

OFFICE OF THE STATE COMPTROLLER

32. The Governor's FY 2010 Budget recommends an \$8.2 million appropriation for the **Office of the State Comptroller**, which was created pursuant to P.L.2007, c.52. Organized "in but not of" the Department of the Treasury, the office's budgeted 59 employees conduct financial audits, engage in procurement contract audits and monitoring, and review the efficiency and effectiveness of State and local governmental entities. In exercising its functions, the office collaborates with the Office of the Inspector General; the Office of the State Auditor; the Departments of Transportation, Education, Law and Public Safety, Community Affairs and Treasury; and other related entities. Replying to an OLS discussion point in the FY 2008-2009 Department of the Treasury Budget Analysis, the department outlined its structure: it features the Office of the State Comptroller (four full-time employees), the Audit Division (34 full-time employees), the Performance Review Division (13 full-time employees), and the Procurement Division (eight full-time employees). The Office of the State Comptroller also operates a toll-free, confidential "Financial Waste and Mismanagement Hotline" that allows callers to alert the office of perceived waste or mismanagement.

- **Questions:** Is the Office of the State Comptroller fully staffed and operational? Which programs and governmental entities are the Audit Division, the Performance Review Division, and the Procurement Division currently reviewing and are planning to review in FY 2010? Please describe the method each division uses in determining which governmental entity or program to review.

The Office of the State Comptroller (OSC) currently employs 56 staff members and is fully operational. Reports recently issued by OSC's Audit Division (which includes OSC's performance review function) include audits of the Governor's Council on Alcoholism and Drug Abuse, the City of Irvington, and the Borough of Washington. Each of those audits recommended numerous operational changes to save public dollars and improve efficiency. Those changes are now in the process of being implemented (and monitored by OSC). In addition, OSC also has issued reports concerning the selection and use of audit firms by New Jersey government units and the use of public funds to lobby New Jersey state government. These reports contained a series of recommendations aimed at saving taxpayer dollars and promoting greater transparency in government.

As of this writing, OSC audits of the following entities are in progress: Department of Children and Families (vehicle usage); Department of Human Services/Division of Developmental Disabilities (contracting practices); City of Camden (contract for water and wastewater services); City of Atlantic City (financial management practices); New Jersey Turnpike Authority (operating expenses); and Rutgers University (contracting practices). With the exception of the Department of Children and Families report, which will be completed during FY 2009, each of these audits will span into FY 2010. Remaining audits and reviews for FY 2010 have not been set definitively, but are expected to include a focus on issues pertaining

to the federal Recovery Act and will also include other audits of local school districts, municipalities, state agencies, and other government units.

The process by which government entities and programs are selected for audit is set forth in general terms by the statute establishing OSC, which states: "The State Comptroller shall establish objective criteria for undertaking performance and other reviews authorized by this act, which criteria shall weigh relevant risk factors . . . ." To that end, OSC has developed a risk/priority evaluation process that encompasses a number of risk factors, including: the entity's past performance, size of budget, whether the program is a new one, management turnover, indications of fraud/abuse, and referrals or recommendations from other government agencies. OSC staff conducts research along these parameters and assesses risk associated with each applicable factor as high, medium, or low, resulting in a determination of audit priority.

Like the Audit Division, OSC's Procurement Division is fully operational. It is charged by statute with vetting and monitoring the awarding of contracts by government units in New Jersey. Specifically, statutory law requires all New Jersey public contracting units seeking to award a contract in excess of \$10 million to inform OSC of the procurement process before any advertisement is placed and to obtain a determination from OSC as to whether the proposed procurement process complies with applicable law. Similarly, government units awarding contracts in excess of \$2 million are required to provide appropriate notice to OSC within 20 days after the award of the contract. Through such reviews, the Procurement Division screens out inappropriate procurement procedures, provides feedback to the submitting entity, and may also issue more general advice to other contracting entities if appropriate. Since May 2008, New Jersey government units have submitted for review more than 630 procurements, many of which have been modified based on the OSC review process.

- **How many calls has the "Financial Waste and Mismanagement Hotline" received since inception and how many of these calls have merited further investigation?**

The Office of the State Comptroller has received 213 tips from the public since inception. This number includes calls to our hotline, e-mails to our tips mailbox, and tips received through the mail. This number does not include referrals we have received from members of the Legislature or officials from Executive Branch agencies. All of the tips that OSC receives are reviewed by an OSC investigator. For each tip, the investigator conducts appropriate interviews, research, or other inquiries and determines whether the matter should be referred for audit consideration or other action, or whether the information should be referred to another agency. Some of the tips we have received from the public have, along with other factors, led to full-scale audits; others remain the subject of investigation to determine whether an audit is warranted.

