



**New Jersey State Legislature
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Office of the State Auditor**

**Department of Children and Families
Division of Child Protection and Permanency
Contracted Foster Care and Related Services**

July 1, 2009 to August 31, 2012

**Stephen M. Eells
State Auditor**

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New Jersey State Legislature

OFFICE OF LEGISLATIVE SERVICES

OFFICE OF THE STATE AUDITOR
125 SOUTH WARREN STREET
PO BOX 067
TRENTON NJ 08625-0067

ALBERT PORRONI
Executive Director
(609) 847-3901

OFFICE OF THE STATE AUDITOR
(609) 847-3470
FAX (609) 633-0834

STEPHEN M. EELLS
State Auditor

GREGORY PICA
Assistant State Auditor

JOHN J. TERMYNIA
Assistant State Auditor

The Honorable Chris Christie
Governor of New Jersey

The Honorable Stephen M. Sweeney
President of the Senate

The Honorable Sheila Y. Oliver
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 Children and Families, Division of Child Protection and Permanency, Contracted Foster Care and Related Services for the period of July 1, 2009 to August 31, 2012. If you would like a personal briefing, please call me at (609) 847-3470.

Stephen M. Eells
State Auditor
February 5, 2013

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Scope

We have completed an audit of contracted foster care and related services within the Department of Children and Families (DCF), Division of Child Protection and Permanency (division), formerly the Division of Youth and Family Services, for the period July 1, 2009 to August 31, 2012. The responsibility of the division is to ensure the safety, permanency, and well-being of children and to support families. Of the 5,751 foster care placements in fiscal year 2011, 91 percent, or 5,229, were under the direct supervision and daily management of the division. The case management and coordination of care needs for the remaining 522 children are provided by 20 non-profit organizations (providers) under contract with the division. It was these 20 contract providers that were the focus of this audit. Annual expenditures to these providers averaged \$39.9 million for the audit period. The expenditures not associated with contracted providers will be addressed in a future audit.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the program, were reasonable, and were recorded properly in the accounting system. In addition, our objectives were to determine the adequacy of the division's fiscal monitoring of provider contracts and the statewide uniformity of rates paid to foster care families.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, 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, the administrative code, and policies of the DCF. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also interviewed division and provider agency personnel to obtain an understanding of the program and the internal controls.

A non-statistical sampling approach was used. Our testing of financial transactions was designed to provide conclusions about the controls in place to detect and prevent unsupported and improper provider expenditures, untimely closeouts, and disparities in rates paid to foster care provider families.

Conclusions

We found that the financial transactions included in our testing were recorded properly in the accounting systems. However, we found financial transactions relating to provider contract costs were not always related to the program or reasonable and the division's fiscal monitoring of provider contracts was inadequate. We also found rates paid by providers to foster care families were not uniform.

An estimated annual savings of \$1.8 million could be achieved if the division properly monitored the contracts and enforced standardized rate payments to foster care families. Lastly, our review of the providers' audited financial statements and state records disclosed an additional \$6.2 million is due back to the State, of which \$3.9 million in unspent contract funds is due back to DCF and \$2.3 million to the Department of Labor for unpaid taxes that had been funded by the division.

Inefficiencies and Questionable Costs

The division needs to improve its monitoring of provider budgets and expenditures to prevent inefficiencies and questionable costs.

It is the division's responsibility to review and approve provider budgets. Primarily, providers are paid by the division on a monthly basis at an amount equal to one-twelfth of the budgeted amount. The division is responsible to ensure costs incurred by the provider are reasonable and supported. These payments are reconciled by DCF contract administrators quarterly and at the end of the contract period when providers submit their final report of expenditures. The division also has an internal policy that requires provider expenditures be tested and traced to source documents on an annual basis, but we found no evidence of such testing. Our review of \$13.5 million in contract expenditures for the period January 1, 2010 through June 30, 2011 disclosed inefficiencies and questionable costs totaling \$4.2 million. We noted the following examples.

