

**STATE OF NEW JERSEY  
OFFICE OF THE STATE COMPTROLLER**

**ANNUAL REPORT  
Fiscal Year 2015**



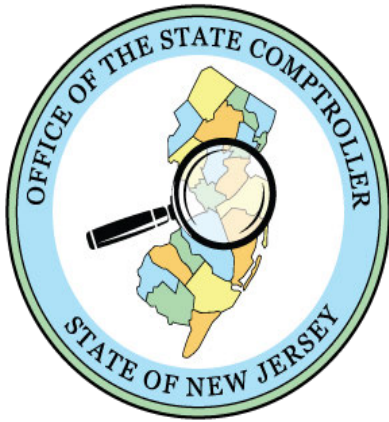
**IMPROVING THE EFFICIENCY, TRANSPARENCY  
AND FISCAL ACCOUNTABILITY OF NEW JERSEY  
GOVERNMENT**

**Philip James Degnan  
ACTING STATE COMPTROLLER**

**Melissa Liebermann  
DEPUTY STATE COMPTROLLER**

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*Dear Governor Christie,  
Members of the State Legislature  
and Residents of New Jersey*

Under the leadership of former Acting State Comptroller Marc Larkins and Deputy State Comptroller Melissa Liebermann, the Office of the State Comptroller (OSC) addressed a number of important issues impacting New Jersey taxpayers in FY2015.

For example, we examined the factors that have led to high overtime costs at adult county correction facilities and presented a blueprint for lowering overtime costs in the future.

We exposed weaknesses in the administration of the Work First New Jersey General Assistance Program and offered a plan to help the program meet its goals going forward.

We provided municipalities with tangible solutions to save money for retirement programs for their volunteer firefighters.

Through those projects, and others, we shed light on weaknesses and inefficiencies in state government and provided guidance not only to the subjects of our audits and investigations, but all public officials in New Jersey.

Now, as the office continues its work under new leadership, the mission remains the same. The OSC will continue to work on behalf of taxpayers to improve the efficiency, transparency and ethical standards of government in New Jersey.

In addition to our audits and investigations, OSC serves the public through the recovery of tax dollars. To that end, the work of the office continued to pay immediate dividends for taxpayers in FY 2015. Our financial recoveries again far exceeded our budget.

For example, the state of New Jersey has already recovered \$1 million, and expects to recover tens of millions of dollars more in the future, thanks to an OSC report that identified an oversight gap in the administration of property tax relief programs.

The OSC takes great pride in returning money to taxpayers each year through the work of our Medicaid Fraud Division. This past fiscal year, the division recovered more than \$87 million, a 12 percent increase from the previous year. The division's proactive anti-fraud efforts also helped avoid payment of an estimated \$771 million in other potential Medicaid expenses.

As always, the office sought to work with government entities of all sizes and at all levels to find ways to improve both efficiency and transparency.

Our auditors put forth recommendations to improve the personnel and fiscal practices of a number of municipalities while also following up on past audits to make sure appropriate progress has been made. In FY 2015, OSC followed up on six audits from previous years and found that 91 of the 98 recommendations it issued had been either fully or partially implemented.

The attorneys in our Procurement Division reviewed hundreds of public contracts to ensure that government entities are inviting competition in order to get the best value possible for taxpayers. As part of that role, our attorneys also pre-screened more than 100 contracts related to Superstorm Sandy. In many cases, corrective actions were taken to modify those contracts.

Finally, our Investigations Division continued to uncover the waste and abuse of taxpayer funds, such as when it found a county government had paid in excess of \$1.5 million to a non-profit agency that produced a biannual newsletter and little else in return for the public's money. That agency is now defunct, the county having pulled its funding in response to OSC's findings.

In the pages that follow, this annual report describes in greater detail the successes of the past fiscal year while also providing information about how our office operates. We are proud of our accomplishments from this past fiscal year and we look forward to continuing to play a strong role in bringing greater fiscal responsibility to New Jersey government in the year ahead.

Philip James Degnan  
Acting State Comptroller

Melissa Liebermann  
Deputy State Comptroller

# OVERVIEW

Since its creation in January 2008, the Office of the State Comptroller has served as an advocate for taxpayers and a leader in bringing about government reform. OSC reports have focused on bringing greater efficiency, transparency and analysis to the operation of all levels of government in New Jersey.

