The City of New York

Department of Investigation

Kenneth Conboy
Commissioner

THE DETECTION AND PREVENTION OF FRAUD AND ABUSE IN HUMAN SERVICES PROGRAMS CONTRACTED FOR BY GOVERNMENT AGENCIES

August 1987

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This project was supported by the National Institute of Justice (Award #84-IJ-CX-0079) and the New York City Department of Investigation

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FOREWORD

This report is divided into two parts, a "main body" and a series of appendices lettered A through G. Both parts are based upon the same original research and data but represent different levels of analysis and generalizability. The main body consists primarily of a conceptualization of the case data within the theoretical framework of a risk analysis and the internal control guidelines which follow upon such an analysis. For this purpose the original case data were re-worked and computerized to allow for detailed comparisons between the allegations in the sample of cases and the administrative functions to which they are related. This part of the report is especially relevant to jurisdictions contracting for human service programs.

Appendices A through F represent the status of the project as of the end of the National Institute of Justice funding for it. (Appendix G is a report prepared in December, 1986, after the project was completed, by the NYC Department of Investigation (DOI). This report outlines the new structure and functions of the Offices of Inspector General vis-a-vis the Department of Investigation and the City agencies to which they are attached. Portions of this report are discussed in the Executive Summary which was written in March, 1987.) Appendices A to F include a literature review prepared by the consultant to the project, Andrea G. Lange; a description of the Offices of Inspector General included in the project; the structure and functions of the three City departments in the study, summaries of the cases investigated by the three OIGs during the July, 1982 through December, 1984 time period of the study and the administrative recommendations made by the OIGs as a result of these cases. Each of these latter appendices was written by the staff of the project and can stand apart from the report as an administrative study of an OIG and its related City agency. They are also relevant to other jurisdictions contracting for employment training, community services and housing assistance programs.

The main body of the report, written during the second year of the project and supported by the NYC Department of Investigation utilizes the same case data as are in the appendices but in a selective fashion in order to highlight the risk analysis. In addition this part of the report outlines the results of the computerized version of the case allegations data which had been collected during the first year of the study. Most of the earlier tables based upon manual manipulation of the data had been eliminated from the appendices in order to reduce duplication and possible confusion over the minor discrepancies which usually occur in a change-over from manual to computerized analysis.

I. INTRODUCTION

In the past two decades, there has been a revolution in the way human services are delivered in this country. Largely because of the Great Society legislation enacted in the 1960's and changes in existing social services laws around the same time, governments now pay private agencies to provide many services that were formerly provided by government itself. In addition, the new Federal programs of the sixties included services government had not provided before, which were also delivered by private agencies.[1]

These changes have been referred to as the "privatization of the human services".[2] Although most of the private agencies involved are non-profit, for-profit firms have increasingly become involved in providing such services as day care, employment and pre-employment training.

By human services, we refer to services intended to assist individuals or communities through education and training; protective care, such as day care or foster care; rehabilitation; organizing, informing, recreational and cultural activities. We do not include government programs providing cash benefits. These (such as Social Security, veterans benefits, and income maintenance) are generally provided directly by government agencies. We also exclude most medical services and housing rehabilitation and construction, although health education or tenant organizing are included.

Most of the Great Society and other innovative social programs of the 1960's have survived into the 1980's, although the names of the sponsoring legislation have changed, as have the names of the Federal agencies in charge. The Economic Opportunity Act of 1964 included community services, education, and training for employment. In 1973, manpower programs were reorganized under the Comprehensive Employment and Training Act (CETA) which was superseded in 1984 by the Jobs Training Partnership Act (JTPA). In 1982, the remainder of the poverty programs that originated with the Economic Opportunity Act of 1964 (then known as Community Action Programs) were subsumed under the Community Services Block Grant (CSBG). Another important poverty program, the Demonstration Cities and Metropolitan Development Act of 1966, has been funded through the Community Development Block Grant (CDBG) since 1974. Thus the descendants of the Great Society programs are still operating, albeit with reduced funds, in New York and other states and cities under JTPA, CSBG, and CDBG.

Purchase-of-service contracts with private agencies offer many advantages to local governments for delivering human services. Such agencies are more likely to be located in the communities and should be better able to respond to community needs and to involve members of the community. However, they present inherent problems to government when they are considered as "agents", that is, the means through which government intends to achieve its own objectives. Government agencies must depend upon the strength and specificity of the contract negotiated with the private agency to assure that the private agency will carry out public objectives.

Because they deliver services, not tangible goods or cash benefits, human services programs are difficult to evaluate, that is, to determine if the contracts for programs have been fulfilled and if the services purchased have in fact been delivered. Recent budget cuts that have decreased funds for human services have resulted in disproportionate cutbacks in government resources available for monitoring contracts.

Shortly after the Great Society programs began, the enthusiastic idealism that heralded their birth was diminished by increasingly frequent reports of mismanagement, waste, and fraud in their implementation. Virtually all of the programs--the Community Action Programs, the Comprehensive Employment and Training Act programs, the Summer Youth Employment Programs, and Model Cities--were targets of severe criticism by the press, auditors and investigative agencies. The history of New York City's poverty programs provides numerous examples:

1970 HEW issued an audit of a South Bronx multi-service center, reporting that over $1 million in federal funds was missing, apparently as a result of double billing and " ghost" employees.

1975 The Chairman of the citywide Community Action Board withdrew $15,000 from a federal grant intended to combat alcohol abuse, using it as a down payment on a new home.

1975 The director of a drug rehabilitation program formed a dummy corporation to purchase a building for $75,000, then sold it to the government the same day for $350,000 for use by the program, thus defrauding the government of $275,000.

1976 The staff of a program receiving $312,000 for summer lunches for needy children was filmed, by a TV newscaster, dumping the lunches into a vacant lot. Community groups being paid to distribute the lunches were shown to be nonexistent.

1977 The Director of a Harlem economic development program was convicted of offering a $15,000 bribe to the Director of the Model Cities office in East Harlem in exchange for a $1 million lease agreement on a property in which an associate of the economic development program director had an interest.

1977 The Federal Community Services Administration decided to withdraw its funds from the entire Community Action Program in New York as a result of audits showing $12 million in questioned costs, in addition to other improprieties. (After the City reorganized the program, funding was restored.)

Poverty program scandals have received relatively little attention in the 1980's, compared with the late 1960's and 1970's. However, significant cases of fraud and abuse in human services programs continue to occur in New York City.

1983 A major jobs training center, considered exemplary, was closed when auditors found that $2 million were missing and that the center could not pay its bills.

1986 The head of a New York City Tenants Council that sponsored a variety of poverty programs was charged with obtaining $173,000 through embezzlement from the program, bribes and extortion from private vendors.

New York City has a Department of Investigation (DOI) whose Commissioner reports to the Mayor and which was established for the purpose of investigating fraud in City government. Each City department also has an Office of the Inspector General (OIG), with a staff of investigators and attorneys. The types of cases cited above are commonly referred to as "program fraud" by investigators at the DOI and in the OIGs. For several years before this research project was undertaken, DOI attorneys had been discussing the need to gain a better understanding of program fraud, that is to gain an overall picture of the types of fraud that were most prevalent, to understand their causes and to find ways to prevent them. Therefore, in October 1984, the National Institute of Justice (NIJ) awarded a grant to the DOI for a study of program fraud in NYC in the hope that results of the study might be useful not only in New York City but throughout the country.

II. SCOPE, OBJECTIVES AND METHODOLOGY OF THE STUDY

In 1984, New York City spent $1.3 billion, roughly 8% of the City's budget, on human services delivered through contracts with private agencies and firms. Fourteen of the City's departments and offices were involved in administering more than 3,000 contracts. In Table 1 below can be found the distribution of funds among City departments and offices.

Table 1

FUNDING TO HUMAN SERVICE CONTRACTORS WITH NYC GOVERNMENT DEPARTMENTS AND AGENCIES FOR FY 1984

City Dep't.	# Contracts	Total Amt. in 000's	Federal in 000's	State in 000's	Local in 000's
Human Resources Administration (HRA)					
Agency for Child Development	481	160,413	97,852	20,854	41,707
Special Services for Children	160	431,388	143,796	143,796	143,796
Family & Adult Services	200	396,654	198,326	99,164	99,164
General Social Services	1	1,322	992	165	165
Community Development Agency	359	20,000	15,800	0	4,200
Dept. of Employment	239	42,000	40,700	300	1,000
Dept. of Housing, Preservation & Development	69	3,400	3,400	0	---
Dept. of Parks	1	99	0	0	99

Dept. of Health	15	13,156	250	1,367	11,539
Dept. of Mental Health	217	87,387	30	63,456	23,901
Dept. for the Aging	275	28,729	24,265	4,185	279
Dept. of Correction	4	751	27	0	724
Dept. of Juvenile Justice	8	2,176	0	1,088	1,088
Office for Economic Development	55	58,000	23,000	0	35,000
Dept. of Cultural Affairs	110	3,000	0	0	3,000
Mayor's Office Criminal Justice Coordinator	27	14,016	5,921	7,445	650
NYC Youth Board	1,000	16,700	0	0	16,700
Total	3221	1,279,191	554,359	341,820	383,012

Three City funding agencies were selected for study: the Community Development Agency (CDA), the Department of Employment (DOE), and the Department of Housing Preservation and Development (HPD). Taken together, during fiscal year 1984, the three funding agencies administered about 20% of all the City's contracts with private agencies and firms and about 7% of the total funds granted. The three agencies were selected for this study because they form a natural cluster; they address strongly inter-related facets of social problems in impoverished neighborhoods.

Both the CDA and the DOE act primarily as conduits for federal funds, providing most or all of their services through contracts with independent, community-based groups. The DOE channels funds provided under the Job Training Partnership Act (JTPA) to contractors who provide training and employment services, including programs for adults, youths, ex-offenders, substance abusers, and other groups. The CDA acts as a conduit for federal Community Services Block Grant (CSBG) funds to not-for-profit agencies that provide education, employment, housing,

and other social services.

HPD differs from the CDA and DOE in that it usually uses its own staff to perform its primary missions, which are to maintain the City's huge holdings of residential housing and to enforce the housing code. However, HPD does contract with community agencies to aid in management of deteriorated housing and to help tenant groups work together to solve housing problems. HPD's contracts are funded through Community Development Block Grants (CDBG). The relationship of contractors in the three City program areas in this study to their federal, state and local funding sources can also be found in Table 1.

Study Objectives

The research part of this project was a study of the nature of fraud and abuse and of vulnerabilities in administrative systems and encompassed the first three objectives. The planning phase of the project was to include recommendations for change and the construction of "model systems" of human service fraud prevention and contract administration. Specific objectives were as follows:

1. To determine the nature, extent and seriousness of reported fraud, corruption, and abuse in the three selected program areas in New York City and to identify their characteristic patterns;

2. To design a method for utilizing investigative case data for internal control review;

3. To evaluate internal controls in the three selected human service contract management systems to identify vulnerabilities to fraud and abuse;

4. To make recommendations for improving the City's methods of administering human service contract programs, leading to the development of a model system for fraud prevention and for improved management of New York City contract programs;

5. To adapt the model system for national use.

Because of the need to develop methods of analysis for fraud and abuse that have been officially reported and investigated, this study deals only with those instances of fraud and abuse that have been reported either to the Department of Investigation or to the Inspectors General in the three City funding agencies.

A study of unreported fraud and abuse should be postponed until a thorough understanding is gained of the fraud that is reported and investigated, and until a system has been designed for making full use of fraud and abuse information now available in investigative agencies.

Methodology for Analysis of Investigative Cases

The first research objective was to determine the characteristics, extent, and seriousness of reported fraud, corruption and abuse in the three agencies. In order to accomplish this, the following steps were necessary:

- Define fraud, corruption and abuse.
- Assemble a database of cases of reported fraud, corruption and abuse in the three agencies.
- Analyze the database to determine the characteristics, extent, and seriousness of the fraud, corruption and abuse.

Definitions

A General Accounting Office (GAO) study of fraud and abuse in 21 Federal agencies found that the agencies did not employ an uniform definition of fraud. Indeed, most agencies did not define the term, relying instead on a list of activities they labeled as fraud.[3]

"Fraud," in its common meaning, does not necessarily include criminal behavior. The essence of fraud is "deceit, trickery, sharp practice, or breach of confidence by which it is sought to gain some unfair or dishonest advantage." (American College Dictionary).

Gardiner, Hentzell and Lyman define fraud as "intentional deception or illegal manipulation of government programs for personal benefit".[4] We adopt this definition, but add that the benefit need not be only personal. Intentional and deceptive misuses of government programs may be done on behalf of other extraneous interests. For example, knowingly appointing another person to a no-show job may bring financial benefit only to the appointee, but the fraud is equally perpetrated by the appointer. We also encountered fraud perpetrated apparently for the benefit of the contract agency itself. If the proceeds of a check fraud are deposited in the agency's account as a source of funds for emergencies, the check fraud is still a fraud.

Gardiner, et al. define abuse as "an improper use of program resources for personal benefit, but without the criminal intent essential to proving fraud".[5] Abuse can also involve relatively petty infractions carried out intentionally, but without fraudulent intention. An example would be signing timecards or other documents for other persons for the sake of convenience rather than fraud.

"Corruption" involves governmental officials receiving money or other goods in return for giving special treatment.

Definitions, as amended and used for this project, are as follows:

Fraud:	Intentional deception or illegal manipulation of government funded programs, involving violation of civil or criminal statutes, for personal or other extraneous benefit.
Abuse:	Involves improper use of program resources for personal or extraneous benefit, but without criminal intent to deceive.
Corruption:	Involves officials receiving money or other goods in return for giving special treatment.

Definition of Database of Reported Fraud and Abuse Cases

A case may be defined as an investigation of a complaint of wrongdoing or impropriety, followed by a resolution of the allegations raised in the complaint and any additional allegations raised in the course of the investigation.

An allegation is an assertion or statement that an error, wrongdoing, or crime has been committed. While the allegation may be proved or disproved, the allegation itself consists of the statement only, without any accompanying assumptions or proof of its truth or falsity. Cases can contain several allegations, often widely different and involving different aspects of program operations.

In order to define the database of investigative cases, we examined logs and files kept by the OIGs and listed all cases involving contract programs in the three funding agencies that were opened between July, 1982 and December, 1984. The resulting database consisted of 203 cases, divided as follows among the three funding agencies:

	CDA	DOE	HPD	Total
Cases dealing with basic contract agency operations	74	53	6	133
Cases dealing with special programs	28 (APB)	42 (SYEP)	-0-	70
Total cases	102	95	6	203

Because there were so few cases on HPD contractors, we considered eliminating HPD from our study. However, we decided to retain it because its administrative system for managing contract provided instructive comparisons with the other two agencies. (Since HPD investigated such a small number of cases, these are not included in the statistical tables on the following pages.)

Cases involving the CDA's Area Policy Boards (APB) included allegations and issues unique to the APBs. The Summer Youth Employment Program (SYEP) has a separate administrative structure from the DOE as a whole and has distinctly different goals, programming and client eligibility requirements. Thus, cases arising from these two special programs were separated from the rest of the database for some purposes.

Development of Methods for Data Collection and Coding

In order to analyze case data, it was necessary to develop a set of categories for systematizing and summarizing information that is essentially qualitative. Although case data files are kept in a fairly uniform fashion in the OIGs we studied, the files consist primarily of narrative reports. Each case file begins with an intake report summarizing the original complaint, its source, subjects and the allegations involved. Interviews with subjects, materials collected during the investigation, correspondence, and work papers and progress reports are filed chronologically. A detailed closing report concludes the file.

A two-page data collection form was developed for summarizing case data. The following information was included on the form:

1. The source of the original complaint and subsequent steps taken in referring it to the OIG.

2. Subjects involved.

3. Allegations made at the time of the complaint.

4. Subsequent allegations developed in the course of the investigation.

5. Resolution of allegations as substantiated or unsubstantiated, fraud or abuse.

6. Investigative techniques employed.

7. Areas that should have been investigated, in our judgment, but were not.

8. Monetary losses resulting from the case; amount recovered; sanctions, penalties, and other outcomes.

9. Administrative recommendations made by the OIG to the agency.

Complaints, allegations, and descriptions of investigations were recorded in a structured narrative format on the data collection sheets used to extract information from OIG files. Later, coding categories were developed, and the data coded for computer input. Some of the categories developed for analyzing case data need further explanation before findings can be presented.

Allegations:

A standard set of allegation categories was not in use in the OIGs at the time we gathered data, though such a system is now in the process of development. Information we gathered from case files was in the form of our own summaries of investigators' descriptions of allegations. We then used these summaries to develop a set of allegations categories, using content analysis techniques. Ninety-four highly specific allegation categories were then developed, some containing only a few allegations. These specific categories were then used to group the allegations into more inclusive categories for analysis of the nature of fraud and its relevance to administrative controls.

Resolution:

The various options for resolution of allegations were categorized as follows:

- Substantiated fraud.
- Substantiated abuse.

- Not substantiated.
- Not investigated.
- Referred to another agency for investigation.

Determining the resolution of individual allegations was sometimes difficult, due to the narrative style of investigative reports. Case closing reports describe outcomes for the case as a whole, which might include termination of contractor staff involved, defunding of the contractor, or referral of the case to the DOI or the DA. However, the resolution of individual allegations frequently had to be inferred from narrative accounts. Thus, data on resolutions represents our judgment in some cases.

The application of the definitions of fraud and abuse was also frequently a matter of judgment applied during data collection and analysis. Staff of the OIGs are not concerned with labeling each allegation "fraud" or "abuse." Instead, they focus on whether the case as a whole is sufficiently serious to refer to the DOI or the District Attorneys.

Sanctions and Outcomes:

Substantiated allegations were further coded to reflect the sanctions recommended by the OIG at the time of case closing. Categories developed include:

- Agency should be defunded, or should not be refunded.
- Funding should be suspended pending outcome.
- Agency must fire or suspend staff involved.
- Some or all board members must be replaced.
- Agency (or a vendor doing business with the agency) is barred from future business with the City.
- Fine or restitution of loss must be paid.
- Case was referred to the DOI or the DA or another investigative or prosecutorial agency.
- A recommendation was made for administrative changes as a result of the case.
- No sanction was indicated in case records.

Many allegations resulted in more than one sanction. Sanctions as they relate to each allegation were categorized and recorded in the database.

Loss and Recovery:

Sometimes investigations reveal the precise amount of monetary loss through theft, misappropriation, double billing, etc. However, when the value of goods or services lost through fraud and abuse is not readily apparent, investigators do not usually attempt to estimate the worth of the loss. Losses reported in the following section are based only on those documented in case files. When substantiated allegations seemed to have led to losses that were not estimated, this fact was recorded without an attempt at a specific estimate.

Problems Encountered in Constructing the Case Database

Construction of a computerized database for investigative case data has certain inherent problems due to the many variables involved in each case and their inter-relationships. Each case included from one to fifteen allegations, each of which had one or more subjects. Often the number of subjects involved in a single allegation was unclear. The case file might read: "The executive director falsified documents with the assistance of staff members." To handle this problem, we counted a separate allegation for each different category of person involved in the fraud or abuse. Thus, if a case of check fraud involved the executives, board members and staff of a contract program, three separate allegations of check fraud were counted for that case, with three subject categories. As a consequence, we are able to indicate the frequency with which each type of subject was involved in each type of allegation, but not the total number of subjects involved.

A similar problem was encountered in analysis of sanctions. A sanction was coded for each substantiated allegation. The same sanction was sometimes given for more than one of the allegations in a case. When this happened, the sanction was counted once for each of the allegations.

Collection of Information on Administrative and Fiscal Systems

Information on overall program structure and operations was gathered primarily by means of interviews with staff and management of the three funding agencies and their Inspectors

General. We also requested all forms and written procedures in order to verify the verbal accounts and gain additional detail.

We interviewed all assistant commissioners and most directors and unit heads of funding agency departments involved in fiscal or programmatic management of contract agencies. About 45 managerial employees in all were interviewed. We also selected approximately 40 contract managers for interviews.

In order to select contract managers, we first made a list of contractors in our sample holding contracts with more than one of the three funding agencies. We then selected contract managers in each funding agency assigned to these contractors. The purpose of this method was to gain a perspective on contractors with multiple funding sources.

Visits to Contract Agencies

We selected eleven contractors for field visits and interviews. Contractors were not randomly selected, but were instead selected to gain information on specific concerns. Seven contractors were selected from the list of multiple contractors mentioned above. We also selected four contractors who had previously been investigated in order to determine whether appropriate procedural changes had been made. (Two of the multiple-funded contractors had also been investigated.)

Input from the Advisory Committee

Our project advisory committee was extremely helpful and influential in developing project methodology. The committee held two meetings, one in the first month and one in the ninth month of the project. At the second meeting, the committee strongly suggested that we focus the project on the contributions it could make to the national movement toward internal control review. As a consequence, we re-directed our analyses and recommendations toward the development of methods of internal control review that can be used for fraud prevention and improved management of human service contracts, not only in New York City but throughout the country.

III. RESULTS AND FINDINGS

What is the nature of program fraud? How serious is it?

Although a substantial percentage of CDA and DOE contractors were investigated by the OIGs during the study period, documented monetary losses represented less than three percent of total funding for the period for the two agencies. These and related findings are presented in Tables 2 through 4, below.

Table 2

SUMMARY OF ALLEGATION STATISTICS

	CDA	DOE
Total Allegations	228	231
% included in complaints	71%	59%
% developed during investigation	29%	41%
Number substantiated as fraud	54	65
Fraud allegs. as % of total allegations	23%	28%
Number substantiated as abuse	56	49
Abuse allegs. as % of total allegations	25%	22%
Total number substantiated	110	114
% of all allegations	48%	49%
Documented $ loss	$135,000	$2,500,000

Table 3

PERCENT OF INVESTIGATIONS UNCOVERING FRAUD OR ABUSE:
Percent of Contractors Investigated

	CDA	DOE
Total Investigative Cases	102	95
Cases with substantiated fraud or fraud & abuse	17	33
Cases with substantiated abuse only	32	24
Total cases with substantiated allegations	49	57
Total number of contract agencies	359	239
% investigated, 7/82 - 12/84	28%	40%
% with substantiated allegations	14%	24%
% with substantiated fraud or fraud and abuse	5%	14%
% with abuse only	9%	10%

Table 4

RATIO OF LOSS THROUGH FRAUD AND ABUSE TO TOTAL FUNDING

	CDA	DOE
Total funding 7/82 - 12/84	$42 Million	$76 Million
Total documented loss through fraud and abuse	135,000	2,500,000 (1,300,000 without one extreme case)
Loss as % of total funding	0.3%	3.2% (1.7% without one extreme case)

The 197 CDA and DOE cases in the sample involved a total of 459 allegations. As can be seen in Table 2 roughly two-thirds of the allegations were included in the reports or complaints initiating investigations. However, about one-third of the total allegations developed after investigations were initiated. Investigations averaged somewhat more than two allegations each, and were generally open for three or four months.

In Table 2 it can be seen that nearly half of all allegations were eventually substantiated. About half of the substantiated allegations (one quarter of all allegations) proved to be fraud, and about half were abuse.

Although this study focused mainly on the analysis of allegations, it is also useful to consider cases, in order to provide a picture of the proportion of cases developing serious allegations and the percent of contract agencies involved in investigations. These figures are provided in Table 3. In the table it can be seen that investigations were initiated on 28% of the CDA contractors and 40% of the DOE contractors from July of 1982 through December of 1984, the study period. For 14% of all CDA contractors, the allegations were substantiated; for 5% these were substantiated fraud allegations. For the DOE, the percent of all contractors with substantiated allegations and with substantiated fraud allegations were 24% and 14%. respectively.

Loss figures may be somewhat more meaningful than substantiated allegations because they can be compared with estimates for total funding for the time period of the study. (See Table 4).

Half of the DOE's loss resulted from a single, spectacular case, involving losses of $1.2 Million. When this case is removed from the calculation, the ratio of loss from fraud to the DOE's total funding is 1.7%. However, the CDA's loss is even lower--about 1/3 of 1% of its total funding.

These figures are low, compared to federal estimates of loss through fraud, annually at up to 10% of total funding for social benefit programs. However, our estimate includes only documented losses. Estimates of potential losses due to abuse or mismanagement were not included in our study, although other studies generally include such figures. Estimates of fraud by various federal sources have been criticized because they include so many judgmental factors.

We could assume that the CDA's and DOE's fraud loss ratios define a range of more or less typical losses for such programs. If so, the total documentable loss through fraud for the City's contract programs would be between $4 and $22 Million annually.

Examining the various types of fraud and abuse is more rewarding than attempting to assess summary figures for only two agencies. In order to do so, we grouped the 94 subcategories of fraud and abuse in two different ways: the first grouping was intended to reflect the nature of the fraud or abuse occurring; the second method groups allegations according to administrative functions. The results of the first method of grouping are shown on Tables 5 and 6 below.

Table 5

THE MOST COMMON TYPES OF FRAUD

CDA and DOE contractors, July 1982 - December 1984

	Community Development Agency			Department of Employment		
	# of substantiated allegs.	%*	$ loss	# of substantiated allegs.	%*	$ loss
Check Fraud (theft, forgery of check or theft of funds using checks)	9	17	$35,341	15	23	$123,290
Other False Documents	15	28	2,668	9	14	4,000
Miscellaneous Fraud	6	15	0	13	20	110,000
Client Participant Eligibility	0	0	0	10	15	119,474
No-Show Staff or Inflated Staff Time**	5	9	172	4	6	30,573
No-Show Participant**	0	0	0	0	0	5,283
Collusion	4	7	0	3	5	0
Misuse of Contractor Equipment, Supplies or Resources	4	7	41,922	0	--	0
Failure to Pay Obligations	1	2	1,579	4	6	70,000
Dual Employment	3	6	42,303	0	--	0
Double Billing	2	4	0	1	2	7,000

Table 5 (continued)

THE MOST COMMON TYPES OF FRAUD

CDA and DOE contractors, July 1982 - December 1984

	Community Development Agency			Department of Employment		
	# of substantiated allegs.	%*	$ loss	# of substantiated allegs.	%*	$ loss
Theft of Equipment, Cash	1	2	800	3	5	270
Extortion	1	2	0	2	3	0
Kickbacks	1	2	0	2	3	0
	54	101%***	$124,785	65	101***	$469,890

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* Percent of substantiated fraud cases in agency.
** Loss associated with some of these allegations was classified under "Check Fraud" if checks were stolen.
*** Rounding error.

Varieties of Fraud

A constellation of criminal activities known collectively as "check fraud" was the most common single vehicle for misappropriating agency funds in the human service contract programs in this study. As can be seen in Table 5, check fraud is the most common allegation and the most serious form of loss by fraud in the DOE and among the most serious in the CDA. The reason it is not more serious in the CDA is that most CDA programs do not control their own bank accounts. Instead, disbursements are handled by a fiscal agent. Fraud involving misuse of check-writing responsibility or theft and forgery of checks is probably the most common form of fraud in any human service program in which contractors control their own bank accounts. However, it may also occur with contractors whose checks are handled centrally by means of other false documents.

The most straightforward form of check fraud is tantamount to embezzlement, since it involves the direct theft of funds from agency accounts. It may be carried out by those who have direct access to blank checks--generally agency executives and bookkeepers, although others may also gain access through faulty internal security systems. The perpetrator writes a check to himself or an associate, possibly attempting to disguise it as a reimbursement for a legitimate expenditure or covering it through manipulating accounting records. Methods of delaying discovery of embezzlement are to prevent other staff from having access to accounting records or to destroy these records, claiming an accidental fire or flood. Frequently, by the time the fraud is discovered, the executive or bookkeeper has left the agency and attempts to locate him/her are unavailing.

Those without direct access to blank checks may also participate in check fraud by stealing checks made out to others and forging endorsements. This theft may be carried out by outsiders who know when agency staff pick up payroll checks from automated payroll companies or participants' checks from funding agency distribution centers. Such thefts have occurred occasionally, sometimes engineered by former staff who are familiar with check distribution procedures

The most common form of check fraud, however, is performed by staff or executives currently working in the human services contract agency. The theft is made possible by preparing false documents to generate a check, then intercepting the check after it is signed, forging and cashing it. Because of the false documentation that precedes it, the check will usually appear in the books of accounts as a legitimate expenditure. The false documents required to produce the check are generally timesheets and related personnel records or purchase orders and invoices.

When an employee or paid participant terminates his work in a program, supervisors are required to fill out a personnel

action form, noting the termination. The termination form, when received by the payroll department in the agency (or in the funding agency, if checks are centrally generated), will trigger the removal of the terminated person from the staff or participant payroll. In order to steal checks, it is common for supervisors to omit sending in the termination form and to forge and submit timesheets for the terminated staff or participant. When checks arrive, they are forged and cashed.

The agency's purchasing system may also be used to generate checks for fraudulent purposes. Invoices may be fabricated--or paid invoices may be recycled--causing executives and board members to sign checks which are then intercepted by staff, forged, and cashed. A more elaborate method is for staff or executives to set up a dummy corporation, with its own bank account. Invoices are then submitted by the corporation, and the resulting checks deposited to the corporate account. Forgery is unnecessary, because the staff involved--or their collaborators--are the principals of the corporation and may draw upon its account.

Check fraud is not the only method of misappropriating funds, although it is the most common. Most of the others, however, also involve the falsification of documents. Falsified documents are the most frequent form of fraud found in CDA, and the third most common in DOE. Staff or participants may be paid for more hours than they actually worked by filling out inflated timesheets. Vendors may inflate their payments by billing contractors for more than the value of the goods delivered.

Both types of inflated payments generally involve collusion between the staff who approved the timesheet or invoice and the recipient of the inflated payment. These are the situations in which bribery and kickback allegations are most common, because the staff person approving the falsified document needs an incentive.

Allegations of kickbacks, bribes, and extortion are fairly rare in this study, and they are even more rarely substantiated, as can be seen in Table 5. A possible reason is that the financial incentive in fraud is not usually sufficient to create a motivation for frauds that require proceeds to be split between collaborators. Perhaps that explains why outright check fraud is more common than inflated billing schemes.

One exception proves the rule. A supplier approached a CDA contract director offering to sell supplies to the program at an inflated price in exchange for a kickback, adding that a large number of other directors were doing it. This fraud was "worthwhile" for the supplier because he was able to institutionalize the arrangement among a large number of programs, even though the payoff resulting from each individual transaction was small.

The second most costly form of fraud for the DOE during the period of our study, was falsified client/participant eligibility. Like check fraud and inflated payment documents, it can be seen as a form of misappropriation. Since ineligible clients/participants have no right to the services they receive, their use of the service is a form of theft. The ineligible clients/participants were almost all in the Summer Youth Employment Program (SYEP). The problem has since been corrected by means of a program instituted cooperatively by the OIG/DOE and the SYEP administration. The OIG supplied training to SYEP program staff in identifying possibly falsified documents, and helped to set up a procedure for intensive review of the eligibility of those so identified.

One of the most significant forms of fraud for the CDA does not involve falsified documents and does not appear in the books of accounts, so it may easily be ignored. This is the sale of goods or services--generally food or recreational equipment--intended for free distribution to community members. (The "loss" of nearly $42,000 indicated in Table 5 is the amount estimated to have occurred during the time period of this study.)

Varieties of Abuse

Most allegations may be either fraud or abuse, depending on the intent of the perpetrator. Falsification of documents, for example, is often done for convenience or out of ignorance of regulations, in which case we classified it as abuse rather than fraud. The most common example was staff who filled out and signed timesheets for other employees or participants because the latter were in the field that day. Such errors are often detected fairly easily; since there is no fraudulent intent, the perpetrators make no attempt to disguise their handwriting. When payroll offices receive a series of timesheets signed in the same handwriting, they know the forms have been falsified. In general, however, as can be seen in Table 6, abuse allegations present a different profile of categories than fraud.

Table 6

THE MOST COMMON TYPES OF ABUSE

CDA and DOE Contractors, July 1982 - December 1984

	CDA			DOE		
	# of substantiated allegs.	%*	$ loss	# of substantiated allegs.	%*	$ loss
Conflict of Interest, Nepotism	13	23%	7528	7	14%	7,907
Miscellaneous Abuse	6	11	2845	19	38	221
False Documents Expediency or Ignorance (includes false eligibility)	6	11	0	10	20	7,394
Abuse Related to Citizen Election or Board Activities	11	20	0	NA	NA	NA
Poor Quality Program/ Service	7	13	0	3	6	0
Inappropriate Staff Behavior (non-criminal)	5	9	340	3	6	0
Failure to Pay Obligations, (no fraud intended)	3	5	0	7	14	1,985,000
Time Abuse, Staff	3	5	0	1	2	0
Misuse of Contractor Equipment or Resources	2	4	0	0	0	0
Total	56	99**	10,713	50	100	2,000,522

* Percent of substantiated abuse allegation for the agency.
** Rounding error.

Because of the single significant case referred to earlier, total losses for abuse in the DOE exceed the total loss for fraud. "Failure to pay obligations"--over a million dollars in withholding tax and pension funds payments--was the most visible outcome of the massive mismanagement problems that drove a formerly respected employment training program out of business in 1984.

Abuse allegations generally involve violations of regulations, poor quality services, or staff behavior problems. Mismanagement or poor service delivery certainly has an impact on the value of the product delivered by human service contractors, but the impact is not easily translated into dollars.

As can be seen in Table 6, conflict of interest combined with nepotism is the major source of abuse in the CDA, and also a major source in the DOE. Both types of offense may be fraud if criminal intent and personal gain are present. However, we classified the vast majority of these cases as abuse because they appeared to arise out of ignorance of regulations or naivete about the seriousness of the offense.

The above discussion is intended to provide the reader with an overview of fraud and abuse. Examples of underlying mechanisms were given to illustrate the picture, but in order to understand these mechanisms more fully, it is necessary to analyze fraud and abuse in the context of administrative functions, as will be done later in this report.

Who Reports Fraud and Abuse?

In Table 7 the sources of complaints that resulted in investigative cases in the two OIG's are presented. Not all complaints were sent directly to the OIG's. Complaints from the public frequently were sent to the funding agency or, occasionally, to the Mayor or the DOI, who then forwarded the complaint to the OIG. The original source of a complaint is most important in assessing the operation of control systems because it shows how a problem was originally detected. For example, a bookkeeper in a contract agency might inform the commissioner of the funding agency of a misuse of funds in his agency. The commissioner would then pass the complaint on to the OIG. In such a case, the discovery of the fraud would not have been the result of the funding agency's monitoring of the contractor's activities.

The sources were divided into "outside" and "inside" sources, a distinction that will be used later when data on sources are analyzed in relation to allegation categories. This distinction was made in order to determine how frequently the "official" monitors, auditors, and others in City government with oversight responsibility for contractors detected and reported contractor problems.

Inside sources initiated more than one-third of all complaints relating to CDA contractors and almost half of those relating to the DOE. The most frequent single source of inside complaints was the funding agency itself. These complaints generally came from commissioner's or assistant commissioner's offices or from the director of fiscal monitoring units, thus indicating the operation of effective monitoring procedures within funding agencies and the City as a whole. However, the majority of all cases were initiated by all outside sources taken together. Generally the staff of contact agencies themselves, were the most frequent outside source suggesting that there is an active self-policing function in the system.

Table 7

WHO REPORTS FRAUD AND ABUSE?

Origins of Cases Investigated by CDA and DOE OIGs

July 1982 - December 1984

	CDA		DOE	
	#	%	#	%
"Outside" Sources:				
Staff of contract agency (includes current & former staff)	25	24	23	24
Participants/clients	4	4	13	14
Public	12	12	5	5
News media	3	3	1	1
Candidates for APB	8	8	--	--
Anonymous	13	13	9	9
Total "Outside"	64	63%	51	54%
"Inside" Sources:				
Funding agency	27	26	34	36
IG	2	2	5	5
Other city agency or employee	2	2	4	4
Members of APB	6	6	--	--
"No data"	1	1	1	1
Total "Inside"	38	37%	44	46%
TOTAL CASES	102	100%	95	100%

Who Commits Fraud and Abuse?

The vast majority of fraud and abuse in the two systems was attributed to contract agency staff, executives, and to the contract agencies themselves, as can be seen in Table 8 below.

Reported fraud and abuse by funding agency staff was negligible. About 12% of fraud and abuse in the DOE involved clients/participants; no clients/participants were involved in CDA allegations.

About three-fourths of substantiated fraud and abuse was committed by staff, executives, or occasionally the board members of the contract agency.

Even though DOE client/participant eligibility and payments were often involved in allegations, participants were subjects of a relatively small percentage of total allegations in the DOE.

Sanctions

Although nearly one-fourth of all allegations investigated were substantiated as fraud (see table 2), only a small percentage of substantiated allegations were referred for criminal prosecution. As can be seen in Table 9 below about one-fifth of all allegations substantiated by the OIG/DOE were referred to the DOI or the DA, while about 14% of substantiated CDA allegations were referred.

In the DOE, the sanction of choice was an agreement with the subject for restitution of misappropriated funds. When such an agreement can be negotiated, the perpetrator may not be referred for prosecution.

In the CDA, the most common sanction for fraud or abuse was for the agency to be defunded or not refunded the following year. CDA also negotiates restitution agreements, but only 14% of allegations resulted in these agreements in CDA cases, compared to 32% in DOE cases.

Fewer than 10% of the allegations resulted in termination of subject staff, according to our data. However, it is possible that additional terminations occurred that were not recorded in case records.

The figures in Table 9 do not represent the absolute number of sanctions administered in the two systems because many sanctions applied to more than one allegation. One sanction, such as defunding a program, might apply to five allegations and thus would be counted five times in Table 9. In Table 10 below the actual number of sanctions in the major categories for cases involving fraud allegations are presented.

Table 8

SUBJECTS OF SUBSTANTIATED ALLEGATIONS

Subject	Community Development Agency			Department of Employment		
	Substantiated Abuse	Substantiated Fraud	% of Total Substantiated Allegations	Substantiated Abuse	Substantiated Fraud	% of Total Substantiated Allegations
Funding Agency (Staff, executive, or agency as a whole)	1	--	1%	6	1	6%
Contract Agency	18	10	25	24	14	33
Contract Agency Executive	10	21	28	10	13	20
Contract Agency Staff (Present & former)	6	12	16	5	15	18
Contract Agency Board	4	6	9	--	--	--
Contract Agency Client/Participant	--	--	--	2	12	12
Subcontractors to Contract Agency	--	--	--	2	3	4
Vendors	1	4	5	--	--	--
Area Policy Board (Executives & members)	7	--	6	--	--	--
Candidates for Area Policy Board	8	--	7	--	--	--
Other or Unknown Person	1	1	2	--	7	6
Totals:	56	54	98%*	49	65	99%*

* Total <100% due to rounding error.

Table 9

SANCTIONS RESULTING FROM SUBSTANTIATED ALLEGATIONS

Sanctions:	Community Development Agency				Department of Employment			
	Sanctions for:				Sanctions for:			
	Abuse Allegations	Fraud Allegations	Total Substantiated Allegations	% of all Sanctions in Category	Abuse Allegations	Fraud Allegations	Total Substantiated Allegations	% of all Sanctions in Category
IG Recommends Defunding Contract Agency	12	20	32	25%	9	6	15	12%
Fine or Restitution	6	12	18	14	14	26	40	32
Allegation Referred to DOI/DA	3	15	18	14	3	23	26	21
Agency Required to Replace Some or All of Board	4	1	5	4	--	--	--	--
Agency Required to Fire Subject Staff	3	7	10	8	2	4	6	5
Agency Debarred From Future Business With New York City	2	3	5	4	--	--	--	--
Subject Arrested	--	2	2	2	--	--	--	--
Participant Terminated	--	--	--	--	--	5	5	4
Area Policy Board Member or Candidate Required to Withdraw	4	--	4	3	--	--	--	--
Administrative Recommendation	15	3	18	14	9	--	9	7
No Sanction Indicated	12	2	14	11	13	12	23	19
Totals:	61	65	126	99%	46	76	124	100%*

* Rounding error

Note: Some allegations received more than one sanction.

Table 10

TOTAL SANCTIONS ADMINISTERED IN FRAUD CASES

	CDA	DOE
IG recommends defunding contract agency	18	8
Fine or restitution	10	25
Case referred to DOI	3	4
Case referred directly to prosecutor by IG	2	5
Total Sanctions	33	42

IV. AN ANALYTIC FRAMEWORK

The Use of Investigative Information in Internal Control Review

Investigative agencies produce a wealth of information that could be useful in evaluating and improving administration of government programs, Unfortunately, law enforcement information systems are not usually able to produce information that is sufficiently precise to pinpoint specific vulnerabilities in program administration. Our purpose is to show how investigative information can be analyzed in such a way as to relate directly to faults in internal controls.

As defined by GAO and the American Institute of Certified Public Accountants (AICPA), internal controls include the plan of organization, methods and procedures employed to safeguard assets and other resources and to assure that those assets and resources are used as directed by management and governing authorities.[6] Internal controls are the mechanisms and techniques that units of government or private businesses use to protect themselves against loss. In the case of government, losses are not only financial, but also include the loss of expected benefits through waste and mismanagement.

Internal controls are of two types:

- Prevention controls are features "built in" to the system to prevent errors, waste, fraud and loss. Prevention controls include trustworthy and competent personnel, segregation of duties, proper authorizations, adequate recordkeeping procedures, etc.

- Detection controls are procedures intended to discover errors, waste or fraud that has already occurred. They include audits, independent evaluations, and investigations.[7]

In 1983 Congress passed the Financial Integrity Act requiring that federal agencies conduct internal control reviews in their own agencies, with standards and guidelines supplied by the U.S. Comptroller and the Federal Office of Management and Budget (OMB). Each year, every Federal agency must go through this intensive self-study process, involving the correlation of hundreds of checklists and reports. The process has received mixed reviews; the major criticism is that real problems remain hidden in spite of the checklists unless substantive tests of procedures are also performed.[8]

A number of states and cities have also begun their own internal control review procedures. The Federal OMB has encouraged them to do so by requiring internal control reviews of programs involving Federal funds. New York City's internal control review procedure consists of a 10 page questionnaire to be filled out by assigned staff (usually the fiscal officer) in each City department. However, no questions specifically related to the management of human services contracts are included in the questionnaire.

Although many different systems and manuals for internal control review exist, there is a surprising degree of consistency in key concepts and methodology; however, different terminology is often used for similar procedures. After comparing, synthesizing and adapting the methods described in these manuals, we expanded them to make use of investigative case information.[9]

A major challenge to internal control review is to make manageable the plethora of procedures, programs, mechanisms, etc., presented by any good-sized governmental system or department. Most authors divide the review into two phases: an overview in which the territory is charted and general information is gathered, which leads to a more intensive analysis of specific areas of concern. During the overview phase, the activities of the governmental unit being studied are divided into sub-sections to prepare for the more detailed analysis of specific vulnerabilities. The detailed analysis may cover all the sections previously defined, or it may focus primarily on those judged to present the most serious risks.

The assessment of risk is at the heart of any internal control evaluation. Risk may be defined as the probability of loss from a specific area of government functioning--either from an organization as a whole, or from particular programs and activities. The loss is usually considered in terms of money, but social benefits may also be at risk, particularly in human service programs in which the production of such benefits is the major objective.

Risks are composed of two factors: the size of the potential loss and the probability of loss. The size of the potential loss--sometimes referred to as the "amount at risk"--is the value of assets or benefits processed by the governmental unit being evaluated. The probability of loss is determined by the efficacy of administrative and fiscal controls and by human factors, that is, the integrity of those involved in the transactions in question, the degree of their financial need, and the moral climate of the organization.

The terms risk analysis, vulnerability analysis, and internal control analysis have overlapping meanings, though they have been given more specific definitions for the purpose of

particular studies and manuals. For example, the manual used by the Federal Health and Human Services Administration uses the term "risk analysis" for a general overview of an organization, while "vulnerability analysis" refers to analysis of procedures on the micro-level".[10]

Most methods begin by dividing systems into "event cycles," which are interconnected series of events, repeated at regular intervals, each leading to a particular objective or outcome. The cycles are typically subdivided into functions, which are shorter chains of events within the cycles. The purpose of this division may be compared to the method used in searching for a lost person or object that might be found anywhere over a large area of terrain. In order to organize the search, boundaries are first drawn around the search area. The area is then divided into many small sections, each of which may then be searched minutely. The purpose of the division is to make sure the entire area is searched while focusing each searcher's efforts.

The number of major event cycles identified and the way they are defined depends upon the nature of the organization being studied. The cycles operating in a human service agency are similar to those operating in a private business firm. The three relevant cycles are the Revenue, Expenditure and Conversion/Inventory cycles. These cycles are defined as follows:

The Revenue Cycle consists of those activities required to obtain and justify funding to support service delivery, that is, the activities normally associated with program management and service delivery. The revenue cycle begins with the contract agency's application for funds and continues through contract negotiation, receipt of funds and delivery of services. Staff selection and supervision and management of the service delivery component of the program are included in this cycle.

Determination of client eligibility is also included in the revenue cycle. For the DOE such determination has a direct impact on the amount of funds that are received by the agency. Thus, client eligibility determination has a clear connection to contract agency revenue.

Statistics on program services required in various agency reports are also part of the revenue cycle, because they are assurance that the product purchased by the government has been delivered. For agencies with performance-based contracts, such reports take on a heightened significance. The DOE's reports on the number of participants placed in jobs (in addition to documentary evidence of these placements) determines whether the contractor will be reimbursed for the full amount of the contract.

The Expenditure Cycle consists of all activities necessary to pay contract agency staff, to order and pay for supplies and equipment, to pay rent, utilities, lease security deposits, etc.

The Conversion/Inventory Cycle includes the activities involved in the protection of inventory and program resources from conversion to illegitimate purposes. After resources--whether human or material--have been paid for under the expenditure cycle, they enter the conversion/inventory cycle. Procedures for keeping track of equipment inventory and for assuring the physical security of the program premises are the most obvious activities in this cycle. However, there are more subtle considerations involved. Management controls must be in place to prevent the use of staff time, equipment or the physical premises for extraneous purposes. An example of an extraneous purpose would be if staff used contract agency program equipment paid for by the funding agency to run a business for personal profit.

The above cycles are defined in terms of the contract agency's activities only. Internal control review for contract systems is complicated by the fact that many quasi-independent systems are involved, each with their own internal controls. Funding agencies on the city, state and federal levels have their own event cycles that interface with those of the levels above or below.

In Table 11 it can be seen how the event cycles for the funding agency interconnect with those of the contract agency. There is a rough similarity between the activities in the funding agency's and the contract agency's revenue cycles. The funding agency must apply to the state or federal government for funds, account for its revenues and report on expenditures. The contract agency's revenue cycle also begins with application for funding and concludes with reporting on service delivery.

Table 11
Relationships of Contract Agency Cycles and Function to those of the Funding Agency

Contract Agency		Funding Agency	
Cycle	Function	Function	Cycle
		Application to Federal and State funding sources	REVENUE CYCLE
		Receiving, depositing and accounting for revenue	
		Establishment of grant monitoring procedures	EXPEND-ITURE CYCLE
		Requesting applications	
REVENUE CYCLE	Application for funding	Evaluating applications	
	Negotiating contract	Negotiating contracts	
	Depositing and accounting for revenue	Disbursement of funds--accounting for expenditures	
	Client eligibility determination		
	Delivery of services		
	Reporting on service delivery	Monitoring contract compliance	
EXPENDITURE CYCLE	Staff payment, purchasing, payment of rent, utilities, etc.		
CONVERSION/ INVENTORY CYCLE	Physical security, protection of inventory and resources		

Analysis of risks, allegations and controls in the following pages is organized according to contract agency cycles. However, it is important to remember that all of the funding agency activities relevant to contracting are in the funding agency expenditure cycle. What is revenue for the contractor is, of course, expenditure for the funding agency.

After cycles and functions have been defined, the overall risks in each program, cycle and function can be assessed in order to identify those in which the risk of loss through fraud and abuse is greatest. The following indicators of risk will be used:

- Value of funds processed through the cycle or function;
- Non-quantifiable social benefits impacted by the function;
- Number of substantiated allegations related to the function;
- Percent of allegations originating within the control system (funding agency fiscal monitors, etc.);
- Amount of monetary loss resulting from substantiated fraud and abuse involving the cycle or function.

In order to develop the last three indicators, it was necessary to coordinate two sets of categories--the functional areas and the allegation categories.

Allegations usually fall easily into functional areas. Bid-rigging, falsified invoices, dummy corporations--all are obviously related to purchasing procedures. Another set of frauds and abuses are related to hiring and payment of staff.

The seriousness of the fraud in an area is measured by the number of substantiated allegations, the number of these that are substantiated fraud and the amount of money lost as a result of these allegations.

The source of allegations in a functional category can serve as an indicator of the operation of controls. The percent of allegations that were originally reported by sources within a control system is a rough indicator of the effectiveness of detective controls.

Internal control review consists mainly in the analysis of the specific chains of events, activities or transactions that compose each functional area. This may be done in greater or

lesser detail, but the key events are always those involving a decision by an individual or individuals to advance the process to the next stage--the next event or transaction in the cycle. After the key chains of events in each functional area are identified, control procedures and techniques involved in each chain of events can be researched and documented.

In order to use investigative cases in specific vulnerability analysis, it is necessary to go beyond the gross statistics used for the general risk analysis. In this study computer listings of case numbers for cases with allegations falling within each functional area were generated. The narrative case summaries were then sorted by functional area, and by allegation categories within the functional areas.

Case summaries for each allegation category were then reviewed in order to relate the behavior involved in the frauds or abuses to the events and controls in the functional area. In so doing, we kept the following questions in mind:

-- How did the fraud or abuse occur?

-- How, when, and by whom was it detected?

-- What internal controls were in place?

-- Did the controls fail or were they circumvented?

-- What additional controls or measures might have prevented the fraud/abuse?

Systems Overview and General Risk Analysis:

New York City, from one perspective, has never made a policy decision to manage human service contracts centrally. In the absence of any such policy guidelines, the City as a whole includes some of the necessary elements for a City-wide management system for human service contracts, but lacks many elements essential to such a system.

A case can be made for a central City-wide system of administration, if such a system is thought to be necessary to assure effective contract management, simply because the City is ultimately responsible for the disposition of funds received from the Federal government. Thus, the City should assume whatever form of control is necessary to assure the proper management of Federal funds. In addition, the City has an interest quite independent and separate from its responsibilities to federal funding sources. The City delivers most of its human services through the mechanism of purchase-of-service contracts. In order to provide overall policy guidance for its human service program,

it is in the City's interest to establish a central management capability.

Lack of Centralized Information on Human Service Contractors:

As shown earlier in Table 1., there were over 3,000 human service contracts entered into by New York City agencies in FY 1984. We gathered the information in Table 1 by means of a telephone survey of all City departments and offices, since there is no centralized, City-wide information on human services contracts. The New York State Comptroller, in a recently released study of the City's contracting process estimated that the City spent 1.8 billion in 1985 on such contracts, and his estimate excluded contracts of less than $10,000.[11] Thus, it is possible that the amount reported in Table 1 of 1.3 billion for 1984 was understated.

A majority of the human service contracts are awarded by one of the six agencies included in the Human Resources Administration (HRA). However, about two thirds of the City's human service contracts and one third of its funds are administered outside the HRA umbrella. Some of these services include employment, housing, and services to youth, the elderly the mentally ill. There is no central source of information on the number, amount or nature of these contracts.

The City held over 3,000 human service contracts in 1984. However, there is no way of knowing how many individual contractors were involved. Many City funding sources encourage contractors to have multiple sources of funding, and most do.

Human service contractors range from tiny, single-site store-fronts to huge non-profit institutions with satellite programs located throughout the five boroughs. Sometimes the satellite programs also have additional field offices. Relationships between the parent agency and the program sites may differ. In some instances, the City's contract is with the parent agency; in others the City contracts with the individual program. There is no way of knowing how many separate private agencies, or different entities, hold the 3,000 contracts.

Approval of Contracts:

Several City-wide entities are involved in the approval or funding of contracts. Contracts over $10,000 must be approved by the City's Board of Estimate, a body consisting of the Presidents of the five boroughs, the Comptroller, the City Council President and the Mayor. Except on rare occasions, all official members are represented by staff members.

In early 1986, the City began experiencing a series of corruption scandals relating to contracts for collection services and computer services that have shaken the City. As a consequence, there is a new concern about the objectivity and thoroughness of the City's contracting procedures. The Mayor's office has recently established a committee to review contracts before they go to the Board of Estimate. In response, many City departments have set up their own committees to review contracts before they go to the Mayor's committee.

At present, the Mayor's committee performs only a limited review of contracts let through the formal Request for Proposal process without competitive bidding. A two-phase review is performed. First, the process by which applications are solicited and evaluated must be approved by the committee. Second, any contracts with new contractors must be approved. However, renewed contracts need not be approved by the committee. Since the majority of human service contracts are renewals, the majority therefore are not reviewed by the committee.

After a contract is approved by the Board of Estimate (or by the administrative department for contracts under $10,000), it is sent to the City Comptroller to be "registered." After checking to make sure that the contract has all necessary signatures and documents, the Comptroller determines if an appropriation is available to fund the contract and whether funds have been encumbered. If the contract is approved, it is given a standard identifying number for accounting purposes. Although the Comptroller's office keeps lists of contracts, it does not have any aggregate information on them, including the number registered or the total cost.

The State Comptroller's report was critical of each step of the City's central contracting procedure, finding that no aggregate figures were kept, that files were frequently lost and that documentation of decision-making by Board of Estimate members or Mayor's committee members was missing. The State Comptroller recommended that the Board of Estimate should no longer be required to approve human service contracts, arguing that this function involved a mixing of legislative and executive responsibilities.[12] The State Comptroller found that Board of Estimate members were more interested in protecting the interests of their own constituents than objective evaluation of contracts. Most paid little attention to human service contracts, since almost all are renewals. The report recommends that these contracts should be approved by the Mayor's office alone.

Auditing Requirement:

In this report and in the common parlance of City government, "auditing" generally refers to a formal audit by an independent CPA firm. Various types of fiscal review by internal

funding agency staff are sometimes referred to as auditing, but we will use the terms "fiscal review" or "fiscal monitoring" for these internal activities.

The majority of human service contracts are audited at least yearly, and usually twice a year, although there are significant exceptions. Generally, the City funding agency selects, pays, and monitors the independent CPA firms that do the auditing. Funding agencies following this practice do so in order to assure the objectivity of the resulting audit. However, there is no overall City policy governing when City agencies should select auditors. In fact, there is no City-wide standard requiring audits of human service contracts. Requirements for audits usually come from Federal or State funding sources.

As a result of the single audit act passed by Congress in 1984, the City has adopted a "single audit" policy. In the past, each Federal grant has been audited as a whole. Under the new single audit requirement, a single audit will be done of all federal monies received by the City.

Although the single audit law does include stipulations relating to the auditing of contractors (which the law refers to as "subcontractors") it will result in little practical change in the City's auditing procedures for contractors. If a subcontractor receives a total of more than $100,000, the agency must be audited at least once a year or, alternatively, must have a "program review." All New York City programs already meet this requirement.

Unfortunately, the law does not require a unified audit of contract activities. Let us consider the example of a typical fairly large human service agency. It may have a small HPD Community Consultant Contract (CCC) for $30,000. Neither HPD nor the Federal CDBG requires an audit of this contract. The agency also has a small centrally-funded CDA program, which is included in CDA's unified audit of all the centrally-funded programs. In addition, it has a day care center funded by The Agency for Child Development (ACD), a senior citizens' program funded by the Department for the Aging and a DOE-funded Job TAP Center, all audited individually twice a year. Each of these programs is also monitored by the funding agencies involved, albeit with widely varying standards for monitoring and frequency of field visits.

For those City funding agencies that do select, monitor and pay for outside auditors for their human service contractors, the City Comptroller has issued Directive 5, which sets standards for selection and monitoring of auditors.[13] Directive 5 also includes specifications for the content and quality of audits, based primarily on the GAO Standards for Audit of Governmental Organizations, Programs, Activities and Functions (the "yellow book").[14]

Each funding agency is responsible for using the Comptroller's standards to contract with private CPA firms. The HRA has a large unit, the Bureau of Audit Review and Control (BARC), for the purpose of contracting with the private CPA firms and assuring that the audits conform to Comptroller's Directive 5. The BARC has a manual for auditors with separate sections for each type of human service contract under HRA.[15]

We did not survey other City departments to determine whether procedures are in place for contracting for and managing audits. However, the Comptroller studied these procedures in 1983 for one City agency, the Department of Mental Health and Mental Retardation, and found that the auditing process was managed very badly.

Thus, although the City's current monitoring and auditing procedures for the hypothetical agency described above would satisfy the Federal single audit requirement, this requirement will do nothing to unify the City's fragmented perspective on human service contractors. In each City funding agency, the single audit will require verification that every subcontractor receiving more than $100,000 has either been audited or has received a program review. However, no change in the current practice seems to be required by the single audit law, unless there are contractors in some programs that have been neither audited nor monitored--possible, but unlikely.

There is a general rule that contractors are audited twice a year, one a preliminary and one a final audit. Audits include both fiscal and programmatic review. However, there are some exceptions to this rule which we found in the agencies we studied. The CDA centrally-funded contractors are audited as a system, including CDA's fiscal agent. Site visits are made only to a sample of individual contractors in this group. HPD only requires audits for grants over $75,000, and permits contractors to select their own auditors.

Audits are useful if the auditee uses them to improve deficiencies in its operations. From the point of view of City management of human service contractors, audits of contractors are really only useful if the funding agency follows up on the implementation of audit findings by the contractor.

In 1985, the City Comptroller did a study of audit implementation for HRA programs. Twenty-six delegate agencies were selected from among the 16 largest social programs to verify whether audit recommendations were implemented. A total of 77 weaknesses (45 internal control and 32 compliance weaknesses) were identified at 17 of the 26 sampled agencies. All weaknesses had been corrected by the agencies in subsequent audits.

All human service agencies would do well to adopt a method

similar to the one used by the HRA's Agency for Child Development. The ACD's Audit Review Unit follows-up on all deficiencies identified by auditors by communicating directly with contractors and requiring written corrective action plans.

The City should establish uniform standards for auditing human service contractors and should expand the Bureau of Audit Review and Control (BARC) to follow up on those contracts not administered by HRA. (Although HRA-related agencies administer 75 per cent of the funds for human service contracts in the City, they hold only one-third of the contracts.)

The City's uniform standards should include the following:

- o Audits should be required for all contracts over a set amount, whether they are under the HRA or another agency.
- o BARC should become a City-wide agency and should monitor audit contracts for all human services contracts.
- o The City should require that all funding agencies follow systematic procedures for following up on major deficiencies identified in audits.

An overall City policy would also provide for coordination of auditing with other types of oversight. If, for example, the rule was that only contracts worth more than $25,000 annually needed formal auditing, then it should be assured that fiscal monitoring procedures were in place for contracts without auditors.

It is desirable for the City to have an overview of the human service contractors who do substantial business with the City. However, a true single audit of these contractors at the contractor level may not be feasible. Such an audit would require the auditor to be familiar with the regulations of each of the types of contracts an agency might have. According to auditing specialists in the BARC, this would not be practical. Nevertheless, it is desirable for the City to have an analysis of how the contracts delivered by the City fit together fiscally and operationally. Perhaps it would be possible to designate one of the auditors assigned by the City to do an overview of the fiscal operations of the agency as a whole, emphasizing internal controls, the flow of authority and the division of responsibility.

Investigation:

The City's investigative system also holds and, to some extent, shares information on human service contractors and participates in decision-making on them. Thus, it must be considered part of the human service management system which we are delineating in the City government as a whole.

Complaints are received by either the OIGs or DOI and may initiate investigative cases in either. For those agencies whose mission is primarily fulfilled through contractors, most cases will involve contractors; however, a percentage will also relate to matters internal to the agency.

When a case is opened at the DOI, the names associated with the case (all subjects of investigation and the names of firms or contractors involved in the investigation) are entered into a computer. OIGs follow the same procedure, but currently rely for the most part on a manual card filing system. Each OIG and the DOI maintain separate files. At the conclusion of an investigation, additional names that become significant in the course of the investigation are added. These files are searched whenever a new investigation is started in order to determine if any subjects have been involved in past investigations.

OIG files remain primarily manual, although they will soon be fully computerized and linked to the DOI system. This manual system presents a serious limitation in that overlap between OIG and DOI information will occur only if a complaint either was originally received by DOI and then transferred to an OIG for investigation, or an IG case becomes serious enough that DOI takes over the investigation.

Within the past two years, agencies have been required to send the names of proposed vendors and contractors for "hard" services to the DOI for an additional name check. However, this rule does not apply to human services contractors. (HPD, primarily a hard service agency, does send its Community Consultant Contractors through the DOI name check, even though these are human service contractors.)

Serious deficiencies in manual name check procedures were brought to light dramatically in the recent report by the commission assigned by Mayor Koch to investigate DOI's handling of recent bribery scandals. The Commission found that failure of what had been a completely manual information system at DOI prevented investigators from learning about complaints and investigations that included information that was critically important. It was unclear whether the system failed because investigators had failed to enter names, because the card index itself had become disorganized, or whether investigators failed

to access the system properly.

Aside from the inefficiency and inaccuracy of manual name check procedures, the existing system still presents basic

problems for investigating human service contractors. Investigative and background data on such contractors need to be consolidated in a single database which could be accessed by all OIGs and the DOI alike.

At present, there is a general assumption that the City's responsibility derives primarily from its stewardship for Federal funds. In fact, in 1984, the City had nearly $400 million of its own tax levy money invested in human service contractors--about one-quarter of all funding for these contractors. The City has its own interest in assuring the effectiveness of human services throughout the city and should establish policies, procedures and standards to assure the effectiveness of human service programs delivered through contractors.

Aside from social policy concerns, a unified system for managing human service contracts is amply justified in terms of fraud prevention:

- to assure that all of the many and varied City programs using contractors follow effective procedures for fiscal and program monitoring;
- to establish standards for fiscal and program monitoring;
- to unify the City's relationship with individual contractors in order to prevent double billing and profiteering on the City's contracts.

Because of the need for approval by local Area Policy Boards or Community Boards and because of the importance of support from local political leaders, human services contracts are inherently political. Even OIGs receive telephone calls from local political leaders attempting to influence the outcomes of investigations. City-wide standards should help assure that agency administrators and directors of individual programs remain free of such influence.

Comparison of the Risks in the Three Cycles

Each cycle presents characteristic types of risk for funding agency management, which are to some extent consistent across the three agencies in this study. However, the control systems utilized by the three agencies present different strategies for dealing with these risks.

Risks in the Revenue Cycle:

The initial and final activities in the revenue cycle involve application for funding and reporting on service delivery. (Client eligibility determination is also included in this cycle for those programs that require it.) Both the social and monetary impacts of the funding decision are great. The major problem in the revenue cycle is objective evaluation both of applications and of contract compliance in terms of service delivery.

The CDA's citizen participation apparatus can be viewed primarily as a control on the objectivity of the process of evaluating applications. The other two agencies attempt to control this risk through the use of criteria for evaluating applications and, in the DOE's case, a division of responsibility for evaluation.

With regard to the evaluation of delivery of services, all three agencies in this study rely primarily on contract managers who make site visits, supported by documents submitted by contract agencies and auditors. Both of these activities of the revenue cycle suffer from the same inherent vulnerabilities: the difficulty of verifying information submitted by the contract agency and of achieving objectivity in evaluation, whether of the initial application or of the quality of services delivered.

Risks in the Expenditure Cycle:

The types of risks characteristic of the expenditure cycle are entirely different from those of the revenue cycle. Obviously, the major risk is that many functions and activities in the expenditure cycle involve handling of funds. Although the funds handled in individual transactions are probably limited, the multiplicity and variety of transactions presents a tremendous problem of control.

The CDA and the DOE have devised contrasting methods of dealing with the risks in the expenditure cycle. For most of its contractors, the CDA handles all expenditures for staff, supplies, etc., centrally, through a fiscal agent (who is also a contractor). This solution brings with it its own risk; however, the volume of cash handled by the fiscal agent is much larger than the amount at risk in any individual contractor account. Thus, the controls on the fiscal manager must be much tighter than controls on individual contractors.

Risk in the Conversion/Inventory Cycle:

A risk in the conversion/inventory cycle stems from the fact that this cycle can tend to be ignored in short-term contracts.

It is awkward to deal with inventory resulting from a short period of accumulation of equipment.

Another source of risk in this cycle is the fact that inventory does not appear in accounts payable or accounts receivable and is not subject to normal audit procedures. The activity involved in the conversion/inventory cycle is perhaps an elusive one compared to those in the other cycles.

In Table 12 the distribution of allegations among the three cycles can be seen for the DOE and the CDA.

Table 12

RISK POTENTIAL IN CYCLES
AS MEASURED BY DISTRIBUTION OF ALLEGATIONS

DOE

	# of allegs.	subs. fraud	% of all fraud allegs.	subs. abuse	% of all abuse allegs.
Revenue cycle	71	16	25%	17	35%
Expenditure cycle	129	40	62%	25	51%
Conversion/ Inventory cycle	8	4	6%	0	0
Other*	23	5	8	7	14%
Total Allegations	231	65	101%	49	100%

CDA

Revenue cycle	109	7	13%	40	71%
Expenditure cycle	81	33	61%	11	20%
Conversion/ Inventory cycle	24	6	11%	2	4%
Other*	14	8	15%	3	4%
Total Allegations	228	54	100%	56	100%

* Allegations coded "Other" could not be sorted into cycles.

** Rounding error.

When allegations alone are considered, the majority of CDA's allegations relate to the revenue cycle, while the majority of DOE's relate to the expenditure cycle. However, if only substantiated fraud allegations are considered, the proportions in the expenditure and revenue cycles are similar, with more than three times the amount in the former than in the latter. With regard to substantiated abuse allegations, the CDA had a greater proportion in the revenue cycle while the DOE had a greater proportion in the expenditure cycle.

The conversion cycle is not an important source of allegations and substantiated fraud or abuse for either agency, although it is a somewhat more of a problem in the CDA than in the DOE. This finding is in contrast to the GAO's 1981 study of fraud in Federal government programs, which found theft of equipment to be the most serious source of loss and fraud in the system.

V. ANALYSIS OF RISK FOR SELECTED ADMINISTRATIVE FUNCTIONS

Introduction

The following sections treat a number of individual functional areas involved in the administration of human service contracts. Within each area, we will identify specific risks and analyze weaknesses in controls based, in most areas, on information from investigative cases.

The analyses in the following sections are suggested as a framework for use by funding agencies in designing their own internal control guidelines tailored to specific dimensions of human service contract programs. In designing internal control guidelines, it is useful to think in terms of "core functions" and "special functions." Core functions are those that are essential to the operation of any human service contract program, from day care to adult literacy to tenant organizing. Special functions are those that are specific to a particular program. Because it was not possible to analyze all functions for all three agencies in this study, we concentrated on core functions. The following sections present analysis and guidelines for several of these. The CDA and the DOE also have special functions that need their own internal control guidelines. CDA's citizen participation structure is a special function; for the DOE, client eligibility determination and payment are special functions.

Relationship of Allegations to Functional Areas:

The allegation categories were grouped together to relate as closely as possible to the functional areas, both "core" and "special." The row headings in Table 13 below specify the relationship of these allegation categories to functions.

Table 13
Allegations Categorized by Functional Areas

REVENUE CYCLE Core Functions	Allegation Categories	CDA Total allegs.	CDA % of all CDA allegs.	CDA # substantiated allegs.	CDA % of subs. allegs.	DOE Total DOE allegs.	DOE % of all DOE allegs.	DOE # substantiated	DOE % of subs. allegs.
Objective setting	(no allegs.)	0	0%	0	0%	0	0%	0	0%
Program application	Manipulation of application process	9	4	5	5	0	0	0	0
Contract preparation	Violation of specific contract provisions: conflict of interest/ nepotism	24	11	14	13	15	6	9	8
Deposit & accounting for revenues	Commingling of funds	1	**	1	1	4	2	4	4
	Unreported income	3	1	1	1	0	0	0	0
Service delivery	Complaints re services/ staff quality	18	8	8	7	11	5	3	3
	Inappropriate staff behavior	23	10	4	4	14	6	3	3
Reports on service delivery	Falsified program documents	5	2	3	3	6	3	1	1
Special Functions									
Citizen participation (CDA only)	Abuse of cit. partic. process	27	11	11	10	NA	NA	NA	NA
Participant eligibility determination; placement verification (DOE only)	Falsified eligibility/ placement	NA	NA	NA	NA	21	9	13	11

Table 13 (continued)

Allegations Categorized by Functional Areas

		CDA				DOE			
EXPENDITURE CYCLE Core Functions	Allegation Categories	Total CDA allegs.	% of all CDA allegs.	# substantiated allegs.	% of subs. allegs.	Total DOE allegs.	% of all DOE allegs.	# substantiated allegs.	% of all subs. allegs.
Handling checks	Theft of funds by check writing	5	2%	3	3%	6	3%	4	4%
Staff payment	Fraud & abuse involving staff payment	26	11	15	14	33	14	15	13
	Employee problems	15	7	4	4	11	5	3	3
Vendor payment	Fraud & abuse involving vendor payment	29	13	18	16	15	6	8	7
Special Functions									
Participant payment (DOE only)	Fraud & abuse involving partic. payment	NA	NA	NA	NA	56	24	29	25
Other	Other Expenditure Cycle allegs.	6	3	4	4	8	3	6	5
CONVERSION INVENTORY CYCLE Core Functions	Allegation Categories								
Inventory protection	Theft of equipment	7	3	1	1	4	2	0	0
	Selling or charging for free supplies	8	4	3	3	1	**	0	0

Table 13 (continued)

Allegations Categorized by Functional Areas

Protection of facilities & resources	Misuse of facilities & resources	8	4	4	4	3	1	0	0
Other allegations - not classifiable by function		14	6	11	10	23	10	12	11
Total allegations (all cycles)		228	100%	110	103%	231	99%	114	98%

* percent > or <100% due to rounding error
** percent less than 00.5%

Table 14
Percent of Inside Allegations and Amount of Loss for Each Functional Area

REVENUE CYCLE		CDA			DOE		
		Total CDA allegs.	% inside allegs. in category	$ loss	Total DOE allegs.	% inside allegs. in category	$ loss
Core Functions	Allegation Categories						
Objective Setting	(no allegs.)						
Program application	Manipulation of application process	9	67%	0	0	0%	0
Contract preparation	Violation of specific contract provisions: conflict of interest/ nepotism	24	33	$7,528	15	53	$747
Deposit & accounting for Revenues	Commingling of funds	1	0	0	4	50	
	Unreported Income	3	33	0	0	0	0
Service Delivery	Complaints re services/ staff quality	18	44	0	0	0	0
	Inappropriate staff behavior	23	26	340	14	0	0
Reports on service delivery	Falsified program documents	5	20	0	6	17	0
Special Functions							
Citizen participation (CDA only)	Abuse of cit. partic. process	27	52	0	0	0	0
Participant eligibility determination; placement verification (DOE only)	Falsified eligibility/ placement	NA	NA	NA	21	57	$126,239

Table 14 (Continued)
Percent of Inside Allegations and Amount of Loss for Each Functional Area

Core Functions	Allegation Categories	Total CDA allegs.	% "inside" allegs. in category	$ loss	Total DOE allegs.	% "inside" allegs. in category	$ loss
EXPENDITURE CYCLE							
Handling checks	Theft of funds by check writing	5	40%	$30,000	6	33%	$69,414
Staff payment	Fraud & abuse involving staff payment	26	12	$44,483	33	21	$2,062,278
	Employee problems	15	60	0	11	9	0
Vendor payment	Fraud & abuse involving vendor payment	29	55	$7,470	15	53	$4,629
Special function Participant payment (DOE only)	Fraud & abuse involving partic. payment	NA	NA	NA	56	46	$89,454
	Other expenditure allegations	6	17		8	50	$270
CONVERSION/INVENTORY CYCLE							
Core Functions	Allegation Categories						
Inventory protection	Theft of Equipment;	7	13	$800	4	50	$275
	Selling or charging for free supplies	8	0	$41,660	1	0	0
Protection of facilities and resources	Misuse of facilities and resources	8	25	$372	3	33	0
Not classifiable by function		14	14	2,845	23	52	$110,221
TOTAL ALLEGATIONS		228	35%	$132,653	231	38%	$2,463,252

Allegations are useful in several ways as indicators of loss in administrative functions if they are interpreted with caution. Tables 13 and 14 include the following indicators for each functional area:

- The number and percent of allegations in each functional area;
- The number and percent of substantiated allegations in each area;
- The number of allegations originating in the control system--included in the column headed "% inside;"
- Total documented monetary loss resulting from fraud and abuse in each functional area.