Unreasonable Spending

- One provider charged \$250,000 in administrative costs but subcontracted the foster care services to another provider. The division has active contracts with both providers. By contracting directly with the subcontractor for these services, the division could achieve savings of up to \$250,000.
- According to DCF guidelines, physicians' annual compensation from DCF and DHS contracts is capped at \$212,000 regardless of the size of the organization. We noted a provider did not comply with these guidelines by charging state contracts \$233,500 for one physician in 2011. The same physician also received \$35,737 from another provider the same year, for a total annual compensation of \$269,000.
- The CEO of a provider used her discretion to award pension contribution bonuses into a deferred compensation plan to 13 employees in the amount of \$121,500. The bonuses ranged from \$2,500 to the federal limit of \$22,000. She awarded the highest bonus amount to herself. These bonuses were not given to all provider personnel and no documentation could be provided as to how the bonuses were determined.
- Three providers paid their foster care families over \$20,000 in the aggregate in retention payments ranging from \$100 to \$1,000. Foster care families under the direct supervision of the division do not receive such benefits.
- One provider spent \$2,000 for a holiday party at a country club for 50 adults and 10 children. They also purchased \$5,900 in designer merchandise and gift cards. The propriety of these expenditures could not be determined nor was there any documentation to confirm who attended the party or received the gifts.

Unallowable Expenditures

- One provider improperly charged the contract \$126,000 as reimbursement for rental payments when mortgage payments were made. According to DCF policy, rent is a reimbursable cost but mortgage payments are not allowable absent a use allowance agreement. There was no use allowance agreement.
- One provider entered into a contract with a company to provide fundraising workshops for \$8,500, however the provider paid \$16,500. The provider could not explain nor support the \$16,500 charge and DCF policy disallows fundraising costs to be charged to state contracts.
- Gym membership fees for a provider's employees totaling \$1,800 were charged to the state contract.

Unsupported Expenditures

- Each provider is required to submit either a limited program budget or a full budget in advance of the contract period. Full budgets identify all sources of funding and are required when general and administrative (G/A) costs will be charged to the contract. Our review noted five providers charged G/A fees in the amount of \$1.9 million to the contracts without providing full budgets.
- A provider entered into three subcontracts with the same consultant from 2009 through 2011 at a cost of \$252,000. The contract deliverables were vague and no measureable product was required. The provider could not present adequate support for the consultant's invoices. We also noted all three contracts were signed after the start date, with two of them being signed six months to a year after the payments began.
- A provider charged \$80,500 in allowable, but unsupported expenditures. The types of expenditures included insurance costs, consultant fees, fringe benefit payments, and data processing fees. According to DCF's Contract Reimbursement Manual, providers are required to maintain detailed, auditable records which support expenditures incurred for contract services.

Related Party Transaction

- A contractor, related to the provider's Director of Finance, was hired by the provider to repair a roof for \$17,000. Our review of the three quotes for the project indicates the contract may have been awarded improperly. In addition, the hiring of the related party was not properly reported as required by the department's procurement policy. This contractor received a total of \$44,000 between July1, 2009 and December 31, 2011.

Expenditures Improperly Categorized

- Five providers had expenditures totaling \$502,000 that were not properly categorized on the final report of expenditures. Part-time hourly employees' pay and payments to foster care families were charged as consultants. In addition, recreation fees, summer camp fees, and special events expenditures were charged to the materials and supplies category. Proper financial reporting requires that the categories on the final report of expenditures accurately reflect activity so that allowable reimbursement limits are not exceeded.

Recommendation

We recommend that the division strengthen its monitoring of the financial activities of providers to ensure expenditures are reasonable, allowable, and properly charged to the contract. We further recommend that the division follow-up on the questionable provider charges we identified for possible recovery.

**Contract Closeouts**

The improper and untimely closeout of contracts may inhibit the department from collecting unspent contract funds.

Contract administrators, budget analysts, and accounting personnel are responsible for closing out contracts, which according to DCF policy is to occur 150 days following the expiration of the contract period. To effectively closeout the contracts, the closeout personnel must ensure that providers have fulfilled all obligations and the division has received the benefits for which it contracted. A proper closeout would ensure costs claimed on the final report of expenditures were incurred, allowable, and reasonable. The closeout process also enables the division to identify and recover unspent contract funds.

Our review of the three most recent contracts from each of the 20 contracted foster care providers disclosed 15 of the 60 contracts where either current or no closeout was necessary. The remaining 45 contracts totaling \$84.5 million are analyzed in the chart below, which shows 73 percent of contracts are either not closed, or were closed an average eight months late.