OSC consists of four divisions that work in a coordinated fashion while carrying out distinct functions. They are the Audit Division, the Investigations Division, the Medicaid Fraud Division and the Procurement Division. Each of the four divisions made significant contributions to the office's accomplishments during the past fiscal year.

Our Audit Division set forth recommendations to improve government operations at the municipal, county and state level. It also followed up on six previous audits and determined that 93 percent of the recommendations issued in those audits had been either fully or partially implemented.

For the second straight fiscal year, the work of our Investigations Division led to the dissolution of a wasteful government-funded agency. Our investigators also identified millions of dollars in potential savings for the state's property tax relief programs and for a municipally-run program that rewards emergency service volunteers.

Our Medicaid Fraud Division saw its total recoveries of taxpayer dollars improve by 12 percent from the previous fiscal year. Its anti-fraud efforts also resulted in the exclusion of more ineligible providers from the Medicaid Program than last fiscal year and the avoidance of more than \$770 million in potential Medicaid expenses.

Our Procurement Division reviewed more contracts this fiscal year, including 10 that were valued at more than \$100 million and \$346 million in contracts related to Superstorm Sandy. In 43 percent of the public contracts they reviewed, our attorneys provided guidance to public entities to bring their procurement process into legal compliance.

The sections of this report that follow briefly explain the role of each division while setting forth highlights of OSC accomplishments from the past fiscal year of July 1, 2014 to June 30, 2015.

## **Top 5 Most Viewed Reports on State Comptroller Website in FY 2015**

- 1. Audit – Controls Over Personnel and Fiscal Practices at Selected NJ Municipalities**
- 2. State Comptroller Investigation Questions \$1.5 million Spent By Union County on Non-Profit Agency**
- 3. Audit of Temporary Disability Insurance Program**
- 4. Office of the State Comptroller Guidance to Government Units**
- 5. OSC Releases Findings To Follow-Ups of Four Audits**

# AUDIT DIVISION

OSC's Audit Division conducts audits and reviews the performance of New Jersey state government, public institutions of higher education, independent state authorities, local governments and school districts.

The Audit Division staff includes members who possess certifications or professional designations such as Certified Public Accountant, Certified Internal Auditor and Certified Fraud Examiner. OSC audit staff continued to refine and update their training this past year and supplemented that training with attendance at various sessions sponsored by groups such as the Association of Government Accountants, the National State Auditors Association, and the National Association of State Auditors, Comptrollers and Treasurers (NASACT). Staff members also take part in the NASACT peer review program, participating in reviews of governmental auditing agencies in other states.

The Audit Division also includes a Planning and Analysis Unit that consists of a team of social science researchers who perform preliminary evaluations and make recommendations regarding potential audits. The unit also produces non-audit research reports designed to shed light on specific policy issues.

Examples of Audit Division work in FY 2015 are set forth below. OSC audit reports can be viewed in their entirety on our website.

## ***Audit of Personnel and Fiscal Practices at the Township of Hillside, the City of Perth Amboy and Gloucester City***

This audit looked at three municipalities and found each of them awarded its employees significant longevity payments that were not based on merit or performance. It also found that school crossing guards in each of the three municipalities were paid

unemployment benefits while they were actually working. In total, the audit made six recommendations to improve fiscal and personnel practices at the three municipalities.

## ***Audit of Controls Over the Administration of the General Assistance Program at Burlington, Camden and Passaic County Boards of Social Services***

This audit of three county welfare agencies found that financial assistance was being provided to participants in the Work First New Jersey General Assistance program without properly determining the participants' eligibility and without referring them to required work activities. At each of the three agencies, OSC auditors found that the case files lacked required documentation to show that program recipients met

**OSC found that while some correctional facilities regularly incurred high overtime costs for its officers, in some cases higher than 20 percent of its total expenditures, others kept overtime costs as low as two percent.**

eligibility requirements. For example, OSC found that 23 percent of the case files it reviewed did not include documentation to verify that the participant's monthly income fell within the program's thresholds, while 42 percent of reviewed case files contained no documentation to demonstrate that the state's criminal record tracking system had been checked for

disqualifying drug convictions. It also found that more than half of the program's recipients did not participate in a required work activity, such as job training, even though they were deemed employable.

## ***An Analysis of Overtime Costs at Adult County Correctional Facilities***

This report examined the factors that have led to high overtime costs at adult county correctional facilities in New Jersey while also offering solutions for minimizing such costs in the future. The report found that while some correctional facilities regularly incurred high overtime costs for its officers, in some cases higher than 20 percent of its total expenditures, others kept overtime costs as low as two percent. In general, the facilities that were able to contain

overtime costs did so through strong administrative and financial oversight and by taking proactive steps to analyze and anticipate staffing needs. In total, OSC's report made nine recommendations for controlling overtime costs.