The total number of allegations in a functional area is obviously an important indicator of potential vulnerabilities in the area. However, it is important to consider that a large number of allegations can mean any or all of the following:

- Poor preventive controls;
- A large number of transactions;
- Good detective controls;

The distribution of allegations among the functions in Tables 13 and 14 is very uneven. For the DOE, the two special functions dealing with participants -- their eligibility, payment and placement --are the primary sources of allegations. Staff payment, a core function, is the next largest category of allegations in the DOE. For the CDA, the largest sources of allegations are vendor payment, staff payment and citizen participation, a special function in the CDA. These are followed closely by conflict of interest/nepotism and inappropriate staff behavior.

Allegations Included in Cases Initiated by Inside Sources:

The column headed "% inside" (in Table 14) is intended as a general indicator of controls in cycles. Inside sources include funding agency staff, OIGs and other "watch dogs" in City government. Outside sources include the public and sources within the contractor agencies, including their staffs and boards. Allegations were coded "inside" if they were included in

a case initiated by an inside source, whether or not that particular allegation was included in the initial complaint.

Overall, about one-third of allegations come from "inside" cases. However, in looking at the functions that include a large number of allegations, it is interesting to note that many receive at least half of their reports of wrongdoing from inside sources. For DOE's vendor payment, participant payment, and eligibility determination functions, about half the allegations originated inside the system. For those CDA functions with large number of allegations, we also find that at least half are reported from inside the system. Highly-reported areas include vendor payment, citizen participation and program quality allegations. These figures suggest that, although these areas are subject to frequent fraud and abuse, detective controls are effective in identifying a substantial amount of wrongdoing.

Functional Areas With Few "Inside" Allegations:

Two areas relating to contract agency staff have combinations of indicators suggestive of ineffective controls. One of these is the staff payment area in the expenditure cycle. Although this area is one of the most significant in both agencies in terms of total number of allegations and loss, only 21% of the DOE allegations and 12% of those in the CDA result from "inside" cases. This combination of indicators seems to suggest an area not adequately covered by internal controls.

Another area with low "inside" reporting rates is inappropriate staff behavior. None of DOE's 14 allegations in this category and 26% of CDA's 23 allegations came to the OIG through inside sources. These allegations include drug abuse, sexual abuse, political campaigning on the job. One reason these allegations are rarely reported by funding agencies to the OIG is that these types of offenses are more likely to be dealt with through inside administrative channels when they are encountered.

Analysis of Risk/Internal Control Guidelines For Selected Functional Areas

Each of the following sections is accompanied by a review of the activities in each functional area and risks related to each activity. Generally, the risks listed have been exposed by actual cases that are discussed in the text. However, a few of the risks are hypothetical in the sense that no specific case in the sample points to them. These statements of risk are based on the general principle that when government distributes benefits that have value to individuals, some individuals will attempt to gain these benefits for their personal use unless controls are in place to prevent them from doing so.

Revenue Cycle

Core Function #1: Setting Overall Program Objectives

There were no cases in the study that could be directly related to setting overall program objectives. However, this function is so important to management control that any risk analysis must begin with a discussion of program objectives.

Functions in the revenue cycle have a logical interdependence which flows from overall program objectives. Objectives serve as the cornerstone on which criteria for evaluating proposals and for planning and evaluating services will be established. If objectives are never specified, controls throughout the revenue cycle are jeopardized.

A variety of individuals, groups, boards, councils and committees become involved in setting objectives and priorities for human service programs. These decision makers can give emphasis to certain groups of clients, certain service providers and contractors, or certain geographic areas by virtue of the way in which objectives and priorities are stated. Because such decisions, abstract as they may seem, affect the distribution of resources, they must be protected against manipulation and conflicts of interest. On the positive side, such decisions should be structured and documented to assure their objectivity.

Federal authorizing legislation for the three programs we studied generally allows considerable state and local autonomy in determining the content of objectives for local programs, while, at the same time, determining the process that must be followed for local objective setting. The extent to which these procedures are specified varies with the Federal statute involved as below.

REVENUE CYCLE

Control Guidelines Chart 1

Setting Overall Program Objectives

Activity	Risk	Control Guidelines
Local objectives and priorities are set	Decisions about specific goals and priorities are manipulated to favor the interests of a particular individual or group	a. Objectives and priorities should be established through clear procedures by a committee or board that is elected or accountable to appropriate elected officials b. Decisions and procedures establishing objectives should be documented c. When priorities are based on client characteristics, or population needs, the sources of data and means of determining these needs should be specified d. Those persons who participate in objective setting and planning decisions should not be the same as those who might benefit from those decisions

DOE Program Objectives:

The JTPA statute authorizing the DOE programs establishes the broad purpose of the Act: "...to establish programs to prepare youth and unskilled adults for entering the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment." The statute sets parameters for target populations and eligible services, but includes a paragraph allowing states to "prescribe ... variations based on specific economic, geographic and demographic factors in the state and in the service delivery area."

The statute then carefully specifies the process by which state and local priorities and plans will be developed. Each state is required to set up a coordination council which sets overall objectives and designate local Service Delivery Areas (SDAs). Each SDA must then establish a local Private Industry Council (PIC) to establish local priorities and provide policy guidance on the local level.

New York City is a SDA and has its PIC, which is a 58 member council including representatives of private industry, local government and voluntary organizations, including some that are DOE contractors. The Federal statute requires a partnership relationship between the local PIC and the unit of local government responsible for employment programs, which is the DOE in New York City. Together, the partners are required to develop a job training plan every two years, which must describe the services to be provided, performance goals, and eligibility determination procedures based on an assessment of needs and problems in the local labor market. The plan must be made available for review by the legislature, educational and service organizations in New York four months before the program year starts. Summaries of plans for all localities must then be approved by the Governor.

New York's JTPA planning process meets Control Guidelines Chart 1, (a) through (c) extremely well. However, a potential problem appears in (d). Contractors receiving JTPA funds sit on the PIC board. There may be a potential for their encouraging the development of job programs that favor their particular capabilities, even though they are required to abstain from voting on matters that affect them specifically. More important, the PIC itself is a contractor, receiving millions of dollars annually, administered by its own staff.

Whether or not the Federal statute specifically forbids such conflicts, New York City should assure the integrity of its human service planning procedures in order to assure that they meet the needs of its citizens and remain corruption-free. Our review was not sufficiently detailed to establish that conflicts of interest actually exist in this area, but we recommend that the City study

the PIC board and its policy role to assure that these do not conflict with its role as contractor or the roles of contractors on the board.

CDA Program Objectives:

The Omnibus Budget Reconciliation Act of 1981 authorizes the Community Services Block Grant that funds CDA contractors. Public Law 93-35 states as a general objective of the program: "To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community..." This is followed by eight specific objectives, dealing with such needs as employment, education, housing, and achievement of "greater participation in the affairs of the community." In line with the latter objective -- the legacy of the "maximum feasible participation of the poor" mandate in early poverty program legislation -- the statute requires that the local Community Action Agencies set up boards consisting of one-third elected officials, one-third representatives of the poor and one-third private sector representatives.

New York City has a central Community Action Board (CAB) of 37 members and 33 Area Policy Boards (APBs) throughout the City, each with 21 members. Both the CAB and the 33 APBs become involved in setting program objectives before the submission of applications during each new program period (known by the CDA as the "Open Submissions Process"). The CDA staff and the CAB develop a set of "program priority areas" and APBs may then select individual areas of specialty for their own communities or accept the whole list. Because CDA's conflict of interest regulations prohibit the board or staff of contract agencies or CDA employees from sitting on Area Policy Boards or the CAB, there is no inherent potential for conflict of interest in CDA's objective-setting procedures. Thus, it appears that CDA's procedures for establishing program objectives adhere well to the Control Guidelines.

HPD Program Objectives:

HPD's Community Consultant Contractors (CCC) are funded by means of the Community Development Block Grant (CDBG). Like the other two Federal statues authorizing block grants, the CDBG requires the establishment of local objectives. Unlike the other two, it does not specify procedures by which these objectives will be established or any kind of local approval process.

Each year, the City is required to publish a plan listing all local programs to be funded by the CDBG, specifying the local and Federal objectives fulfilled by each program. Local objectives are filled in by an official in the City planning department based on his understanding of the purposes of each

program.

The purpose of the CCC program as given in the CDBG plan for the last few years is an extremely vague one: "program aids low and moderate income families seeking improved housing." This goal setting procedure has given free rein to HPD to specify its own program objectives.

Revenue Cycle

Core Function #2: Program Application

Procedures for program application, beginning with the advertisement of the RFP and including evaluation of applications by City funding agencies probably have the highest total risk of any function discussed in this report, even though very few cases in the sample involve any attempt to manipulate the application and evaluation procedures. The reason is, of course, that this is the function in which the most important resource allocation decisions are made. The "amount at risk" in this function is the total value of funding for contractors in each program. Each individual decision also involves large amounts of money. In recognition of this fact, most of the recent efforts at control of City contracts have focused on procedures for application and contracting. It should be noted that many of the inherent risks of abuse have been recognized by the City and its funding agencies and are reflected in control procedures. Thus, many of the "Control Guidelines" for the application process are drawn from the City's existing procedures.

REVENUE CYCLE

Control Guidelines Chart 2

Program Application

Activity	Risk	Control Guidelines
Eligibility for proposers determined; RFP written	Eligibility rules or RFP can be designed to favor specific groups	(1) RFP and eligibility rules should be reviewed by City-wide oversight body
Availability of RFP is published	RFP not advertised widely enough to give all potential applicants an opportunity to learn about it	(2) Timing and placement of advertisements must be governed by City-wide regulations
RFP and other essential information made available	Information made available selectively or given to some ahead of time	Records must be kept of information shared with contractors after the RFP is published. Information given to one applicant must be given to all
Contract agency writes proposal	Contract agency receives help from inside the funding agency	Conflict of interest regulations must be made known to contractors and funding agency staff, and emphasized through training
Proposals received by the funding agency	Proposals accepted after the deadline	Written procedures for receiving applications must be available; applications must be date-stamped, signed and logged in as received

REVENUE CYCLE

Control Guidelines Chart 2 (continued)

Program Application

Activity	Risk	Control Guidelines
Funding agency evaluates proposals; makes funding decisions	Individuals evaluating proposals have conflict of interest or other source of bias relating to specific applicants	Applications should be evaluated by at least two evaluators who do not know the identity of the applicant
		Application forms should be written in such a way that identifying data is separated from the other content, in order to make "blind" rating possible
		Contract managers and others previously associated with the applicant may write evaluations of past work, but should not participate in evaluation of current proposals, or in funding decisions
	Evaluation criteria not clearly defined	Evaluation criteria should be written in such a way as to provide a clear basis for decision making by evaluators, and should be derived directly from program objectives and requirements
	Criteria related to population needs not related to empirical data base	

REVENUE CYCLE

Control Guidelines Chart 2 (continued)

Program Application

Activity	Risk	Control Guidelines
Funding Agency Evaluation	Criteria related to population needs not related to empirical data base	Criteria related to population needs should be related to a standard database such as the US Census, Bureau of Labor Statistics etc. Evaluation instruments with clear instructions for applying criteria should be used, creating a permanent record of contract funding decisions
	Measures of past performance inadequate or unavailable, especially for work with other City agencies	Evaluations of applicants performance on previous contracts with funding agency should be prepared in standardized format and should be incorporated into evaluation of current applications
Funding Agency Evaluation		A City-wide database should be available to provide information on applicants past performance with all other City agencies
IG Review	Information on past IG investigations not available or not used	Procedures and forms for obtaining IG evaluations must be established

REVENUE CYCLE

Control Guidelines Chart 2 (continued)

Program Application

Activity	Risk	Control Guidelines
		Adequate time must be allowed for IG background check
		A City-wide database must be made available for contractor background checks

Soliciting Proposals:

Procedures for advertising the Request for Proposals (RFP) and issuing applications were quite uniform among the three agencies at the time of our study. The control guidelines regarding these procedures were drawn from the actual practice of the three agencies and from the guidelines of the Mayor's Review Committee, for the most part. We would suggest that when Review Agency guidelines are more specific than those issued by the Committee, the more specific version be adopted.

Evaluating Proposals: DOE

DOE's application forms are designed to allow for "blind" review, confining identifying data to a single section in the form.

Reviews are performed by DOE's Planning Bureau, program staff and budget staff. The Planning Bureau reviews the training curriculum to assure that it is adequate for preparation for the job titles indicated. Two different members of the program staff -- neither previously associated with the contractor -- also review the application. A point system for rating each aspect of the application is used, and contracts are awarded on the basis of the points awarded.

Evaluating Proposals: HPD

We examined HPD's proposal evaluation procedures for its Program Year IX, which began in March, 1984. The RFP and evaluation forms were both adequately detailed. However,

procedures used by HPD staff in evaluating proposals were poorly defined. Although an evaluation form was used, it did not include specific criteria for most items. For example, one item is headed "project planning rating", with spaces provided for rating the proposal "high, medium or low". However, no definition of project planning or criteria for judging it are included.

An item headed "responsiveness to needs of the area" is also open to subjective interpretation. Based on interviews with HPD staff, these needs are based on reports by the Community Planning Board in the area and on the judgment of planners assigned to the area. However, no specific criteria are used.

The most serious flaw in the system was that Project Managers who had been responsible for monitoring the contractors' past performance were responsible for rating. After ratings had been completed, a committee consisting of HPD management and staff met to go over the rating sheets and to make funding decisions. There were no established criteria or procedures for decisions made in these meetings.

The combination of loose criteria and loose procedures left HPD's proposal evaluation process for Community Consultant programs vulnerable to influence by individuals with strong preferences for specific groups (although we have no allegations or evidence indicating that this had occurred). Procedures followed for the recent proposal evaluation by HPD appear much improved. The RFP and application forms are unchanged, but the proposal review form is longer, more detailed and more specific. All criteria have been quantified, and awards are made solely on the basis of points.

HPD's new quantitative method of proposal evaluation appears to have worked well for them. However, we are not necessarily recommending that all funding agencies quantify all criteria for proposal evaluation. We are recommending that criteria and the method of applying them be clearly defined, and that procedures for proposal evaluation be structured in such a way that assures objectivity on the part of the evaluators.

Evaluating Proposals: CDA

The primary purpose of CDA's Area Policy Boards is to evaluate applications and make funding decisions. With 21 members on each of the 33 APBs, this means that nearly 700 people are involved in evaluating applications.

Applications are submitted, in response to a "Request for Proposals" (RFP) to the CDA within a specified time period known as "Open Submissions." The CDA then distributes the applications to the appropriate APBs for their consideration. During the time period for this study an RFP was issued, in May 1984, for

contracts to be awarded in late 1984, for an eighteen-month period between January 1, 1985 and June 30, 1986.

An "Administrative Guide to Open Submissions" (CDA, May 1984) was "prepared to assist APBs in the conduct of their responsibilities during Open Submissions, as well as to summarize the overall policies and procedures governing Open Submissions and the roles and responsibilities of the APBs and the CDA in this process."

The APBs were given six weeks (June 25 to August 7, 1984) to review proposals and make their funding recommendations to the CDA, which itself was simultaneously reviewing the proposals for various compliance purposes. Allowance for appeals and challenges to the APB recommendations and for various reviews of proposals and budgets by the APB's and the CDA took another four months (August 8 to December 2, 1984). The entire timetable for Open Submissions was published in the "Guide," for use by the APB's and CDA staff.

There were six cases in the sample related to improprieties in CDA's application process. Several of these have implications that go beyond CDA. Two cases involve falsified applications for funding, and one involved incomplete applications or ineligible contractors who nonetheless passed through CDA's initial in-house review of eligibility.

- One organization lied about the ownership of the program premises in order to conceal close linkage with another agency, whose chairman, a State senator, had been jailed on fraud charges. (C145/83)

- Another applicant lied about former funding sources in City government, indicating it had funding it did not have, but omitting to mention a DOE contract in which it had done poorly. (C201/83)

- Within one Manhattan APB, several organizations received funding although they submitted incomplete applications, or in one case, padded their list of board members with names of persons not on the board. (C200/84 and C196/84)

The first of these cases was identified by a CDA Assistant Commissioner familiar with the Senator's fraud case. However, the other two were discovered in the course of investigating unrelated complaints by community group members.

The second case cited above illustrates a weakness in the procedure used by the City generally in evaluating human service contractor proposals. Applicants are required to list other

current and past city funding sources on their applications. The City department then checks with these sources -- either by telephone or via questionnaire -- to determine the quality of past performance. However, this process depends on the veracity of the applicant in revealing other sources. At present, there is little to be lost by omitting mention of past contracts that have been troublesome.

It is essential for the City to establish a City-wide database on human service contractors to assure that applications are evaluated in light of the applicants' entire record in handling City contracts.

The third example above refers to the most serious application-related cases in the sample. As a result of these cases, the entire procedure used by one Manhattan APB was cast in doubt. Several cases were initiated as a result of an August, 1984, letter to the CDA Commissioner from a City Council member and from numerous programs that were defunded as a result of the 1984 Open Submissions. The allegations were as follows:

- When APB members finished their written ratings of proposals, the chairman took them out of the room. When he returned, he announced funding decisions without allowing additional input from the other board members.

- Conflicts of interest existed between APB members and two contract agencies recommended for funding.

One of the conflict of interest involved a day care center that was a subsidiary of a multi-service center recommended for funding by the APB in question. The APB chairman sat on the day care center's board of directors, claiming there was no conflict of interest, because the day care center was not funded by the APB, and because the day care center and the multi-service center had different boards.

The issue was decided in the State Supreme Court, which determined that two groups must be defunded due to conflicts of interest, and that the $350,849 awarded to the multi-service center must be redistributed. The judge determined that although the day care program had a separate board of directors from the multi-service center, the same people were in control. The judge stated that "a proscription against conflicts of interest can serve no purpose when it requires nothing more than the maintenance of the trappings of separateness." (The Village Voice, June 4, 1985)

As a partial consequence of these events, which were controversial and well-publicized, the City Comptroller did a study of the CDA that included the conflict of interest issue.

The Comptroller explained that the issue arose because "CDA recognized the establishment of program project boards (boards created expressly for programs applying for CDA funding)...CDA considered that a conflict of interest could apply to members of the CDA funded project boards only."

As a result of the Court ruling and the Comptroller study, the CDA has been working with the State to develop new conflict of interest provisions and in safeguarding the procedures used in APB meetings. The new conflict of interest guidelines are still in draft form, but they will probably include the following:

- More relationships that can create conflicts of interest, including unrelated household members and step-relationships, are being identified.
- Separate project boards will no longer be formed for CDA-funded projects. The board of the parent organization will serve as the board for its subsidiary project as well.

Because the City provides so much financial support for human services programs, the City needs to develop conflict of interest guidelines that can be used by all City departments funding such programs.

New York City agencies also normally investigate the backgrounds of prospective contractors to determine whether derogatory information exists relevant to the prospective contract. Appropriate guidelines for background investigations and the role of the OIGs in their conduct are as follows:

- The background investigation should retrieve all information on past investigations, inquiries and issues related not only to the subject contractor but to affiliates and principals.
- The agency's Office of the Inspector General should develop and make use of general policy guidelines for use of background information in making recommendations for funding.
- When potentially derogatory information is revealed through background investigation, the OIG's resolution of the issues raised by this information should be documented in the background files.

As part of this study, we did an intensive review of the OIG/HPD methods for reviewing applications with these guidelines in mind.

Background investigations within HPD programs are initiated by a request from an HPD program regarding prospective contractors, recipients of loans, and sponsors of other housing related projects. Requests for background checks on community groups are requested when the groups apply to become Community Consultant Contractors (CCC) or to be Community Management Programs (CMP). Since these groups may sponsor construction or rehabilitation projects or be the recipients of loans and grants, applications for these programs will also trigger a request for a background investigation. Background checks are done whenever contracts are renewed.

At the time of application, HPD program administrators ask applicants to fill out a "Contractor/Vendor Application and Disclosure Statement." These are then forwarded to the OIG with the request for the background check. The disclosure form requests information on all affiliates and principles of the firm or agency, and includes questions on previous business experience, financial background, any previous debarments and criminal records.

Tasks involved in the background check vary depending on the type of program involved. For the CCC and CMP the background unit:

- does a search of its own files using the names of all principals, the prospective contracting agency itself and all affiliates;
- contacts the DOI to determine whether previous investigations have disclosed adverse information;
- contacts the NYC Commission on Human Rights for EEO cases against contractors;
- contacts the State Attorney General to determine whether complaints have been received.

Developers, owners and community groups who apply for rehabilitation loans are required to fill out additional disclosure statements. The forms require disclosure of all property owned by the applicant firm or group, by its principals as individuals and by the general contractor who has been engaged to do the work. The OIG background unit then determines the agency's and principals' records as property owners in a variety of ways:

- a check with HPD's computerized listing of all residential property discloses the number of housing code violations on each property;

- o the HPD Housing litigation bureau is asked whether litigation is active or outstanding judgments against the property owners exist;

- o the New York City Arson Strike Force is asked to research the properties for records of suspicious fires.

Checks within HPD depend upon the veracity of the applicant in disclosing all property ownership. However, the Arson Strike Force researches Department of Finance records and directories of property ownership to determine whether applicants have disclosed all property ownership. Fire histories are done for both the undisclosed and disclosed properties.

HPD's major failure with regard to monitoring contracts with community groups is that it fails to recognize the power these groups may exercise over housing and real estate resources in their communities, by using a CCC or CMP as a basis for a variety of other programs that do involve influence over resources necessary to rehabilitate, own or live in residential buildings. The OIG background investigation should also acknowledge this reality by performing an analysis of property ownership, possible arson fires and tenant harassment for prospective Community Consultant Contractors and Community Management Programs as it does for applicants for rehabilitation loans and construction sponsorship.

The OIG's review of a Brooklyn CCC is a case in point. The group's CCC funding in FY1984 was one of the largest grants in the program. HPD requested the Arson Strike Force (ASF) to do an analysis of fire histories in properties owned by the group or its principals when it applied for a rehabilitation loan. The ASF found that 18 properties were owned by CCC or its principals. Ten of which had not been disclosed. Two of the undisclosed properties had histories of ten or more suspicious fires each. The pattern described by the ASF in general seemed to suggest fires and harassment for the purpose of clearing buildings of tenants so that they could be rehabilitated and sold, with potential benefit for the group.

Clearly, the group's stewardship of its property has implications far beyond the approval of a loan and touches upon the appropriateness of the agency to be a contractor for any City housing program.

Expenditure Cycle

The expenditure cycle functions include all procedures for cash disbursements for purchasing goods, labor, and rental of facilities. Core functions common to all programs include:

- o Control of general-purpose checks and cash;
- o Staff payments (personnel services);
- o Vendor payments (other than personnel services).

In addition, the DOE performs a "special function" in its expenditure cycle payments of 40 participants in DOE training programs.

The three funding agencies distribute funds to contractors through two basic types of disbursement systems:

(1) A centralized system in which accounting for funds and check writing are done at a central location and checks are sent to contractors' staff and vendors (figure 1).

(2) A decentralized system in which the funding agency pays the contractor in lump sum amounts, which the contractor deposits in its own bank account. Contractors maintain their own accounting systems and write checks to staff and vendors (figure 2).

Figure 1

Centrally Controlled Fiscal System

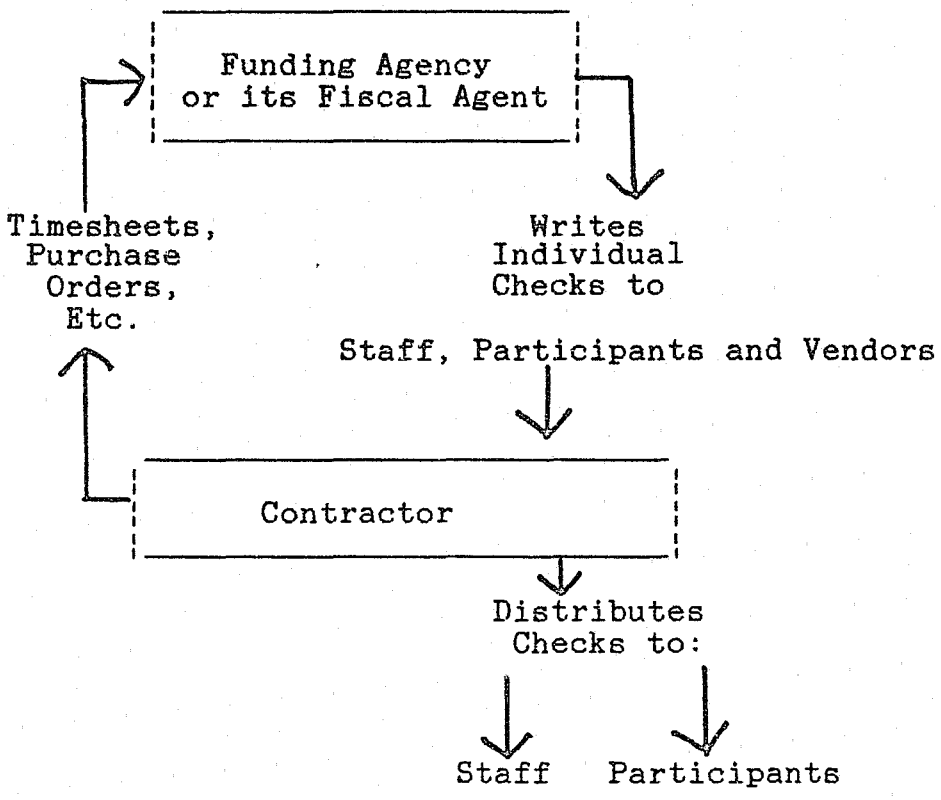
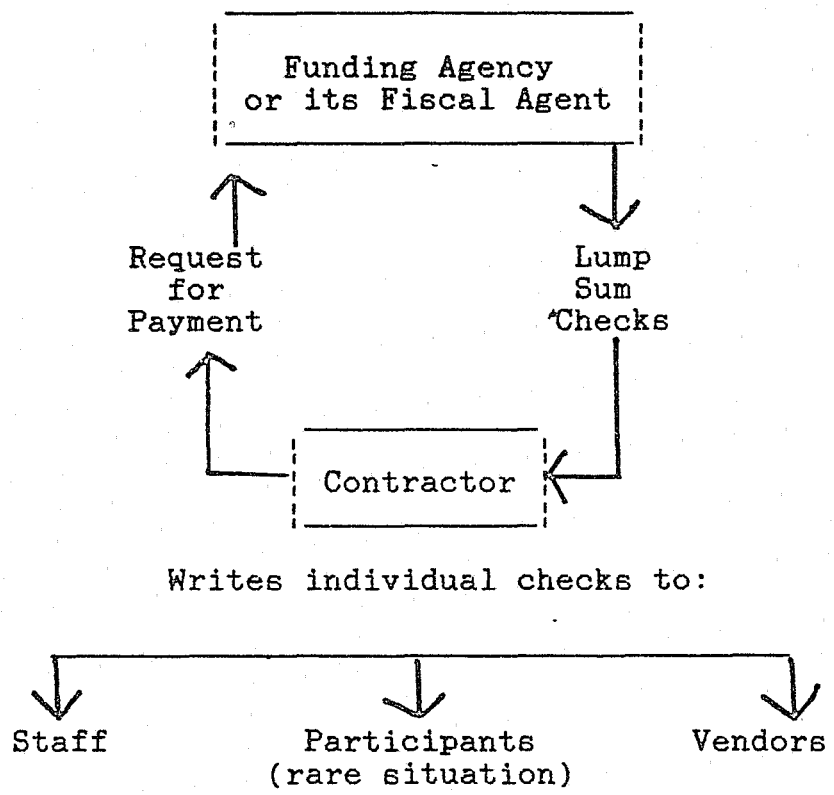


Figure 2

Decentralized Fiscal System



The CDA and the DOE use both types of systems for various types of expenditures, as follows:

The CDA uses a centralized fiscal system for the majority of its contractors. These contractors require no bank accounts or bookkeeping staff for the CDA contracts (although some have fiscal personnel for their other programs and/or contracts). The CDA contractor program directors are responsible for staff timekeeping and for ordering supplies and equipment approved in their budgets. Timesheets are sent to the CDA, which forwards them to its fiscal agent for payroll processing. Checks produced by an automated payroll system under contract to the fiscal agent are then sent to the CDA program director for distribution to the staff.

With regard to purchasing supplies and equipment, Figure 1 accurately describes the paper and payment flow in the CDA at the time of our study, although it has since been changed. The CDA contract program directors were required to send purchase orders to CDA for approval rather than contacting vendors directly. The CDA then sent the orders to the vendors, who sent the goods to the contractor and the invoice to CDA. The CDA fiscal agent then issued the check. At present, the directors order from vendors and send invoices to the fiscal agent. Now, as in the past, the check is sent by the fiscal agent after the expenditure is approved.

The disbursement system used by CDA's direct-funded contractors and by all DOE contractors (except for participant payments) is depicted by Figure 2. The sixty direct-funded CDA contractors maintain their own bank accounts and write checks themselves (or contract with automated payroll services for staff checks). These contractors are reimbursed through the HRA "CAMFR" (Contract Agency Monthly Financial Reporting) system. Each month, they submit a CAMFR report, which is a report of the past month's expenditures and a projection of the following month's expenditures, with a request for reimbursement, to the CDA CAMFR unit. Individual timesheets and purchase orders/invoices need not be submitted to the funding agency, since monthly CAMFRs do not require that expenditures be itemized. There is a single line on the report for personnel expenditures and another line for OTPS.

The CDA CAMFR unit evaluates the contractors' monthly CAMFRs and sends them to HRA's central CAMFR bank. The CAMFR bank compares the request with the budget and prepares a payment voucher, which is sent to the City's FISA system, which prepares a check. The check is held at the CAMFR bank for pickup by the CDA contract program director. The contract agency then deposits the check in its account and writes payroll checks, pays withholding taxes, pension funds, etc.

The DOE system is almost identical to the CDA direct payment system, except the DOE is no longer part of HRA and does not use its CAMFR bank. Because it was formerly associated with the HRA, however, the monthly payment request is still called the CAMFR report, and the form used is the same. Contractors fill out monthly CAMFR reports and send them to the DOE's fiscal unit, which sends payment vouchers to FISA. Checks are sent to the DOE, where they are picked up by the DOE program contract directors. In considering DOE's payments to participants (for carfare, lunches, and wages for OJT trainees), we must return to Figure 2. Timesheets for participants are turned in to the DOE, where they are compared with DOE's participant eligibility database. Paychecks are cut centrally, then batched for pickup by DOE contract program directors, who distribute them to their participants.

HPD uses a "voucher" system. Like the DOE and direct-funded CDA contractors, HPD contractors maintain bank accounts and write their own checks for personnel and OTPS. Unlike DOE and CDA contractors, HPD contractors must submit timesheets and original invoices for OTPS to HPD which means that the system is an "after-the-fact" system rather than an "advance" system. The monthly vouchers are submitted to contract managers, who must approve them before they are forwarded to the HPD fiscal unit for payment.

In the 1960's the CAMFR bank operated similarly to HPD's "voucher system," which meant that it required timesheets and purchase order/invoices with payment requests. However, the system became so overwhelmed with paper that the documentation requirements were dropped. Funding agencies using a CAMFR-type system must depend on fiscal monitors and auditors to assure the appropriate use of funds.

Expenditure Cycle

Core Function #1: Check Writing Transactions

CDA's centrally-funded contractors are the exception to the rule that most human service contract agencies usually control their own bank accounts and check writing functions. Access to checks and executives and board members' check writing responsibilities are potential areas of vulnerability in all other agencies.

The allegations included in this category involve theft of funds through the misuse of check writing responsibility. This category does not include other types of check fraud involving theft of checks already made out to others, usually including forged endorsements and often preceded by falsified documents.

The allegations discussed here flow directly from a contract agency executive's or bookkeeper's exercise of control over all aspects of check writing transactions, that is, the ability to control access to checks, accounting, and reconciliation of checks.

Although there were only a few cases involving such allegations, they are worth discussing because they emphasize the flow of authority, responsibility, and control from the board through the executive of the contract agency.

We visited nine contract agencies that kept their own bank accounts, which ranged in number from two to 30. While funding agencies require that their funds be kept in a single account, many agencies have additional accounts for fund raising, special projects, etc.

Requirements regarding authorized signatories for checks are determined by the contractor's board, unless the funding agency has its own requirements. The DOE has no requirements regarding the number of signatories for checks, although most DOE contractor boards require that a member of the Board's executive committee sign all checks in addition to the contractor's executive director. However, we found two instances in our sample of 11 in which only staff members' signatures were required. The CDA requires three signatures on checks written by its direct-funded agencies.

For those contract agencies that require a board member's signature, checks are usually prepared in advance with the executive director's signature and then signed later in batches by the board member. Other contractors send messengers to the board members who live or work nearby.

We asked all contractors about access to checks and potential security problems, and physically inspected the areas where the checks were kept. Most were kept in a locked closet to which only the executive director and fiscal director had a key. However, we found several potential security problems. One agency kept checks in a closet that was accessible to building management using a passkey; another kept checks in a file cabinet that was left open during the day in a room next to a hallway.

Although none of the agencies we visited had experienced thefts in recent years, we recommend that fiscal manuals for contract agencies include guidelines for secure storage of checks.

The following is a diagram of the potential vulnerability points involved in check writing transactions:

Blank checks removed from storage	->	Checks signed	->	Checks signed by 2nd signer	->	Checks distributed to payees

Checks cashed	->	Canceled checks returned to agency	->	Returned checks reconciled to payroll account

Potential vulnerabilities at each point are as follows:

Potential Patterns of Fraud and Abuse Involving Internally-Generated Checks:

1. Removal and Signing:

   - o Blank checks removed from storage by someone other than authorized personnel, forged, and negotiated.
   - o Authorized person removes checks from storage, makes them out to self or accomplice, forges one or both signatures.
   - o Authorized person makes check out to legitimate person or business, forges endorsement to self or agency account.
   - o Authorized person makes check out to fictitious person or business, forges endorsement to self or different agency account.
   - o Authorized person makes check out to self (no attempt to conceal fraudulent transaction, possibly because no controls are operating in the situation).

2. Processing of canceled checks by agency:

   - o Reconciliation is performed by the same people who write checks.
   - o Reconciliation is performed by an unqualified person.
   - o Checks are reconciled to bank statement but not to accounts payable records.
   - o No reconciliation is performed.
   - o Statements or canceled checks are destroyed or "lost," making reconciliation impossible. Bank duplicates all

checks and statements.

3. Check distribution:

   - o Check distribution is performed by the same person who is authorized to write checks.
   - o Check distribution is performed by the same unauthorized person who forged the check.
   - o Filled out checks are stolen during distribution process, forged, and cashed.

4. Check cashing:

   - o Bank personnel unknowingly accept forged checks endorsed with false payee name. Account number is one set up by the thief - bank credits only account number, not title of account.

5. Covering theft in accounting records:

   - o Person writes and cashes check to self or accomplice with or without forgery, enters legitimate expense and payee in accounts payable. Books balance. The returned check is reconciled against bank statements but not against accounts payable ledger.
   - o Same as above, except person also writes a check to the legitimate payee, which is then kept in storage. This similar device may be used when funding agencies require copies of checks with fiscal reports.
   - o Checks are written back-and-forth among accounts in a series of inter-connected "loans" that creates a sufficiently confusing accounting trail to cover the misappropriation of funds from one of the accounts.

Check-Writing Related Cases

There were four cases of substantiated theft involving checks written by DOE contractors. One substantial CDA case did not involve a program contractor but instead the fiscal agent with which CDA had contracted to administer contractor fiscal affairs.

The earliest of the cases in our sample was opened in 1982, when a conscientious bookkeeper reported to the OIG/DOE that he had returned from a leave of absence to find the agency's executive was writing checks to herself on various agency accounts, (Case #E/70-82). The executive told the bookkeeper

that a number of checks and bank statements had been lost by the bank (though they may have been destroyed by the executive). The bookkeeper had already taken the matter to the board of directors, but they took no action beyond simply prohibiting the executive from signing any more checks.

In the OIG investigation, it was found that the executive had forged an authorized board signatory's name on the checks to herself for more than $9000. The executive was prohibited from future employment in DOE-funded programs and her fraud was referred to the Kings County DA for possible prosecution.

A complex case was opened by the OIG/DOE in late 1982, based upon nearly simultaneous complaints by the DOE CAMFR (Contract Agency Monthly Financial Report) Control Unit and by a DOE employee on loan to the contractor to assist in staffing an employment program there (Case #E/74-82).

The CAMFR Control Unit staff person learned from the agency's bookkeeper that the agency's executive had requested blank checks from the bookkeeper, supposedly for purchases of program equipment and materials, but had also signed checks for unauthorized purchases. The executive kept the agency's fiscal records in his office, thus limiting access to them by the bookkeeper. The ensuing investigation uncovered a loss of at least $50,000.

At the time the case was referred to the DOI in March 1983, the OIG/DOE recommended to the DOE Commissioner that no contracts be awarded to the agency. The DOI later required that the executive be terminated and that the board of directors be reconstituted before the agency could be considered for more city contracts.

The agency, with its new board of directors, was re-funded by the Department for the Aging (DFTA) in December 1984. However, the bookkeeper hired by the board to manage this contract stole $1,500 through forged checks before a new executive was hired in March 1985, and the agency was again defunded by the DFTA. Clearly, even the drastic measure of replacing both the board and the executive did not solve the agency's internal control problem.

It will be recalled that funding agency staff were rarely implicated in fraud related to contract programs. The major exception to this rule is a case opened early in 1984 involving a Deputy Assistant Commissioner for Fiscal Affairs in CDA (Case # C/159-84). The case was initiated when a reorganization of CDA's Brooklyn fiscal office brought a previously unknown bank account to light. The CDA Commissioner reported the matter directly to the DOI and the OIG/CDA.

At the time, CDA contractors' fiscal affairs were handled by fiscal offices in each borough which were independent contractors, each with its own board of directors. The Deputy Assistant Commissioner and several employees of the Brooklyn fiscal office were able to write at least $30,000 worth of checks on three "secret" accounts used for deposit of rent/lease security deposits returned by landlords for Brooklyn contractors. The checks were written for flowers for fiscal center staff who died or were ill, but the Deputy Assistant Commissioner had also purchased airline tickets, a washing machine, and other appliances.

A major reason this fraud was able to occur was that security deposit accounts were not being audited. Guidelines for auditors of HRA contractors did not include an explicit instruction for auditing security deposit accounts, although the CDA Assistant Commissioner for Fiscal Affairs had been suggesting for several years that this instruction be included. As a result of this investigation, auditors' guidelines for auditing security accounts have been made more explicit. An indirect consequence of the case is that CDA's fiscal management of its direct-funded contractors was brought under a single, new fiscal agent.

Check fraud by funding agency staff is generally difficult to commit because such staff members usually do not have check writing power. Checks for all DOE, HPD, and CDA contractors, except for CDA centrally-funded contractors, are written by the City's central FISA system, rather than by the funding agency staff.

Whenever funding agencies maintain bank accounts for use in contract programs internal controls over the use of the funds should be reviewed with special care.

Recommendations (for New York City):

1. An inventory of bank accounts held by City agencies or their agents for various purposes connected with human service contract programs should be performed on an annual basis by a central city authority. Internal controls protecting access to these accounts should then be reviewed annually by the same authority, in addition to routine audits.

2. Auditors and/or contract managers should review the physical security of blank checks at contract agencies and should make recommendations for increasing security when necessary.

3. The City should adopt a general policy regarding the signatures required on checks written on contractor accounts funded by the City. Two signatures, including one board officer and one staff executive should always be required.

4. Contractor board members should receive training in the rudiments of internal control required in contract agencies, with emphasis on protection of assets in checking accounts and the need for separation of responsibilities.

5. Contractor boards should be urged to adhere to the following procedures and safeguards in approving expenditures and signing checks:

   - Board members must never pre-sign checks;
   - The board member signing the check should receive a complete package including back up documents (purchase orders, etc.), indicating executive approvals, before signing the check.

6. The Board treasurer should take responsibility for assuring that contractor staff responsibilities for fiscal affairs are properly organized with appropriate oversight and division of responsibilities.

7. All programs should have a fiscal officer or comptroller who has responsibility for organization of fiscal operations in the contractor agency. (Even a part-time bookkeeper of a small agency could assume this responsibility.) The treasurer of the board should make sure that this position is properly covered in the event of illness or absence of the fiscal officer. The fiscal officer should report regularly, in person, to the board of directors.

8. The City should develop an internal control questionnaire to be completed jointly by the contract agency's fiscal officer and board treasurer, providing assurance that proper authorization procedures and separation of duties are in place.

Expenditure Cycle

Core Function 2: Payment of Staff

Human services programs are labor intensive operations; personnel expenditures are usually around 80% of total costs in human service contracts. However, there are usually fewer controls on staff payroll functions than on other aspects of programs, such as payments to vendors and participants. None of the three agencies we examined had adequate fiscal controls to provide reasonable assurance that:

- Paychecks are not generated for contractor staff who

are not currently employed, or generated for more hours than were actually worked;

- o Staff who are paid on two or more different contracts are not paid for more than 100% of their time;

- o Contract agencies pay taxes, pension funds and related items.

Staff payroll functions go beyond supplying staff with paychecks. They include: timekeeping, calculation of wages, fringe benefits and vacation time; payment of state and federal withholding tax, insurance funds, unemployment compensation; and maintenance of related accounts.

All three funding agencies impose certain requirements on all contractors for payroll procedures. All must maintain daily sign-in time sheets for staff, usually by means of a standard form supplied by the funding agency. Timesheets must be approved and signed by the contract program director. Each funding agency has requirements for determining vacation and sick leave allowances and other rules for timekeeping, which are generally made known to contractors by means of fiscal manuals or memoranda.

Auditors review timekeeping procedures and the accuracy with which vacation and sick time are calculated. (Some HPD contractors and some direct-funded CDA contractors however, are not audited on-site.) DOE Contract Managers are required to review payroll procedures in detail at least once a year, but contract officers in CDA and HPD have no such requirement. Thus, except for the DOE, the only on-site review of contractors payroll procedures is done by auditors.

Processing of payroll after time has been reported differs from funding agency to funding agency.

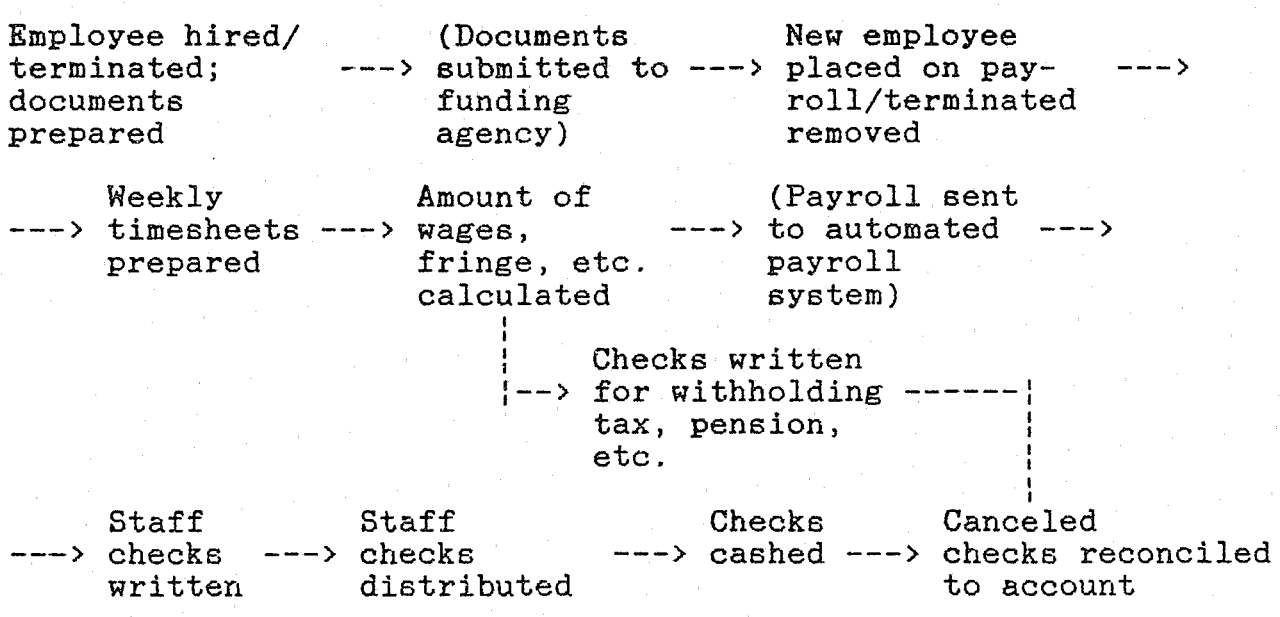
- o The CDA centrally-funded system requires CDA program directors to send in approved timesheets every two weeks to the CDA fiscal unit. After registering their receipt in a log, the fiscal unit passes the timesheets directly to its fiscal agent. The fiscal agent compares timesheets to agency budgets to assure that funds are available and prepares the payroll for input to an automated payroll system, which cuts payroll checks and pays withholding taxes. The checks are returned to the fiscal agent, who in turn delivers them to CDA for distribution to contractors.

- o Contractors using a CAMFR-type system (CDA direct-funded and DOE contractors) are not required to submit timesheets to the funding agency. They simply report

total personnel expenditures on their CAMFR reports, without documentation. Contractors then pay staff their wages from their own accounts.

- HPD contractors are required to submit timesheets as well as copies of canceled checks from the previous payroll to their contract managers for review. The contract manager then submits the timesheets to HPD fiscal along with OTPS invoices. HPD contractors pay staff from their own accounts.

Vulnerable Points in Staff Payment Procedures



(Procedures in parentheses are not performed by all contractors)

Potential Patterns of Fraud and Abuse Involving Staff Payment:

1. Adding new employees; deleting those terminated:

   - When an employee is terminated, he/she is retained on payroll without his/her knowledge. Termination forms required by the funding agency are not sent, time sheets are forged, and the resulting paycheck is forged and cashed.

   - A terminated employee continues to submit timesheets or consents to have them submitted.

   - An employee is placed on payroll before beginning work; timesheets and check endorsements are forged.

- o An employee is placed on the payroll more than once, using different names and Social Security numbers.

2. Filling out and approving timesheets:

   - o Entire timesheet is forged by a person other than the one named on the timesheet.
   - o Timesheet is filled out by the staff member it belongs to, but for inflated hours.
   - o Supervisor knowingly or unknowingly approves falsified timesheet.
   - o Supervisor's approval is forged.

3. Distribution:

   - o The person in charge of approving timesheets is in charge of distributing checks.
   - o The person in charge of preparing payroll is in charge of distributing checks.
   - o The person who falsified timesheets has unauthorized access to checks before or during distribution.
   - o Check cashing:
     - Bank or check cashing personnel unknowingly accept forged checks.
     - Bank or check cashing personnel knowingly accept forged checks, with or without kickbacks.
   - o Payment of withholding taxes and pension funds:
     - Payment entered in accounts payable, check written but never sent.

Staff Payment-Related Cases

The CDA and DOE each had eighteen cases relating to staff payment functions. Twenty-six staff payment-related allegations were included in the CDA cases, 33 in the DOE cases.

The general category of staff payment functions included the specific allegation categories shown on the table below. These allegations clustered into two general types:

o Obtaining payment for work not performed or obtaining inflated payment for work that was performed:

	CDA		DOE	
	# of Allegations	# Substantiated	# of Allegations	# Substantiated
No-show staff	8	5	6	3
Inflated staff timesheets	2	2	2	1
Double billing for staff	5	2	4	1
Dual employment	5	3	4	0
Theft/forgery of staff checks	4	4	1	0
Kickbacks related to staff payment	1	0	2	1
Extortion related to staff payment	0	0	1	1
Time abuse	1	1	1	0

o Failure to pay withholding tax, pension funds, and other payroll-related obligations:

Failure to pay:				
Taxes	0	0	6	3
Pension funds	0	0	1	1
Wages	0	0	5	1
Total Allegations:	26	17	33	12

Patterns of allegations for the two agencies differ somewhat, probably due to their differing fiscal systems. Twelve allegations in the DOE involved failure to pay withholding taxes, pension funds, or wages. On the other hand the CDA allegations involved no-show staff and double billing, sometimes accompanied by theft of checks. Since wages and withholding tax are paid centrally by CDA for most contractors, the main opportunity for fraud in CDA staff payments is to falsify documents--timesheets, personnel records, and checks--in order to obtain funds earmarked for wages.

The vast majority of these allegations were originally reported by staff or--very frequently--by former staff. Only four of the DOE cases and three of the CDA cases were initiated by "inside" sources; only one case in CDA and two in DOE resulted from monitoring visits by funding agency staff. Only one case, (Case #E/55-82), grew out of findings reported by auditors.

Cases Involving No-Show Staff; Theft of Staff Checks

"No-show" staff may be issued checks for working in positions for which they have been terminated, have not yet begun to work, or have never worked. Generally, no-show staff are placed on the payroll by contract program directors or agency executives as a favor either to the no-show staff person or to an influential board member or community member.

In a paradoxical DOE case, the no-show staff person was also a board member. This case was initiated by a former program director, who was fired for the sake of economy after the contractor signed a performance-based contract. The contractor, a for-profit corporation, had been given a waiver of conflict-of-interest regulations which permitted two board members to serve as president and treasurer of the corporation. Although the waiver request had stated that the two would receive "no direct salary from any manpower contract," both were on salary at $25,000 each. The president of the corporation was salaried as a job developer, but was, according to the former program director who made the complaint, a no-show. The program director had been required to sign the no-show job developer's time-sheets. Paradoxically, the job developer was subordinate to the program director in his staff job, but was his superior as company president. (Case # E/24-84).

It is not uncommon for checks to be generated for "no-show" employees without their knowledge, consent or benefit. One example involved a former employee of a CDA contractor who found, when he received his W-2 form, that the wages reported were excessive, since he had been employed for only part of the year. He contacted the CDA Commissioner, who alerted the OIG. The investigation revealed that three contract agency employees--the

CDA program director, his secretary and another staff member--were forging timesheets for four terminated employees. The timesheets were sent to CDA fiscal, and the resultant checks were then forged and deposited by the subject staff (Case #C/87-83).

Allegations of no-show jobs and other time abuse problems are often included in multi-allegation cases. Two of these were among the most serious cases investigated during our sample period and are included in the Illustrative Case Studies section, (Case #E/53-82 and E/74-82). Both contractors had multiple contracts, and both cases involved commingling of funds, abuse of vendor relations and fraudulent leases. In both cases, boards had virtually abdicated responsibility, and directors had subverted all controls, using virtually every aspect of their programs for personal profit. When contract agency executives appear to be building a personal empire involving abuse of every aspect of their program, no-show jobs are often part of this picture, although they often are given low priority by investigators in multi-fraud cases.

No-show jobs are a classic form of political patronage. Although there were no cases in our sample of substantiated no-show allegations that were proved to result directly from political patronage, several substantiated no-show and dual employment allegations have occurred in contract agencies connected with politicians who had been indicted and convicted on charges related to manipulating the funding of community programs. For example, one CDA-related agency that was closely associated with a City Councilman investigated by the DOI for extortion (and later convicted) was found to have several no-show staff on the payroll (Case #C/177-84).

By requiring objective procedures for contract applications and by instituting stricter controls for functions commonly influenced politically, such as staffing of contractors, the effect of political influence may be decreased.

Dual Employment and Double Billing for Staff

There is a clear-cut distinction to be made between the allegations of dual employment and double billing. Double billing for staff involves charging two funding sources for the same staff time and work. In the case of dual employment, the staff member is on the payroll of two different organizations for the same or overlapping work hours.

Both of these allegations are more frequent in the CDA than in the DOE.

The double billing allegations in the CDA, although not all substantiated, illustrate the potential vulnerability resulting

from numerous programs with the same contractor with similar missions:

Case#		Allegation	Resolution
C/150-84	o	The arts and crafts instructor on the CDA project is being paid simultaneously as a Housing Authority recreation leader.	Not substantiated--Housing Authority is not paying the instructor.
	o	The Housing Authority staff cleans the premises, although cleaning is included in the CDA budget.	Double cleaning is acceptable to both parties.
C/95-83	o	Anonymous letter: Executive director is being paid by at least seven programs, including CDA, DOE, City housing, and New York State aging programs.	Not substantiated; OIG examined budgets and contracts and percentages of time add up to less than 100%.
C/140-83	o	Youth Bureau, NYS Division of Youth, and/or CDA billed for same staff.	Substantiated.
C/137-83	o	Director of contract agency was billing both Youth Bureau and CDA for staff, forging and cashing some of the resulting staff checks.	Substantiated.

As noted above, two of the five CDA investigations of double billing allegations were substantiated. The only substantiated case of double billing for the DOE was the case opened in both the DOE and the CDA discussed above in connection with no-show jobs. The director's salary was paid for 150% of his time by funds from the DOE, the CDA, and the Department for the Aging (DFTA).

One of the six HPD cases involved serious allegations of double billing that were never investigated (HPD-C-84-344). The program involved was a small one, funded by CDA and HPD for tenant organizing and counseling. Two former staff members visited the DOI to complain that the director was billing both programs for her salary and that of her staff, in addition to using staff for private purposes in administering real estate. Although neither allegation was investigated, both funding

agencies defunded the contractor for general mismanagement.

Until recently, HPD had no way of knowing whether it was being double billed for staff of contractors who had contracts with more than one HPD program. In addition to the HPD's Community Consultant Contractors, another unit of HPD sponsors the Community Management Program, for rehabilitating buildings through contract agencies. Nine contractors have contracts with both programs. When one staff member bills each of the two programs, HPD is meticulous about making sure that the hours worked do not overlap and that the employee does not bill for more than 100% of his time. However, in a meeting with HPD fiscal staff early in 1985, we learned that HPD has no way of knowing that staff billing for 100% of their time on one program were not billing for 100% on the other. At about that time, such a case was discovered through HPD's contract officers, and procedures were instituted in the fiscal unit to prevent its recurrence.

Job-Related Kickbacks

Kickbacks are not a common allegation in the systems we studied, possibly because the financial gains resulting from individual frauds are generally too small to be worthwhile if they have to be shared with another person.

Of three kickback allegations related to staff payments, one was substantiated and two were never investigated. The one that was substantiated (Case # E/60-82) involved a kickback to an employee of a check-cashing firm for cashing a forged staff check. The two that were never investigated involved allegations that DOE contractor staff had to agree to kickback part of their salaries in order to be hired.

Failure to Pay Withholding Taxes

When the failure to pay withholding taxes, pension funds and other payroll-related obligations occurs among City human services contractors, it is usually an attempt to solve cash-flow problems in an agency, but it may also be part of a fraud resulting in personal gain.

The most serious case of this sort was opened in September 1982, when the OIG/DOE received a letter from two former employees of a multi-million dollar contractor stating that they were unable to obtain their vested pension monies from their former employer. (Case #E/66-82) When the OIG inquired of the pension fund carrier, it was learned that the contractor had not made payments since 1979 and was $760,000 in arrears. The

contractor was also in arrears to the IRS for $528,000 and to the New York State Tax Bureau for $643,000.

Accounts for the contractor were in disarray, and it proved impossible to determine exactly what had become of the unpaid funds. The case was ultimately brought before a grand jury, which brought no indictments because personal gain or fraudulent intent by the individuals involved could not be proven.

Payment of pension funds and taxes had been entered into books of accounts and were reported paid on CAMFR reports required by the DOE fiscal office. According to DOE fiscal officers, fiscal monitors failed to detect the contractor's failure to pay expenses as reported on the CAMFRs because of the complex structure of the agency. The DOE program was a satellite of a parent agency that served as an umbrella for contract programs funded by a variety of sources. The DOE satellite program maintained its own accounts, but checks were issued from the parent agency's central office. Thus, the DOE contract program would send a check to its parent office to cover all payroll expenses. The parent office would issue paychecks but would not pay payroll taxes. The DOE satellite program was thus justified in reporting these expenses "paid" in its fiscal reports to the DOE.

Accounting for contract funds received by large multi-program contractors is admittedly difficult. However, according to a report by the U.S. Department of Labor OIG (which became involved in the investigation of this case), independent audits for the past six years had reported the failure to pay taxes, but the DOE had continued to fund the program without penalty.

Five additional cases in the DOE sample involved failure to pay withholding taxes. In one of these, the funds that should have been paid in taxes were stolen. The case was initiated when a former executive for the program reported to a DOE Assistant Commissioner that blank check stubs had been found, which indicated to her that funds may have been misappropriated by a former accountant. She also reported that the agency owed the IRS $70,000 for failing to submit employee withholding taxes for 1979-1981, of which $30,000 was principle and $40,000 was interest and penalties (Case #E/22-84).

A review of the agency's books and records, audits, and IRS materials determined that there were forged signatures on agency checks amounting to more than $20,000. A quarterly check had been written to the IRS and entered in the accounts payable ledger, but never sent. Checks were then removed from the back of the checkbook (in order to postpone detection), forged, and cashed. The amount of the forged checks was offset on the books by the ledger entries for the IRS payments that were never made.

In spite of the attempt at cover-up, the fraud could have

been detected if the canceled checks had been reconciled to the accounts payable ledger either by someone inside the organization (but independent of the fraudulent check writer) or by an independent auditor. An audit for the half-year period ending in December 1982 noted that taxes and insurance payments had not been paid. However, a later audit by a different auditor stated that he was "satisfied" that they had been paid. This "satisfaction" must have been based on something other than a canceled check to the IRS.

Analysis of Controls on Staff Payment Procedures

No-Show Staff:

None of the three funding agencies have adequate controls in place for detecting or preventing no-show staff. All three funding agencies rely excessively on auditors' payroll distributions, performed once or twice a year. However, not all contract agencies are subject to individual audits. Even for those that are, the payroll distribution provides little protection against no-show staff.

During an audit of payroll distribution, auditors hand each staff member his/her check and require a signature. Signatures are then verified against personnel records. Thus, if staff are working under someone else's name and Social Security number, they will be detected. This procedure should detect anyone attempting to claim a check intended for someone else. However, we did not encounter any case examples of staff members attempting to steal each others' checks in such a blatant manner.

If employees are absent, the auditors are supposed to call the employee in to receive the check directly from the auditor. However, auditors sometimes send the check to the individual's home by registered mail, which defeats the purpose of the check distribution as a control. It is a rare person who would return a check unexpectedly received by registered mail, made out to him, especially a no-show employee.

It should be noted that a CPA firm charged with auditing the whole CDA centrally-funded system failed to follow proper procedure for a payroll distribution audit. The auditor's field staff, inexperienced and poorly supervised, gave checks for absent staff to directors to distribute, thus totally neutralizing the effectiveness of the control.

Contract officers are also a potential control on staff payroll irregularities. If contract officers are closely in touch with contract programs, making frequent site visits to observe activities and talking to staff, this is probably the best control on no-show staff and other abuses involving staff

time and wages. However, site visits by contract officers vary greatly in frequency and thoroughness. Guidelines for contract officers vary among funding agencies, but none specifically require them to check on staff attendance.

DOE Contract Managers are required to collect a great deal of information on staff payroll procedures during their fiscal management review. They are required to select three sample employees and review all payroll records and information on them, determining whether annual leave, sick leave, FICA, withholding tax, etc. have been properly calculated. However, this analysis does nothing to determine whether these three sample employees or the rest of the staff are in fact working.

CDA contract officers observe only program activities and are not required to monitor any aspects of staff attendance or payroll.

HPD contract officers are given no guidelines or criteria for site visits, although, unlike the other two funding agencies, they are required to review contractors' timesheets.

Both the CDA centrally-funded and HPD contractors are required to send timesheets in to the funding agency each pay period. The CDA's fiscal agent reviews timesheets to be sure that the employee is included in the payroll and that the number of hours and wages fits the budget line for each employee. However, no signature comparisons are made with timesheets or canceled checks.

In order to determine that staff on payroll are actually functioning, contract officers should be equipped with the contractors' most recent payroll register, during site visits. At the time of each visit, the whereabouts of each staff member must be verified. If there are staff who are rarely or never observed on-site, documentary evidence of their work should be requested.

Staff of community programs are often in the field, which makes it difficult to monitor their activities. Field logs should be maintained, indicating the location and purpose of each field visit, time of departure, and expected return. All employees, including directors, should be required to account for their whereabouts by filling out logs when they leave the office. Program directors should be held accountable for the whereabouts of their staff to the extent possible.

Protection Against Double Billing for Staff:

Many contractors support their programs by as many as five or six contracts with different funding agencies, or with different programs within funding agencies. Most agencies we visited had contracts from several City departments and several New York State agencies. A few Federal agencies also contract directly with local contractors. Each type of contract is separately budgeted and monitored.

State and City agencies offering similar programs, for example in the field of housing, are usually in touch with one another informally in order to coordinate programs. Initial contract applications usually require the contractor to list other funding sources, and contract officers will call the other sources to make sure that the programs and budgets are compatible and not overlapping. However, the system of informal communication does not provide adequate assurance that no staff or supplies will be billed to more than one program.

HPD requires that copies of the budgets of all other contracts be submitted at the time of application for a community consultant program. However, correlation of budgets is difficult. Some budgets indicate the percent of time they are paying of a staff member's salary, while others simply indicate the amount. Titles for the same position vary among programs. The greatest difficulty, of course, is presented by different funding periods for different contracts.

The major potential for double billing is in executive and administrative staff, who almost always function on several projects. However, there is also the potential for double billing for program staff. Some agencies we visited maintain distinctions between similar types of programs--for example, if they receive funds from two sources for a housing program, they have two programs with different goals, different activities, and different staff. However, some mingle staff funded by several sources for a single purpose, which is certainly legitimate but makes monitoring more difficult.

Controls on Staff Payroll Functions at the Contract Agency Level:

In discussing contractors' payroll procedures, it should be noted that contractors range from tiny storefront operations to large bureaucracies. Each end of the spectrum of size and complexity has its own characteristic problems in controlling staff payroll.

The CDA's centrally-funded system is designed to eliminate the potential for fraud at the contractor level, but, the potential is still present, since contractor staff can forge timesheets, then steal and forge the resultant paychecks. Such

frauds can take place only when a single person is in charge of timekeeping and check distribution or when two people are in collusion. It is often said that many programs are so small that proper division of responsibilities is impossible and that it is necessary to "live with" a less than desirable situation with regard to internal controls. However, we found small agencies with adequate controls and large agencies with poor controls.

We visited four centrally-funded CDA programs to determine, among other things, whether there were any controls on timekeeping and check distribution. Three of these were part of multi-program conglomerates, but the CDA program sites were located separately from the parent agency. The fourth was located in a small storefront that nonetheless had several contracts with City and State agencies. CDA contract program directors reported to overall agency executive directors in all cases. Based on interviews with program directors and executives or fiscal directors of the agencies, all attempted to divide the responsibility for timekeeping from check distribution and to maintain some executive level oversight over timekeeping. In all cases, a board member, executive director, or fiscal director senior to the CDA program director also approved and signed timesheets. In all four cases, someone other than the CDA program director picked up the CDA staff checks and distributed them.

We also visited nine agencies with direct-funded programs with the CDA, the DOE, HPD, or, in two cases, all three. Most agencies with multiple contracts have a payroll account--a separate account used only for paychecks. For each payroll, a check for personnel expenditures is written on each individual contract account into the payroll account. Those staff working on several different contracts thus receive a single, consolidated paycheck.

The large, multi-site agencies are parallel in many ways to the CDA centrally-funded system in terms of payroll procedures. Timesheets are maintained by program directors at individual sites and sent to the agency's central office for processing. Typically, the agency has a clerk in charge of payroll who prepares the payroll. Most large contract agencies use the services of an automated payroll service or bank to actually cut checks. The payroll clerk prepares the payroll and sends it to the automated payroll system, which returns the checks to the central office. The program directors then pick up their employees' checks at the central office and distribute them.

Internal control problems were noted at several agencies, based on interviews with executive directors and/or fiscal directors:

- The same program directors who are responsible for timekeeping at individual program sites are responsible for check distribution;
- A single employee is responsible for preparing the payroll and for reconciliation of payroll checks;
- The person responsible for preparing the payroll picks up payroll checks from the bank or automated data processing service.
- There is no independent review or updating of payroll (adding new and deleting terminated employees, wage rates, etc.);
- The person who writes checks for withholding taxes also reconciles books.

We selected two of the contractors for site visits specifically because they had been subjects of fraud cases related to failure to pay payroll taxes. Bookkeepers in the two agencies wrote checks to themselves instead of paying the required payroll taxes. These frauds were made possible because the same person who was responsible for writing checks was also responsible for reconciling. Boards of directors of both agencies are required to pay the tax obligations.

Both contractors have instituted better controls over payment of withholding taxes and over fiscal practices generally. The director of one agency, with a DOE-funded classroom training project, hired a CPA firm especially to analyze internal control problems in his agency, since he felt that he did not receive sufficient information on such problems from the routine audits provided by the City. The agency was small, with only two contracts, 15 employees, and one bookkeeper. The bookkeeper previously reconciled checks as well as prepared checks for signature and kept books of accounts. The CPA firm suggested that the secretary should reconcile checks, and this change had been implemented by the time of our visit, according to the director.

In the second contract agency we visited (that had a case involving withholding taxes), the fiscal director stated that check reconciliation was performed by a clerical worker who had no responsibility for writing checks. In addition, since the investigation, the board treasurer visits the fiscal office each month to go over the books, paying special attention to the payment of taxes.

Unfortunately, in three agencies we visited that had never been the subject of allegations regarding non-payment of withholding taxes, responsibilities were organized in a manner remi-

niscent of the two agencies described above at the time the frauds were committed. One is a very small agency with a part-time bookkeeper; another has a full-time comptroller and bookkeeper on staff; and the third is a large, multiple-funded agency with a fiscal staff of five or six. However, in all three, the person with responsibility for writing payroll checks (or preparing input for automated payroll system) always reconciles checks as well.

Several contractors using automated payroll systems have payroll taxes, FICA, and other payroll-related obligations paid by the service. Usually, the service also reconciles checks and sends a copy of the "941" form as proof of payment. Use of such a service would be a safeguard for contractors seeking to prevent misuse of funds intended for taxes.

Expenditure Cycle

Core Function #3: Payments to Vendors and Landlords

As labor-intensive operations, human services contractors generally spend a small percentage of their budgets, estimated at 20%, on equipment, supplies, rent, utilities, etc.--"other than personnel services" (OTPS) expenditures. Although OTPS expenditures are dwarfed by personnel expenditures, the total spent on OTPS by all New York City human services contractors is a considerable sum. Given that all contractors received a total of $1.3 billion in 1984, total OTPS in that year would have been about $260,000,000.

In addition to rent and utilities, consumable office supplies and program supplies, such as arts and crafts materials and educational materials distributed to participants, probably make up the bulk of OTPS expenditures. Some CDA programs provide meals to their participants, also included as OTPS expenditures. However, major items, such as copying machines, mini-computers, and other office equipment are included in budgets occasionally. DOE programs often require equipment such as word processors for use in training.

The flow of documentation and reimbursement between contractors and funding agencies for OTPS is parallel to that described earlier for personnel expenditures. All contractors except those centrally managed by the CDA pay OTPS expenses out of their own accounts. All contractors who pay their own expenses are required to report these expenses on a monthly basis to their funding agencies. DOE and direct-funded CDA programs use a CAMFR-type system, which does not require contractors to submit invoices or vouchers to verify OTPS expenditures. HPD contractors, however, are required to accompany their monthly reports with original invoices.

Bidding Requirements:

All three funding agencies require bids for purchases over a certain amount. DOE contractors must obtain their contract manager's approval for equipment items over $500 and for all service sub-contracts (for example, for renovation of the premises). Three "bids" must then be obtained, but since sealed bids are not required, these bids might better be termed written estimates. The bids are obtained by the program contractor, who then sends them to the Contract Manager.

The CDA requires only written estimates for purchases over $500, but does require sealed bids for those over $1,500. These estimates are forwarded to the CDA by the contractors. HPD Community Consultant Contractors probably have fewer equipment needs than the other programs and HPD discourages the use of its funds for purchasing. However, when purchasing is necessary, HPD's official policy requires written estimates only for items over a certain amount. For items costing less than that amount, HPD requires only telephone estimates. However, in actual practice each item that is purchased must be discussed with contract managers in advance, who might require written estimates for purchases under the official cost.

Staff and Procedures:

Funding agencies that require the submission of purchase orders and invoices must have considerable fiscal staff resources.

Until the end of 1985, the CDA required a fairly elaborate procedure for approval of and payment for supplies and equipment for its centrally-funded contractors and had a large fiscal staff to handle these procedures. First, a purchase order had to be sent to the CDA for approval. After approval, the CDA sent the order to the vendor, who sent the goods to the contractor and the invoice to the fiscal center, which in turn sent the vendor a check. A copy of the purchase order was retained by the contractor until the goods were received, at which time the copy was sent to the fiscal center, indicating receipt of goods.

This procedure was awkward and invited falsification of documents by the contractor. The current procedure is simplified. Goods are ordered by the contractor and after the goods have been delivered and the invoice received, the contract program director approves the invoice and sends it to CDA fiscal. CDA's fiscal unit then forwards it to the CDA contracted-for fiscal agent, which checks the budget to assure that the goods are allowed and that funds are available, then sends a check to pay the contractor. The CDA fiscal agent writes its own checks

by hand for these payments.

When funding agencies require the submission of purchase orders and/or invoices, processing these documents requires considerable staff time. The previous CDA procedure required that CDA maintain a fiscal staff primarily for approval of purchase orders. The approval process has been transferred to the fiscal agent and the CDA fiscal staff has been reduced. At present, the CDA fiscal staff only log in invoices as they are received and forward them to the fiscal agent. The fiscal agent has a staff of five to handle OTPS.

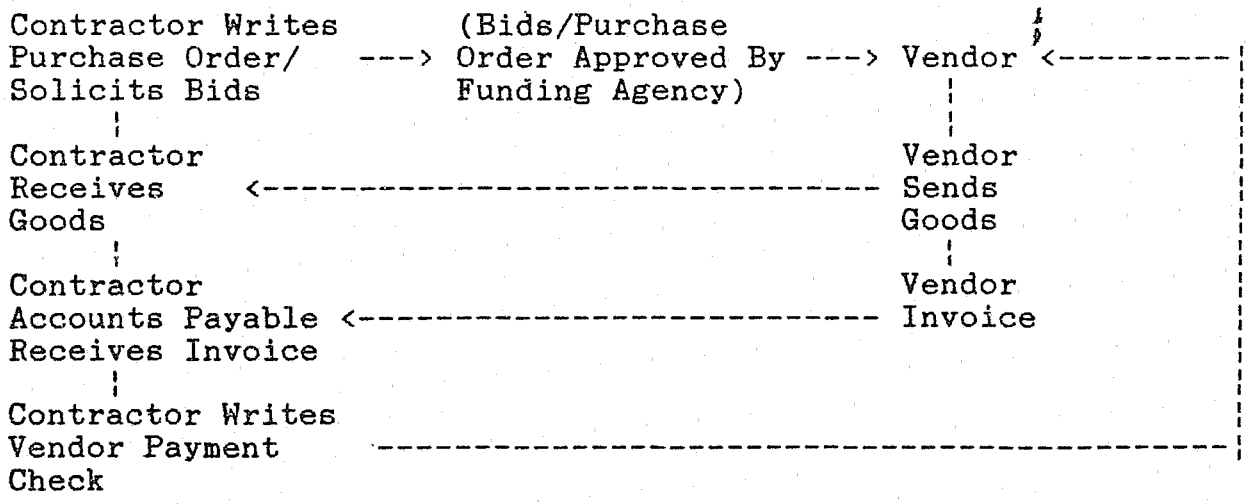
Because the DOE no longer requires approval for purchasing under its performance based contracting, there is no need for the fiscal unit to analyze routine purchase orders or invoices.

HPD maintains a fiscal unit of five auditors and a supervisor to analyze documentation accompanying Community Consultant Contractors' monthly reports, which include original invoices.

Leases for Program Premises:

The CDA requires that contractors' leases be submitted to CDA's contract compliance unit and examined by CDA's legal department before they are signed. The legal department points out clauses not in the best interests of the contractor and may recommend changes. The CDA also requires that the premises must be inspected by HRA's Bureau of Plant Management. The DOE and HPD have no similar requirements.

Vulnerable Points in Purchasing Functions



Potential Patterns of Fraud and Abuse Involving Vendors

1. Purchase orders; bid solicitation:

   - o Through prior arrangement with vendor, purchase order is written for inflated price.
   - o Dates or other information on purchase order are altered to conform to funding agency regulations.
   - o There is no written purchase order.
   - o Bid solicitation is fixed; kickback is paid.
   - o Bids or written estimates are forged by contractor in order to force selection of pre-determined bidder.

2. Delivery of goods:

   - o Vendor delivers less than the quality/quantity/condition of supplies/equipment, bills full amount, kickback paid.
   - o Packing slip is never compared to purchase order.
   - o Physical goods never compared to packing slip.
   - o Goods received by same person who ordered them.
   - o Goods never delivered.

3. Vendor invoice:

   - o Invoice for more than price of goods.
   - o Invoice from fictitious or "dummy" vendor firm.
   - o Invoice altered, submitted more than once.
   - o Invoice copied, submitted to more than one funding source.
   - o Whole invoice forged.

