Department of Health and Senior Services
Office of the Public Guardian
for Elderly Adults

July 1, 2002 to June 30, 2004

Richard L. Fair
State Auditor
The Honorable Richard J. Codey  
Acting Governor of New Jersey  

The Honorable Richard J. Codey  
President of the Senate  

The Honorable Albio Sires  
Speaker of the General Assembly  

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services  

Enclosed is our report on the audit of the Department of Health and Senior Services, Office of the Public Guardian for Elderly Adults for the period July 1, 2002 to June 30, 2004. If you would like a personal briefing, please call me at (609) 292-3700.  

Richard L. Fair  
State Auditor  
January 31, 2005
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Department of Health and Senior Services  
Office of the Public Guardian for Elderly Adults

Scope
We have completed an audit of the Department of Health and Senior Services, Office of the Public Guardian for Elderly Adults (OPG) for the period July 1, 2002 to June 30, 2004. Our audit included financial activities accounted for in the state’s General Fund and the office’s non-appropriated funds which are maintained on the client trust accounting system. Expenditures during the audit period were approximately $24 million, client revenues totaled $14 million and commissions and fees charged to client accounts were approximately $878,000. The prime responsibility of the OPG is to ensure that its clients are maintained in the least restrictive manner possible, given their physical, emotional, and financial needs. This responsibility includes financial management of approximately 430 active client accounts with asset an value of $17.3 million.

Objectives
The objectives of our audit were to determine whether financial transactions were related to the office’s programs, were reasonable, and were recorded properly in the accounting systems; and whether client assets were accounted for and properly maintained. We also tested for resolution of significant conditions noted in our prior report dated October 7, 1998.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology
Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, and policies of the office.

Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed office personnel to obtain an understanding of the programs and internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample transactions were judgmentally selected.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the office and performed test on the system to determine if the corrective action was effective.

We found that the financial transactions included in our testing were related to the office’s programs, were reasonable, and were recorded properly in the accounting systems. We also found that client assets were properly accounted for and maintained. In making these determinations, we noted certain internal control weaknesses relating to OPG operations meriting management’s attention.

Conclusions
First and Final Accounting

N.J.S.A. 52:27G-27a. states that “The reasonable value of all services rendered by the public guardian, including the costs incurred... shall be charged against the estate.” The OPG files a First and Final Accounting with the court upon the termination of guardianship. The First and Final Accounting documents all income and expenses during the guardianship period. The document is prepared by a vendor who utilizes client records generated by the OPG.

There is no formalized review of the First and Final Accounting prior to the submission to the courts. We also found that closeout transactions were not reviewed. Without adequate reviews the courts may be approving incorrect professional fees, costs, and commissions, and client accounts may not be accurately charged. Not including all allowable cost and commissions also results in a loss of funds to the OPG. Our review of eight final accountings disclosed the following:

- The OPG receives commissions on client income during the guardianship period. The vendor calculates commissions earned on income. Total income received in our sample was $218,859. Commissions were charged on $214,527 resulting in a net loss of $363 revenue to the OPG.

- Amounts advanced by the OPG for client expenses are recoverable as cost in the final accounting. Cost are recorded on the client database and is available to the vendor. We found three final accountings which contained costs that were understated $794. One additional accounting reported costs of $1,156 but only $708 was supported by documentation.
Upon court approval of the First and Final Accounting, the vendor provides the OPG with a list of required actions to closeout client accounts. These actions include the prioritization of disbursement of funds, the notification to other creditors, and the transfer of the client estate to the administrator. Our review of the closeout of accounts disclosed errors in all sampled cases. We found discrepancies between the court approvals and the actual transactions posted to the client cases. We noted three accounts were charged $1,517 in excess of the approved amount and three cases were undercharged $728.

We recommend the OPG implement review procedures that will ensure the accuracy and completeness of the First and Final Accountings prior to submission to the courts. In addition, the OPG should establish closeout procedures that will ensure accurate disbursement of client assets.

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Project Cost System

The OPG bills clients professional fees for work performed by office staff in accordance with N.J.S.A. 52:27G-27a. Our review disclosed that the OPG has no formal project control system to account for professional fees. A project control system would allow the OPG to track staff hours by client and provide the necessary support for the billing of professional fees.

