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CONTRACT COMPLIANCE REVIEW
OF THE BUFFALO URBAN LEAGUE CONTRACT
FOR PREVENTIVE SERVICES
WITH THE DEPARTMENT OF SOCIAL SERVICES
January 1, 2014 to December 31, 2014

STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER

HON. STEFAN I. MYCHAJLIW
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DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202

December 9, 2015

Erie County Legislature
92 Franklin Street 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a review of Contract PS3591 between the Erie County Department of Social Services (DSS) and the Buffalo Urban League (BUL) for the period January 1, 2014 to December 31, 2014.

We conducted our review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. Our objectives were to:

- Determine whether the contracted parties are in compliance with the terms of the agreement.
- Determine the number of case records maintained during the 2014 contract year.
- Determine the number of staff working on the Preventive Services cases and randomly select employees to interview with respect to their duties, responsibilities, recordkeeping, reporting requirements and understanding of the operation.
- Determine the propriety of the billings for services provided, determine whether the records are being properly maintained and communicate progress and concerns with the BUL and DSS on a regular basis.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on the objectives of our review.

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BACKGROUND

The 2014 Preventive Services contract by and between the County of Erie through the Department of Social Services and the Buffalo Urban League is to provide traditional preventive services. The foremost concern in this program is to protect children from abuse and neglect in the home. This is addressed by identifying safety and risk issues to children and then customizing a strategy to help ensure the safety and well-being of the children. In part, this is accomplished through engaging each family member to participate and to develop an understanding of the current family situation and existing concerns, problems and strengths. Ongoing intervention is maintained by the BUL staff not only by telephone calls but through regular face-to-face home visits. Parent training is also provided to teach parents how to maintain a healthy home and deal with conflict, drug treatment for substance abuse, individual and family counseling.

Reimbursement for the preventive services provided by the BUL through this contract is not to exceed $1,000,000. The value of this contract was increased by $65,000 in July of 2014. In addition to this contract, the BUL has six other contracts with Erie County totaling $203,719.

According to their website, the BUL was established in 1927 with a mission to empower African Americans, other minorities and disadvantaged individuals to secure economic self-reliance, parity, power and civil rights[1]. Through the course of its existence the BUL has supported community development including Work Project Administration (WPA) projects one of which started out the WPA orchestra and ending up as the Buffalo Philharmonic Orchestra; serving as a sponsor for housing development and working with Social Services to create an adoption program in Erie County. They provide education and employment opportunities through scholarships and community partnerships. To support family growth, they have foster care, adoption and preventative services programs. And to further contribute to community development, they offer access to capital for small, for-profit businesses that have been in operation for at least a year and are physically located within Erie County through the Minority and Women's Technical Assistance and Loan Fund.

EXECUTIVE SUMMARY

During the course of our review, our findings were centered in two areas—overbilling and non-compliance. For the 2014 contract year, we found that the BUL overbilled the County $39,897.66 due to:

- $23,222.40 in excessive supervisory charges.
- $12,833.40 for unsubstantiated billable hours.
- $3,841.86 in voucher calculation errors.

[1] http://buffalourbanleague.org/missionvision/ and http://buffalourbanleague.org/history/

Additionally, we noted that there were instances of non-compliance with various provisions of the contract. Our compliance testing disclosed:

- 475 instances where individuals worked more than 8 hours in a day when the contract specifies no more than 8 hours per day are to be worked.
- Employees may not have been properly compensated for overtime worked.
- Existing employees did not receive sufficient annual training and newly hired employees did not receive the required amount of training.
- BUL maintains multiple systems of record, CONNECTIONS and ACCESS, when the contract cites CONNECTIONS as the sole system of record.
- BUL is not submitting quarterly reports as required.