4. Vendor check written:

   - o Vendor check written for inflated price, undelivered goods, etc.
   - o Checks signed by authorized signators without proper examination; checks signed by unauthorized persons.

- o Checks are forged or falsified.

5. Accounting and reconciliation:

   - o Accounts payable entered, though check never written or never sent to vendor.
   - o Accounts payable entered with authorized vendor name, though check made out to unauthorized person.
   - o Vendor checks reconciled by same person who wrote checks.

Vendor-Related Cases

There were 18 cases involving vendors in the CDA, comprising 30 vendor-related allegations. In the DOE there were 12 cases and 13 allegations. The reason for the larger number of vendor-related cases in the CDA no doubt stems directly from the fact that all vendor transactions were required to go through the CDA fiscal unit, and this unit was able to identify a number of irregularities in vendor documents, which they reported to the OIG.

Although typically only about one-third of all cases originate with inside sources, half of the CDA cases were initiated by CDA fiscal. Only four of the twelve DOE vendor cases originated inside, and for two of the four, the original complaint had nothing to do with the vendor issue.

The table below presents the specific allegations in the vendor payment category. The largest categories in the CDA were "other false documents," which consisted mostly of invoices and purchase orders falsified in order to circumvent CDA's review procedure. However, several more serious cases were also identified by the CDA fiscal unit.

Vendor Payment Allegations

	CDA		DOE	
	# of Allega-tions	# Substan-tiated	# of Allega-tions	# Substan-tiated
Inflated Payments to Vendors	3	2	3	3
Non-existent Vendor	1	0	1	1
Undelivered Goods	1	0	0	0
Double Billing for Goods	1	0	1	0
Bidding Irregularities	2	1	2	1
Other False Vendor Documents	8	5	2	1
Theft of Vendor Checks	1	0	0	0
Kickbacks/Vendors	2	1	1	0
Unallowed Costs for OTPS	1	1	1	0
Failure to Pay Vendors	1	1	1	1
False Leases and Other Landlord Problems	4	3	1	1
Theft of Rent Checks	2	2	0	0
Failure to Pay Rent	3	2	0	0
	30	18	13	8
Total cases:	18 cases		12 cases	

Although there were not many allegations in the more specific categories above, there were enough to present us at least one example of each, as follows:

Inflated Vendor Payments:

The director of a contract agency called the CDA fiscal unit to report that an office supply vendor had approached him with a kickback scheme in which the vendor said many other CDA contractors had participated. The scheme involved submitting inflated purchase requisitions to CDA in exchange for a kickback to contract program directors. The CDA fiscal unit analyzed invoices and found that many contractors had indeed used this vendor. The OIG requested an undercover investigation by DOI. However, by that time, the CDA fiscal director had "blackballed" the use of that office supply vendor, so the DOI decided not to pursue the investigation further (Case #C/80-83).

Vendor Paid for Nonexistent Goods:

The case involving the CDA's Brooklyn Fiscal Center, described earlier, included vendor-related allegations (Case #C/159-84). The staff of the fiscal center used the secret accounts to write checks to an office supply store for over $4,000, of -which only about $900 was for actual purchase of merchandise. The remainder was mostly in exchange for cash. In exchange for acting as a check-cashing service for fiscal center staff, the vendor received exclusive rights to supply office furniture to the fiscal center for a period of time.

Non-existent or Artificially-Created Vendor:

In discussing control over check-writing, we mentioned a complex case involving a director who monopolized all of his agency's checks and account books. Both CDA and DOE funds were involved (Case #E/74-82 and C/78-83). The DOE employee who initiated the case noticed that typewriters purchased for the DOE training program had no serial numbers on them. Investigators found that bills for the typewriters came from the TAD Institutional Supply Company. The address given was found to be that of a real estate company, although one not listed in the directories. A salesman for the real estate company stated that TAD did in fact rent a small amount of space at the location and that TAD's principals included the director of the contract agency.

Review of invoices revealed another vendor, Educational and Material Supplies, whose address proved to be a five-family residential building in which no one had heard of the vendor.

Invoices from TAD and Educational and Material Supplies listed the same name as the salesperson who made the sale to the contractor. In addition, the telephone numbers, invoice numbers, and order numbers on some of the invoices from the two companies were the same.

The name of the salesperson named on the invoices was the same as a former (no-show) employee of the contractor. After the investigation began, the typewriters were mysteriously removed from the contractor's premises, probably by the former employee, according to the OIG's information.

From 1980 to 1982, checks in the amount of $47,475 were issued to TAD, according to the OIG's analysis of the contractor's accounts.

Although this case was reported by a DOE employee, the detection of the inferior typewriters was not the work of the DOE Contract Manager, but rather of a DOE employee who was working on-site. After she alerted the DOE, the Contract Manager and several other officials visited the site.

Irregularities in Bidding Procedures:

Several cases mentioned above and others involved preferential treatment of certain vendors in exchange for kickbacks or other favors. However, it was not always possible to determine from case records whether manipulation of formal bidding procedures was involved. Only two cases, one of which is still under investigation and the other unsubstantiated, specifically involved bidding procedures.

The one unsubstantiated case originated with the CDA fiscal unit and illustrates its operation. A contractor submitted three unsealed bids for purchase of floor covering. Because the three documents did not appear genuine, they were submitted to the OIG for investigation. The OIG then contacted the vendors and found them to be legitimate. It is interesting that the CDA fiscal unit referred the matter to the OIG rather than making the contacts themselves.

Other Falsified Vendor Documents:

Of the CDA allegations of falsified vendor documents, five came directly from the CDA fiscal unit. Four of the five introduced by the CDA and one of the "outside" allegations were substantiated.

The typical case of falsified documents involved falsification of purchase orders or invoices in order to satisfy vendors who would not extend credit or to avoid delays in receipt of

goods. The contractor would order goods directly from the vendor and probably send a purchase order to the CDA about the same time. The contractors would then alter the date on the invoice so that it would appear to have been issued after the CDA received the purchase order.

Failure to Pay Vendors or Landlords:

Such complaints come from vendors or landlords and may indicate simple cash flow problems. However, they may indicate more pervasive fiscal problems or misappropriation of funds intended for vendors and landlords.

In the case involving failure to pay nearly one million dollars worth of withholding taxes, discussed earlier under "staff payments," it is not surprising that vendors also went unpaid. Accounts payable records indicated that vendors had been paid, but investigators found file cabinets full of checks made out to vendors and entered in accounts payable, but never sent.

Unallowed Costs:

When auditors find unallowed costs and these costs cannot be settled with the contractors, usually because the contracting agency has gone out of business, these cases are usually referred to the OIG for investigation. We systematically excluded these cases from our sample as "purely administrative matters." Thus, any unallowed cost allegations that occurred in our sample were those included in cases with other allegations. Typically, the costs cannot be recovered if the agency is out of business, though the OIG can sometimes locate equipment that can be recovered. In our opinion, this is a questionable use of OIG time, unless there is a clear indication of fraud.

Of those allegations of unallowed costs that remained in our sample, surely the most interesting was in connection with the contractor discussed earlier who set up several dummy corporations in order to misappropriate funds. One of the purchases, from TAD Corporation, was for $4,000 worth of fire extinguishers, later shipped out of the country.

Cases Involving Falsification of Leases and Theft of Rent

It is possible for contract agencies to misrepresent the program's relationship with the owners of the program premises, so that some or all of the rent funds may be misappropriated. Of the nine landlord-related cases (eight in CDA, one in DOE), three involved false leases. The remainder involved landlords' complaints that contractors had failed to pay rent or, in one

case, a dispute about return of security deposits.

One would assume that the preponderance of CDA cases in this category resulted from the fact that the CDA monitors leases, while other funding agencies do not. However, the only case within CDA which resulted from an original rent theft allegation was when the contractor failed to pay rent (Case #C/59-82).

One of the CDA false-lease cases was a follow-up on an intensive study by the New York State Commission on Investigation. The investigation focused on a former New York State Senator and a network of community organizations associated with him, all with overlapping boards of directors. The Commission's report included several findings about conflicts of interest in relations with landlords. Because several of these organizations were funded by the CDA, the OIG/CDA did a follow-up investigation (Case #C/138-83), which they began by obtaining a copy of the deed to the property from the County Register. The deed showed that the owner of the property was the contractor; however, the lease was in the name of a realty company. Further investigation revealed that the principals in the realty company were the State Senator and the chairman of the contractor agency. (The realty firm had been used by the Senator to launder money from a variety of corrupt endeavors.) The CDA had paid the contractor $3,333 in rent for a seven-month period, all of which had been misappropriated.

Another CDA false-lease case (Case #C/148-83) was parallel to the above case in that the name on the lease was a rental agent, not the actual owner of the property. When the OIG examined deeds for the property, they found that the actual owner was a board member for the contractor. The landlord/board member had agreed with the contract agency director to accept a lower rent than that specified in the lease, allowing the balance to be misappropriated.

As a result of this case, the OIG recommended that all applicants for CDA funding should submit the name, address, and phone number of the actual owner of the property, rather than a rental agent. We would strengthen this recommendation by requiring a complete listing of principals in the property, accompanied by a sworn statement that all the principals have been listed.

Controls Over Purchasing Procedures

The CDA centrally-funded programs and HPD attempt to control purchasing by requiring approval of invoices shortly after purchases have been made. The DOE relies on auditors to verify that OTPS funds have been spent in a manner consonant with the contractor's budget and that purchase documents are valid. The CDA

also relies on auditors for control of purchasing.

As mentioned above, the CDA no longer requires prior approval of purchase orders. Instead, it requires program directors to submit an invoice stamped with a signed statement asserting that the invoiced goods have been approved. The CDA procedure for prior approval of purchase orders was awkward and invited falsification of documents by the contractors. Frequently, contractors would order goods directly from the vendor, then, after receipt, would send the purchase order to the CDA. Vendors who would not accept credit would be paid "up front" by the contractor and would then reimburse the contractor when payment was received. Such transactions also invited padded payment. In order to get vendors to allow credit and wait considerable periods for payment, contractors might pad the purchase orders sent to CDA.

The current procedure is much simplified. Prior approval of routine purchases is no longer required. Goods are ordered by the contractor, and after delivery, the invoice is submitted to the CDA, which sends it to the fiscal agent for payment. The invoice must be stamped with a standard stamp that certifies that the items are needed and that they have been received, signed by the contract program director.

Invoices submitted for payment are usually stapled on blank sheets of paper. The required certification stamp is placed on the separate sheet rather than the bill itself, leaving open the possibility that the bill could be processed for payment more than once.

Although the new procedure is simplified, it also simplifies falsification. If a vendor will not accept credit, it is possible for the director to send the invoice to the CDA for payment before the goods are received.

We did a survey of 11 contractors to discuss the CDA's and the fiscal agent's handling of their fiscal affairs. Almost all complained about payment-to-vendor procedures. Although payments are to be made within ten days after the fiscal agent receives invoices, payments are frequently much later than that. At the time of our contact, in March 1986, one contractor reported that payments to two vendors were five months overdue.

Another problem with the fiscal agent's payment of OTPS, according to contract officers, is that they receive no accounting of what bills have been paid and when and the amounts expended on their OTPS budget lines. Thus, they are forced to keep their own books or ask their vendors to keep a running account of expenditures so that they will know how much has been spent and how much is left.

Once received by the fiscal agent, invoices are checked

against expenditures for each contracting agency, and the director's signature is checked against signatures on previous invoices. A hand-written check is then sent by the fiscal agent to the vendor.

HPD also approves invoices, although it does not pay vendors directly. We asked the management staff in both the HPD fiscal unit and the CDA fiscal agent whether they attempt to verify the validity of invoices or the existence of vendors. Both said that they commonly question the validity of invoices if the appearance of the document is irregular in some way. However, neither have made a special point of training their staff to recognize false documents, and neither have provided staff with guidelines or criteria for questioning non-standard invoices. We recommend that such training and/or guidelines should be established.

Bidding requirements are lax for all three agencies. - Only the CDA requires sealed bills under any circumstances. None of the three has written procedures for contractors to use in soliciting bids. Contractors for all three agencies are required to submit estimates or bids to the funding agency for approval, but the bids are not sent in directly by the bidders. Instead, bidders give their estimates to the contractors, who in turn forward them to the funding agency. Clearly, this procedure allows for falsification of bids. We recommend that written estimates for items over $500 and sealed bids for those over $1,500 be sent <u>directly</u> by vendors to the funding agency, to prevent falsifications.

The DOE requires written estimates for any and all service contracts their contractor agencies enter into. This requirement appears to create unnecessary inconvenience to contractors and provides an incentive for falsification. We recommend that such estimates be required only for service contracts worth more than a certain amount, to be established by the DOE.

<u>Involvement of Contract Managers</u>:

The DOE and HPD require contract managers to become involved in approving major purchases. However, none of the funding agencies require the managers to verify that goods have been received and are being put to use as planned. Needless to say, a conscientious manager who was aware of a purchase would notice if the equipment disappeared; in fact, such an occurrence was described in the earlier case discussion. However, there are no requirements for such follow-up. We recommend that contractors compile a list of items purchased each month, indicating quantity, general characteristics, and cost of OTPS purchases (standard office supplies need not be itemized).

For CDA direct-funded and DOE contractors, the list would be submitted with the monthly CAMFR; for HPD and centrally-funded

CDA contractors, the list would be submitted with the monthly package of invoices. The fiscal units would check the lists against other submissions for the month, then send a copy to the contract manager. The contract manager would then spot-check the list during the next site visit. The list would give the manager an opportunity to assure himself that program activities requiring equipment were receiving them.

How Contractors Handle Purchasing:

We visited nine contractors who manage their own fiscal affairs. The contractors' "fiscal departments" ranged in size from a single part-time bookkeeper to fiscal units of five or six bookkeepers headed by a comptroller. Contractors also varied in procedures used for purchasing and in the way purchasing activities were organized.

Several serious and pervasive problems in internal controls over vendor-related functions were noted, but before these are discussed, it would be well to establish a standard for desirable purchasing procedures in a small organization.

The table below delineates the process of purchasing and related accounting activities. Some steps are essential, and a few are optional, depending on the needs and capabilities of the organization:

Steps in Purchasing

1. Select items for purchase
2. Review compliance with budget
3. Prepare purchase order
4. Executive approves purchase order
5. Receive goods
6. Compare physical goods with receipt document--note differences
7. Compare approved or amended receipt document with purchase order
8. Compare invoice with purchase order
9. Approve invoice
10. Enter accounts payable

11. Prepare payment voucher (optional)

12. Approve payment (either by signing voucher or invoice)

13. Prepare check for signature

14. Sign check

15. Send check

16. Open mail--receive canceled check

17. Reconcile canceled check to check disbursement ledger

18. File purchase order, invoice (stamped "paid"), receipt document (stamped "goods received"), together with payment voucher (if one is used)

The series of steps may seem complex for a small organization to follow. However, they are intended to assure the proper authorization of expenditures and the checks and balances necessary to prevent fraud as well as mismanagement. The system inherent in the procedures, once set up, should save more time than it consumes by eliminating confusion, loss of records, disagreements with vendors, etc.

It was noted that the preparation of a voucher is an optional step. The term "voucher" is used in a variety of ways: properly, it refers to a document, separate from other purchasing-related papers, that gives permission to pay. It consists of a form with a space for an executive's signature. To function most effectively, it should have a checklist indicating that the steps necessary for approval of payment have been carried out. Vouchers are numbered sequentially, providing a basis for the purchasing file system. We found that only one of the nine contract agencies with fiscal responsibilities which was reviewed had a voucher system. We recommend it for any organization large enough to require a full-time fiscal staff member.

While the use of a formal voucher system is optional, the use of purchase orders is not. Several contractors we interviewed stated that they use purchase orders only for major items. Routine supplies are ordered by telephone. This procedure can lead to losses, not necessarily minor. Purchase orders can be used for telephone orders without loss of efficiency. The person authorized to place such orders should fill out a purchase order form at the time he places the telephone order, indicating quan-

tity, price, vendor, etc. The purchase order is then presented to the executive for approval, but instead of being sent to the vendor, it is held in a special file until goods are received. Processing after that point is the same as for a purchase order sent to a vendor. Keeping purchase orders for small items helps prevent disagreements with vendors and keeps the purchasing file in order.

In several small contract agencies, the director did all purchasing him or herself. In such an agency, approval of purchase orders by a separate person would appear difficult. Most such agencies did not maintain a purchase order system. However, we recommend that they do maintain such a system. If the executive does the purchasing, purchase orders should be counter-signed by another staff member. Situations have arisen in which executives have made purchases on behalf of program staff, but these purchases involved falsified documents, non-existent vendors, etc., and fraudulent schemes for the profit of the executive. Thus, when executives do purchasing, purchase orders should be counter-signed by the director of the program involved. (In fact, purchase documents should always include authorization by program directors who will use the supplies and equipment on whose behalf they are ordered.)

An even more important problem than the abbreviation of purchasing procedures was the problem of failure to institute division of responsibilities in purchasing functions. The chart above indicates the functions that should be performed by different people. Probably the most important is that the person who writes checks should not be the same as the person who reconciles them. This problem is more likely to occur in connection with purchasing functions than payroll, because payroll check writing is generally automated. Thus, for most larger contractors who use automated payroll systems, checks to vendors are the only ones ordinarily written by hand, in-house.

Two situations appear to be most conducive to mingled check-writing and reconciliation responsibilities: very small agencies and large agencies in which fiscal duties are organized by contract.

One of the smallest programs reviewed was a Bronx organization devoted to housing and crime prevention, whose "fiscal department" consisted of a part-time bookkeeper. The executive director does the small amount of purchase ordering necessary (no purchase orders or vouchers are used). At her direction, the bookkeeper prepares all necessary checks for signature by a board member, then reconciles canceled checks. We advised the director of the potential for fraud and suggested that check reconciliation should be performed by someone else.

A somewhat larger organization employed a fiscal director and a bookkeeper. Either of these might prepare vendor checks

for signature, and either might perform reconciliations.

Two of the larger contractors we visited also had fiscal activities organized in such a way as to permit check preparation and reconciliation by the same person. For the sake of "efficiency," both of these contractors had assigned check preparation, bookkeeping, and reconciliation on each contract to one fiscal staff member. Thus, a single fiscal staff member would carry through all functions related to one or more contracts. In both of these agencies, purchase orders and approval of invoices were performed by someone else. However, this did not provide the controls necessary as long as check preparation and reconciliation were performed by the same person.

Fiscal directors in both agencies maintained that they "checked" the reconciliations after their staff members had performed them. However, no spot check can provide the control necessary for these highly vulnerable transactions.

In both agencies, we advised those present during the interviews of the vulnerabilities in their systems. Several months after our visit to one of the agencies, the agency directors began an internal investigation which resulted in the arrest of two bookkeepers on charges of defrauding the agency of over $30,000. The fraud they performed was an elaborate one, springing directly from their control of all steps in purchasing for the contracts for which they were responsible.

The bookkeepers perpetrated their fraud by having invoices submitted twice. An invoice was selected from the files that had been paid the previous year on a date close to the date of the current year. The date was altered to conform to the current date. The bookkeeper then prepared a check for payment. The check required two signatures consisting of any combination of executive staff or board members. The check was then returned to the bookkeeper to be sent to the vendor. The bookkeepers used "white-out" to erase the name of the vendor and substituted their own names. When the checks were returned from the bank and given to the same bookkeepers to reconcile, they once again altered the face of the check and entered the name of the vendor again.

In reviewing vendor files, the agency executives who originally detected the crime noticed the checks with "white-out" on them. Neither the bank nor the auditors who had seen these checks for years had pointed out the obvious alteration.

We examined all available audits performed on this contract agency for the last several years. Nowhere did auditors note what should have been the glaring problem of mingling of responsibilities in this fiscal office, much less the alteration of checks and invoices.

Not all problems involving mingling of responsibilities

involve check writing. A large, prestigious Bronx organization holds over 30 contracts. Yet it employs only two fiscal personnel: a full-time purchasing clerk and a part-time bookkeeper. The director of the agency expressed confidence in his system of controls because the bookkeeper, who has no responsibilities for preparation of checks, does all reconciliations. However, the purchasing clerk performs all steps involved in purchasing, from preparation of the purchase order to preparation of the check for signature by a board member. No approvals of purchase orders, invoices, etc. were required. The purchasing clerk also receives goods.

The dangers in this arrangement are many. All kinds of corrupt relations with vendors are possible, from favored treatment of an individual vendor to inflation of costs with kickbacks. At an extreme, the purchasing clerk could create a fictitious vendor, which would deliver fictitious goods. She could generate all necessary forms and write checks to the fictitious vendor, which would result in the funds ultimately being deposited in an account controlled by her.

Expenditure Cycle

Special Function #1: Participant Payments

Both DOE and CDA contract programs pay participants for expenses such as carfare and lunch under some circumstances. Some DOE programs also pay hourly wages. CDA programs pay participants only rarely, but the DOE issues over 200,000 checks a year to participants in its various programs.

Unlike staff and vendor payments, payment of participants is not a function that is a necessary part of all contract programs. Participant payments are generally comparable to staff payroll systems and exhibit many of the same vulnerabilities. However, fraud involving such payments can also be compared to income-maintenance client fraud, since the most common types of fraud involve ineligibles receiving benefits or eligibles receiving inflated benefits. Strictly speaking, however, participant payments are not one of the "benefits" of DOE programs in the sense that income maintenance payments are benefits.

There were 51 cases and 60 allegations regarding payment to DOE participants in our sample.

The Job Training and Partnership Act (JTPA) allows for payment of participants in DOE's Classroom Training (CT) programs for lunch and carfare. Adult Work Experience (AWE) participants are paid the minimum wage. On the Job Training (OJT) participants are paid by their employers, who are reimbursed by the DOE for up to one-half the wages paid. Young people in the

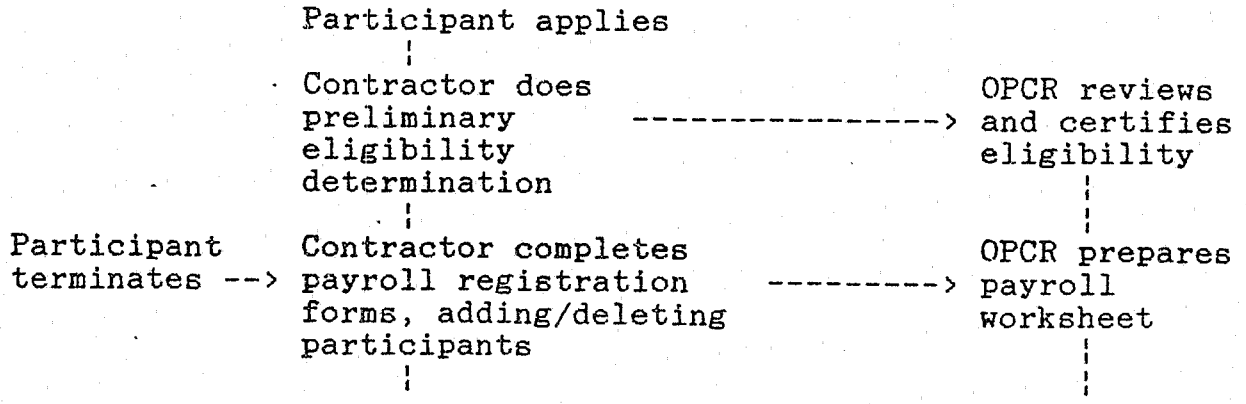
Summer Youth Employment Program (SYEP) are paid the minimum wage for their six to eight weeks of work each summer. Participant payments were the subject of a larger number of allegations than any other function. Sixty allegations--half of all expenditure cycle allegations--referred to participant payments. Certainly one reason for this is the large number of transactions and the large amount of funds expended on these payments. A large number of transactions combined with excellent detective controls could result in the large number of allegations in this area. On the other hand, poor preventive controls may also be involved. The analysis of cases will show that a combination of good detective controls in some areas and poor preventive controls over other vulnerable points combine with the large volume of transactions to produce a great number of cases.

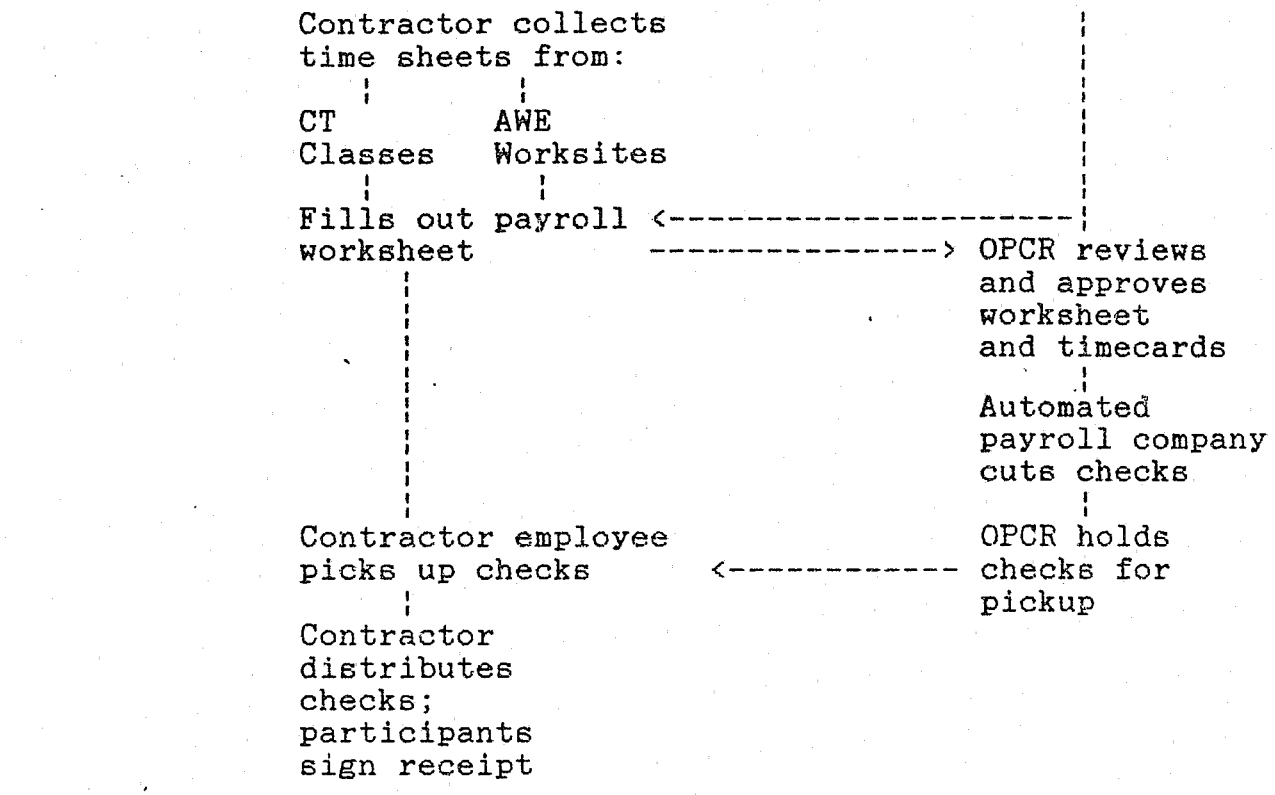
System Description

DOE's Office of Production, Control and Reporting (OPCR) is ultimately responsible for participant payments for Classroom Training, Adult Work Experience, and On the Job Training. CT, AWE and OJT participants are paid through two separate systems, although they have common elements. The flow of activities involved in each area is illustrated in the charts which follow. The Summer Youth Employment Program has a separate administrative structure with its own payroll office. SYEP's participant payroll procedures are illustrated in an additional chart.

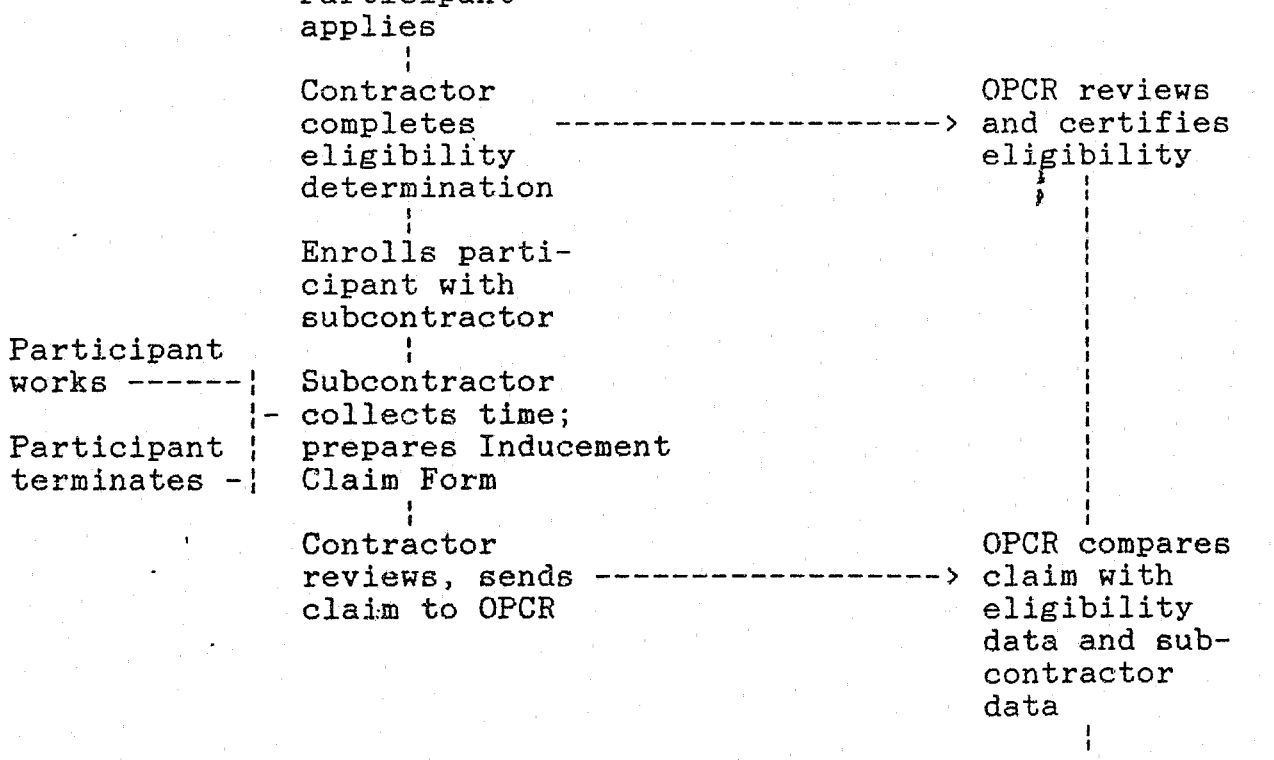
The three charts illustrate the flow of activities from the time of eligibility until the participants receive their checks, for each of DOE's participant payment systems. The eligibility determination process generates both manual and computerized records in the DOE that can be used later to verify the validity of payments to participants. This provides the DOE with a degree of control over its participant payment systems that is not possible for the payment of staff or vendors.

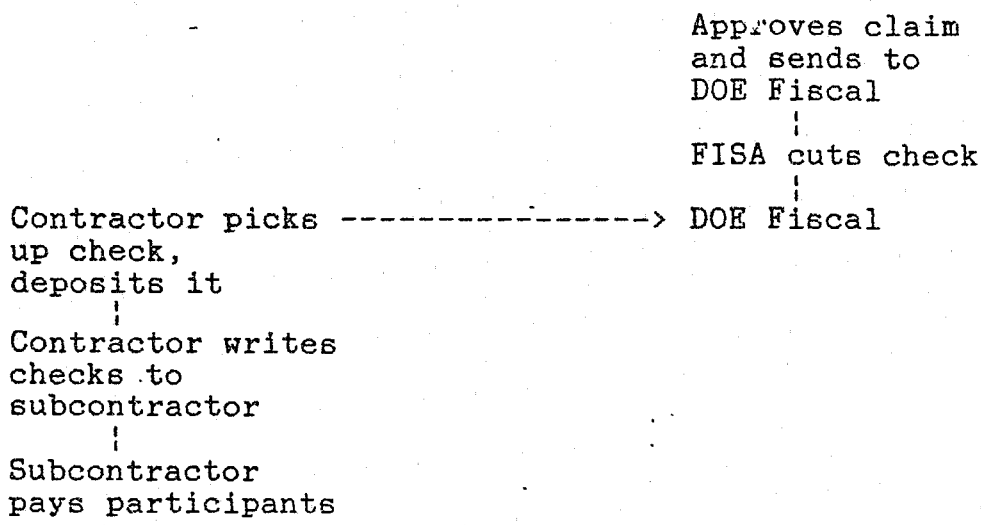
Payment of Participants: Classroom Training and AWE



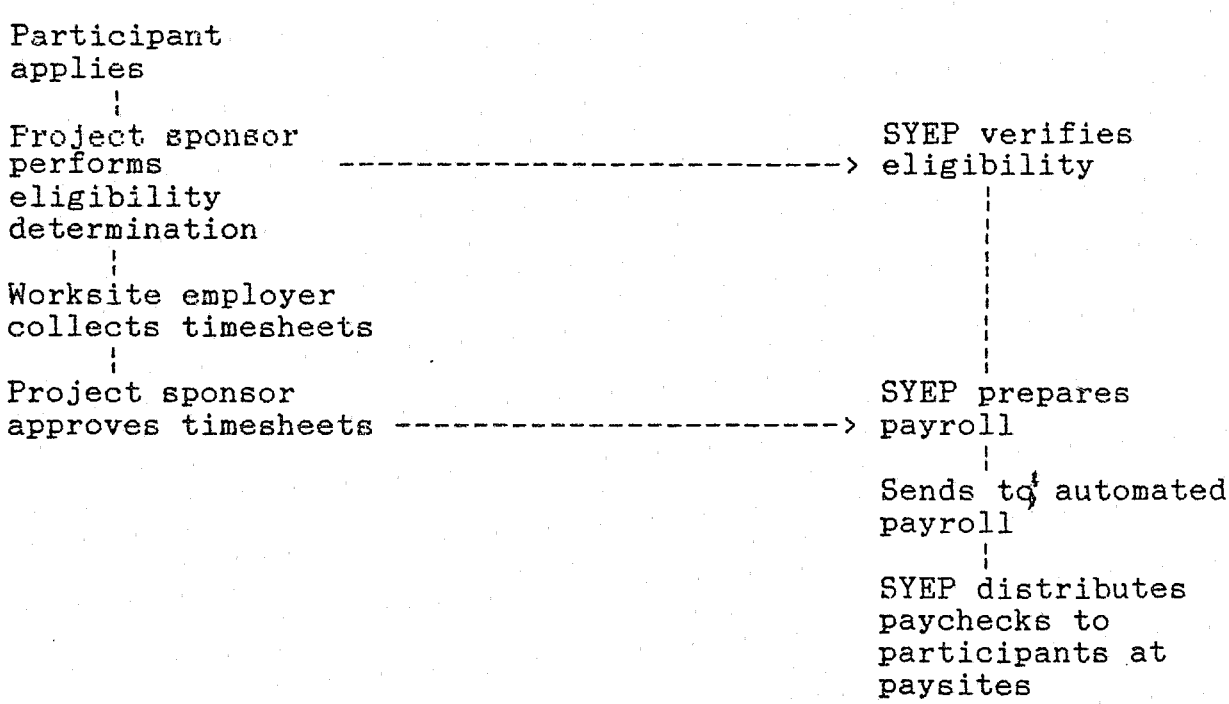


Payment of Participants: OJT





Payment of Participants: Summer Youth Employment



Note: Terminated participants turn in "zero" timesheets.

Classroom Training and Adult Work Experience:

In Classroom Training and Adult Work Experience the contractor is responsible for handling participants' applications and for making an initial eligibility determination, using a standard JTPA form. The contractor also fills out a Payroll Registration Form, which will place the new applicant on the DOE

computerized payroll. The same form is used to inform the DOE of terminated participants or of any other change in participant status. The application form is sent to the Eligibility Services Unit within OPCR, which reviews eligibility and indicates approval by stamping the form "certified." A copy of the certified eligibility form is then sent to OPCR's payroll unit.

When the contractor sends payroll registration forms for new applicants to OPCR's payroll unit, the unit's staff compares these documents with its copy of the participant eligibility rolls to see who has not been determined eligible. The payroll unit also reviews the payroll registration forms for completeness and accuracy and ascertains through computer audit that the enrollee is not active in any other DOE programs.

Payroll registration forms are entered into the payroll unit's computerized database, which then prints a list of all enrolled participants for each contractor known as the payroll worksheet. This list includes blanks in which the contractor may fill in hours worked and other payroll information. In addition to the payroll worksheet, contractors are supplied with blank ID cards sufficient to provide two copies for each enrollee and timecards sufficient for the first payroll.

Contractors are not required to issue ID cards to participants, but almost all of them do. Duplicate copies of the ID card are completed by the contractor, and the participant's picture is also taken and attached to both copies. The DOE then retains the duplicate. The ID card allows participants to cash checks at any Chase Manhattan branch, though the majority probably use check-cashing firms.

Once the training cycle begins, classroom teachers or worksite supervisors "collect time" from participants, which means that they oversee participants signing in and out or punching a timeclock each day. Contractors are allowed to use their own timesheets or cards, then transfer the hours worked onto DOE's standard timecard form. Timecards must be signed by the participant and by the instructor or supervisor who works directly with the participant--either the classroom teacher or worksite supervisor.

We discussed participant payroll with several of the contractors we visited, and case records supplied additional information about these procedures on the contractor level. Generally, participant payroll procedures were separate from the contractor's fiscal procedures and were not subject to the oversight and controls exercised over other types of expenditures. Participant payroll, of course, never becomes involved in the contractor's own bank accounts. The usual practice is for the classroom teacher to collect time and give an initial approval to the timesheets. The DOE program director will then approve the timecards. Often a secretary or administrative assistant does

the actual transfer of hours from the agency's own timesheets to the DOE cards.

The DOE has attempted to educate contractors with regard to the need for division of responsibilities with regard to participant timekeeping. They have emphasized that the following functions should be performed by different people:

- o Collection of participant time;
- o Posting time to DOE payroll worksheets;
- o Picking up checks and distributing them to participants.

However, some DOE officials have expressed a tolerant attitude toward those contractors whose small staff make such division of duties difficult. We did not observe any participant payroll distributions, but we found that contractors' executive staff were somewhat vague about who had the responsibility for picking up checks from the DOE and distributing them to participants.

After the hours on the timecards have been posted to the payroll worksheet, the cards and worksheet are sent to OPCR. In its review of timecards, the OPCR "flags" those with illegible signatures, those with "too neat" signatures (which can be an indication of pre-signed cards, particularly if all of a contractor's cards appear too uniform), and those in which all signatures look the same within a particular contractor. Those flagged are compared with previous signatures. For signature comparison purposes, the OPCR has available a number of documents:

(1) A check receipt list signed by participants when they received their checks the previous week;

(2) Time cards from previous payrolls;

(3) Payroll registration forms;

(4) Eligibility documents;

(5) Duplicate ID cards and duplicate ID photos, all signed by the participants.

After the review of timecards is complete, the payroll register is sent to the automated payroll company for production of paychecks. Someone from the contractor's staff then picks up

the checks from the DOE payroll unit and distributes them to participants, who must sign a check receipt list.

On the Job Training

The major difference between OJT and Classroom Training/Adult Work Experience programs, in terms of participant payment procedures, is that OJT participant payments are not processed centrally, and the OPCR does not receive participant timesheets. Instead, checks are issued by the worksite employer's firm. Thus, some of the controls available for centrally-issued participant checks are not present.

The first steps in the procedure are the same for OJT as for CT/AWE. The contractor is responsible for taking applications and determining participants' eligibility, then sending the applications to OPCR to be certified. OJT participants are also given ID numbers and included in the DOE's computerized database. However, from that point on, OJT procedures differ from those of the other DOE programs.

OJT prime contractors may subcontract with as many as ten or more subcontractors, all of whom must be approved by the DOE. After the participant is placed with the subcontractor, the subcontractor takes over the payroll process. The participant is paid through the employer's own payroll and receives a check from the subcontractor. The DOE reimburses 50% of participants' wages as an inducement to employers to participate in the program and to help cover the cost of training to the employers.

Each month, the subcontractor prepares an Inducement Claim Form, itemizing the name, rate of pay, hours worked, occupational category, and total wages paid to each participant. The inducement form must be signed by both the employer and the employee. This is sent to the project sponsor, who batches it with the inducement claim forms from all its worksites, together with an overall transmittal sheet, and sends it to OPCR. OPCR then checks:

- The name and ID number of each participant with the eligible participant base.
- The subcontractor's approval by the DOE, making sure that the rates of pay and occupational categories are in accord with the original agreement.

Subcontractor inducements constitute only 10 to 20% of the total claim made by the project sponsor. The remainder goes for the contractor's own expenses for staff and materials needed for

job development, recruitment, counseling, etc.

After the project sponsor's claim has been approved by OPCR, it is sent to DOE's fiscal unit. From there, it is handled in the same way as contractors' monthly reimbursement requests for staff and OTPS. The DOE sends a warrant for payment to the City's central FISA system, which responds by sending a check made out to the contractor back to the DOE fiscal unit, where the contractor comes to pick it up. The contractor then deposits the check in its account and writes its own checks to the subcontractor. Each month, on his inducement form, the subcontractor indicates how much was paid the previous month, in order to assure that the project sponsor does not misappropriate some of the funds intended for the subcontractor.

SYEP:

Although the SYEP also involves project sponsors, each with many worksites, the key transactions are controlled by the involvement of SYEP workers on-site. Thus, the SYEP is a highly labor-intensive program for the DOE.

Each project sponsor is responsible for recruiting applicants and performing an initial eligibility determination. Applications are then sent to the SYEP, which reviews eligibility determination. Then, because there are usually many more eligible applicants than available job slots, the SYEP randomly selects those to be hired. The hiring process is completed by SYEP staff, who interview applicants on site at the project sponsor's location. At that time, they review the necessary eligibility documents. The applicant is then placed on the SYEP payroll.

For each payroll, timecards sufficient for the two-week period are supplied to the project sponsor, who in turn supplies them to the worksites. Each timecard must be signed by the participant and worksite supervisor, then returned to the project sponsor, who checks them against their own participant lists, then turns them in to the SYEP. The SYEP prepares a "pre-edit report" for project sponsors, indicating problems with timesheets and the names of any participants who will not be receiving paychecks as a consequence. The payroll is then sent to a computerized payroll service where checks are produced.

Check distribution points have been designated throughout the City, usually in public school buildings, guarded by security personnel. Each SYEP participant must pick up his check in person at the paysite, showing his picture ID to the SYEP employee who distributes the check.

Potentially Vulnerable Points and Patterns of Fraud and Abuse in Participant Payments

In spite of the different systems involved, it is possible to identify certain areas of vulnerability that they have in common, though the fraud patterns resulting from each vulnerability point may vary from program to program, as a result of different procedures:

1. Application/Eligibility Determination:

   - o Eligible applicant applies and is accepted, but does not participate. Unauthorized person obtains his ID card and assumes his identity in program. Resulting checks are forged and cashed by the impostor.

2. Deleting Terminated Participants From Payroll:

   - o When the participant drops out, he is retained on payroll without his knowledge. Contractor staff fail to turn in required termination forms; timecards are forged, and the resulting paycheck is forged and cashed.

   - o OJT subcontractor continues to bill the prime contractor for terminated participant(s) (with or without collusion from prime contractor staff).

3. Filling Out and Approving Timecards:

   - o Participant inflates hours on timecards with or without supervisor's collusion.

   - o Staff member forges participant timecards for expediency; no fraud intended.

   - o OJT subcontractor forges no-show participant's time records to substantiate falsified inducement claim.

4. Check Distribution:

   - o The same staff member is authorized to approve timesheets, post time to the payroll, and pick up participant checks.

   - o The staff member who falsifies participant timesheets has unauthorized access to participant checks before or during distribution.

- o Participant uses false ID to secure another participant's check.
- o Participant falsely claims his check was lost or stolen in order to receive an additional check.
- o Participant receives wrong check because DOE or contractor staff failed to check his ID.
- o Funding agency staff steal checks before distribution to contractors.

5. Check Cashing:

- o Participants or staff use false ID to cash stolen checks.
- o Bank or check cashing personnel unknowingly accept forged check.
- o Bank or check cashing personnel knowingly accept forged check, with or without kickback.

Analysis of Participant Payment Allegations and Cases

There were a total of 51 cases and 60 allegations relating to participant payments in DOE. In the table following SYEP allegations are shown separately from those of the rest of the DOE programs. The regular DOE programs had a relatively large number of no-show participant allegations, inflated participant timecards, and theft of participant checks. In an addendum to the table, it can be seen that six of the ten cases of check theft were linked to no-show participants and sometimes to inflated timecards as well. About half the allegations for regular programs were substantiated.

The pattern of allegations for the SYEP was quite different. Only one-third of the SYEP allegations were substantiated. Most SYEP allegations involved theft of checks, but there were no allegations of no-show participations. Most of the SYEP check thefts involved participants stealing one another's checks or falsely claiming the loss of their own checks.

Because of the DOE's extensive control system, a relatively large number of participant payment cases originate "inside" the DOE, as a result of their review of documents at every step of the process.

Participant Payment Allegations

	General DOE Programs			SYEP		
	# of Allega-tions	# Sub-stan-tiated	$ Loss	# of Allega-tions	# Sub-stan-tiated	$ Loss
No-show participants	9	6		0	0	
Inflated participant timesheets	5	4	35,856	2	0	
Double billing-participants	2	0		0	0	
Other false participant payment documents	0	0		1	1	
Theft of participant checks	11	8	53,542	10	2	56
Kickbacks related to participant checks	1	1		2	0	
Participant timesheets falsified for expediency	4	3		2	1	
Failure to pay participant	4	1		4	3	
Poor participant timekeeping	2	2		1	1	
	38	25		22	8	
Total Cases:		33 cases			18 cases	

Cases Exhibiting Typical Fraud Patterns In Participant Payments

The following discussions of participant payment cases are based upon a delineation of allegation categories as presented in appendices D and E on the DOE and SYEP. The cases are illustrative of the participant payment problems experienced within the DOE and SYEP during the time period of this study.

Participant Check Fraud Involving Falsified Participant Identity:

Because of the DOE eligibility certification process, it is nearly impossible to generate paychecks by placing fictitious or ineligible persons on the participant payroll. The only way an ineligible person who has not been certified can receive checks is to adopt the identity of an applicant who went through the eligibility determination process but failed to show up for training for some reason. The impersonator then forges and cashes the checks using the eligible applicant's ID card. Three such cases occurred in our sample, two in the SYEP and one in a DOE AWE program.

All three cases originated when individuals who had applied for the programs but had never participated learned from the IRS that income had been earned in the program in their names. (Case #E/21-83, S/1-84, S/2-84).

In one of the SYEP cases, the complainant stated that he was accepted as an applicant, but when he arrived for work, the contractor told him he no longer had a job. The OIG was able to trace the impersonator through Regiscope pictures taken of him at a check-cashing establishment. In the second case, identification of the impersonator was impossible, because no Regiscopes were taken by the check casher and because the project sponsor was out of business. In the AWE case, a Regiscope was available, but the impersonator has not yet been identified.

In all three cases, it is difficult to see how the fraud could have been perpetrated without collaboration by the contractor and/or the subcontractor.

The cases also illustrate a potential vulnerability in the SYEP payroll control system. SYEP applicants know that they may not "win" a summer job in the random selection. If they receive a call to this effect, they assume that proper procedures have been followed. However, it appears that, in at least one case, the project sponsor substituted another applicant.

SYEP's hiring procedures include a double-checking mechanism intended to prevent such occurrences. After applicants have been

informed that they will be hired, they are instructed to report for a hiring interview, bringing a copy of their application and an original Social Security card. If these documents are properly inspected, as required by SYEP procedures, impersonators cannot substitute themselves for legitimate applicants during the hiring interview. However, it is also possible that the legitimate applicants were told not to show up for work after they completed the hiring interview.

Fraud and Abuse Involving Participant Timecards:

Falsified participant timecards are involved in three of the allegation categories: no-show participants, inflated participant timecards, and timecards falsified for expedience. Eighteen such allegations and 12 cases occurred in regular DOE programs, six of which also included theft of checks. Only four allegations occurred in the SYEP, and none of these were included in cases of check theft.

These cases illustrate both the strength and weakness of DOE's detective controls. More than half of the cases were reported by inside sources; however, cases involving the most serious fraud and abuse and the largest losses were reported by sources outside the system--by contractor staff or, in one case, by the IG's chance reading of an item in the New York Law Journal.

It would appear that DOE's detective control system is more efficient at identifying unintentional breach of procedures of mismanagement than fraud. All of the four cases of timesheets falsified for expediency in DOE's regular programs resulted from OPCR's bi-weekly scan of timecards. These cases occur because DOE timecards are generally all filled out on one day and signed by participants. If participants are legitimately not present to sign their timecards on the day they must be submitted, the contractor's staff sometimes sign for them. When no fraud is intended, the staff probably makes little attempt to imitate the participant's handwriting, and the uniformity of handwriting in the participants' names is apparent. The OPCR refers such cases to the OIG for investigation in order to determine whether no-show participants are involved.

The OIG's investigation often discloses procedural problems, and the IG often suggests improved timekeeping systems. For example, one case was referred to the OIG because the attendance figures were suspiciously high and handwriting was too uniform. The OIG found that the timesheets were prepared in a central administrative office at some distance from the location where the DOE programs were held. The person in charge had routinely submitted cards for all enrollees, whether they attended or not. If checks were received for terminated participants, however, they were not given out or stolen, so the OIG determined no fraud

was intended. Because of this contractor's management problems, the OIG recommended that DOE monitor the program more closely. The contractor subsequently combined its administrative and program units into one location.

Another mismanagement case (Case #E/73-82) was identified by the Independent Monitoring Unit (a DOE unit that is no longer operating). The IMU was concerned about the potential for abuse involved when contractors transfer time from their own timesheets to the regulation DOE timecards. In one contract agency, the IMU found that attendance sheets reflected considerably less hours worked than those reported on the timecards submitted to OPCR. Records were in disarray, with missing and unsigned attendance sheets. Nevertheless, the OIG investigation found no evidence of misappropriation of funds by staff or kickbacks from participants. The contract agency was required to reimburse the DOE for $4,442 worth of overpayments to participants, and the OIG recommended that the staff person responsible should not be allowed to work in a responsible position for a DOE contractor again.

The problem in this agency stemmed in part from a violation of DOE procedural guidelines concerning the segregation of payroll functions. The staff person responsible for maintaining attendance records was the same person who prepared participant timecards for submission to OPCR.

In the above cases the OPCR and the OIG collaborated to improve timekeeping procedures in the subject programs and often developed improved procedures and policies for participant timekeeping generally.

No-Show Participants and Theft of Checks:

Internal procedures detected two of the six cases in this group. One of these began when the OPCR reported to a DOE Contract Manager that one contractor's attendance figures were unusually high (94%). The contract manager visited the contractor to check attendance and found only six out of 18 participants in one classroom and 12 out of 22 in the second. After the Contract Manager discussed the problem with the director of the contract agency, the director initiated a review of participant timecards. Confirming the problem, the director then reported the matter to the DOE Deputy Commissioner for Operations, who referred it to the OIG (Case #E/35-83).

The subsequent OIG investigation revealed that a former employee of the contractor had submitted timesheets for terminated participants, then forged and cashed the resulting checks. Restitution of $5,283 was sought from the contractor.

This case is of interest because of the nature of the

director's involvement. It is clear that the director had left participant timekeeping to lower level staff until he was alerted of the possibility of wrongdoing, at which time he cooperated willingly with the DOE contract manager and the OIG.

Another participant check fraud case was initially detected by the OPCR during its computer audit of participant ID numbers at the time new participants register (Case #E/40-83). The audit showed that a participant being registered in one program was on the active list in another. The first program was a classroom training program run by a computer firm in a subcontracting arrangement with another contractor. The prime contractor, one of DOE's largest, held many subcontracts not only for OJT but for classroom training programs.

The investigation revealed that an employee of the prime contractor had forged timecards for the participant after he left the program and had done the same for terminated participants in another subcontractor program. He then forged and cashed the resultant checks.

This was another situation in which poor division of responsibilities left the door open for fraud. The prime contractor organized its relationships with subcontractors in such a way that a single staff member was responsible for all participant payroll activities for a specific group of subcontractors. According to subcontractor employees, the subject was responsible for transcribing participants' time from the subcontractor's timesheets onto DOE's timecards. When checks were issued by the DOE, he delivered them personally. His total theft amounted to $1,533, which the prime contractor agreed to repay to the DOE.

About one year later, another complaint was made about the same prime contractor, involving an almost identical situation (Case #E/7-84). This one was initiated by an anonymous staff member of the prime contractor, who alleged that a fellow staff member was submitting timecards which reflected hours not worked by participants, as well as submitting timecards for terminated employees. The complainant also alleged that the subject paid kickbacks to the participants involved. Participants interviewed by the OIG said the subject asked them to sign blank timesheets "in case we were absent on Friday, so our paycheck would not be delayed." When the subject was interviewed by the OIG, he admitted his guilt, but only for one terminated participant. He claimed to have cashed checks made out to that participant for a total of $469. The charge of kickbacks could not be substantiated.

A review by the OIG of the participant timekeeping practices of various of the prime contractor's subcontractors followed. All participant time records for a four-week period were randomly sampled. Participants and their supervisors were interviewed to

determine whether the participants had worked the times indicated on their sampled timecards, whether they themselves had signed all of their timecards, and whether they had received checks for any time not worked. Five subcontractors for whom these procedures revealed discrepancies then had all of their time records analyzed for the preceding two years. This analysis showed numerous overpayments to participants, causing the OIG to recommend that the five subcontractors receive no funds until restitution for the overpayments was gained. For two newer subcontractors, continued surveillance of timekeeping practices was recommended.

The calculated loss for the five subcontractors that had falsified timecards was $26,131. This amount was recouped by the DOE from the prime contractor, which was, in turn, to attempt to secure restitution from the subcontractors.

The file contains a letter from the prime contractor detailing improvements in timekeeping methods for its subcontractors. Timeclocks would be used in classrooms; late passes would be required; etc. However, there was no recommendation from the OIG or any assurance from the contractor regarding what appeared the root cause of the problem: the lack of division of responsibilities within the prime contractor's staff with regard to participant payroll.

One of the most serious participant check fraud cases, involving a loss of over $50,000, came to the IG's attention when someone in the office read an article in the New York Law Journal (May 28, 1982), in which a contractor funded by the New York City Youth Bureau was reported as having pleaded guilty to defrauding the U.S. Department of Agriculture during a previous job as fiscal director of another agency. When it was found that this individual was also the fiscal officer of a DOE contractor, the OIG began an investigation (Case # E/1-83).

Investigators began by reviewing an independent auditor's report which reported that a recent fire had destroyed many program records. However, the OIG was able to establish the probability of fraud, based on the records held by the DOE, primarily canceled participant checks. An examination and comparison with OPCR's handwriting exemplars indicated that signatures for three pay dates were forged. All the forged checks had been cashed at the same check cashing firm.

The participants had been involved in a program called "Public Service Employment" (PSE), no longer in existence, in which trainees were placed in government agencies. When participants were interviewed, they stated they had been "furloughed" from their public service job placements during the three pay periods in question and that they had received no paychecks for that period.

The OIG investigation found that the fiscal director was in collusion with the executive director, bookkeeper, and the check cashing firm to forge endorsements on and cash over 200 participant checks. The case was referred to the DOI, but the FBI assumed jurisdiction when it was determined that the alleged fraud could exceed $50,000. The participation of the agency, its staff and board in any DOE contracts was suspended until the investigation was completed.

When virtually the entire staff is in collusion, principles such as division of responsibility are rendered ineffectual. However, it is rare that all checks and balances are so effectively neutralized. In a 1984 case still under investigation, a former fiscal staff person of a contract agency reported to the OIG that timecards submitted for a number of non-existent participants generated checks on which the program director forged endorsements and cashed. When the complainant told the program director that he would no longer submit falsified timecards to the DOE, he was fired (Case #E/27-84).

The investigation determined that there were at least ten formerly-enrolled participants for whom checks were generated after they left the program and that the program director may have been assisted by another staff person in carrying out the fraud. The subjects have been identified, and restitution and/or criminal prosecution will be sought.

Distribution and Cashing of Participants' Checks:

"Check distribution" includes all activities that occur from the time the checks leave the bank until they are received by participants. There were nine cases in the sample (three in the regular DOE programs, six in SYEP) involving allegations of theft of participants' checks during the distribution process.

The majority of these cases involved allegations of theft by participants themselves: participants stealing one another's checks or submitting false claims of lost checks in an attempt to get paid twice for the same work. Six of the SYEP theft allegations and three of the regular DOE theft allegations involved such allegations against participants.

The earliest of the DOE cases in this study (Case #E/56-82) is a typical example. A participant reported to the DOE OPCR payroll office that he had lost his check and wanted to be reimbursed. A stop payment on the check was issued by OPCR, and the participant signed an affidavit stating that he had not received any proceeds from the check. When the check was returned from the bank to the check cashing firm in response to the stop-payment order, the endorsement appeared to be genuine.

The OIG reviewed the signatures on the check and affidavit

and interviewed OPCR staff, contractor staff, and the participant. During the subject's interrogation, the affidavit was recanted, and he admitted that he had lost the money shortly after cashing his check.

A number of other theft allegations resulted in the SYEP, apparently because of failure by SYEP and its contractors to follow proper procedures in distribution checks at its paysites. Five SYEP cases involved participants who received and cashed the wrong checks. These were generally discovered after the intended recipients reported to the SYEP payroll office that they had not received their checks. The subsequent stop-payment order then revealed a check endorsed with another participant's name that had been mistakenly cashed by a careless check cashing firm who had perhaps compared the ID to the endorsement signature, but had never compared the ID to the name on the front of the check. (Case #S/13-82, 14-82, 15-82, 18-82)

Because there were so many cases of lost or stolen checks in the SYEP, in the summer of 1982, the OIG established a single case number to cover the most routine ones. Thus, the number reported of theft allegations in the SYEP would have been much greater if these had all been separately counted.

As a consequence of these cases, the OIG recommended a number of procedures for improving controls at paysites, including security guards at paysites, particularly at times of peak activity. OIG staff also began monitoring paysites on each of the four paydays during the summer, an activity that is time consuming for the OIG but appears to have minimized petty theft and fraud at the sites. Since 1982, there has been only one case involving theft of participant checks at paysites.

We observed one paysite distribution during the summer of 1985. We were able to observe participants presenting their ID's to clerks who check their names on a computer printout enrollment roster. The participant then signs on the line where his name appears, and the signature is compared with his ID card. Another clerk gives the participant his check, which he signs on the front, with another comparison made with the ID card. Participants are warned not to endorse their checks on the back until they are cashed and are told that they will not be reimbursed for checks stolen after they have been endorsed.

Every site has a "complaint desk," to deal with major problems, such as lost ID cards or expected checks that do not appear. Each site is supervised by a manager and assistant manager who are regular, full-time SYEP staff.

Case records over the years suggest excellent coordination between the SYEP and the OIG to control check distribution at paysites. However, several cases suggest the need for improved controls in the SYEP internal procedures for handling checks. A

1982 case involved a temporary summer staff member in the SYEP payroll office, working with accomplices both inside and outside the office. The case came to light when a participant came in to the SYEP payroll office to pick up a paycheck he had missed during the regular payroll distribution. When the check proved to have been cashed, the OIG began a review of lost check claims as well as SYEP participant payroll procedures.

The investigation revealed that procedures for distributing checks that participants had failed to pick up during the regular distribution paysites were almost entirely uncontrolled. Paychecks returned from paysites to SYEP's central office were distributed among a number of employees, including temporary summer employees, for follow-up. The main subject of the investigation was instructed to call participants to inform them that their checks were being held and schedule times for them to come in to pick up the checks. The subject recruited friends from outside the system to cash the checks he had been assigned to distribute.

For some of the checks, he found the participant's file in the SYEP files (using a fellow employee as a lookout while he did so), then removed the participant's duplicate ID from the files. He also obtained blank ID's from another SYEP staff member. He then supplied his outside accomplices with the checks and ID's. They attached their own pictures to the ID's and cashed the checks. Those implicated in the fraud have been dismissed from their jobs at the SYEP.

Another case (Case #S/12-83) also indicated the occasional failure of SYEP's internal check handling procedures. When a participant failed to pick up his check, the SYEP payroll unit called his home and asked his mother whether the son had worked during that pay period. Although she told SYEP he had not worked, she came in with her son to pick up the check, which for some reason was released to them by SYEP personnel. Later, discovering their error, SYEP called the mother again to ask her to return the check, but was met with refusal. The case file contains a letter from the IG to the mother threatening to refer the case to DOI, but apparently this was not done.

According to the OIG, SYEP has improved controls over the security of participant checks and ID cards. We recommend that the IG continue to review controls over the participant check distribution process in SYEP. Special attention should be paid to checks returned from the paysites.

Footnotes

1. Neil Gilbert, "The Transformation of the Social Services," Social Service Review, December, 1977.

2. Sheila Kamerman, "The New Mixed Economy of Welfare: Public and Private," Social Work, January-February, 1983.

3. Comptroller General, Report to the Congress of the United States, Fraud in Government Programs: How Extensive Is It? How Can It be Controlled? Volume I (Washington, DC, May 7, 1981), p. 1.

4. John A. Gardiner, Shirley W. Hentzell, Theodore R. Lyman, Fraud in Government Programs: Suggested State/Local Prevention Strategies (Washington, DC : National Institute of Justice, 1982) p. 2.

5. Ibid.

6. Municipal Finance Officers Association, How to Evaluate and Improve Internal Controls in Governmental Units, p. 1.

7. Ibid., p. 9.

8. President's Council on Management Improvement, Committee on Organization and Structure, Streamlining Internal Control Processes and Strengthening Management Controls with Less Effort (Washington, DC : Department of the Interior, October, 1985).

9. Examples of Internal Control Review Manuals:

   Arthur Andersen & Co., A Guide for Studying and Evaluating Internal Accounting Controls (Arthur Andersen & Co., 1978)

   Municipal Finance Officers Association, How to Evaluate and Improve Internal Controls in Governmental Units

   Price, Waterhouse & Co., Enhancing Government Accountability (New York : Price Waterhouse & Co., 1979)

   U.S. Department of Health and Human Services, Internal Controls Manual (Washington, DC : D.H.H.W., 1984)

   U.S. General Accounting Office, CARE Audit Methodology to Review and Evaluate Agency Accounting and Financial Management Systems (Washington, DC : U.S. G.A.O., 1985)

10. U.S. Department of Health and Human Services, Internal Controls Manual (Washington, DC : D.H.E.W., 1984).

11. New York State Comptroller, Office of the Special Deputy Controller for the City of New York, The Approval Process for Noncompetitive Contracts in New York City (New York : New York State Comptroller, 1986) p. 47.

12. Ibid., p. 12.

13. New York City Comptroller Directive 5.

14. Comptroller General of the United States, Standards for Audit of Governmental Organizations, Programs, Activities and Functions (Washington, DC, 1981).

15. U.S. Department of Health and Human Services, op. cit.

16. Memorandum to Mayor Edward Koch from John S. Martin, Special Commission to Investigate City Contracts, September, 1986.

LITERATURE REVIEW

A. Focus of the Study and the Literature Review

This research in New York City has focused on the nature of fraud, abuse, and mismanagement as it occurred in programs funded by several governmental sources. The analysis has centered on the programmatic and fiscal aspects of contracts drawn between New York City agencies and local programs, with programs being defined as any independent, non-governmental entity providing services to eligible recipients and whose funding derives wholly or in part from public monies.

As a companion piece to the study, this literature review attempts to frame the major issues and concerns confronting municipal funding agencies charged with fiduciary and programmatic responsibility for federal pass-through funds. Complicating the unique funding relationships (federal to state; state to municipality; municipality to program) is the presence of multiple-source funding to programs. The consequence is a maze of accounting and auditing without absolute accountability to insure financial integrity. The strength of the funding concept rests on the discretionary use of funds to meet particular local needs. The weakness in the funding mechanism is counted in millions of dollars of losses and erosion of confidence in the ability of local government to deliver needed services.[1]

Placing these issues within the broader context of the Federal experience with program fraud and corrective action is therefore appropriate. Where local units of government have responded to allegations of misappropriation and misuse of public funds, enforcement[2] has been patterned along Federal lines since this is the only model available to most municipalities. Thus, a review of the "state of the art" in municipal management of community funding necessarily requires a review of the triumphs and set-backs of Federal program audit and investigation.

B. Organization of the Review

The first section of the review provides a foundation for the problem of government fraud. Size, scope and pervasiveness of the problems are referenced. Major innovative trends in Federal enforcement are discussed with particular attention to internal control reviews. Feedback from the review process, and the substantive findings of the reviews are documented. Since several states and municipalities have forged ahead with the

internal control review concept, these efforts are also discussed in this section.

The final portion of the literature review treats several topics of relevance to the contract management problem. These include relevant literature on organizational theory and deviance, the material available to date on cost-benefit analysis, and training modules for the conduct of internal control reviews.

Section One: History of Government Fraud

The Federal Experience: Fraud, Waste, Abuse and Mismanagement in Public Programs

Historically, the period of the 1960's - 1970's was marked by a national "War on Poverty". During those years, the Congress legislated dozens of programs to aid the needy, the ill, the elderly, the hungry, and the unskilled and unemployable in American society. These programs have grown dramatically in size, scope, administrative responsibility, and total dollar volume, such that domestic transfer payments composed the largest category of Federal sector expenditures in the FY 1986 budget.[3] Total human resource program expenditures were estimated at $359.9 billion and grants in aid for human resources were estimated at $63.9 billion.

The Food Stamp program is a case in point. Created in 1966, the program is expansion between 1969 and 1986 reflects a 5,000 percent increase in the current dollar value of benefits and an increase of over 600 percent in the number of average monthly participants.[4] Another public program, the Comprehensive Training and Employment Act, characterized by pass-through funding to local governments as prime sponsors and sub-grantees at the community level, spent $24 billion between 1973 and 1978.[5] Replaced in 1983 by the Job Training Partnership Act because of major fraud and waste, CETA demonstrated how an ill-designed program cost the taxpayer billions of dollars in losses.

The literature discussing U.S. government expenditures for benefit needs consistently emphasizes irresponsible design, lax management, poor accountancy systems, and overall vulnerability to fraud and misuse of benefits.[5a] As examples, the United States General Accounting Office (hereafter GAO) study of the Food Stamp program in 1977 found "close to $600 million in overissued benefits".[6] Another GAO review of government-wide fraud concludes, "opportunities for defrauding the Government are virtually limitless".[7] Still another analysis conducted in 1980 by GAO reveals fraud committed by all varieties of program actors: 26% committed by government employees, 18% by recipients, 12% by business entities, and 30% totally unidentifiable.[8]

While the amount of losses have been staggering, agencies seem paralyzed to respond. Repeatedly, the literature documents that "no systematic, economical, or manageable solutions" have yet been found to combat the losses.[9] As late as 1985, a government review of efforts to reduce fraud and waste concludes:

> "While there has been progress, GAO believes that it will be some time before the government as a whole has adequate systems...many of the weaknesses are long-standing and cannot be treated in a piecemeal or partial basis as has often been the case in the case."[10]

New York City, like the nation, reflects pervasive misuse of public funds. For example, the New York City Department of Investigation conducted 119 investigations of fraud in a wide variety of community-based programs during the years 1981 to 1983 and, with New York City's various Inspector Generals, referred 34 such cases for prosecutorial action as a result of investigations.

Trends in the "Enforcement" of Publicly-Funded Programs

1. Historical Benefit Neglect:

Program enforcement at the Federal level, in its early history is perhaps best characterized as minimal. During the early period of program development, managers were preoccupied with "providing services, disbursing money, and pursuing program objectives - without much concern for efficient and effective management or for the establishment of necessary safeguards".[11] Despite startling media accounts of scams, waste, and misuse, the mood remained reactive and ad hoc.[12] In 1978, the GAO reported a vast "lack of interest in protecting Federal programs from fraud".[13] Later, in 1981, the picture was not much different - "a much higher awareness of the need to protect programs but an unconcerned attitude about enforcing controls needed to prevent fraud".[14]

This pervasive "do nothing" attitude toward fraud prevention has been partially explained by the nature of program fraud itself. In order to prevent fraud by correcting design flaws, knowledge of program management and operations is required, but the individuals with this knowledge are often ignorant of the skills required for effective fraud prevention--more specifically criminal investigation and auditing skills.[15]

Further, the decentralized nature of program administration/ responsibility carved out over several tiers of federal, state,

and local government creates parochialism rather than overall, carefully planned responses. Yet another consideration in the Federal response to fraud has clearly been balancing protection of individual liberties with "get tough" enforcement strategies. As illustration, the use of computer crossmatching, while an important fraud detection tool, must be carefully safeguarded to avoid infringement of individual privacy.

One analyst has suggested that the failure to government to respond rests in the traditional outlook of law enforcement. He comments:

> "Given this analysis that fraud prevention policies based on traditional crime prevention theories will not be effective, what theoretical alternatives are available for designing effective policy?...a theory based less on trying to understand how to deal with crimes once they have occurred and more with attempting to understand the opportunities and incentives for committing crime..."[16]

is in order, he concludes.

2. More Pro-Active Enforcement

Enforcement in the 1980's shows more vigor, and the approaches experimented with at the Federal level today, appear to reflect changes in crime-fighting attitudes. Faced with rising fiscal deficits, streamlining of costs, and intolerable levels of program seepage, the mood of Congress and the nation has shifted.

a. The Inspector General Concept

Since 1976, for example, Congress has established offices of Inspector General in over eighteen federal agencies. The concept is to centralize audit and investigative functions in one independent unit, apart from program operations, but accountable for corrective actions to the agency head and to Congress. Since May of 1979, these federal IGs have worked in an Executive Group to share investigative and audit findings, and provide a communications network government-wide for enforcement purposes.[17] Practically, this relationship has resulted in several joint interagency reviews of benefit areas receiving multiple agency funding such as housing and health. Better communication and cooperative efforts have also developed between the U.S. Department of Justice, the U.S. Attorneys, and the Inspector Generals. The concept of the Inspector General has spilled over to many state-operated agencies and has become an institutionalized aspect of fraud enforcement in many jurisdictions.[18]

b. Computer Detection

A new arsenal of detection tools has made proactive enforcement a greater reality. For example, the conduct of computer cross-matching of benefit and beneficiary data across various areas of government has generated better quality enforcement information. Since 1979, wage-matching of eligible AFDC recipients and since 1983, Food Stamp recipients, has reduced program losses and proved, at least initially, that it is a cost- saving technique.[19]

c. Background of Internal Controls

Perhaps the most interesting dynamic in the enforcement of program integrity has evolved around vulnerability and risk analyses, internal control reviews, and compliance testing.

To place this development in a historical context, reference is made to the Accounting and Auditing Act of 1950 which required agency administrators to create and maintain internal control systems within their agencies. But while the law was on the books, it was not implemented. As an illustration, as late as 1980, GAO found 11 federal agencies deficient in internal controls for the collection, disbursement, obligation, and stewardship of imprest funds.

In 1977, passage of the Foreign Corrupt Practices Act increased the "responsibilities of corporate managements in the area of internal accounting control systems."[21] and stimulated the expansion of its application to the public sector.

Further impetus from the presidentially assembled Private Sector Survey on Cost Control (also known as the Grace Commission), the promulgation of the Office of Management and Budget's Circular A-123 mandating internal control reviews in federal agencies (subsequently this Circular was refined and Guidelines also developed to implement the Circular),[22] and continued expressions of concern from critics stimulated Congress to enact the Federal Managers' Financial Integrity Act (31 U.S.C. 3512(b) and (c) in 1982. (hereafter Financial Integrity Act).

The act adds to the OMB prescriptions for internal controls and places the responsibility for internal control definitions squarely before the Comptroller General. Several unique aspects of the Act are discussed below.

2. Reasonable Assurance Standard of the Act

The Act requires that agency heads certify "reasonable assurance" that:

(a) Obligations and costs are in compliance with applicable law;

(b) Funds, property and other assets are safeguarded; and

(c) Revenues and expenditures are properly recorded and accounted for to permit preparation of accounts and reliable financial and statistical reports and to maintain accountability over assets.[23]

Since implementation of the Act, controversy has arisen over the level of effort that agencies should expend to meet the "reasonable assurance" standard. The General Accounting Office favors full compliance with internal control standards while OMB maintains that too many agencies' resources would be required to meet the full standard. Further, OMB argues that an absolute standard is not intended by the Act. This issue creates practical contingencies for compliance testing of systems, and the degree to which such testing should be conducted.

3. Materiality Concept

The concept of materiality is fundamental to the accounting process. However, because of the Act moves beyond mere financial reporting, the problem has become how to best define materiality and then to document it. Examples of material weaknesses in government operations are: conflicts of interest, loss of agency resources, erosion in public program confidence, or inconveniences to third party payees. Since no absolute guide is available on what constitutes materiality, much is left to intuition, subjectivity, and agency relevance.