In addition to those projects, OSC conducted an audit of payments made to individuals in connection with the Temporary Disability Insurance Program. The findings of that audit were issued in a public letter to the Department of Labor and Workforce Development.

### **Follow-Ups**

OSC obtains corrective action plans from public entities it audits to ensure that audit recommendations are properly implemented in an appropriate timeframe. OSC subsequently conducts on-site follow-up reviews to determine compliance with those corrective action plans.

In Fiscal Year 2015, OSC issued follow-up reports on six audits that were issued in calendar years 2011 and 2012. In each case, OSC found that the auditee had made significant progress since the initial audit.

The follow-up reviews found that:

- The Division of Family Development improved its efforts to identify and remove ineligible participants from its child care assistance program and avoid overpayments to child care providers. It also began to undertake a more timely review of quarterly wage reports and recovered more than \$200,000 from ineligible participants as a result.

- The Department of Corrections improved its oversight of the Residential Community Release Program and began to meet its requirement to conduct regular unannounced site visits.
- The Middlesex County Improvement Authority, in complying with OSC recommendations, eliminated a \$38,400-per-year insurance consultant position, reformed its contracting procedures, improved the transparency of its compensation practices and eliminated yearly sick-leave buyouts for non-union employees.
- State agencies improved their oversight of the disposition of surplus and excess computer

equipment and are now taking steps to ensure the removal of confidential information from computers packaged for public auction.

- Each of the four local governments included in OSC's Analysis of the Evaluation of Health Coverage by Local Governments has since conducted a proper analysis of the costs and benefits associated with joining the State Health Benefits Plan.

- The NJ SHARES program, which distributes energy assistance grants, has made significant progress in improving program oversight and its

procedures for determining grant eligibility.

In total, of the 98 recommendations made by OSC in those six audits, 91 were fully or partially implemented by the time of the follow up.

### **Policies and Procedures**

Our efforts at OSC have included putting in place policies and procedures that guide our audit, investigative and related processes. The following are descriptions of some of the policies and procedures

**AUDIT DIVISION – BY THE NUMBERS**

**93 – Percent of recommendations made by OSC that were determined to be either fully or partially implemented by time of OSC follow up.**

**\$200,000 – Total amount recovered from ineligible participants in the child care assistance program since OSC audit.**

**\$240,000 – Total in unemployment benefits paid to school crossing guards over a two-year period by three municipalities selected for OSC audit.**

**\$185 million – Total amount of overtime costs paid over three-year period to county correction officers, according to OSC review.**

we have put into effect, which we have continued to refine over the past year.

### ***Audit Manual***

For professional audit organizations such as ours, it is essential that clearly defined policies be promulgated to provide audit guidance and to ensure the quality and consistency of the audit work performed. To that end, OSC developed an Audit Manual to serve as the authoritative compilation of the professional auditing practices, policies, standards and requirements for OSC staff. Our Audit Manual is a constantly evolving document that is revised as standards are amended and other changes in the auditing profession occur.

### ***Audit Process Brochure***

Open communication concerning the audit process lets the auditee know up front what to expect. With that in mind, OSC developed a brochure outlining the critical components of the audit process, from initiation to completion. This brochure is provided to the auditee prior to the start of an audit and also is posted on our website.

### ***Risk/Priority Evaluation***

OSC's enabling legislation requires us to "establish objective criteria for undertaking performance and other reviews authorized by this act." Accordingly, OSC developed a risk/priority evaluation matrix that considers a number of risk factors, including, among others, the entity's past performance, size of budget, the frequency, scope and quality of prior audits, and other credible information which suggests the necessity of a review. OSC staff conducts research along these parameters and assesses risk associated with each applicable factor as an aid in determining audit priority.

### ***Quality Control and Peer Review***

Government auditing standards require audit organizations to establish an internal quality control system and to participate in an external quality control "peer review" program. The internal quality control

system provides the organization with ongoing assurance that its policies, procedures and standards are adequate and are being followed. The external peer review, to be conducted once every three years, is a professional benchmark that provides independent verification that the internal quality control system is in place and operating effectively and that the organization is conducting its work in accordance with appropriate standards. OSC passed both of its peer reviews in 2011 and 2014.