A review of eight client files disclosed that the OPG billed 499 hours of professional fees in the First and Final Accountings. The office supplies the vendor with the hours and pay rates for staff members used in the calculation of professional fees. Support for the hours billed should consist of information in the client files and hours posted to the client database. A review of the database disclosed that only 157 hours
had been posted and memos supporting visits provided no detail as to billable hours. Analysis of employee time records disclosed that daily detail of employee activities are not included and there is no reconciliation between hours posted to the client database and office records. Without a system of project control to adequately detail employee activities, the OPG cannot accurately bill for professional fees.

**Recommendation**

We recommend the OPG institute a project control system that will provide adequate support for all time that is billable by the office staff.

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**Updated Policies and Procedures**

The OPG policy manual has not been updated since 1996. Management has focused the office's manpower resources on the care and maintenance of an ever increasing client population. Current written policies and procedures are an important internal control which communicates management directives. It also gives employees an understanding of their roles and responsibilities regarding operations of the office. Several of the findings noted in this report have their root cause in the lack of adequate policies and procedures.

**Recommendation**

We recommend the OPG review all office operations and functions and update the policy and procedure manual.

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**Client Investments**

The OPG invested $4.6 million of clients’ funds during the audit period. Our prior audit recommended that the Department of the Treasury, Division of Investment be utilized in accordance
with Circular Letter 96-14-OMB. The Public Guardian believes that transferring these funds would be an abrogation of their fiduciary responsibility.

The OPG does not use financial planning as a tool when making investments for clients. Investments should be made in a manner appropriate to the client’s circumstances such as age, life expectancy, income requirements, and size of the estate. Excess funds of clients are invested in Freddie Mac or Fannie Mae bonds which are purchased through one vendor. There is no evaluation of the financial effectiveness of the current investment strategy. The length of investments averages 17 years while the average age of clients is 85 years and the average period of guardianship is three years.

Upon further review, we determined that the OPG does not assess the net rate of return on investments and is therefore unable to determine if they have met their fiduciary responsibility.

We recommend the OPG assess the net rate of return on client investments to determine if their financial planning is appropriate.

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**Recommendation**

Bank accounts should be established in accordance with Treasury procedures.

Circular Letter 00-12-OMB requires that all units of state government requiring any form of new banking services or any changes in existing banking services submit their requests to the Department of the Treasury, Office of Management and Budget, Cash Management Unit. The OPG has established office bank accounts exceeding $4 million and client fund bank accounts exceeding $6.6 million that were not reported to OMB. The office was not aware of the circular letter requirements.
Deceased client data has not been updated.

We recommend the OPG notify the Cash Management Unit of all bank accounts currently in use.

Deceased Clients

The OPG utilizes a database which is designed as a complete trust accounting and case management system. The system records pertinent health, legal, domestic, and financial information for each client. The estate balance, as recorded on the database, is the sum of a client's trust balance, savings account, burial trust, and other assets. The trust balance represents client cash which is maintained in the OPG client fund bank account. The savings account is used to record investments made by the OPG. The burial trust is a pre-paid fund used for funeral expenses. The other assets balance is used to record the value of tangible property. The OPG client database as of June 2004 revealed that there were 330 deceased clients on the system that had estate balances of $11.6 million. A review of these clients disclosed that 191 died prior to 2002.

We performed a detailed test of eight accounts with estate balances of $3.7 million. Our review disclosed that the balances were overstated by $1.5 million or 41 percent. Four of the eight accounts had trust balances that did not agree with the First and Final Accounting, two had other asset amounts that were in error, and one had a savings account balance even though the distribution had been made.

There are no formal procedures for updating the database once the First and Final Accounting has been approved. As a result, the OPG cannot rely on their database to accurately report the estate value of deceased clients. Prudent accounting practices dictate that the accounts should be closed timely, assets be properly disbursed, and that the accounting records properly reflect these transactions.
Recommendation

We recommend the OPG dedicate the necessary resources to closeout outstanding accounts and update their records accordingly, and institute procedures to close the accounts of deceased clients in a more timely manner.