4. Costs and Benefits

Another inherent concept is the Act is that internal control systems should be cost-beneficial. For example, OMB's Guidelines[23a] to Circular A-127 for developing, evaluating, operating and reporting on financial management systems in agencies stress consideration in the light of reasonable total and transaction costs. Overly expensive systems are to be scrapped.

Section Two: The Literature of Vulnerability/Risk Assessments and Internal Control Review

Definitions: Vulnerability and Risk Assessment

Historically, the use of the terms "vulnerability and risk analysis" were rooted in the scientific and engineering disciplines. The concept contemplates re-enactment of weaknesses and failures in systems to determine causes and prevent future losses. The techniques are used also to project potential losses based on weaknesses identified.

Drawing on this experience, the author of a 1979 national fraud study recommended applications of the analysis methodologies for program fraud detection. It was intended to provide pro-active enforcement with a tool to insure fiscal and program integrity. In the proposed context, the analyses were to be a combination of "arm chair" hypotheses of program threats and potential offenders and a threshold exercise for assembling relevant anecdotal and experiential data concerning actual program losses and scams. The study stressed that "vulnerability analysis is limited to the identification of potential threats and offenders...(but) to complete the analysis and thereby allow fully informed policy and budget decisions would require the availability of cost-benefit data."[24] In sum, the analyses were intended to guide management decision-making to obtain the most economical results.

In its December 1982 Guidelines[25] covering the conduct of internal control reviews, OMB considers assessments a first step in the review process. According to the manual, assessments identify the factors creating inherent riskiness in the particular functional area, consider the operating environment in which the function occurs, and preliminarily evaluate whether safeguards exist to deter and prevent future problems.

OMB defines risk analysis as a second stage effort of vulnerability assessment. Suggested risk factors to be considered are: purpose and characteristics of the function; budget level; impact outside the agency; age and life expectancy of the program; degree of decentralization; prior audits, reviews, etc.; and management's past response to problems, audits, etc.[26]

Definitions: Internal Controls and the Evaluation Process

While the term "internal controls" is basic to the field of auditing and accountancy, the Federal Integrity Act contemplates controls that go beyond mere financial reporting. Taken in a broad sense controls are all methods used to safeguard assets, assure and check the accuracy of accounting data, promote operational efficiency, and encourage adherence to prescribed management policies and procedures.[27] The OMB Guidelines describe an internal control system as inseparable from agency operations. "Thus, internal control would be the responsibility of the same individuals who are responsible for operating the programs and functions...(enabling) objectives...to be accomplished in the most efficient and effective manner.

As noted earlier, the Act attempts to move away from the traditional approach to program enforcement and place responsibility for detection and prevention in the hands of operations personnel. This has created some conflict between internal audit staff and program managers in agencies. However, federal, state, and local experiences with internal control assessments suggest this conflict can be defused with training and technical assistance to explain the objectives of control reviews.

Implementation of the Federal Managers' Financial Integrity Act involves a showing of "reasonable assurance" that adequate controls are in place. The reviews for this assurance are step-wise and include conduct of vulnerability and risk assessments. Again referencing the OMB Guidelines to agencies, the evaluation steps include: the organization of the process, the segmentation of the agency, the conduct of vulnerability assessments, the summary of the assessments to point further actions, conduct of internal control reviews, implementing corrective actions, and reporting on the control process.[29]

The conduct of internal control reviews is, likewise, an interative exercise. First, the manager must identify the event cycles (series of actions, tasks, etc. which accomplish an objective/goal). For example, payment of vendors is a cycle with discrete transaction points. Step two of the review involves analysis of general control environment factors such as attitudes of management, separation of duties, etc.. Documenting the event cycle is Step Three. the fourth phase examines internal controls themselves and asks whether they are sufficient to assure fiscal and program integrity. Testing the controls marks another aspect of the process. Sampling of transactions is an event cycle, reviews of transaction documentation, interview, and "live testing" are techniques of use in the evaluation phase. The final step involves reporting corrective control actions that were taken.

The Federal Experience with Implementation of the Financial Integrity Act

1. What Was Learned About the Evaluation Process Itself?

The Government has now seen two years of internal control evaluations. Admittedly, the first year was a "a learning experience" which disclosed a wide range of material weaknesses and deficiencies accounting for billions lost."[30]

In view of OMB, "a good faith effort" was achieved in the first year, but the Agency warned that the momentum of the Act and the Guideline must be maintained.[31] As the evaluation process matures, it is hoped that agencies will "develop and improve" methods for more accurate and complete results. The Government has proclaimed a long term effort to improve administrative controls as Reform '88.

The literature concerned with "evaluating the evaluations" documents a slow, stumbling process. Debate continues on the significance of vulnerability assessments in the process. Because poor quality assessments resulted from variable weighting scales for risk factors and confusion on the part of those charged with doing the assessments, its use is under study by the President's Council on Management Improvement.[32] Refinements and further guidance are expected shortly. Since the Act requires annual reporting, many adjustments to the process will be made in ensuring years.

Clearly, the next horizon is formal institutionalization of the process within federal agencies. As the head of one agency noted:

> "Agencies which ultimately succeed at the business of internal controls will be those that have best managed to institutionalize the process and keep it active at a relatively high level of priority."[33]

2. What was Learned From The Substantive Findings?[34]

General government-wide findings for internal control reviews reveal continued problems with over 700 material weaknesses documented in two years. Table 2.1, excerpted from the GAO report reveals weaknesses in all cycles of administration.

Table: Comparison of the Number of Agencies Reporting Material Weaknesses by Category[35]

Category	Number of Agencies 1983	1984
Financial management and accounting	17	17
Procurement	14	14
Property management	14	15
Cash management	12	12
Grant, loan, and debt collection	13	13
Automated data processing	10	14
Personnel and organizational management	10	12
Eligibility and entitlement determination	9	10

The report found that agencies were identifying and correcting many non-material weaknesses. Some solutions were as simple as "putting a lock" on a file cabinet. In other instances, the corrective action is far more complex. Thus, some agencies have begun the arduous task of correcting major accounting systems. The report cites, as illustration, the Department of Education's replacement of the automated system for Guaranteed Student Loans which involves the budgeting of $1. million to produce more useful management data and account for costs more accurately.[36]

One of the most interesting findings concerned compliance testing. GAO concludes, for example, that often breakdowns in internal control systems are the result of individuals not following prescribed policies and procedures, rather than a lack of these. Techniques suggested for use by the agencies included interviews, observation operations, examination of documentation, actual transaction modeling simulating transactions by computer, and reviewing quality control and error rate data. (The GAO has prepared a training package parts of which are devoted to testing procedures. The training manual is discussed later in this literature review.)

Local Government Initiatives in Internal Control Assessments

It was reported in an April 1985 article that a "few state and local governments recognized the significance and utility of the (Federal Integrity) Act and instituted similar programs in their own jurisdiction".[37] Named among these local government units were: California; Tennessee; Austin, Texas; and New York City. Since publication of the article, Baltimore, Maryland; Shreveport, Louisiana; and Seattle, Washington have addressed

internal control problems.

In each of the jurisdictions the approaches, methods, and implementation of the reviews are managed differently. These distinctions are discussed below.

1. California's Financial Integrity and State Managers' Accountability Act of 1983

The Act mandates a two year reporting cycle for agencies to show appropriate systems of internal control. The agency head must certify "satisfactory" levels of internal control compliance, and the reports are submitted to the Comptroller or to the Governor.

In addition to the Act, the Auditor General's Office annually audits all state agencies and the Department of Finance audits agencies every two years for internal controls.

Under special authority ("expanded audit work") the Auditor's office can and does conduct special audits. For example, in August 1983 and June 1984, the agency examined the internal control procedures of the State's Office of Economic Opportunity and found:

> "Because the OEO has had deficient fiscal management and monitoring procedures, the OEO and the community agencies with which it contracts have misused public funds."[38]

Several of the significant findings of the report with applicability to the instant New York City study are:

a. The OEO should ascertain, within 90 days of the beginning of the contract period, that each community agency will use a reliable system of internal fiscal controls;

b. The OEO should have a reliable system for auditing and continually monitoring the community agencies with which it contracts;

c. The OEO should implement a system for reviewing independent audits of all OEO program funds that are received and used by community agencies; and

d. The State Legislature should authorize the Auditor General to conduct comprehensive audits of the community agencies in which we identified problems.[39]

Also of significance to the issue of internal controls in community-funded programs was the California finding of inadequate auditing by several agencies who provided funding to the OEO. In other words, the multiply funded agency was particularly vulnerable to the internal control weaknesses, because no single, comprehensive audit was conducted on OEO or the community groups which it funded.

2. Tennessee's Financial Integrity Act of 1983

Tennessee's approach (through legislative amendment of titles 4 and 8 of the Tennessee Code) is modeled on the Federal Financial Integrity Act. The Commissioner of Finance and Administration was given responsibility for developing agency guidelines to conduct the review. by December 31 of each year, agency heads are required to report to the Commissioner of Finance and to the Comptroller of the Treasury that either the agency's systems of control fully comply with specified requirements or they do not. If the latter situation exists, the agency is further required to identify "material weaknesses in the agency's systems of internal and administrative control and the plans and schedule for correcting such weaknesses."[40]

Tennessee enacted the legislation because "top government officials believed...it would enhance the present (control system) and would result in more efficient and economical use of scarce financial resources."[41] The Act envisions an evolutionary improvement process building on each year's assessments.

Tennessee has now experienced two full rounds of internal control review implementation. In the first round, at least one state agency failed to respond. Other agencies made a reasonable attempt to comply. The second year was preceded with development of additional guidance from the Department of Finance and Administration and the Comptroller's Office. The results of the second year evaluations are currently being examined and should be available for publication in Spring 1986.

The next phase of the process will encourage more rigorous testing on internal controls according to the Department of Finance.

3. Austin, Texas--Administrative Directive[42] for Internal Control Reviews

In March of 1983, the Austin City Manager issued an administrative bulletin requiring agency heads to report on internal controls on a biennial basis. Guidelines to direct the review efforts were developed by the City Auditor's office and some agencies developed their own internal control procedures.[43]

It is interesting to note, that the internal control initiative was encouraged by the publicity of financial management problems in Austin's programs. Misappropriation of funds documented in several agencies led the City Manager to develop an audit program for the future which would avoid such problems. As reported by the City Auditor, the City Manager was "emphatic that in our environment it was prudent to spend a dollar on control to save a dime lost to theft, because the public would not accept normal business judgments about risk and cost/benefit."[44]

The City chose not to augment staff capacity in the Auditor's office, but rather to place the charge on managers within the individual agencies. The City auditor reported that "reaction from internal audit staff was mixed...some felt that evaluating control was their job, not management's."[45]

Results for the first year varied greatly in sophistication. Some reports focused narrowly on problems of petty cash or inventory control. Reviews of the reports by the City Auditor's office looked for "good faith" commitment efforts (factors such as numbers of managers involved in the reviews, documentation, corrective actions taken, etc.). The Auditor, for example, found over 50% of the Departments' supervisors were involved.

The two-year experience provided several insights. The Auditor reports a lack of documentation but cautions against requiring "a paper mill". Further, he notes:

> "Materiality threshholds can be very low compared with traditional auditing perspectives. As cost/benefit considerations shift, the most efficient means to attain a high level of assurance becomes important...more elaborate steps may be justified to demonstrate assurance."[46]

4. New York City's Internal Control Process

By Directive[47] from the City's Comptroller, all agencies are mandated to conduct internal control analysis. Again, the control environment is to include managerial and programmatic considerations as well as accounting and fiduciary factors.

The New York Directive was perhaps the most specific of all initiatives discussed. Agencies are required to go through a check list of items (cash, revenues, payroll, expenditures and payables, inventories, automated data processing)f to insure controls are in place for each cycle. In addition, agencies were to respond to any issues opened by independent audits of audits completed by the City or State Comptroller's offices. An New

York's experience, like those of other jurisdictions, was spotty, with a single agency, Human Resources, where the work was considered exemplary.[48]

As a follow-up to the evaluations, the City's independent auditors have made Directive I an internal part of audit planning for the city. After reviewing the agencies, the auditors formulated a plan for detailed substantive testing.

> "If internal control was evaluated as being "good"...a representative number of transactions were selected...where control was evaluated as "weak" a sample was drawn...to test the substance of the transactions or balances without reliance on documentation or undocumented procedures.[49]

5. Baltimore, Maryland's Control Assessment Plan

Following published reports of funds misuse and public corruption, the Mayor of Baltimore along with a Committee of City agency managers mandated the conduct of control assessments. However, the process differed from those previously noted. Rather than a broad spectrum internal control questionnaire, the City Auditor developed an analysis format focusing on a half dozen critical control issues that were not agency specific, such as cash management. The agency responses were submitted to the Auditor on January 31, 1986, an consequently, have not been analyzed as this review is compiled.

6. Shreveport, Louisiana and King County, Washington

A number of other cities are currently developing approaches to the internal control process. Shreveport's City Council has been reviewing the initiatives taken in other cities and is expected to pass a resolution in Spring 1986.

The Auditor of King County intends to review model guidelines offered by several national professional accounting groups, before recommending an approach to internal controls for Seattle.

In summary, the tools and methodology for identifying control weaknesses and providing appropriate corrective action within a framework of suitable costs and benefits are evolving. First years assessments at all levels of government have identified control weaknesses. The process of documenting the causes has begun. Future years' efforts will be devoted to refining the process, correcting problems, and updating reviews as circumstances and conditions dictate. The general impression from the literature is the presence of a powerful new enforcement tool which accommodates programmatic, fiscal, and criminal

justice enforcement elements.

Section Three: Issues of Additional Relevance to Control of Community Program Funding

Organizational Theory, Management in Non-Profit Organizations, and Organizational Deviance.

Previous sections of this literature review have addressed fraud and abuse from a practical perspective of actual losses and development of countervailing tools. The current emphasis on controls, however, behooves municipal managers to contemplate theoretical aspects of organizational behavior. An understanding of organizational structure, organizational operations within bounded environments, and the transactional nature of organizational goals can be instructive for shaping governmental enforcement responses. A study of intergovernmental networking between municipal poverty agencies and non-governmental groups receiving funding concludes with the following:

> "The evidence is sufficient to ask whether the organization is not the proper unit in the analysis of large-scale social systems..."[50]

The literature in this field is interdisciplinary, drawing from sociology, business and criminology. Space here limits a thorough discussion of all organizational theory. However, the reader is encouraged to look beyond the references included for additional explanation of organizational misconduct.

1. Organizational Behavior Theory

Since the early 1960's, organizational theory has focused on behaviors of profit and non-profit organizations.[51] In this context, organizations are seen as "open systems" operating along boundaries of their environments and responding to events, activities, and other internal and external stimuli in a rational manner, emphasizing conservation of organizational resources. In the profit organization, for example, behaviors such as price wars, stockpiling of inventories, and illegal practices like price-fixing can be explained as organizational responses to meet profit goals, e.g., turning a profit and paying a dividend.

In the non-profit sector, behavior can also be examined from this "open system" perspective. Thus, non-profits are characterized by the following:

a. An absence of profit measure;

b. A tendency to service goals and missions;

c. The absence of marketplace forces;

d. A dominance of professionals;

e. Ownership patterns characterized by contributors, of directors, and executive officers;

f. A tendency to be political; and

g. A tradition of poor internal controls.[52]

Technically, non-profits have difficulty measuring outputs and the efficient and effective use of input relative to outputs. Lacking a goal orientation "of the bottom line", non-profits must find alternative ways of measuring performance. Unfortunately, many of the characteristics of non-profits impede good management control. "Unless these behavioral problems are overcome, the improvements in the technical area of performance are likely to have little real impact on the management control process". Consequently, training, technical assistance and organization development skills provided by funding agencies can have and important influence. In response to this need, technical assistance clearing houses have been initiated by private agencies both on the National and local level. The center for community charge in Washington, D.C. and the Technical Assistance Clearing House operated by the Community Service Society in New York City both respond to requests for assistance from non-profits.

The concept of organizational deviance draws again from the open system perspective. In a carefully written analysis of the Revco Drugs Stores malfeasance against the Medicaid program and the Ohio Department of Public Welfare, social control theory is blended with organizational theory. The author contends the nature of transactions contributes to opportunities for unlawful organizational behavior by (1) providing legitimate mechanisms that can be used to pursue scarce resources unlawfully and (2) further minimizing risk of detection and sanctioning. an organization finding its resources constrained may elect to falsify market signals concerning service abilities, client eligibility, and even the existence of clients.[54] Community organizations may, consequently, by-pass internal controls. The Revco study also makes useful statements about the role of government as victim. When the funding agency is a repeated victim of false signaling, the study finds the "factors associated with transactions may, in combination, create a

criminogenic transaction system in which violations are regularly produced in the course of organizational exchange transactions.[55]

Several other theoretical approaches to organizational deviance are worthy of mention here. In a 1981 article in Social Problems captioned: "Ironies of Social Control",[56] the researcher suggests three possible scenarios between a funding agency and its contractors. In the first, the escalation of enforcement efforts may unintentionally encourage rule-breaking. Somewhat like the classical concept of crime displacement, organizations that see the funding source "cracking down" on false billing procedures, for example, may stop that particular illegal practice, and instead, replace it with other deviant actions to obtain underserved financial gains. In the second situation, non-enforcement can unintentionally permit rule-breaking. The fact that internal controls may never have been reviewed in a community organization leaves open questions of how funds are abused and mismanaged. In the last, covert facilitation by the enforcement organization may encourage deviance. An example within the context of community funding arises where the funding agency does not adhere to appropriate internal control policy for eliminating excessive overpayment and the community agencies overpay eligible recipients on a repeated basis.

Other organizational deviance literature trances the roots of cover-ups to the collective integrity of the organization.[57] In all organizations, there is a dependence on external support for resources of internal authority. How subordinates in the organization are shielded from these external support forces, shapes the way operations will be handled. An illustration in the community funding context is an Executive Director who is the only one in the organization who signs checks may shield his employees from contacts with vendors, banks, etc., thus leaving open the potential for misuse of his check writing privilege.

Measurement of Costs and Benefits for Internal Control

The Federal Integrity Act requires "reasonable assurance: that control system provide reasonable, but not absolute assurance that the system objectives are met. This "standard recognizes that the cost of internal control should not exceed the benefits derived therefrom, and that the benefits consist of reductions in the risks of failing to achieve the stated objectives."[58]

Cost benefit analysis assumes that all costs and all benefits can be measured. Placing dollar values on some costs and benefits is not always possible. However, techniques do exist for estimating these values and providing qualitative documentation for the proximate measures.

Prior attempts to conduct such analyses in governmental units have come up short. The lack of good management data, the inadequacy of financial records to provide historical data, and the lack of good cost accounting systems which allow appropriate assignment of costs have constrained analysis.

Benefit estimates are equally elusive. Lacking bottom line profit measurement, government and nonprofits face difficult output measurement. Thus, previously conducted benefit studies of enforcement techniques to combat fraud relied only on measures of dollars recouped rather than other savings (hidden or actual).[59]

The literature, to date, on the implementation of cost-benefit analysis in government operations is fairly limited. A working paper proposing techniques to isolate costs and benefits was written in 1981 following a national study of government fraud.[60] In 1983, the first comprehensive analysis was conducted on computerized wage-matching in the AFDC program.[61] Over the last several years, GAO has been mandated by Congress to produce a methodology for conducting the analysis on all computer generated matching. The final report is due to Congress in 1986. Lastly, the GAO's newly published training package for evaluation of accounting and financial management systems discusses the topic in general terms.[62]

Training for the Conduct of Internal Control Reviews

1. Purpose

Without exception, the introduction of internal control evaluation at federal, state and municipal levels has been accompanied by training and technical assistance. The aim of these educational activities has been multi-pronged, attempting to address (a) line personnel with the importance of the control methodology, (b) internal auditors with new tools for auditing automated financial and accounting systems, and (c) investigative and enforcement personnel at the staff levels about the integrative approach of the process. At the Federal level, in particular, professional workshops and exchanges aimed at Inspector Generals are also noted in the literature.

2. Content and Examples of the Training Modules

Traditionally, training for government employees was conducted by the United States Office of Personnel Management. For example, a one day seminar conducted in 1982 covered the topic of understanding State and Local Government accounting procedures. This Office continues to play a role in the development of curriculum and the performance of training for internal controls. However, watchdog agencies like OMB and GAO have come to play a far greater role in the preparation of

training materials.

As illustration, the introduction of OMB's original Circular A-123 was made to a wide audience of administrators, auditors, and investigators. Topics such as "How Much Control Is Adequate?"; "Concepts and Strategies for Internal Controls" were developed by a consortia composed of the Federal Audit Executive Council and the Joint Financial Management Improvement Program. After revision of A-123 and the introduction of Guidelines in 1982, revealed that the most successful training occurred at two levels:

> "Awareness training for top and mid-management personnel to explain the Act, Circular A-123, OMB's Guidelines, and GAO's internal control standards, the agency's process for complying with these directives... and
>
> "Training managers and staff in the performance of vulnerability and other evaluative tools supplemented by information on the agency's process for assuring timely and effective corrective action for weaknesses."[63]

Training materials have generally taken two forms: guidelines /standards and questions/answers booklets. Guidelines from OMB are titled: "Administrative Control of Funds Regulation"; "Debt Management Internal Controls"; "Cash Management Internal Controls"; and "Internal Control of Procurement". The Comptroller General's standards for internal control and accounting are contained in Title 2 of the GAO Policy and Procedures Manual for Guidance of Federal Agencies. Examples of the booklets were produced by OMB in February 1982 following the October, 1981 issuance of A-123 and again in August 1984 after revision of A-123 and enactment of the Federal Integrity Act. Questions raised and answered in the 1984 version cover topics such as the following:

> How much documentation should be maintained for the internal control evaluation process?
>
> What constitutes a preliminary evaluation of safeguards?
>
> Are agencies required to consider ADP activities when scheduling and performing vulnerability assessments and internal control reviews?

In July of 1985, GAO introduced a training package referred to as the CARE Audit Methodology. The Forward to the packet notes that GAO auditors who use the approach will develop a specialized knowledge of agency's financial management systems. The auditor is warned not to apply the steps and procedures rigidly or arbitrarily, but to exercise professional judgment as to relevance and appropriateness. It is not intended as a check list approach. The audit approach is adaptable to any organizational level agency-wide, agency components, agency operation units, or individual systems.

The methodology emphasizes risk assessment and is segmented into (a) general risk analysis techniques, (b) transactions flow reviews, (c) compliance testing, and (d) substantive testing.

Another approach to information enhancement in the control review process has been the high level exchanges between Inspector Generals. The exchanges were reviewed by GAO in 1984.[64] The report endorses a fraud prevention strategy which requires inspector general investigators to identify and report accounting and administrative control weaknesses when this information surfaces during investigation.[65] The exchanges between the Department of Housing and Urban Development, Health and Human Services, Interior and Commerce are highlighted. The report additionally discussed approaches taken by the Inspector Generals to train their staffs in identifying and reporting systematic information (all data relating to internal accounting and administrative control system weaknesses which allows fraud and abuse to occur).

One IG reported giving case examples of systemic weaknesses, basic accounting principles, and the relationships between financial records and white collar crime investigations.

Training for Internal Controls at the Local Government Level

In California, the Department of Finance conducted and coordinated training for implementation of the state's Financial Integrity Act. The Department found "that the training was necessitated because internal auditors did not have the experience to perform such audits.[66]

In Tennessee, the Department of Finance and Administration and the Comptroller of the Treasury jointly sponsored training sessions to inform top officials of state government of the new Financial Integrity requirements. As part of that program, they retained an independent audit firm for evaluation methodology. The approaches used were case studies. One study titled "Misappropriation of Funds by Business Manager at Percy Priest State University" asks the auditor to respond to an allegation of misused travel funds by the University's business manager.

Another exercise module probes what specific internal control objectives should be examined within various event cycles such contracts, collections, or letters of credit. Yet another curriculum tool was vulnerability assessments. Participants were asked to show how a fraud like "falsification of government-furnished property records" could occur and how the investigation should be conducted.[67]

Austin, Texas followed the federal approach to training offering guidelines, technical assistance, and reading materials.[68]

Summary

This literature review has presented a number of perspectives on abusive and illegal use of federal funds passed through via local units of government to community agencies. By providing examples of fraud and government response, the issue, it is hoped, was placed in chronological and historical context. The review of current internal control objectives at all levels of government reflects the "state of the art" in programmatic, fiscal, and investigative approaches to fraud detection and prevention. Finally, the discussion of organizational theory, cost-benefit and training techniques has underscored the complex and interdisciplinary nature of the enforcement tasks that municipal managers face in years to come.

Footnotes

1 New York City Department of Investigation's Proposal to the U.S. Department of Justice, "Fraud in Government-Funded Community Based Programs, July 9, 1984. See also John Tepper Marlin, "Spending Blind: Non-Compliance with the Revenue Sharing Audit Requirements" in Government Accounting and Auditing Series No. 3, 1979. Sharing Audit Requirements" in Government Accounting and Auditing Series No. 3, 1979.

2 Enforcement is used in this review in its broadest sense and includes the involvement of program, fiscal, and law enforcement resources.

3 Office of Management and Budget, Special Analysis Budget of the U.S. Government Fiscal Year 1986, pp. 13-14. See also, U.S. Budget in Brief 1986.

4 Food Stamp Program Policy Studies Part I-A, Technical Proposal, submitted by the Urban Institute to USDA, July 15, 1985, p. 1.

5 Comptroller General, Report to the Congress of the United States, Weak Internal Controls Make Department of Labor and Selected CETA Grantees Vulnerable to Fraud, Waste and Abuse, (Washington, D.C., March 27, 1981).

5a The reader or research seeking additional literature and documentation on the background, history, size and scope of the fraud problem, should refer to the following bibliographies contained in: J.T. Skip Duncan and Marc Caplan, eds., White Collar Crime: A Selected Bibliography (Washington, D.C., U.S. Department of Justice National Institute of Justice, September 1980); John A. Gardiner, Shirley W. Hentzell, and Theodore R. Lyman, Fraud in Government Benefit Programs: Suggested State/Local Prevention Strategies (Washington, D.C., U.S. Department of Justice, February, 1982); and Andrea G. Lange, Fraud and Abuse in Government benefit Programs, (Washington, D.C., U.S. Department of Justice ,November, 1979) among others.

6 Comptroller General, Report to the Congress of the United States, The Food Stamp Program--Overissued Benefits Not Recovered and Fraud Not Punished (Washington, D.C. July 18, 1977).

7 Comptroller General, Report to the Congress of the United States, Federal Agencies Can and Should Do more to Combat Fraud in Government Programs (Washington D.C., September 23, 1981), p. 1.

8 Comptroller General Report to the Congress of the United States, Fraud in Government programs: How Extensive Is It? How Can It be Controlled? (Washington, D. C., May 7, 1981), pp. 6-7.

9 Andrea G. Lange, Fraud and Abuse in Government Benefit Programs (Washington D.C., November 1979).

10 Comptroller General, Report to the Congress, Financial Integrity Act, The Government Faces Serious Internal Control and Accounting Systems Problems (Washington, D.C., December 1985), p. 4, Executive Summary.

11 Frederick A. Heim, Jr. and Harold Steinberg, "Implementing the Internal Control Process" in Government Accountants Journal (Winter 1983-1984, Vol. XXX11, Number 4), p. 1.

12 Lange, op. cit.

13 Comptroller General, Fraud in Government Programs, op. cit., p. 23.

14 Ibid.

15 John A. Gardiner, Shirley Hantzell, and Theodore P. Lyman, Fraud in Government Benefit Programs: Suggested State/Local Prevention Strategies (Washington, D.C., US. Department of Justice, February 1982). p. 9.

16 Ibid., p. 11.

17 Comptroller General, Report to the Congress, Use Of Investigative information by Inspector Generals to Identify and Report Internal Control Weaknesses (Washington, D.C., February 24, 1984).

18 Comptroller General, Fraud in Government Programs, op. cit., pp..40-43.

19 David Greenburg and Douglas Wolf, An Evaluation of Food Stamp and AFDC Wage Matching Techniques (Washington, D.C., May 1984), p. 1.

20 Comptroller General, Report to the Congress, Continuing and Widespread Weaknesses in Internal Controls Result in Losses Through Fraud, Waste and Abuse, (Washington, D.C., August 28, 1980.

21 John H. Evans, III, Barry L. Lewis, James M. Patton, "Mandated Public Sector Internal Control Systems As a Possible Deterrent to Fraud, Waste, And Abuse" (Paper prepared for delivery at the National Conference on Fraud Waste, and Abuse; Pittsburgh, PA; October 7, 1980).

22 Heim and Steinberg, op. cit.

23 Ibid.,

23a Office of Management and Budget, Guidelines for Evaluating Financial Management/Accounting System (May 1985).

24 Lange, op. cit., p. 17. See also Thomas Beall, Robert A. Bowers, and Andrea G. Lange, "Stacking the Odds in Your Favor" in Security Management, Vol. 26, No. 8, August 1982, pp. 57-65 and also Unpublished Working Paper, "Alternative Strategies for Cost-Benefit Analysis of Fraud and Abuse Enforcement" (Washington, D. C., University City Science Center), 1980.

25 Office of Management and Budget, Guidelines for the Evaluation of and Reporting on Internal Control Systems in the Federal Government, (December 1982), p. 1-5.

26 Ibid., p. IV-5.

27 Comptroller General,op. cit., Weak Internal Controls, p.1.

28 OMB Guidelines, op. cit., p. I-1.

29 Ibid., p. I-8.

30 Comptroller General, Report to the Congress, Implementation of the Federal Managers' Financial Integrity Act: The First Year (Washington, D.C., August 1984). See also U.S. Congress, First Year Implementation of the Federal Managers' Financial Integrity Act, House Government Operations Committee, HR. Rep. 93-937, August 2, 1984.

31 Heim and Steinberg, op. cit., p. 12

32 President's Council on Management Improvement, Interagency Study Report, Streamlining Internal Control Processes and Strengthening Management Controls With Less Effort, October 1985.

33 Charles L. Heatherly, "Institutionalizing Internal Controls--A Manager's View", The Government Accountants Journal (Winter 1983-84, Vol. XXXII, No. 4), p. 19. See also Charles A. Bowsher, "Wanted, Commitment and Leadership: The Challenge of the '80's", The Government Accountants Journal, Fall 1982; Charles L. Dempsey, "Federal Managers' Financial Integrity Act: The role of the Inspector General", The Government Accountants Journal, Summer 1983.

34 The discussion of findings is prefaced with the note that individual agency responses to the Act are public documents.

For a cumulative analysis of these agency reports reference should be made to the GAO report, Financial Integrity Act: The Government Faces Serious Internal Control and Accounting Systems Problems.

35 Comptroller General, Federal Integrity Act, op. cit., p. 15.

36 Ibid., p. 26.

37 Patrick Hardiman, Arlene Lurie, Frank Dubas, and David Schoen, "Internal Control and Financial Integrity in Government Units" in CPA Journal 55: 48, April 1985.

38 State of California, Report by the Office of the Auditor General to the Joint Legislative Audit Committee, "The Office of Economic Opportunity Has Not Controlled Public Funds Properly", P-412, June 1984, p. 1.

39 Ibid., p. v.

40 State of Tennessee Public Chapter No. 129, "Financial Integrity Act of 1983", Section I.

41 Excerpted from speech given by Frank L. Greathouse, Tennessee State Department of Finance and Administration.

42 City of Austin, Administrative Bulletin 83-09, "Evaluating, Improving, and Reporting on Internal Control".

43 Hardiman, et al., op. cit., p. 49.

44 Robert W. Bramlett, "Improving Internal Control in the City of Austin", speech given to AICPA's Second Members in Government Conference, 1985, p. 6.

45 Ibid., pp. 12-13.

46 Ibid., pp. 15-16.

47 Comptroller's Internal Control and Accountability Directive 1, "City Manager Financial Integrity Directive", The City of New York, Harrison J. Golden, Comptroller.

48 Hardiman, et al., op. cit., p. 50.

49 Ibid., p. 51.

50 Herman, Turk, "Interorganizational Networks In Urban Society: Initial Perspectives and Comparative Research" in American Sociological Review", Vol. 35, No. 1, February 1920, p. 16.

51 See Leonard R. Sayles, Managerial Behavior (New York, McGraw Hill), 1967; James D. Thompson, Organizations in Action (New York, McGraw Hill, 1967); and Diana Vaughan, Controlling Unlawful Organizational Behavior, Social Structure and Corporate Misconduct (Chicago, The University of Chicago Press, 1983).

52 Robert N. Anthony and Regina Herzlinger, Management Control in Non-Profit Organizations, (Homewood, Illinois: Richard D. Irwin, Inc., 1975), p. 58.

53 Ibid.

54 Ibid.

55 Ibid.

56 Gary T. Marx, "Ironies of Social Control: Authorities as Contributors to Deviance through Escalation, Nonenforcement, and Covert Facilitation", Social Problems 28, (1981), pp. 221-246.

57 Jack Katz, "Cover-Up and Collective Integrity: On the Natural Antagonisms of Authority Internal and External to Organizations", Social Problems 25, (1979), pp. 3-17.

58 U.S. General Accounting Office, CARE Audit Methodology to Review and Evaluate Agency Accounting and Financial Management Systems, July 1985.

59 Beall, Bowers, Lange, op. cit., "Working Paper", p. 19.

60 Ibid.

61 Greenburg and Wolf, op. cit.

62 General Accounting Office, CARE, op. cit., p. 7-13.

63 Heim, sop. cit., p. 9.

64 S. General Accounting Office, Report to the Statutory Inspectors General, Use of Investigative Information by Inspectors General to Identify and Report Internal Control Weaknesses (Washington, D.C., AFMD-84-38, February 24, 1984).

65 Ibid.

66 As reported in Hardiman, et. al., op. cit., p. 48.

67 Materials available from the Tennessee Department of Finance.

68 As reported in Bramlett speech, op. cit.

INVESTIGATIONS AND SANCTIONS INCLUDING ILLUSTRATIVE CASE STUDIES

Functions and Structure of the Offices of Inspector General in This Study

The Offices of the Inspector General (OIGs) of the Department of Employment (DOE) and the Community Development Agency (CDA) have similar functions in that they deal primarily with matters involving contractors.

The OIG in the Department of Housing Preservation and Development (HPD) is primarily concerned with matters related to the programs and services operated directly by the agency under the direction of its staff of 3,600 people.

To be able to respond effectively to complaints about HPD programs, the OIG/HPD has set up a Complaint Bureau which reviews complaints received by telephone and mail in order to determine whether an OIG investigation is necessary or not. Routine complaints about HPD's programs/services are referred to the appropriate HPD unit, while serious complaints are passed on to the Inspector General (IG). Only those complaints related to the Community Consultant Contractors were included in this study; just six of these resulted in cases for the July 1, 1982 to December 31, 1984 time period of this study.

Not included in this study were complaints related to the Home Energy Assistance Program (HEAP), jointly operated by the CDA and the Department for the Aging (DFTA). The HEAP is an individual entitlement program requiring no intervention by contractors and therefore was inappropriate for inclusion in the study.

During the time period for this study, the OIGs in the DOE and the CDA were headed by Deputy Inspectors General responsible to the Inspector General of the Human Resources Administration (HRA). The DOE and the CDA were units of the HRA, but with their own Commissioners and separate staff, except for some administrative services functions, such as personnel and payroll. (In early 1985, however, the DOE was separated from the HRA, by Executive Order, and became an independent agency.) Although both the OIG/DOE and the OIG/CDA were supervised by the HRA IG, they operated relatively autonomously from the HRA. Occasional supervisory conferences and referrals of cases or cooperative investigations were the principal interactions.

Both Offices also handle complaints for one other City agency unrelated to the HRA: The OIG/DOE handles Youth Bureau IG-related matters; the OIG/CDA does the same for the DFTA. Because the Youth Bureau contracts with about 500 agencies, each

of the two OIGs thus is responsible for investigatory complaints against any of several hundred contractors.

Staffing of the OIG's in This Study

Most OIGs are staffed similarly, with an IG, one or more Deputy IGs, General Counsel, supervisors, Confidential Investigators (CIs), and support staff. The OIG/DOE and the OIG/CDA have nearly identical staffing patterns. In addition, they both lack additional Deputies (other than the one who heads the Office), General Counsel, and, in the OIG/CDA, supervisors. The CDA, with a budget one-sixth of the DOE, has a much smaller OIG, of course. The OIG/HPD is the largest Office in the system, reflecting the agency's large staff and the multiplicity of direct service programs offered.

Staff shortages in the OIGs are prevalent because of high turnover, which in turn seems to be related to low entry-level pay, little opportunity for advancement, and "burn-out." Entry-level pay is low because the credentials required to be a CI are not substantial: a bachelor's degree in a criminal justice field or a college degree and appropriate experience is the requirement for the position. Additional experience can be substituted for the college degree.

Merit increases for CIs are rare, and the opportunities for promotion may be perceived as very limited. Because less than ten percent of the OIGs are headed by non-lawyers, a law degree seems to be the usual prerequisite for the job. Junior staff can legitimately assume that there is little chance to make a career out of their work without achieving a law degree.

Burn-out for OIG staff can become a problem when they realize the lack of advancement potential in their jobs, need more money than the job will ever pay, and/or are unable to deal effectively with the complexity of some of their cases and the seemingly unresolvable contract management problems which they can represent.

Staff training is the responsibility of OIG management, with assistance from DOI's Inspector General liaison unit, which provides seminars and training materials to the IGs, as well as arranging for technical assistance to their staffs when needed. Most of the staff training within the OIGs themselves is with regard to procedures to be followed or on a one-to-one basis vis-a-vis a particular case.

Relationships Among the OIG's, Agency Administration, and the DOI, as They Relate to Complaint Handling and Case Management

The OIGs are attached to Commissioner's offices in City agencies and the IG's (Deputy IG's in the OIG's in the DOE and the CDA, as sub-units of HRA) report directly to their commissioners. The IGs are also responsible to the DOI, whose Commissioner, jointly with their agency Commissioners, hires them for their positions.

While not the major source of complaints about contractors, agency staff are a critical source. In the CDA, the major internal referral to the OIG sources in this study were the Deputy Commissioner for Fiscal and Management Operations and the Commissioner, the latter of whom fielded allegations from both inside and outside the CDA (not including those which come to the OIG directly) and referred them to the OIG. In the DOE, the primary internal sources of referrals to the OIG were the Directors of Youth and Adult Training (positions now combined under one directorship) and the staff of the Office of Production Control and Reporting, which handles payments to contractors and participants.

In both the CDA and the DOE, the decision to refer a matter to the OIG appears to rest with supervisory and managerial staff. Internal complaints involving contractor abuse may never reach the OIG because they have been handled by agency staff themselves. In the CDA, the Administrative Hearings are the way of handling inadequate program performance, as revealed by contract monitoring. The IG has no involvement with the Hearings, although it has been recommended in this study that any recent OIG investigations on an agency called for an Administrative Hearing should be made known to the CDA management deciding the fate of that agency.

Closing Reports on cases are sent from the OIGs to their Commissioners. The recommendations of the IG vis-a-vis a contractor can include defunding, non-renewal of funding, terminating contractor staff, not permitting contractor staff to work on agency contracts again, etc. Changes which may have already occurred or been implemented are also indicated in the Closing Reports.

A potential conflict is in the fact that cases opened by complaints passed along to the OIG by agency staff may, upon investigation, reflect upon the work of those staff and/or upon the work of other staff for whose work they are responsible. Internal complainants must decide whether to report a matter which their own control systems may have failed to reveal and/or whose resolution may indicate inadequacies in their staff, or not report it and handle the matter themselves. Obviously, the staff

from CDA or the DOE who did report matters to the OIGs wanted to know what went wrong and were willing to take the risk that they might be regarded as "part of the problem." The majority of the complaints/allegations come into the OIG/DOE and the OIG/CDA from outside of the agencies. The overall system for handling outside complaints is complex and sometimes causes delays in the initiation of an investigation. Complaints/ allegations about contractors and agency services/programs or about agency staff come to the DOI Complaint Bureau, to the OIG (or the OIG Complaint Bureau in HPD), or to the staff of the agency. Those that come into the DOI Complaint Bureau are referred to the appropriate OIG after review by DOI staff to determine if the matter may be serious enough to be handled in its entirety by the DOI and, if not, which OIG should receive the complaint. Complaints involving alleged City agency staff corruption are always retained within the DOI. Very few of the cases in this study were initiated as a result of a complaint filed with the DOI Complaint Bureau.

Most complaints are assigned a case number in the OIG, if the IG or other senior staff decide to investigate the matter. If someone is available to work on the case, a CI will be assigned to manage the investigation. Two exceptions in the DOE case number assignments are allegations of participant fraud in SYEP eligibility determination and in pay-site check handling, which are assigned to existing projects on these matters within the OIG/DOE.

The OIGs are also the repository for disciplinary cases for agency employees. In tne OIG/DOE, many disciplinary matters are handled within the agency grievance procedure, managed by the DOE General Counsel. However, if the charge involves corruption or other criminal behavior, the OIG assumes jurisdiction (if the DOI has not already done so). All criminal matters are to be referred to the DOI (and to the police). Police matters involving City employees are routinely referred to the DOI by the Police Department, which in turn passes the information along to the appropriate OIG. If an OIG investigation of a corruption allegation results in a criminal charge of a substantial enough nature, the matter is referred to the DOI. Smaller substantiated corruption matters are handled through restitution agreements within the OIG.

Sometimes a terminated contractor employee will lodge a grievance complaint against his/her former employer while alleging various fraud/abuse matters as well. These kinds of situations may be treated as a "package" by the OIG if the grievance is intertwined with the alleged fraud/abuse. Or, in the DOE, the grievance may be referred to the DOE General Counsel, and the other matters handled within the OIG/DOE.

The CDA also has a grievance procedure to handle alleged unfair terminations of its employees and those in its contract

agencies. Little opportunity for corruption appears to exist in the CDA, since most of its contract agencies do not manage their own funds, and the CDA's only direct service program is the HEAP. (Only one corruption case involving a CDA executive and the contract agency CDA Fiscal Center was included in this study (Case #C/159-84).

HPD, on the other hand, with its 3,600 employees mostly concerned with direct services/programs, is vulnerable to corruption charges against its staff; however, such cases were not studied for this project.

Sanctions Against Contractors

The possible sanctions against contractors by the OIGs in cases with substantiated allegations are essentially limited to recommending to their Commissioners that funds be stopped from flowing and/or seeking recoupment of lost funds. If the fraud/abuse is pervasive enough, the OIG can recommend that a contractor receive no further funds from the agency at all or until the identified causes of the matter are corrected. Corrective acts required of the contractor can include replacement of an executive, fiscal officer, and/or board members, a change in fiscal practices, and/or disapproval of the use of a subcontractor/vendor. The OIG investigating a case in which substantiated fraud/abuse allegations are found will also refer the matter to the OIGs of other City agencies from which the contractor receives funds if they are not already involved with the investigation.

In the CDA, ten contractors, out of the 38 substantiated allegation cases during the time period for this study, were denied further funding as a result of an investigation. In the DOE, six contractors were terminated or not re-funded, out of a total of 48 substantiated allegation cases.

The seeking of restitution is an even more likely possibility than defunding. In the CDA, there were 14 restitution agreements made during the time period for this study. Three of these were with subjects in contractors also recommended for defunding. In the DOE, 20 restitution agreements were implemented, only one of which was with a contractor recommended for defunding. Considered together, defunding and restitution were the sanctions applied in over half of the substantiated allegation cases.

Although restitution and/or defunding are the sanctions of choice in the CDA and the DOE, both have problems. Restitution needs to be collected either from the contractor or from the subject of the investigation identified as responsible for the fraud/abuse. Where fraud/abuse was committed by a subcontractor/

vendor, the prime contractor is held responsible and must attempt to recoup the lost monies it is required to pay the public funding source from the subcontractor/vendor. A contractor, of course, can be held responsible for the fraud/abuse committed by its staff, but when the subject responsible for the fraud/abuse is a viable candidate for paying restitution, it is sought from him/her. Conflict of interest/nepotism restitution is always assessed against the subject, as are applications and pay check fraud in the SYEP (unless a SYEP contracted for Project Sponsor was somehow implicated in the fraud).

Of the 14 CDA cases involving restitution, three were against the contractor (for a total of $4,787), nine were against the subjects ($18,041), one was against a subject ($2,000) and a vendor ($900), and one was against a subject or the contractor (if the subject did not pay $1,103).

In contrast, in the DOE, where all contractors control their own funds, 14 of the 20 restitution agreements were against contractors (for a total of $175,722), five against subjects ($10,979), and one against both the subject ($2,290) and the contractor ($7,123).

The amounts assessed in the CDA ranged from $62.22 to $7,057.22. In the DOE, the range was from $225 to $70,768.14. (This large restitution agreement is being implemented through a 15-year repayment plan for which the former DOE contractor needs to privately raise nearly $5,000 annually).

No restitution levied against contractors can be paid out of City contract monies and must therefore be recovered from subjects, subcontractors/vendors, or private funds. Subjects cannot always be identified or may have disappeared by the time they are identified, but contractors wishing to continue in business will find a way to pay the restitution agreed to if they are held liable for the loss.

For subjects, restitution agreements almost always preclude criminal prosecution, even though they sign a disclaimer about immunity from prosecution. The reality, however, is that most restitution agreements involve amounts which are too small to be worth prosecuting anyway.

A $70,768.14 restitution agreement (more than twice as large as any other in this study) was a settlement of "questioned costs" for DOE programs no longer in existence. The resolution of questioned costs revealed by an audit of a contractor is usually handled in other ways if the contractor is still being funded for the program or if the audit was done before all contract monies were expended. If there is no suspicion of fraud in a questioned costs matter, the costs may be resolved without the involvement of the OIG, by a budget modification in the current contract or by a reduction in funding in a succeeding

contract (without changing the goals or service levels originally required). Unless the contractor is able to introduce operating efficiencies, the funds deficit must be raised privately, just as it is required to be in a restitution agreement.

Restitution from subjects poses different problems. If it is not obtained at the time the agreement is signed, then a payment plan has to be set up and the OIG must act as a collection agency. In the OIG/DOE, restitution payments are tracked on a computer program which can display the status of any particular restitution agreement and the delinquencies, if any, in each agreement, as well as summarize amounts due, paid, and delinquent. In the OIG/CDA, the investigative staff share responsibility for manually tracking and following-up on restitution agreements.

Many of the subject restitution agreements in the OIG/DOE are related to SYEP applications fraud involving income-ineligible City employee children working in the Program. It has been easier to obtain information about City employees income than from the general public; it is also possible to obtain restitution from them without resorting to salary garnishment. The total amount levied against ineligible SYEP participants and their families during the time period for this study was nearly $60,000. In addition, three SYEP contract Project Sponsors agreed to restitution (of $26,296), as did six subjects of these contractors (of $12,385), for fraud/abuse related to participant applications and check handling.

The Involvement of the DOI and DAs in OIG Cases

All OIGs are required to relate with the DOI under certain circumstances when investigating cases. For example, the DOI issues and arranges for service of any subpoenas which may be required. It also arranges for the conduct of undercover investigatory work and for interrogatories.

Whenever a case is referred to the DOI for further investigation and possible referral to a DA for prosecution, a highly-structured referral summary is to be prepared by the OIG. The IGs also prepare reports for the DOI on a regular basis as to the status of their caseloads and, annually, as to the overall performance of their offices. The DOI sets standards for the OIGs, provides training to the IG's, and offers professional services such as those noted above as well as investigative accountants and legal counsel.

A minority of the OIG cases are referred to the DOI or a DA for further investigation and possible indictment of subjects. Based upon the analysis of cases in this study, eleven 11 OIG/CDA cases have been referred to the DOI out of a total of 38 cases

with substantiated allegations. Eight OIG/DOE cases involving DOE programs, other than the SYEP, have been referred, either to the DOI or to a DA directly, out of a total of 48 substantiated allegation cases. An additional two OIG/DOE cases were referred to DOI out of the 24 substantiated allegation cases involving the SYEP. Not all of the cases referred to the DOI contained substantiated fraud allegations at the time of referral, but for those cases which did not, there was considerable substantiated abuse and a target subject under suspicion for fraud.

In the OIG/CDA, two of the eleven referrals to the DOI were for the same contractor (C/78-83; C/104-83). One of the OIG/DOE referrals also involved this contractor (E/74-82). Thus, the unduplicated count of contractors have been referred by the two OIG's during the time period for this study was 19. However, for four of the OIG/DOE-referred contractors and for one of the OIG/CDA contract agencies, a District Attorney became involved during the investigation and assumed jurisdiction over the cases. Four of these five cases are still under investigation by the DA's (E/70-82, E/1-83; E/22-84; and E/140-83). A grand jury did not indict the alleged target in the fifth case (E/66-82 and E/3-83 combined).

Unless a case becomes active in the DOI, it becomes very difficult to locate it. Cases referred by the OIG's are reviewed by DOI staff for the potential for indictment of a target subject. If an indictment is judged unlikely, the case is filed in a "dead" file. In addition, some cases said by an OIG to have been referred to the DOI were simply requests for DOI assistance in issuing of subpoena, conducting interrogatories, or investigative accounting. Six of the CDA cases did not become active in the DOI (C/53-82; C/87-83; C/132-83; C/137-83; C/138-83; and C/177-84). Two of the DOE cases did not become active (E/20-83 and E/15-83 combined; S/1-84). Thus, the unduplicated total number of OIG/CDA and OIG/DOE cases which became active in the DOI for the time period of this study was seven.

Five of the seven cases were referred to a DA, with indictments and convictions obtained in two of these (E/21-83; E/99-83). The other three of the five are still under investigation by the DA's involved (E/74-82 and E/78-83, E/104-83 all on the same contractor; E/31-82; and E/53-82). One of the two remaining cases was closed in the DOI in mid-1985 with no referral to a DA (C/159-84). In this case the subject was deceased, but the investigation was pursued to determine if other persons were involved in the fraud. The other case is still active in the DOI, awaiting the findings of an investigation by the Inspector General of the U.S. Department of Education, which had provided considerable funds to this former DOE contractor (E/26-83 and E/18-84 combined).

The degree of involvement of the DOI in the seven cases varied considerably. For the two cases not referred to a DA, the involvement was not significant, consisting mostly of issuing subpoenas and conducting interrogatories. For the other five cases, the involvement varied from developing the case and referring the OIG-identified target subjects to a DA (in three cases) to conducting full-scale investigations of multiply-funded contractors in conjunction with the relevant OIG's and federal investigatory bodies.

For at least one of the five cases for which a DA assumed jurisdiction before a DOI investigation could occur, DOI staff, however, became heavily involved (E/66-82 and E/3-83 combined). In this case, the DOI Accounting Section examined the 37 audit reports for the contractor's seven years of operating DOE-funded programs in an attempt to determine the causes of the contractor's extensive misuse of funds. The failure of the DOE to act upon the results of these audits, indicating persistent unresolved questioned costs, caused massive abuse of federal funds, estimated in excess of $2,750,000. No fraud was found; hence, no indictments were gained in this case.

This and other cases in the DOE where contractors failed to submit employee withholding taxes to the IRS have resulted in a unique arrangement with the New York City IRS office handling corporate tax matters. The IRS office will monitor withholding tax submissions by the 85 DOE contractors (in 1985) in return for OIG assistance in alerting the IRS to such non-submissions when DOE monitoring/auditing finds them first and in locating the parties responsible for such abuses when they occur. The OIG/DOE recognizes that the monies not paid to the IRS, to the state tax bureau, to the employee health insurance carrier, and, in the above case, to the employee pension fund (including employee contributions) are vulnerable to fraud (as well as being fiscal abuse) and welcomes any means of early detection which can be implemented.

The relationships of the OIG's with the DOI and, for both, with the DA's, were minimal in terms of the total number of cases analyzed in this study. As noted earlier, the DOI is only interested in identifiable fraud targets and then only if the amount of money involved is large enough to entice a DA to prosecute the target.

Cost-effectiveness is a major concern. Investigating a criminal case, obtaining an indictment, and prosecuting the target is not thought to be worth it if the loss is less than $50,000. (Some DA's may take a case with a smaller loss if it represents a possible pattern of fraud, in order to make an example of the perpetrator for others in similar circumstances.)

Large-scale fraud prevention remains important. The DOI can be helpful to the OIGs by continuing its fraud prevention projects. But, the major activity of the OIG's in the DOE and the CDA is in investigating small-scale fraud/abuse cases. These cases indicate that the source of the problem frequently lies within the public agency's contract management system and the internal fiscal and program controls related to that system. The DOI's management review projects are unlikely to be as effective in assisting agencies to deal with needed changes as the OIGs themselves could be, given their knowledge about their agencies and of the personnel in them. As an example, the establishment of the Fraud Abuse Control Team (FACT) in the SYEP was a direct result of the OIGs interest in improving controls on SYEP applicant eligibility. The "watchdog" nature of the OIGs and their "direct-line" to their commissioners makes them ideal for doing this kind of work, if only investigations as such did not require so much of the available staff time.

ILLUSTRATIVE CASE STUDIES

Case Study 1

In May 1983, the OIG/CDA received a letter from a former employee of a CDA contractor whose program was intended to provide a variety of services to the elderly: an escort service, daily telephone reassurance, arts and crafts, recreation, referral, etc. In the letter, the former staff person complained that the director of the agency had kept part of his paycheck. The letter also listed a series of other allegations against the director:

- She used abusive language to employees and clients.
- She sold stolen food (including USDA cheese) intended for clients.
- She demanded kickbacks from employees on a regular basis.
- She charged clients fees to participate in activities.
- The lease for the office space was for a smaller amount than the rent paid.
- She filled out a timesheet for a hospitalized employee, then cashed the check herself.
- Few contract services were being provided to the elderly.

The OIG interviewed the two men who had sent the letter. The DOI was contacted immediately, as a possible criminal case existed, and a thorough, intensive investigation was initiated.

Interviews with other employees confirmed the allegations, and others came to light:

- The director was collecting her deceased mother's Social Security checks.
- She was on the payroll of a local politician.
- She was receiving a salary as a home attendant to her deceased mother.
- She had two rent-subsidized apartments.

Numerous investigative techniques were used in addition to interviewing employees. Many records and files were reviewed. All timesheets of program employees were compared with lists of active employees to determine which documents were falsely submitted. The office lease was examined and compared to the monthly rent expenditure.

Other records were checked with the cooperation of Federal IG's. It was determined that the program director had never reported her mother's death to Social Security, and that the checks had been cashed. The Federal IG for Housing and Urban Development (HUD) reviewed the director's application for subsidized housing and found that she had not disclosed her employment.

A review of the home attendant service records revealed that she had been receiving a salary under an assumed name as a home attendant to her mother, and that she had claimed disability and received checks for an additional attendant to herself.

In addition to the document reviews, recorded conversations between the director and employees were obtained. DOI detectives visited the program office to pick up records and found employees in the process of altering information regarding services provided to the elderly.

The CDA monitored this program in several ways. The program was required to state its actual performance relative to the level of service specified in its contract. The figures provided were impressive. For example, in the activity category "Arts and Crafts and Recreation," 47 sessions were reported, although only 17 were required by contract. On the basis of these figures, the CDA contract supervisor stated that the program "has either exceeded, met, or come close to meeting all of its service levels ... ." Without explanation, however, the report continues, "the validity of Activity 1,D. (telephone reassurance) is questionable." Despite this notation, the recommendation was to "continue without conditions." Clearly, if there was some question about this activity, a condition should have been made at that point.

The CDA had required a formal accounting for money spent. A look at this program's financial report showed no sign of unusual depletion of funds. In some areas, however, virtually none of the funds had been spent. One such area was "Arts and Crafts and Recreation," making the 47 sessions reported in the other document highly suspect. However, CDA had never compared the programmatic and fiscal reports directly, so this was not detected until DOI investigators did so.

The CDA had conducted site visits. During a four-month period, these visits largely consisted of "record review." When

examining the escort service, for example, the client files and daily log were examined, although neither of these provided proof that the activity actually took place.

There is a space on the CDA evaluation form for "program observation," but this rarely occurred. At the time of one observation, it was noted that telephone reassurance was not being conducted. Yet no observation was made during the following visit--just another look at the log book. Repeated actual observations of these two activities would have revealed the log books to be falsified.

After interviewing clients named on the contractors records, the OIG verified that most contract services were not being provided at anywhere near the levels specified in the contract. A food buying service was benefiting the director personally, because she charged unauthorized fees to clients using the service.

Weaknesses in Federal controls were also revealed. Social Security apparently had not received independent notification of the death of the director's mother, and/or had not cross-checked its records. HUD apparently lacked a way of verifying incomes of subsidized apartment holders.

Eight months after the investigation began, the program was defunded and the director was indicted on numerous charges. The U.S. District Attorney was quite eager to prosecute this case, because there was hard evidence, independent verifications, and reliable witnesses. Furthermore, the director was willing to cooperate. Additional allegations involving potential corruption in the establishment and funding of the program by local politicians are still under investigation at this time. The director was sentenced to three years in prison.

Case Study 2

In August 1983, an anonymous staff member of a program funded by the Department of Employment (DOE) complained to the OIG about irregularities. This program was under contract to provide education, training, and permanent jobs. The complainant alleged that CETA clients were provided fewer services than other clients, despite the higher fee received for CETA clients, and that CETA clients were hired by the program itself to boost its placement statistics. The program director denied the latter allegation and, with regard to the former, asserted that CETA clients actually received more services.

As a result of the OIG investigation, along with general DOE dissatisfaction with the program's performance, the program was informed that its October 1983-July 1984 contract would be proba-

tionary and would not be renewed if there were further problems.

The program's probationary contract required it to enroll 106 participants and to place at least 70 or 70% (whichever was higher) in "full-time, training-related, unsubsidized employment paying at least 20% above the minimum wage ... in which the client shall be retained by the employer for at least thirty (30) consecutive days."

The DOE monitored the program through monthly updates on total placements. In addition, a "Client Termination Notice" had to be completed for each participant. This form was not notarized, and falsifying it was not considered perjury.

According to the documents submitted by the program, 82 of the 106 clients were placed, an acceptable level. However, an unusual, in-depth investigation revealed that these numbers were not valid.

Clients were interviewed, as were the employers listed on the forms, in order to determine whether the placements actually conformed with the conditions specified in the contract. It was found that only 39 placements were acceptable.

Many of the improper placements did not meet two or more of the criteria in the contract. There were also cases of no-show employees receiving paychecks and of clients returning to previously-held jobs after training, rather than utilizing the program's placement service.

The program had counted as "placed" four clients who returned to the program rather than working. In two cases, clients' alleged employers had never heard of their employees. Some clients had been employed while enrolled in the program, making them ineligible. Another client found her own job, yet was claimed by the program as one of their placements.

Of those clients whose jobs did not meet the mandated criteria, nine had jobs that were part-time or on-call rather than full-time. Several clients' jobs were misrepresented to disguise that they were not training-related. A client who worked in a stained-glass shop was listed as an "educational counselor." A subway token booth collector was said to be in "public relations." Yet another client worked for an ice cream store.

In July 1983, at the contract's conclusion, 16 clients still had not been placed. The program director and another program officer created jobs for the clients, subsidizing the clients' salaries by using program funds. Four employers were located who took on the clients for the contractual minimum 30-day period. This work was not all training-related, nor was it all full-time.

These results were uncovered through unusual efforts on

DOE's part. Generally, their Placement Verification Unit randomly checks placements from each contract cycle by sending letters to the listed employers. In this case, the OIG/DOE checked virtually all of the 82 placements claimed by interviewing the participating clients as well as alleged employers. Substantial fraud, as discussed above, was uncovered.

There were numerous additional allegations, many raised by present and former program staff. These included:

- o U.S. grant funds were deposited in money market accounts.
- o DOE funds were diverted to unrelated expenses involving program centers in other states.
- o Clients were paid stipends by the program even after their placement in jobs. (This despite the existence of a DOE-salaried payroll clerk.)

The first was referred to the appropriate Federal IG. As the amount of money was relatively small, it is unlikely that action will be taken. The second was not conclusively substantiated, as limited resources did not permit investigators to be sent to other states. The third allegation was substantiated during the Federal IG investigation, and a list of clients and the amounts they illegally received was prepared.

DOE funding for the program was suspended after the expiration of the probationary contract. Once the program was no longer funded, little attention was paid to the allegations, particularly since they did not involve massive, easily-detectable monetary fraud.

Thus, when the case was turned over to the DOI in October of 1984, little additional investigation was carried out. The effort concentrated on firming up the program's violation of U.S. Title 18, Section 665, involving theft or embezzlement from manpower funds. Hearings were held, and clients or employers were formally questioned.

The case was not turned over to the U.S. District Attorney until February 1986, due in part to the difficulty of locating and scheduling hearings with many people who had since moved on to new positions. It remains to be seen what action will be taken by the U.S. District Attorney.

Case Study 3

Perhaps the most comprehensive "case" in this study, in terms of the variety of funding agency controls which were subverted, manipulated and/or disregarded, involved a for-profit corporation providing classroom training in secretarial and word/data processing skills under a DOE contract of $760,512, from 7/1/85 to 6/30/87 and $722,909, from 10/1/83 to 6/30/85, and its not-for-profit subsidiary corporation providing job preparation, counseling/workshops and word processing skills training under a CDA contract of $63,825, from 1/1/85 to 6/30/86.

The case was opened in the OIG/DOE in late 1984, on the basis of an anonymous complaint, later elaborated upon by the contractor's DOE-funded program director. The program director came forth when he was told that his services would no longer be needed under the new performance-based contract beginning 7/1/85. The budget for this contract contains no line items so the monies may be spent in any way the contractor wishes, as long as the performance goals are met. It is to the contractor's advantage to staff a program as cheaply as possible, thus increasing profits. Substituting entry-level and part time employees for those who have seniority and receive a high salary and fringe benefits will reduce costs. With performance-based contracts there is little DOE control over the quantity or quality of the staff hired to reach the agreed upon goals (in this case, training 240 participants and placing 70% of them in appropriate jobs).

Upon being told that his services would no longer be needed, the program director refused to sign any more time cards for the corporation's president, who was on-staff as a job developer but rarely showed up for the job. Both the president and the treasurer were employees at salaries of $25,000 per year. A predecessor corporation with the same two principals as the corporation currently contracting with the DOE had been granted a waiver from DOE conflict of interest regulations, which the principals interpreted as applying to the new corporation and which supposedly allowed them to receive payments as staff of that corporation. The waiver request asked that board members be allowed to serve as corporate officers (as is usual in for-profit corporations) and stated that they would receive "no direct salary from any manpower contract." The request does <u>not</u> indicate that either of them would receive a salary and unless the job developer position can be considered as a "corporate officer", that he would be serving in such a capacity. (Interestingly, the "no-show" job developer was both subordinate to the program director and also his supervisor in his capacity as president of the corporation.) The response to the waiver request by the DOE General Counsel was interpreted by the principals as permitting them to serve as staff and receive salaries (and to apply to the successor corporation as well).

The OIG/DOE investigation revealed that the principals had told DOE contract management staff, upon application for their first contract under the new corporate name, that they had put the predecessor corporation out of business in order not to "cause any trouble" for the DOE. Independent audits had already revealed to the DOE that the earlier corporation had tax liens against it for failing to submit withholding taxes to the IRS. With penalties and interest the amount of the lien was $82,000 by 1983. When the IRS officer who had dealt with the matter was located during the investigation by the OIG/DOE, he related that the principals had told him that they had gone out of the employment training business (which of course they had not) and had no corporate assets. As a result they were able to get the $82,000 corporate liability reduced to a $28,000 personal liability. The transfer of the matter from an IRS office dealing with corporations to other offices in the principals' neighborhoods meant that no determination could be made about whether payment was made or not. Because both corporations were entirely dependent upon the DOE for funding, the money owed to the IRS represented a misuse of DOE funds.

As the investigation continued the OIG/DOE found 1) that the telephone paid for out of DOE funds was being used for numerous long distance calls, many of which were charged to the phone from other numbers, 2) that DOE paid-for space was being used by another unit operated by the principals, 3) that a terminated employee was continuing to receive checks and 4) that the corporation had never filed a corporate tax return or paid commercial rent tax to New York City.

The application of the subsidiary not-for-profit organization, apparently incorporated specifically to apply for CDA funds in 1984, was fraught with problems. The suspicions of the CDA were aroused when the application materials included an audit of the for-profit corporation, as supporting documentation. The CDA Commissioner asked the IG to find out what he could about the relationship between the two organizations. The IG recognized the name of the for-profit corporation as a DOE contractor and contacted the OIG/DOE which noted the existence of a case on the contractor.

The contractor also included board members and staff of the for-profit organization as the board of directors of the not-for-profit corporation. Informed of the CDA requirement that the board be composed of a majority of community residents, the applicant submitted a corrected list with none of the for-profit board or staff on it, except for the two principals.

The CDA application also included a request for direct-finding which was denied, based upon the fact that the not-for-profit organization was new to the CDA and had no experience in operating programs for any funding source. (The for-profit audit

was "support" for direct funding of the not-for-profit).

The DOE-funded program director resigned before the end of the contract on 6/30/85 (when he would have been terminated). The OIG/DOE investigation continued but at a slow pace, because of other priorities in the office. By July, 1985, the issue of whether the for-profit contractor should be awarded DOE funds to begin the first cycle of its performance-based contract training program arose. (This is a substantial amount of money, at 65% of the first third of the total contract.) A new program director, known by reputation to the DOE, had been hired to run the DOE program, and it was decided, by the Commissioner (with full knowledge of the OIG findings up to that time) to start payments. Besides the "no show" job developer allegation, which was supported, the investigation had revealed only that the president operated a travel agency near his home and that the telephone calls made on the DOE-funded line apparently related to that business.

In August the IGs of the DOE and the CDA, along with a DOE contract management supervisor visited the facility to observe the programs and how the space was being utilized for them. The CDA had allowed the agency to start drawing down monies from the CDA Fiscal Center for rent and staff in April 1985. During the visit the participant enrollment records were also collected. It was found that the CDA program, although receiving funds for four months, was not operational and that the enrollees for both programs were the same people. The for-profit corporation had asked for and was granted a waiver from the DOE-required Services-to-Participants (STP) program, which to them must have justified the offering of pre-employment services (an STP component) to the DOE participants under the CDA contract.

Because no participants were being trained under the CDA contract and because the Work Scope did not include any funds for "program planning" (which the agency claimed that it had been doing for four months), the CDA defunded the agency. The CDA also appeared to the IGs to be paying for space already fully paid-for by the DOE program. Subsequently, the OIG/CDA found that the landlord of the program facility was a member of the Area Policy Board which had recommended the agency for funding by the CDA, a conflict of interest relationship forbidden by CDA regulations.

The DOE allowed the program to continue a while longer but did terminate the contract in late 1985. The termination was based primarily on the telephone charges and the terminated employee who continued to be paid, both of which occurred during the previous contract period. Neither of these matters would have caused the contractor to be defunded under the current system of performance-based, no-line-item-budget contracts. Contractors do not have to account for how the money is spent as long as the performance goals are met. All controls now must relate to the

performance criteria of 1) the number of enrollees recruited 2) participant attendance in the training program (for which $30 biweekly stipends are paid) and 3) 70% of the total enrollees placed in a training-related position at a contract-specified average salary for at least 30 days.

THE COMMUNITY DEVELOPMENT AGENCY

Background for and Current Structure of New York City's Community Action Program

In New York City, the Community Services Block Grant (CSBG) program is administered by the Community Development Agency (CDA), a sub-unit of the Human Resources Administration (HRA). The HRA was created in 1966 to supervise and coordinate income support and medical assistance programs for the City's disadvantaged and social services for all residents. At the same time, the CDA was established as the City's anti-poverty program administrator.

The CSBG is a federal program which provides funding to the states for "services and activities designed to assist low-income participants in the amelioration of the causes of poverty" (CSBG Program, Federal Fiscal Year 1985 Management Plan, New York State Department of State). Since the beginning of the CSBG program in 1982, the New York State Department of State has had state-wide administrative responsibility for it. "Forty-five community action agencies, two community action programs, and the Rural New York Farmworker Opportunities, Inc. are designated to provide activities under the CSBG entitlement program in New York State" (ibid.). Of the 45 officially designated agencies, the CDA is the largest Community Action Program, administering over half of the nearly $30 million in CSBG funds available to New York State for the Federal Fiscal Year 1985 (October 1, 1984 to September 30, 1985).

The states, pursuant to Public Law 97-35, under which the CSBG is funded, certify to the federal government that they will implement assurances related to use of funds, composition of contract agency boards of directors, preference given to existing anti-poverty program administrations, prohibitions on political activity, fiscal controls and fund accounting procedures, etc.

The New York City Community Development Agency funds the "community services" programs operated by community-based organizations (CBOs) which are recommended for funding by their local Area Policy Boards (APBs) in one of 33 Neighborhood Development Areas (NDAs), the statistically-determined "poverty areas' in New York City. ("Community development" is primarily a responsibility of the Department of Housing Preservation and Development, which administers most of the Community Development Block Grant (CDBG) funds earmarked for New York City. The New York State Division of Housing and Community Development is also involved in community development in New York City, using CDBG

funds.)

When New York City's Community Action Program began in 1966, it was operated through 26 "Community Corporations," under the oversight of the Council Against Poverty. The Council was the governing body of the Community Action Program, with the CDA as its staff arm responsible for all administrative functions in support of the Program.

Demonstrably poor fiscal and administrative accountability and programmatic credibility--as well as more than $12 million in questioned costs--were the unfortunate legacy of the first decade of the City's Community Action Program. In 1977, the Federal Community Services Administration removed its recognition of the Council Against Poverty as the oversight community action agency in New York City because of long-standing violations of federal regulations for the Program. In the same year, the New York City Comptroller reported that the City's accounting systems for the Community Action Program were inadequate. (See "Community ACtion for the 1980's: A Report on the Reorganization of the NYC Community Action Program;" City of New York, HRA, CDA, 1981.)

The CDA dismantled the Community Corporations, which had been the umbrella for local programs within each of the 26 designated poverty areas, and began to restructure the Program's fiscal administration. The "Fiscal Centers" within each of the Community Corporations were consolidated into four Regional Centers at the borough level, providing more centralized fiscal controls over the Program. (Further consolidation in the 1980's has resulted in a single City-wide Fiscal Center.)

Simultaneously, the Program was redesigned to increase the participation of the poor and better allocate Program funds. The new program structure consisted of a City-wide Community Action Board (CAB) and local Area Policy Boards (APBs) for each of the Neighborhood Development Areas (NDAs). The NDAs were redesignated and funds reallocated on the basis of detailed demographic studies. As a result of these efforts, the CSA recertified the City's Community Action Program in 1979.

Overview of the Area Policy Board Elections and Open Submissions Processes

Within the scope of this study was the election of CAB and APB members on November 30, 1983. Elections for fourteen seats on the City-wide Community Action Board and twelve of the 21 seats on each of the 33 Area Policy Boards were held. (Seven additional APB members were representatives of elected public officials whose constituency includes the NDA and who accept an invitation to serve. Two members from the private sector were selected later by the elected members.)

Governing the elections was the "Plan for the Conduct of Development Area Elections, 1983," issued by the CDA in July 1983. In the "Plan," the "eligibility requirements for candidates and the rules governing candidacy" were stated in detail, as were the "policies governing board participation," the latter of which outlined the responsibilities and obligations of APB members (i.e., required attendance at 60 percent of the Board meetings, continued residency in the NDA, conflict of interest prohibitions, required training sessions). Also specified in the "Plan" were the poll site procedures and the voter qualifications, as well as the various means of handling challenges to nominating petitions and post-election challenges.

Mechanical and structural elements of the elections process were handled by the Office of Citizens Participation. The Area Board Liaison Unit, in conjunction with the Division of Contract Management, was responsible for public education and assisting the APBs in voter mobilization. The Office of Training and Technical Assistance trained all CDA staff involved in the process and the poll site personnel. The CDA Community Action Board of Elections, whose seven members were selected from elected members of the previous Community Action Board who did not seek re-election, certified nominating petitions, dealt with challenges and affirmed candidate eligibility.

Conflict of interest/nepotism prohibitions were specifically stated in the "Plan" and in the RFP. The prohibitions in the "Plan" were that APB candidates/members shall not be (1) board or staff (and spouses, parents, children, siblings, or in-laws) of any agency which receives funds from the CDA; (2) members of the Community Action Board of Elections; (3) staff of the CDA (and spouses of same); (4) management staff of the HRA and its component agencies (and spouses of same).

Stated in the RFP, in addition to the prohibitions on board or staff of a CDA contract agency (and their spouses, parents, children, siblings, or in-laws) being APB or CAB members or CDA staff, was a prohibition upon board or staff members (and their relatives, as above) being staff or board members of the same agency. However, they may serve on the board together or they may serve on the staff together, as long as there is no supervisor-supervisee relationship present.