FINDINGS

I. Excessive Supervisory Review Charges

In reviewing CONNECTIONS notes for August 2014, we found that three supervisors billed 480 supervisory review or quality assurance hours on August 29, 2014 which totaled $23,222.40. These supervisors billed the County for 130, 170, and 180 hours of quality assurance review for that one day (See APPENDIX A). Obviously, it is impossible for any individual to work more than 24 hours in a day. The quality assurance review noted on the individual client case notes was for five hours for each and every case reviewed, including cases to which no work had been billed during the previous month. After our review had begun but before we were granted access to the documentation, the BUL issued a check on March 13, 2015 which included $20,313.12 to refund some, but not all, of these supervisory hours. After reviewing the paperwork associated with the refunded hours and taking into consideration review hours that were not billed and the initial refund which also included a rate adjustment, it was determined that the BUL had repaid all the supervisory hours that they had initially overbilled.

WE RECOMMEND that the BUL take the steps necessary to ensure that future billing vouchers represent only the actual hours of work performed on a case for that specific date.

II. Incompatible Billing Documentation

We became aware through interviews with employees and a walkthrough of the billing process that case notes and billable hours are maintained in various source documents. Case notes are kept in both ACCESS and CONNECTIONS. CONNECTIONS is a New York State record keeping system that is highly secure and limits some case information to individuals working on a particular case for the time period during which the case is open. ACCESS is a system used by BUL which in many ways mirrors the information on CONNECTIONS, but without as strict confidentiality parameters. Preventive Service employees record their billable hours on a Daily Activity Report which is verified by another employee. Notes, including timekeeping information, are recorded in one system and copied and pasted into the

other. Seemingly, the billable hours from these various source documents should be in agreement, but they are not.

We were informed that the ACCESS notes are used for billing purposes and transferred to the voucher for reimbursement. From the sample of ACCESS case notes that we received for August, there were no instances where all four documents had the same amount of billable hours per case. Because of the disconnect between the various source documents, we were unable to substantiate $241.90 in billable hours from our initial sample. Because extrapolation is an accepted practice for auditors to use on DSS audits, this would equate to $1,069.45 if extrapolated for the entire month or $12,833.40 when annualized. We found that the $241.90 was subsequently refunded.

WE RECOMMEND that management of the BUL initiate a more formalized review process that would help insure that the vouchers submitted for reimbursement are accurate and are consistently supported by the same documentation.

III. Voucher Calculation Errors

To request payment for services rendered, BUL submits vouchers based on the number of hours worked as recorded in ACCESS to DSS. DSS then reviews the vouchers and forwards a reimbursement check to the BUL. In completing the vouchers, BUL staff list the case number, the hours worked on the case, and the hourly wage rate to manually calculate a total to be paid for work done on the case. Generally, vouchers are submitted on a monthly basis.

In reviewing voucher payments for the months of June and August 2014, we found errors in the amount of $640.31. If annualized, the amount of errors would have totaled about $3,841.86. The $640.31 was subsequently refunded following a review by the BUL of payments requested and received.

WE RECOMMEND that both the BUL and DSS implement the steps necessary to establish a sufficient check of the vouchers that would help ensure accuracy prior to payment.

IV. Non-Compliance

Contract PS3591 by and between the BUL and DSS is a contract for providing traditional preventive services for children and families in 2014. This contract contains many program components describing what the BUL will provide. During our review, we noted several areas of non-compliance.

A. Payroll Deficiencies

The contract between BUL and DSS is to furnish preventative services for children and their families. Nowhere in the contract does it consider BUL furnishing manual labor or completing public works projects for Erie County. However, in two specific paragraphs BUL agrees to be bound by New York

State (NYS) Labor Law sections 220, 220-d and 220-e. These sections discuss payment of overtime to employees and anti-discrimination policies. Under New York State Law, these sections apply to public work, which the purpose of this contract does not contemplate. These provisions are required to be contained in public works' contracts for municipalities in New York State, but not in contracts such as the present.

Paragraph 32a of the contract (PS 3591) states that the contractor (BUL) specifically agrees, as required by Labor Law Sections 220 and 220-d, that no laborer in the employ of the contractor (BUL) shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week. Within the Labor Law as cited in the contract, all hours in excess of eight hours per day and five days per week shall be considered overtime work and the workers performing such work shall be paid a premium wage.

While reviewing time sheets from August 1, 2014 through December 31, 2014, we found 475 instances where sixteen employees worked more than eight hours in one calendar day.