### ***Audit Coordination***

OSC's enabling legislation requires the State Comptroller to establish a system of coordination with other state entities responsible for conducting audits, investigations and similar reviews. This system serves to avoid duplication and fragmentation of efforts while optimizing the use of resources, promoting effective working relationships and avoiding the unnecessary expenditure of public funds. We continue to work closely with both state and federal audit and law enforcement officials in this regard.

### ***Training***

Audits conducted by OSC's Audit Division comply with Generally Accepted Government Auditing Standards (GAGAS). Auditors performing work under GAGAS are required to maintain their professional competence through Continuing Professional Education (CPE). Specifically, every two years they must complete at least 80 hours of CPE, 24 of which must directly relate to government auditing, the government environment, or the specific or unique environment in which the audited entity operates. OSC is recognized by the National Association of State Boards of Accountancy as a CPE sponsor. This year our staff again received formal training on topics such as governmental accounting, audit sampling and documentation, and internal controls. All staff members in the Audit Division satisfied the biennial requirement of obtaining 80 CPEs over the reporting period.



# INVESTIGATIONS DIVISION

OSC's Investigations Division works to detect and uncover fraud, waste and misconduct involving the management of public funds and the performance of government officers, employees and programs.

In FY 2015, the Investigations Division identified more than \$4.2 million in waste.

The division consists of a staff of investigators and attorneys, including former federal and state law enforcement officials from agencies such as the Federal Bureau of Investigation, the United States Postal Inspection Service and the New Jersey State Police.

OSC's investigators field and review all tips, referrals and allegations provided to the office. Those tips come both from the general public and from government employees, and are received through OSC's toll-free hotline, via e-mail or through the mail. The hotline is also used as the official statewide hotline for any public tips regarding the waste or abuse of Sandy recovery funds. All tips are assigned to a specific investigator who reviews the information provided to determine whether further action is warranted from this office or from another government agency.

In FY 2015, the Investigations Division fielded 309 tips, some of which led to OSC audits and investigative reports. Other tips are often resolved through a simple phone call or a letter that leads to remedial action.

The Investigations Division also produced the following public reports in FY 2015:

## *Union County Alliance*

OSC's investigation found that Union County paid in excess of \$1.5 million over a four-year period, through a series of no-bid contracts, to a non-profit agency that produced a biannual newsletter and little else in return for the public's money. The agency, charged with promoting economic development, operated with virtually no oversight or recordkeeping. OSC also determined that the Union County Alliance had a separate checking account with a debit card that was used to charge \$90,000 over four years, most of it on meals and travel. Within a few months of the report's release, Union County officials defunded the agency and the Union County Alliance ceased operations soon thereafter.

## *Administration of Property Tax Relief Programs by Multi-Unit Properties*

OSC's investigation found the state could potentially save millions of dollars annually for its property tax relief programs by fixing an oversight gap. The report estimated that thousands of homeowners received larger property tax credits than they were entitled to receive because they inaccurately claimed to occupy 100 percent of a multi-unit property when applying for tax relief programs. To fix the problem, OSC asked the state Division of Taxation to require local tax assessors to report information that it was already collecting regarding the number of dwelling units for properties in their municipality. The Division of Taxation has already saved more than \$1 million for the Homestead Benefit program as a result of OSC's report and it expects to save even more as towns begin to send in more data.

### ***Emergency Services Volunteer Length of Service Award Program***

OSC found the Length of Service Award Program (LOSAP), created to attract and reward emergency service volunteers for their sacrifice, has been compromised by poor administration and oversight. The investigation looked at one volunteer emergency service organization from four different municipalities and found nearly two-thirds of program funds were contributed in error. It also determined LOSAP funds were made on behalf of more than 100 individuals who were either not active or otherwise did not qualify for the program. OSC also found more than \$100,000 sitting dormant in the LOSAP accounts of non-vested members who have since resigned from the four emergency service organizations. Across the state, there is nearly \$200 million on deposit in LOSAP accounts administered by more than 400 emergency service organizations.

### ***Guidance and Referrals***

On numerous occasions this past year, the Investigations Divisions compelled both local and state government agencies to improve their personnel practices and internal procedures by issuing letters to the agencies along with referrals to the appropriate oversight entities. Such letters led to improvements, for example, in the operations of the New Jersey Real Estate Commission, the procurement practices of the Rahway Arts District in Wall Township and personnel practices in the Township of Lyndhurst.