A "General Policies and Information" (CDA Administrative Memorandum #1.84.1, January 26, 1984) memo for newly elected APB members reviewed the relationships of relevant support units of the CDA with the APBs, namely the Area Policy Board Liaison Unit, Citizen's Participation, and Contract Monitoring; the terms of office and certification of APB membership upon resolution of all post-election challenges; APB member training session attendance requirements; the Open Submissions funding allocation formula and the process itself; selection of the two private sector

representatives to the APBs; and, again, the conflict of interest rules with regard to CDA contract agencies.

Each of the APB's has office space, a telephone, and part-time secretarial/clerical staff to assist with the paperwork connected with the Open Submissions process and the quarterly (or more often, if desired) meetings of the Boards. The publicly-held APB meetings are directed toward a discussion with those who attend of the Community Action Program and other anti-poverty matters concern to the community. The CDA's Area Policy Board Liaison Unit provides technical assistance to the APB's for these meetings.

The major function of the APBs is to review applications for CSBG funds from agencies wishing to provide programs and services with their respective NDAs. Applications are submitted, in response to a "Request for Proposals" (RFP), to the CDA within a specified time period known as "Open Submissions." The CDA then distributes the applications received to the appropriate APBs for their consideration. During the time period for this study, an RFP was issued, in May 1984, for contracts to be awarded in late 1984, for an eighteen-month period between January 1, 1985 and June 30, 1986.

An "Administrative Guide to Open Submissions" (CDA, May 1984) was "prepared to assist APBs in the conduct of their responsibilities during Open Submissions, as well as to summarize the overall policies and procedures governing Open Submissions and the roles and responsibilities of the APB's and the CDA in this process."

The APBs were expected to meet prior to the applications review process to select local NDA priorities out of the overall program priorities developed by the CDA in consultation with the Community Action Board. (Interviews with CDA staff indicated that at least half of the APB's have not selected local priorities for the 1984 Open Submissions.) In addition, the CDA, in consultation with the Community Action Board, developed a set of ten funding guidelines for the APBs to follow, one of which was required (namely, that of the APBs funding recommendation package to be generally representative of the NDA's geographic and racial-ethnic distribution), nine others which were optional. These are published in the "Guide."

The APBs were given six weeks (June 25 to August 7, 1984) to review proposals and make their funding recommendations to the CDA, which itself was simultaneously reviewing the proposals for various compliance purposes. Allowance for appeals and challenges to the APB recommendations and for various reviews of proposals and budgets by the APBs and the CDA took another four months (August 8 to December 2, 1984). The entire timetable for Open Submissions was published in the "Guide," for use by the APBs and CDA staff.

CDA Contracts for Program Years "R" (October 1, 1982 to September 30, 1983) and "S" (October 1, 1983 to June 30, 1984, with Extensions to September 30, 1984)

Programs recommended to the Community Development Administration (CDA) for funding by the Area Policy Boards (APBs) for Program Year "R" (October 1, 1982 to September 30, 1983) involved 299 contracts in 33 Neighborhood Development Areas (NDAs). The CDA also contracted with 29 agencies for Non-Neighborhood Development Area Elderly Programs, with four agencies for City-Wide Programs and with two agencies for Special Demonstration Projects. These agencies were not subject to APB consideration for funding, since their programs were located either outside of the NDAs and/or directed towards clients throughout a Borough or the City. All non-NDA contracts were awarded and reviewed by CDA central administration.

Program Year "S" (October 1, 1983 to June 30, 1984, with extensions to September 30, 1984 and to December 31, 1984) essentially involved renewal of most of the APB-recommended contracts from Program Year "R". Thirty agencies were not renewed; either these were replaced by other agencies or the money which would have gone to them was distributed to other contract agencies within their NDA with similar programs. Six newly-funded agencies were selected by the APB's in Program Year "S" based upon a mini-Open Submissions process. The total number of Program Year "S" NDA contract agencies was 275. Changes occurred in the CDA portfolio of Non-NDA Elderly and City-Wide Programs as well, with the former Programs losing five "R" agencies and gaining thirteen new "S" agencies, for a total of 37, and the latter Programs gaining one agency in "S" but losing the two Special Demonstration Projects. The overall number of contract agencies (NDA, Non-NDA Elderly, and City-Wide Programs) funded in Program Year "S" was about five percent less than in "R" (334 in "R", 317 in "S").

NDA agencies which either were not renewed for Program Year "S" funding (or for the two three-month extensions of that contract year) or were defunded during one of the Program Years exhibited a variety of problems. Usually, non-renewals and defunding are based upon poor performance or, infrequently, upon substantiated fraud and/or abuse allegations. In the second of the two Program Years under consideration in this study, however, there was an exception to this renewal policy. For an NDA agency to be renewed during the last three-month extension of Program Year "S" (October 1 to December 31, 1984), it had to have submitted a proposal for operating programs beginning in January 1985 and have had its proposal recommended for funding by the appropriate APB. Agencies which did not submit proposals or did not receive APB approval were terminated on September 30, 1984.

(In one NDA (MN3), a lengthy appeals process prevented the CDA from terminating agencies not approved for the 1985-86 funding until April 19, 1985. The practices of the APB in this NDA have also been subject to review by City Corporation Counsel because of possible conflicts of interest with community-based organizations in the NDA.)

The following table details the distribution of contracts among NDA's and boroughs and the changes from "R" to "S". While there was some decrease in the dollar amounts available, it was not as substantial as it appears in the chart, because Program Year "S" without the two extensions was three months shorter than "R". The monies involved in the two three-month extensions in "S" are not included in the figures in the table. The average annual dollar amount for a CDA contract is about $50,000.

Number of CDA Contract Agencies and Amounts of Funding

	Program Year "R"		Not Renewed for "S"		New for "S"		Program Year "S"	
	N	$	N	$	N	$	N	$
Bronx	72	3,571,210	9	377,647	--	--	63	2,436,582
NDA #1	10	625,198	3	114,936	--	--	7	382,675
2	6	331,200	--	--	--	--	6	248,400
3	9	539,000	3	150,000	--	--	6	291,250
4	10	533,952	2	96,694	--	--	8	343,279
5	10	452,659	1	16,017	--	--	9	347,629
6	9	442,000	--	--	--	--	9	331,504
7	5	243,301	--	--	--	--	5	182,790
9	11	350,000	--	--	--	--	11	268,630
12	2	53,900	--	--	--	--	2	40,425
Brooklyn	113	6,024,960	11	459,478	2	18,100	104	4,248,358
NDA #1	17	631,396	3	96,140	--	--	14	394,081
2	10	495,896	2	88,588	--	--	8	321,733
3	18	1,233,193	1	94,750	2	18,100	19	932,806
4	7	568,300	--	--	--	--	7	426,226
5	11	679,100	1	11,000	--	--	10	508,775
6	10	477,400	--	--	--	--	10	359,469
7	9	281,043	--	--	--	--	9	202,935
8	5	332,000	2	77,000	--	--	3	191,250
9	5	258,700	--	--	--	--	5	167,142
13	4	198,512	--	--	--	--	4	148,884
14	4	135,500	--	--	--	--	4	101,626
16	13	733,920	2	92,000	--	--	11	493,431
Manhattan	92	4,359,691	9	667,981	4	122,867	87	3,059,780
NDA #3	16	906,380	1	100,000	--	--	15	691,183
4	5	223,000	1	100,000	1	66,867	5	159,117
7	12	474,218	--	--	--	--	12	350,069
9	9	352,893	2	67,481	--	--	7	206,188
10	20	1,209,000	3	317,000	1	40,000	18	764,000
11	18	763,000	2	83,500	2	16,000	18	565,825
12	12	431,200	--	--	--	--	12	323,398
Queens	19	1,097,950	1	68,030	--	--	18	772,478
NDA #1 & 2	3	204,800	--	--	--	--	3	153,600
3 & 4	2	154,000	1	68,030	--	--	1	64,478
12	12	572,850	--	--	--	--	12	429,675
14	2	166,300	--	--	--	--	2	124,725
Staten Island NDA #1	3	121,275	--	--	--	--	3	120,275
Total NDA	299	15,175,086	30	1,573,130	6	140,967	275	10,637,957
Non-NDA Elderly Program	29	1,564,278	5	128,000	13	180,308	37	1,299,393
Bronx	5	453,278	2	35,000	2	29,625	5	155,945
Brooklyn	8	342,000	1	40,000	5	81,750	12	372,250

Manhattan	5	199,000	1	30,000	1	8,538	5	169,037
Queens	8	319,000	1	23,000	4	43,028	11	331,976
Staten Island	1	15,000	--	--	1	17,367	2	34,185
City-Wide	2	236,000	--	--	--	--	2	236,000
City-Wide Programs and Special Projects	6	1,059,677	2	32,637	1	17,250	5	799,489
Grand Total	334	17,799,041	37	1,704,767	20	338,525	317	12,736,839

The CDA Contracting Process

APB-recommended agencies funded by CDA must have a governing body which is "50 percent-plus-one poor persons" and have been in existence one full year prior to applying to the CDA. They also must be either not-for-profit corporations or unincorporated associations, have had experience providing services to or advocacy on behalf of low-income individuals or families, and have no conflict of interest impediments. A conflict of interest, specifically nepotism, exists if a board member or staff person is, or whose spouse, parent, children, siblings, or in-laws are, board or staff members of the same agency. (Two or more such persons may be either board or staff members of an agency but not both.) Such persons also may not be members of an Area Policy Board or the City-wide Community Action Board or staff at CDA.

Agencies are expected to indicate all other sources of funds which have been or will be generated to support their programs, but only their experience with City funding agencies is checked by CDA staff. About 40 percent of the current NDA contract agencies receive funding only from the CDA. An APB-recommended applicant agency can be eliminated from further consideration as a result of problems uncovered by the inter-agency cross-check of present and previous City sources of funding for its programs or as a result of not meeting the various CDA requirements for funding.

Before agencies are approved for funding, they must indicate in what physical facilities the programs are to be conducted. These facilities are subject to physical review by the Human Resources Administration (HRA) Bureau of Plant Management (CDA, as an HRA sub-unit, uses HRA administrative services units as needed), which also does a cost-analysis for rental property relative to program needs. The CDA contract compliance and legal units determine the appropriateness of the space and the content of the lease, respectively.

If the applicant agency survives these procedures, the CDA brings together its legal, fiscal, and policy units to develop and negotiate a contract budget and Workscope with the applicant agency's management. A Workscope is a list of the activities an agency proposes to conduct during the contract term and the Levels of Service (LOS) it intends to provide for each activity. The LOS specifies how many people the agency intends to enroll in an activity/program, how many of these it expects to serve, and with what frequency the program/service is to be provided. "Average attendance" and "units of service" are the measurable aspects of the specified Workscope LOS.

Since the APB has indicated the level of funding each of its recommended agencies should receive and since the CDA has, based

upon experience, developed unit-cost figures for the various activities, the unit-cost of the LOS an agency proposes to provide can be compared with the CDA figures. If an agency's LOS unit-cost is above the inter-quartile range, then additional units of service are likely to be negotiated into the contract. Sometimes additional activities are included instead, or as well. APB chairpersons may participate in these negotiations, and some take an active part in them.

Contract Management in the CDA

For most of its NDA contract agencies, the CDA itself manages their fiscal operations. CDA's Fiscal Center (which is a contractor supervised by the CDA Deputy Commissioner for Fiscal and Management Operations) maintains personnel lists for each of the contract agencies, collects time cards, and cuts payroll checks. OTPS are handled in accord with the procedures outlined in a fiscal manual distributed to all contract agencies. The payment mechanisms, common to all HRA units, are known as CAMFRs, Contract Agency Monthly Financial Reports, which, when accompanied by invoices and supported where necessary by CDA-approved purchase orders, cause checks to be generated. A large number of the cases opened in the OIG/CDA during the period under study were initiated by various staff involved in fiscal operations.

Contract Workscope compliance is monitored by several CDA units under the supervision of the First Deputy Commissioner for Contract Management and Compliance and his subordinate, the Director of Contract Management. One unit receives the minutes of all board of directors meetings held by contract agencies. These are reviewed to determine if any substantial variances from the Workscope in the way the agency is conducting its programs. Another unit reviews "deliverables," which are records submitted by contract agencies, as required by their contracts, on program activities. This function is newly separated (in 1984) from monitoring done by contract officers in another unit, who visit agencies and observe programs during the times they are stated in the contract Workscope to be operating.

Contract officers for the NDA programs work under the direction of Regional Managers (for Manhattan/Queens, Brooklyn/Staten Island, and the Bronx) and are responsible for between 30 and 45 agencies each. The 37 Non-NDA Elderly Programs are monitored by one additional person, who reports directly to CDA administration.

Levels of Service (LOS) monitoring is also done through review of Management Information System (MIS) forms submitted by the contract agencies. The MIS is under the direction of the Assistant Commissioner for Policy Analysis and Development.

These forms include an Initial Registration Form for enrolling a client in a program/service, an Active Case Registration Form for repeated service to the same client, a Contract Agency Monthly Report Summary for recording the "units of service" provided in each program area during a month, an Individual Outcome Form for programs in which an outcome can be measured, i.e., information, referral, and assistance (IRA), advocacy, and education programs, and an Attendance Rate Report for summarizing attendance over the entire course of an educational program.

Contract officers are expected to review the MIS forms submitted by an agency for the time period from the starting date of the program or their last visit to the present. During Program Year "R", they also reviewed an agency's "deliverables" at the time of their visit to the agency. Such deliverables as client case folders, attendance sheets, staff resumes, and other records an agency maintains on its activities, as required by its contract, were sampled by the contract officer. Currently, contract agencies bring a specified sample of deliverables to the CDA, where they are reviewed by an analyst, who prepares a report on how closely the Workscope is being met, as evidenced by the deliverables themselves.

Prior to the 1984 change in procedure, much of the contract officers' time at the agencies had been spent doing record review, leaving little time for observation of an agency's activities. The CDA now requires (for the 1985-86 contracts) that the contract officers observe every activity in an agency's Workscope and report on the quantity and quality of service being provided. The structured (by Workscope activity) narratives of these observations are reviewed and edited, if necessary, by the Regional Manager, who submits them to the Director of Contract Management, which is where the results of the various monitoring parts come together. Board minutes, record review reports (based upon "deliverables"), and the observational narratives can be compared and analyzed. Should any of the pieces of information about an agency's performance differ substantially from another, the matter is likely to be referred to the OIG.

Contract Agency Reviews; Administrative Hearings; Terminations/Non-Renewals/Extensions/Refundings

The formal mechanism for reviewing an agency's overall performance is the Contract Agency Review meeting, which is chaired by the First Deputy Commissioner (or the Commissioner) and includes data and staff from the fiscal department as well as the various program activities' monitoring data and personnel. The staff at the meeting may find that an agency's performance is in sufficient compliance with its contract (some agencies provide higher than contracted LOS), is deficient, or fails to meet a "minimal acceptable standard."

If an agency has problems meeting its contracted LOS in one or two of its activities or if its overall performance is deficient, it will be offered technical assistance by CDA staff and placed under a "Special Condition," calling for a "Compliance Review" for those activities so designated within a specified time period. "Special Conditions" are a restated LOS for the activities in which the agency failed to meet its contract Workscope LOS. A Compliance Review is another Contract Agency Review meeting with appropriate documentation relevant to the Special Conditions.

Agencies which fail to meet the "minimal acceptable standard," indicating that an agency may have achieved half or less of its contracted LOS in one or more of the activities in its Workscope, are advised by letter that they will be defunded unless they participate in an "Administrative Hearing"" on a specified date. Nearly all do so, although some may try to negotiate a delay in the date for a hearing, in order to better prepare their defense.

At the Hearing, the agency may present documentation which supports higher LOS than their deliverables, monitoring, and/or MIS reports indicated, or they may try to explain why their LOS is not up to contract Workscope, and what they intend to do about it if permitted to continue as a CDA contractor.

Administrative Hearings are a quasi-legal process presided over by the Deputy Commissioner, Division of Program Support (who is a lawyer and responsible for the APBLU, Legal Affairs, Citizens Participation, and Technical Assistance Units in the CDA). Agencies are permitted to bring up to five persons to a Hearing, and the relevant APB chairman is invited to attend as well. CDA staff who may attend include those responsible for various parts of the contract management system and the appropriate Regional Manager, which are essentially the same staff who were involved in the Contract Agency Review meeting, when the decision was made to threaten the agency with defunding. The results of Administrative Hearings are reviewed by the Commissioner, who makes the final decision about an agency's continuation, with or without Special Conditions and a Compliance Review, or defunding.

Other than site inspections conducted during the early months of the contract period (which are only conducted if there seems to be some doubt about an agency's operating its programs, usually because it is not drawing down contract funds properly or because someone tried to reach the agency by telephone and could not), monitoring rarely begins before the sixth month of the contract. In Program Year "R", the first monitoring reports were for the October 1, 1982 to February 28, 1983 time period. The first Administrative Hearings for the Program Year were held on March 31, 1983 and continued through the end of that Year and into Program Year "S".

Vulnerabilities In The CDA's APB Elections And Open Submissions Processes

Introduction

The uniqueness of the CDA among City agencies funding similar programs lies in the means by which it funds its contract agencies. The CDA learned well from its difficulties with the Council Against Poverty, put out-of-business by the Federal Community Services Agency (CSA) for long-standing violations of regulations for the City's Community Action Program, and from the mismanaged Community Corporations, in which both fiscal and program controls for that Program had been vested. In 1979, the CDA set up and won CSA approval for operating the thirty-three (33) Area Policy Boards as the vehicle for decisions about which programs were to be provided and which agencies were to provide them in the community and for the Fiscal Centers as the centralized fiscal control units for the programs. None of the other City agencies with programs/services similar to those of the CDA have deployed their services with such a degree of community decision-making, while retaining strong central fiscal accountability.

The CDA puts a tremendous amount of effort into its community-based uniqueness. The elections and installation of APB members and the subsequent "Open Submissions" process in which the new members select agencies for CDA funding together take over a year and involve almost all of the CDA staff (about 100 persons) to a greater or lesser extent at various times.

Although originally planned for every two years, the second of the APB-member elections were held in 1983, four years after the first one. (No elections are scheduled for 1985). Open Submissions was previously held in 1982 for contracts funded in Program Year "R" (October 1, 1982 to September 30, 1983). Most of these contracts were continued for Program Year "S" (October 1, 1983 to June 30, 1984) and then extended to the end of 1984. The new contracts, which resulted from the 1984 Open Submissions process, are scheduled to run from January 1, 1985 to June 30, 1986.

During the July 1, 1982 to December 31, 1984 case review time period for this study, the OIG/CDA investigated 29 cases concerned with Area Policy Board matters. Most of the cases (19) were related to the 1983 elections process, with the remaining cases (10) resulting from problems with the APB operations, either for the Boards in existence prior to the 1983 elections or for those whose principal task during the time period of the study was the 1984 Open Submissions process.

The 1983 APB Elections Cases and CDA Responses to Vulnerabilities Revealed by These Cases

Candidates/members are required to be residents of their Neighborhood Development Area (NDA) (or a particular "sub-unit," where appropriate) for one year prior to the election. In seven of the nineteen election cases, the veracity of the addresses listed on the nominating petitions was challenged, usually by another candidate/member. Four out of the seven "false address" allegations were substantiated as a result of the investigation by the OIG, but two of the four candidates actually lived within the NDA at an address other than that on their nominating petitions and therefore were not disqualified from APB candidacy/membership.

These cases produced recommendations of the OIG to the CDA administration for improved handling of the residency requirement in future APB elections. One was that APB candidates should be required to declare if they have more than one residence. If so, then the Office of Citizens Participation should require the candidate to submit tax records, voting records, driver's license, and auto registration to determine whether the address stated on the nominating petition is the primary residence of record. Not recommended but implied by this recommendation is a change in the way the residency requirement is stated in the Plan, from "have resided for one year" to "have maintained a primary and/or legal residence for one year." This would help clarify the intent of the requirement and be a useful prerequisite to the above recommendation.

Because APB members are required to remain residents of the NDA during their term, the OIG also recommended, as a result of an unsubstantiated post-election challenge case, that APB candidates/members be required to notify the APBLU if they change addresses.

These recommendations will not prevent intentional non-compliance, but it would be too cumbersome to require all candidates (not just those with admitted dual residency) to provide proof of residency. The CDA will continue to be dependent upon someone in the community challenging APB candidates/members who do not appear to be residents.

Four other cases involving falsified nominating petitions were based upon complaints about solicitation of signatures (two cases, both instigated by "outside" complainants) and about forged signatures (two cases, one referred by the Community Action Board of Elections, the other by the Office of Citizens Participation). One of the improper solicitation allegations was substantiated, but the candidate had the required number of properly solicited signatures without counting the challenged

ones. Of the two forged signature cases, one allegation was substantiated, and the candidate was barred from the election; the other allegation was not substantiated, but none of the candidates whose petition signatures were challenged won in the election anyway.

The eligibility of one candidate was challenged in an anonymous complaint to the CDA Commissioner. The candidate was alleged to have been convicted of welfare fraud in 1971, which is a violation of the requirement stated in the Plan that "persons convicted of any criminal offense related to the Community Action Program or misuse of government funds" cannot be APB candidates. The allegation was substantiated, and the candidate was required to withdraw from the election.

It would be an overwhelming task to run criminal "name-checks" with the New York State Division of Criminal Justice Services for all APB candidates, but consideration should be given to doing so after the elections for the 400 elected members, remembering, however, that only those criminal convictions related to the misuse of government funds and/or the Community Action Program could be used to disqualify members.

In the course of the election campaign, candidates are not to engage in any harassment or intimidation, make any promises of funds or employment, or demand contributions from anyone under threat of disqualification. One candidate was reported to the OIG by the CDA Commissioner as having challenged the nominating petitions of the other candidates in the NDA and making threats and promises to gain support. The allegation was substantiated, and the candidate received a written admonishment from the Commissioner. Copies of the letter were sent to the other candidates in the APB and local officials representing the NDA. The OIG recommended that such attempts to exert undue influence in an APB election be grounds for disqualification from all future elections. The fact that the subject of this investigation was the incumbent chairperson of the previous APB may have been a mitigating circumstance in the decision not to disqualify him.

Five cases resulted from activities at the poll sites. In one of these cases, the fact that the HRA Food Distribution Program was dispensing free cheese on the same day and time at one of the poll sites and that recipients of the cheese were urged to vote in the APB election caused the CDA to ask the OIG to investigate whether any improprieties took place at that poll site. An affidavit was secured by the OIG from one witness who stated that "someone" told her that she could get free cheese if she voted for the right candidate. Because the "someone" could not be located, the allegation could not be substantiated. The OIG, however, was led to recommend that HRA be informed of the APB election date and locations of the polls so that food is not distributed, thereby avoiding any potential for abuse by the

candidates.

Three of the four remaining poll site-related cases were essentially post-election challenges, in which the OIG was asked to become involved by the Office of Citizens Participation or the Community Action Board of Elections. In two cases, defeated candidates claimed that prospective voters were not permitted to vote. Neither charge was substantiated. In the third case, a losing candidate complained that a winning candidate had acted as a poll watcher in violation of the rules and, by that action (and in other ways), may have influenced voters. The allegation was substantiated, and although the candidate claimed ignorance of the rules, the votes cast for her while she was poll watching were nullified, causing her to lose her APB seat. The fourth poll site case was referred to the DOI based upon multiple allegations by a poll watcher. The matter was referred to the appropriate CDA units as a post-election challenge matter.

The Plan, which outlines the rules governing the behavior of candidates, should be required reading for candidates, as well as for all other persons involved in the election and at the poll sites. The CDA Office of Training and Technical Assistance provides training and materials to all election personnel except the candidates themselves. Perhaps a concise review of do's-and-don'ts for candidates also could be prepared by this Office.

The 1984 Open Submissions Cases and CDA Responses to Vulnerabilities Revealed by These Cases

No conflict of interest or nepotism cases for APB candidates were opened during the time period for this study. However, five conflict of interest/nepotism cases were opened for APB members vis-a-vis the agencies recommended for funding during the Open Submissions process. Except for duplicity and/or ignorance about the impropriety of "less-than-arms-length" dealings, APB members and Open Submissions applicant agencies should never be caught up in a conflict of interest situation. Open Submissions applicants are given a date for resolution of conflicts of interest prior to the completion of APB deliberations about the programs to be recommended for funding.

CDA's review of the proposals usually finds those applicants who need to resolve such conflicts. One case which resulted from a CDA review involved six agencies with obvious conflict of interest problems. Four agencies were able to revise their board lists to bring themselves into compliance and remain eligible for funding. One of the other of the two remaining agencies was not funded because an APB member had founded the agency, a "less-than-arms-length" relationship which could have been resolved if new management unrelated to the APB member had been installed. Another of the six agencies in this case was not funded because

its directors were to become the staff of the agency when it started its CDA-funded program, a violation of the "spirit" of the conflict of interest regulations. If a new board were to have been recruited to replace the directors who became staff members, the conflict of interest would have been resolved.

Two additional conflict of interest allegation cases regarding APB members and contract agencies were not substantiated, but another allegation case which was substantiated resulted in the forced resignation of the APB chairman because he was on the staff of an agency recommended for funding by the APB.

An unusual case involved an APB which was sharing office space with an agency it had recommended for funding. The OIG suggested that the office sharing arrangement be terminated and noted that such an arrangement between an APB and an agency it recommended for funding sets a precedent which allows the APB to create and exploit "less-than-arms-length" dealings with that agency.

Other APB Cases

The remaining APB cases involved the day-to-day operations of the APB's themselves. In chronological order, these included falsified APB program documents to cover up mismanagement in the handling of funding applications (substantiated); unfair APB member termination by the chairman (substantiated, with reinstatement of the terminated members); ineligible APB member (not substantiated, because the questioned member was appointed rather than elected); theft of equipment (unsubstantiated, but the person holding the equipment wanted to be paid for storing it, which the CDA refused to do because there was no agreement in writing); and CDA staff misconduct, in terms of interfering with the objectivity of the Open Submissions process (not able to be substantiated, partly because the veracity of the CDA staff complainant was questionable).

Summary Conclusions Regarding APB Matters

The APB elections and Open Submissions processes are all-encompassing efforts for the CDA staff for the better part of a year. The OIG is no exception to this involvement. It must respond in a timely fashion to requests from CDA staff for investigation of pre-election challenges, usually related to residency and other falsified nominating petition matters. However, the OIG's involvement in APB elections matters, such as post-election challenges and poll site problems, continues after election day. In fact, half of the election cases came to the

attention of the OIG after election day.

Eleven of the nineteen elections cases contained substantiated allegations, most of which involved violations of requirements and rules stated in the "Plan for the Conduct of Neighborhood Development Area Elections, 1983." Only one of these cases, namely the APB candidate who acted as a poll watcher, seemed to indicate a candidate's or member's ignorance of the requirements and rules. The others, to a greater or lesser extent, appeared to be deliberate acts, even in the face of the penalty of disqualification of an APB candidate or removal of an APB member.

Open Submissions and other APB operations cases, if substantiated, also can involve violations of the requirements and rules stated in the Plan, and/or in other CDA publications, i.e., "Requests for Proposals" and "Administrative Guide for Open Submissions" (both May 1984) and Administrative Memorandum #1.84.1, directed to newly-elected APB members, on "General Policies and Information" (January 26, 1984) (or earlier publications for cases related to the 1979-83 APB's). Five out of the ten APB operations cases contained substantiated allegations, only one of which--involving an APB which was sharing office space and a telephone with a CDA contract agency in its NDA--was not a violation of rules and requirements. Even so, the OIG recommended that the office-sharing arrangement be terminated because of the potential for abuse.

The CDA documents the procedures, requirements, and rules for the APB elections, Open Submissions process, APB operations, and member behavior vis-a-vis the agencies funded by the CDA in their NDA in the various pamphlets and papers referred to above. The five years since the restructuring/reorganization of New York City's Community Action Program have brought it to the level of sophistication reflected in these materials.

However, in the effort to overcome the abuses of the first ten years of the City's anti-poverty program, the CDA has set up a structure for community involvement which is unnecessarily complex and, as a consequence, appears to be more concerned with the form of the involvement than with its substance. The "Plan for the Conduct of Neighborhood Development Area Elections, 1983" and the Administrative Memorandum #1.84.1 on "General Policies and Information" for newly elected APB members both fail to give candidates/members incentives to commit themselves to serve on an APB for the next two years. (Actually, the term may be for up to four years, since the first APB member term was from 1979 to 1983, and there is no current plan to conduct elections in 1985, as originally intended.) Motivating them, while telling them how to become an APB candidate, would seem to be an efficient combination of tasks in such a document.

The "Plan" also appears to have been written more as an

administrative manual than as a tool for "concerned citizens" (to whom it is addressed) to use to become APB candidates and function as APB members, to work at the poll sites, to vote, or to monitor any of these. The rules and requirements for candidates, members, and poll site watchers might well be excerpted from this pamphlet and distributed to the appropriate persons at the proper times and places. It is true, however, that few OIG cases appeared to have resulted from candidate ignorance about the requirements and rules stated in the "Plan," even though no training was offered by the CDA to the candidates. Most of the substantiated APB elections cases indicated that the subjects may have knowingly violated the rules and requirements. Increasing the visibility of the rules and requirements should help to eliminate ignorance, but it may also encourage duplicity from those seeking to become APB members who are not eligible but see ways to "bend the rules."

If APB member elections are held again, consideration should be given to changing the way the NDA residency requirement is stated in the rules. Candidates currently are required to reside (in a manner not defined) in the NDA for one year prior to the APB elections, and members may continue to serve only if they reside (also not defined) in the NDA. Challenges and complaints would be reduced if APB candidates/members were required to have their NDA residence as their primary residence. They should also be required to submit proof of their primary residence if they maintain more than one residence.

The other APB elections matters with which the OIG/CDA was concerned suggested that: (1) a criminal name-check procedure for elected APB members would be worth doing, in order to determine whether they had ever been convicted of misuse of government funds, which would disqualify them from serving on the APB's; and (2) everybody connected with the elections--candidates, poll site watchers, CDA staff--should be given flyers summarizing the rules and requirements for those aspects of the elections process relevant to them at appropriate times.

Little is said in the "General Policies and Information" memo, directed toward newly-elected APB members, about what the APB members are supposed to be doing in the time between Open Submissions processes (or between the 1984 Open Submissions and the next APB election, if that occurs first). Explicitly stated, however, is that "monitoring of ... agencies' Workscope activities ... is not the responsibility of the ... APB's." This statement is meant to differentiate the functions of the APB's from the earlier Community Corporations, which had monitoring responsibilities and failed to carry them out properly. Not mentioned are the kinds of involvement APB members could have with contract agencies, especially as volunteers providing technical assistance and services, as well as being "watchdogs" for the CDA, whose staff simply do not have time to visit contract agencies more than once or twice a year. Obviously,

some APB members will be protective of the agencies they recommended for funding, but some may be motivated to expose possible program abuse when they observe it.

APB members receive two days of training in areas relevant to the functioning of the Boards and in preparation for the Open Submissions process. The two May 1984 CDA documents ("Request for Proposals" (RFP) and "Administrative Guide to Open Submissions") are a follow-up to this training, especially in their descriptions of the Open Submissions process and the role and functions of the APB's in it. These documents are complicated. In the RFP, for example, there are five main program priority areas and nineteen sub-areas listed for applicants to select from in preparing their proposals. Unless an APB indicated certain ones it wished to emphasize (which many did not do) and communicated its priorities through an attachment to the RFP, prospective applicants were left with the overwhelming task of trying to sort out what area(s) might be of interest to their APB.

During the Open Submissions process, the APB's are given guidelines to use in their deliberations about which applicants to recommend for funding ("Administrative Guide to Open Submissions," May 1984). Except for one of the ten which is mandatory, the funding guidelines are compromised by being labeled as "optional." While guidelines are less stringent than rules and requirements, making them "optional" weakens them considerably. The mandatory guideline could be made a "rule," and the others called guidelines, with no further specification.

Agencies recommended by the APB's for funding by the CDA are given an opportunity to resolve any conflict of interest/nepotism potentials with the APB, the CDA, and within themselves before entering into a contract with the CDA. However, duplicity in terms of using different names to avoid being charged with nepotism cannot be prevented. Also impossible to prevent is conflict of interest/nepotism with respect to staff hired by the contract agency, usually after the contract is awarded. These are not currently checked against the CDA staff list nor with the CAP or APB member lists. Even if they were, duplicity would be possible here also, as well as when relatives of board members or agency administrative staff are on the staff of an agency in position where they are supervised by their relatives, possibly under different last names (the most common substantiated OIG/CDA case). To expose such conflict of interest/nepotism the OIG/CDA must continue to be dependent upon "whistleblowers."

Conflict of interest is sometimes assumed to be present when an APB members seems to be "excessively involved" with certain community-based organizations (CBOs). The member may be helping a CBO become organized in a manner acceptable for CDA funding, i.e., in existence for at least one year, with a fifty-one percent community-base board of directors, and incorporated as a

not-for-profit corporation, and assisting it in assuring that its board list and staff roster comply with CDA conflict of interest rules. These acts would seem to be appropriate forms of "technical assistance" for an APB member (or for CDA staff) to provide. Expressly forbidden, however, is for an APB "to assume operational responsibility for the conduct of any programs" in its NDA (CDA Administrative Memorandum #1.84.1 (January 26, 1984)). Avoiding such responsibility does not mean that APB members must shun the agencies applying for funds, or later funded upon their recommendation, only that they must not become involved in the operations of one or more of them.

In an OIG/CDA investigation of an "excessive involvement" allegation, conflict of interest would be a likely starting assumption. Verifying the presence of a conflict requires a review of a CBO's corporate papers (for names of incorporating directors), board directors listings, and staff rosters to find the names of the subject APB member and his/her relatives, with consideration given to the unmarried and married names each might have used. Subverting conflict of interest rules may succeed, however, simply because of the difficulty in tracing relatives' names.

Since conflict of interest can also include financial involvement of an APB member with an applicant agency (e.g., a landlord, renting agent, vendor, etc.), consideration should be given to requiring personal financial disclosure statements from APB members.

The CDA APBLU staff are both monitors of and technical assistance providers to the APB's, attempting to assure that the required quarterly APB meetings are held, with appropriate community involvement and well-attended by elected members (who must attend 60 percent of the meetings or be removed from office), as well as by the designated public official representatives, while helping the APB's to schedule, publicize, plan, and hold the meetings. They, in conjunction with contract management staff, could also monitor involvement (in both the positive and negative senses) of APB members with CDA contract agencies in their NDA, if so instructed.

CDA Contractor Case Analysis and Discussion

Introduction

The number of cases active in the OIG/CDA and involving contract agencies for the time period of this study was 91. (Active cases are those which were still open on 7/1/82 or were opened between 7/1/82 and 12/31/84). The outcomes of these cases are summarized in the Case Analysis table, following, in terms of whether the original complainant was someone outside of the CDA or a CDA staff person. (The Community Action Board (CAB) and the Area Policy Boards (APBs) are considered to be "outside" of the CDA because their members are volunteers, not staff of the CDA).

A number of the cases resulted in recommendations by the OIG to CDA administration. Some of the cases from which recommendations resulted were non-substantiated allegation cases or even "no-allegation" inquiries and projects initiated by the OIG. The analysis of cases for this study also included a number of areas of possible administrative concern which the OIG did not focus upon. All of these recommendations and "recommendations which-might-have-been-made" are included in the analysis and discussion which follows:

OIG/CDA Case Analysis: Summary

	# of Cases in Which Original Complaints/Allegations Were:		Total # of Cases
	External to CDA	Internal to CDA	
# of Subs. Fraud Only Cases	11	1	12
# of Subs. Fraud & Abuse Cases	4	5	9
(# of Cases Ref. to DOI)	(8)	(3)	(11)
# of Subs. Abuse Only Cases	12	5	17
# of Not Subs. Cases	15	12	27

# of "Other" Only Cases: Not Yet Investigated	3	--	3
Employee Problems	10	1	11
Landlord Tenant Problems	1	--	1
Non-Allegation Matters	1	10	11
Total (N):	57	34	91
%	62.6	37.4	100.0

Allegations Analysis: Summary

# of Subs./ Not Subs. Allegations:	# of Original Complaints/Allegations External to CDA	Internal to CDA	Total	# of Subsequent Allegations	Total # of Allegations
Subs.-F	9	6	15	17	32
Subs.-A	19	8	27	14	41
Not Subs.	30	14	44	10	54
Sub-total	58	28	86	41	127
Other: Not yet investigated	5	--	5	3	8
Referred to another OIG	2	--	2	--	2
Not able to be investigated	1	--	1	--	1
Total	66	28	94	44	138

OIG/CDA Cases Referred to the DOI

One-half of the substantiated fraud allegations were within the eleven cases referred to the DOI. The remaining substantiated fraud allegation(s) (in cases to be discussed subsequently) were handled by the OIG without referral. All of the eleven DOI-referred cases, involving ten different contract agencies, are analyzed and discussed below.

One contract agency and its director were the subjects of two investigations (#C/86-83 and C/137-83). The first case was initiated by the CDA Deputy Commissioner for Fiscal and Management Operations who in late February, 1983 wanted to know if the agency's director and/or relatives were living in the buildings being used for the program and whether the buildings were actually being used for the program or for something else. The OIG found that the telephone and other utilities for living quarters were being charged to the CDA and that the program facilities were being used for residential purposes in violation of CDA regulations. The OIG recommended defunding the agency in May, 1983 partly for these reasons but also because the programs did not seem able to be operated safely and effectively while the buildings were being renovated. The OIG also collected restitution of $62.22 for the utilities paid for by the CDA but used personally.

On July 12, 1983 a Contract Agency Review for the 10/1/82--2/28/83 program monitoring period resulted in the agency being placed under a "Special Condition" because of low Level of Service(LOS) in all Workscope activities. By failing to meet this Special Condition at the time of its late-summer Compliance Review, the agency was threatened with defunding (in a letter from the CDA on 9/7/83), while being afforded an opportunity for an Administrative Hearing on 9/19/83. Legal services agency staff asked to attend the Hearing by the director of the contract agency argued that the low LOS did not reflect the impact of the program in the community and won the agency a three-month contract extension to 12/31/83.

On 10/24/83 an employee of the contract agency complained to the OIG that another employee had stolen and cashed her salary check. This "employee problem (criminal behavior)" allegation opened up a full-scale investigation of the agency, in which it was found that the director was stealing and cashing payroll checks for other staff in addition to the complainant, double-billing the CDA for staff under different names and billing the CDA for staff/consultant services not performed and personally cashing the checks generated by these falsified fiscal documents. Early in this investigation the OIG again recommended defunding the agency, and the contract was terminated on 12/20/83. The

amount of documented theft was small, $905, but the case was referred to the DOI anyway, on 7/25/84. The matter was also referred to the Youth Bureau OIG since the agency had received funds for a summer recreation program from that agency.

Obviously the agency had community support (based upon the successful plea from legal service staff for a contract extension), but the director was found by the OIG to be a petty thief early in the Program Year (as a result of a CDA staff-initiated complaint about the agency) and the agency was known to be below its contract Workscope after the first five months of the Program Year. The CDA's program monitoring and fiscal control systems revealed the agency's deficiencies well before the end of Program Year "R", but defunding had to wait upon proof of an "outside" allegation of fraud.

Another theft case (# C/140-83) came to the attention of the OIG because a newspaper reporter, possibly having been approached by a former CDA contractor, stated to the CDA Chief of Staff and Commissioner that an agency director was soliciting fees of $125 each from parents of children for registering their children in a summer day camp wholly supported by contracts with the CDA, Youth Bureau and New York State Division for Youth (NYSDFY). By the time the OIG/CDA became involved in the matter it was already before the District Attorney, having been referred there by the NYSDFY. In addition to the "unreported income generation" allegation, which was also theft since the director and possibly others pocketed the registration fees solicited in violation of contract restrictions, the agency was found to be double billing its funding agencies for staff, and a number of relatives of board members and the director were employed by the agency in violation of nepotism regulations.

Because the CDA had so little money in the program ($14,000 in Program Year "R", $11,000 in Program Year "S") and because the monitoring reports indicated greater LOS than the contract Workscope, it was probably the "least-interested party" in the case. However, multiple funding, particularly by agencies from different jurisdictions (New York City Youth Bureau and CDA; New York State Division for Youth), for the same programs. requires very intense cooperative monitoring and fiscal controls, which were not present in this situation.

The director and his partners (board members an/or staff--interlocking because of nepotism) netted about $40,000 from the camp registration fees solicited from parents each year, and the program had been run similarly for several years. The CDA was able to defund the agency in March, 1984 on the basis of the OIG investigation, and it was disbanded shortly after that.

The case was referred to the DOI, but the referral was for informational purposes only, since the District Attorney had already had the case for about a year by that time and was

seeking an indictment of the director, and possibly his partners, for grand larceny.

Two fraud cases (#C/78-83 and C/104-83) involving the same agency together contained substantiated fraud allegations of theft double billing for staff, time and leave abuse, theft of equipment/supplies and falsified fiscal documents: vendors, as well as substantiated abuse allegations of commingling of program funds and conflict of interest. Both cases were referred to the DOI. The first of the two cases had been referred from the OIG/DOE to the OIG/CDA because the agency had funds from the CDA and the DFTA as well as from the DOE. This case came to the attention of the OIG/DOE more or less simultaneously from two sources. A DOE employee on loan to the contract agency notified her DOE supervisor that a requisition for five typewriters resulted in the delivery of non-functioning machines with no serial numbers. At about the same time a supervisor in the DOE CAMFR (Contract Agency Monthly Financial Reporting) Control Unit reported a number of fiscal irregularities in the way payroll and OTPS were being handled by the agency.

The ensuing investigation, which was conducted jointly by the OIGs with reference to all three funding sources and included the FBI because of possible interstate activities by the subject, revealed over 30 bank accounts which were manipulated to generate over $50,000 in public funds for the director's personal use, non-existent vendors set up to divert funds and forged vouchers and phony invoices for staff and OTPS, among other things. Most of the money stolen by the director was from the United States Department of Agriculture (USDA) surplus food program, but some "profit" also resulted from the director's fraudulent acts with regard to City contracts.

The case was referred to the DOI which in turn referred it to the USDA Inspector General and the District Attorney. Because it was found that the board chairman had signed blank checks for the executive director to complete at a later time and because the board had generally failed to exercise its fiduciary responsibilities, the DOI required it be reconstituted before any new contracts would be awarded to the agency. City funding had been frozen earlier, but the director was still serving in volunteer capacity; he, too, was officially terminated.

With a new board of directors in place the agency again became eligible to receive City funds. The DFTA refunded the agency in late 1984. However, a new bookkeeper hired by the board to manage the DFTA funds was found by the new executive, when he came on staff, to be stealing money from the agency. Noting that the agency still lacked appropriate fiscal controls, the DFTA again defunded it. An indictment of the bookkeeper for the theft of $1,500 is being sought.

Most of the fraud and abuse found in the investigation involved (besides the USDA) the DOE and the DFTA rather than CDA because those agencies let their contractors write their own checks. The CDA however had a greater-than-average amount of money in contracts with this agency ($85,000 in Program Year "R"; $63,000 in Program Year "S", not all of which was expended because of the agency's defunding). Because there was commingling of funds and double billing for staff, as well as non-existent and no show employees being billed to the various funding source, the CDA funds were vulnerable. The second of the two cases involving the agency, in which the supervisor of the CDA funded program reported an agency employee's falsified documentation of sick leave, demonstrated this vulnerability. In that investigation another agency employee was found to have conspired with the first one to commit the time and leave abuse fraud against CDA. This case was also referred to the DOI.

The equipment purchases handled through falsified purchase orders and invoices to non-existent vendors were for the DOE programs. The poor quality typewriters with missing serial numbers on the original allegation were obviously not the kind of machines that the DOE approves for purchase; not unexpectedly, they later "disappeared" from the agency. Unlike the case described earlier, the multiple funding for this agency was, in part, for different kinds of programs, e.g., the DOE funded youth employment training program, the CDA and the DFTA-funded programs for seniors. The DOE internal fiscal controls effectively picked up on the agency's fiscal irregularities a couple of months into its 1982-83 contract year, and the matter was appropriately referred to the OIG/CDA and the DFTA.

As long as the OIGs inform each other whenever there are serious allegations against agencies with multiple sources of funds, the kinds of fraud exhibited in this case can be dealt with--but only for City contracts. This agency also had funding from the New York State Division of Housing and Community Renewal (DHCR), and there is no indication of any communications between the OIGs and DHCR. In the earlier multiple-funding case the New York State Division for Youth (NYSDFY) informed the District Attorney about its problems with the agency, but the two City agencies funding the same programs as NYSDFY had to learn about possible fraud in their contracts from a newspaper reporter. The OIG investigations in that case actually took place, in part, in the District Attorney's office which had already obtained the books and records of the agency for its own investigation. Many of the agency's books and records were missing.

The ultimate in "non-cooperation" between the State and City was highlighted by one case (#C/138-83). As a result of reading the New York State Investigation Commission (SIC) report, "Corruption and Fraud in the Bedford-Stuyvesant Redevelopment Corporation" published in late 1983, the OIG/CDA determined that an officer of a CDA-funded contract agency had misappropriated

funds in connection with a fraudulent lease for that agency's premises. The ensuing OIG/CDA investigation revealed that the names on the lease were fraudulent and that the owner of the premises was the contract agency itself. The matter was referred to the DOI for possible action to recover the $3,333 wrongly paid to officers of the agency for rent on the agency-owned building.

The OIG recommended that the CDA not renew its contract with the agency and refrain from contracting with the agency or its officers in the future. In addition, it was recommended that the CDA not contract with any agency renting from the subjects of the SIC report (or their corporations) and that all of the 1984 Open Submissions applications in the Brooklyn #8 NDA be reviewed to determine if any of the SIC report subjects and/or those in the OIG/CDA investigation were connected with the applying agencies. The SIC report obviously was a useful document to the OIG/CDA, but reading it was not a very timely or efficient way of finding out about potentials for fraud by the subjects of the report in CDA contract agencies.

Two other CDA fraud cases, both of which involved forgeries, were referred to DOI as soon as fraud was detected. In one of the two cases (#C/53-82) the landlord of the contract agency's premises complained that she had not received the rent due her for the entire contract year. By the time the landlord complained, the contract had been closed-out and the agency was no longer being funded by the CDA. The investigation revealed that the rent checks had been endorsed with the forged signature of the landlord and deposited into an account belonging to a Youth Bureau contract agency (also no longer funded by them by the time of the investigation), because the first agency was supposedly a sub-tenant of the second agency. The investigation was thwarted because the employee (of both agencies) responsible for these acts had become mentally unstable and because the landlord had simply waited too long to complain.

The second of the two cases also involved forgery (#C/87-83) and came to the attention of the OIG/CDA when a former contract agency employee complained to the CDA that the amount of salary reported on his Internal Revenue Service W-2 was more than he had earned. The CDA Deputy Commissioner for Fiscal and Management Operations determined that the employee was maintained on the agency's payroll several months after he had left the agency and referred the matter to the OIG for investigation. From a review of the agency's time records the OIG established that payroll checks had been generated and cashed for four previously terminated or non-existent employees. The forged checks, totaling about $1,100, were either deposited in an account maintained by the agency or in accounts of the contract agency employees themselves. The OIG recommended termination of the employees involved in the fraud and a funding freeze until the $1,100 was recouped from the agency.

Finally the board chairperson, in submitting documentation to the CDA that he was advertising the vacant assistant director position, presented a copy of an "ad" which he said appeared in the Local Community Planning Board newspaper. The OIG secured a copy of that newspaper and failed to find the advertisement.

With the director against whom the fiscal irregularity allegations had been lodged (by the board chairperson) gone, these particular charges could not readily be investigated (restitution, however, had been gained earlier for the no-show employee fraud from the director when he came in to get his last pay check at the CDA). The only person who could have helped in this part of the investigation was the board chairperson whose falsified extortion charge against the former assistant director made his veracity questionable. The OIG/CDA was able to recommend that the former director not be permitted to work in another CDA contract agency based upon the substantiated no-show employee allegation for which he paid restitution.

This agency was the only one for the 1985-86 contract period which was recommended for funding by an APB and then vetoed by the CDA. The funds which would have gone to it in 19085-86 have been redistributed by the APB to other agencies in the NDA. The board chairperson is suing the CDA for defunding his agency, but the CDA had never lost a lawsuit of this kind.

None of the OIG/CDA substantiated allegations in this case were fraud. (The falsified expense statements and purchase requisitions allegation was not investigated by the OIG, and the DOI may find them to be fraud.) There was a great deal of abuse and even possible criminal behavior (by the board chairperson in the falsified extortion charge). One of the substantiated abuse charges was political activity in violation of CDA rules, which indicates that the agency may have been politicized. It is likely that the agency functioned primarily as the "housing services office" for local political leaders such as the now-incarcerated former Councilman.

An agency which was not renewed for Program Year "S" because of poor performance was referred to the OIG/CDA after the close of Program Year "R" by the Deputy Commissioner of Fiscal and Management Operations because CDA fiscal, in reviewing the agency's purchase requisitions, found altered Postal Service receipts and other flaws, primarily involving the submission of requisitions after purchases were made in violation of CDA rules (#C/132-83). The OIG investigation supported the falsified fiscal documents (vendor) allegation, which should help the CDA defend itself against a lawsuit by the director charging the CDA with failing to reimburse the agency for $6,000 in costs said to be due it. The altered Postal Service receipts were forwarded to the DOI for possible action.

for deceased staff members.

The subject of the ensuing investigation had been the CDA staff person primarily responsible for consolidating the fiscal operations of the 26 Community Corporations into regional Fiscal Centers and finally into the one Fiscal Center currently in use. Because the Community Corporations were CDA contract agencies, the Fiscal Centers remained so, which meant that the employees who handle the payrolls, purchase orders, requisitions and invoices for the CDA contract agencies were themselves contract agency employees. The Fiscal Center is ultimately supervised by CDA administration, (currently the Deputy Commissioner for Fiscal and Management Operations), but the day-to-day operations were then under the direction of an administrator who reported to the contract agency's executive director (who lodged the complaint in this case with the CDA Commissioner).

The investigation was conducted in conjunction with the DOI which interrogated: 1) the board chairman of the contract agency operating the Fiscal Center who signed bank account signature cards (but did not necessarily know the purpose of every account) and who authorized the use of a facsimile signature stamp for his signature on the checks issued by the Fiscal Center; 2) the executive directeor, who maintained that he was only a liaison between the subject and the Fiscal Center administration and claimed to know little about the use of the accounts although he was a signatory on them; 3) the Fiscal Center administrator who was not a signatory but had the board chairman's facsimile signature in his control and was responsible for monitoring income and outgo for all accounts. He worked directly for the subject, never questioning her authority to tell him to issue checks and transfer funds between accounts. This administrator knew that there were accounts for which the checkbooks and bank statements were kept by the subject and that these accounts were not on the list of accounts to be audited. He obtained the necessary signatures on checks written on these accounts when asked to do so by the subject.

A CDA vendor who was interviewed by the DOI stated that the executive director and the subject asked him to cash Fiscal Center-produced checks (made out to cash) and to purchase various party supplies for them with checks made out to the vendor. None of these transactions had invoices accompanying them. These checks were found to have been drawn on the secret accounts. This vendor, in exchange for his "service", was given exclusive rights for CDA and for CDA contract agency purchases of office supplies and furniture.

The outcome of this joint investigation were several: Both the executive director and Fiscal Center administrator were terminated from their CDA-funded positions and prohibited from holding positions with any agency contracting with the CDA. The investigation showed that they were aware of the secret accounts

kickback arrangements). Because Fiscal Center operations are not computerized, the manual review of old invoices was likely to be an onerous job with few rewards or payoffs. The review also would have had to be pursued in addition to the usual work of processing current invoices. Essentially the case was resolved by the Commissioner's decision not to allow CDA or its contract agencies to use the vendor.

Where funding sources do not have centralized purchasing, the potential for contractors and the sub-contractors hired by them to participate in a kickback scheme exists. (Centralized systems of course have corruption potentials of their own.) The CDA could, however, spot-check prices of the same items on invoices from various contract agency subcontractors and for the same subcontractor selling goods and services to several contract agencies in order to reduce the potential for overcharges and possible kickback arrangements. A computerized financial system would make this job a lot easier and the "spot checks" could instead become exhaustive.

Substantiated Abuse Cases in Which Administrative Recommendations Were Made by the OIG

The administrative recommendations made by the OIG are often reiterations of good management practices which contract agencies may need to be reminded about periodically (#C/47-83, C/101-83, C/101A-83). Others are recommendations to the administrators of the funding agency which have more general implications.

In one case (#C/115-83) the director of a CDA contract agency asked the CDA Commissioner by letter to investigate the theft of two typewriters purchased with CDA funds from his facility. The director stated that the building had 24-hour guard service contracted by the Human Resources Administration (HRA), the CDA-parent agency which managed the building. During the investigation it was found that the security company was about to be replaced by another contractor and that the guards who worked for the about-to-be-terminated contractor (and who may have committed the theft and another one in the same building or at least allowed them to happen by their actions) had applied for positions as guards with the new security contractor. Since no security log book could be found for the time period in which the thefts had occurred, the contractor's performance was particularly suspect.

The OIG/CDA specifically recommended that the HRA Office of Security reevaluate the practice of allowing a newly-contracted security firm to hire guards who worked for a deficient terminated contractor. Because the stolen property was not insured the OIG also recommended that the CDA conduct a survey of its contract agencies to determine how many typewriters (the most common object of thefts in CDA contract agencies) purchased with CDA funds were uninsured.

described only as a "friend" but that the alleged daughter was actually hers. Restitution of $7,057 for the daughter's salary was sought. During the investigation the OIG found that the nepotism clause had been omitted from the General Provisions of the CDA contracts, and noted that since nepotism is a violation of the Code of Federal Regulations, Title 45, Chapter X, Section 1069.20-9(d) governing CDA contracts, it should be restored. As a result of this case th OIG recommended that contract agencies be required to agree in writing that their boards and staff will observe the regulations against nepotism and other conflicts of interest.

There were eight nepotism allegation cases in the OIG/CDA during the time of this study, the five most recent of which were substantiated. Nepotism and other conflicts of interest (three additional cases, one substantiated) are almost always revealed by an outside complainant or as part of an investigation as a subsequent allegation. The one exception to this was based on an astute CDA Fiscal Center observation. Fiscal Center staff noted that an invoice and the preceding purchase requisition were submitted by a contract agency vendor whose signator had previously billed the CDA as a consultant to the same agency. On the surface this peculiarity did not necessarily involve any wrong-doing. However the OIG investigation found that the contract agency board chairperson was an officer of the vendor corporation and that his son, whom he had previously hired as consultant (staff) to the agency, was an administrator of the vendor. These are violations of contract provisions on use of funds and the nepotism regulations. The CDA declined to pay the $280 invoice and secured restitution of $471 from the son of the board chairperson. Restitution and/or resignations are the usual remedy for conflicts of interest/nepotism and for such contract violations as these.

The CDA Fiscal Center, helpful as it was in detecting the abuse present in the above case, came under attack in a OIG/CDA case opened two months later. In this case (#C/181-84) the Fiscal Center reported to the OIG that checks mailed to a vendor were returned because the address listed on the invoice was a vacant lot. The complaint was that a CDA contract agency was sub-contracting with a non-existent vendor. The investigation revealed that the Fiscal Center had later delivered the returned vendor checks to the contract agency, in violation of Fiscal Center rules. (This act would encourage fraud if the vendor did not exist.) However, the vendor's address had merely been misprinted on some of his invoices, which accounted for the difficulty in delivering the checks. The OIG also found that the vendor, as an individual entrepeneur rather than a corporation, had failed to submit a resume before asking for payment for his services, in violation of Fiscal Center rules. (The resume is likely to have included the correct address for the vendor, which if it had been available and checked by Fiscal Center staff, would have prevented the complaint from occurring.)

The OIG/CDA stated that failing to meet Fiscal Center rules should be met with disciplinary action, but it was not clear from the recommendation who should be disciplined and what kind of discipline should occur.

Other Substantiated Abuse Cases

The cases discussed above involved those in which the OIG made recommendations to the CDA administration. Most abuse allegation cases however, did not result in OIG recommendatioins, in part because these cases also contained fraud allegations on which the investigation was primarily focused and because the allegations often were simply violations of the CDA rules for fiscal and program management within its contract agencies, already well-elaborated upon.

Because most fiscal and program abuse occurs either because of ignorance or for the benefit of the agency, the wrong-doing can be resolved expeditiously through various sanctions. If there are also substantiated fraud allegations in the case, then the resolution is to remove the subject and/or defund the agency and seek restitution where appropriate. If no fraud is found then the persons responsible for the abuse may be removed, restitution sought from the agency if appropriate and other actions taken by the CDA to correct damage caused by the abuse if the agency is to be allowed to continue as a contractor.

Conflicts of interest/nepotism and political activity are both violations of CDA rules in which there are likely to be benefits accruing to someone. Persons hired in violation of conflict of interest/nepotism regulations however are not necessarily less qualified than other persons and their services may benefit an agency and/or its clients, and of course they do benefit personally by receiving payment for their work. The subject in such an abuse allegation however does not usually benefit unless he extorts a kickback from the person hired. In substantiated cases the person is removed from the position and restitution sought from him/her or the subject of the investigation. Political activity in violation of CDA regualtions was substantiated in only one of the eight cases in which it was alleged for an agency discussed within the Cases Referred to DOI section above (#C/177-84), which appeared to have functioned as the "housing services" office for local political figures.

Time and leave abuse can be either fraud or abuse if substantiated, depending on the nature of the benefits which accrue from it. The five substantiated abuse cases in this category were part of multiple allegation cases and were resolved

by adjustments to leave credits and restitution. Even though at least three out of these five cases also included substantiated fraud allegations, the time and leave abuse did not appear to have benefited the subject of the investigation nor to have been engineered by the employees whose time records were altered, thus allowing it to be classified as abuse.

The three time and leave abuse cases in which that allegation was determined to be substantiated fraud were all part of cases which were referred to the DOI and in which the subject of the investigation did benefit by submitting time cards for no-show/non-existent employees whose checks were then cashed by the subjects.

Cases/Allegations Which Did Not Contain/Were Not Fraud, Abuse or Corruption

Twenty-three of the 91 cases involving contract agencies active in the OIG/CDA between 7/1/82 and 12/31/84 did not contain fraud/abuse/corruption allegations. Representing one-fourth of the contract agency cases handled, these were matters which can be categorized as employee problems, landlord-tenant issues and non-allegation cases.

Eleven of the 23 cases were concerned with employee problems, a category which encompasses criminal reports from and/or about contract agency staff (and for this study, CDA staff if a contract agency was also involved), job grievances and miscellaneous allegations regarding contract agency employees.

Employee problems were also present in eight additional cases also containing fraud/abuse/corruption allegations. In seven of the eight cases an employee problem was one of the original complaints/allegations which cause the case to be opened. In these cases the complainant was either an aggrieved (former) employee or someone charging another person in a contract agency or in the CDA with misbehavior.

Unfair terminations, one of the employee problem categories, are normally handled through the CDA's grievance procedure but, when they are intertwined with other allegations as in the three such cases in this study, the OIG investigates the termination circumstances as well. The OIG seeks to resolve the employee problems which come to its attention by including them in the investigation of other matters in the case, or by referring them to the proper administrative unit for action, or by simply solving the problem when that seems appropriate.

Criminal behavior and/or staff misconduct are allegations in which the OIG is expected to be involved. (Criminal reports involving city employees are referred to the appropriate City

agency OIG by the DOI for monitoring purposes and actiion, if necessary.) Sometimes the OIG simply waits for the police, a district attorney or the DOI to complete their work; other times the OIG will investigate a matter and refer it to the DOI or to the police if appropriate, or to CDA administration for action.

Landlord-tenant issues (four cases, three of which contained other allegations as well) are referred to the CDA legal unit which handles such contractual problems. One matter was simply passed on to a City housing agency which was the landlord for the premises.

Non-allegation matters (11 cases) were requests made of the OIG, usually by CDA administrative staff, to carry out certain tasks. These kinds of matters are no longer (since late 1983) given case numbers but treated instead as inquiries or projects when they come to the OIG.

None of the matters included in the "cases" reviewed above are inappropriate to the OIG although many of them could have been handled informally, rather than by setting-up a case. Productivity of an OIG can most easily be measured by the number of cases opened and closed during a time period. Misplaced emphasis upon such statistics, however, can result in every matter being assigned a case number by an OIG seeking to appear productive. The current practice in the OIG/CDA is to "log in" all complaints/allegations which are referred to the OIG by CDA staff as well as those which come in to the OIG directly on the telephone, by letter or from the complainant in person. Non-allegation matters (about one out of ten cases in this study) are not recorded in the log nor cases necessarily opened for them.

Results of Administrative Hearings and Other Actions Taken To Defund Contract Agencies

The results of the Administrative Hearings and other actions taken to terminate/not renew/extend/refund contract agencies are summarized in a table at the end of this section.

Of the 305 agencies funded by CDA through the APBs in both Program Years (299 in "R", and additional 6 in "S"), 29 were terminated/not renewed/extended, 25 as a direct result of the Administrative Hearing (or not showing up for the Hearing) or by OIG recommendation, four as result of their failing to meet Special Conditions imposed on them at their Administrative Hearings. Twelve agencies were continued as a result of their presentations at the Administrative Hearings, while another 22 were continued with Special Conditions and a subsequent Compliance Review placed upon them. As noted, four of these agencies failed to meet their Special Conditions, but 18 were judged to have done so and allowed to continue, be renewed or

extended.

Only one agency was subjected to two Administrative Hearings. The first one placed Special Conditions upon it, which it failed to meet. Usually agencies whose compliance Review finds continued poor performance are simply terminated/not renewed/extended. The agency had a long history of successfully operating anti-poverty programs and thus was granted the "courtesy" of a second Hearing before the program was terminated. (Another program in the same agency met a Special Condition placed upon it earlier and was continued).

The Non-NDA Elderly and City-Wide Programs, which account for about 17 percent of the total CDA contract monies, are under the contract management system but are not subject to Administrative Hearings. None of these agencies were terminated by CDA administration in Program Year "R" or "B", but several did not continue as CDA contractors, and replacements were recruited through the issuance of a RFP. In addition, none of the substantiated allegation cases in the OIG/CDA involved these programs.

The 59 agencies which experienced terminations/non-renewals/extensions/refundings included 52 agencies which participated in Administrative Hearings. About half of these agencies were terminated or not renewed/extended, half were continued. Many of the continued agencies, if they were recommended by their APBs for refunding in 1985-86, are still with the CDA, even after their "close brush" with defunding. The failures--those who for the most part did not meet a "minimal acceptable standard" for the agreed-upon Levels of Services (LOS) in their contract Workscope--were simply not able to provide the services proposed by them in their applications for funds and/or negotiated by them with the CDA and set down in the contract Worscope.

CDA program priorities overlap almost entirely with those of several other City agencies, especially the Youth Bureau, the Department for the Aging, and various units of the Human Resources Administration, but also the Department of Employment, Housing Preservation and Development, Board of Education, Housing Authority and Parks & Recreation. While about 40 percent of the APB recommended-for-funding contract agencies are only funded by the CDA, the others are likely to be funded by one or more of these other City agencies. Even with such "cooperative" funding, the programs remain small and likely to be staffed with low-salaried personnel, not necessarily skilled at managing and/or operating programs. Not infrequently, the staff charged with services provision were not yet "on board" when the proposal was written and the contract was negotiated. Board chairman or other interested board members and/or agency administrative staff, however, sometimes write proposals and negotiate contract Workscopes which are unrealistic.

The CDA does not attempt to identify agencies with a potential for difficulties in their contracted programs. Its Training and Technical Assistance Unit is available, however, should an agency request help from the CDA, and sometimes an agency is required to seek technical assistance as part of its Special Condition. The goal of the monitoring efforts is to sort out performing agencies (or ones for which performance can be improved enough to bring them into compliance with their Workscopes) from non-performing agencies--those which fail to meet "minimal acceptable standards". Defunding/not renewing/ extending irredeemably poorly performing agencies, that is, those which first failed to meet their contract Workscope, then also failed to meet the Special Conditions put upon them at their Administrative Hearings, can take the entire Program Year to achieve.

The CDA gives its contract agencies every chance to prove themselves. Some key phrases in the outcomes of Administrative Hearings indicate the extent of the CDA's fairness. For agencies continued as a result of the Hearings these included "good faith effort", "reasonable unit cost" for services actually provided, "late start but current LOS satisfactory", "shortfalls in some activities likely to be made up in others". For agencies terminated as a result of the Hearing, the usual conclusion is "no chance for improvement seen".

The four terminations in which the OIG was involved (indicated by footnote A in the table at the end of this section contained several substantiated fraud and abuse allegations but had little else in common in terms of program activities or the circumstance of defunding.

For two of the four agencies no Administrative Hearings were held. In one of the two cases the board of directors returned the CDA contract and dissolved the agency after the executive director was indicted for wire and mail fraud. In the second case the OIG recommended termination after the director was accused of grand larceny with regard to a New York State Division for Youth contract, and the OIGs/CDA and Youth Bureau (New York City) found unreported income generation (in fees paid by clients for free programs), theft of funds, double billing and nepotism. This agency was also disbanded. (Case #C/99-83 & C/140-83 respectively).

For the third terminated agency the CDA had held an Administrative Hearing in which a legal services lawyer argued successfully for a three-month extension of the contract because the measured LOS was not said to be indicative of the actual impact of the agency's services on the community. During the extension time the OIG found, as a result of an investigation initiated by a complaint lodged by an employee of the agency, that the director had engaged in several fraudulent acts. The

decision to terminate was based upon the OIG's recommendation. In this case replacing the director and continuing the contract was not a viable option for CDA because she was the founder and "centerpiece" of the agency. (Case #C/86-83 & C/137-83).

For the fourth terminated agency the OIG recommended that the CDA call an Administrative Hearing after finding that the director had falsified program statistics (MIS reports and "deliverables") and supporting expense statements for the services not provided. Because the agency's board of directors refused to accept the resignation of the director, the OIG recommended termination of the contract (Case #C/157-84).

(The OIG was also instrumental in preventing the CDA from funding an agency recommended by an APB for the 1985-86 contract period. The agency met the Special Condition placed upon it in an Administrative Hearing, but a concurrent investigation initiated by an employee's complaint found sufficient abuse to allow the CDA to veto the APB's recommendation). (Footnote D in table at end of this section, Case #C/177-84).

Because the average amount of funding the CDA provides to its contract agencies is less than $50,000 per year, the amount of money available for misappropriation is not significant. The centralized fiscal system also makes it difficult to steal. Program abuse, however, is common. The Administrative Hearings are the "kindly" way to deal with the kind of program abuse in which the contractor fails to provide agreed-upon Levels of Service for which due consideration has been paid by the CDA. On the other hand if the OIG investigates a fraud/abuse complaint and substantiates it, any sanctions against the agency which are recommended by the OIG are usually implemented without the opportunity for a "fair hearing". If the sanction is defunding, the agency sometimes sues the CDA. None of these law suits have been successful.

The OIG was involved in three substantiated fraud cases with agencies which also had Administrative Hearings during the time period for this study. Two of these were after termination/non-renewal/extension as a result of the Hearing. One was while the agency was still being funded but under a funding freeze. In this case the board of directors was required to be replaced before the funding freeze would be lifted. It was replaced, but its APB did not recommend it for CDA funding for the 1985-86 program period.

The OIG also was involved with six substantiated abuse cases on agencies which had Administrative Hearings, five of which took place more or less at the time as their Hearings, one later in the agency's contract period. None of these agencies were terminated as a result of the Hearing or the OIG investigation. Because the allegations were generally fiscal rather than program abuse, there may not have seemed to be any reason for the OIG to

inform CDA contract management staff involved in the Contract Agency Reviews and Administrative Hearings for the six agencies. On the other hand information about agency fiscal mismanagement might have been useful in deciding whether or not to continue the contract.

Summary Conclusions About CDA Contract Management

Contract management in CDA is a complicated process with several "checks-and-balances". It includes the Management Information System (MIS) forms completed by the contract agency and submitted to the CDA on the Levels of Service (LOS) provided for various Workscope activities; 2) "deliverables", the agency's own program records maintained in the manner required by the contract and provided to the CDA on demand; and, 3) the formal monitoring visits by CDA contract officers written-up in structured narrative form.

MIS forms are submitted monthly and reviewed for Workscope compliance and evidence of possible falsification. Deliverables are analyzed about once per calendar year with the same criteria in mind. Monitoring visits can only occur slightly over once a year given the number of agencies assigned to each contract officer (up to 45) and the amount of time spent reviewing an agency's activities (up to a week or more depending upon the number and complexity of the Workscope activities). Since all three parts of the contract management system must come together at the Contract Agency Review, agencies are six months or more into their contract before the CDA is able to place Special Conditions on those which are out-of-compliance with their Workscope LOS, or call an Administrative Hearing for those whose LOS fails to meet "minimal acceptable standards".

The Contract Agency Reviews and the Administrative Hearings are the means by which sanctions are levied against inadequately-performing contract agencies by CDA administration. Special Conditions (and the succeeding Compliance Reviews) and, potentially, if the Compliance Review finds that a Special Condition has not been met, termination or non-renewal/ continuation/refunding of the contract are the sanctions imposed.

The principal means the CDA has of detecting program abuse is its contract management system, which, particularly because of the redundancies in it, is effective in finding deficiencies in contract agency performance, Agencies which are not functioning during the early part of their contracts before monitoring gets underway are exposed by their not "drawing down" monies from the CDA Fiscal Center (unless, of course, fraud or abuse is present in terms of no show employees and falsified fiscal documents) and by not submitting MIS forms (or reporting low LOS on them). The OIG/CDA is usually brought into these kinds of situations by CDA staff, as well as occasionally, through complaints lodged by the

public about poorly operating agencies, well before the first Contract Agency Reviews.

For the two Program years under review in this study the CDA terminated or did not renew/extend the contracts of about one out of ten of the agencies it funded. The OIG/CDA was directly involved (because there was substantiated fraud/abuse present) in only four of the 29 defundings. However for three other agencies, the OIG/CDA found fraud/abuse in investigations launched after the Administrative Hearings had resulted in their being defunded. The OIG/CDA was also involved with six agencies which were continued/renewed/extended as a result of their Administrative Hearings or as having met Special Conditions imposed upon them at the Hearings. For these six agencies there was no apparent connection between the abuse substantiated by the OIG and the failure to meet the contract Workscope which brought about the Administrative Hearings.

As a unit of CDA, the OIG is particularly responsive to requests made of it for investigations by CDA administration and other staff. One-third of the cases involving contract agencies originated with CDA staff, many of which were concerned with fiscal matters. However, the fraud cases based upon complaints from outside of the CDA were more productive in terms of substantiated allegations against the contract agencies, possibly because these were people (frequently staff or former staff of the contract agencies) who knew their agencies personally, rather than from working with "papers" about the agency, as most CDA staff or required to do by the nature of their jobs.

Except for the four cases in which the OIG was more or less responsible for defunding the agencies (and one case in which the OIG was responsible for not letting an agency be re-funded in 1985-86), there was little connection between the process leading to an Administrative Hearing and the activities of the OIG. The OIG cases for agencies on which Administrative Hearings were held rarely contain references to the kind of program abuse represented by Workscope non-compliance. Similarly, the Administrative Hearing proceedings do not usually indicate current or past OIG involvement with the agency when it exists. This may be appropriate for unsubstantiated allegation cases and for active investigations but not necessarily for those in which fraud/abuse was found.

Contract management staff should receive Closing Reports for OIG/CDA cases on agencies in which substantiated fraud/abuse was found. Consideration should also be given to having the OIG sit in on Contract Agency reviews and/or Administrative Hearings for agencies with recent (perhaps two years or so) substantiated allegation cases and for those with active OIG cases. Because cases do not get officially closed (with a written Closing Report) as quickly as they might be, due to the lower priority given to completing paperwork than to pursuing an investigation,

active cases are frequently all-but-closed and could be relevant to the Reviews and Hearings if they contained substantiated allegations. In fact, any agency with substantiated allegations against it, regardless of the status of the case, should be the subject of discussions between contract management staff and the OIG. The OIG frequently recommends sanctions against agencies in substantiated allegation cases (which are almost always implemented by the Commissioner or by designated staff); these sanctions might benefit from discussions with CDA staff. In these discussions the OIG can control the confidentiality of the cases and only reveal what seems to be important to the discussion. Cases can indicate errors or omissions by CDA staff in their work with contract agencies which need to be handled with discretion should a disciplinary action become necessary.