If the contract is interpreted as not intending Labor Laws 220, 220-d and 2230-e to apply to the contract, despite its explicit inclusion in the preventive services contract, overtime was undercompensated to BUL employees.

In our review of wage statements for the period July 21, 2014 through December 31, 2014, we found discrepancies with both regular and overtime hours for nine Buffalo Urban League employees as follows:

Employee	Week	Hours (1) Worked	Hours Paid	Regular Hours Paid	Regular (2) OT Hours Paid	Premium (3) OT Hours Paid
A	40	86.50	86.50	80	0	6.50
	42	108.25	108.25	80	10	18.25
	44	112.81	112.81	80	18	14.81
	46	112.29	112.29	80	10	22.29
	48	100.25	100.25	80	18.75	1.50
	50	92.70	92.70	80	12	.70

Employee	Week	Hours (1) Worked	Hours Paid	Regular Hours Paid	Regular (2) OT Hours Paid	Premium (3) OT Hours Paid
B	40	80.00	84.00	80	0	4.00
	42	96.25	96.25	80	10	6.25
	44	90.50	90.50	80	5.50	5.00
	46	96.00	96.00	80	10	6.00
	48	82.50	82.50	80	2.50	0.00
	50	99.00	99.00	80	16	3.00
C	40	83.25	84.50	80	0	4.50
	42	103.00	103.00	80	10	13.00
	46	103.50	103.50	80	10	13.50
	48	89.00	89.00	80	9	0.00
D	40	88.00	88.75	80	0	8.75
E	40	89.00	96.50	80	0	16.50
	42	108.00	108.00	80	10	18.00
	44	108.00	108.00	80	10	18.00
	46	112.00	112.00	80	10	22.00
	48	108.00	108.00	80	26	2.00
	50	109.00	109.00	80	26	3.00
F	40	80.00	81.00	80	0	1.00
	42	85.50	85.50	80	5.5	0.00
	44	102.50	102.50	80	10	4.50
	46	90.50	90.50	80	7	3.50
	48	84.00	84.00	80	4	0.00
	50	81.50	81.50	80	1.5	0.00
G	42	99.50	99.50	80	13	6.50
	44	94.25	94.25	80	13.25	9.00
	46	104.25	104.25	80	10	14.25
	50	90.25	90.25	80	10	.25
H	40	80.00	89.50	80	0	9.50
	42	92.50	92.50	80	10	2.50
	44	85.00	85.00	80	5	0.00
	46	85.00	85.00	80	5	0.00
	50	84.25	84.25	80	4.25	0.00

Employee	Week	Hours (1) Worked	Hours Paid	Regular Hours Paid	Regular (2) OT Hours Paid	Premium (3) OT Hours Paid
I	40	80.59	84.25	80	0	4.25
	42	97.65	97.65	80	17.65	0.00
	44	96.24	96.24	80	7.41	8.83
	46	105.11	105.11	80	10	15.11
	48	85.00	85.00	80	5	0.00
	50	83.33	83.33	80	3.33	0.00
Totals		4,144.72	4,172.38	3,520	365.64	286.74

(1) Includes both actual hours worked and paid time off
(2) Overtime hours paid at straight time
(3) Overtime hours paid at time and one half

WE RECOMMEND that the BUL either adhere to the contract provision requiring that workers not be permitted or required to work more than eight hours in a calendar day or five days in any one week or, in accordance with the NYS Labor Law pay premium wages to those employees working overtime hours.

B. Education and Training

Pages 20 and 21 of Appendix A of PS 3591 indicate that the BUL is to provide training to their employees as follows:

- New hires are to receive 80 hours of introductory training and case documentation training.
- The balance of the Preventative Services staff is to complete at least 40 hours of training on an annual basis. Per the contract, this training can be in CONNECTIONS, progress note documentation, court reports, monthly reports, Child Welfare Common core, cultural competency, domestic violence, etc.