Contract Closeout Timeframe

Description	Number of Contracts	Contract Value (in millions)	Average Months Outstanding (past 150 days)	Percentages of Contracts
Contracts closed timely	12	\$12.3	0	27%
Contracts not closed	7	\$17.5	10	15%
Contracts closed after due date	26	\$54.7	8	58%
Total	45	\$84.5		100%

Twenty-two of the 38 closed contracts indicated no balance due. However, further review disclosed nine of these closeouts were performed incorrectly by using original budget amounts rather than actual expenditures when reporting the results. Our request that the department revisit these nine closeouts resulted in the identification of a provider owing \$125,000 to the department.

Outstanding and Uncollected Funds

DCF policy requires providers to submit audited financial statements annually. These statements are used in the closeout process to help identify and recover unspent contract funds. We reviewed the most recent audited financial statements and the department records for 12 providers and found that the DCF had not collected \$3.9 million in unspent contract funds dating back to 2007. As a result, DCF began to expedite its closeout process. One provider is negotiating \$1.7 million of the amount due, in part, because of the untimely collection efforts by the department. In addition, we compared the audited financial statements to payroll tax records from the Department of Labor and found two providers that owed a combined \$3.3 million in state and federal taxes, including fines and penalties. These liabilities were funded by DCF contracts; however, the providers never remitted the full payments.

Unspent Funds Due Back to the Department and Unpaid Taxes

Description	State Taxes	Federal Taxes	Balances Due
Unspent Contracts Funds			\$ 3,896,542
Unpaid Taxes	\$ 2,322,026	\$ 1,023,214	\$ 3,345,242
Totals*	\$ 2,322,026	\$ 1,023,214	\$ 7,241,782

*of this amount, \$6.2 million is due back to the State

Recommendation

The DCF should closeout all contracts within the 150 day limit in order to identify and timely collect funds due back from providers. Furthermore, we recommend DCF ensure budgeted amounts are not used in lieu of actual expenditures during the closeout process.

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Statewide Uniformity of Foster Care Rates

The division should make foster care payments directly to families to ensure rates are uniform and determine the consistency and appropriateness of its daily rates paid to providers.

Foster Care Payment Differences

The division contracts foster care and related services to 20 providers throughout the state. Of these 20 providers, there are eight whose contracts do not include funds for foster care board payments. In these cases, the division makes those payments directly to the families. We reviewed the remaining 12 providers that are responsible for making the monthly board payments to the foster care families.

Foster care rates paid to foster care families vary depending upon the age and medical condition of each child. These rates are derived from the United States Department of Agriculture (USDA) guidelines and should be uniform across the foster care population. During our review, we found the rates paid directly by the division were uniform throughout the state, but the rates paid by provider agencies were either higher or lower than the USDA guidelines. For example, from July 1, 2009 to December 31, 2011, the monthly payment made directly by the division to the families ranged from \$713 to \$1,238, while payments made by the contracted agencies ranged from \$500 to \$1,439.

When notified of the disparity, the department conducted a retroactive analysis of underpayments for a 4-month period that resulted in an additional \$67,000 being sent to foster care families. Their analysis did not include payments that exceeded the guidelines. Our analysis for the period from July 1, 2009 through December 31, 2011 identified payments below the minimum required USDA rates totaling \$251,000 and payments above the guidelines totaling \$2.4 million. By not monitoring and standardizing the rates paid to all foster care families, the division overspent a net \$2.2 million during this period. If provider payments were standardized using USDA guideline rates, the division would realize a savings of \$875,000 annually.

Contracted Rate Disparities

Disparities exist among the daily rates the division pays to the providers, ranging from \$46 to \$161 per child. These composite rates include varying board rates, negotiated management fees, and numerous services contracted and negotiated over time by regional administrators. These administrators work independently and possess varying degrees of negotiating skills and experience. Additionally, disparities occur because these legacy contracts have not been competitively bid since first awarded or reevaluated to meet the changing resource needs of the department.

Recommendation

In order to ensure statewide uniformity and equity among the foster care families and contracts, we recommend the division make monthly board payments directly to all foster care families, including those currently serviced by providers. We also recommend the division compare daily rates paid to the providers to determine their consistency and appropriateness.



NJSPIRIT Payments

A system limitation contributed to overpayments to providers.

In 2007, DCF implemented the New Jersey Statewide Protective Investigation, Reporting, and Information Tool (NJSPIRIT). This software application serves as an electronic case record and also processes certain fiscal functions for the department. During our review, we noted that a combination of human error and a NJSPIRIT limitation resulted in overpayments to providers totaling \$630,000 from July 1, 2008 through April 30, 2012. The division began an internal review after this matter was brought to their attention.