Cooperation of a different nature, between OIGs for agencies with multiple funding sources, should also be encouraged when complaints against such agencies are lodged. The OIG/CDA, which also handles complaints about the DFTA contract agencies, has a close working relationship with the OIG/DOE, which also handles complaints about Youth Bureau contract agencies. Both of these Offices are under the supervision of the Inspector General of the Human Resources Administration which funds programs in a number of the same contract agencies. Beyond this network, "cooperation" is likely to be more formalized. Complaints mistakenly lodged with the OIG/CDA are referred to the appropriate OIG and matters uncovered during an investigation which are relevant to another funding agency are referred to that agency's OIG. When a complaint/allegation is made about an agency with multiple funding sources, the other funding sources should be informed immediately of the investigation by the OIG which accepted the complaint as appropriate to his/her office. These could be informal communications between the OIGs if other funding sources are involved with programs other than that toward which the complaint/allegation is directed. Formal communications among funding sources could be used when the agency and its programs as a whole are under investigation by one OIG. At some point the DOI may need to mediate among OIGs in order to eliminate overlap and to designate which OIGs are to pursue which parts of the investigation.

The DOI was involved in major investigations for six of the substantiated fraud cases referred to it by the OIG/CDA. (Two of these were multiply-referred, one by the OIG/CDA and DFTA and the other by the OIG/DOE and Youth Bureau.) The other five cases referred to the DOI did not result in major investigations. Indictments have been gained or are being sought against three executives of the six agencies investigated by the DOI.

The major function of the DOI in these types of cases is to pursue the possibility of indictments where there are identified perpetrators of substantiated fraud. As the city agency responsible for professional supervision of the OIGs it also

could coordinate the efforts of the OIGs in cases involving multiply-funded agencies and could initiate efforts to deal with fraud/abuse in programs funded by both City and State agencies. Currently the New York State Divisions for Youth (NYSDFY) and Housing and Community Renewal (DHCR) found programs in New York City, some of which are operated by contract agencies receiving City funds for similar programs. this is a major concern, since the State agencies do not appear to have a structure similar to the DOI/OIGs for investigating fraud/abuse in their contract agencies.

Multiple funding, whether by City agencies or by both City and State agencies, is an area of vulnerability for fraud/abuse in about two-thirds of the CDA's contracts. All of the CDA's program priorities are also the priorities of other City agencies. The Youth Bureau, the Board of Education, the Department of Employment, various units of the Human Resources Administration concerned with families, children, adults and the aging, the Department for the Aging, the Department of Housing Preservation and Development, as well as Parks and Recreation, Housing Authority and, perhaps others, all offer or fund one or more of the same kinds of programs/services as the CDA does.

Because the CDA funding frequently is not sizable, it and other City agencies with small contracts, such as the Youth Bureau with more than 500 such contracts often expect contractors to seek out additional sources of funds. For the other City agencies, the CDA is a logical referral for possible funding since it funds such a wide variety of programs.

In order to determine whether the City is paying more than once for the same programs/services requires the kind of audit not usually done except as part of a criminal investigation (in New York City by the DOI Accounting Section). Routine investigative audits are not likely to become part of the fiscal monitoring practices of City agencies, simply because they would not be cost-effective given the size of the contracts involved.

The CDA becomes aware of its contractors' other sources of funds (past and present) at the time of their application for CDA funding. Prospective contractors can, of course, omit funding sources with which they have had unfavorable experiences. The CDA administrative staff checks with the listed sources to determine if they have had any problems with the prospective contractor. Contractors which acquire additional sources of funds during the CDA contract period are not required to report them to the CDA.

Contract officers sometimes come upon a problem with a multiply-funded program by accident. One example was cited during interviews conducted as part of this study. In his visit to an employment program, a contract officer was asked by a program participant when he was going to receive his stipend check. Since the CDA does not pay participant stipends, the contract officer

knew that he was not monitoring a CDA-funded program. Most likely the program was funded by the DOE, which does provide stipends for carfare and lunch to its employment training program participants.

For the one-third of CDA's contract agencies which have only CDA funding and are likely to be inexperienced in operating community services programs, mismanagement is the major vulnerability. The CDA puts the poorly run agencies out-of-business sooner or later, while the survivors go on to seek new sources of funds to keep their programs going (especially in the face of declining CDA funds) or to expand their programs, thus becoming multiply-funded and vulnerable to the fraud/abuse potentials connected with such funding.

Summary of Administrative Hearing Results and Terminations/Non-Renewals/Extensions in "R" and "S"

	Total # of Contracts in "R" & "S"	At Administrative Hearing Contract Was: Contract Terminated or Not Renewed Extended at Admin. Hearing and/or by OIG Recommendation	Continued/ Renewed/Extended w/o Compliance Review/Special Condition	Continued/Reviwed/ Extended With Compliance Review/Special Condition	
				Continued Renewed/ Extended After Review	Terminated Not Renewed/ Extended After Review
Bronx:					
APB #1	10	2			
2	6		1		
3	9	2 a-1		1 c	1
4	10	1 a	1	2 b-1	1
5		10		1 e	1
6	9				
7	5				
9	11	1	1	1 c	
12	2				
Total	72	7	3	4	2

Brooklyn:					
APB #1	17	3		1	
2	10	2		1	
		[a]			
3	20	1	1	3	1
				[d]	
4	7		1	1	
5	11	1		1	
6	10			1	
7	9				
8	5	2			
9	5				
		[a]			
13	4	1			
14	4				
				[c]	
16	13	1	1	1	1
Total	115	11	3	9	2

Manhattan:					
APB #3	16		1[c]	1[c]	
4	6	1	1[b]		
7	12	1			
9	9			1[c]	
10	21	2		1[c]	
11	20	2	1	2[b-1]	
12	12		1		
Total	96	6 --	4	5	0
Queens:					
APBs#1 & 2	3		1		
3 & 4	2	1			
12	12				
14	2				
Total	19	1	1	0	0
Staten Island:					
APB #1	3		1		
Total	305	25	12	18	4

a) Termination (also) based on OIG investigation.

b) Did not apply for 1985-86 funding.

c) Not recommended by APB for 1985-86 funding.

d) Recommended by APB for 1985-86 funding but vetoed by upon based upon OIG investigation.

e) Funded for 1985-86 (although previously terminated for poor performance).

THE DEPARTMENT of EMPLOYMENT

Overview

The New York City Department of Employment (DOE) is responsible for administering training and employment services provided to needy residents of the City. The legislation governing the provision of training and employment services with federal funds is the Job Training Partnership Act (JTPA), P.L. 97-300, which replaced the Comprehensive Employment and Training Act (CETA), effective in Federal Fiscal Year 1984 (beginning October 1, 1983). In both acts, local governments determine the kinds of programs and services to be provided, but under the JTPA, states rather than the federal government give policy guidance and administrative direction to local program operations. The states are assisted in their new assignment by State Job Training Partnership Councils (SJTPC's), which advise state governors and coordinate statewide governmental and private sector roles in training and employment services policy.

Other than this shift in focus from Federal to state governments, the major difference between the CETA and the JTPA is the latter Act's increased emphasis on placement in private sector jobs. To implement this change in emphasis, Private Industry Councils (PICs), which under the CETA were only advisory bodies to local departments, are now "in partnership" with them. The PICs represent the business, labor, and education sectors and provide policy guidance in the development of job training plans. The PICs also participate in the oversight of activities conducted under the plans, and under JTPA, they along with local government entities, non-profit private organizations, and other locally agreed-upon entities are permitted to receive training and employment services funds. In New York City, the Private Industry Council is one of the DOE's larger contractors.

Funding under the first year of the JTPA for New York City's training and employment services was $71.5 million, down about $30 million from the last year under the CETA. At its peak in the early 1970's, CETA funding for New York City's employment programs reached nearly $500 million, including Public Service Employment (PSE), which was temporary employment in public service jobs. These and other non-career-oriented employment programs had begun to be phased out before the JTPA came into existence, and the new Act made no provision for them at all. Even at the 1983 funding level of $101 million, the DOE claimed that it was only able to provide employment services to less than 2 percent of the eligible population.

The largest employment training program is adult training, which emphasizes structured classroom training in job-specific skills. Over 15,000 persons were enrolled in adult training programs in 1983. In the same year, youth programs provided training and employment services to 4,400 people between the ages of 16 and 22. (In addition, the Summer Youth Employment Program (SYEP) provides eight weeks of part-time work for over 40,000 persons under the age of 22.)

In recent years, the focus of the year-round youth programs has been shifted to older out-of-school youth and to in-school youth who are not college-bound. Employment programs are required to provide "Services to Participants (STP)" in addition to training their target populations. For youth, these services include job placement, assistance in returning to school, and pursuit of a high-school equivalency degree or college admission.

In New York City, the PIC operates training programs to meet specific private-sector employer needs, for both youth and adults, while designing models for use in the other DOE contract programs. Its programs had an enrollment of 4,000 participants in 1983.

The DOE's City-wide system to reach prospective clients are its Job Testing, Assessment, Placement (TAP) Centers. The system currently includes twelve (12) centers, operated by community-based organizations under contract with the DOE. The centers provide testing and assessment for applicants for training and employment services, with the purpose of placing them in jobs, training, and/or educational programs. The current emphasis of the Job TAP Centers is upon direct job placement and short-term employability counseling for applicants. In 1983, 30,000 persons applied to the Job TAP Centers. Of these, 7,000 were directly placed into jobs, 5,000 entered DOE training programs, and 4,000 were placed in remedial education programs.

Administrative Structure and Program/Fiscal Operations

Continued reductions in funding for employment programs and in the DOE staff responsible for administering them since the late 1970's have resulted in changes in the DOE's organizational structure. The major change has been an amalgamation of the staffs which formerly administered the adult and youth programs from separate locations. These have been combined into one unit under the Associate Commissioner for Training, at the DOE's Brooklyn location. The Associate Commissioner for Training reports to the DOE Deputy Commissioner for the Office of Operations, who is also responsible for the Consolidated

Employment Services unit, which is directed by an Assistant Commissioner. The twelve Job TAP Center contracts are managed by this unit, out of the DOE's Manhattan headquarters.

The Deputy Commissioner for the Office of Operations supervises the program side of the DOE. The fiscal and some management functions, e.g., budget and administrative services, are supervised by an Associate Commissioner for Management and Fiscal. Other management functions, primarily personnel and staff development, are under a Chief of Staff.

Four staff units report directly to the Commissioner. Two of these are the Offices of the Inspector General and Intergovernmental Relations. A third is the PIC Liaison, reflecting the increased role under the JTPA of the Private Industry Council in departmental affairs. The fourth unit is the Office of Review, Evaluation and Planning, which is responsible for the design and implementation of contractor reporting systems and the forms and procedures used by DOE contract management staff for monitoring contractor performance. This unit is also responsible for verifications with employers of placements said to be made by DOE contractors, the collation of statistics which result from contractor training and placement efforts, classroom training curricula reviews, and program evaluation studies.

Within the fiscal side of the Department and under the direction of the Associate Commissioner for Management and Fiscal is the Office of Production Control and Reporting (OPCR), supervised by an Assistant Commissioner. This unit is responsible for certifying the eligibility of participants and for the fiscal controls for the DOE as they relate to contractors. It also oversees the preparation of stipend checks for classroom training program participants, based upon information provided to its payroll section by contractors. The OPCR is housed in the DOE's Brooklyn location on the same floor as the Associate Commissioner for Training and his contract management staff.

Except for the Summer Youth Employment Program (SYEP), which is also located in Brooklyn and whose director reports to the Associate Commissioner for Training, the other units of the DOE are located in its Manhattan headquarters.

Eligibility for DOE Programs

The expressed goal of the DOE is "to assist youth and adults who are not able to obtain regular employment either on their own or through other institutions" (Annual Report, 1983, New York City Department of Employment). To be eligible for such

assistance, an individual must be "economically disadvantaged," essentially someone who receives or is a member of a family which receives public assistance, or is a member of a family whose income for the previous six months was less than 70 percent of the Bureau of Labor Statistics lower living standard for a given family size in New York City. Youth are defined as individuals aged 16 through 21; adults are those 22 or older.

A 200-data-element form is obtained by applicants from a Job TAP Center or other DOE contractor. When completed it is returned to the contractor, who sends it to the OPCR. The form serves to determine eligibility and provide initial screening information about the applicant. (The OPCR is responsible for keeping participant ineligibility below the federally-mandated five percent of the total participants.) Eligible applicants may then be tested and/or assessed at the Job TAP Centers and placed in a job, a training program, a remedial education program preparatory to training or placement, or counseled to return to high school or apply for college.

"Services to Participants" (STP), which includes direct job placements and employability training, are required of all DOE contractors, but the Job TAP Centers, as a principal entry point for applicants to the DOE's programs, are the most logical places for STP to occur. Instead of direct placement or referral to training programs, the Job TAP Centers frequently refer applicants to remedial education programs. Analysis of data resulting from testing/assessment of applicants at these Centers indicates that as many as 50 percent of them may lack the skills necessary to succeed in the DOE training programs without such remediation.

DOE Contract Programs

The DOE primarily contracts for two basic kinds of training programs. One of these is structured classroom training (CT) for job-specific skills. The model adult CT program has evolved over recent years from contracting with not-for-profit organizations, (which, in turn, frequently subcontracted with proprietary schools), to directly contracting with schools. The earlier functions of the non-profit groups of assessing and placing applicants in the appropriate training programs has been increasingly assumed by the Job TAP Centers. Youth CT programs continue to be contracted-for with not-for-profit organizations which usually provide the training themselves.

The other principal kind of training program is On-the-Job Training (OJT), which has also evolved from contracts exclusively with not-for-profit organizations to contracts with the PIC and

even to a few contracts between the DOE itself and employers. Originally, non-profit groups performed the job development functions (sometimes one or two jobs at a time) and then subcontracted with these firms to employ and train the applicants.

The PIC is a voluntary association representing employers which it recruits to provide On-the-Job Training and eventual full-time employment for DOE applicants. The training, subcontracted for by PIC, is customized to meet the specific needs of an employer or a group of employers.

Most of the DOE's OJT contracts continue to be with not-for-profit organizations, which frequently are community-based and/or represent disadvantaged groups of individuals. Applicants and jobs developed frequently are from and within the community, respectively.

Another DOE program, designed especially for welfare recipients and other such disadvantaged groups, is the Adult Work Experience (AWE) program. Only about five percent of the DOE's participants currently are enrolled in this program. They are paid the minimum wage ($3.35 per hour) for the work done, which is fully reimbursed to the employer by the DOE. The program is similar to the Summer Youth Employment Program (SYEP), which is also designed to provide a work experience at the minimum wage, but the SYEP is only for youths under 22 (the AWE program is for adults over 21) and only for eight weeks in the summer. Neither program offers structured training, but both can lead to jobs or to career planning directed toward eventual gainful employment.

Contractor Applications for Funding and the DOE Decision-Making Process for Approving Contractor Applications

Contractors for DOE programs apply for funding by a "Request for Proposals" (RFP) process. The process can be "open submissions" for City-wide programs or limited to current contractors or prospective contractors interested in offering a program either within a particular community or to an underserved population. As a result of declining funding, no open submissions have been held for the past several years.

Proposals are to include, among other things, current and past funding sources other than the DOE, the names and addresses of all the members of the board of directors, considerable program description (including curricula if CT), and a program budget. Current and past funding sources are checked by DOE staff in order to determine if they have had any problems with

the contractor. Board officers are checked against OIG/DOI files to determine if they have been connected with any organization with an unfavorable investigative outcome. The program plan is reviewed by two contract management staff other than the Contract Manager responsible for the contractor. If the proposal is for a CT program, the curriculum is evaluated by staff in the Office of Review, Evaluation and Planning. The program budget is likely to be given intensive review if it exceeds a predetermined range of permissible costs for a particular type of program.

As indicated, reduced federal funding for employment programs has resulted in the DOE restricting its recent RFP's to contractors already in its portfolio. The thirty percent reduction in funds from the last year of the CETA to the first year of JTPA affected contractors awarded funds for the October 1, 1983 to June 30, 1984 contract period. All of these contractors were continued from July 1, 1984 to June 30, 1985, but budget modifications were required to adjust for the lower level of funding. RFP's were sent to all of the 1983-84 contractors, asking for proposals at the new level of funding for the 1984-85 contract period. Considerable contract management staff time was given to this process.

The 1985-86 contractors area also those which were funded in 1983-84 and 1984-85, less two. One of the two did not choose to apply; the other was not renewed based upon OIG/DOE findings about the contractor. The current DOE contract portfolio includes only about 40 percent of the total number of contractors included at the peak of the CETA programs in the 1970s.

Contract Negotiation and Development

Contract negotiations are handled primarily by the Contract Managers assigned to manage/monitor the contractor previously. They are responsible for three or four contractors each, depending upon the number of staff available and the size of the contracts. The results of these deliberations are the Project Operating Plan (POP) and a Training Operating Plan (TOP). The POP essentially states what programs are to be provided within a particular time frame (known as the "Training Cycle") at what cost. The TOP is a description of what the programs actually are (or the curriculum plan for CT programs).

For the 1986-87 contract period, the DOE has begun to use performance-based contracts, which represent a substantial change in contracting for it. There are no line-item budgets in these new contracts, which makes the CAMFR (Contract Agency Monthly Financial Report) system irrelevant. In that system, expenditures were proposed by the contractor (e.g., by submitting vendor purchase orders) and previous contractor expenditures were

justified (e.g., by submitting invoices), in order to draw down additional funds. In contrast, the contractors are now given percentages of their total contract funds at various times. During each cycle, they receive an amount for each trainee enrolled, for each job placement, and for each placement retained for 30 days after training. A small amount (5 percent of the total for the Training Cycle) is held back by the DOE until a sample of job placements are verified by the Placement Verification Unit in the Office of Review, Evaluation and Planning.

The DOE has gained sufficient knowledge about what the components of its various kinds of training programs should cost in order to judge the value of the contractor's proposal. Negotiations focus upon these costs as they relate to the proposed program and to the number of individuals the contractor plans to enroll, train, and place. When the contract is in force, the program is both monitored and audited for having met its contract goals, but the expenditures are now only audited (not also monitored as in the CAMFR system).

Most of the DOE's 1986-87 contracts are performance-based, with the exception of the Job TAP Centers, the AWE programs, a few CT programs, and those for the SYEP Project Sponsors. The AWE programs have such low and variable (among different programs) success rates as to make goal-setting impractical and unit-cost computations unreliable. With only about one out of three of the AWE trainees successfully placed and a unit-cost of up to $10,000 per trainee, the programs are DOE's most costly and least successful programs. Both the AWE programs and the SYEP contracts continue to use line-item budgets, the latter because the Program's goal is simply to provide worthwhile and gainful employment during the summer, not to train participants for jobs.

Contract Management

When the contract negotiation and development process is completed for the three or four contractors with which the Contract Manager has been working, their responsibilities shift. Contract Managers are expected to spend two or three days per week in the field visiting contractor training programs and job placement sites. These visits are a combination of formal and informal monitoring of contractor performance and can result in the Contract Manager's providing technical assistance himself or arranging for it to be provided by other units of the DOE.

Under non-performance-based contracting, Contract Managers had to formally monitor (but not necessarily visit) their contractors at least once a month in order to complete a "Desk Audit" on the contractor's program and fiscal operations for the

month in question. The Desk Audits, as completed by the Contract Manager and "signed off" on by the contractor's program director, documented deviations from contract program goals and budget, required explanations for such deviations, and suggested a "Corrective Action," if needed. The Desk Audit, along with the contractor's Monthly Progress Report (MPR), were the supporting documents for the CAMFR submitted by the contractor to obtain additional contract funds.

Under performance-based contracts, the section of the Desk Audit on contractor performance is used to verify the contractor's Monthly Progress Report. The MPR is now used alone (without a CAMFR), as a back-up for the invoice submitted by the contractor to obtain monies due him for the number of enrollments, placements, and or/retentions achieved.

In December 1984, the Contractor Assessment Instrument (CAI) was introduced to provide a summary of contractor performance for each Training Cycle of the contract. The CAIs are completed by the contractors, based upon the MPRs which they submitted thirty (30) days after the end of each cycle. Performance figures cited by the contractor are adjusted by Placement Verification Unit findings regarding the validity of the placements and the thirty-day retention rate for them. Contractors then receive their last payment for the training cycle.

The various performance measures included within the CAI are participant enrollment, positive outcomes, cost per indirect placement, previous fiscal year contractual obligation final data, average wage at placement, and thirty-day retention rate. The difference between actual and POP contractual performance is graded. If the total for all measures falls below a certain number, the contractor is placed on "conditional status;" a lower threshold triggers "probationary status." Formal "Corrective Action" letters, citing the areas from the CAI which require action by the contractor, are sent from the Associate Commissioner of Training to conditional and probationary contractors.

Contract Manager monitoring reports may provide documentation of the problems which led to performance failures and, if they do, will be referenced in the Corrective Action letter. These contractor monitoring reports are a complex group of documents developed by the Fund for the City of New York, with the cooperation of the DOE Office of Review, Evaluation and Planning. (This Office reviewed and edited drafts of the forms and did the field testing of them.)

On the management level, there are monitoring forms for a General Administrative Review, Inventory Review, and Fiscal Management Review. Separate program monitoring forms are

provided for Classroom Training, On-the-Job Training, and Adult Work Experience programs. Also included in the program forms are those related to direct placements and employability counseling, which all contractors are required to provide under the Services to Participants program. The Classroom Training programs are subject to review not only for formal classroom work but also for recruitment, assessment, and enrollment of participants and for job development and placement activities, using forms developed for these purposes.

All of the monitoring forms, with the exception of the OJT and AWE reviews, were revised by the Office of Review, Evaluation and Planning in 1983, in accord with the changeover from the CETA to the JTPA. The three management level monitoring forms are somewhat irrelevant to performance-based contracting, but are likely to continue in use because of Federal and State requirements. The program monitoring forms, however, provide back-up documentation for the reports generated by the contractor, in particular the MPR and CAI.

Appropriate contractor staff are usually given a copy of the review form in order for them to obtain or prepare the information required for the Contract Manager to complete it. The Contract Manager then returns to enter the information on the form and carry out the rest of the monitoring activities specified in the form and its instructions. Before visiting the contractor, Contract Managers are expected to familiarize themselves with the contractor's POP, TOP, and the reports submitted by the contractor (MPR's, CAMFR's) as part of their Desk Audit reports.

The monitoring forms are administered once per training cycle. The results of the monitoring may indicate that Corrective Actions need to be taken by the contractor. Some Corrective Actions can be handled (and corrected) on-site by the Contract Manager through technical assistance to the contractor. Others may require help from specialized DOE staff to correct. The recent addition of a technical assistance unit within the DOE indicates the importance placed upon maintaining the current portfolio of contractors, if at all possible.

The memo from the DOE in December 1984, introducing the CAI to its contractors, also specified the means by which they could lose their contracts with the DOE. These were as follows:

- Contractual placement goals are missed by 15 percentage points or more at the time refunding decisions are made;
- A contractor has received three consecutive probation-

ary ratings;

- o The Department of Employment Inspector General recommends non-funding as a result of an investigation;
- o Placement Verification Unit (PVU) findings reveal a "never placed" rate which exceeds DOE's acceptable standard;
- o Serious fiscal problems are identified as a result of an audit, and/or the contractor has not acted to resolve previously identified questions and/or disallowed costs;
- o There are outstanding tax liens or levies against the contractor.

Analysis Of Vulnerabilities In DOE Contract Management

Fraud and abuse, as defined in this study, are, for the DOE, related to acts committed by the staff or board members of contractors or by participants in employment training programs. However, of the 61 fraud/abuse cases involving DOE-funded programs which were investigated by the OIG/DOE during the time period for this study, only eight were serious enough to be referred to the DOI. (Another two cases out of the 32 SYEP fraud/abuse cases were also referred to the DOI.) The DOI-referred cases, however, exemplify most of the vulnerabilities of DOE contractors to fraud and abuse.

While all fraud involves theft of some kind (i.e., money equipment, time), an allegation of theft is not sufficient to describe a vulnerability. Theft allegation cases also included allegations related to the circumstances of the theft. For example, a falsified fiscal documents allegation combined with a theft allegation could mean that participant time cards were falsified to generate checks, which were the vehicle for the personal gain defining the fraud.

Contractor Staff Fraud

Contractor staff fraud is likely to result from poor supervision of staff by the executive and/or of the executive by the board of directors and/or of the officers by the rest of the board, poor monitoring/management of the contractor by the public funding source, and/or the venality of a perpetrator. Other than the petty theft cases, most fraud cases involved misappropriation

of public monies, frequently through forged checks, as well as significant abuse in the contractor's management of programs and fiscal affairs.

Cases which were primarily concerned with contractor staff fraud, other than those connected to participant checks, were complicated and exhibited a number of vulnerabilities. The principal avenue for exposing such fraud was someone who works, or more likely formerly worked, for a DOE contractor. Some cases were initiated by DOE contract management or fiscal staff, an indication that DOE fiscal and program monitoring can be effective for opening fraud investigations. For not-for-profit contractors, the failure of the board of directors to exercise its fiduciary responsibilities is a major vulnerability. Board members of not-for-profit organizations are volunteers and thus not paid for their services (except for the personal income tax deduction allowed for travel expenses connected with their volunteer work). They may not serve as staff members of the organization on whose board they serve, and in light of nepotism regulations, their relatives may not do so either. Conflict of interest regulations prohibit them from having any financial interest in organizations with which the contractor does business.

The fiduciary responsibility, reinforced by conflict of interest/nepotism rules, puts board members in a position of strong personal guardianship of the organization's assets. Possibly because board members are not paid and may have a limited amount of time to give to volunteer activities, they can place too much trust in paid staff, primarily the executive, who is hired by them, and the fiscal officer, who is hired by the executive in consultation with the board.

In multi-function contract agencies, the DOE program (or programs) is likely to be supervised by a program/project director hired by the executive. This director may have substantial fiscal and program responsibilities. The credentials of the director are reviewed by the DOE Contract Manager, but the OIG/DOE does not include him/her in the "name checks" done on the organization's board members, executive and fiscal officer. (Executives and fiscal officers are sometimes bonded as well, which allows for securing of restitution in case of fraud involving them but does not prevent it.) Name checks, of course, do not deal with "first offenders." All of the fraud cases in this study involved first offenders.

Check manipulation was the principal vehicle for fraud in the cases reviewed in this study. Commonly, the fiscal officer prepares checks for the executive (or his/her delegate) and a designated board officer to sign. If the board officer is properly exercising his fiduciary responsibilities, he will know

the specific purpose (by reviewing the invoices/purchase orders, which should be attached to the check) of every check he signs. (Two-party checks are usually not necessary for small purchases, so this is not likely to be an overwhelming task.) He will also know what the budget is for the line to which the check will be charged, the status of that budget line, and of the account on which the check is drawn. He will never sign blank checks. He will be thoroughly familiar with all of the organization's contracts and the program and fiscal situations for each contract on at least a monthly basis.

The vulnerabilities of for-profit corporations contracting with the DOE differ slightly with regard to their boards of directors. Their boards are more likely to take an interest in the organization's fiscal affairs because they, as shareholders, benefit from profits made under the contract. The DOE adds a "fee-for-profit" to the contract (consisting of a small percentage of the total contract amount), but this does not preclude the making of additional profit from the operation of contract programs. Poor fiscal practices, which in non-profit organizations can lead to fraud/abuse, are less likely to be tolerated in for-profit organizations if the board members' financial interest is threatened.

Boards of directors obviously vary in their degree of competence to oversee an organization's fiscal and program operations. Not-for-profit boards are more likely to have community representation--people who may have greater program expertise than financial acumen. For-profit boards are more likely to be finance-oriented and leave program management to the staff.

Concurrent DOE and CDA cases where a non-profit agency's board of directors was required by the DOE to be replaced before further City contracts would be awarded highlight the problems and suggest some of the solutions (E/74-82, and C/78-83, C/104-83 combined). In one agency, a new board failed to properly oversee the actions of a bookkeeper hired by them for a Department for the Aging contract, who embezzled $1,500 from the agency before he was found out--not by the board, but by the newly hired executive director.

At the least, board members should be "tested" for their knowledge of their obligations and responsibilities and trained with regard to any gaps in their knowledge. This testing could be a contract management task, with training provided by the Contract Manager, the OIG, and other technical assistance providers in the DOE.

Participant Time Card/Check Fraud

Two thirds of the substantiated falsified fiscal document fraud allegations were related to participant time cards/checks, an obvious area of vulnerability for the DOE. In DOE-sponsored classroom training (CT) programs, participants are paid stipends bi-weekly to cover carfare and lunch for each day they attend class.

Checks are generated bi-weekly by the Participant Payroll Unit in the Office of Production Control and Reporting (OPCR), based upon time cards signed by the participants (attesting to the accuracy of the attendance reported on the time cards) and submitted in batches by contractors. The checks for each contractor's CT programs are picked up from OPCR by contractor staff and distributed by the contractor to the participants.

The participant time card/check fraud cases, the actions taken by the DOE as a result of them, and the recommendations made by the OIG/DOE for changes in practices and procedures demonstrate the vulnerabilities in the stipend payment process. Participants are to be paid only for those days they attend class. If done in accord with DOE guidelines, attendance sheets are maintained by contractor program staff, while time cards are prepared by fiscal or other administrative staff, based upon information on the attendance sheets. The DOE supplies contractors only with sufficient time cards to cover their needs for one bi-weekly time period, thus preventing participants from "pre-signing" time cards for future pay periods when they might no longer be in the program.

Two vulnerabilities still exist, however. One is that the participants may sign cards which reflect greater than actual attendance in the program. The DOE controls for this possibility to some extent by "flagging" those programs which have extraordinary attendance and refers them to the Contract Manager responsible for monitoring the program. The other vulnerability is that participant signatures can be forged. This could be done for reasons of expediency or simply because the participant was unavailable for good reason (illness, job interviews, etc.) at the time the cards were to be submitted to the DOE. On the other hand, the participant may no longer be, or never was, in attendance in the program, and the check generated was cashed with a forged endorsement (which is fraud).

As a result of a 1982 case (E/31-82), the OIG recommended that a payroll audit procedure be instituted, whereby a random selection of participant time cards and the canceled stipend checks generated by them be compared and matched against certified participant lists and the presence of the participants

in the classroom training program (based upon attendance sheets). The OPCR checks all (not just a sample of) participant time cards against certified enrollee lists and verifies signatures on the cards with those on file. The staff at the OPCR have learned to be handwriting experts and to look for forgeries on participant time cards. Canceled checks are reviewed for endorsement peculiarities, such as third party endorsements and no endorsement. Attendance sheets are collected at the end of each training cycle and checked against participant time cards. Contract Managers make field visits to CT programs and physically verify the attendance of certified enrollees in them. However, unless a field visit occurs on the day checks are distributed, there is no physical verification of the receipt of the checks by participants. As a result of an abuse case (E/18-83), the OPCR instituted procedures for handling checks which were not distributed to participants. These checks were to be returned to the OPCR and released by them to the participants only with the contractor's authorization and proper identification by the participants within a 30-day time period.

Because of the vulnerabilities in the participant check generation and handling processes, the OPCR requires that the person who picks up the payroll from the OPCR and distributes the checks be different than the person who keeps attendance, and different than the person who submits the payroll. Contract Managers are expected to review the credentials of the director of the DOE-funded program, the executive of the organization (if different from the program director), and the fiscal officer. Name checks of the executive and fiscal officers are done by the OIG. Since the program director has responsibility for the participant payroll, it would seem advisable to run a name check on him/her as well.

Under performance-based contracting, payments to contractors follow upon the successful recruitment of the contracted-for number of enrollees and placement of at least 70 percent of the participants after completion of their CT. Failure to enroll sufficient participants, retain them in the program, and/or place 70 percent of the enrollees has financial consequences for the contractors, since they may be expected to return some of the money received "up-front" (usually by means of a budget modification for the next training cycle). They would also be subject to "corrective actions" as a result of not fulfilling the contract POP, which, if not satisfactorily resolved, could result in the loss of funds.

Participant time card/check fraud can occur in ways which the OPCR procedures may not expose, simply because it is so well engineered. The nature of the fraud includes impersonating a participant, forging endorsements, and cashing the participant's checks. If the impersonator is a substitute for the original

participant in the program, the contractor's complicity can be presumed. Staff may also "substitute" themselves for terminated or no-show participants and simply cash unclaimed checks (without returning them to the OPCR, as per the DOE procedures). To do this successfully, of course, would mean that participant termination forms were not submitted to the OPCR at the proper time. So far there have been only isolated incidents of such fraud, involving small dollar amounts, but the importance of "positive terminations" in performance-based contracts could create a stronger incentive for covering up enrollee drop-outs. Whether or not fraud is part of the abuse which a cover-up would necessarily entail is irrelevant to the vulnerability. Greater diligence by Contract Managers in verifying the physical presence of enrollees in programs is required to prevent such fraud/abuse potentials.

A frequent circumstance in participant check fraud involved the participants themselves submitting falsified reports of lost or stolen checks. Procedures have been developed by the OIG/DOE to determine whether the checks reported by the participants were actually lost or stolen or simply cashed by the participants and then reported as lost or stolen. In these situations, stop payments are issued, and the endorsed checks, when they are returned to the DOE by the check-casher (which expects to be reimbursed for them) or the bank, if the check was cashed before the stop payment, are inspected for forged endorsements. Based upon signature comparison and/or handwriting exemplars from the complainant, a decision is made as to whether or not to replace the check and/or reimburse the check-casher.

Participant Time Card Abuse

Sixty percent of the abuses were related to participant time cards. When the OPCR staff establishes that a participant's signature has been forged, the matter is referred to the OIG. The OIG verifies the forgery and investigates the circumstances of its occurrence. If no fraud is found, then either the participant simply was not available to sign his/her own time card and someone else signed it for him/her, or the contractor's procedure for translating CT program attendance into posted time was faulty (or both).

The unavailability of participants to sign time cards at the time they are supposed to be signed, because of job interviews or other legitimate reasons, can be dealt with by having them "pre-sign" their cards, which is a violation of DOE procedures. Pre-signed time cards may not reflect actual attendance of the participants for days other than the one in question as well. When DOE staff find discrepancies between attendance and time

cards (either by program monitoring or post-training cycle program audits of attendance sheets and time cards), the contractor is required to pay restitution for any overstated time card-based payments. In addition, contractor staff responsible for such abuse may be terminated, and they may be forbidden to work on future DOE contracts.

Some DOE contractors subcontract CT programs, but if they do so, the prime contractor remains responsible for submitting accurate time cards. Abuse (and occasionally, fraud) can occur in these situations in the same manner and for the same reasons as when the prime contractor runs its own CT programs. Since the prime contractor is liable for participant overpayments even when it subcontracts its CT programs, the procedures used by the subcontractor to "collect time" and transfer that information to the prime contractor for posting are vulnerable. After paying restitution of $26,000 to the DOE for participant overpayments, one contractor was sufficiently motivated to install new procedures for monitoring CT at its subcontractors and for assuring accurate time card submissions.

Two other cases, also involving CT subcontractors, indicated another possibility for abuse, namely double billing. In these cases, the subcontractors, which were already receiving full tuition fees from the prime contractors for their DOE participants, also sought reimbursement for them from the U.S. Department of Education Basic Education and Opportunity Grants (BEOG) program. Since both programs involve federal funds, restitution can be sought from the subcontractor either by the DOE or by the U.S. Department of Education for the amount of double billing. Prime contractors are expected by the DOE to include the BEOG's as a "discount" from the budgeted cost of training, and they should not allow their subcontractors to secure BEOG reimbursements which they themselves should be receiving.

Abuse Related to Participant Eligibility and Validity of Participant Placements

Participant Eligibility Abuse:

Most of the substantiated falsified program documents allegations were participant eligibility and placement abuses. All participants must be certified as eligible for DOE employment programs by the OPCR Eligibility Services Unit. This Unit reviews 60,000 applications per year, about half of which come to it from the Job TAP Centers and the other half from training contractors. Applicants complete a 200-element form and provide supporting documentation of their income eligibility.

Contractors are responsible for obtaining accurate and complete information and documentation from the applicants.

There were no OIG cases related to applicants themselves having falsified applications and only one minor case involving contractor complicity in application falsifications. (For the Summer Youth Employment Program (SYEP), however, participant application fraud/abuse is a major vulnerability.)

Participant eligibility determination for OJT programs does contain a vulnerability specific to such programs. Because OJT subcontractors are reimbursed for up to 50 percent of the salary of their trainee-employees for the time period of the training, it is to their advantage to secure subsidies for as many as possible of their employees. People who come to them looking for jobs by avenues other than the Job TAP Centers or other DOE contractors are sometimes "pre-selected" for a subsidized opening and "reverse-referred" to the OJT subcontractor's prime contractor. No collusion of the prime contractor's staff is necessary if the prospective applicant is properly coached (and, of course, if he/she is otherwise eligible for a DOE program).

If a pre-selected applicant was already working for the OJT contractor at the time of the reverse referral, then a review of the subcontractor's personnel records for a start-date (for comparison with the application date) would be the means of exposing the abuse (if the personnel records have not been tampered with). If the prospective participant was truly an applicant, then the abuse would remain undetected until someone "blows the whistle." In one reverse referral case, the prime contractor was required to reimburse the DOE $32,000, the computed value of the subsidies for pre-selected participants. (The case was opened as a result of a whistleblower's complaint, and all of the participants who were working for the contractor were interrogated by the OIG staff.) The prime contractor could sue the subcontractor for the restitution, unless there was collusion between them.

Participant Placement Abuse:

Indirect placements are "positive terminations" for classroom training programs. Contractor actions and statistics reporting these actions are vulnerable to abuse because contractors are required to place at least 70 percent of the participants they enroll in such programs. Not doing so may subject them to "corrective actions" and cause them to be put on "conditional" or "probationary" status. Continued failure to perform satisfactorily can result in defunding.

Contractor performance statistics (which include indirect

placements as well as other positive terminations) are reported on the Monthly Progress Report (MPR) and backed-up with client termination forms which give information about the employers and the jobs in which participants are placed. The MPR's and client forms are processed by the Contractor Reporting Unit in the OPCR. The Placement Verification Unit (PVU) in the Office of Review, Evaluation and Planning receives copies of the client forms and proceeds to verify placements and retention in the jobs for thirty (30) days (as required for the placements to count as positive terminations), as well as for ninety (90) days.

Because placements are so important to contractors, care must be taken as to who receives credit for them. Subcontractors which are themselves also DOE contractors may attempt to take credit for a positive termination of a subcontract participant as if he/she was their own contract participant. In addition, prime contractors may attempt to classify a transfer as a placement. For example, a CT program participant who is hired by an OJT subcontractor in a subsidized job is a transfer rather than a placement. To prevent this kind of abuse, the OPCR checks the participant lists of OJT subcontractors against indirect placement listings.

The PVU determines whether a contractor's indirect placements are "faulty" or "defective" by sampling the placements reported by every contractor in each training cycle. If the sampling turns up a faulty placement, then a census is taken of all of that contractor's placements, which in turn can result in the matter being referred to the OIG, should abuse be found.

Placements can be defective if the participant was not placed in unsubsidized employment, the reported placement was actually a transfer of a CT program participant to an OJT program, the placement was not in a full-time job, the placement was below the minimum hourly wage stated in the contract, the placement was in a job title not appropriate to the training provided, or if the participant did not survive thirty days in the job. Some participants failed to report for jobs in which they were placed, or return to their former employers with no change in status.

Most participant placement abuse should, in theory, be exposed by PVU. The OIG, however, sometimes finds faulty/defective placements during its investigation of a contractor on whom a case was opened for other reasons

Under DOE's performance-based contracts, contractors are paid for each indirect placement achieved. To document placements, contractors are now required to attach employer "hire" letters to their MPR's, which, in conjunction with the statistics reported in the MPR and an invoice, are the means by

which payments are made. The OPCR's new Performance-Based Unit is responsible for reviewing this documentation and authorizing payments. A small amount of the contract money is held back to allow for deductions for placements which do not survive the thirty-day retention rate requirement (for them to be counted as positive terminations).

Fiscal Affairs Abuse

Fiscal affairs abuse usually includes the misuse of funds and/or poor fiscal practices allegation categories and can include, as the result of an investigation, falsified fiscal documents, double billing, commingling of funds, failure to submit withholding taxes to taxing authorities, and conflict of interest/nepotism, as well as various program-related allegations. These imply mismanagement by the contractor and/or poor contract management within the DOE. In such cases, the DOE may stop dealing with the contractor, usually quite belatedly, and attempt to secure restitution for the loss of contract monies, if the contractor is still in business without DOE funding.

Commingling of Funds:

Two specific misuse of funds categories are commingling of funds and failure to submit withholding taxes to the IRS and/or the State Tax Bureau. Commingling of funds can occur for different funding sources for the same or different programs or for the same funding source for different programs. Funding sources require an accounting of the uses to which the money has been put, which essentially requires a separation of accounts. Administrative overhead, staff, and OTPS are likely to be charged to more than one funding source in multiple program or in multiply-funded single program contractors. Therefore, the separation of accounts involves "paper transactions." Commingling is a fact for these contractors. It becomes an abuse when improper procedures are used to account for it, especially when monies from one funding source are used to support programs funded by another source. Such "loans" sometimes become necessary when funding sources are late in making payments, but they must be handled very carefully in order to avoid allegations of double billing.

Failure to Submit Withholding Taxes:

Failing to submit employee withholding taxes to the IRS and/or to the New York State Tax Bureau, failing to submit

employee pension plan contributions to the plan carrier and failing to pay employee health insurance premiums are other ways to handle "cash flow" problems illegally. DOE Contract Managers attempt to assure that these abuses do not occur as part of monitoring efforts carried out at the end of each training cycle. The yearly independent audits of the contractors should also reveal any non-payments. In five cases involving the same contractor in which the U.S. Department of Labor was involved with the OIG/DOE and the DOI, the multiplicity of programs funded by the DOE with the same contractor and the commingling which occurred apparently made oversight so difficult as to effectively inhibit the DOE staff from taking action against the contractor for its misuse of funds and poor fiscal practices, both of which had been known to the DOE well before defunding in 1982. Recently the OIG/DOE worked out an informal exchange-of-information agreement with the IRS so that each can know of any delinquencies found by either party among the 85 (in 1985) DOE contractors. Boards of directors are personally liable for such non-payments of withholding taxes. For not-for-profit contractors, the directors are at financial risk without any potential for financial gain. For for-profit contractors, the directors can benefit if the organization fails to pay taxes, because profits may increase, but they may face financial risk when the IRS finds out. In both situations, however, the risk should motivate directors to pay close attention to their fiduciary responsibilities.

Conflict of Interest/Nepotism

Another category of abuse affecting both contractors and participants is conflict of interest/nepotism. The conflict of interest section of the DOE contract specifically forbids contractor board members and staff and their immediate families from having financial dealings or from accepting monetary favors in their capacity with the contractor from any organization in which they have a financial interest. The nepotism section of the contract forbids contractors from hiring staff or enrolling participants who themselves or members of their immediate families are employed in an "administrative capacity" by the City, the contractor, or any of its subcontractors. Included in the definition of "administrative capacity" are all City employees, elected and appointed officials "who have any influence or control over the administration of the program," and members of the contractor's board of directors.

The OIG/DOE requires applicants for funding to sign sworn statements listing all other organizations in which the contractor's officers, employees, and board members have a financial interest. These statements are thought by the OIG to be useful in seeking restitution should an investigation reveal a

conflict of interest situation which was not listed on the statement. (Other parts of the statement include information needed to conduct background checks on the contractor and its officers, directors, and executive and fiscal officers.)

Restitution from the subject is the usual outcome of substantiated nepotism allegations. Discharge of the employee hired or termination of the participant enrolled in violation of the regulations is also demanded by the OIG.

The OIG/DOE has recommended that agreements found to have been made in violation of conflict of interest regulations be voided and that monies spent by the contractor on such agreements be subject to recoupment. Resignation of the subject is also a usual outcome for conflict of interest cases.

Another kind of conflict of interest/nepotism is that involving DOE employees themselves and their activities vis-a-vis contractors. As a result of a 1981 case, the DOE commissioner issued a memo stating that City employees may not serve on the boards of directors of not-for-profit organizations without DOE and Board of Ethics approvals and not at all if the organization does any business with the DOE. An organization also is not to recruit City employees as staff or board members if that organization is under contract with the DOE.

Conflict of interest/nepotism is impossible to prevent if the subject is motivated enough to want to do it and clever enough to hide it. Potential conflicts need not be reported on the OIG questionnaire and names (of relatives) can be used which do not arouse suspicions. The controls which would be necessary to detect conflict of interest/nepotism are essentially investigative in nature and not cost-effective, given the amount of restitution likely to be generated by their use.

Conflict of interest/nepotism regulations bear little relationship to the way business is normally conducted when public funds are not involved. If a contractor is a for-profit corporation (as many of DOE's contractors and subcontractors are), then the officers and other board members are likely to have a financial interest in the corporation and also may be paid by it for services they provide. For-profit corporations usually have no prohibitions regarding nepotism (other than forbidding spouses from supervising each other) or regarding financial dealings with members of the immediate family of board members or staff. Even board members of not-for-profit corporations (in New York State) may do business with the corporation if their involvement is known to other board members, and actions are taken by the board in light of this knowledge.

OIG/DOE Case and Allegations Analysis

Introduction:

During the 7/1/82 through 12/31/84 time period for this study, the OIG/DOE was involved with 89 cases concerning contractors funded by the Department to provide employment programs/services to adults and youth. (Not included in the following analysis and discussion are the 58 cases under investigation by the OIG/DOE during the same time period for the Summer Youth Employment program (SYEP) which are considered in a separate section). Disciplinary cases involving DOE employees are excluded from this analysis, unless the employee problem was connected with a contractor in some manner.

Sixty-one cases contained fraud or abuse allegations, while the other 28 cases were variously: not yet investigated by the 12/31/84 cut-off for this study (6); referred elsewhere for resolution (2); employee problems (only) (8); questioned costs resolution matters (only) (6); or, non-allegation matters (6).

A number of the cases resulted in administrative recommendations from the OIG to DOE management and/or procedural changes which were implemented during the course of the investigation of the case. These are discussed in the analysis which follows.

Substantiated fraud allegation cases were more likely to have originated with a complainant outside of the DOE (15 external, 8 internal to the DOE) while the opposite was true for substantiated abuse cases (9 external, 16 internal to the DOE), indicating that the DOE internal control systems may be more attentive to the detection of program abuse than they are to fraud. Eight of the substantiated allegation cases were referred to the DOI or a DA for further investigation and/or possible prosecution of an alleged perpetrator.

DOE Case Analysis: Summary

	# of Cases in Which Original Complaints/Allegations were: External to DOE	Internal to DOE	Total # of cases
# of Subs. Fraud Only Cases	9	4	13
# of Subs. Fraud & Abuse Cases	6	4	10
# of Subs. Abuse Only Cases	9	16	25
(# Ref to DOI/DA)	(5)	(3)	(8)
# of Not Subs. Cases	9	4	13
Sub - Total	33	28	61
# of "Other" Only Cases:			
Not Yet Investigated	4	2	6
Referred Elsewhere for Resolution	2	_	2
Employee Problems	7	1	8
Questioned Costs Resolution	4	2	6
Non-Allegation Matters	-	6	6
Total N	50	39	89
Total %	56.2	43.8	100.0

DOE Allegations Analysis: Summary

# of Subs. /Not Subs. Allegations:	# of Original Complaint/Allegations External to DOE	Internal to DOE	# of Subsequent Allegations	Total # of Allegs.
Subs-F	12	9	22	43
Subs-A	14	19	31	64
Not Subs.	15	7	9	31
Sub-Total	41	35	62	138
Other:				
Not Yet Investigated	14	2	7	23
Referred Elsewhere for Resolution	1	-	1	2
Employee Problems	17	1	8	26
Questioned Cost Resolution	4	2	2	8
Non-Allegation Matters	-	7	-	7
Total	77	47	80	204

Detailed Analysis and Discussion of the Cases Referred to the DOI/DA by the OIG/DOE:

Two of the eight cases referred to the DOI contained only substantiated abuse allegations at the time of referral, but there was sufficient suspicion of fraud to refer the cases anyway. These cases each include a number of fraud and abuse allegations and exemplify the more serious vulnerabilities in the DOE.

The earliest of the cases in this study referred to the DOI by the OIG/DOE, was opened in mid-1982 when a former participant in a Youth Community Conservation and Improvement Project (YCCIP) -CETA, Title IV (a program no longer funded under JTPA) attempted to apply for admission to another DOE employment training program. The DOE Office of Production Control and Reporting (OPCR), in reviewing the applicant's earlier YCCIP file found certain discrepancies with information provided by the applicant in his current application. The prospective participant claimed that his personnel file had been falsified. The OPCR referred the matter to the OIG/DOE (Case # E/31-82).

The OIG investigation revealed that the contractor's YCCIP program director had forged time cards for participants who had left the program, then, with the assistance of accomplices, forged and cashed checks generated for the no-longer-present participants. In addition, he generated checks for "no-show" participants with whom he split the proceeds.

The case was referred to the DOI which, in turn, referred it to the Bronx County DA for possible prosecution of the program director and his accomplices. The computed value of funds lost in the fraud was $9,676.83.

Two recommendations were made by the OIG/DOE to DOE administration as a result of this case. One was that DOE Contract Managers should carefully review and verify the credentials of program directors hired by contractors to supervise participants, as well as those of other key contractor personnel, such as executives and fiscal officers. The second recommendation was that the DOE should institute a payroll audit procedure whereby a random selection of participant time cards and the checks generated by them are matched against certified participant lists. The lists should also be used to verify the actual participants collecting their checks.

Another participant check fraud case came to the attention of the OIG as a result of reading an article in the 5/28/82 New York Law Journal. In this article the director of a New York City Youth Bureau-funded agency was reported as having pleaded guilty to two misdemeanor counts of fraudulently obtaining funds from the U.S. Department of Agriculture (USDA) when he was fiscal officer of another agency. When it was found that he was also the fiscal officer of a DOE contract agency, the case which had been opened by the OIG/Youth Bureau on the basis of the article became a OIG/DOE case as well (#E/1-83).

In the OIG/DOE investigation it was found that the subject may have participated in a scheme, along with the agency's

executive, bookkeeper and a check cashing firm, to forge endorsements on and case over 200 participant checks for a Public Service Employment (PSE) program - CETA Title VI (a program no longer funded under JTPA). The case was referred to the DOI, but the FBI assumed jurisdiction when it was determined that the alleged fraud could exceed $50,000. The participation of the agency's board members and staff in all DOE contracts was suspended until the completion of the investigation.

The OIG/DOE, in cooperation with the other investigative bodies, obtained and reviewed the PSE participant personnel files, checks paid to the participants and handwriting exemplars from them. Interviews were conducted with the agency's executive and with the check cashing firm proprietor, as well as with the DOE Contract Manager responsible for the agency. It was established that the participant check endorsements had been forged and the checks cashed by parties other than the participants, probably with the collusion of others named in the case.

If the procedures recommended by the OIG/DOE as a result of Case # E/31-82 above (closed in the OIG a few months before this case was opened), had been in place, the fraud exposed in this case might have been prevented.

In late 1982 a DOE contractor's fiscal manager reported to the OIG/DOE that the agency's executive had surreptitiously drawn checks in various accounts, several of which were made out to the executive herself (Case #E/70-82). The fiscal manager noted that a number of checks and bank statements were missing, said by the executive to have been lost by the bank. The fiscal manager also stated that she had taken the matter to the board of directors but that they had taken no action beyond simply prohibiting the executive from signing any more checks.

In the OIG investigation it was found that the executive had forged an authorized board signatory's name on the checks issued to herself as well as on those issued legitimately. The loss to the DOE for the fraudulent checks was $9,413.80 (including a $300 check drawn on a closed account but charged by the bank to a DOE active account). $1,790.91 was recovered through endorsements by the executive over to the agency of payroll checks due her. The remainder was covered by a fidelity bond carrier (except for the $300 which was repaid to the DOE by the contractor). The executive was prohibited from future employment in DOE-funded programs. Her fraud was referred to the Kings County DA for possible prosecution and the agency's independent auditor was informed of the resolution of the case.

The contractor was also providing services under direct CETA contracts with the U.S. Department of Labor (DOL) and a contact

with that agency's IG in the course of the OIG/DOE investigation determined that similar allegations had been made and established against the executive for those contracts. Direct-funded U.S. DOL contracts no longer exist under the JTPA, but a Federal OIG does sometimes become involved in a local matter if the possible loss of funds is large.

The contractor's board of directors was extremely lax in this matter, especially during the three months in which the complainant/fiscal manager was on leave when most of the fraud occurred. Their failure to take action when the fraud was exposed to them by the fiscal manager and generally poor oversight of the agency's fiscal affairs was irresponsible in light of their fiduciary obligations under New York not-for-profit corporation law.

A complex case involving several fraud and abuse allegations was opened by the OIG/DOE in late 1982, based upon nearly simultaneous complaints by the DOE CAMFR (Contract Agency Monthly Financial Reporting) Control Unit and by a DOE employee on loan to the contractor to assist in staffing an employment program there (Case #E/74-82). A CAMFR Control Unit staff person found out from the agency's bookkeeper that the agency's executive had requested blank checks from the bookkeeper, supposedly for purchases of program equipment and materials; had signed checks for unauthorized (by DOE) purchases; had kept the agency's fiscal records in his office, thus limiting access to them by the bookkeeper; and, had altered payroll records so that his time would be double-billed. The DOE employee on loan to the agency complained to her supervisor at the DOE that funds were being diverted from the previous DOE contract to pay bills related to the current contract; that typewriters for the DOE training program had been purchased by the agency which had no serial numbers on them and were of poor quality; and, that no-show employees were being paid with DOE contract funds.

The investigation of these allegations was joined by the OIG for the CDA and the DFTA, both of which funded programs in the agency, and by the FBI, which became involved when it was discovered that the executive was manipulating over 30 bank accounts to have possibly diverted over $50,000 to his own purposes. The case was also referred to the DOI when the fraud became apparent and substantial, and by the DOI to the U.S. Department of Agriculture IG for possible fraud related to the agency's senior citizen feeding program.

During the investigation it was found that the executive had purchased $4,000 worth of fire extinguishers with City funds which had been shipped to Nigeria and that the typewriters had been "purchased" through a non-existent vendor set up by the executive to defraud the City.

When the case was referred to the DOI in March 1983, the OIG/DOE recommended that no new DOE contracts be awarded to the agency, and that the current DOE contract not be renewed when it expired at the end of the month. However, the executive continued to serve in a volunteer capacity for another year for the other agency programs until he was required by the DOI to be terminated. At the same time the DOI required that the board of directors be reconstituted before the agency could be considered for any new City contracts.

The agency with its new board of directors was re-funded by the DFTA in December 1984. However, the bookkeeper hired by the board to manage this contract stole $1,500 before a new executive was hired in March 1985, and the agency was again defunded by the DFTA.

The failure of the board of directors to exercise oversight of the agency's fiscal affairs made it easy for the executive to steal funds from the agency. In fact their "trust" in the executive led to the board chairman signing blank checks for the executive to complete at a later time in whatever fashion he chose. However, replacing the board of directors with another board did not guarantee better oversight.

The indictment of the executive is being sought, and the agency is seeking private funds to operate programs for the disadvantaged persons in its community. Over the years the City had channeled hundreds of thousands of dollars in federal funds to the agency's programs, all of which were brought down by the greed of one person, which was easily exposed by the DOE staff involved in monitoring its contract with the agency.

A case which was reported by the OIG/DOE to have been referred to the DOI may actually have only involved a desk audit of the agency's fiscal affairs by DOI's Investigative Accounting section. The case was opened in the OIG in mid-1983 when the executive director of the agency reported to his DOE contract manager that his employees had found over 200 Social Security cards with different names and numbers on them but with the same address for all of the names, in the files of a Job TAP (Testing, Assessment Placement) program formerly run by the agency. (Case #E/20-83). The DOE Assistant Commissioner for Employment Services referred the matter to the OIG/DOE who in turn referred it to the Social Security Administration for possible action.

The OIG/DOE had already opened a case on the program based upon another report from the same Assistant Commissioner. (Case #E/15-83). In this case the complainant stated that a DOE contract manager's signature had been forged on a letter to a bank asking for its assistance in meeting the agency's payroll

while assuring the bank, in a postscript to the letter, that all outstanding debts of the agency would be cleared up.

The two cases were merged and the OIG/DOE began an investigation by obtaining all of the books and records for the program. The director of the program was found to have received over $5,000 in salary advances which he had not paid back to the agency and may have forged checks which the general ledger indicated were written to a vendor but reported by the vendor as never received. The vendor had a no-checks policy, and he said that the checks were made out to an individual who was unknown to him.

The program had been terminated by the DOE in April 1983 because its entire 18-month budget had been spent in 15 months, and the agency's liabilities for the program exceeded the program's assets by $110,000. An entrance audit for the closed-down program revealed that the agency had a State tax lien of $23,767.47 and an IRS tax lien of $68,855.48 for employee withholding taxes not submitted to these authorities. Health insurance premiums and Social Security taxes for one employee had also not been paid.

The cost overruns, the failure to submit withholding taxes and the check irregularities led the OIG/DOE to recommend that the DOE review its contract agency fiscal monitoring procedures, which obviously failed to detect the problems exhibited by this program. Because the OIG's review of the agency's books and records indicated that it was paying more than it should have been for program equipment/furniture, the OIG also recommended that DOE's Administrative Services Unit itself enter into leases or sales agreements for DOE contractors.

The former program director, in an interview with the OIG, suggested that the agency's executive director and financial officer, as authorized signatories on the program's checks, should be considered to be the persons responsible for the program's fiscal affairs. However, the ultimate responsibility rested with the board of directors which itself is personally liable for the unpaid taxes. The $5,000 salary overpayment to the program director remains a substantiated theft allegation not resolved by the end of 1984, when the case was still open in the OIG/DOE.

In late 1984 the former executive director of an agency operating youth employment training programs and a Job TAP center reported to the DOE Assistant Commissioner for Employment Services that fraud may have been committed by a former accountant at the agency. She said that blank check stubs had been found which indicated to her that funds may have been misappropriated. She also reported that the agency owned the IRS

$70,000 for failing to submit employee withholding taxes during the 1979-81 time period, of which $30,000 was the principal amount and $40,000 was for interest and penalties. The former executive admitted that she knew about the IRS problem when she accepted the directorship of the agency but thought that she could take care of it (Case # E/22-84).

A review of the agency's books and records, audits and IRS materials on the tax liability determined that there were forged signatures on some of the agency's checks and that the former accountant had apparently misappropriated funds for his own use. The case was referred to the DA for possible prosecution of the former accountant.

This case is, in part, an example of the failure of the fiscal aspects of DOE's contract management system during the 1979-81 time period, especially, and later as well when the accountant was misappropriating funds. DOE contract managers, if they carry out their responsibilities correctly, now monitor the payment of withholding taxes to the appropriate tax authorities. Independent audits, if properly done, should have resulted in "questioned costs" related to the misappropriation of funds. However, the major avenues of early detection of such problems are executive supervision of agency fiscal affairs and board of directors oversight in the exercise if its fiduciary responsibilities. These were lacking in this case, and in fact the executive had, herself, "covered-up" the IRS problem.

It would appear that the only reason the executive exposed the agency's problems was that she was owed back pay which she was asking the DOE to help her obtain. She did not have to wait until she was no longer employed by the agency to have done so.

A case was opened in the OIG/DOE in late 1982 for a large for-profit contractor operating a variety of CETA programs, including a Job TAP Center, Classroom Training (CT), On-the-Job-Training (OJT), PSE and youth programs, when a former employee of the contractor claimed that he was unable to obtain his vested pension monies when he left the contractor's employ. Other former employees also complained, and the cases involving these complaints were combined (Case # E/66-82 and E/3-83).

Investigation of these "employee problems" burgeoned into a major inquiry when it was found that the contractor not only was in arrears to its pension plan carrier for $760,000 but also failed to submit employee withholding taxes to the IRS in the amount of $582,000, and to the New York State Tax Bureau in the amount of $643,000. An additional $763,000 was owed to vendors, making a total delinquency of $2,748,000.00.

The case was joined by the U.S. Department of Labor (DOL) and the DOI, the latter agency of which contributed considerable

investigative accountant time to analyzing the contractor's books and records and independent auditor reports. The contractor filed for bankruptcy in New York although it continues to operate under different incorporations in other states. The matter was referred to a DA, but a grand jury convened to consider the case did not indict any of the principals in the corporation on criminal charges.

Most of the case materials were removed to the DA, but the U.S. DOL IG issued an investigative memorandum (dated 9/10/84) which summed up the deficiencies of the DOE in its oversight of the fiscal affairs of this contractor and of the contractor itself in its management of its contracts with the DOE.

Neither the contractor nor the DOE were responsive to the corrective actions recommended by the auditor to resolve questioned costs for its various programs from 1976 through 1982. The DOE continued to fund these programs even through the contractor's fiscal problems had no planned resolution. The contractor's cash flow problems certainly contributed to the allegations of falsified fiscal documents, commingling of funds and misuse of funds (for programs and administrative overhead) substantiated by the investigative bodies.

The DOE contracts with not-for-profit schools as well as with for-profit commercial training firms and community-based organizations. One of its oldest school contractors came under challenge in mid-1983. An anonymous source complained to the DOE Public Affairs Unit that CETA participants were not being served with same degree of attention as non-CETA clients of the school were, even though the "tuition" for the CETA participants was greater. In addition the complainant alleged that the school itself hired CETA participants who were not able to be placed in an "outside" job upon completion of their training, in an effort to boost their placement statistics. These participants were said to have been fired as soon as the school received credit for their placement (Case # E/26-83 and E/18-84).

In the investigation it was found that the following criteria applied to the contractor's efforts: A placement was valid if the participant was placed (1) in unsubsidized employment, (2) for at least 35 hours per week, (3) earning at least $4.50 per hour. The employment must have lasted at least 30 days and have been in a job title related to the human services field.

Out of 80 placements said to have been made by the school in its most recently completed training cycle, the DOE was able to locate 42 persons. Twenty-seven of these failed to meet at least one of the above criteria. Also found were no-show placements, individuals who went back to work at their previous jobs but were

said by the school to have been placed in a new position and others who continued to receive participant training stipends after being placed in a job. In the course of the investigation it was alleged, additionally, that employers were paid to accept participants trained by the school.

The fact that CETA participants were being trained at a greater cost than non-CETA clients, as alleged by the complainant, was said by the school to be based upon their requiring more services to become employable. The DOE did knowingly negotiate these higher-than-usual costs and therefore could not accuse the school of duplicity in this matter.

Less easily explained are the allegations of double billing and commingling of funds. The school received funds from the U.S. Department of Education for tuition assistance for disadvantaged students and for developing facilities and programs for such students. Since the DOE participants tuition fees were fully paid by the DOE, the question arose as to whether the Federal agency was providing unjustifiable support for these disadvantaged students.

In the investigation it was found that the school had satellite offices in Florida and California. The California branch was visited by an OIG/DOE Confidential Investigator while on her vacation and found to consist of two offices, no classrooms and a part-time director. The concern of the OIG/DOE was whether any DOE funds had been used to set up and operate these satellites. The source of support of the out-of-operations has yet to the determined.

The U.S. Department of Education IG took an interest in the matter when it was found that $500,000 of Federal education monies had been deposited in a high interest bearing money-market account. The issues for that IG were the disposition of the interest earned (about $50,000) and the fact that the funds obviously were not being used for the purposes for which they had been awarded.

The DOE funding for the school was not renewed after the end of the first cycle in the 1983-84 contract (in April, 1984) and the matter was referred to the DOI toward the end of 1984. The documented placement irregularities (falsified program documents) were sufficient to keep the school from receiving another contract. The continuing investigation by the U.S. Department of Education IG and the DOI should establish whether there was additional fraud/abuse and whether criminal prosecution is warranted.

Detailed Analysis and Discussion of Substantiated Fraud Cases Not Referred to the DOI:

The 17 substantiated fraud cases handled in their entirely by the OIG/DOE contained 14 substantiated fraud allegations of theft, ten of falsified fiscal documents, four of time and leave abuse and one of dual employment, as well as in some cases a number of substantiated abuse allegations as well. The fraud committed by the subjects of the investigation did, as defined in this study, result in personal gain but in smaller amounts than in the cases referred to the DOI. Restitution from the subject and/or contractor was usually sought, the latter especially when the subject could not be located. Termination of the subject from the contractor if a staff person or from a program if a participant were also sanctions used, as appropriate.

Contractor staff fraud involving participant checks:

The earliest of a group of cases involving participant check fraud engineered by contractor staff came to the OIG/DOE from the Director of Payroll in DOE/OPCR (Case # E/66-80). He reported that participant checks for a Bronx YCCIP had been stolen, possibly by someone who had presented authorization to payroll staff to pick up checks for another YCCIP. In the investigation by the OIG it was found that a person previously authorized to pick up checks for a Brooklyn YCCIP had used his expired authorization to gain access to the YCCIP payroll, picked up the Brooklyn checks and possibly stole the Bronx checks at the same time. Since some of the stolen Bronx checks were found to have been cashed in Brooklyn, he was assumed to be the perpetrator.

In addition the former employee and his supervisor were found to have caused checks to be generated for non-existent participants, which they cashed by using forged IDs. They also embellished time records for themselves and the non-existent participants so that they would be paid more than they were (or would have been) entitled to receive. The perpetrators reportedly paid back $2,000 in time overcharges to the contractor while awaiting computation by the OIG of the amount due on the forged checks. That amount, found to be $874.07, was also subject to restitution.

This case is similar to # E/31-82 discussed in the Cases referred to the DOI/DA section above, except for the smaller dollar amount of the fraud in the present case. The OIG recommended improvements in participant payroll procedures in both cases.

In a late 1983, case the director of a contractor reported to the DOE Deputy Commissioner for Operations that there were discrepancies in the participant time cards submitted by his agency to the DOE (Case # E/35-83). This report was the outcome of a visit to the agency by a DOE Contract Manager who was responding to unusually high participant attendance figures submitted to the DOE by the agency (94 percent). In his visit he found that only six out of 18 and 12 out of 22 enrolled participants present in two classrooms. A review of participant time cards by the director followed.

Apparently an employee of the agency had consistently overstated attendance in its programs and may have also caused checks to be generated for non-existent participants. These were cashed and the proceeds taken by the employee. The employee had disappeared but restitution for the overpayments to participants for $5,283 was sought from the contractor.

In the earlier of two cases involving the same prime contractor a DOE Contract Manager reported to the OIG that checks were still being generated for a participant who had transferred from one of the prime contractor's sub-contract programs to another program not under the contractor's auspices (Case #E/40-83). The investigation revealed that a prime contractor employee had forged time cards for the participant after he left the program and for participants who had formerly been in programs operated by two other sub-contractors.

Restitution was gained from the prime contractor for the $1,537.72 calculated by the OIG to have been stolen. The contractor in turn sought restitution from the employee.

The second case on the same prime contractor was brought to the attention of the OIG by an anonymous staff person of that contractor, who alleged that a subcontractor providing training for prospective bank employees was submitting time cards for terminated participants and embellishing the hours worked by active participants on their time cards in exchange for kickbacks from them (Case #E/7 -84).

When the subject of the allegation was interviewed by the OIG an admission of guilt was secured but only for one terminated participant. He claimed to have cashed checks made out to that participant in the amount of $469.

A review by the OIG of the participant time-keeping practices of the prime contractor's sub-contractors followed. All participant time records for a four-week period were randomly sampled. Participants and their supervisors were interviewed to determine whether the participants had worked the times indicated on their sampled time cards, whether they themselves had signed

all of their time cards and whether they had received checks for any time not worked. Five sub-contractors for whom these procedures revealed discrepancies then had all of their time records analyzed for the preceding two years. This analysis showed numerous overpayments to participants, causing the OIG to recommend that the five sub-contractors receive no funds until restitution for the overpayments was gained. The OIG recommended continued surveillance of the time-keeping practices for two newer contractors.

The calculated loss for the five sub-contractors which had falsified time cards was $26,131. This amount was recouped by the DOE from the prime contractor which was, in turn, to attempt to secure restitution from the sub-contractors.

The prime contractor was required to install new participant time-keeping procedures vis-a-vis its sub-contractors and to closely monitor their time-keeping practices. No evidence of the alleged kickbacks was found. Thus, the only fraud was for the one employee who paid the $469 in restitution.

A case opened in late 1984 and still under investigation was similar to the above cases but involved a different contractor. In this case a former fiscal staff person of the contract agency reported to the OIG that the time cards submitted for a number of non-existent participants generated checks on which the program director forged endorsements and cashed. When the complainant told the program director that he would no longer submit falsified time cards to the DOE, he was fired (Case #E/27-84).

The investigation thus far has determined that there were at least ten formerly enrolled participants for whom checks were generated after they left the program and that the program director may have been assisted by another staff person in carrying out the fraud. The subjects have been identified and restitution and/or criminal prosecution will be sought..

Even if the DOE had been randomly selecting a sample of each contractor's participant time cards and canceled checks, matching them with certified participant lists and verifying the physical presence of the participants when they received their checks (as recommended in #E/31-82) such small-scale fraud would not usually be caught. The best source for exposing participant check fraud perpetrated by contractor staff is likely to continue to be staff (or former staff) of the contractor who act as "whistleblowers".

Participant check fraud of a different nature but still likely to have been engineered by contractor staff was exhibited in a case which was referred to the OIG/DOE by OPCR in mid-1983 (Case #E/21-83). A participant in a 1980 Adult Work Experience (AWE) program - CETA Title IIB (continued in a limited fashion in

JTPA) complained to OPCR that the IRS was harassing him for failing to report 1980 income of $1,599 from a program in which he had only worked for two weeks.

The OIG/DOE investigation revealed that someone other than the complainant had endorsed checks made out to the complainant and cashed them. That person had apparently impersonated the complainant for the remaining six months of the program. Since the impersonator could not be identified and because the contractor must have assisted in the fraud, restitution of $1,261.44 was sought from the contract agency. The impersonator could well have missed being exposed by the sample audit procedure recommended by the OIG had it been in place at the time.

Participant check handling:

The distribution and cashing of participant checks has been a continuing problem for the DOE, both in its regular employment programs and in the SYEP. A fraud case active in the OIG during the early months of the time period for this study illustrates part of the problem (Case #E/85-81 and #E/96-81, combined into one case). In this case two check cashing firms each requested reimbursement from the OPCR for a check cashed on which payment had been stopped by the DOE, because participants claimed that they had never reviewed their checks.

The investigation revealed that a DOE payroll assistant had stolen the checks, forged the ID cards necessary to cash them and then done so at the two check cashing firms. He was identified by his supervisor from a Regiscope picture taken by one of the firms and required to pay restitution of $437.82 to the DOE.

Three other cases opened in 1982 and 1983 involved fraud allegations against participants related to their checks. In the earliest of these cases, a participant reported to the OPCR payroll office that he had lost his check and wanted to be reimbursed. A stop-payment on the check was issued by that office and the participant signed an affidavit stating that he had not received any proceeds from the check (Case #E/56-82). When the check was returned from the bank to the check cashing firm, as a result of the stop payment order, the endorsement appeared to be genuine.

The OIG/DOE reviewed the signatures on the check and the affidavit and interviewed OPCR staff, contractor staff and the participant. During the subject's interrogation, the affidavit was recanted. He admitted that he had lost the money shortly after cashing his check.

A similar case was opened about the same time, except that in this case the participant check had been cashed without any endorsement, thus providing no evidence of forgery (Case #E/67-82). Because the participant refused to sign an affidavit stating that she had received no proceeds from the check, her request for reimbursement was not honored.

In another case a participant was named in an OIG/Board of Education report as having stolen, forged endorsements on, and cashed checks intended for four other participants (Case #E/38-83). The OIG/DOE was able to obtain a signed statement from the subject admitting that he had committed the theft and to gain restitution of $279.43 for it.

In these cases restitution was sought where appropriate or, as in the two attempted fraud cases, the invalid claims of the participants for check replacement were identified.

Contractor staff checks can also be subject to check fraud. These are outside of the control of the OPCR since such checks are generated by the contractors themselves. In a case referred to the OIG/DOE by the bookkeeper of a contract agency, it was reported that two checks issued to the same staff member had distinctly different endorsements on them (Case #E/60-82).

The OIG found that two staff had stolen one of the checks, endorsed and cashed it through a third person who was given $50 from the proceeds of the check. Restitution of $225 was sought from the perpetrators, and $50 from the person who cashed the check.

Two early OIG/DOE cases opened in 1981 but were active in the OIG during the time period for this study, contained substantiated fraud allegations of theft (equipment, books and records) and dual employment (the administrator of the contract agency) (Case #E/40-81 and $E/55-81, respectively). The investigations which ensued were extremely productive in terms of the massive abuse which was exposed in the two contractors. The former agency, after years of negotiation with the DOE, agreed to long-term restitution of $70,768.14 for questioned costs in its 1979 through 1981 youth employment programs. The latter of the two contract agencies was placed under close monitoring until the abuses were corrected. In both cases the OIG investigations were initiated by DOE staff. In the theft case the Assistant Commissioner of the Youth Division questioned the fiscal situation of the agency as a result of four break-ins and burglaries in one month. In the other case, the DOE Contract Manager responsible for the contractor requested, through the DOE Director of the Private OJT Unit, an OIG inquiry into the dual employment of the administrator of the contract agency.