OSC's Investigations Division also made 135 referrals to other state, county and federal agencies in FY 2015, among them the state Office of the Attorney General, the state Division of Criminal Justice Sandy Fraud Working Group, the Ocean County Prosecutor's Office, the state Department of Transportation Inspector General, the New Jersey Election Law Enforcement Commission, the state

Division of Taxation and the state Department of Education. Other referrals were made in-house to OSC's Audit, Procurement and Medicaid Divisions and are expected to result in future audits and investigations. The Division also serves as a key resource for OSC's other divisions by helping to conduct witness interviews, and using a variety of investigative tools to identify potential subjects for audits.

Conversely, the Investigations Divisions also conducts inquiries based on incoming referrals from other state agencies. Our joint efforts with these other agencies continue to build a synergy that has led to increasingly robust investigative efforts across state government. For example, the Investigations Division takes part in a collaborative working group of agencies called the Statewide Sandy Fraud Working Group, chaired by the Office of the Attorney General, to pool tips on possible Sandy-related scams and fraud, avoiding duplication of efforts and

resulting in better coordination of investigations. OSC handled 79 Sandy-related complaints in FY 2015.

**OSC's investigation looked at one volunteer emergency service organization from four different municipalities and found nearly two-thirds of Length of Service Award Program funds were contributed in error.**



## **State demands Homestead rebate money back from N.J. homeowners who made false claims**

### **INVESTIGATIONS DIVISION – BY THE NUMBERS**

135 – Number of referrals made to state, county and federal agencies.

309 – Number of tips fielded by OSC investigators.

\$100,000 – Total in funds sitting dormant in the Length of Service Award Program accounts of non-vested members who have since resigned from the four emergency service organizations reviewed by OSC.

\$1.5 million – Amount paid by Union County over a four-year period to a non-profit agency that produced a biannual newsletter and little else in return for the public's money.

\$4.2 million – Total in waste identified by Investigations Division in FY 2015.

*State Comptroller Says Thousands Of New Jersey Property Owners Falsely Claiming Credits On Multi-Unit Properties*

*2 Monmouth towns cited for poor oversight of retirement program*

*State comptroller: Union County vendor got \$1.5 million, only produced newsletter*

# MEDICAID FRAUD DIVISION

OSC's Medicaid Fraud Division (MFD) serves as the state's independent watchdog for New Jersey's various Medicaid programs and works to ensure that the state's Medicaid dollars are being spent effectively and efficiently.

As part of its oversight role, MFD audits and investigates health care providers, managed care organizations and Medicaid recipients to identify and recover improperly expended Medicaid funds. In performing these responsibilities, MFD considers the quality of care provided to Medicaid recipients and pursues civil and administrative enforcement actions against those who engage in fraud, waste or abuse within the Medicaid program. MFD also excludes or terminates ineligible health care providers from the Medicaid program where necessary and conducts educational programs for Medicaid providers and contractors.

In FY 2015, MFD recovered \$87.26 million in improperly paid Medicaid funds, representing a more than 12 percent increase from the previous year. Those funds were returned to both the state and federal budgets. In addition, an estimated \$771.9 million in other potential Medicaid expenses were avoided through MFD's proactive anti-fraud efforts. Those anti-fraud efforts represented a 28 percent increase from the prior fiscal year. MFD also excluded 86 ineligible providers from participating in the Medicaid program and suspended 18 others.

Operating under the authority of the Medicaid Program Integrity and Protection Act, MFD provides oversight concerning the following programs:

- New Jersey's Medicaid program, which provides health insurance to qualifying parents and caretakers and their dependent children, along with pregnant women and individuals, who are aged, blind or disabled. The program pays, for example, for hospital services, doctor visits, prescriptions, nursing home care and other health care needs.
- New Jersey FamilyCare, a Medicaid-type program for uninsured children whose family income is too high to qualify for traditional Medicaid but not high enough for the family to afford private health insurance. Combined, the Medicaid and New Jersey FamilyCare programs serve more than one million New Jersey residents.

- The New Jersey Hospital Care Payment Assistance Program, commonly known as Charity Care, which provides free or reduced-charge services to patients who require care at New Jersey hospitals.

MFD's oversight focuses on Medicaid health care providers, managed care organizations and Medicaid

recipients, while coordinating oversight efforts among all state agencies that administer Medicaid program services.

MFD consist of three units: Fiscal Integrity, Investigations and Recovery/Regulatory.