Disaster Recovery Plan

Our review of computer controls disclosed that the office has access to backup hardware to run their application in the event of an emergency. There has been no definitive test to verify that OPG software will function properly on the backup hardware. In addition, we found that while backup to the data and application exists in the form of tape, the tape is kept in the computer room with the server rather than off-site. Controls that ensure service continuity should be in place to address the entire range of potential disruptions to enable the office to continue its mission. OPG operations could be severely hampered due to a catastrophic loss of the computer room. The OPG was under the impression that the department’s information technology support staff had established adequate disaster recovery measures.

Recommendation

We recommend the OPG establish procedures to secure backup data at an off-site location. Additionally, the recovery plans should be tested in a disaster simulation exercise to verify they will function as intended.

Staffing

It is the responsibility of all state agencies to operate in the most cost efficient manner. During our audit period the OPG contracted for accounting, legal, and social services to supplement staffing needs. Total expenditures for these outside services exceeded $1.2 million. Our review disclosed that over the past two
years the OPG has submitted requests to the department for additional staffing and upgrades for several positions. As of the end of our field work the department had not filled any of the vacancies. By adding additional staff, the OPG could reduce charges to clients by reducing reliance on outside vendors, and also allow them to address the issues in the report.

**Recommendation**

We recommend that the department work with the OPG in determining the appropriate staffing levels.
Mr. James B. Patterson  
Assistant State Auditor  
Office of Legislative Services  
Office of the State Auditor  
125 South Warren Street  
PO Box 067  
Trenton, New Jersey 08625-0067

Re: Audit Report for the Period July 1, 2002 to June 30, 2004  
Department of Health and Senior Services  
Office of the Public Guardian for Elderly Adults (OPG)

Dear Mr. Patterson:

This letter is in response to the audit report recommendations contained in the above-mentioned Audit Report for the Office of the Public Guardian for Elderly Adults. While the OPG does not concur with all interpretations of the specific findings, we do agree with overall recommendations. Below is a response to each recommendation made by the Office of the State Auditor.

The first recommendation cited by the auditors is that OPG implement review procedures that will ensure the accuracy and completeness of the First and Final Accountings prior to submission to the courts and closeout procedures that will ensure accurate disbursement of client assets. We agree with this recommendation.

The second recommendation is that OPG institute a project control system that will provide adequate support for all time that is billable by the office. We agree and will require that staff utilize the system available to us to document employee activities supporting the billable time.
The third recommendation is that OPG review all office operations and functions and update the policy and procedures manual. We agree with this recommendation and have begun working on this process.

The fourth recommendation is that OPG assess the net rate of return on client investments to determine if their financial planning is appropriate. We agree with this recommendation and have begun to assess the rates of return on our wards funds and our financial planning procedures.

The fifth recommendation is that OPG notify the Department of the Treasury, Office of Management and Budget, Cash Management Unit of all bank accounts currently in use. We agree with this recommendation and will update the information previously provided to the Cash Management Unit.

The sixth recommendation is that OPG dedicate the necessary resources to closeout outstanding accounts and update their records accordingly, and institute procedures to close the accounts of deceased clients in a more timely manner. We agree with this recommendation and have already taken substantial steps to meet this recommendation.

The seventh recommendation is that OPG establish procedures to secure backup data at an off-site location. Additionally, the recovery plans should be tested in a disaster simulation exercise to verify they will function as intended. OPG agrees with this recommendation and has met to discuss this with the Division's Information Technology (IT) group. A copy of the IT backup procedure was received. OPG will continue to work with IT to meet this recommendation.

The final recommendation is that the Department work with the OPG in determining the appropriate staffing levels. Although some of the staffing requests and promotions have been completed, we certainly agree with this recommendation especially since the OPG caseload has increased from 380 in 2002 to 538 in 2004. We appreciate all the cooperation received from the Department thus far in addressing our staffing issues and are working with the Department to help expedite the Department of Personnel processing of our staffing requests.

We appreciated the recommendations made by the Office of the State Auditor to assist us in improving our operations. Thank you.

Very truly yours,

Edward Tetelman, Esq.
Public Guardian for Elderly Adults

C: Marsha Lau, Director of Trust