Because it is important that BUL hire appropriately educated and skilled workers to fulfill the requirements of the contract, we requested and reviewed documentation from the BUL regarding the education, experience, and training for the Preventive Service employees and based on the documentation provided to us, we found the following:

- Two of the five parent aides or senior parent aides did not have the required Mandated Reporting Training.
- One employee, a case planner, did not have the appropriate education for this position.
- Sufficient internal and external training was not provided to the employees.

- Seven of eight new employees did not receive the required orientation, introduction and documentation training as specified in the contract.
- Twenty-four of 30 employees did not receive sufficient annual training.

WE RECOMMEND that management of the BUL take the steps necessary to ensure compliance with the training requirements of the contract. Further, **WE RECOMMEND** that the DSS periodically monitor the annual training provided to the Preventive Services employees.

C. Management of Case Records

Paragraph 9b of the contract states that the contractor agrees to utilize the CONNECTIONS system (the New York State Child Welfare computer system) including all management components as the sole system of record.

Through both a billing walkthrough and employee interviews, we determined that the BUL does not use CONNECTIONS as their sole system of record. Client case notes initially are either entered into ACCESS and then copied and pasted to CONNECTIONS or entered in CONNECTIONS and then copied and pasted into ACCESS. The BUL also uses the case work hours from ACCESS to complete the billing vouchers. In addition, we were informed that occasionally employees print out copies of notes from CONNECTIONS to keep in a client's case file.

WE RECOMMEND that the BUL use CONNECTIONS as its sole system for case notes. If additional means are required for billing purposes, the BUL may want to consider other forms of record such as the Daily Activity Reports (DARs) that could be used for billing. **WE FURTHER RECOMMEND** that any forms of progress notes kept by the BUL and its employees be confined to only those Preventive Service employees and supervisors assigned to a particular case and that such records be destroyed when a case is closed.

D. Quarterly Reporting

Paragraph 21 of the contract requires that the BUL as the Contractor, submit quarterly fiscal and programming reports to the DSS as soon as the data is available but no later than 30 days after the end of the quarter. Additionally, paragraph 40b states that the BUL shall submit to DSS each quarter and within 90 days of the expiration of the contract, documentation of actual expenses as compared to budget expenses as well as revenues billed and/or received under the contract.

We initially found that the BUL did not comply with either paragraph 21 or 40b as no quarterly reports were provided to DSS under the 2014 contract. After re-checking with DSS on their receipt of the submitted documents, only the quarterly programming reports were received by DSS while only annual fiscal and budget expense reports were submitted by BUL as confirmed by DSS.

WE RECOMMEND that management of the BUL the take appropriate steps necessary to ensure compliance with paragraphs 21 and 40b of the contract. In addition, **WE RECOMMEND** that DSS

monitor reporting compliance to ensure that BUL is submitting the proper quarterly reports when required.

AUDITOR'S COMMENTS

I. Contract Increase

In July of 2014, the BUL requested and received a $65,000 increase in their contract from the Erie County Legislature due to a "significant" increase in their cases. During our review, we found that there was not sufficient evidence to support such a claim. From the beginning of the year through July of 2014, the increase in the number of cases handled was only 9%. In and of itself, this is not significant enough to warrant an increase in the contract amount. While there was a sharp increase in new cases from May to June of 2014, there was also a corresponding decrease in cases from March to April of 2014. Naturally, it would appear as though there was a significant increase based on a one month increase while at the same time ignoring a significant decrease in a prior month. The caseload in June was the same as it was in the beginning of the year and the number of employees handling the cases was static.

II. Delayed Receipt of Documentation

During the course of our review, we received significant pushback from both the BUL and DSS drastically impacting our ability to complete our review in a timely manner. Because we were not afforded ready access to any type of documentation, we had to formally request all manuals, records, spreadsheets and statements, etc. from the BUL. Per the president of the BUL, these requests for information were to be made through the law firm of Hodgson Russ, LLP. We made such requests for documentation to the BUL on 18 separate occasions. The responses to our requests took an average of 31 days with the shortest response time taking eight days and the longest taking 140 days.

Similarly, the audit staff requested documentation from DSS. There were 19 requests to DSS with an average response time being 23 days, the shortest being three days and the longest taking 101 days. Further, the information was redacted beyond what was required by the New York State Office of Child and Family Services, which resulted in more delays in obtaining and processing the information.

