If PHS is required to pay sales tax, determine if it is more cost effective for DOHMH to obtain necessary items directly.
3. PHS does not submit expenses at the end of the fiscal year for goods or services that will be received or rendered in the following fiscal year.

Audit Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93 of the New York City Charter.

This audit focused on the 2010 agreement, which covered the period of January 1, 2011, to December 31, 2012. The specific tests on PS and OTPS described below focused on either June or July 2012, the latest records available because our fieldwork testing began in August. Total maximum reimbursable amount of that agreement was \$309,525,039.

To achieve our audit objectives, we reviewed the contract between DOHMH and PHS. To gain an understanding of internal controls over the billing practices and payment approval process, we interviewed relevant personnel from both DOHMH and PHS. We also conducted walk-through meetings with PHS officials regarding billing practices and with DOHMH officials regarding the payment approval process. The results were documented in memoranda and flowcharts.

To verify that during the contract term PHS did not receive payments in excess of the amount budgeted in the agreement, we obtained the list of all payments made to PHS from Checkbook NYC, a searchable database of City expenditures, payroll, and contracts with business, nonprofits, and other government entities, and we compared it to the maximum authorized budget amount as stated in the agreement. We were able to verify that, during the scope of our audit, PHS was paid \$250,801,798, which did not exceed the \$309,525,039 contractual maximum reimbursable budget.

To verify that the medical professionals provided by PHS had valid licenses, we matched the employees on the PHS payroll in July 2012 to the New York State Education Department Office of the Professions website (<http://www.op.nysed.gov/opsearches.htm>).

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May 28, 2013

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To verify accuracy of the billings, we reconciled the PHS "Payroll Detail Report" for the month of July 2012 to the "Wages" portion of the "Expense Report Detail" for the same month. We verified that the total amount billed matched the supporting Registered Payroll and that employees listed there had timesheets supporting the hours billed. We also judgmentally selected two Rikers Island facilities to verify that PHS maintained contractually required staffing. We also performed a trend analysis of the PHS OTPS expenses reimbursed by DOHMH for the period of October 2011 through November 2012 and, based on these results, we judgmentally selected a sample of OTPS categories and reviewed the supporting documentation for accuracy, completeness, and compliance with applicable contractual requirements. As part of OTPS testing, we also verified that the expenses incurred by PHS for subcontractors and temporary staffing had supporting documentation such as invoices and timesheets.

On May 6, 2013, we held an exit conference at which time we discussed the preliminary letter report dated April 26, 2013, with DOHMH and PHS officials. We submitted a draft letter report on May 7, 2013, providing these officials an opportunity to respond to matters discussed herein. On May 20, 2013, we received a written response from DOHMH, which incorporated PHS's comments. In the response, DOHMH agreed with the report's findings and recommendations and described the steps it has taken or will take to implement the report's recommendations. DOHMH's response is attached as an addendum to this final letter report.

Sincerely yours,



Tina Kim

c: Sara Packman, Assistant Commissioner, DOHMH
Richard Hallworth, Chief Executive Officer, Corizon Health
Matthew Morley, Director of Finance, Corizon Health
Elizabeth Weinstein, Director, Mayor's Office of Operations
George Davis III, Deputy Director, Mayor's Office of Operations



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas Farley, MD MPH
Commissioner

ADDENDUM
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May 20, 2013

H. Tina Kim
Deputy Comptroller for Audit
Office of the New York City Comptroller
1 Centre Street, Room 1100
New York, NY 10007-2341

Re: Draft Letter Report on the Audit of the Department of
Health and Mental Hygiene's Fiscal Monitoring over
the Prison Health Services Contract
(Audit Number FM13-055AL)

Dear Deputy Comptroller Kim:

We have received and reviewed your draft letter report regarding the Department of Health and Mental Hygiene (DOHMH)'s fiscal monitoring practices over the Prison Health Services (PHS) contract.

The auditors acknowledge that DOHMH adequately monitors the fiscal aspect of the PHS contract. The auditors found that, except for minor exceptions, DOHMH ensures that PHS only bills DOHMH for goods and services necessary to comply with the agreement, obtains necessary DOHMH approvals, and maintains adequate records to support all the Personal Service (PS) and Other Than Personal Service (OTPS) costs.

We agree with the auditors' conclusion and recommendations and are pleased to be notified that the auditors found DOHMH's fiscal monitoring practices over the PHS contract are adequate. The attached response to the issue and the auditors' recommendations details DOHMH's position.

We appreciate the efforts and professionalism of your staff in the performance of this audit. If you have any questions or need further information, please contact Sara Packman, Assistant Commissioner, Audit Services, at (347) 396-6679.