- **Please clarify the division of labor and the nature of the collaboration between the office's Procurement Division and the Division of Purchase and Property and the Division of Property Management and Construction, both in the Department of the Treasury. Is the Procurement Division duplicating the efforts of State Contract Managers or of the two Treasury Assistant Inspectors General who oversee State Contract Managers so as to ascertain effective contract administration and to propose enhancements to contracting policies?**

OSC's Procurement Division provides independent oversight of the procurement processes used by all government entities in the state, including the Division of Purchase and Property and the Division of Property Management and Construction. OSC interacts with those two entities much as it does with the other 1900 state and local government units that procure goods and services: those entities submit procurement contracts to OSC for review as required by statute, and OSC performs its obligation to determine whether the procurement process complies with public contracting laws, rules, and regulations. Because of its oversight role, OSC is not a collaborative partner with these two divisions.

Similarly, OSC's Procurement Division does not duplicate efforts of State contract managers. Contract managers monitor the administration of contracts once they have been awarded. In contrast, the Procurement Division oversees the vendor-selection process; it does not monitor the administration of awarded contracts.

Lastly, with regard to functions of Treasury Assistant Inspectors General, those positions do not exist. OSC's understanding is that there was at some point a proposal to create two Treasury Assistant Inspector General positions within the Office of the Inspector General, but that proposal was not implemented.

33. On February 23, 2009, the Governor named his Chief of Staff and the State Comptroller to lead a group overseeing New Jersey's implementation of the \$787 billion **American Recovery and Reinvestment Act of 2009**. The monitoring group is to ensure that the State uses the federal aid efficiently, effectively, and transparently. For FY 2009 and 2010 combined, the Governor's FY 2010 budget incorporates an estimated \$5.183 billion in **federal stimulus funding** provided by ARRA. Of this amount, the State will use \$3.074 billion (\$854 million in FY 2009 and \$2.220 billion in FY 2010) for budget relief to offset revenue shortfalls (Budget-in-Brief, Appendix II, page 12), and \$2.109 billion to fund new or expanded programs or initiatives.

- **Questions:** Please expound the State Comptroller's role in monitoring New Jersey's use of American Recovery and Reinvestment Act (ARRA) moneys. Given that actively monitoring the use of ARRA funds is an internal control function in management, can the State Comptroller still conduct post-audits and performance reviews tied to these federal funds that would be considered independent according to professional standards? Pursuant to the most recent evaluation, please list ARRA amounts New Jersey expects to receive by fiscal year and program category.

The State Comptroller is the co-chair of the New Jersey Recovery Accountability Task Force. As set forth in the task force's Mission Statement, the mission of the task force is to "provide for transparency and accountability in the use of American Recovery and Reinvestment Act (ARRA) resources in our State." The task force "will monitor the distribution of ARRA funds in New Jersey and promote the effective and efficient use of those funds." Specific efforts of the task force include ensuring public access to information concerning use of ARRA funds, providing guidance to agencies receiving ARRA funds on internal controls, accounting practices, and other best practices, providing a means to receive and address concerns from New Jersey residents about use of ARRA funds, and coordinating the State's ARRA oversight efforts.

Under Government Auditing Standards, the State Comptroller, as part of the task force and in an advisory capacity, can provide advice and guidance on matters such as internal controls and contract management that would promote the effective and efficient use of stimulus funds. Under those standards, such advice and guidance does not impair the independence of the State Comptroller in conducting audits related to the expenditure of those funds. In fact, the statute creating OSC specifically instructs the State Comptroller to provide guidance and training to New Jersey government entities to strengthen financial management and internal control systems to prevent the misuse of public funds.

In terms of ARRA amounts New Jersey expects to receive, please see the attached chart compiled by staff in the Office of Management and Budget.

34. Acknowledging the important role external auditors play in the financial oversight of governmental units in New Jersey, the Office of the State Comptroller issued its first report on August 12, 2008 entitled "**Selection and Use of Audit Firms by New Jersey Government Units**". For the report, the office had requested audit information from over 1,900 units of government. By July 11, 2008, 996 units had replied.

The office emphasized three weaknesses jeopardizing the integrity of many audits performed for governmental units. First, it indicated that 45 percent of all respondents had been using their auditors for more than ten years. Stating that periodic auditor rotation enhanced audit quality, the State Comptroller recommended that no governmental entity use the same audit firm for more than ten consecutive years. Second, the State Comptroller noted that 48 percent of survey respondents did not use a competitive contracting process to select audit firms. Reminding that a competitive selection process was a safeguard against illegal activity, overpriced services, and lax audit work, the office recommended that all governmental units put auditing contracts out to bid at a minimum of every five years. Third, the State Comptroller recommended that governmental units do not hire audit firms that have made political contributions within twelve months of bidding on an audit contract. The office related that the top ten audit firms with the largest number of government clients made political contributions exceeding \$1 million in 2006 and 2007.