Recommendation

We recommend the program issues identified in NJSPIRIT be corrected to eliminate future overpayments. Additionally, the division should recover the \$630,000 in overpayments.

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Level of Service Measurements

The division should act upon provider level of service measures that may identify opportunities for savings.

Level of service (LOS) is a performance measurement used to determine whether or not actual services are being delivered in the expected quantities agreed upon in the contract. It is the division's policy to monitor and compare the actual LOS to the contracted LOS on a quarterly basis.

This monitoring by contract administrators can help assess the success or failure of individual programs, as well as identify underperforming programs for remedial action, including the downward adjustment of contract funding when warranted. For the contracts we reviewed, we found that while the division monitors the LOS, it does not ensure the LOS is accurately prepared by the provider nor does it generally act upon low performance indicators. We noted the following three programs where the underperforming LOS warranted timely attention.

- An emergency shelter care program for up to five girls between 13 and 17 years of age was contracted at a fixed annual cost of \$669,500, equating to a daily rate of \$367 per child, if at full capacity. We determined the occupancy rate of this shelter was only 30 percent during fiscal year 2011. We also noted that another DCF contracted shelter program existed three miles away and provided similar services to the same population at a full-capacity cost of \$124 per child. The second shelter was also underutilized and could accommodate the capacity of the first shelter, usually without additional compensation. Placing the children in the second shelter would eliminate the need for the first shelter resulting in annual savings up to \$669,500.

- A program to provide substance abuse assessments was contracted for \$2 million annually. We noted that during fiscal years 2010 and 2011, the LOS was 40 percent and 48 percent respectively, though the program remained fully funded throughout both years. If the LOS was properly monitored and acted upon, the contract may have been modified for the lower levels of expected participants and funding reduced.
- A pediatric program was established to provide services and referrals for up to ten children whose families had been affected by the AIDS virus at an annual cost of \$195,000. The provider failed to submit the correct LOS documentation for an entire year and this went unnoticed by the division. Using available records, we noted the LOS was never more than 40 percent and yet the program remained fully funded. After 19 months of low performance, the program was terminated. If the low LOS was monitored and acted upon in a timely matter, contract payments could have been reduced to reflect the lower level of participants or terminated earlier.

Recommendation

We recommend that the division review and act upon the LOS reports received from providers and timely consolidate, modify, or terminate programs to eliminate unnecessary spending when feasible.



Former DCF Employees Put On Provider Payroll

The DCF exercised poor judgment by requiring a provider to employ department retirees.

The DCF enters into contracts with both public and private providers for the purchase of social services and services to train personnel engaged in the delivery of social services. Our review disclosed a provider was required to place former DCF employees on its existing contract without having management control over these employees.

In an effort to reduce the number of backlogged adoption cases, DCF began hiring their retired staff as expeditors to work in areas where their expertise could be used to accelerate identified backlogs. These expeditors were paid an hourly wage from the DCF payroll. In August of 2006, there was documented concern about the expeditors losing their pension eligibility if they continued as DCF employees and earned in excess of the threshold for retirees returning to state employment. The same documentation also detailed the concern for putting these retirees on a provider contract. However, in January 2007, a provider contract was expanded for the purpose of hiring these expeditors and the provider was instructed to place five on its payroll. In 2011, ten retirees received wages as expeditors. As of the 2012 contract with the provider, there were still six expeditors on its payroll.

Although on the provider's payroll and charged under the contract, the division maintains complete control over the locations, assignments, and supervision of the expeditors. The only involvement of the provider is to process their paychecks based upon a bi-weekly timesheet approved by the division and faxed to the provider. For its general and administrative role, the provider receives an annual fee of \$33,000.

There are post-retirement work restrictions that limit the amount of annual earnings state retirees can earn without jeopardizing their pension status as retirees. The circumstances surrounding previous and current retirees working under this contract indicates there is sufficient evidence to refer the matter to the Division of Pensions and Benefits for further review.

Recommendation

We recommend the department discontinue its practice of placing former employees on a provider's payroll. If there is a continued need for the services provided by these retirees, that need should be justified by the department and they should be brought back as employees on the department's payroll, subject to the limitations set by the Division of Pensions and Benefits.



Observation

The division should determine the continued need for contracted foster care providers.