Since both organizations did not respond to our requests in a timely manner, the completion of our review was unnecessarily delayed from an initial estimated completion period of 12 weeks to approximately 10 months.

III. Retaliation and Turnover

Our review commenced after a whistleblower letter was received by the Comptroller's Office signed by seven employees from the BUL. They expressed concerns over billing, staffing and procedures they felt

were not compliant with the agreement (PS 3591). In communications with staff, senior level administrators from the BUL referred to the whistleblower letter from staff as malicious lies.

As part of our review, we interviewed selected employees of the BUL and have determined that all of the workers that signed the whistleblower letter have since either been fired or forced to actively or constructively resign. In addition, several other employees not associated with the whistleblower letter have ended their employment as well. It would appear that some degree of retaliatory action has been taken against these concerned employees which has resulted in them either losing their jobs or working in such an unbearable work environment that they have resigned and found employment elsewhere. Any action of this type is a direct violation of the Buffalo Urban League Whistleblower Policy which states that "no employee who makes a report in good faith will suffer, as a result, any harassment, retaliation, or adverse employment consequence." The policy also states that "an employee who retaliates against someone who has reported a violation in good faith is subject to discipline, up to and including termination."

RESULTS OF EXIT CONFERENCE

An exit conference was held on November 20, 2015 in the Comptroller's Conference Room with the president of the Buffalo Urban League, members of their Board of Directors and their corporate attorney. Also in attendance was the Commissioner of the Department of Social Services and a representative from his staff. The contents of the report were discussed.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Hon. Mark C. Poloncarz, County Executive
Albert F. Dirschberger, Ph. D., Commissioner, Department of Social Services
Brenda W. McDuffie, President, Buffalo Urban League
Robert W. Keating, Director of Budget and Management
Erie County Fiscal Stability Authority

APPENDIX A - Supervisory Review Hours Billed on August 29, 2014

	Supervisor/Reviewer			
Client	#1	#2	#3	Total Hours Billed
A	5	5		10
B	5			5
C	5			5
D			5	5
E		5		5
F	5			5
G	5			5
H	5			5
I		5		5
J	5			5
K	5	5		10
L	5		5	10
M		10		10
N			10	10
O		5	5	10
P			5	5
Q			10	10
R			5	5
S	5			5
T	5	5		10
U		5		5
V			5	5
W	5			5
X		5		5
Y		5		5
Z	5			5
AA		5		5
AB		5	5	10
AC	5			5
AD	5			5
AE		5		5
AF			5	5
AG		5	5	10
AH		5		5
AI	5			5
AJ			5	5

Client	Supervisor/Reviewer #1	#2	#3	Total Hours Billed
AK	5			5
AL	5			5
AM		10		10
AN	5	5		10
AO	5			5
AP			5	5
AQ	5			5
AR	5		5	10
AS	5			5
AT				0
AU			5	5
AV	5		5	10
AW		5	5	10
AX			5	5
AY		5		5
AZ			5	5
BA			5	5
BB	5			5
BC	5			5
BD			5	5
BE		5		5
BF	5		5	10
BG			5	5
BH		5		5
BI			5	5
BJ	5	5		10
BK			5	5
BL			5	5
BM			5	5
BN			5	5
BO			5	5
BP			5	5
BQ	5			5
BR	5			5
BS	5			5
BT	5			5
BU	5			5
BV	5			5
BW			5	5

	Supervisor/Reviewer			
Client	**#1**	**#2**	**#3**	**Total Hours Billed**
BX		5		5
BY			5	5
BZ		5	5	10
CA			5	5
Totals	170	130	180	480

APPENDIX B - The Buffalo Urban League's Response To Report

On November 23, 2015, our Office received a written response from the Buffalo Urban League directed to the Deputy Comptroller-Audit and the Senior Auditor. We are providing a summary of their written comments together with our evaluation of their comments where necessary.