## **Fiscal Integrity Unit**

The Fiscal Integrity Unit focuses on data mining, regulatory and compliance audits, and liability of third parties for expenses improperly paid by the Medicaid program.

**In FY 2015, MFD recovered \$87.26 million in improperly paid Medicaid funds, representing a more than 12 percent increase from the previous fiscal year.**

## *Data Mining*

MFD's data mining group typically is involved in the initial stages of the process leading to the recovery of improperly paid Medicaid dollars. The unit employs a variety of analytical techniques to detect anomalous or abnormal claims submitted by providers. Its findings often lead to MFD audits and investigations.

In order to identify patterns of anomalous Medicaid reimbursements, OSC's data miners review Medicaid fraud reports and investigations from other states and work with a range of additional sources to acquire pertinent data. The data mining group also monitors the Surveillance and Utilization Review System, a federally mandated exception reporting system, for indications of fraud and abuse and to detect duplicate, inconsistent or excessive claim payments.

In total, MFD's data mining group referred 105 cases of anomalous claims behavior to MFD's audit and investigations units in FY 2015 ( a 19 percent increase from the previous fiscal year).

## *Audits*

MFD conducts audits to ensure that Medicaid providers comply with program requirements, to identify improper billings submitted by Medicaid providers and to deter fraud, waste and abuse in the Medicaid program.

In FY 2015, for example, MFD conducted an audit of the New Jersey Drug Rebate Program and found the state was due more than \$63 million from drug manufacturers. Approximately 40 percent of that balance was greater than a year old, the audit determined, including \$3.9 million in unresolved disputes between the state and drug manufacturers that dated back to 1991. The audit also found that the state needs to eliminate bankrupt and terminated manufacturers from its listing of drug rebate accounts.

MFD's audit group, working with other MFD personnel, also reviews, oversees and coordinates audit work performed by other entities that have contracted with the state to audit specific types of

providers. For example, the Affordable Care Act requires each state's Medicaid program to contract with a Recovery Audit Contractor to identify and recoup overpayments to Medicaid providers. MFD oversees the state's contract with this external auditor, coordinates the audits and reviews audit findings. In total, during FY 2015 MFD oversaw the recovery of more than \$24.6 million in overpayments that were identified by New Jersey's Recovery Audit Contractor, a 700 percent increase from the previous fiscal year.

## *Third Party Liability*

Under federal law, if a Medicaid recipient has other insurance coverage Medicaid is responsible for paying medical benefits only in cases where the other coverage has been exhausted or does not cover the service at issue. Thus, a significant amount of the state's Medicaid recoveries are the result of MFD's efforts to obtain payments from third-party insurers responsible for services that were inappropriately paid with Medicaid funds. MFD's Third Party Liability group, working with an outside vendor, seeks to determine whether Medicaid recipients have other insurance and recovers money from those private insurers in cases where Medicaid has paid claims for which the private insurer was responsible. In addition, the Third Party Liability group also manages a daily hotline for the public and providers to call and update third party commercial insurance information for Medicaid recipients.



## Investigations Unit

MFD's Investigations Unit is charged with investigating inappropriate conduct on the part of Medicaid, FamilyCare and Charity Care providers and recipients. In FY 2015, the Investigations Unit opened 727 cases and made 78 referrals to other agencies such as the Attorney General's Medicaid Fraud Control Unit, county prosecutors' offices and various county boards of social services. MFD investigators receive allegations of fraud and waste from many sources, including MFD's hotline and website as well as from other state and federal agencies. In total, MFD received 1,975 hotline tips in FY 2015.

To ensure the integrity of the Medicaid program's enrollment process, the Investigations Unit also conducts background checks of providers applying to participate in the program. In FY 2015, the Investigations Unit received 207 such applications from pharmacies, medical equipment providers, adult medical day care centers, physicians and others. The unit has thus far denied 11 of those applications based on a number of concerns.

The Investigations Unit also conducts pre-enrollment and post-enrollment site visits of Medicaid providers. During those site visits, MFD investigators verify that the applying entity is actually in existence, that it is in compliance with state and federal requirements and that the information supplied on provider applications is accurate.

In FY 2015, the work of the Investigations Unit resulted in the recovery of \$7.5 million in misspent Medicaid funds.

## Recovery/Regulatory Unit

### *Recoveries and Exclusions*

Our Recoveries and Exclusions group (R&E) recovers overpayments that are identified by MFD's auditors and investigators and determines

when to exclude a Medicaid provider from the Medicaid program. In cases of fraud, R&E may also assess additional penalties against a provider.