- **Questions:** Please update the number of governmental units that have responded to the Office of the State Comptroller's notice to submit audit information. Do the submissions received after July 11, 2008 alter the findings published in the "Selection and Use of Audit Firms by New Jersey Government Units" report? Does the office have the means to compel governmental units to cooperate with information requests? If not, does the State Comptroller have any suggestions that would help achieving universal compliance with the State Comptroller's requests?

As of July 11, 2008, 996 government units had responded to the OSC survey. Since that time, another 323 responses have been received. The more recently received responses were consistent with the previous ones and do not alter any of the report's conclusions or recommendations.

Although not all 1,900 government units responded to this across-the-board OSC survey, this office has not faced problems in obtaining necessary documentation from government entities in the context of audits or information requests directed at specific government units. Because OSC is by statute granted access to records of government units, who are required to cooperate with any OSC audit or review, if a government unit refuses to provide requested documents a court action could be filed to enforce OSC's right to the information.

- **What has been the response to the State Comptroller's recommendations to rotate auditors on a regular basis, to award auditing contracts through a competitive bid process, and to bar audit firms that have made political contributions from bidding on an audit contract? Are governmental units implementing the recommendations or is it the State Comptroller's opinion that legislation is needed to provide for changes in auditor selection and rotation practices?**

OSC's August 2008 report contained recommendations concerning the enactment of legislation that would require New Jersey government units to employ the "best practices" identified in the report. Following the issuance of the report, the Governor stated his support of the report's recommendations and legislation has been introduced that would codify those recommendations. OSC has been monitoring the status of that legislation. If the identified "best practices" are ultimately not enacted into law, OSC would consider outreach and training to government units to provide guidance on these best practices and monitor adherence thereto.

**Estimated Federal Stimulus Funds to New Jersey (FY09-FY11)**  
**(in \$ millions, as of GBM)**

-----IN STATE BUDGET-----		----OUTSIDE OF STATE BUDGET----		-----TAX CUTS-----	
		Per Center for American Progress 2/09		Per CAP, 2/09	
Program	Amount	Program	Amount	Tax Cuts	Amount
Medicaid FMAP *	2,009.6	UI Benefits Extension	1,893.3	AMT	3,526.8
Fiscal Stabilization- Education	1,091.0	Transit Capital	524.3	Making Work Pay	3,256.7
Highways/Bridges	800.0	Seniors, Disabled Vets & SSI	376.7	Child Tax Credit	300.0
Special Education + Part C	383.3	UI Increased Benefits	360.2	Recover Zone Bonds	119.8
Fiscal Stabilization- General	250.0	Pell Grants	318.1	EITC Increase	84.4
		Supplemental Nutrition Assistance Program (Food Stamps)	301.6		
Title I	244.2	UI Modernization Act **	207.0		
Clean Water SRF	161.4				
		Public Housing Capital Funds	101.2		
Weatherization	121.8	HOME Investments			
State Energy Program	89.9	Partnership Program	61.8		
		State Energy Conservation			
Drinking Water SRF	43.2	BG (portion not in Budget)	61.1		
		Neighborhood Stabilization	32.7		
WIA	35.1	Homelessness Prevention (portion not in Budget)	30.9		
		Community Development BG (portion not in Budget)	25.5		
Child Care	34.1	Temp Ass't for States w/ Advances	22.4		
Child Support Enforcement	32.0	Byrne/JAG (portion not in Budget)	18.0		
Byrne/JAG	29.8	Head Start	12.5		
Dislocated Workers	26.5				
Community Serv. B.Grant	27.4				
Trade Act	17.4				
UI Admin	15.9				
State Energy Conservation BG	18.0				
Foster Care/Adoption	12.1				
Women Infants Children (WIC)	12.0				
Educ Tech	12.0				
Employment Service	10.8				
Homelessness Prevention	10.2				
Voc Rehab - Labor + CBVI	9.6				
Violence Against Women	6.2				
Immunization	5.7				
Leaking Underground Storage	5.0				
Food Stamps	4.5				
Community Serv:Older Amer.	3.4				
TEFAP + Admin	3.3				
Emergency Food/Shelter	2.8				
Crime Victims Assist + Comp	2.5				
Elderly Nutrition	2.2				
School Lunch Eqpmt	2.0				
Other	8.0				
<b>TOTAL</b>	<b>5,542.9</b>		<b>4,347.3</b>		<b>7,287.7</b>
					<b>17,177.9</b>

\* Note: The Center for American Progress (CAP) estimates that NJ will receive \$2,625.4 million in Medicaid funding, rather than the Department of Human Services' estimate of \$2,200 million. That accounts for the majority of the difference in estimates.

\*\* Note: U.S. Dept of Labor certified that New Jersey would receive \$207 million on 3/27. CAP estimated \$90.8 million.