The thefts in the former case were regarded as a Police matter, but the OIG's initial inquiry found that the questioned costs matter was not being resolved and opened an investigation of the agency. In the latter case the substantiated dual employment allegation was resolved by forbidding the administrator to charge any of his time to DOE-funded programs in the new contract.

Four other substantiated contractor staff fraud cases came to the OIG essentially because former staff of the contractors had grievances against their former employers. The earliest of these cases resulted from a complaint by the contractor's former deputy director who said that he had been terminated because he was "asking too many questions" about fiscal management and possible misappropriation of funds (Case #E/73-81).

The investigation revealed that the contractor's former bookkeeper had commingled funds for the agency's CETA program with those of other Federally-funded programs and had apparently stolen some private donations made to the agency. Restitution was made for the purloined donations, and the agency received a formal reprimand for having incompetent personnel and not properly supervising its fiscal staff. The OIG recommended that close monitoring and extensive technical assistance be given to the agency.

About a year later, however, the agency's fiscal manager alleged fraud involving the executive director which was substantiated in the investigation by the OIG/DOE (Case #E/70-82). (This case was discussed above in the "Cases Referred to the DOI/DA" section). Restitution from the executive and a fidelity bond carrier were gained and the executive's case referred to the DA. The agency continues to be funded by the DOE ($670,000 for the 10/1/83 - 6/30/85 contract period), because it apparently provides needed services to a specific identified population group.

The other three of these four contractor staff fraud cases came to the attention of the OIG/DOE in 1984. In one case, a former employee, in the process of lodging a grievance against his employer had applied for and received unemployment benefits during the time between contracts and continued to receive them after a new contract came into effect (Case #E/3-84). He also received retroactive pay when the new contract started. The OIG/DOE referred the matter to the New York State Department of Labor which is likely to seek restitution for the fraud.

The second of the three cases came about when the director for the DOE contract agency program complained about the circumstances of her termination. She said that the executive director had apparently decided to "purge" the agency of its DOE-

funded program staff and had advertised the positions without letting the staff know of their imminent terminations (Case #E/16-84).

In the ensuing investigation the OIG found that DOE-purchased equipment had been stolen from the agency. The perpetrator was not found, but the loss was covered by insurance. Allegations were also made that the executive director was incompetent to manage the program and that there were ineligible participants (substantiated abuse) and falsified participant time cards (unsubstantiated) in the DOE funded programs. Additional "employee problems" surfaced during the investigation, involving staff drug use and sexual harassment. These matters were referred to the DA; however, the staff were not prosecuted and are still with the agency.

The participants were transferred out of the program into another DOE-funded program until it was re-staffed and a new executive director hired. The agency was required to pay a nominal amount of restitution for the ineligible participants.

The last of the three cases was opened when two anonymous letter were received by the OIG/DOE alleging, among other matters, that the program's job developer was a no show employee. Concurrently the DOE-funded program director had been terminated by the agency and, in relating the circumstances of his termination to DOE staff, corroborated no-show job developer allegation. He stated that he had refused to sign any more time cards for the no-show staff person.

This case is complicated and still under investigation. The fraud allegation has been substantiated and a new program director hired to manage the DOE-funded program.

These cases indicate that disgruntled former employees can be a significant source for exposing fraud and abuse. It is possible of course that contract monitors could have exposed the problems if they knew what to look for. In #E/73-81 and in #E/70-82 the contractor's fiscal affairs were mismanaged and, in the second case, manipulated by an executive who was a thief, "assisted" by an extremely lax board of directors. Even routine fiscal monitoring or auditing should have exposed the problems earlier. In #E/3-84 the fraud depended partly upon the agency falsifying reports on its employees to the Department of Labor and partly upon the staff member seeking out unemployment benefits for which he was not entitled. DOE monitoring is not attuned to exposing these kinds of matters. In #E/16-84 the only fraud was the theft of program equipment by an unknown perpetrator. While insurance covered the loss, the vulnerability of the contractor to such thefts may not have been assessed and corrected. In #E/24-84 routine program monitoring might not have

exposed a no-show employee if the matter were covered-up by his supervisor. In this case the no-show employee was also president of the corporation, working under a waiver of DOE conflict of interest regulations and technically he was the DOE program supervisor's boss, as well as his subordinate.

Detailed Analysis and Discussion of Substantiated Abuse Allegations:

Other than the obvious fraud of theft and dual employment, allegations can be classified either as fraud or abuse depending on whether or not there was personal gain for the perpetrator.

Participant time card abuse:

When participant time cards are falsified in order to generate checks which are then cashed by a perpetrator, the matter becomes fraud. When they are falsified for expediency or other reasons and no personal gain ensues, the matter becomes abuse. Several cases active in the OIG/DOE during the time period for this study exemplify this vulnerability.

Two 1982 cases came to the attention of the OIG when the OPCR reported that participant signatures on time cards did not match those on file in the OPCR (Case #E/11-82 and E 13/82). In both cases a job counselor at the contractor's site had signed time cards for participants who were excused from classroom training to attend job interviews. In the first case the counselor was terminated for failing to inform her supervisor about the manner in which she was handling the time cards. In the second case the counselors had already been terminated because of budget cuts. In both situations the time cards were required to be re-submitted with correct signatures before participants could be paid. The OPCR verified the new signatures as those of the participants and then issued checks.

The counselors had violated DOE time card procedures by signing the participant time cards themselves and were caught for their acts by handwriting experts on the OPCR time card/check production staff. The OIG recommended that all counselors be informed that participants must be available to sign time cards at the scheduled time to do so.

In another case the OPCR reported to the OIG in mid-1983 that a contractor's participant time cards were not being "initialed" by the participants after each work day (to indicate attendance) and that the signatures of the participants on the cards appeared to be falsified (Case #E/18-83). The OIG found that the contractor had violated the procedures requiring

participants to sign their own time cards and recommended that the DOE reiterate the manner in which time cards are to be prepared and submitted.

The investigation also revealed some gaps in the DOE procedures for the handling of participant checks, not related to either the original complaint or a subsequent allegation of nepotism. These were stated in a memorandum from the OPCR to contractors as follows:

> After checks are distributed by the contract agency, those not distributed are to be returned to the agency's payroll person at the Office Production Control and Reporting (OPCR) together with the signature sheet. In order to obtain a check once it has been returned to OPCR payroll:
>
> a) The participant must come in with a letter from the agency requesting release of check and showing proper identification or,
>
> b) A letter requesting mail-out of check showing the latest address must come from the participant through the agency's payroll person.
>
> Checks will be mailed out only if participant is no longer in program and cannot come in to obtain the check.
>
> a) Checks can and will be mailed only from the payroll director's office. Under no circumstances is the agency to do a mail-out.
>
> b) After (30) days, a check becomes stale-dated and will be voided. Any request for distribution of a stale-dated check must come from the agency and we will update this check with the next payroll cycle.

The OPCR's continued monitoring of time card signatures for possible falsifications produced two more cases in early 1984. In one case, the contract agency's project coordinator acknowledged that staff had signed the time cards for the participants in order to expedite payments, while in the other case participants were apparently signing time cards for other participants, again merely to expedite payments (Case #E/1-84 and E/2-84, respectively). The matter was resolved in the former case by the agency's project coordinator assuring the OIG that staff would no longer sign time cards; in the latter case the contract agency changed its time card procedures in order to minimize anyone signing a time card for anyone else.

In mid-1982 a falsified participant time card case came to the OIG from a different route. The director of DOE's Independent Monitoring Unit reported that the participant time cards submitted by a DOE prime contractor did not reflect the actual attendance of participants in a classroom training program operated by a subcontractor of that agency (Case #E/36-82). Some of the time cards were for participants no longer in the program; some were for excess hours.

The prime contractor's staff person responsible for preparing the time cards did not verify participant attendance in the sub-contracted program because she was afraid to go into the neighborhood where it was located. (It would also appear that the participants "pre-signed" their time cards, an additional violation of DOE procedures as noted above.)

The prime contractor's board of directors voluntarily agreed to reimburse the DOE for the participant overpayments and to not allow the staff person responsible for the problem to have any further dealings with DOE contracts.

In investigating the sub-contractor's records in order to determine the amount of restitution due (calculated to be $720), the OIG found a number of inconsistencies and apparent examples of records not kept in accord with DOE requirements (Case #E/26a-82). This "falsified program documents" allegation was not substantiated, but an anonymous telephone caller, claiming to have information from "someone inside the agency", then reported to the OIG that the real problem was not with DOE records. The subcontractor was said to be billing the U.S. Department of Education for reimbursement for DOE participants, whose tuition was fully paid by the DOE, under the Basic Education and Opportunity Grants (BEOG) program. This "double-billing" allegation was referred to the Inspector General of the U. S. Department of Education.

In another case the Independent Monitoring Unit (IMU) reported to the OIG that a subcontractor had failed to make the deductions it should have from the subcontract budget for reimbursements received from the U. S. Department of Education for BEOG for five participants (Case #E/29-82). This double billing seemed to be an administrative error on the part of the subcontractor which was remedied by it paying the prime contractor (then sent on to the DOE) $5,374.98 for the overcharges. A second subcontractor was alleged to have behaved similarly in this case but that subcontractor was found not to be participating in the BEOG program.

Another participant time and abuse case came to the

attention of the OIG in late 1982, also through the efforts of DOE's IMU. In this matter the IMU found that a contractor's records for participant attendance in a youth employment program were in disarray. There were missing attendance sheets, some attendance sheets were not signed by a supervisor, some were not signed by participants and some were incomplete in various ways. More serious was IMU's finding that the attendance sheets reflected less hours worked than those reported on time cards submitted to the OPCR (Case #E/73-82).

The OIG investigation found no evidence of misappropriation of funds by staff in the agency or by the participants. There was no intention of personal gain for anyone, and the participants did not "kickback" the overpayments to anyone. The contract agency was required to reimburse the DOE for the $4,442 overpayments to participants. The OIG recommended that the staff person responsible for the "poor fiscal practices" in the agency (who had been terminated) not be allowed to work in a responsible position for a DOE contractor.

The problem in this contract agency stemmed, in part, from a violation of DOE procedural guidelines concerning the segregation of payroll functions, namely that the person who "collects time/takes attendance" not be the same person who posts time on time cards and submits the payroll to OPCR, who in turn is not to be the same person who picks up the checks from the DOE payroll unit in OPCR. In 1984 the Director of DOE's Enrollee Benefits Unit suspected that a contractor was submitting time cards for participants who were not attending its classroom training program (Case #E/9-84). The OIG investigation of the case included a review of participant application folders, attendance sheets, time cards, canceled stipend checks and termination forms. The contractor had generated checks for non-attending participants (obviously again with "pre-signed" time cards) but did not give out the checks to those participants.

This was another one of the contractors whose administrative offices, where the time cards were "produced", was in a different location from the classroom training program, and it was physically difficult to get the participants to sign their cards in a timely fashion. Because of this management problem the OIG recommended that the DOE constantly monitor the program. The contractor subsequently combined its administrative and program units into one location.

Most of the cases discussed above were principally concerned with participant time card falsification. In some cases time card abuse is a subsidiary allegation. One such case came to the attention of the OIG as a result of an anonymous telephone call from a staff member of the subject DOE contract program. One of the allegations in this case was that a participant was paid for

five pay periods after she left the program (Case #E/8-83). (Other allegations related to potentially criminal matters and to staff misconduct). The OIG investigated the falsified time card allegation and found that the former participant may have gotten extra checks, possibly because she was a friend of the agency's job developer who could have arranged for her to get paid. However, the entire matter was effectively resolved by the parent agency of the DOE contract program replacing the staff whose behavior was questionable. Its decision to do so was helped along by a report from the DOE Contract Manager who said that she had been threatened by the contract program director when she accused him of doing something illegal (which had been similarly alleged by the anonymous complainant).

A very substantial case concerned with time card falsifications was discussed earlier (in the Substantiated Fraud Cases Not Referred to the DOI section) (Case #E/7-84). While the fraud in this case was restricted to one staff person who had submitted time cards for a terminated participant and then forged and cashed the check generated by doing so, the abuse of overpaying participants was extensive among the subcontractors of the prime contractor. The prime contractor was held responsible for the $26,000 in losses to the DOE as a result of the sub-contractor' submissions of falsified participant time cards. In addition the prime contractor was required to install new procedures vis-a-vis its sub-contractors for monitoring participant training and time card submissions related to that training.

Other substantiated abuse allegations related to DOE contractor fiscal affairs:

Falsified fiscal documents are a major component in fraud cases and frequently one of several allegations present in abuse cases as well. In some of these latter cases, however, personal gain simply was not present or not proved, and the matter became abuse, sometimes by default.

In one of the cases discussed previously (under substantiated fraud cases not referred to the DOI), the fraud allegations which opened the case were thefts of books and records, program equipment, blank checks and bank receipts from the contract agency by unidentified perpetrator(s) (Case #E/40-81). Subsequent allegations included falsified fiscal documents, in which the executive director's name was forged on checks, double billing and commingling of funds. These arose during the OIG investigation into the thefts, which had caused a DOE Assistant Commissioner to question the fiscal situation of the agency and request such an investigation. This agency was extraordinarily mismanaged, with substantial unresolved

questioned costs for youth programs funded by the DOE, for which it has agreed to pay $71,000 in restitution. The agency is no longer funded by the DOE.

In another case a newspaper article about drug-dealing in a building being rehabilitated by an agency which had a DOE training contract came to the attention of the DOE Commissioner who asked the OIG to investigate the matter (Case #E/65-80). The opening allegation of possible misuse of funds because DOE contract staff and/or participants might have been inappropriately involved in the rehabilitation burgeoned into a massive documentation of mismanagement. Included in the substantiated abuse allegations were those of double-billing, commingling of funds and inappropriate services delivery for Federal and City programs. The falsifications were achieved in part by the agency giving kickbacks to a vendor for his supplying fake receipts as supporting evidence for non-existent purchases.

The contractor was defunded by the DOE, and it was recommended to the DOE General Counsel that a suit be brought for breach of contract and restitution for $13,000 calculated to have been lost by the DOE in the abuses and for $4,000 in questioned costs.

The failure of the DOE to properly monitor the fiscal operations of at least some of its contractors was apparent from these early (1980-81) cases. This failure resulted in a major case in 1982 (discussed previously in the Cases Referred to the DOI section, Case #E/66-82 and E/3-83). In this case the investigation began when former employees complained to the OIG that they could not obtain their vested pension monies from the contractor. These funds were found to have been misappropriated as were the employee payroll withholding taxes which should have been submitted to Federal and State tax authorities. The various substantiated abuse charges against the contractor included falsified fiscal documents, commingling of funds, misuse of funds and poor fiscal practices all related to the cover-up by the contractor of nearly $3 million misspent employee pension and tax monies. Since no personal gain could be proven to the satisfaction of a grand jury, the case was classified as abuse.

Another case which indicated inadequate fiscal monitoring by the DOE came about after the early close-out of a Job TAP Center contract because the center had far overspent its budget. In this case one of the two original complaints was made to DOE contract management staff by the executive director of the center's parent agency, who reported that his staff had found 200 unissued Social Security cards with different names on them in the center's files. This allegation was referred to the Social Security Administration. A nearly concurrent second complaint was registered by the DOE Contract Manager who had been responsible

for the contract program. He reported to the OIG that his name had been forged on a letter to the center's bank which asked for a cash advance in order to meet a payroll and promised to clear up all debts owed to the bank (Case #E/15-83 merged into E/20-83, discussed in the Cases Referred to the DOI section).

In the OIG investigation it was found that the contractor had failed to submit withheld employee payroll taxes to the Federal and State tax authorities and had failed to pay health insurance premiums. The former director of the center apparently had not paid back $5,000 in salary advances made to him and may have been involved in falsifying fiscal documents relating to vendors and rental agents. The theft of the $5,000 can be classified as fraud but the falsified documents is probably only abuse as far as the center's director is concerned. The continuing investigation by the DOI should determine whether the parent agency's fiscal officer and/or executive director were involved in the "less-than-arms length" dealings with the vendors and rental agents (and to what benefit, if any, to themselves), as alleged by the former director.

Obviously, this program was mismanaged fiscally. Whatever monitoring was done, it did not stop the overspending of contract funds or indicate the arrears to the taxing authorities and health insurance carrier. The fraud and/or abuse in the director's theft of funds and in his and possibly other's involvement with vendors and rental agents may not have been as obvious.

A falsified fiscal documents case which DOE's contract management system exposed, was opened in the OIG in 1983. In this case the DOE Director of Administrative Services, a representative of the DOE's technical assistance unit and the DOE Contract Manager assigned to the contractor together visited the contractor and reported to the OIG that leased equipment for a DOE-funded program may have been used for a non-DOE-funded program (Case #E/9-83). This misuse of fund allegation was not substantiated, but the OIG review of the contractor's equipment and spare rentals indicated that there were excessive "purchases" (by lease) of equipment with DOE funds and that the program was being overcharged for space. Routine monitoring might have discovered the excessive equipment purchases and the fact that the non-DOE-funded program had been using some of the DOE program space earlier, but the matter was effectively resolved through a budget modification for the space rental and by canceling leases for over-purchased equipment.

Commingling of funds:

Commingling of funds is an abuse which can occur when

contractors receive funds from more than one funding source for the same program or from the same funding source for different programs. Cases in which a commingling allegation appears are examples of the contractor's mismanagement of funds and usually include the related allegations of falsified fiscal and/or program documents among others. The programs operated by such contractors may also be deficient: The commingling of funds allegation cases also appeared prominently among the inappropriate services delivery program performance allegation listings.

The seven substantiated commingling allegations were all raised during OIG investigations (i.e., subsequent allegations) and consisted of three allegations for different DOE programs operated by the same contractor (Case E/91-81; E/66-82 & E/3-83; E/74-82) one allegation concerning different public funding sources within the same jurisdiction (Case #E/40-81); two allegations concerning funding sources from different jurisdictions, i.e., City, State and/or Federal (Case #E/65-80 and E/73-81); and, one allegation concerning a private and a public funding source (Case #E/50-82).

Commingling can be caused by late payments from funding sources, with the result of a contractor having to "borrow" from one account to pay bills due on another account, perhaps a minor abuse if the borrowed funds are returned in time to meet obligations on the second account. Less justifiable is where separate accounts are not maintained for each program and/or each funding source or where unified accounting is used if it is not clear which parts of program staff, OTPS and administrative costs are being charged to which program and/or funding source. This in turn can be due to faulty contracting by funding agencies, poor fiscal management within the contractor and/or inadequate fiscal monitoring by the funding source(s).

Failure to submit employee withholding taxes to taxing authorities:

One way in which a few of the DOE contractors apparently handled case flow problems was by failing to submit payments withheld from employee salaries to taxing authorities, health insurers or pension plans. The problem with not submitting tax payments on time is the fact that the IRS levies penalties and interest and if the contractor corporation is unable to pay, its board of directors becomes personally liable for the amount due.

In the five cases in which the contractor failed to submit employee withholding taxes to the IRS and/or the N.Y. State Tax Bureau, four of the failures were subsequent allegations (Case #E/91-81, E/50-82, E/66-82 & E/3-83, and E/20-83 & E/15-83). The

remaining one was revealed by a contractor's former executive when she came into the DOE to complain about the unpaid salary owed to her (Case #E/22-84). In none of the five cases had DOE monitoring of contractors exposed the problem.

Misuse of funds; poor fiscal practices:

Mismanagement is also the issue in the two residual fiscal allegation categories, misuse of funds and poor fiscal practices. Both of these allegations can be an entry-point for more specific and serious allegation, when they are lodged as original complaints. With one exception, the contractors for which such allegations were original complaints were the beginning of more serious problems vis-a-vis the OIG for the contractor. The one exception was handled almost entirely by contract management staff rather than investigated by the OIG and ultimately resulted in the contractor not being refunded (Case #E/49-82).

Conflict of interest; nepotism:

The DOE conflict of interest/nepotism regulations are included in the "boiler plate" of the DOE contract. Details as to potential conflicts of interest/nepotism are also provided in the answers given by contractors seeking to obtain or be renewed for DOE funding on an Inspector General questionnaire which is signed and sworn by them.

Nepotism was discovered during an OIG investigation of a falsified fiscal documents (participants time cards) allegation (Case #E/18-83) (discussed in the Substantiated Abuse Allegations section). In the review of participant records the OIG found that the sister of a contractor staff member was a participant in the DOE-funded program. For this infraction of the nepotism regulations the contractor was required to reimburse the DOE $387 for stipends paid to the ineligible participant.

The only other substantiated nepotism case in this study also contained conflict of interest allegations (Case #E/55-81). The nepotism and one of two conflict of interest (vendor) allegations involved the administrator of the contract agency who was also found to be dually employed. (This case has been discussed in the Substantiated Fraud Cases Not Referred to the DOI section.) The administrator was terminated from the DOE contract and forbidden to again work on DOE contracts, which effectively took care of most of these matters. The remaining conflict of interest problems were based upon the contractor's relationships with organizations whose boards of directors were inter-connected with it. These other organizations were vendors to the DOE contractor for space, utilities and equipment. The OIG

recommended prohibitions against the contractor making rental agreements with the related corporations and that space rental agreements (leases and utility charges) be reviewed with the goal of possible budget modifications related to them.

Because the relationships and expenditures made by the contractor with these organizations as vendors may not have been in the best interests of the DOE, the OIG made the following recommendation directly as a result of this case:

> Any agreements entered into by DOE contractors which have been made in violation of conflict of interest clause in the contract should be considered void. All monies expanded on such agreements should be considered a disallowed cost and subject to recoupment.

Another approach to dealing with the purchase or rental of equipment from "favored" vendors (who might not offer the best price because of a conflict of interest) was found in a second recommendation in this case:

> A list of equipment being proposed by a contractor for purchase or rental should be sent first to the Contract Manager in order to determine if such equipment is available through DOE's Administrative Services Unit. For that equipment which is purchased contractors should be informed that they will be held responsible for any which is disposed of without prior DOE approval.

Another board member conflict of interest arose during an OIG investigation of a theft, falsified fiscal documents and time and leave abuse fraud case (discussed in the Cases Referred to the DOI section (Case #E/74-82).) The chairman of a contract agency's board of directors was the signatory, as the landlord, on the lease for the facility in which the agency's programs operated. The matter was resolved by him resigning from the board. The board chairman's ignorance of DOE conflict of interest regulations was indicative of his inability to exercise proper leadership of the board in its fiduciary responsibilities, a major factor in the fraud committed by the agency's executive in this case.

Another kind of conflict of interest, namely that between public funding agency employees and board or staff of its contractors became an issue as a result of a case opened in the OIG in 1981 on three DOE employees (Case #E/53-81). The outcome of this case were that one of the employees, who was on the board of directors of a DOE contract agency, resigned from his contractor board position; that another employee who resigned

allegedly to take a job with a DOE contractor had not actually done so; and, that an employee who was on the board of an agency applying for a DOE contract had to resign from the board before the contract would be approved.

This case resulted in a memo from the DOE Commissioner clarifying the city's conflict of interest rules. "City employees may serve on community boards if the board has no dealings with the employee's agency; if a city employee serves on a not-for-profit organization board, he must have DOI and Board of Ethics approval, and the organization may not have any dealings with the City. No City time may be used for board service. No organization which contracts with a City-employee's agency may recruit such employees as staff nor allow them to serve on the board of the organization."

In a somewhat different conflict of interest case (but still concerned with the relationship between a City employee of a funding agency and a contractor) a DOE Contract Manager was reported to the OIG by the Assistant Commissioner for having received $360 from a DOE contractor for preparing that contractor's DOE Project Operating Plan (POP) on his own time (Case #E/41-83). His rationale for doing so was that the contractor could not complete its POP by the deadline even by working on it with his assistance during regular working hours and his supervisor would not permit overtime work on DOE time.

The Contract Manager had to return the $360 to the contractor. Both he and the contractor's executive director were admonished by the DOE for the unethical behavior.

Falsified program documents as related to participant eligibility and placements:

The DOE contract programs mainly consist, first, of participant enrollment in a training program, then, of participant attendance and payments for such attendance in the program (stipends for CT; subsidized salaries for OJT and AWE), and, finally, placement in a training-related job (if a CT program) and/or retention in a non-subsidized salary position for at least 30 days (for both CT and OJT). Most of the OIG cases in the falsified fiscal documents allegation category were based upon fraud and abuse related to the attendance and payments aspects of the programs. The cases based upon falsified program documents allegations were concerned with the eligibility of participants for enrollment in the programs and the validity of their placements.

Eligibility of participants:

The major area of vulnerability in participant eligibility determination is pre-selection of participants by OJT sub-contractors, also known as "reverse-referrals". These occur when a prospective participant who has already been interviewed for (or employed in) a position by an OJT sub-contractor is "reverse-referred" by that subcontractor to a prime contractor or a Job TAP Center and instructed to indicate a preference for working in the business and job title for which he has been pre-selected. If, as is likely, the Job TAP Center or prime contractor refers him to the subcontractor then the wages paid to him are subsidized (at up to 50 percent) for the time of the training contract.

Four cases related to reverse-referrals came to the OIG, mostly from different sources, during the time period for this study. The earliest case resulted from an OIG follow-up to a similar previous case on a contractor. The OIG staff compared the dates participants actually started work with OJT sub-contractors with the dates the prime contractor enrolled them as participants and found five who had been pre -selected by the sub-contractor (Case #E/75-82). The prime contractor was required to pay restitution of $5,639 at the rate of $150 per month for the subsidized portion of the participants'' salaries. Continued DOE funding of the prime contractor was based upon adherence to the restitution agreement.

A very substantial case came to the attention of the OIG/DOE when a prospective participant reported that she had applied to and been accepted for employment at a firm, which also happened to be an OJT subcontractor, but was told that she had to be interviewed by a particular staff member of the prime contractor before starting work. She was told to say to this staff person that she had come to the prime contractor from a Job TAP Center and not to say that she had already been to the OJT subcontractor first. In this interview she was found to be eligible for placement with the subcontractor and to report there for an interview and subsequent employment if the interview was successful. Her telephone call to the subcontractor produced the response that the interview was unnecessary and that she could report for work on the date set in the initial interview (Case #E/24-83).

Interviews with participants employed by the subject OJT subcontractor led the OIG to charge that 17 participants had been pre-selected and that another four were ineligible because they were New Jersey residents. The OJT subcontractor was also found to be billing the prime contractor for its 50 percent training reimbursements at a higher hourly salary rate than it was paying

the participants. (They, in turn, were receiving a higher hourly salary than they would have received if they had not agreed to the reverse-referral arrangement). The prime contractor was required to reimburse the DOE $32,000 for the subsidized portion of the salaries paid to the ineligible participants and for the over-reimbursements.

Two other reverse-referral cases, both still open in the OIG at the end of the time period for this study, were referred to the OIG by DOE contract management staff (Case #E/6-84 and E/8-84). As in other such cases, the OIG gathered together documents related to eligibility determination, enrollment and sub-contractor reimbursement and sought interviews with the allegedly pre-selected participants. In the first of these two cases three OJT participants appeared to have been pre-selected by the same sub-contractor. Only one of the three was still employed, by then in an unsubsidized job, and feared that he would lose his job if he signed a stipulation. In the second case five OJT sub-contractors under a single prime contractor's jurisdiction were identified by the DOE Contract Manager as having pre-selected participants. In addition, one participant was not receiving the contracted-for hourly rate for this OJT employment.

Reverse-referral allegations require a great deal of research to substantiate, unless all of the pre-selected participants were to confess their complicity in the arrangement. In any event certain program documents must be falsified if the abuse is to be successfully carried out, making it necessary for at least one of a sub-contractor's participants to allege wrong-doing to expose the problem. The OIG/DOE conducts the research and interviews participants once an allegation is made, in order to establish the minimum extent of the abuse. Restitution in these kinds of cases comes to the DOE from the prime contractor (who may then sue the subcontractor if that is where the responsibility for the abuse lies) for the subsidized portion of the OJT salaries of the ineligible participants.

One other case in which the eligibility of participants was challenged was for an agency contracted to conduct classroom training programs (discussed in the Substantiated Fraud Cases Not Referred to the DOI, section, (Case #E/16-84). In this case, an employee of the contractor had falsified information on two prospective participant's application forms in order to assure their admittance to a CT program. The contractor was required to reimburse the DOE for the stipends for the ineligible participants.

Validity of placements:

Questionable participant placement allegations surfaced either alone or as part of cases which contained other abuse

allegations. A case solely concerned with placements pointed up a need for the DOE to modify reporting forms in order to prevent the appearance rather than the fact of falsified placement statistics. The director of the Placement Verification Unit (PVU) in the Office of Review, Evaluation and Planning reported to the OIG that there were discrepancies between the statistics reported to that Unit by several contractors and those reported to the OPCR (and the DOE Contract Managers) on the Monthly Progress Report (MPR) (Case #E/38-81). The OIG recommended that the forms and procedures related to the reporting of placements be changed in order to prevent charges of falsified program documents from being levied. The OIG also recommended that Contract Managers closely monitor the newly revised statistical reports in order to seek out discrepancies and that a procedure be established for handling "never-placed" participants in these reports.

In a multiple allegation case discussed previously (under Substantiated Fraud Cases Not Referred to the DOI), the dual employment of the administrator, as initially alleged by the DOE Contract Manager, was substantiated fraud. The abuses in the agency surfaced during the investigation and included, besides falsified program documents, conflicts of interest/nepotism between board members, staff and vendors and an unusual misuse of funds charge (Case #E/55-81). The contractor hired a law firm to defend it against the allegation made by the OIG/DOE and paid the firms' $2,500 fee for doing so out of DOE contract funds. Restoration of the $2,500 to the contract was required.

The falsified program documents allegation was concerned both with the eligibility of participants and the legitimacy of placements made. The contractor used two subcontractors for training participants, both of which were also DOE prime contractors in their own right. The principal issue was which of the contractor's subcontractors had claimed credit for enrolling and placing the participants trained, under which of the contracts/sub-contracts. In addition the legitimacy of the indirect placements claimed to have been made by one of the two sub-contractors was questioned. (Indirect placements are those made after classroom training.) The OIG recommended that the enrollee termination forms for the second sub-contractor be reviewed by Contract Managers in order to determine whether participant placements were being properly reported. In particular it was suggested that those listed as indirect placements be checked against participant lists of OJT subcontractors to determine if they appeared on them, as well. If so they should not be indirect placements but simply program transfers.

Possibly misplaced credit for placements surfaced again in a 1984 case. Three applicants who were recorded as direct placements in jobs without any training provided by the

contractor also appeared in OPCR's computerized filing system as participants in another contractor's OJT program (Case #E/17-84). Whether this was simply an error or an attempt by the first contractor to obtain undeserved credit for three direct placements will be determined by the investigation underway at the end of this study.

Placements can be "faulty" or "defective" in that they are not what the contractor reported them to be in reports to the DOE. The contractor must meet the required number of indirect placements or be subject to "corrective actions", which can include technical assistance and intensive monitoring as wells as, potentially, downward budget modifications and/or eventual loss of the DOE contract for the training program. For classroom training programs, 70 percent of those enrolled at the beginning of the program must be placed in a training-related job at a certain hourly wage or higher (stated in the contract) and be retained in the job for at least 30 days.

In a complex case in which falsified placements were only one of many allegations (discussed in the Cases Referred to the DOI section, (Case #E/26-83 and E/18-84 combined), the OIG determination that some of placements were faulty was instrumental in the decision by the DOE not to renew the contract. The defective placements consisted of no-shows and participants who went back to work at their previous jobs but for which credit was claimed as training-related placements. In addition some employers were alleged to have been paid to accept participants after the training.

Summary Conclusions About DOE Contract Management

DOE Contract Managers carry primary responsibility for contract negotiations, including the preparation of budgets and program objectives, which constitute the Project Operating Plan (POP) within the contract. They are also responsible for monitoring contract compliance, authorizing contractor payments made by the DOE's OPCR, and handling any budget modifications which may become necessary. The latter may be required because of overall funding reductions for federally sponsored employment programs, as occurred in 1983-84, or because of poor individual contractor performance.

During the time period for this study, the work of the Contract Managers required and generated large amounts of "paper", which appeared to make it difficult for them to get away from their desks and into the field. Less than half of their time was spent in observing and monitoring employment training programs. Little or no time was given to reviewing placements

made as a result of the training.

Obviously, contract negotiations, budget modifications, and desk audits--the means by which contractor payments were authorized by the Contract Managers--took precedence over on-site contract compliance verification. As a result, contract compliance was measured primarily by "paper" submitted by the contractor to the DOE, namely the Monthly Progress Reports (MPR) and attached documentation of placements made and participant time cards, the major fraud/abuse vulnerability found in this study.

Each of the three or four contractors assigned to each of the Contract Managers is required to be formally monitored during every training cycle, using a complex set of forms covering administrative, fiscal, and program aspects of their work. Essentially, the forms are an audit of how well the contractor is meeting the requirements of the contract and the POP. (Financial audits are also performed annually by an independent CPA firm.)

Contract Managers which find a compliance problem during formal monitoring may either take care of it on-the-spot or, if serious, develop a "corrective action plan" for resolving it. A corrective action plan is likely to include the results of the Contractor Assessment Instrument (CAI), which statistically highlights the areas in which the contractor failed to meet contracted for goals in the POP in the just completed training cycle.

Both instruments can also be used to document the contractor's efforts for the State and/or Federal Department of Labor (as the supervising agencies for the DOE), should such documentation be requested.

The introduction of performance-based contracting in the DOE has increased the importance of the statistics reported by the contractors on their MPR's and summarized on the CAI. It has made the monitoring forms less relevant for the assessment of contractor deficiencies and the subsequent introduction of corrective actions. And it has increased the need for independent verification of enrollment, training program retention, and placement statistics submitted by contractors.

Statistics collected from contractors in earlier years may have indicated a need for technical assistance or a corrective action if performance was well under contracted for levels. Those reported now result in contractors receiving contract payments (or justify those made as "advances"). Previously, contractors were required to submit a CAMFR (Contract Agency Monthly Financial Report), essentially an expense and cash-on-hand statement, to draw down sufficient monies to continue their programs. These are no longer needed, and the statistics

reported on the MPR's and CAI's are by themselves the payments-generating vehicle.

The formal monitoring forms can indicate areas where the contractor is not in compliance with JTPA requirements or DOE procedures and guidelines and may require technical assistance to become so. The completed forms can also provide indications as to why a contractor did not meet contracted for goals. They are necessary documentation for a corrective action plan and, upon readministration, are a measure of how well the corrective action was implemented. However, the CAI is now the basis for evaluating contractor performance: it is the means by which a contractor receives unconditional, conditional or probationary status, if such performance is deficient. Continued probationary status will result in the contractor being defunded by the DOE.

Because the CAI is based upon previously submitted statistics, it can be completed quickly and demonstrate the need for corrective actions, should conditional or probationary status result from the scoring system applied to the statistics. Corrective action areas documented by the completed CAI can be elaborated upon by review of previous administrations of the formal monitoring instruments and of those related to the training cycle applicable to the CAI.

A possible casualty among the monitoring forms was thought to be the Fiscal Management form, simply because how the contractor manages his financial affairs in order to achieve contracted for goals is irrelevant under performance based contracting. However, it appears that the information requested of the contractor on the form is required for reports the DOE must submit to the State Department of Labor. Because performance based contracts have no budget lines, independent audits are also thought to be unnecessary, but it is unlikely that the DOE's supervisory agencies will permit dispensing with them.

Verification of enrollment, program attendance, and placement of participants as reported by contractors has become very important under performance based contracts. The initial "enrollment" is essentially the list of certified (as eligible) applicants either enrolled in a classroom training program or subcontracted into OJT positions. Whether the applicants show up or not must be verified, as must be whether they remain in the training program for the full cycle or until the OJT subcontracted for time is up. In this study these were vulnerable areas, with participant time cards as the vehicle for fraud/abuse on classroom training programs. Because contractor payments are now, in part, based upon statistics related to participant enrollment and retention in training programs, the MPR's are also vulnerable to fraud/abuse as well.

Field visits by Contract Managers are the only means of verification available. Verifying OJT subcontracts is more difficult because of the dispersion of OJT employers, but a sample of such employers could be visited.

The verification of placements after training is the function of the Placement Verification Unit (PVU) in the Office of Review, Evaluation and Planning. The PVU verifies, by mail, a sample of placements claimed to have been made by each contractor. Contract Managers should also verify again or add to PVU's sample by making personal visits to some of each contractor's reported placements.

In order to provide more time for informal monitoring and verification of contractor reported statistics, the frequency of administration of the formal monitoring forms should be reduced from once per training cycle to once per fiscal year or less often. In fact, consideration could be given to applying them only to contractors with conditional or probationary status.

The vulnerability of multiple funding of the same programs by different agencies is less of a problem for the DOE than it is for the CDA or the HPD oversight of the Community Consultant Contractors. In these agencies, contractors are encouraged to seek out additional funds simply because the contracts are so small. DOE contracts are usually six figures or more, and the overlap vulnerability, if any, is essentially the "other" public funding agency's problem.

THE SUMMER YOUTH EMPLOYMENT PROGRAM

Description of Program

The Summer Youth Employment Program (SYEP) presents many of the same fraud/abuse vulnerabilities as DOE's other employment programs do, but these are exacerbated by the fact that it serves such a large number of youth (40,000+) in so many worksites (4,000+) in a very short time. The SYEP is separately administered from the other employment programs in the DOE by about 60 full-time staff and an additional 200 persons who are hired for all or part of the March to September SYEP time period, depending upon their functions in the Program. The Executive Director of the SYEP reports to the Associate Commissioner for Training, who is located in the same Brooklyn building as the SYEP program itself, but on a different floor.

Funding for the SYEP was in excess of $30 million for each of the three years reviewed for this study (1983, 1984, and 1985). During the last year of the CETA (1983), the administrative costs for operating the SYEP were about $6.3 million, 20% of the total cost of the Program. For the first year of the JTPA (1984), administrative costs were held by the Act to 15% of the total cost of the SYEP, at $4.9 million. In 1985 the percentage was again raised to 20%, for a cost of $6.9 million.

Private funds from corporations have been an increasing proportion of the total money available to provide summer employment to youth under the Program and account for the $2 increase from 1984 to 1986, when funding reached a total of $34.5 million.

Enrollment of youth in the Program declined from 1983 to 1984 by about 4,000, to 39,100, and may show a slight decline from that figure for 1985, since 1,000 fewer youth were certified as eligible in 1985 than in 1984. The female to male proportion was 45% to 55% in 1985, as it has been for several years, but the proportion of younger children (14-15 years) increased dramatically in 1985, from 41% in 1984 to 47% in 1985. The proportion of AFDC families declined in each of the three years from 49% in 1983, to 45% in 1984, to 42% percent in 1985.

Most SYEP activities, from participant eligibility determination to job development and placement, program monitoring, Paysite management, and end-of-program review and assessment, are performed by SYEP staff, with the assistance of Project Sponsors. The SYEP contracts with about 75 not-for-profit organizations to be Project Sponsors for the March to

September time period. These agencies, some of which have other employment contracts with the DOE as well, receive applications from youth for the SYEP and review the applications for completeness, presumptive eligibility, and appropriate documentation to support the applicants' stated eligibility before sending them to the SYEP. Project Sponsors also recruit Work Sponsors in their communities (including themselves, if they wish), work with the SYEP in selecting participants among those certified as being eligible and in assigning participants to Work Sponsors. When the participants begin work, Project Sponsors are responsible for monitoring the Work Sponsors and for approving the participants' time cards, which generate payroll checks for them.

Youth apply for the SYEP through a Project Sponsor of their choice. Information about the Program and the names and addresses of the Project Sponsors are published in newspapers four weeks before the deadline for submitting completed applications. Applications are made available in the DOE-contracted Testing Assessment Placement (TAP) centers, at the Project Sponsor locations, in Income Maintenance Centers, and in public and parochial senior and junior high schools.

The regulations governing participant eligibility for the SYEP are complex. Besides being residents of New York City, between the ages of 14 and 22, registered with the Selective Service System (if male and 18-years or older), having "working papers" (if under 18 years of age), their families must meet stringent income criteria. Family income cannot exceed 70% of the Federal Lower Living Standard for New York City for the family size reported on the application. Income must be documented with W-2's for the previous year for all then-employed family members, and with two recent consecutive pay stubs for those currently working. Unemployment and public assistance status must also be documented, if applicable. Applicants are certified as income eligible as a result of computer calculations of information provided on family size and income.

A series of priorities govern the selection process for income-eligible applicants. Top priority is given to those youth who previously participated in the SYEP and who received a high rating on their work evaluation. To implement this priority, each Project Sponsor submits a list of "preferred" participants. The number of participants on the list is limited to 15% of those who worked for the Project Sponsor's Work Sponsors during the previous summer.

Following this group are seven additional priority groups: 1) Handicapped youth; 2) Foster children; 3) Sheltered workshop participants; 4) Homeless youth; 5) Outpatients; 6) School-to-Employment Program (STEP) participants; and 7) Youthful offenders. Documentation of membership in a priority group must accompany an application. Last in the selection priority are

youth from the general public whose families meet the income eligibility criteria. Except for the handicapped, all special priority group members must also meet income-eligibility requirements. The handicapped are currently about 7% of the total participants.

OIG/SYEP Case and Allegations Analysis: Summary

The OIG/DOE pursued 58 investigations concerned with the SYEP between July 1, 1982 and December 31, 1984.

Subjects in these cases include SYEP staff, participants, and relatives in positions of administrative responsibility for the SYEP. Most of the substantiated allegations were fraud.

SYEP Case Analysis: Summary

	# of Cases in Which the Original Complaints/ Allegations Were: External to DOE	Internal to DOE	Total # of Cases
# of Substantiated Fraud Only Cases	7	6	13
# of Substantiated Fraud/Abuse Cases	1	4	6
# of Substantiated Abuse Only Cases	2	3	5
(# Referred to DOI)	(1)	(1)	(2)
# of Not-Substantiated Cases	5	3	8
Sub-Total	16	16	32
# of "Other Only" Cases: Not Able to be Investigated	--	1	1
Employee Problems	10	9	19
Question Costs Resolution	--	3	3
Non-Allegation Matters	--	3	3
Total:			
N	26	32	58
%	44.8	55.2	100.0

SYEP Allegations Analysis: Summary

# of Substantiated/Not-Substantiated Allegations:	# of Original Complaints/Allegations: External to DOE	Internal to DOE	# of Subsequent Allegations	Total # of Allegations
Substantiated Fraud	12	11	11	34
Substantiated Abuse	3	4	12	19
Not-Substantiated	9	4	3	16
Subtotal:	24	19	26	69
Other: Referred to Another OIG	1	---	---	1
Not able to be investigated	--	--	2	2
Employee Problems	14	11	1	26
Questioned Cost Resolution	--	4	--	4
Non-Allegation Matters	1	3	--	4
Total:	40	37	29 ½	106

The following analysis of the fraud/abuse cases is organized in accordance with major SYEP operational functions, as follows:

- Participant Applications Fraud;
- Problems With Employees/Participants;
- Questions About Contract Agency Fiscal Affairs;
- Payroll Matters.

Participant Applications Fraud Cases

Unique to the SYEP, as compared with other employment programs, are the kinds and extent of participant applications fraud, frequently related to family income reporting. Other employment programs merely require unemployment status and/or minimum individual income during the previous half-year. The most likely types of income reporting fraud are: 1) leaving off of the application an income-earning family member and/or some of the income earned by a family member (possibly supported by a missing or altered W-2), and/or 2) adding "family" members to the application, either fictitious ones or real ones who do not actually live in the household.

A large group of cases in the Office of the Inspector General (OIG)/DOE concerns applications and/or supporting documentation falsified by the SYEP applicants and/or their families, often with regard to income eligibility. (Project Sponsors are sometimes suspected of having assisted applicants in falsifying information, but this kind of fraud would be difficult to prove. In fact, for only one of the cases in this study were such suspicions proven.) In a number of applications cases, the fraud is compounded by additional ineligibilities, such as nepotism or falsified documentation of special priority group membership.

Both the SYEP itself and the OIG/DOE have instituted a number of procedural and administrative changes to deal with and prevent applications fraud. The following chronological presentation of applications cases active in the OIG/DOE between July 1982 and December 1984 provides background and a rationale for the changes, which will also be discussed as they have occurred.

One case, involving the 1981 SYEP, came to the attention of the OIG/DOE because the subject's roommate, in the process of moving out in the spring of 1982, discovered papers which, upon investigation, indicated that the subject, as a SYEP Work Sponsor supervisor, had enrolled his own children in the SYEP, in violation of nepotism regulations, and falsified applications documents for a total of 24 out of the 33 participants at the Work Sponsor (E/23-82). The Project Sponsor was held responsible for the falsified applications and agreed to restitution to the DOE of $21,000 for the salaries of the 24 ineligible participants. The Project Sponsor should have been more diligent in the applications review and Work Sponsor monitoring efforts, and the payment of restitution was an "admission of guilt" for negligence in this matter.

A special applications problem concerning a 1982 SYEP participant occurred when it was found that he was age-ineligible after working in the Program for three weeks (S/3-82). The Work

Sponsor supervisor recommended that he be paid for his work, and the Mayor's Office of the Handicapped, which as Project Sponsor had calculated his age-eligibility incorrectly, was able to arrange payment. Participants cannot have reached their 22nd birthday by the beginning of the SYEP (usually July 1st), and calculations errors are possible, though infrequent.

The 1983 SYEP produced several applications fraud cases, two of which were substantial. One of the major cases involved a Project Sponsor which was found, as a result of the OIG investigation, to have a more than 20% fraud rate in its participant applications. The investigation began in the OIG when a complaint was lodged with the Executive Director of SYEP by a member of the community in which the Project Sponsor was located, who had only one of her three children selected by lottery for the Program. She alleged that a number of youth in the community had omitted family income information from their applications in order to make them eligible for the SYEP, thereby allowing them to be included in the lottery (S/5-83). In the investigation, 194 of the total 260 participants were questioned about the information on their applications. (The Program Director at the Project Sponsor was told that the survey of these participants was part of a larger project involving all of the Project Sponsors, which of course it was not.) Fifty-three of the 194 participants interviewed were found to have submitted fraudulent applications. In the process of the investigation, the local City Councilman and State Assemblyman reported that some of their constituents had admitted the fraud to them, stating that it had begun several years earlier and spread by word-of-mouth. It was their impression that the staff at the Project Sponsor were unaware of the scheme. Restitution is being sought from the parents of the 53 ineligible participants for a total amount of about $35,000. The Project Sponsor, whose complicity in the fraud was not able to be proved, continues to process SYEP applications, but only as one of the agencies in a consortium, not as a prime contractor.

The second major 1983 SYEP case came about as a result of a series of interviews conducted by the OIG with DOE employees whose children may have been fraudulently enrolled in the SYEP. Some of the employees' children were enrolled in a special SYEP which required that they be "court-referred." When the parents claimed that their children were not known to the courts, the OIG opened a case on the contract agency responsible for processing applications to fill the special job slots. In the investigation, it was found that two employees of the agency had simply indicated that the applicants were eligible without verifying their status with the courts. The SYEP, believing that the Project Sponsor was doing what it had been paid to do, accepted this indication as verified eligibility (E/32-83).

Because 30 City employees whose children were employed in the special program were also income-ineligible, restitution of

nearly $20,000 was agreed to by them. In addition, the OIG/DOE obtained $76,242.70 restitution from the contract agency (paid by insurance), which represented 90% (an amount negotiated with the insurance company) of the total debt (calculated to be $84,642.95) for payments made to other ineligible participants in the special program. The two employees of the Project Sponsor were terminated from the DOE contract with the agency and forbidden to work on any other DOE contracts.

The "success" of the sample of DOE employee income ineligibility interviews caused the OIG to initiate a review of the applications of all of the more than 40,000 1983 SYEP participants. About 2,500 of them were found to be children of City employees. The purpose of focusing upon City employees was to seek out the extent of ineligibility among a group of applicants about whom information on family income and size of family could be readily obtained. To do so, however, required access to the parents' personnel records in the City agencies in which they were employed. The OIG/DOE prepared questionnaires listing the names and Social Security numbers of the parents. These were sent to the OIGs of the appropriate City agencies for completion of income and family size data. Cooperation of the OIGs varied, and a number of questionnaires had yet to be returned more than a year after they were sent.

By mid-1985, the OIG/DOE had interviewed about 700 City employees whose questionnaire data differed from the information on their children's SYEP applications and had obtained restitution agreements from nearly half of them. Because some of the parents had more than one child enrolled in the SYEP, the number of ineligible participants represented in the restitution agreements was over 400, for a projected ineligibility rate of at least one out of six of the City employee-related participants.

The same procedure was followed for the 1984 SYEP. Those parents whose children worked both summers were asked about their family size and income for both the 1983 and 1984 SYEPs at the time of the interviews for the 1983 SYEP. None of the parents whose children worked only in the 1984 SYEP and who may have been ineligible had been interviewed by mid-1985.

These interviews were handled by the OIG as a single "case." The massive amount of staff time involved in the research leading up to the interviews and in conducting them required a change in organizational structure. Staff in the OIG have been assigned to work exclusively on SYEP matters, and all presumptive applications fraud cases which are referred to the OIG for investigation by the SYEP staff are treated as one case. "Outside" complaints, such as the one described above for the 1981 SYEP, continue to be handled as individual cases within the OIG's SYEP investigative unit.

One 1983 SYEP City-employee case came about from the "outside" route. An anonymous complaint alleged that an employee of SYEP was absent from her job much of the time, supposedly because of her daughter's epilepsy and medication needs, and that the employee's daughter was enrolled as a 1983 SYEP participant, possibly illegally (E/29-83). The excessive absences were handled by DOE administration by adjustments to the employee's annual leave credits. The daughter was registered as a participant using a different name than her mother's and claiming that she was a foster child on the application (with fake documentation) in order to gain priority in the selection process. Since she would not have been eligible if her mother's salary had been considered, restitution was sought from her mother for her participation in both the 1982 and 1983 SYEP's, in the amount of $1,126.22.

Another 1983 SYEP case was opened in the OIG during the applications process when an anonymous complainant alleged that a mother had submitted fraudulent documentation so that her daughter could get into the SYEP. The complainant stated that, although the mother received public assistance, she was fully employed (S/4-83). The investigation revealed that the documentation supplied by the mother for her daughter's SYEP application was not fraudulent. However, if she had been found to be ineligible for the SYEP, an investigation of possible welfare fraud and loss of residence in a Housing Authority project because of income ineligibility were also distinct possibilities. Obviously the complainant in this unsubstantiated allegation case was angry with the subject for some reason, since she also lodged a complaint with the HRA Bureau of Client Fraud, questioning the subject's public assistance eligibility.

In the first of three 1984 SYEP cases involving applications eligibility determination, a mother complained to the OIG that her son was being discriminated against by the Project Sponsor (a Chinese-oriented agency which was the prime contractor for a consortium of agencies), which had lost his application submitted at a subsidiary agency (not Chinese-oriented) in the consortium (S/3-84). A review of the Project Sponsor's participant list indicated that there was not a disproportionate number of Chinese-named participants chosen from the applications received by the Project Sponsor directly, relative to the applications received by subsidiary agencies. The lost application was an administrative error rather than an indication of discrimination.

The third 1984 SYEP applications eligibility case was opened by the OIG when the father of a participant was authorized by his daughter to pick up her check at the SYEP payroll office. The payroll office, upon reviewing the participant's folder, found that the father was not listed on his daughter's application, indicating possible fraud in terms of his income not being included in the total family income (S/12-84). In the OIG investigation, the fraud was substantiated, and the father signed

a restitution agreement for his daughter's SYEP salary of $669.61.

As noted earlier, Project Sponsors do not determine income eligibility, but they do review the documentation of the family's income. As of 1985, Project Sponsors are encouraged by SYEP to ask applicants if all family income and only members of the family who are actually living at home are listed on the application. They are also instructed not to accept any obviously altered applications or supporting documentation. To support these improved quality control procedures, the SYEP has included more money in the Project Sponsor contracts to pay staff to review applications. (Previously, most of the applications review work was done by volunteers.) The OIG has again reminded Project Sponsors of their financial liability, should they be proved negligent in handling participant applications.

At the SYEP administrative office, a Fraud Abuse Control Team (FACT) was set up prior to the 1985 SYEP to process questionable applications. The procedure begins with the applications review by the SYEP staff assigned to the payroll unit (who first review applications, then move on to payroll when the Program begins). These staff are instructed to return all incomplete or missing application form information and supporting documents to the appropriate Project Sponsors and to refer any complete but questionable applications to the FACT. The FACT immediately refers applications with altered supporting documents to the OIG/DOE as cases of apparent fraud.

Altered applications (white-outs, cross-outs, erasures as to eligibility information, etc.), inconsistent applications (usually insufficient income indicated for the number of family members listed, or the number of family members given does not match the number of names listed), and other questionable applications are reviewed by FACT and resolved as eligible, ineligible, or eligibility indeterminable without further investigation. The last group are referred to the OIG/DOE, but the applicants are permitted to participate in the SYEP. They are required, along with their parents, to sign a statement committing them to return their wages if the OIG investigation later finds them ineligible.

For the 1985 SYEP, nearly ten percent of the over 60,000 applications received were reviewed by the FACT. Of these, about half were deemed eligible, half ineligible. Less than fifty (50) applications were referred to the OIG/DOE as "eligibility indeterminable without further investigation."

The FACT is a "no cost" addition to the SYEP applications review process, in that the lines for the FACT staff were taken from the total allocation for SYEP staff. Essentially FACT staff make decisions about applications which regular applications review staff have found questionable, mainly because of altered

applications and inadequate income reported to support a family of the size listed. For only a small proportion of the questionable applications has an OIG investigation been required.

SYEP cases concerned with matters other than participant applications can be broadly categorized as: 1) problems with employees, that is SYEP staff, Project Sponsor Staff, Work Sponsor supervisors, and/or SYEP participants; 2) questions about a contract agency's fiscal affairs; and 3) payroll issues. These cases will also be presented chronologically, since administrative and operational changes have occurred in all three categories.

One case not able to be categorized came about because an agency which received a SYEP Project Sponsor contract for 1982 for the first time was challenged by a competing agency for the contract. The corporate secretary of the challenger, which had previously been the Project Sponsor for the community, complained to the OIG/DOE that the newly-funded agency was ineligible for a contract because the "purposes clause" of its Articles of Incorporation stated that it was founded to serve persons 60 years of age and older, not youth between 14 and 22 years (E/30-82). The DOE's position vis-a-vis its contract agencies is that the contractors themselves assume responsibility for being in compliance with the New York Not-for-Profit Corporation Law and other laws and regulations governing their affairs (other than the Job Training Partnership Act, for which the DOE monitors compliance). The argument could be made that since the SYEP participants are serving the agency's senior citizens in their work, there need be no revision of the purposes clause in its Articles of Incorporation.

Employee/Participant Problems

Problems with SYEP employees or those paid with contract funds at Project Sponsors arise in part because many of them are either short-term workers or have only a part-time commitment to the Program. Work Sponsors are not usually paid by DOE (unless the Work Sponsor is also a Project Sponsor) but must comply with regulations governing the Program, particularly those on nepotism. Nepotism regulations can also affect the eligibility of participants vis-a-vis the Project Sponsor staff/board and/or DOE/SYEP staff.

Dual Employment:

A 1981 SYEP complaint was lodged with the OIG by the DOE/SYEP Executive Director, who had determined, from a review of time records submitted by two Project Sponsors that they had the same contract employee on staff for a one-week period (E/68-81).

The employee was terminated from both agencies and deemed not entitled to wages from the second position.

In another dual employment case, an analysis by the OIG/Department of Personnel of the quarterly computer print-out of City employees' start/termination dates indicated that six SYEP staff had two City jobs at the same time (E/52-82). The OIG/DOE determined that four of the six were, in fact, dually employed when they started with the SYEP. The DOE/HRA personnel screening units would seem to have an obligation to avoid dual employment situations by verifying termination dates from previous employers before setting SYEP staff start-dates.

Other problems which the DOE might have in hiring SYEP staff were evident in a case involving the 1982 SYEP. In this case, two applicants who failed to get SYEP field jobs testified before the New York City Council's Youth Services Committee, charging favoritism and other improper hiring practices in the SYEP. The DOE commissioner asked the OIG to investigate the matter (E/45-82). The allegations were not substantiated, but the OIG made several recommendations regarding the DOE's and the HRA's procedures for hiring SYEP employees as a result of the investigation. One such recommendation was that advertisements for SYEP jobs should be placed earlier in the year, during holiday breaks from college, and should include the dates the applicants are expected to be available for work, so that those who cannot start work until after a certain date will not apply for an earlier start date and risk dual employment. Also recommended was the consolidation and/or centralization of two separately-housed DOE units responsible for screening applicants. In addition, the final unit in the process, HRA's Office of Personnel, should let applicants know of their rejection earlier and tell applicants the correct reason for their rejection. One of the two complainants in this case did not realize that applicants who had worked in the SYEP in previous years were given preference and that their being chosen ahead of him did not mean patronage or favoritism. The other applicant did not seem to know (as indicated in his testimony) that the correct reason for his rejection was start-date incompatibility, in that, if he had started work when the SYEP needed him, he would have created a dual employment situation for himself.

In another employment case, a former SYEP field staff person, possibly angry at not being re-hired for the 1983 SYEP, alleged that the Project Sponsor he was responsible for monitoring had padded its 1982 SYEP payroll with no-show employees (E/22-83). In the OIG investigation, this allegation was not substantiated, nor was one which was raised in the course of the investigation alleging that a Project Sponsor employee worked for the contract agency and the Board of Education simultaneously. Work times were not overlapping, and there is no prohibition of other employment if they are not.

Nepotism:

Nepotism was charged in a number of cases, notwithstanding the fact the OIG had recommended in 1981 that Project Sponsors be specifically advised about the contract provision prohibiting nepotism and their financial liability should they violate it. In one case, the SYEP Director of Field Operations charged that a 1982 SYEP Work Sponsor located at the Project Sponsor was supervised by the son of the Project Sponsor's executive director (E/53-82). This allegation was substantiated, and the father agreed to pay $1,075 restitution for the son's employment. If he had paid the money promptly, the case would have been closed and other, much more substantial charges might not have surfaced. One of these was a second nepotism charge, in which the executive director's wife was found to be on the payroll as finance/office manager. (She was also corporate secretary, responsible for co-signing checks and other agreements.) Other SYEP-related charges substantiated by the OIG included two no-show employees and additional fraudulent fiscal practices, to be discussed below.

An interim audit of a 1982 SYEP Project Sponsor had revealed certain payroll and personnel irregularities which the SYEP Director of Field Operations asked the OIG to look into (E/55-82). During this investigation, it was determined that eight SYEP participants were employed in violation of the contract prohibition on nepotism. Restitution of $5,013.29 was sought from the ineligible participants and their families.

Another 1982 SYEP nepotism case came about as a result of an OIG investigation of alleged kickbacks of participants' salaries to the Work Sponsor supervisor. As reported to the OIG by a community person, the supervisor supposedly demanded and received $80 from each of three participants and may have done the same with six others (E/59-82). The OIG did not find that any of the SYEP participants was involved in the alleged kickbacks, but established that daughters of the Work Sponsor's supervisor were SYEP participants at that Work Sponsor. This supervisor, who was a Community Development Agency (CDA) contractor employee, agreed to restitution of $1,085.40 for her daughters' ineligible participation at the Work Sponsor. The daughters were also barred from further participation in SYEP. (The CDA fiscal agent had to hold up the mother's salary checks for the DOE to receive restitution.)

Still another 1982 SYEP case was referred to the OIG by the Director of the DOE Independent Monitoring Unit, which asked the OIG to determine whether two SYEP participants at the Project Sponsor, which was also a Work Sponsor, with the same last name were related to two listed board members of the Project Sponsor with that last name (E/65-82). Although the board members had resigned from the contract agency just before their children started work, the OIG found that the father's income had been

omitted from the two applications. When it was included, the children became income-ineligible. The parents agreed to restitution of $1,123.93 for their fraud.

A former employee at a 1983 SYEP Work Sponsor complained to the OIG of the Housing Authority in whose facility the Work Sponsor was located that the applications of some of the SYEP participants must have been falsified. One of the specific allegations was that some of the participants were children of the Work Sponsor Supervisor (S/7-83). This allegation was substantiated but was the result of their transfer from another Work Sponsor, to which they had been assigned originally. The supervisor's children were transferred once again in order to resolve the problem. Interviews with other participants and their families, however, determined that one participant was under age, as had been alleged by the complainant, and that another was income-ineligible. Restitution of $506 and $669.61, respectively, was sought from the families. Both families denied falsifying applications, leaving the Project Sponsor under suspicion for having done so.

The abundance of nepotism cases led the OIG/DOE to request, after the 1983 SYEP, a ruling from the United States Department of Labor on this issue. The response to this request suggested that, for a person to be in violation of nepotism regulations, he/she would have to hold "administrative responsibility" for a program in which a member of his/her family is employed. Administrative responsibility includes those persons who have any responsibility for obtaining and/or approving funding for the program, as well as those who have influence over the administration of the program. Work Sponsor supervisors and most Project Sponsor staff involved with the program therefore should not allow their children to participate in SYEP unless they do so at a different Work Sponsor or under a different Project Sponsor's jurisdiction. Whether income-eligible DOE/SYEP staff should let their children apply for the Program is more problematical and must be considered on an individual basis.

In a 1984 SYEP nepotism case, a former employee of a Project Sponsor charged, in letters to the DOE General Counsel and the SYEP office, that the daughter of a Project Sponsor board member was to be hired as a staff person on the SYEP contract (S/7-84). DOE nepotism regulations specifically prohibit members of the immediate family of board members from being hired as staff of the agency. (A board of directors is considered to have "administrative responsibility" for an agency's programs.) The daughter was not permitted to be hired on a DOE/SYEP contract line.

Criminal Behavior and Employee Misconduct:

Another kind of employee problem is exemplified by two 1982 SYEP cases involving participants who were arrested for subway fare-jumping. The question was asked in these cases, which were referred to the OIG by the DOI Complaint Bureau (the usual channel for arrest cases involving City employees), as to whether the arrests made them ineligible for continued participation in SYEP (S/4 and 5-82). The SYEP policy is that such an arrest would only cause termination from the SYEP "Clean Team," which receives transportation cards to be used in connection with its work. The two participants were not members of the "Clean Team" and thus were not terminated from the SYEP.

Six 1984 SYEP employee/participant cases involved charges which were, or could have been, if proven, criminal in nature. In one case, the OIG was merely informed that a staff person at a Project Sponsor had been robbed of the proceeds of her payroll check after she left the bank (S/4-84). The matter was being handled by the police, and no investigation by the OIG was necessary.

In a second case, the mother of a participant claimed that her son had been engaged in intimate sexual conversation by a SYEP field staff person (S/5-84). An investigation by the OIG indicated that the allegation may have been correct, but the questionable interaction had been restricted to the one participant. The SYEP participants were removed from the Work Sponsor.

In the third case, a SYEP participant was accused by a Project Sponsor staff person of sexually molesting a three-year-old child from the community at the Work Sponsor (S/9-84). This incident was already in police hands, and the OIG was merely being informed of the situation. The participant was removed from the Work Sponsor.

The fourth case was based on an allegation by two SYEP participants against a Work Sponsor staff member. One participant reported fondling, the other reported sexual conversation. The participants complained to the Project Sponsor responsible for the Work Sponsor, which passed the information along to the SYEP office (S/10-84). That office informed the OIG, which in turn pursued the matter with the DA, to whom it had been referred.

In a fifth case, a Work Sponsor supervisor reported to the OIG that a participant had stolen a $250 radio and $20 in cash from staff at the Work Sponsor (S/12-84). The supervisor determined that the radio had, in turn, been stolen from the participant, and that the cash was gone. The participant was terminated and did not pick up his last SYEP check.

In the sixth case, SYEP temporary staff in one of the field areas were accused by other SYEP staff of making and distributing phony transportation cards, the use of which was intended to be restricted to SYEP "Clean Team" participants (S/11-84). In response to this case, the SYEP is now producing cards which are said to be more difficult to counterfeit.

In these kinds of matters the OIG is to be informed immediately. The OIG can advise when to call in the police and how to deal with the problem expeditiously.

An employee misconduct allegation surfaced when the father of a 1983 SYEP participant reported to SYEP staff that his son had been approached by a Work Sponsor supervisor who reportedly said that, for about $10 per work period, time cards would be submitted which showed that the participant worked the full 24-hour week whether he did or not. If the participant did not agree to the extortion, then he might not be allowed to work the extra week granted to many participants (S/9-83). An interview with the participant whose father made the allegation revealed that the money demanded was to pay for movies attended on SYEP time. However, if he did not want to attend the movies (which, incidentally, are not an acceptable Program activity), his time card could show that he had "worked" while the other participants were at the movies, simply by giving the same amount of money to the supervisor. The other participants and the Work Sponsor supervisor denied the existence of any extortion in sworn statements. Nevertheless, the Project Sponsor enlisted a different Work Sponsor supervisor for the remainder of the Program.

Fiscal Affairs

Matters involving contract agency fiscal affairs which were referred to the OIG sometimes seemed to be those involving contract programs which had been closed-out for some time.

An OIG case still active in 1983 involved a 1978 SYEP audited by a U.S. Department of Labor contract auditor in 1980. In the audit, 38 percent of the total costs incurred in the Program were questioned, for an amount of $5,767. The OIG was asked to help locate the records of the contract agency, but because the agency had been disbanded (due to lack of funding), the OIG was unable to do so. The SYEP had denied a 1979 SYEP contract to the agency because of poor performance in the 1978 Program, essentially closing out its relationship with the agency at that time (E/100-80).

Another case was based upon a complaint by a staff person in April 1982, who reported to the OIG that a Project Sponsor had not submitted adequate documentation of its telephone

expenditures for the 1980 SYEP. The investigation revealed a number of irregularities in the agency's fiscal affairs, including commingling of DOE and Youth Bureau contract funds and inclusion of various falsified financial documents, as well as problems with its 1981 SYEP telephone expenditures documentation (E/26-82b). The OIG recommended that the agency not receive a 1982 SYEP contract and that its executive director, as the only responsible party who could be located, pay the DOE $7,619.25 as restitution for the questioned costs. This was a "politically-connected" agency--the executive was also a party district leader--with a "paper" board of directors and no full-time staff other than the executive director.

In a 1981 SYEP case, a Work Sponsor borrowed equipment from a Community Planning Board which was later stolen. Since the DOE had a borrower's agreement with the Community Board, the SYEP requested reimbursement of $554 for the cost of the lost equipment. The District Manager of the Community Board, who complained about the DOE/SYEP request for reimbursement, was advised that he should have had as binding an agreement with the Work Sponsor as the DOE had with him (E/90-81).

Sometimes complainants find the tables turned on them by an investigation. The 1982 SYEP case mentioned earlier, in which the purposes clause of an agency's Articles of Incorporation was questioned in terms of whether the agency could legally be a SYEP Project Sponsor, also produced an investigation of earlier SYEP contracts in the complainant's agency (E/30-82). A review of that agency's lease agreements for SYEP space seemed to indicate that both the DOE and the Agency for Child Development (ACD) were paying full rent for the same space. While this allegation was unfounded, the case illustrates the potential for suspicions of double-billing among multiple-funded agencies offering the same or similar kinds of programs to the same or similar types of clients.

An anonymous letter sent simultaneously in late May of 1982 to the SYEP Director of Field Operations and the Mayor claimed that a SYEP Project Director in a contract agency intended to use funds remaining in the agency's 1980 and 1981 SYEP accounts for personal purposes (E/38-82). DOE's inability to close out these accounts until they were audited (by federal regulation) may have given an impression of possible misappropriation of funds, but none was found.

A 1982 SYEP case summarized earlier, which started with a complaint of nepotism, developed into a full-scale inquiry into the agency's finances as a result of the executive director's wife having been found to be the fiscal officer, corporate secretary, and co-signer of checks and contracts (E/53-82). The investigation revealed commingling of SYEP funds with Housing Authority accounts, fraudulent documentation for SYEP lease agreements, no-show SYEP staff, fraudulent SYEP equipment

purchase orders/lease agreements, and forged audit reports. An indictment of the executive director in this agency is being sought, and all City contracts with the agency have been terminated.

A staff member of a 1982 SYEP Project Sponsor complained to DOE that rent and supplies vendors were being paid before staff received their wages (E/64-82). A review of the agency's fiscal records revealed that poor cash flow caused by late DOE funding for the SYEP had created the problem. Also found in the review was the fact that the executive director was overcharging the DOE for rent. Because the landlord refused to rent the space to "poverty programs," the executive director had taken the lease out in her own name. However, the amount she budgeted in the DOE contract for the space was $355 greater for the six-month term of the SYEP than she was currently paying. Restitution of the $355 was obtained from the executive.

Another rent overcharge case resulted from DOE staff asking the OIG to look into whether the Department was being double-billed for rent by a 1982 SYEP Project Sponsor (E/2-83). While double-billing was not found to be a problem, it was determined that DOE had been overcharged $274.40 for the rent. The overcharge was handled through a 1983 SYEP contract budget modification.

These two rent overcharge cases caused the OIG to recommend that DOE Contract Managers establish the amount of rent DOE should be paying for the space by asking for appropriate documentation during contract negotiations.

Two cases initiated by DOE administrative staff in 1982 involved apparently uncooperative contract agencies not providing access to fiscal records for audits. In the first case, for the 1981 SYEP, the auditors contracted by HRA were not able to gain access to the fiscal records of two contract agencies. The OIG was asked by the DOE General Counsel to assist the auditors (S/8-82). One agency's books were obtained, but the OIG was unsuccessful in obtaining the books for the other one. The OIG recommended that DOE not consider any further applications for funding from the latter agency.

In the second case, the OIG was asked in late 1982 by DOE to help locate the books of a 1980 SYEP contract agency (S/11-82). No one who had been connected with the agency could be found, since it had apparently gone out of business. The agency's 1981 SYEP books had been audited, but the auditors had failed to review the books for 1980 although they had the opportunity.

A SYEP in-house review of the 1982 SYEP caused the Director of Field Operations to request an investigation of one of the Project Sponsors. The fiscal practices of the agency were questioned, including possible misappropriation of contract funds

(S/2-83). The investigation revealed that the major fiscal irregularity was the failure to submit taxes withheld from employees' salaries to the Internal Revenue Service. The acts of the agency's bookkeeper appeared to have been covered-up by the board of directors, one of whose members was allegedly interested in acquiring the building in which the agency was located. The agency went out of business with its records not properly secured, and its property was leased to a neighboring business owned by the board member.

OIG assistance in dealing with audit-related matters was requested again in late 1983, this time with regard to a 1981 SYEP. The DOE Director of Fiscal Affairs, Youth Division asked the OIG to assist in obtaining photocopies of checks from an uncooperative bank in order to resolve questioned costs in the Program (S/3-83). A telephone call to the bank elicited the information that it takes about two months to process such a request. The DOE was notified of this fact and of the bank's promise to expedite the matter.

In a complicated 1983 SYEP case, an anonymous constituent of a City Councilman complained that the director of a Project Sponsor agency had requested his bookkeeper to make a loan to him from the SYEP account. When the bookkeeper refused to do so, the director made the check out to himself and went on vacation, giving the appearance of the money being for his own personal use. The Councilman referred the matter to the OIG/Community Development Agency (CDA), which cooperated with the OIG/DOE in the ensuing investigation (S/10-83). The investigation revealed that the agency director had previously written or endorsed checks written on the SYEP account to himself, supposedly for staff travel, postage, and loans to a subsidiary agency, none of which is permitted by the SYEP contract. Interviews and a review of the agency's financial system indicated that the money was returned to the SYEP account when it became available from other funding sources. However, the loans were in violation of regulations prohibiting commingling of funds. The OIG recommended that the agency be excluded from future funding until the loans had been paid off and the SYEP contract officially closed out.

Some of the fiscal affairs cases represented an inappropriate use of the OIG. However, there have been no requests since early 1983 for assistance in locating contract agency financial records, because the OIG suggested that the Department (with HRA's assistance) itself secure fiscal records (and, where included in a Program, contract-purchased equipment as well) promptly upon close-out of a contract. The only fiscal affairs case opened so far for the 1983 or 1984 SYEP (reviewed above) justified an OIG investigation.

Payroll Issues

Participants in the SYEP are paid the minimum wage for a 24-hour, four-day (Monday through Thursday) work week. Paychecks are produced for the participants bi-weekly, based upon time cards submitted by Work Sponsor supervisors. Except where the Project Sponsor itself is also a Work Sponsor, these supervisors are neither contract agency employees nor SYEP employees. Participant time cards are completed by the supervisors based upon attendance sheets completed by the participants. Both the supervisors and the participants must sign the time cards, verifying that they are an accurate representation of the time worked. Project Sponsor staff are expected to monitor this process and also "sign off" on the time cards.