Once MFD identifies overpayments to be recovered, R&E sends out appropriate notices, recovers the money from providers and recipients on behalf of the state and works with federal authorities to ensure that the federal government receives its share of any recovery. In instances where R&E cannot resolve an overpayment through a settlement, MFD will take administrative action against the provider or recipient.

Providers can be excluded from participating in the Medicaid program for numerous reasons including criminal convictions, exclusions by another state or the federal government, or adverse action taken by a licensing board. Providers can be excluded for a set number of years or, in some cases, until they provide sufficient evidence supporting reinstatement. Actions taken against these individuals are part of an ongoing OSC effort to ensure that only those medical

providers who maintain the highest integrity may participate in the Medicaid program.

In FY 2015, MFD excluded 86 providers - including physicians, pharmacists, dentists, social workers and home care nurses'

aides - for committing fraud against the Medicaid program.

### *Regulatory*

MFD's Regulatory Officers are licensed attorneys who handle MFD-initiated fraud and abuse cases through the administrative law process, from settlement negotiations through Office of Administrative Law Fair Hearings as State Agency Representatives. The Regulatory Officers provide regulatory guidance to the other units of the Division which include but is not limited to legal research as well as case reviews for statutory and regulatory support. MFD's Regulatory Officers also work with other state departments to propose new Medicaid program regulations designed to improve program integrity and strengthen Medicaid rules.

**MFD conducted an audit of the New Jersey Drug Rebate Program and found the state was due more than \$63 million from drug manufacturers.**

**MEDICAID FRAUD DIVISION – BY THE NUMBERS**

**TOTAL MFD RECOVERIES FOR TAXPAYERS**

FY 2014 - \$77.3 million  
FY 2015 - \$87.26 million

**POTENTIAL MEDICAID EXPENSES AVOIDED THROUGH MFD'S PROACTIVE ANTI-FRAUD EFFORTS**

FY 2014 = \$601 million  
FY 2015 = \$771 million

**HEALTH CARE PROVIDERS EXCLUDED FROM MEDICAID PROGRAM BY OSC**

FY 2014 – 55  
FY 2015 – 86

**REFERRALS MADE BY MFD TO STATE AND FEDERAL LAW ENFORCEMENT OFFICES AND OTHER OUTSIDE AGENCIES**

FDY 2014 – 71  
FY 2015 – 78

**REFERRALS MADE BY MFD'S DATA MINING GROUP**

FY 2014 – 88  
FY 2015 - 105

# PROCUREMENT DIVISION

OSC's Procurement Division, staffed by attorneys specializing in public contract law, fulfills the office's statutory mandate to review public agency procurements exceeding \$2 million. In all, the Procurement Division received notice of 723 public contracts for review in FY 2015, including 160 contracts that were valued at more than \$10 million and pre-screened pursuant to OSC's statutory authority.

In addition to reviewing contracts, the attorneys of the Procurement Division work with OSC's audit teams and provide guidance concerning the many legal issues that arise during the course of an audit. Division attorneys also assist in investigations and other projects.

## Contract Reviews

As prescribed by statute, the Procurement Division pre-screens the legality of the proposed vendor selection process for all government contracts exceeding \$10 million and has post-award oversight responsibilities for contracts exceeding \$2 million. OSC's procurement reviews cover contracts awarded by municipalities, school districts, colleges, and state authorities and departments, as well as other public boards and commissions with contracting authority.

Regulations promulgated by OSC assist public entities in determining whether OSC review is required for a particular contract and provide guidance as to how OSC reviews are conducted. Procurements subject to OSC review cover a wide range of contracts including land sales, leases and purchases of goods or services.

For contracts exceeding \$10 million, the Procurement Division works closely with government entities as they formulate specifications, intervening when

necessary to achieve procurements that comply with all applicable laws, regulations and rules. Errors are corrected before the contract advertisement takes place.

The review of contracts valued at more than \$10 million begins with judging the appropriateness of the vendor-selection process proposed by the contracting unit. The reviewing attorney assesses, for example, whether the procurement requires sealed bids or whether other contracting procedures are appropriate. The reviewer further determines whether the government unit has followed all other statutes, rules and regulations applicable to the procurement. Additional questions asked include: Has the governing body, department or authority approved

the procurement? Are the specifications designed to ensure a competitive process? Is the method of advertisement appropriate?