The Department of Children and Families (DCF), Division of Child Protection and Permanency (division), formerly the Division of Youth and Family Services (DYFS) developed the contracted foster care program to supplement its recruitment and retention of foster homes. These programs provided service during periods in which DYFS was unable to recruit sufficient providers to address the needs of youth who required out-of-home placement. According to the most recent federal monitors' report as of July 2012, DCF maintains a capacity to serve more than twice the number of children than currently in out-of-home placement. In consideration of the federal monitors report, the division should perform a study to determine whether there is a continued need for all of the contracted foster care providers. The division is currently providing these services to 91 percent of foster care placements. By supplying these services in-house, the division can better monitor and control their delivery.



State of New Jersey

DEPARTMENT OF CHILDREN AND FAMILIES

P.O. Box 729

TRENTON, NJ 08625-0729

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ALLISON BLAKE, Ph.D., L.S.W.
Commissioner

February 1, 2013

John J. Termyna, Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

Dear Mr. Termyna:

Please accept this letter in response to your January 11, 2013 Office of Legislative Services, Office of the State Auditor (OSA) audit report entitled "Department of Children and Families, Division of Child Protection and Permanency, Contracted Foster Care and Related Services." I welcome this opportunity to provide information about our Department's work as I believe some of your recommendations coincide with the Department's current efforts.

I. New Jersey's Department of Children and Families is Now a Model Child Welfare System Due to Significant Reforms

As highlighted in your report, New Jersey's Department of Children and Families (DCF), Division of Child Protection and Permanency (DCP&P – previously known as DYFS) has made great strides in reforming its systems to ensure the safety and well-being of children as well as safe and timely permanency. Contrary to most of our sister states, New Jersey now maintains more than twice the number of available resource home placements necessary to serve children requiring out-of-home placements. Simultaneously, DCF successfully reduced the number of out-of-home placements by 44%, keeping children safe at home and reducing trauma associated with removing a child from a family. DCF has also become a national model for securing health care for children that require out-of-home placement by innovating and implementing Child Health Units at DCP&P local offices throughout the state. Finally, for those children for whom returning to their birth families is not in their best interest, DCF has greatly improved the timeliness of ensuring those children are adopted into loving forever families. As of the most recent reporting period, 88% of adoptions were finalized within 9 months of placement in an adoptive home.

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II. DCF's Use of Contracted Foster Care Agencies

Dating back to the 1980s until DCP&P's reform effort began in 2006, the state had a significant deficit of appropriate, safe and licensed foster homes for children who could not safely remain at home with their parents or caregivers. Recruiting and retaining appropriate foster homes during that time was a challenge. The deficit of foster homes was most pronounced for some of our neediest populations of children, such as those with behavioral health challenges and infants who needed to be placed in foster care immediately after birth. To address these critical shortages, the Division contracted with provider agencies that were able to provide foster homes to meet the needs of these children.

DCF wishes to acknowledge the efforts of these contracted foster care agencies and the hundreds of resource parents that were recruited, trained and supported by these agencies. The support provided by these agencies and the willingness of New Jersey's families to welcome children in need into their homes over these many years has been invaluable to the child welfare system in keeping children safe and free from further abuse and neglect.

The aforementioned progressive reforms have garnered many significant and positive changes to our child welfare system. Notably, we have successfully built a rich pool of diverse resource homes across the state, now licensing more than two times the number of beds than the number of children currently in foster care. Not only are we no longer in a period of crisis, our current capacity allows for very selective and specific placement decisions that provide better permanency and well-being outcomes for children.

III. DCF has and will Continue to Take Appropriate Action to Address the Challenges Identified in the Report with Contracted Foster Care Providers

As a threshold matter, the Department wishes to note that we have taken action to clarify policy with all contracted foster care providers. Indeed, even before we received the report, on December 11, 2012 DCF sent a notice regarding policy clarifications to all contracted providers and published the same on our web site. DCF has initiated meetings with providers where specific issues were identified in the audit report.

Moving forward, DCF will ensure that its contracted providers adhere to the Contract Reimbursement Manual (CRM) and the Contract Policy and Information Manual (CPIM) to ensure that reimbursed provider expenditures are reasonable, consistent with policy guidelines, related to client care, if relevant, and are appropriate expenditures of public

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funds. The Department will also clarify and strengthen policies and practices that invoke the expenditure of public funds to ensure that any inappropriate, unallowable or imprudent expenditure is not permitted.