Sincerely,


Thomas Farley, MD MPH
Commissioner

cc: Patsy Yang, DrPH
Amanda Parsons
Assunta Rozza
Sara Packman

**RESPONSE TO THE NEW YORK CITY COMPTROLLER'S AUDIT OF
THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE'S FISCAL MONITORING
PRACTICES OVER THE PRISON HEALTH SERVICES CONTRACT
Audit Number FM13-055AL**

The Department of Health and Mental Hygiene (DOHMH) reviewed the draft letter report on the DOHMH's fiscal monitoring practices over the Prison Health Services (PHS) contract and thanks the auditors for the opportunity to respond. The objective of the audit was to determine how effective DOHMH practices are in ensuring that it was billed accurately by PHS for Personal Services (PS) and Other Than Personal Service (OTPS) costs.

The auditors acknowledge that DOHMH adequately monitors the fiscal aspect of the PHS contract. The auditors found that, except for minor exceptions, DOHMH ensures (i) PHS only bills DOHMH for goods and services necessary to comply with the agreement, (ii) PHS obtains necessary DOHMH approvals, and (iii) PHS maintains adequate records to support all the PS and OTPS costs. We are pleased to be notified that the auditors found DOHMH's fiscal monitoring practices over the PHS contract are adequate. Given the size (\$309 million) and scope (comprehensive medical, mental health and dental services to approximately over 70,000 inmates per year) of the contract, DOHMH realizes the critical importance of fiscal monitoring over the PHS contract.

In regard to the minor exceptions, the draft letter report concludes that invoices related to one subcontractor did not have detailed time records to support hours worked, sales tax was paid by PHS and reimbursed by DOHMH, and PHS was reimbursed for expenses at the end of Fiscal Year 2012 for services that were performed in Fiscal Year 2013.

The auditors made three recommendations that DOHMH should ensure that:

- *Urgicare physicians use Kronos or another professional time keeping invoice system as required under the contract.*
- *It obtains legal guidance as to whether PHS is required to pay sales tax. If PHS is required to pay sales tax determine if it is more cost effective for DOHMH to obtain necessary items directly.*
- *PHS does not submit expenses at the end of the fiscal year for goods or services that will be received or rendered in the following fiscal year.*

We agree with the auditors' conclusion and recommendations. Our following response to the auditors' issue and recommendations details DOHMH's corrective action plans regarding the auditors' recommendations.

Recommendation

1. Urgicare physicians use Kronos or another professional time keeping invoice system as required under the contract.

DOHMH Response

Urgicare Medical Associates, a subcontractor, provides critical 24/7 emergency medical staffing. While it is correct that PHS could not verify the exact arrival or departure time of the Urgicare staff (one physician per shift), DOHMH receives a daily report from the Urgicare physicians detailing encounters/calls. There has never been any evidence that the Urgicare physicians have not been present at their posts at all times.

DOHMH agrees with this recommendation. DOHMH will ensure that PHS will require the Urgicare subcontractor to use Kronos payroll monitoring system to record hours worked and attendance effective July 1, 2013.

Recommendation

2. *It obtains legal guidance as to whether PHS is required to pay sales tax. If PHS is required to pay sales tax determine if it is more cost effective for DOHMH to obtain necessary items directly.*

DOHMH Response

DOHMH and PHS complied with the *New York State Department of Taxation and Finance' Publication 765*, which states the following;

"An independent contractor is required to pay sales and/or fuel excise taxes on purchases made to fulfill its obligation under a contract with a governmental entity. Depending on the terms of the contract, the independent contractor may pass on some or all of the economic burden of the sales and/or fuel excise taxes to the governmental entity."

However, DOHMH values and agrees with the auditors' recommendation. Therefore, in coordination with the New York City Department of Finance, DOHMH will initiate a discussion with the New York State Department of Taxation and Finance and seek clear guidance as to whether PHS is required to pay sales tax and, if so, whether DOHMH should fully reimburse sales tax paid by PHS and apply for refund of sales tax paid.

Recommendation

3. *PHS does not submit expenses at the end of the fiscal year for goods or services that will be received or rendered in the following fiscal year.*

DOHMH Response

The auditors noted that, in the June 2012, expenses for the next fiscal year were in-appropriately billed. It should be noted that these expenses were for contractually mandated services PHS provided to DOHMH.

DOHMH values and agrees with this recommendation. DOHMH already instructed PHS to no longer charge expenditures in this manner. DOHMH will ensure that PHS will not submit expenses for goods or services for future fiscal years, except accruals that are permitted by United States Generally Accepted Accounting Principles (US GAAP).