For contracts exceeding \$10 million, the contracting unit must submit notification to OSC thirty days before advertising or

otherwise entering into a contract. On occasion, contracting units request flexibility in that time period. Accordingly, OSC has set forth a procedure through which government entities can seek a waiver of the 30-day time frame. OSC works closely with contracting units needing such a waiver to ensure that contract solicitations can be made in a timely manner.

Contracts exceeding \$2 million, including \$10 million contracts previously submitted for pre-approval, are examined post-award. The focus post-award remains in compliance with laws and regulations. In addition, a determination is made as to whether the award followed the guidelines set forth in the solicitation. For example: Did the lowest bidder get the award in a sealed bid determination that appropriately considered alternates? Did the governing body approve and certify funding for the contract? Are the

**OSC attorneys took corrective action in 43 percent of those pre-screened contracts, assisting the public entity in assuring the legality of its procurement process.**



records submitted sufficient to justify the governing body's action? Is there any evidence of collusion or bid rigging?

To ensure that OSC's contract reviews result in better contracting processes in both the short and long terms, the Procurement Division consults directly with contracting units during and following reviews. Depending upon the nature of the review and any deficiency noted, the Procurement Division might hold an exit interview, prepare a written determination or simply provide oral advice to the contracting unit. In cases involving serious deficiencies, OSC may refer contracts for audit review or further civil or administrative action, such as actions to recover monies expended. Criminal activity is referred to appropriate law enforcement authorities.

The Procurement Division also has added oversight responsibilities with regard to contracts connected to Superstorm Sandy. Under Governor Chris Christie's Executive Order (EO) 125, the division is required to review any and all state procurements that involve the expenditure of federal reconstruction resources connected to Sandy recovery. The division then posts these contracts on OSC's Sandy transparency website. As a result, in FY 2015 the Procurement Division reviewed a variety of purchasing practices that otherwise would have been below OSC's statutory monetary threshold for review. For example, OSC reviewed 23 demolition contracts involving 180 flood-prone properties in Sayreville, South River and Woodbridge that were acquired in the aftermath of Sandy.

The division reviews proposed procurements subject to EO 125 on an immediate basis, providing guidance and feedback to agencies to ensure

compliance with public contracting laws without sacrificing expediency in the state's recovery process.

In FY 2015, the Procurement Division reviewed 127 contracts and purchases under EO 125. The total value of these procurements exceeded \$346 million. As a result of OSC's pre-screening, corrective actions were taken to modify 50 of those 127 contracts.

In all, the Procurement Division received notice of 723 public contracts for review in FY 2015. Of those 723 proposed contracts, 160 of them were valued at more than \$10 million and were pre-screened pursuant to OSC's regular statutory authority. OSC attorneys took corrective action in 69 (43 percent) of those pre-screened contracts, assisting the public

entity in ensuring the legality of its procurement process.

Of the pre-screened contracts, 10 were valued at \$100 million or greater, including:

- The New Jersey Turnpike Authority's procurement of a contractor to provide customer service for EZ pass as well as its construction contract for interchange 14 A.
- The State Department of the Treasury's contract for software maintenance and support.
- The Morris County Municipal Utilities Authority's procurement of a contractor to operate its Solid Waste Transfer Station.

### **PROCUREMENT DIVISION – BY THE NUMBERS**

**43 – Percent of pre-screened contracts for which OSC attorneys took corrective action.**

**160 – Number of public contracts valued at \$10 million or more that was pre-screened by OSC.**

**723 – Number of public contracts screened or reviewed by OSC.**

**\$2 million – Statutory monetary threshold for OSC contract review.**

**\$346 million - Value of Sandy-related contracts pre-screened by OSC.**

Among the most frequent errors OSC encountered were the improper use of specifications of a proprietary nature, such as specifications requiring bidders to provide particular brand name items without adequate reason and without permitting an opportunity to use an equivalent item. Procurement Division staff also frequently noted failures to include required anti-discrimination provisions in contracts.

An additional 203 contracts valued between \$2 million and \$10 million were submitted to OSC post-award and assigned for review. In these contracts, the Procurement Division found a 35 percent error rate. In each case, the division gave guidance to the contracting entity to ensure that the errors are not repeated.

Our redesigned Sandy Transparency website, <http://nj.gov/comptroller/sandytransparency/>, provides the public with a place to view the allotment and expenditure of federal Sandy funds, to research information about Sandy programs and to examine detailed documents from Sandy-related contracts.