To reiterate, we performed a compliance review of the Buffalo Urban League's 2014 contract with the Department of Social Services for Preventive Services. As discussed in the entrance meeting, our review would not be assessing either the effectiveness or ineffectiveness of the services provided by the Buffalo Urban League under this contract.

EXECUTIVE SUMMARY

BUL disagrees that they overbilled Erie County $39,897.66 consisting of (i) $23,222.40 in excessive supervisory charges, (ii) $12,833.40 for unsubstantiated billable hours and (iii) $3,841.86 in voucher calculation errors. Their response is based on the fact that they already paid back the amounts overbilled as identified in the Interim Audit Memoranda.

The Comptroller's Office maintains that these numbers are properly stated because they were errors associated with the voucher billings for the period of our review. Repayment of overbilling or other miscellaneous errors does not mitigate the finding from being disclosed.

FINDINGS

I. Excessive Supervisory Review Charges

From the 480 supervisory review or quality assurance hours totaling $23,222.40, the BUL delivered a check to Erie County for $30,575.71 which included $20,313.12 to refund the County for the supervisory review. The Comptroller's report asserts that the BUL still owes Erie County $1,451.40 for supervisory hours not refunded in six cases. The BUL stated that they never received payment for five of these six cases and refunded five supervisory hours in the other case.

The Comptroller's Office subsequently determined that the BUL had repaid all the supervisory hours that they had initially overbilled the County.

II. Incompatible Billing Documentation

The BUL objects to this finding because they already repaid the $241.90 in question and accordingly this billing error should not be extrapolated.

The Comptroller's Office has determined that this finding is appropriate since the error occurred within the review period despite the fact that the BUL paid back the amount in question. Repayment of an error does not eliminate the finding; the extrapolation indicates the potential exposure as a result of billing errors; and no recommendation was made to recover any additional amount.

III. Voucher Calculation Errors

Because the BUL conducted a comprehensive review of the amount it received under the agreement, identified items for adjustment and repaid the amount of the errors noted, it is their position that there is no basis for the finding. It is their belief that mathematical errors, duplicate payments and other minor, inadvertent inaccuracies already refunded are enough to delete the finding.

We were not able to verify the comprehensive nature of their review and the repayment of miscellaneous errors is not sufficient to eradicate the finding. Again, the extrapolation was made to indicate potential exposure due to errors of this type and we made no recommendation to recover any additional amount.

IV. Non-Compliance

A. Payroll Deficiencies

The BUL responded that Labor Law §220 and 220-d do not apply and they further disagree that its employees were not compensated enough in overtime wages. BUL stated that they paid employees for more hours than were actually worked, which is an apparent anomaly that favors the employees and not the organization.

The Comptroller's response is that the contract specifically states that it is a contract to provide preventive services. It is not contemplated that completing public works projects are a preventive service. In no other part of the contract are public works projects, or compensation for completing such projects, discussed. As such, the inclusion of language referencing specific Labor Law sections may be understood to be generally applicable. Therefore, the recommendation is to revisit contract language to clarify the intention of the contract.

B. Education and Training

BUL disagrees that their employees did not have the appropriate training for their positions. Employee training, which is extensive, is summarized in the New Hire Checklist and outlined in the Preventive Services Policy Manual. They further disagree that seven of eight new employees did not receive the required orientation training because they receive significantly more than required. Lastly, they disagree that 23 of 30 employees did not receive sufficient annual training.

The Comptroller's Office asked for but did not receive in all instances appropriate and sufficient documentation to evidence that the employees received the required amount of training. Merely to state that the training is evident in the program outcome does not substantiate that the training was provided. Further, at the exit meeting they stated that time sheets support that they received training. Time sheets certainly do not provide any degree of support for training because there is no detail describing what took place on any particular day. This finding stands as originally presented.

C. Management of Case Records

BUL management believes that there are shortcomings in the State's Connections system and to use the CONNECTIONS database as its sole system for documenting and billing case activity completely misconstrues the contractual requirements. Their response further stated that this does not mean that the organization cannot use any other record to document the delivery of services under the agreement.