Changes are being implemented at the Department regarding contract management to standardize and improve accountability and oversight of all contracting procedures, including:

- 1) Developing enhanced training for Business Office staff in the areas of auditing and contract management.

- 2) Strengthening our contract analysis to ensure the timely receipt, review and analysis of providers' expense reports. Additionally, the closeout process will be analyzed and strengthened to aggressively address backlogs in contract closeouts.

- 3) Initiating a thorough review of expenditures cited in the audit and taking action to recover any unallowable or inappropriate costs as is the normal practice at the end of each contract cycle. To date the Department has recovered over \$300,000 of the funds due to DCF as identified in the report. We are committed to recovering all funds due to DCF and will work with other government units to support the collection of any other funds that are due back to the State.

- 4) Working with the Department of Human Services to ensure consistency with implementation of salary guidelines. The salary guidelines were adopted in 2010 as a means of controlling State costs. DCF believes the guidelines have been appropriately implemented, but that this audit has identified some challenges that were not foreseen upon initial adoption. DCF will clarify these areas with its sister agency and provide additional guidance to providers. That being said, DCF disagrees that the salary guidelines should be interpreted to prohibit individuals from taking additional employment in addition to full time employment or its hourly equivalent. Rather, each contract needs to be considered independently to ensure that these individuals are appropriately providing the contracted services and being compensated appropriately for those services.

With respect to concerns regarding uniformity in monthly board payments for foster families, including those currently managed by contracted foster care providers, DCF will implement the same methodology for determining board payments for children residing in contracted foster homes as exists for children placed in DCP&P managed homes. However, DCF may consider alternate rates on a limited basis as necessary to ensure stability for children in those settings.

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With regard to the OSA finding that a NJSPIRIT limitation resulted in overpayments to providers between July 1, 2008 and April 30, 2012, the Department continues to enhance NJSPIRIT's capacity to provide strong fiscal support for the DCP&P operations, and believes that as a result of recent system changes, the potential for duplicate payments has been significantly reduced. As noted in the report, a Departmental review of this matter is underway, and any actual overpayments will be recovered.

With regard to Level of Service (LOS), the Department reviews all cost reimbursement contracts for compliance with LOS and to determine what role the contracted service plays in our needed service array that will allow the Department to meet its responsibilities for the safety, permanency and well-being of children. LOS is only one of many factors that the Department will consider in determining if programs should be consolidated, modified, or terminated. In fact, DCF is incorporating performance outcomes into all of its contracts and will be working with providers to assist in the transition from LOS to performance outcomes as a key measure of contract performance. Additionally, the substance abuse program specifically noted in the audit provides services beyond the one measure of LOS noted in the report. DCF will work with all of its agencies to ensure that LOS measures included in the contracts accurately reflect the full scope of the contracted work.

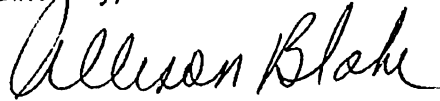
Finally, with regard to retirees working for contracted agencies processing adoptions, the Department has negotiated changes to the contract which clarify that the provider is solely responsible for identifying and hiring candidates and is responsible for the ongoing supervision of current and future employees within this program. There is a continued need for this program, which supports the adoption practice in DCP&P offices state-wide and has allowed the Department to continually decrease the number of legally free children awaiting adoption. Adoptions must be accomplished as quickly as possible so that children in foster care who cannot be safely reunified with their birth families can find their forever families. The contractor has been directed to select individuals who are qualified to review child protection records and prepare the necessary documents to support the child's adoption. However, there will be no DCF involvement in the decision-making process for recruiting, hiring and managing the provider's employees.

DCF's goal is to address each issue noted above within the next fiscal year. Furthermore, as a result of the dramatic progress of DCF's overall reform efforts, DCF will begin an intensive review of the entire contracted foster care program (and each individual contract), to ascertain if the program and the contracts are aligned with DCF's ongoing foster care needs. As part of this intensive review, DCF will work closely with each provider to determine if any additional changes are needed, and if so, how best to implement those changes.

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Thank you very much for this opportunity to respond.

Sincerely,

A handwritten signature in black ink that reads "Allison Blake". The signature is written in a cursive, flowing style.

Allison Blake, Ph.D., L.S.W.
Commissioner

AB:JR:mkb