The Comptroller's Office contends that the New York State Office of Child and Family Services (OCFS) intended the use of the CONNECTIONS system as the sole source for maintaining case notes for confidentiality purposes. Utilizing ACCESS as a parallel system for billing purposes circumvents New York State's Privacy Law. As a result, cases that are closed in CONNECTIONS are still open in ACCESS.

As part of our review, our auditors reached out to OCFS to inquire about the propriety of maintaining duplicative record keeping systems such as those used at BUL. OCFS conducted field work at BUL to examine the systems used and a representative from OCFS expressed concern. He stated that OCFS has reviewed the use of the duplicative systems and would be working with BUL to correct the concerns. Without knowing the details of the corrective actions required by OCFS, it is believed that these corrective measures will ensure that confidential and sensitive information are protected. Therefore, this finding is unchanged as originally presented in the draft report.

D. Quarterly Reporting

The BUL has stated that they provide all the required quarterly programming, fiscal and budget to actual expense/revenue reports to DSS as required and that they are submitted in a timely manner.

Programming Reports—DSS stated that the quarterly reports were all received. However, they were unable to determine whether or not the reports were submitted timely.

Fiscal Reports—we were informed by DSS that only the fourth quarter financial report was submitted, and included information for the first three quarters as well as the year-end totals.

Quarterly reports documenting actual expenses as compared to budgeted expenses and revenues billed and/or received were not provided to us by DSS after several requests so as to indicate that BUL did not submit those reports as required.

With the exception of confirming that quarterly programming reports were submitted, the majority of this finding is unchanged as originally written.

AUDITOR'S COMMENTS

Contract Increase

The BUL questions the Comptroller's report wording that the $65,000 contract increase was not justified through actual case load increase of only 9% because the report failed to take into account the needs and intensity of each case.

The needs and intensity of each case cannot be pre-determined and the Comptroller's Office again refers to the fact that at the time of the request for additional funding there was no significant increase in the number of cases. This was not included as a finding in the report but included as an observation by the auditors.

Delayed Receipt of Documentation

The BUL responded that it was incorrect to assert that the delayed response to documentation requests impacted the completion of the review and that the Comptroller's Office had complete control over the timing of the "audit". They cannot overstate the burden of the auditor's requests for records containing sensitive and personally identifiable information.

The Comptroller's Office had little control over the timing of the review as the audit staff was at the mercy of BUL and DSS as to when they could receive the requested documentation and whether they would receive everything initially requested without having to re-request items again and again. The burden on the BUL was mostly self-imposed as a direct result of their redaction protocol. What is more confusing is that the auditors were required to sign a confidentiality agreement when just about everything was redacted leaving nothing on the documents that was confidential.

Retaliation and Turnover

The BUL objected to the report stating that all the workers signing the whistleblower letter have since been fired or forced to resign. BUL further stated that the audit staff conducted interviews in secret over their objection after refusing the organization's request to attend. There was no opportunity to "cross examine" the employees and it prejudiced BUL's ability to defend itself.

First and foremost, this was just an auditor's comment and not a finding. Many of the interviews were conducted prior to the start of our review at the request of the individual whistleblowers. Therefore, the BUL would not have been aware that interviews were held and thus they could not object to a meeting they knew nothing about. As a normal part of every audit or review that we perform,

interviews are generally held with the staff to gain an understanding of the operation and their procedures and to evaluate internal control without a representative from the organization present. These interviews enable the employee to walk the auditors through the daily duties that they are responsible to perform and not be subjected to management scrutiny. This enables the employee to be candid and provide responses to our queries without bias. Secondly, the interviews and walkthrough of job duties was directly related to the performance of our contract compliance review. Lastly, BUL failed to mention that the same attorney was hired to be present for interviews with other employees that were still working at that time for the BUL.

APPENDIX C - The Department of Social Services Response To Report

On November 24, 2015, our Office received a written response from the Commissioner of Social Services addressed to the Deputy Comptroller-Audit. We are providing a summary of their written comments together with our evaluation of their comments where necessary.

FINDINGS

I. Excessive Supervisory Review Charges

DSS agrees with the recommendation that BUL take steps necessary to ensure that the billing vouchers represent only the actual hours of work performed on a case for that specific date. It is DSS's understanding that BUL has already taken corrective action to address this deficiency. In addition, prior to your office's field work and development of this finding, it is important to note that DSS and BUL uncovered excessive supervisory review charges and BUL repaid the County.

The Comptroller's Office acknowledges that prior to obtaining the requested documentation from the BUL that both BUL and DSS noted the overbilling and initiated the repayment.

II. **Incompatible Billing Documentation**

DSS expects BUL, as it does all the agencies it contracts with, to have a formalized review process that would help insure that the vouchers submitted for reimbursement are accurate and are consistently supported by the documentation

DSS understands that BUL objects to this finding and claims they cannot find any discrepancies supporting this finding.

The BUL has repaid the amount of the billing error.

III. **Voucher Calculation Errors**

DSS expects BUL, as it does all agencies it contracts with, to take steps necessary to establish a sufficient review of the vouchers that helps ensure accuracy prior to payment. However, since this is an internal business process, DSS cannot determine if that process is sufficient. All known discrepancies have been reconciled and no known issues exist currently.

Since this issue has been brought to the attention of DSS administration, additional steps have been taken to ensure on voucher prior to payments being made.

Our Office acknowledges that the voucher calculation errors by the BUL were refunded.

IV. Non-Compliance

A. Payroll Deficiencies: It was not the intention of DSS to require Preventive Service providers to abide by Labor law Sections 220 and 220-d for work the statute does not explicitly require. In fact, DSS disagrees with your interpretation that no employee of BUL shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week. However, as a result of this Review, our legal counsel will review our preventive services contract to determine if its inclusion is necessary.

B. Education and Training: As a result of this Review, DSS will periodically monitor the annual training provided to contracted preventive services employees.

C. Management of Case Records: It was not the intention of DSS to prohibit preventive service providers from using ancillary computer systems to assist with business processes in addition to CONNECTIONS as the sole system of record, as long as the system does not circumvent any confidentiality requirements. We disagree with the interpretation of "sole system of record" used in your Review. However, our legal counsel will evaluate our preventive service contract to determine if this needs to be clarified.

D. Quarterly Reporting: DSS agrees with the recommendation that BUL, as it does all agencies it contracts with, take appropriate steps necessary to ensure compliance with all terms of the contract. DSS has already taken steps to enhance it monitoring of report compliance.
The Comptroller's Office appreciates the oversight by DSS and any steps that will be taken to ensure compliance.

AUDITOR'S COMMENTS

Contract Increase

Preventive Services casework does not lend itself well to the methodology used by the auditor to determine if the increase to the BUL contract was justified. Treating all cases as equal, as the auditor did in this section, does not take into account the differences in each case. In the resolution sent to the Erie County Legislature requesting the increase in funding, it was explained that there was not adequate capacity in our preventive services providers to transition child protective cases to preventive services, causing a logjam in the DSS Child Protective Services (CPS) division. Without the increase in funding to preventive services providers, including BUL, CPS caseloads would be higher than they would be otherwise. We have continued to experience limitations with our capacity, necessitating a request for additional Children's Services division employees in the proposed 2016 Erie County Budget. However, as good stewards of public funds, we will continue to analyze the need for services and make reductions if necessary.

As previously stated, we did not assess the extent of the services provided for each case and accordingly our comment in this matter was appropriate.

Delayed Receipt of Documentation

DSS has a statutory responsibility to preserve the confidentiality of all child abuse and neglect reports and records to protect the privacy rights of the child and of the child's parents or guardians. The previous First Deputy Commissioner who was involved in this Review is an attorney and she researched child welfare confidentiality laws to determine what information we were legally able to provide to you. Unfortunately, this often causes delays in your receipt of documentation

Retaliation and Turnover

Although DSS does not have any meaningful insight into the working conditions of BUL and cannot corroborate or invalidate your comments, it should be noted that turnover in child welfare positions is quite common. If there is proof that BUL retaliated against employees who signed the "whistleblower" letter other than the circumstantial evidence cited in your Review, we would appreciate it if it were provided to DSS.