Salary checks are generated centrally and distributed to the participants individually at a number of Paysites throughout the City. Paysites are frequently in the same communities as the Project Sponsors and Work Sponsors where the participants submitted their applications and were respectively employed, and are usually located in school buildings.

There are four pay periods during the Program, and for three of them, participants line up at the designated Paysites every other Friday following their four-day work week. The last pay day is also on a Friday, but after the participants have completed their summer's work. To receive their checks, participants must show signed photo-ID cards and sign their names on a form which also contains their signature. All Paysites are personally checked for problems on each of the four pay days by SYEP and OIG staff, and there is usually police presence there and at the check-cashing establishments whose fees for cashing participant checks are paid by the SYEP.

Payroll cases most often are concerned with administrative problems, but occasionally fraud is found, usually on a small scale. A case from the 1981 SYEP in which the OIG/DOE inadvertently became a party was an exception, involving a substantial amount of SYEP monies stolen by City employees. This case was initiated by the Director of Finance and Administration of the Community Assistance Unit (CAU), which is the coordinating body for the City's Community Planning Boards. He reported to the OIG responsible for CAU that 66 payroll checks were generated for 11 fictitious summer employees between June 5 and September 23, 1981, for a total of more than $22,000. The OIG referred the matter to the Department of Investigation (DOI), since it appeared to involve corruption by City employees. The DOI in turn, based upon its investigation, referred it to the DA for possible prosecution. In the referral letter to the DA, the DOI implied that summer employees hired by CAU were SYEP participants, when in fact only the money used to pay them was from SYEP funds. The summer employees were selected by CAU,

deployed to Community Planning Boards for their work, and paid with checks generated centrally at CAU. Once DOE had become implicated in the case, the DOE Inspector General took the initiative with regard to obtaining insurance money covering the City employees involved in the fraud for the difference between the loss of over $22,000 and restitution of $3,800 sought from the five employees (E/34-82).

More typical of the payroll cases are the following cases, some of which resulted in procedural changes. A complaint was lodged in 1982 by the SYEP Director of Payroll, who reported that a 1980 SYEP participant had never received his final pay check and wanted to be paid. The determination was made at the SYEP to reissue the check, based upon its own records review. Although this matter was resolved administratively, such matters are frequently referred to the OIG anyway, so that the OIG (and the Department) can be assured that no fraud was involved (S/2-82).

A case concerning the 1982 SYEP occurred when the SYEP Executive Director reported to the OIG that a participant claimed to have worked for the first two weeks of the Program but did not receive a check at the end of the third week when the other participants did (S/1-83). The Work Sponsor supervisor was found to have used a different attendance sheet for her from that used for the other participants, arousing suspicion that the supervisor was falsifying time records. The participant was paid, and the OIG recommended that SYEP administration reiterate the requirement for using the same attendance sheet for all participants at a Work Sponsor.

Another case, which came to light during the reconciliation of time cards and attendance sheets for the 1982 SYEP, apparently involved an unidentified temporary SYEP employee. Because there were no attendance sheets for certain time cards, it was determined that the employee had been able to generate checks from forged time cards, "pulled" the checks, and cashed them, using ID cards which he had manufactured (S/12-82). Because this was a small-scale fraud, involving only a few checks out of the 160,000 or so generated during the summer, it would have been difficult to detect or prevent. However, ID cards, of which two are made for each participant (one given to him/her, the other kept in the participant's folder as a replacement, if needed), are now kept out-of-reach of the temporary payroll staff.

A case for the 1983 SYEP was opened when a participant lodged a complaint with a State Senator's office (which in turn was referred by his staff to the OIG) because he failed to receive his check. The investigation revealed that no time card had been submitted for him, even though he had worked; therefore, his check was not among those distributed to the Paysites (S/11-83). The error was corrected by SYEP payroll, and the check was issued. It is difficult to understand why this complainant had to go "outside of the system" to get his money, but the OIG/DOE

is responsive to such complaints and assists in resolving them.

Another case involved a violation of procedures by the Work Sponsors in the 1983 SYEP. This case was initiated by the SYEP Payroll Operations Coordinator, who reported to the OIG that participants at several Work Sponsors had not picked up their checks, although time cards had been turned in for them. SYEP staff reviewed the time cards and applications for the participants and contacted a number of them. All of them said that they had never worked in the Program. Apparently to insure that participants would receive their first checks, some Work Sponsor supervisors completed and submitted time cards on all of the participants assigned to them, failing to withdraw cards for those who did not show up for work by the end of the second week of the Program. This problem did not show up in the 1984 SYEP, indicating that the Work Sponsor supervisors were now following required procedures for handling participant time cards (S/13-83).

In a related case, one of the participants, who was telephoned to find out if he had worked, came in with his mother and claimed the check which had been made out to him, although he had not worked for it. A telephone call from SYEP payroll staff asking them to return the money was unsuccessful. The OIG was also unable to regain the money after telephone calls and a letter in which it was threatened to turn the matter over to the DOI. The OIG recommended that the son not be allowed to participate in the SYEP until the money ($56.26) was returned. Obviously, the check should not have been given without proper authorization (S/12-83).

At the end of the 1983 SYEP, the SYEP Payroll Operations Coordinator, upon reviewing attendance sheets and time cards, reported to the OIG that one of the Work Sponsor's attendance sheets was not in conformity with the time cards submitted during the summer to generate payroll checks (S/13-83). The OIG reviewed participant folders and time records for the Work Sponsor and interviewed the Work Sponsor supervisor, the program director at the Project Sponsor, and that agency's supervisor of youth programs. The time cards, which stated that the participants had not worked during times when the attendance sheets indicated that they were present, were found to be the correct documents. While attendance records had apparently been falsified, no damage was done, since the participants did not get paid. The case exemplifies poor monitoring of Work Sponsor records by the Project Sponsor responsible for that Work Sponsor.

SYEP participant checks are cut centrally and distributed to the Paysites, where the participants identify themselves, sign for the checks, and cash them at check-cashing establishments, which are reimbursed for their fees by the SYEP. Most check-cashers take Regiscope pictures of the people who cash checks

there, which can be useful in investigating forgeries.

A series of cases involving check handling problems resulted in a number of procedures recommended by the OIG and implemented in SYEP. These procedures have nearly eliminated the appearance of check handling cases in the OIG. The earliest of these cases in this study involved a review of 1980 SYEP participant checks submitted by check-cashing organizations for which stop-payment orders had been issued by the SYEP but which had been cashed by them and for which they wanted reimbursement. The OIG determined for which categories of checks the check-cashers and/or the participants were to be reimbursed, as follows:

1) If the front signature of the participant on the check is genuine and the back endorsement signature is forged, the participant is to be reimbursed if a police report is submitted by the participant to the Paysite staff and if the participant notifies the Paysite staff within 72 hours of the incident. The check-casher is not to be reimbursed.

2) If both the front and back signatures on the check are forged, the participant is to be reimbursed and the check-casher not reimbursed.

3) If both the front and back signatures are genuine, then the participant is not to be reimbursed but the check-casher may be.

One case opened in 1982 served as a repository for almost all of the lost/stolen SYEP participant check claims received during that year (S/16-82). For each claim, the OIG determined whether a stop payment had been issued on the lost/stolen check and whether the procedure in 1) above had been followed by the participant. Signature samples obtained from the participant/complainant and/or the signature on the participant's SYEP application form were compared with the signatures on the check in question, and a decision to reimburse the participant and/or check-casher was made. By the 1983 SYEP, the procedure for obtaining signature samples had been formalized.

A specific participant check replacement request case for the 1982 SYEP exemplifies the procedures followed by the OIG. The SYEP Director of Payroll reported that a participant had lost her check and that a stop payment had been issued, but that, when the check returned, the endorsement signature was similar to that of the participant. As a result, the check-casher wanted reimbursement (S/10-82). An interview with the participant established that she had endorsed the check before going to the check-casher, then lost her check and her ID card. In accordance with the above procedure, the participant was not reimbursed and

the check-casher was. As a result of this case, the OIG recommended that the SYEP require that participants endorse their checks at the time of cashing them and that check-cashers indicate on the back of the check the type of ID used as well as their own initials.

Another 1982 SYEP case recorded the fact that OIG staff monitored the SYEP Paysites on each of the participant pay days during the summer of 1982 (S/6-82). This practice continues as a routine procedure, and cases are no longer opened to record the existence of Paysite monitoring by the OIG.

Several cases for the 1982 SYEP were based upon poor practices by Paysite personnel and resulted in further procedural changes for check fraud complaint referrals. In these cases, participants mistakenly received checks belonging to other participants, which they signed with their own names and cashed. No fraud was intended, but three of the five participants on which cases were opened received more money than they were entitled to. In one case, the participant's mother was unable to make restitution for the $75.67 overpayment, and the money had to be recovered from the bank (which was possible because the endorsement did not match the name on the check). In this case, the check-casher even took Regiscope pictures which showed that the person cashing the check was not the same as the person pictured on the ID card. In the second case, the participant's mother agreed to pay back $75.67. In the third case, the participant cashed the wrong checks and then was called into the SYEP office to pick up her own checks, which had been returned from the Paysite. She also cashed these checks. As a result of the OIG investigation, she agreed to return the $226.93 double-payment amount (S/15-82, S/18-82, and S/17-82, respectively).

Two similar 1983 SYEP cases were opened in the OIG when persons who had applied for the Program and were accepted but who did not report to work received W-2 forms indicating that they had received income of $623.10 and $562.80, respectively (S/1-84 and S/2-84).

In one of the cases, the person who worked in the place of the accepted applicant substituted his own picture on the photo-ID card and forged the accepted applicant's name on pay checks. He was able to be identified through the Regiscope pictures taken of him at the check-cashing establishment. The OIG was unable to obtain any information about the circumstances of fraud from the impersonator, who was uncooperative about paying restitution for the $623.10 he received. As a result, the case was referred to the Department of Investigation (DOI).

In the second case, identification of the impersonator was impossible because no Regiscopes were taken of the check casher and because the Project Sponsor which had accepted the application and monitored the Work Sponsor was out of business.

In both of these cases, it is difficult to understand how the impersonators could have carried out the fraud without the complicity of Project Sponsor staff and/or the Work Sponsor supervisor.

The only 1984 SYEP payroll case was opened as a result of routine OIG Paysite monitoring. Participants who were working for one Work Sponsor did not receive checks (S/6-84). In the investigation, it was found that the Work Sponsor was also the Project Sponsor, and that the DOE/SYEP contract for the Project Sponsor had been awarded late, possibly causing delays in getting the Program properly underway. The checks showed up on the next pay day.

Discussion

The Summer Youth Employment Program (SYEP) has three (3) major vulnerabilities: Income eligibility determination; nepotism; and the payments system. The nature of these vulnerabilities is quite different, as are the controls which have been or might be introduced to reduce them.

Income eligibility determination:

Applications fraud based upon falsified income and family size reporting may exist for as many as one out of ten of the SYEP participants, which would mean a loss of up to $4 Million per year. These figures are based upon the applications review for the 2,500 City-employees whose children worked in the 1983 SYEP and the interviews conducted with about 700 of them which the review indicated were presumptively ineligible. Obviously, none of these families were on public assistance or with all family members unemployed, which the families of about half of the other 38,000 participants were. However the extent of fraud among working families may be similar.

Even without knowledge of the maximum family income permitted for an applicant to be eligible for the SYEP, applicants and their families can reach the conclusion that the less income reported the greater their chances of being certified as income-eligible and selected for the Program. Altering W-2's or pay stubs for working family members is one way to lower the income level. (The system usually catches these falsifications.) But simply omitting these documents for some family members or for some jobs for multiple wage-earners is easier (and less likely to be caught by the system). Extreme inconsistencies, such as reporting an income of only $4,000 for a family of four, are picked up by the SYEP applications review staff and referred to the OIG/DOE for investigation, but an "adequate" income level for the size of family reported is not.

Sometimes income earning family members are left off of the application form, or non-income (or low-income) earning family members who do not live in the household are added; child support payments and other non-wage income are conveniently forgotten; fictitious relatives or relatives who do not live in the household full-time are added to the application, particularly those relatives with little or no income.

Project Sponsors can do little other than ask applicants if the form is correctly filled out and refuse obviously altered forms. The fact that the participant and his/her parent or guardian sign a "certification statement" on the application makes it easier to obtain restitution if the participant is investigated by the OIG and found to have committed fraud, but it does not prevent fraud.

Controls introduced recently should help to prevent some ineligible applicants from participating in the SYEP. Project Sponsors are now "trained" in the applications review procedures relevant to their responsibilities and warned that they will be held financially liable for any fraud attributed to their negligence. The SYEP has superimposed the Fraud Abuse Control Team (FACT) upon its regular applications review process for the 1985 SYEP.

Project Sponsors, who are using more paid staff to handle applications, are now likely to only send along to the SYEP correctly completed applications and proper supporting documents. The SYEP and its FACT will expose any obvious fraud, declare the applicant ineligible, and refer the matter to the OIG. (The FACT is also referring "questionable" applications to the OIG while letting the participant work; any of these found to be ineligible by the OIG have agreed in writing to return their pay.) Word will get out not to "mess around with" the SYEP, and only the clever manipulators will be left to be dealt with, if they can be.

The OIG/DOE has pursued City-employee SYEP applications fraud by conducting about 700 interviews within the past year. As a result, some union representatives apparently are discouraging City employees from letting their children apply for the SYEP, because of the risk of being found ineligible later and having to pay restitution. However, most (four out of five) City-employee participant families were eligible for the 1983 SYEP. It would be better to encourage the families to complete applications correctly and let SYEP determine their eligibility. (All City-employee SYEP applications are reviewed by FACT, a control which should assure proper eligibility or ineligibility determination.)

There is some evidence that the controls instituted for the 1985 SYEP are working. The deadline for filing applications had

to be extended for several weeks in order to secure enough eligible applicants to fill the available job slots. The increased proportion of younger participants, who are also new to the Program, may have resulted from the extensive outreach required to fill the allotted Program slots. For whatever reason, older youth were less likely to participate in the SYEP in 1985 than previously.

For wage earners, the time period for income eligibility continues to be a problem. Documenting income for the past six months requires current pay stubs and W-2's from the previous year. The W-2 income could be for any time during the year, not necessarily for the last part of it. These problems, along with the possibilities for fraud in income reporting, argue for changes in Federal requirements for SYEP income eligibility.

Nepotism:

Some help was given during the time period of this study by the U.S. Department of Labor in defining nepotism, but a precise operational definition of "administrative responsibility" as the key element in determining whether nepotism exists or not has not been provided by that Federal agency. Participants certified as eligible by the SYEP can become "ineligible" if they are placed in a Work Sponsor either where the supervisor is a relative or where the staff person at the Project Sponsor who is a relative has "administrative responsibility" for that Work Sponsor in which the participants were placed.

Project Sponsor board members and staff are personally responsible for restitution for nepotism if their children are participants at a Work Sponsor under the supervision of that Project Sponsor. Boards, all staff of Project Sponsors and Work Sponsor supervisors should not allow their children to apply to that Project Sponsor nor work for them in any capacity. All SYEP staff and many other DOE staff probably should not let their children apply for the Program, given the lack of clarity about "administrative responsibility."

The Payments System:

The payments system for the SYEP is remarkable. Generating over 40,000 checks four times during the summer with as few instances of fraud/abuse as appeared in this study is sufficient evidence of the proper controls being in place. However, there were a number of administrative errors and procedures violations in the three years of SYEPs studied which gave sufficient suspicion of program abuse to result in OIG/DOE investigations.

Fraud and criminal problems occurred in the check distribution aspect of the system. Forged checks, lost and/or

stolen checks, and Paysite/check-casher security were the principal matters dealt with by the OIG. Procedures were instituted by the OIG to determine when to reimburse check-cashers and/or participants for lost/stolen checks for which stop-payment orders had been issued by the SYEP. Also, a procedure for obtaining signature samples in alleged forgery cases was instituted.

Various OIG recommendations strengthened the system for distributing checks at Paysites. Security, especially with regard to preventing the participants from being "ripped-off," has been improved. There is police presence at most Paysites (particularly at times of peak activity) and at the check-cashers, whose fees are paid by the SYEP. Incidents still occur because not all participants cash their checks at "secure" places and because of other police priorities, which may require a reduction of their presence at the Paysites and check-cashers.

No system can be totally effective, but the monitoring done by the OIG of every Paysite on each of the four paydays does identify problems, which are dealt with on an individual basis. Unlike the applications process, however, where sophisticated fraud is likely to continue to resist control, the payments system simply requires diligence in maintaining the controls designed to prevent it.

THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Overview

Background and History:

The Department of Housing Preservation and Development (HPD) funds about 75 community groups to provide a wide variety of services, from information and referral on housing to management and rehabilitation of City-owned residential buildings. Many of the groups are descendants of the Project Area Committees (PACs) required in the 1960's by the United States Department of Housing and Urban Development (HUD) for all federally-assisted urban renewal areas. The PACs, later known as Community Advisory Committees (CACs) consisted of representatives of community organizations, churches, and businesses.

When the Community Development Block Grants came into existence in 1974 the CACs were no longer required. In New York City their functions were absorbed by the 59 Community Boards established in the City's 1975 charter revision.

By the mid-70's, many of the CACs had evolved into private neighborhood housing and development agencies that continued to provide assistance to their communities even after their official planning functions were absorbed by the Community Boards. The groups were supported by a variety of private and public sources, including HPD, the New York State Division of Housing and Community Renewal, foundations and churches. Some continued to receive direct grants from the federal government.

As independent organizations often with several sources of funding, the housing groups have their own orientations and ideologies. Some are pro-tenant; some are pro-developer. Pro-tenant groups focus their efforts on preserving low rent housing for the poor and sometimes appear to disregard the high cost of making such housing safe by bringing it into compliance with the housing code. Pro-development groups tend to be most interested in preserving and upgrading the housing stock and are sometimes accused of being callous toward the needs of tenants or even encouraging displacement of low-income tenants.

Funding of Community Groups by HPD with the Community Development Block Grant:

Community groups are funded by HPD with Federal funds through Community Development Block Grants (CDBGs). For fiscal year 1984 (July, 1983 through June, 1984) New York City received a total of $313 million in CDBG funds, of which $223 million went to HPD for its housing programs. The CDBGs are administered by the Federal Department of Housing and Urban Development (HUD), which grants funds directly to the City · without State intervention.

HPD maintains two programs providing direct funding to community housing groups using CDBG funds. Most of the groups delivering "soft" services - information, tenant organizing, neighborhood surveys - are funded through 69 Community Consultant Contracts (CCC), which provide funds at a level of about $25,000 to $100,000 each, totaling about $3.4 million in 1984. Building management and rehabilitation are performed by 22 groups in the Community Management Program (CMP), funded at about one million dollars a year for each contract. Total funding for the CMP in FY '84 was $23 million. Ten groups participate in both the CCC and CMP programs.

The CCCs serve as a conduit for information and assistance for citizens in obtaining government sponsored loans through HPD. They assist HPD in the enforcement of the City's Housing Maintenance Code and other functions. Because the focus of the present study was on contract agencies delivering soft services, the original plan was to only look at the CCC. However, both the CCC and the CMP have the ability to assemble similar constellations of programs. Thus, while the study's focus is more closely upon the CCC, the CMP is also included in the analysis.

The analysis is based on interviews with officials, managers and planners in HPD's Office of Development, which is responsible for monitoring CCC contracts, and on a concurrent study of the Community Management Program carried out within the Department of Investigation (DOI). Also reviewed were five investigations carried out from July, 1982 until December, 1984, by the Office of Inspector General at HPD.

The Place of Community Groups in HPD's Service Delivery System:

HPD has a complex organizational structure. Vertically, there are three tiers of middle managers between HPD's Commissioner and the operational bureaus that deliver services and monitor contracts. Horizontally, HPD is divided into three operational "offices" and one administrative office. Each operational office is comprised of three divisions. Within each

division are a number of bureaus, which in turn may be divided into additional operational units or field stations. The administrative office includes the Fiscal Affairs Unit, which does fiscal monitoring for community groups.

The three branches of HPD's structure have programs that depend upon community groups in some way. A summary of these follows:

The Office of Development (OD) plans and coordinates housing programs for specific neighborhood areas and for the City as a whole. The Community Consultant Contract program is under the Assistant Commissioner for Community Development and Neighborhood Preservation in this Office. Another division in this office is responsible for most of the HPD loan programs for owners and developers. CCC groups disseminate information and assistance for obtaining these loans.

The Office of Property Management (OPM) manages the stock of residential buildings owned by the City, mostly acquired through abandonment by owners and subsequent tax foreclosure. Community groups are sometimes asked to assist in selecting tenants for a formerly vacant, newly renovated City-owned building. OPM's Division of Alternative Management Programs (DAMP), runs several programs that serve as alternatives to direct City management, including the Community Management Program, in which community groups manage and rehabilitate City-owned buildings. Another DAMP program that involves community groups is the Tenant Interim Lease (TIL) program through which tenants themselves lease and ultimately purchase their buildings. A CCC group might be asked to organize tenants to prepare them to go into either the CMP or TIL programs. The same group might then manage and rehabilitate the building under CMP. Tenants whose buildings have been in the CMP usually purchase their buildings just as those in the TIL program do, but if the tenants chose not to purchase, the CMP group may acquire title to the property.

The Office of Rent and Housing Maintenance deals mostly with privately-owned housing. Housing code enforcement and litigation against landlords are the responsibility of this office. CCC groups might be asked to assist tenants in bringing litigation against owners, or to work with owners to eliminate housing code violations. This Office also includes several units involved in the 7A administrator program. Article 7A of the New York State Housing Code permits the courts to appoint an administrator to manage privately owned buildings whose owners have ceased providing services. Community groups are very active in this program, assisting tenants to go through the steps necessary to get a 7A appointed and in providing technical assistance to the administrators. Frequently, a member of the group is appointed administrator, in which case the group often treats building

management as a group responsibility.

The Community Consultant Contractor Program

Organizational Structure:

The CCC program is operated out of two bureaus under the Division of Community Development and Neighborhood Preservation, as shown in the organization chart following. Forty-six contractors are under the Planning Bureau, while 23 are monitored by the Neighborhood Preservation Program (NPP). For both bureaus monitoring CCCs is only a small part of a much larger agenda.

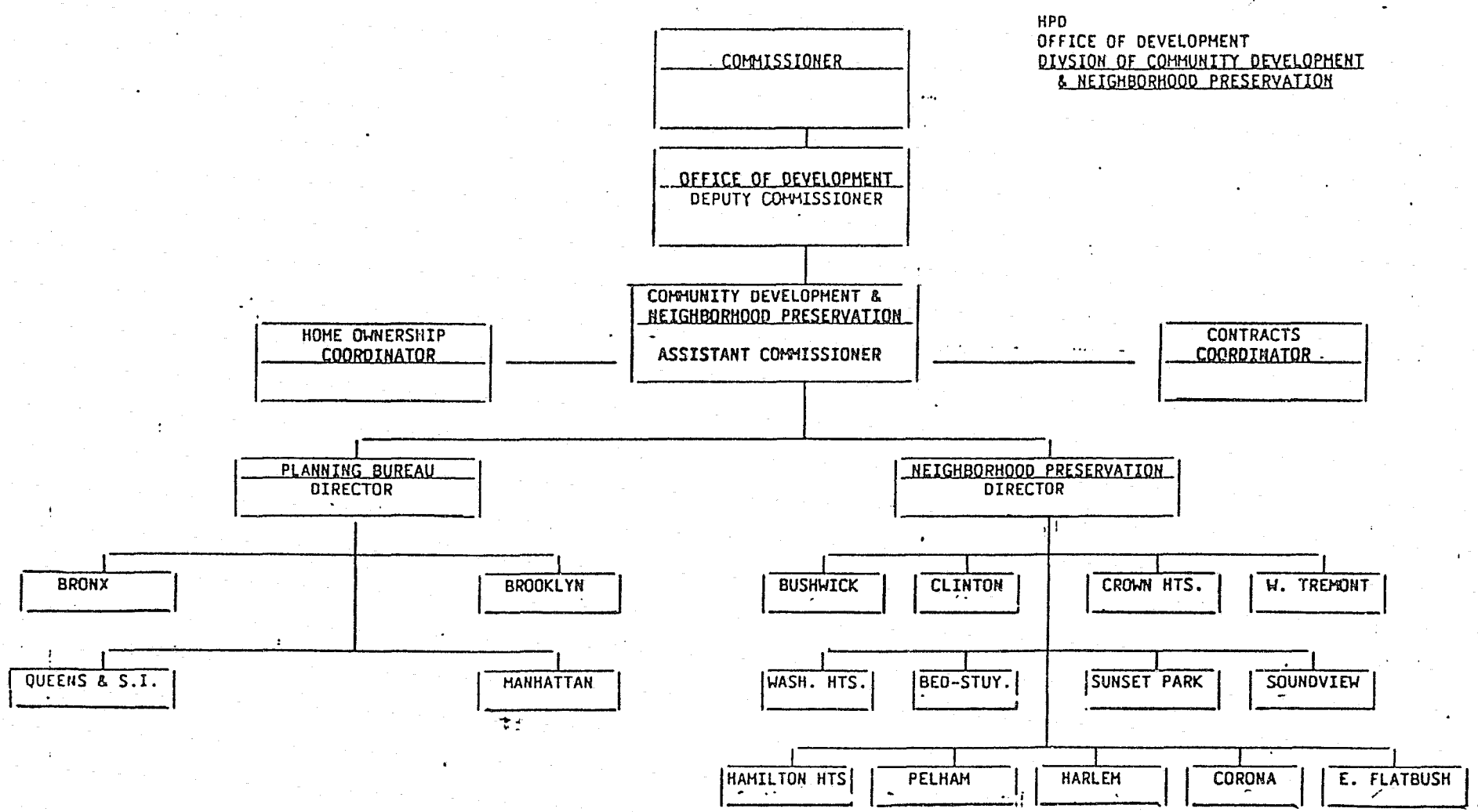
- The Neighborhood Preservation Program operates out of 13 field offices throughout the City, each staffed by a director and 3 to 12 housing specialists. The mission of the program is to prevent the deterioration and abandonment of housing in transitional neighborhoods by coordinating and concentrating the City's housing programs while promoting private development. A large part of the work of the NPP offices is to process applications from landlords for HPD's rehabilitation loan programs.

- The Planning Bureau coordinates the City's housing and neighborhood development programs and services outside the NPP areas. The Bureau is divided into four borough offices that are all located in HPD's central office. Each borough office is staffed by a Borough Director and three to five Area Planners, whose assignments correspond with Community Board areas. The planners act as contract managers for one to four CCCs each in addition to their other duties.

Sixty-two of the 69 CCCs funded in 1984 operate in target areas either in the Community Board areas or the NPP areas. Seven CCCs operate City-wide.

A Contracts Coordinator who reports directly to the Assistant Commissioner is the only staff member actively involved with contractors in both the NPP and the Planning Bureau. He keeps copies of all contracts, coordinates application procedures and contract preparation, and receives copies of all program and fiscal reports. He is a "trouble shooter" but does not have supervisory responsibility for or authority over the staff.

Responsibility for the program rests with the Assistant



From the HPD Handbook of Programs, September, 1984

Commissioner for Community Development and Neighborhood Preservation. However, the CCC program is only a small part of his responsibilities.

Objectives:

The goal of the Community Development Block Grant is to benefit low and moderate income families and prevent slums and blight. HUD requires that the City publish a plan each year specifying local objectives for each CDBG-funded program and indicate the relationship of the local objectives to the Federal objectives and criteria. HUD has developed a set of criteria for eligible projects and areas that the Department of City Planning is responsible for interpreting for the City agencies that receive and distribute CDBG funds. Eligible areas are defined using 1980 census data and a complex formula involving median family income and percent of persons on public assistance and SSI.

HPD receives about $18 million in CDBG funds for its internal administration, which it justifies by stating that administration benefits low and moderate income families "in the same proportion as funds used for program implementation," according to the 1986 Community Development plan. HUD objects to extending this justification to the CCCs, and may require that all programs currently operating outside of CD-eligible areas establish the eligibility of recipients on an individual basis. HPD officials argue that the additional paperwork required to establish individual income eligibility for recipients of CCC services would place an excessive burden on the groups.

After the City's FY 1986 CDBG plan was published, HUD required HPD to amplify the brief statement of the CCC program objectives contained therein by indicating the criteria HPD would use to judge the proposals submitted. HPD submitted four criteria:

1. The applicant's past performance and record of measurable accomplishments;

2. Responsiveness to needs in the neighborhood area (or the City as a whole if the application if for a City-wide contract);

3. Relationship to and support of other HPD programs; and,

4. Cost-benefits.

Currently, the evaluation of the second criterion is done informally, relying on the judgment of Borough and NPP Directors regarding the needs of their own areas. The directors make use of annual statements of neighborhood needs prepared by the housing committees of the Community Boards and other surveys prepared by HPD and the Department of City Planning.

The Application and Contracting Process:

The last time new proposals were solicited for the CCC program was in January, 1983, for the 1984 Fiscal Year. Since then, contracts have been renewed twice without soliciting new proposals, partly because the Contracts Coordinator position was vacant for ten months during that time. Since funds were decreasing and there was no pressing reason to recruit new contractors, it was decided not to open the field to new applicants for the 1985 and 1986 Fiscal Years. However, applications will again be solicited for the 1987 Year. Then, as in 1983, the notice of the RFP will be placed in newspapers throughout the city for a ten day period in January of 1986.

The sequential procedure for reviewing applications for FY '84 was as follows:

1. They were evaluated by the Directors of the Planning Bureau's borough offices and the NPP offices, depending on the location of programs.

2. The top-rated applications within each borough were reviewed in a marathon meeting attended by the Assistant Commissioner of CD and NP, the Director of the Planning Bureau and support staff as well as the Commissioner of HPD.

3. For those applicants approved for funding, the Contracts Coordinator worked with the group to define the Scope of Services each is expected to provide.

Encouraged by HUD, HPD has worked for the last several years to develop a highly specific, quantifiable Scope of Services which consists of 84 standard items, many with subcategories, covering 20 pages. The Scope is tailored to the objectives of individual contracts by checking applicable items. The tasks are grouped under a number of headings, including:

- Surveys and planning;

- o Tenant organizing and counseling;
- o Landlord/tenant relations;
- o Owner/homeowner counseling, including publicizing loan programs;
- o Private investment sector involvement.

Each task is accompanied by a timetable, indicating when the task will be performed, and a statement of the "measurable accomplishment" that will indicate the task has been accomplished.

Most of the measurable accomplishments are quantified in terms of the number of tenants, owners, buildings or blocks to be served, depending on the task. A number of tasks involve the group's commitment to respond to requests for help from various units of HPD. For example, HPD's Bureau of Residential Services may request a list of City-owned buildings in the project area which should be vacated. For such tasks, the measurable accomplishment is stated, "properly respond to 95% of requests."

The twenty pages of tasks outline a highly detailed program of housing assistance for implementation by neighborhood groups. A group's individual programs are tailored by checking the tasks that the group will be contracted to perform. According to the Contracts Coordinator, groups normally go through stages as they address the problems of their neighborhoods over several contract years. During the first year they concentrate on surveys and disseminating information; later they become involved in organizing tenants and helping them plan strategies to solve their problems.

Program Reporting and Monitoring Requirements:

CCC programs are required to submit quarterly program reports and bi-monthly "Red Flag" reports. The format of the quarterly report parallels the contract Scope of Services almost exactly, requiring the agency to fill in numbers for each "measurable accomplishment" to indicate how much was accomplished during the quarter. Filling out the report usually takes a staff member of the CCC program about two days. It requires translating accomplishments from the terms in which the program experiences them - usually buildings or blocks -- into numbers of specific activities.

"Red Flag" reports submitted every two months are intended, as their name implies, to alert monitors to changes that are

taking place on a more frequent basis than the quarterly reports. Staff changes, budget modifications and special problems and accomplishments are the subject of these reports.

There are few established procedures and no formal training for the CCC Project Managers. Project managing is only a small part of the duties of staff who are assigned to monitor the CCCs, although recently several seminars were held for them on reviewing fiscal reports.

The manager's duties are to review quarterly, Red Flag and fiscal reports as they come in. Site visits are to be made four times a year, with narrative reports required. There are no guidelines for the visits, and the narrative report form is only a blank sheet with a heading and date.

HPD Management of the Community Consultant Contractors

Styles of Contract Management:

For this study the managers responsible for a total of 17 CCCs were interviewed usually with their supervisors present. Fourteen contractors were selected because the groups also held contracts with the CDA, the DOE or both; three were selected in order to even out the geographic distribution. Six contracts were managed within the NPP office; the remainder were managed by Area Planners in the Borough Planning Offices.

Contract managers varied considerably in their degree of involvement with contractors and their awareness of activities carried on by the CCCs. Some managers were in constant contact with the groups, visited all buildings in which the CCCs were active and invented new forms and procedures to increase their control over the CCCs activities. At the opposite extreme, some managers had visited their assigned groups only once or twice, had rarely or never visited any of the CCC's buildings and did not require any verification of statements made in monthly reports. Some managers see the groups as tools for carrying out priority programs; others appear to consider contract management a minor clerical chore added to their other duties.

Frequency of Visits to CCCs:

The table below indicates the frequency of site visits to CCC programs reported by managers. Managers in NPP areas were more likely to be in frequent contact with CCCs than their counterparts in the Planning Offices. An obvious reason for this is that the NPP offices are located in the same communities as

the contractors. However, another important reason is that these areas are more likely to be eligible for HPD's rehabilitation loan programs than non-NPP areas. Since the contractors are often responsible for initiating a rehabilitation project by informing owners and developers about the loan programs and the NPP offices are responsible for packaging the loans, frequent interaction between the two is required.

	Frequency of Site Visits to CCCs		
	More often than quarterly	Quarterly	Less than quarterly
Managers in NPP offices	6	--	--
Managers in Planning Offices	2	5	4

Two managers in the Planning Offices were in frequent contact with CCCs. Both CCCs are in areas eligible for loans. Both managers said they visited the groups at least once a month and also visited buildings in which the groups were active. However, availability of loans in areas where CCCs are located is not the only variable related to the managers' involvement, because several other groups managed by planners are also in eligible areas, yet the planner-managers seldom visit them.

Usefulness of the Scope of Services for Contract Management:

Contract managers, Borough Planning Directors, and Neighborhood Preservation Directors were asked if they were satisfied with the Scope of Services and if they were or not, what changes they would like to see made in it. About half of those interviewed were fairly satisfied with the Scope of Services format. However, many said that the Scope was not well suited to the work the contractors actually do.

Most community housing groups conceive of their objectives in terms of the buildings that they have targeted for improvement. Improvements on the building might involve twenty of the tasks in the Scope of Services, including tenant organizing, arson prevention, assisting the owner to obtain loans or the tenants to obtain legal assistance to compel the owner to make improvements.

Because most contract mangers also conceptualize a group's achievements in terms of work accomplished in specific buildings, most require that groups attach at least a list of the buildings in which they intend to operate.

Not all groups target specific buildings. Groups in areas that are not eligible for any of the major rehabilitation loan programs may concentrate on general information, referral and counseling. For such groups the Scope of Services may be more appropriate.

The NPP director and staff in an area consisting of single family homes and small buildings have found that the Scope of Services as stated is not useful in providing the kinds of goals they wish to set for groups to accomplish in their area. As a consequence, they set more specific goals for the groups, inform and motivate the groups to work for these goals in meetings (not only with HPD funded groups, but all groups in the area) and then monitor the groups' accomplishments with recording sheets of their own devising. An example was a campaign to get information and help to homeowners whose homes were about to be taken over by the City. Goals for contacting homeowners were set for all groups in the area and statistics carefully kept on contracts and on how many homes were "saved." (The Community Consultant Contractor saved 50 homes.)

HPD's Scope of Services for its Community Consultant Contractors is a significant achievement in that it provides a specific definition of almost any task that could be assigned to such a group. Many if not most government sponsored programs have been faulted because they have not been able to define expectations as specifically as this. However, highly specific and measurable tasks are not enough in themselves to provide a useful tool for managing contracts.

The highly specific, quantified tasks listed in the Scope of Services in the CCC contract do not fit the objectives of the program as understood by HPD field staff and the groups themselves. These objectives, in turn, have been worked out informally to fill the gap left by the absence of official program objectives. As a consequence, the Scope is generally ineffective as a tool to secure a group's commitment to a course of action and to monitor their progress.

Verification of Accomplishments Reported by CCCs:

Several of the contract managers who were most involved with the CCCs expressed impatience with the standard quarterly program report form, which parallels the Scope of Services. Most of these managers require a narrative report of activities in each of the buildings in which the group is active. One NPP director felt that the quarterly and bi-monthly reports do not provide enough advance warning of the contractors' intended activities to make sure that they are consistent with HPD's and the NPP's objectives. This director requires an "intake report" on each

building a group proposes to become involved with. The NPP office can then check their files and HPD's computerized data base to determine whether HPD has had previous involvement with the building, outstanding litigation, etc.

Contract managers were asked how they know whether accomplishments reported by CCCs in quarterly reports are truthful. Those managers who had least contact with CCCs were also most trusting about statements made in reports. These managers usually said that the group was well established, with an excellent reputation and that "we trust them." The implication seemed to be that to ask for evidence of accomplishments would insult the contractor.

Some of the managers who were in frequent contact with CCCs stated that their ability to verify the groups' accomplishments came through their day to day involvement in the work of the contractor, including inspecting buildings and preparing paperwork for loans. To these managers, additional documentation appeared superfluous.

Only two contract managers used systematic methods of documenting contractors' accomplishments that were independent of their participation in the contractors' work. One of these managers required that contractors submit a list of addresses referenced to each item on the quarterly report, and also required that the CCC keep a file folder on each address. After receiving the quarterly report, the manager visits the contractor and samples folders from the files. This manager also makes frequent visits to the buildings.

Another manager is assigned to a CCC that does primarily walk-in counseling with elderly tenants. The group keeps a separate log for each goal in their scope of services, including descriptions of the purpose and outcome of each visit.

Potential for Double-billing by CCCs:

Although most of the CCCs whose contract managers we talked to held other contracts with City agencies, the other contracts were sufficiently different that it seemed unlikely that double billing of services could have occurred. Most of the other programs were funded by the DOE or the CDA and included employment, youth recreation, transportation or other programs that were unrelated to housing. However, three of the CCCs also received funds from the CDA for housing programs. Two of the HPD managers for these programs said that they made sure that the two contracts were paying different staff who were involved in the different activities. The third manager was only vaguely aware of the CDA housing activity carried on by the CCC group.

OIG Investigations with Implications for Contract Management

Community housing programs in New York City have not been notorious for fraud or scandal, and very few cases of any kind of wrongdoing have come to the attention of the IGs or the DOI regarding these programs. However, two of the five cases/inquiries active during the time period for this study had implications for HPD contract management.

An investigation of a Brooklyn CCC was based on allegations that the group had ignored requests for help from tenants who complained they had been harassed by landlords. The contract manager said that he was familiar with the issues that had been raised, but did not see that they had any bearing on his responsibilities as a manager. He pointed out that the types of information presented in the CCC's quarterly reports would give no indication of whether a group had failed to assist tenants in resisting harassment. Such matters, he felt, were more appropriately handled by the OIG or by HPD's Evaluation and Compliance Unit.

This contract manager reported visiting the CCC in question only once or twice a year, and required no documentation with quarterly reports. Managers who visit buildings in which CCCs are active and require advance notice of the CCCs intention to work in a building would probably become aware of conflicts that arise between and among the groups, tenants, owners and developers.

Another OIG investigation touched on problems of conflict between CCCs. A City Council member forwarded a letter to the OIG/HPD in which one group complained that a second group had "taken over" a building that the first group had organized. After the group organized the buildings, they were placed under a court-appointed 7A administrator who was also a member of the group. The 7A administrator was working with the tenants to take over management of their building under HPD's Tenant Interim Lease program when organizers from the second group appeared in the building and announced that they were now managing the building and would soon own it.

The OIG did a limited inquiry to determine whether the second group had used CCC funds to purchase the building, and learned from the group's contract manager that the group had received funds from the New York State Department of Housing and Community Renewal for a down payment on the building. It seems likely, however, that CCC staff were involved in activities leading to the acquisition of the building, although the OIG did not investigate this issue.

Both CCCs were monitored by the same borough planning office. If the manager had required advance notice of buildings in which the groups planned to be involved, this "turf war" between two groups could have been avoided.

Additional Vulnerabilities in HPD Management of Community Group Contracts

HPD staff and officials tend to downplay the incentive for abuse and corruption in the CCC program due to the small cost of the program ($3.4 million in FY 84). However, the incentive for corruption should not to be measured solely, or primarily, in terms of the program's budget, but rather in terms of the control of, or influence over, the distribution of vital resources in the community that Community Consultant Contractors many wield. Frequently, control of these resources is gained not through the activities themselves but through other programs that the group may gain access to as a result of the base of operations provided by the CCC funding. However, some of the activities provided for in the CCC Scope of Services themselves lead directly to control or influence over important resources.

The CCCs and the CMP contractors currently in HPD's portfolio have been there for several years. The Request for Proposals process results in no new contractors, partly because of "no-growth" in funding but possibly because of the fact that the people who monitor/manage the contracts also evaluate the proposals. The criteria for evaluating the proposals are non-specific and though a rating scale is used, apparently rather subjective. (The evaluations are not available for public inspection nor were they made available to the researchers in this study.) This failure to sufficiently specify the criteria used in evaluating applicatiors leaves open the possibility that judgments can be manipulated, and that funding practices will be subject to challenge by regulatory bodies and public interest groups.

There is an inherent paradox in evaluating applications from community groups in that those staff members most familiar with a contractor's performance are best able to judge past effectiveness, but they also may be biased by having formed personal relations with the contractors. Ideally, applications should be judged by several persons who have no association with the contractor, taking into account the evaluation provided by the previous year's contract manager. Objective summary measures of performance help reduce the need for the personal evaluation by the contract manager.

Within the HPD administration, few coordination and control mechanisms extend beyond the boundaries of individual HPD programs and functions, but these do not permit a comprehensive oversight of the community group's functions.

HPD administration has an overall contracts coordinating person who works directly under the Deputy Commissioner of Operations. She reviews and keeps records on all service contracts HPD enters into. She performs a valuable control function, assuring that all conditions required for the contract have been met including:

- o IG background check on the organization and principals;
- o Budget approval by HPD's fiscal division;
- o Approval of Scope of Services by the relevant administrative department; and,
- o If the contract is a renewal, evaluation of past performance and justification of renewal.

The overall contracts coordinator's office is the only source for information on all HPD contracts held by a contractor. However, the office is not intended to provide an oversight function for all activities by HPD contractors. The office makes no judgments about the quality of performance by contractors, but only makes sure the proper evaluations for individual contracts have been done by other parties. More importantly, this office has no responsibility for the many activities that do not involve contracts with HPD, such as a group's involvement in 7A administrator actions.

HPD's Fiscal Affairs Unit is also in a position to perform a limited coordinating function. The Unit reviews and compares budgets for CCCs and CMPs before contracts are signed. If any staff members are working part time on each contract, the office checks time records carefully to assure that the intended allocation of work is being made. However, there is no procedure for checking names of staff on the contracts to assure that they are not charging full time to both contracts. (As a result of the interview the Fiscal Unit director agreed that procedures should be developed for solving this problem.)

Another coordination mechanism is a review by all division heads before a contract is signed. According to HPD officials, this provides the program coordination necessary among the CCC and CMP programs as well as the branches involved with the 7A administrators and loan programs. However, managers for the CCCs

and CMPs were usually unfamiliar with the operations of the other program and were not in contact with one another for purposes of program coordination.

Tenant organizing under the Community Consultant Contract can lead to control of buildings under other programs. This control may mean that the community group is able to buy the building for a relatively small cost, often publicly subsidized. City programs permitting the purchase of buildings by community groups have safeguards requiring that the group manage the building on a non-profit basis for at least 15 years before resale; however, some State and Federal programs may not be sufficiently safeguarded to prevent the possibility of speculation by housing groups, according to a HPD planner.

After the group has organized tenants in the building, there are several avenues through which the group may gain various kinds of control over the building. Tenants may bring a petition to have a member of the group appointed a 7A administrator. A recent DOI study documented the corruption opportunities in the 7A program, including misappropriation of rents and kickbacks from contractors. If the building is owned by the City it may be admitted to the Community Management Program. This program affords opportunities for misappropriation of rents and kickbacks.

In impoverished neighborhoods in New York City, where the housing vacancy rate is less than two percent, the control over the rental of apartments is a source of appreciable power. The OIG/HPD has investigated several Community Management Programs for renting apartments in buildings managed by them to members of their groups or friends.

In eligible areas, many community groups are very active in providing owners and developers with information about HPD loan programs. The loans - PLP, 8A, and formerly HIP and Section 8 - are processed by HPD and financed with a mix of Federal and private funds. The groups are not officially involved in decision-making on loans. However, they assist developers or owners with paperwork and accompany them to the appropriate HPD office.

The Importance of OIG Background Investigations in HPD and Some Problems With Them

Background investigations of HPD programs are initiated by a request from an HPD program regarding prospective contractors, recipients of loans, and sponsors of other housing related projects. Requests for background checks on community groups are

requested when the groups apply for Community Consultant and Community Management Program contracts. Since these groups may sponsor construction or rehabilitation projects or be the recipients of loans and grants, applications for these programs will also trigger a request for a background check. These are also done whenever contracts are renewed.

At the time of application, HPD program administrators ask applicants to fill out a "Contractor/Vendor Application and Disclosure Statement." These are then forwarded to the IG with the request for the background check. The disclosure form requests information on all affiliates and principles of the firm or agency, and includes questions on previous business experience, financial background, any previous disbarments and criminal records.

Tasks involved in the background check vary depending on the type of program involved. For the CCC and CMP programs, the background unit:

1. Does a search of its own files using the names of all principles, the prospective contracting agency itself and all affiliates.

2. Writes the DOI to determine whether previous investigations have disclosed adverse information.

3. Writes the NYC Commission on Human Rights for information about any EEO cases against contractors.

4. Writes the State Attorney General to determine whether complaints have been received.

Developers, owners and community groups who apply for rehabilitation loans are required to fill out additional disclosure statements. The forms require disclosure of all property owned by the applicant firm or group, by its principals as individuals and by the general contractor who has been engaged to do the work. The OIG background unit then determines the agency's and principals' performance as property owners in a variety of ways:

- A check with HPD's computerized listing of all residential property is intended to disclose the number of housing code violations on each property;

- The HPD Housing litigation bureau is asked whether litigation is active or outstanding judgments against the property owners exist;

- The New York City Arson Strike Force is asked to research the properties for records of suspicious fires.

Checks within HPD depend upon the veracity of the applicant in disclosing all property ownership and how up-to-date the housing code violations listing is. (It has been as much as six months behind in the listing of violations). However, the Arson Strike Force (ASF) researches finance department records and directories of property ownership to determine whether applicants have disclosed all property ownership. Fire histories are done for both the undisclosed and disclosed properties, of course.

A major vulnerability of HPD's monitoring of contracts with community groups is that it fails to recognize the power these groups may exercise over housing and real estate resources in their communities, not through the use of the Community Consultant Contract alone, but by using this program as a basis for variety of other programs that do involve influence over resources necessary to rehabilitate, own or live in residential buildings. The OIG background investigation should also acknowledge this reality by performing an analysis of property ownership, possible arson fires and tenant harassment for prospective Community Consultant Contractors and Community Management Program contractors as it does for applicants for rehabilitation loans and construction sponsorship.

One CCC received $122,345 in funding in FY 1984, one of the largest grants in the program. Two affiliates of the CCC received a total of $124,984. HPD requested the Arson Strike Force to do an analysis of fire histories in properties owned by the CCC or its principles when it applied for a PLP rehabilitation loan. The ASF found that 18 properties were owned by it or its principals, of which 10 had not been disclosed. Two of the undisclosed properties had histories of ten or more suspicious fires each. The pattern described by the AFS in general seemed to suggest harassment and fires for the purpose of clearing buildings of tenants so that they could be rehabilitated and sold, with potential benefit for the CCC.

Clearly, this CCC's stewardship of its property has implications far beyond the approval of a loan, and touches on the appropriateness of this agency to be involved in City housing programs. (The letter from the Arson Strike Force notes that IG clearance for the rehabilitation loan had been given approximately two weeks before the date of the letter. The IG had approved the rehabilitation loan before receiving the results of the ASF analysis).

The contents of other background files raised issues about the adequacy of the entire DOI/OIG background information systems. Two examples follow:

A request for all cases related to an agency resulted in two background investigations. One of these contained a series of background checks on the agency itself performed by request over the years, and one on an application by a subsidiary of it, to sponsor a residential construction project.

Several cases that should have been part of the total file were not retrieved: A minor unsubstantiated criminal case that occurred in 1983 and a background investigation for another subsidiary. These omissions are not indicative of flaws in the design of the system, but indicate that errors are fairly frequent.

According to HPD's background files, an agency received its first Community Consultant Contract in 1981. The background files include a news clipping relating to the investigation of a major fraud in 1979, but there is no discussion in the file of the implications of this investigation for its application for HPD funds. The DOI sent HPD a "no derogatory information" response in 1981, although they had conducted the investigation of the $24,000 fraud involving CDA funds in 1979.

Analysis and Discussion of the Investigative Cases and Inquiries Involving CCCs Active In The OIG/HPD Between 7/1/82 And 12/31/84

(1) This agency has been credited with being a significant force in the development and increasing prosperity of a community, receiving national attention and honors for its success. It has several affiliates including a housing development corporation authorized by the State to serve as a non-profit sponsor and owner of low and moderate income housing. Its CCC for $90,000 was one of the largest given in 1984.

In 1980, according to the OIG file, HPD's Deputy Commissioner for Development wrote a memo to the Borough Planning Director including several serious allegations about the agency:

- It is supporting conversion of multiple dwellings to Yeshivas, causing displacement of non-Hassidic tenants that may be deliberate on its part.
- It recommended a known professional tenant harassment

specialist to a developer who had recently purchased an apartment building which was ultimately emptied of tenants, rehabilitated and sold as condominiums at considerable profit to the developer.

- One of its employees had testified for the landlord and against HPD in a 7A administrator action.

The Planning Director requested a transcript of the 7A proceedings and stated that he had discussed the matter with the agency's director, who assured him that he was not involved in tenant organizing. For reasons that are unclear from the record, this assurance satisfied the Director, who supervised the contract manager for the agency's CCC.

Three years later, in September, 1983, the OIG/HPD background unit requested a report on the agency from HPD's litigation bureau in the process of approving an agency - sponsored housing project for the coming year. An attorney for the bureau responded with a highly negative report on the agency's services to tenants. Unsatisfied with the OIG's investigation of the problems he had reported, the attorney wrote a letter to the DOI several weeks later repeating several of the allegations that had concerned HPD's Deputy Commissioner in 1980 (the anti-HPD stand in the 7A hearing, the recommendation of the harassment specialist) and adding several more:

- In Winter of 1980-81, the agency organized tenants of a building, then left them when the time came for a court appearance.
- The owner of a building converted the first floor of the building to a synagogue without filing alteration plans. The tenants asked the agency for help, claiming that the owners were harassing them, but were turned away.

The OIG/HPD investigator assigned visited each of the addresses cited in the attorney's complaint. He found no one who remembered anything about the events that occurred three years earlier. One site had been completely vacated.

Three months after his letter to the DOI, the attorney was called for an interview at the OIG/HPD office. He stated that he felt that the agency was "tacitly involved in dumping...and displacement programs..." of non-orthodox Jewish people. He added that he had spoken to the agency

employee who had testified against HPD in the 7A administrator hearing. According to the attorney, the employee was a housing organizer who had been in the process of organizing the building that later was subject to the 7A action, but had been asked by his employers to withdraw because the building was needed as a synagogue.

The request for background information had also been sent to the Arson Strike Force (ASF). The ASF found a high rate of fires and tax arrearages in buildings owned by the agency's housing development affiliate. They also found that two individuals listed as principals had not disclosed all their current property holdings as required by HUD for the loan application.

The OIG approved the loan application. Further, it appeared that the material submitted by the ASF was not included in the more general investigation of the agency's background that was in progress at the time. Each allegation and each problem was investigated as if it had no further implications and no relation to the agency's integrity and background in general.

(2) Another agency had a CCC contract for $25,000 for 1983. In January of 1983 two former employees visited DOI's Complaint Bureau to report serious mismanagement and possible fraud on the part of the agency's director. According to the complainants, the agency was a Community Consultant Contractor as well as having a contract with the Community Development Agency. However, the immediate complaint related to the director's handling of her responsibilities as a 7A administrator for the building in which she lived and in which the agency maintained its offices. Among the allegations made were the following:

- She required one of the complainants, paid as a bookkeeper on the HPD contract, to do the bookkeeping required for the director's 7A administrator position;
- She had forged an endorsement on a check written to the bookkeeper;
- She was charging both programs for rent for the office, which she also misappropriated;
- The Board of Directors for the program was fictitious; and,
- Tenants seeking help were charged membership fees

although the services were supposed to be free.

The referral letter to the OIG/HPD was issued one month after the complaint was made. During the delay, the DOI was making a determination as to whether the case should be handled internally or referred. Once the case reached the OIG/HPD, it was not assigned to an investigator until April, 1983, two months after it was received, and investigative activity did not begin until the following summer. None of the original allegations were investigated. Instead, the investigation focused on the propriety of the director's attempt to purchase the apartment building in which she lived and for which she was 7A administrator. One year after the investigation had gotten under way, in Summer of 1984, the investigator attempted to contact the original complainants. At this time they also visited the building and interviewed several HPD officials mentioned by the original complainants as knowledgeable about the agency's problems. They found that the building was in good repair, indicating the 7A duties were being performed reasonably well. The HPD officials interviewed were mild in their criticism of the Director. As a result of these findings and the failure of the original complainants to respond to letters sent one and one half years after the original complaint, the case was closed as "unsubstantiated." However, the agency's CCC was not renewed for 1984.

(3) Another agency is a subsidiary of a multiply funded agency involved with a variety of human services programs in addition to housing. In February of 1984 another community group wrote a letter to the HPD Commissioner with a complaint about the agency. The letter stated that their group, until recently funded under a CCC contract, had organized a building which was then placed under Article 7A with a member appointed as administrator. The 7A administrator was confronted by a member of the first agency when she tried to enter the building, and was later told that it had a contract from the landlord to manage the building and would ultimately purchase it. The letter went on to imply that the termination of the complainant's CCC contract was the result of the conflict between the two programs over the building. Apparently the group received no response to its letter, nor was it forwarded from the Commissioner's office to the OIG or the CCC contract manager.

The complainant then enlisted the help of a City Councilwoman who wrote to the HPD Commissioner with copies to the IG and the DOI in May, 1984, attaching the

complainant's letter and expressing her concern that the first agency could be misusing its CCC contract and that it might be planning to profit by gaining title to the building in question.

The DOI immediately referred its copy of the letter to the OIG/HPD requesting that action be taken. Nevertheless, the OIG did not act on the matter until the following August. At that time, instead of a case being opened, an "inquiry" was conducted. The sole purpose of the inquiry was apparently to determine whether CCC funds were being improperly used. The issue of a more general impropriety was not considered. The investigator contacted the agency's contract manager in the planning office and learned that it was not authorized to use CCC funds to purchase buildings, but that it had received a grant from the New York State Division of Housing and Community Renewal (NYSDHCR) to purchase the property. The Deputy Commissioner for Development then wrote a letter to the Councilwoman explaining that CCC funds had not been misused, and that HPD's goal in its programs was to return buildings to private ownership and to the tax rolls.

The Inspector General then wrote a memo to the investigator asking, "How can anyone tell that Community Consultant Contract funds were not used for takeover of this building?" However, the investigator did not attempt to answer this question, confining his inquiry to the question of whether CCC funds were actually used to purchase the building. The investigator never contacted the complainant or NYSDHCR or HPD's 7A monitoring unit.

A number of issues remained untouched by the inquiry: Did the agency use CCC funds to organize tenants in the building prior to takeover? Why was the agency approved by the State to purchase the building even though the tenants had been working to purchase it themselves?

(4) Another agency is a group in a NPP area with a $26,000 CCC contract in 1983. A case was initiated by the OIG in December, 1983, after an HPD accountant discovered that an employee was being paid under two different names but the same Social Security number under both the Community Consultant and Community Management Program contracts. When the employee was interviewed, he maintained that he worked from nine to five for the Community Management Program, and after five o'clock worked a few hours a week for the Community Consultant Contractor. He said that the NPP Director had instructed him to fill out timesheets indicating he had worked nine-to-five for both programs.

The case was assigned to an investigative accountant who interviewed the NPP Director, who said he had never met the employee in question and had no knowledge of his hours of work. The accountant then reviewed the program's books to determine whether they had acted within the law concerning withholding taxes, FICA, etc. He found that the agency had acted properly in this respect. Based on these findings, the investigator determined that the allegations were unsubstantiated.

Although the subject of this investigation received only $33.14 a week from the Community Consultant Contract, his behavior should have given rise to additional investigation either by the OIG or the CCC contract manager. It is unclear why the OIG did not interview the employee's supervisor. A memo might have been directed to his contract manager for the CCC program to determine what duties the employee performed for CCC and whether it was appropriate for these activities to take place after normal working hours. The employee's insistence on his right to use two names and his apparent misrepresentation of his instructions from the NPP Director gives some cause for concern about his integrity.

(5) Another agency was a small program funded only by its HPD CCC for $25,400 in Fiscal Year 1983 (July, 1982 through June, 1983). In December of 1982, its board of directors wrote to HPD charging misuse of funds and mismanagement by the agency's director. At about the same time, HPD received a letter from the group's bookkeeper saying she had not been paid for the past month. However, the OIG was not informed of the complaints until the following March. At about the same time, the director sent a letter of resignation to HPD. Shortly after the complaint letter had been forwarded to the OIG by the Deputy Commissioner for Development, HPD's fiscal unit reported to the OIG that they suspected the agency's staff of misappropriating approximately $7,000. Nevertheless, the IG did not begin its investigation until the following July. Attempts to contact the original complainants were unavailing, and a visit to the program site revealed only this it had moved out many months ago. The case was closed as unsubstantiated.

ATTACHMENT G

AN ASSESSMENT OF THE NEW YORK CITY INSPECTOR GENERAL SYSTEM AS AN INSTRUMENT FOR THE IDENTIFICATION AND REDUCTION OF CORRUPTION IN MUNICIPAL GOVERNMENT

Department of Investigation
of the
City of New York

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December, 1986

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REFORM OF THE INSPECTOR GENERAL SYSTEM: THE ARGUMENT

The 1986 municipal corruption scandal has given rise to a broad public discussion of the effectiveness and viability of the Inspector General system. It is the principal argument of this report that the present structural arrangement, whereby each Inspector General is nominally responsive to two separate agency heads simultaneously, deprives the system of the leadership and direction essential to an effective attack on corruption. Under this present arrangement, the Commissioner of Investigation shares, with the relevant agency head, the appointive authority of each Inspector General and is required by Mayoral Directive to direct the anti-corruption activities of each Inspector General. All resources, staff promotions, and salary enhancements are, however, determined exclusively by the agency head. More to the point, the priorities of the Inspector General's office are inevitably and exclusively set by the agency head, since he controls the resources. Most importantly, the climate of dependence upon the agency head which ensues may effectively shape the degree and quality of aggressiveness, which in turn critically determines the viability of anti-corruption programs.

The overall quality of the Inspectors General and their staffs is, at present, very high. It would be irresponsible and unfair to argue that the manifest deficiencies in the system exposed by the scandal are attributable in any large measure to individuals presently in the Inspector General system. The fundamental reality of Inspector General system shortcomings lies in the inadequacy of its control, organization, and mandate.

The immensely difficult and controversial work of identifying corruption hazards, preventing corruption, and developing sufficient evidence against those who are corrupt simply cannot go forward on a broad and effective basis where Inspectors General are expected to march to two separate drummers simultaneously.

The alternative proposal of adhering to the status quo, albeit with greater coordination and collaboration between the Commissioner of Investigation and the agency head, is simply not feasible. On the principle ground of priorities, the agency head and the Investigation Commissioner have divergent interests and obligations which, while reconcilable in some instances, will be irreconcilable in others. Effective oversight of cases cannot be accomplished without reference to comprehensive strategic planning, data management, training, and comparative performance of all Inspector General offices, and these are not possible except under a single authority. Both the confidentiality and credibility

of investigations of senior officials in the subject agency face an almost insurmountable obstacle where the investigation is conducted by a member of the agency management team who does not have the insulation of a separate institutional base. With respect to allocation of resources, the head of this Department simply cannot conduct twenty-eight separate budget negotiations with agency heads each year. Incentives for superior performance in the Inspector General system, particularly when a trans-agency investigative career path is so essential, cannot be achieved on a piecemeal and informal basis. Finally, the war on corruption, comprehensively viewed, cannot be effectively waged with local militia under local commanders.

The argument for single control and reporting in the Inspector General system is convincing on a variety of grounds. This report addresses the question first from objective lessons to be learned from the scandal itself. The introduction to the report discusses the significance of the scandal, with particular reference to concrete and indisputable deficiencies in Inspector General investigations either inadequately pursued or publicly questioned by investigative or prosecutorial authorities. The cases cited underscore the inherent conflict that exists in a relationship where vigor and assertiveness may be eroded by either personal loyalty or expectation of favor. Furthermore, the anti-corruption effort is often diverted or distracted by managerial or housekeeping tasks imposed by the agency on its Inspector General. The disciplinary function, for example, is demonstrably a major drain on the resources and time of the system. Finally, the most convincing evidence on the question of reporting and control comes from the Inspectors General themselves. Dual control, they suggest, is unworkable and counter-productive.

The report then presents a view of the evolution of the Inspector General program since its formation in 1970. This analysis makes it unmistakably clear that the broad direction impelled by Mayors, the Charter Revision Commission, and the voters is toward integration of the system with the Department of Investigation.

Because the principal strategic responsibility of Inspectors General is to identify and eliminate corruption hazards in the structure and procedures of their agencies before crimes are committed, an analysis has been undertaken of how each Inspector General approaches and carries out this critical task. The study finds serious inadequacies in the ability of most Inspector General offices to identify and assess agency corruption vulnerabilities. While the risks discussed by the Inspectors General in response to a Department of Investigation survey reflect a commonsense concern for potential agency corruption problems, the re-

sponses were generally not reflective of sustained, systematic analyses establishing to any degree of certainty the actual existence or scope of such vulnerabilities. The results of the survey document the absence of a structure for management and accountability that demands of Inspectors General, agency heads, and the Department of Investigation a regular, comprehensive evaluation of potential corruption risks and a jointly developed plan of action to address those risks.

The report next presents the results of a review and analysis of the adequacy of criminal case investigation in the Inspector General system. Examining attorneys of the Department of Investigation, under the supervision of senior staff, examined 160 actual, randomly selected case files in one-third of representative Inspector General offices. Using standard evaluation criteria, the quality of criminal investigations, based solely on the documentation available in the selected files, handled by those offices was reviewed. A significant number of apparently poorly or uninvestigated criminal complaints were discovered. It is absolutely critical, however, that it be understood that in this review there is not a single case or matter where this Department has established that anyone intentionally suppressed, impeded, or obstructed justice. Of 160 investigations evaluated, 4% were rated outstanding, 49% were rated either good or adequate, and 46% were rated as poor or very poor.

The report then presents a functional review of non-corruption responsibilities presently imposed on various Inspector General offices. The purpose of this effort is to demonstrate that diversion of resources to secondary, though not unimportant areas of concern, can and does have a negative effect upon capacity and will to vigorously pursue anti-corruption goals. A major aspect of this concern lies in the demands of the disciplinary function. Every Inspector General office is now committed, to a substantial degree, to the routine investigation and enforcement of rank and file employee compliance with agency rules and regulations. The report identifies other managerial tasks commonly assigned to Inspectors General which also claim a share of time and resources. These non-corruption burdens are an immense drain upon the Inspector General's capacity to discharge his or her principal responsibility.

Finally, the report proposes a plan to place the anti-corruption function, with an adequate budget and staff, under the exclusive control of the Commissioner of Investigation.

In summary, the Inspector General system must be the linchpin of a proactive, strategically planned, and profes-

sionally sound anti-corruption program, structured on a decentralized field basis with decisive control of resources, priorities, and standards with a single statutory officer principally accountable for the maintenance of integrity in New York City's government, as indeed the present Mayoral Executive Order appears to require. To have less is to invite confusion, ambiguity, and broad wastage of talent, good-will, and public monies.

The good faith of individuals is not the question. The transcending issue is institutional. Reorganization of the Inspector General system could be the single most important consequence of the 1986 municipal corruption scandal.

I. INTRODUCTION: LESSONS OF THE SCANDAL

During the first ten months of 1986, state and federal grand juries sitting in New York City have returned indictments alleging corrupt behavior by public officials in five municipal agencies: the Parking Violations Bureau, the Health and Hospitals Corporation, the Taxi and Limousine Commission, the New York City Housing Authority, and the New York City Board of Education. Actions in at least seven other Departments or Agencies of the government are the subject of publicly confirmed investigations by prosecutors.

Three of the City's five Democratic county leaders during this period have been the subject of investigations by federal and state prosecutors, two have been named in indictments, and one is currently on trial, together with former officials of the Department of Transportation. More than a dozen senior officials in the City Administration have tendered resignations under public charges of criminal conduct, unethical behavior, improper activities, or incompetence. The Department of Investigation has itself been sharply criticized for the negligent handling of allegations of corruption in the Parking Violations Bureau.

Complaints, allegations, and leads concerning official corruption in City government received by the City Investigation Department have increased substantially. Whistleblower retaliation claims are on the rise, and one such case has been conclusively established against a Deputy Commissioner. Dishonest politicians, organized crime figures, and City managers, it is now clear, had profited from a contracting process that lacked uniformity, clarity in standards, and adequate oversight.

The City has taken several important steps to remedy the problems disclosed by the scandal. Contracting procedures are under comprehensive review, and new safeguards against corruption in the letting and performance of contracts are being developed and implemented. A Contract Review Committee, chaired by the Mayor's Office of Operations, has been formed to review all contracts, with certain limited exceptions, having to go before the Board of Estimate. A task force, composed of representatives of mayoral oversight offices and of line agencies, is currently overseeing the design of a citywide automated vendor background and performance information system, called Vendex, that will be used to monitor poorly performing vendors and to detect patterns in contracting suggestive of illegal activity. Employee background data collection and analysis has been expanded by Executive Orders 91 and 93 to require annual submission of financial statements by all employes in sensitive or leadership positions, including employees involved

in the award of contracts. A Gubernatorial/Mayoral Commission has proposed sweeping legislative changes relating to ethical standards and performance, and structural reform designed to limit opportunities for corruption.

Of central importance to this effort is the rebuilding of the Department of Investigation. The Department was severely criticized in a September 1986 report of the Special Commission to Investigate City Contracts, the "Martin" Commission, for failure to pursue substantial allegations of corruption in the Parking Violations Bureau received in 1982 and 1983. The report attributed this failure in large part to the absence of reliable systems of internal coordination and control. These problems were recognized, and the process of addressing them begun in February 1986, shortly after the first revelations of substantial corruption had appeared. The budget of the agency has now been almost doubled; new, specialized units for the investigation of capital construction projects and whistleblowing complaints have been created; and the automated collection, retrieval, analysis, and coordination of all investigative and case data now facilitates the tracking of all complaints, and timely and informed decision-making in all cases.

But these efforts, though significant, are not of themselves sufficient to address all of the institutional deficiencies exposed by the scandal. The principal institutional anti-corruption instruments in New York City are the Department of Investigation and the decentralized network of Inspector General offices in twenty-four Mayoral and four non-Mayoral agencies, covering 55 distinct offices and agencies, which constitute the Inspector General system. In practical effect, these two institutions function independently of each other and do not contribute to a fluidly single and coherent anti-corruption policy. Absent centralized, meaningful control of the Inspector General system by the Department of Investigation, a principal part of the City's anti-corruption effort will remain fragmented, directionless, and unaccountable.

In the fiscal year completed in June 1986, the Inspector General system had over twice the financial resources of the Department of Investigation and more than three times as many employees. It functioned under no system-wide plan to combat corruption or to prioritize anti-corruption goals. It was not subjected to effective direction, and was held effectively accountable to no one with respect to its achievements or lack thereof. No transfer of Inspector General resources across agency lines is possible, and coordinated attacks upon common problems among various agencies is extremely difficult. Regular evaluation of Inspectors General on a broad and systematic basis and review of compensation and advancement for personnel are not, under current arran-

gements, possible. In summary, the Inspector General system is not in any real sense a "system" but rather a loose network of twenty-eight separate offices, all marching to different drummers, often in diverse directions, and, regrettably, in some cases, not marching at all.

It is absolutely essential that this report be read and understood as a systems critique and not a personal judgment on individual members of the Inspector General system. Indeed, 11 Inspectors General are just recently appointed and bear no responsibility for events that predate their designation. Others in the system ought not, and cannot, be chargeable for structural deficiencies in the system relating to control, direction, and the setting of professional standards.

Most Inspector General offices see themselves as prisoners of local concerns defined by local leadership. The record demonstrates that these concerns are generally focused upon other than corruption. It is, therefore, not surprising that the Inspector General system has often been ineffective in identifying and combating corruption, lacking in initiative, and almost wholly reactive, when viewed through the prism of the current scandal.

Serious questions have been raised with respect to the viability of the Inspector General programs in four of the five public agencies where corruption indictments have been returned during the course of the present scandal. The former Inspector General of the Department of Transportation, responsible for the Parking Violations Bureau, when questioned about his lack of aggressiveness in pursuing the question of irregularities in contracts in which Stanley Friedman had an interest, told officials of the Department of Investigation that because "the agency head butters the bread" he had focused his resources on disciplinary rather than corruption matters.

The former Inspector General of the Taxi and Limousine Commission has publicly conceded that allegations coming from two separate and independent sources concerning irregularities involving the use of 123 taxi medallions were simply passed on to the Chair of the Commission and not further investigated. To compound the failure, the Department of Investigation merely endorsed the conclusory finding of the Commission's Inspector General that no corruption existed, when, in fact, no adequate investigation had been conducted.

In the Health and Hospitals Corporation, the Inspector General refused for two years to respond to written and oral demands by the Commissioner of Investigation to give an accounting of eleven potentially criminal matters that had

been referred by the Department to the Inspector General for thorough investigation. The Department is currently reviewing the adequacy of these investigations, in addition to several hundred others.

In the midst of a major criminal investigation into the activities of Housing Authority personnel, the former Inspector General has taken an extended leave of absence, and has been replaced.

It would be a serious mistake, however, to regard these examples of poor judgment and of marginal commitment to the struggle against corruption in government as aberrational, and not inherent in the power arrangement that ostensibly requires IGs to report criminal and corruption matters to the Commissioner of Investigation, but which places absolute control over IG office budgets, promotions, raises, and resources in the hands of individual agency heads.

These structural and control problems are best demonstrated through the identification and assessment of corruption hazards in the various agencies. At the request of the Department, Inspectors General have indicated a number of areas of operation in each agency that may present opportunities for corrupt activity. While the specific recommendations of the various Inspectors General are based upon analyses of very uneven quality, a coherent, efficient, citywide strategy must be developed by the Department of Investigation to immediately address these risks. Implementation of this strategy will depend in large part on the committed and unrestricted cooperation of Inspectors General and will not succeed if the Department is required to negotiate with individual agency heads and their respective IGs regarding priorities and the commitment and inter-agency transfer of resources.

A decisive shift in control of the Inspector General program to the Department is clearly required, and would bring to fruition the pronounced tendency during the past decade towards integration of the Inspector General anti-corruption function with that of the Department. The Charter Revision Commission suggested, and the voters in 1975 decreed, that the Commissioner of Investigation should play an important role in the selection of Inspectors General. Executive Orders of the Mayor have given even broader supervisory authority to the Commissioner of Investigation. Specifically, Executive Order 16 gave the Commissioner of Investigation the responsibility to "direct the activities of the Inspectors General."

It is quite clear, however, that this theoretical responsibility cannot be practically carried out when Inspectors General have their priorities and resources established

by agency heads, who, in turn, do not view themselves as having concrete responsibilities for corruption control under Executive Order 16. This structural confusion in the system has led to a broad failure of leadership that has balkanized the Inspector General system and delivered its supervisors, managers, and staffs to a practical requirement of shifting for themselves. Ambiguity of leadership and, therefore, accountability has severely injured professional quality and performance in day-to-day casework in many Inspector General offices. Furthermore, since Inspectors General must look to their agency heads for budget allocations, advancement, and salary increases, no viable control, reliance, and loyalty can be established between the Commissioner of Investigation and Inspectors General. The same is true with respect to the various staff investigators, auditors, and employees in the different Inspector General offices.

A review of the disciplinary and other non-corruption functions of 28 Inspector General offices reveals why, in part, the dual reporting structure has impeded the development of an effective anti-corruption program. The IG offices have become a magnet for odd projects and responsibilities that are more properly carried out by managers with operational duties. While a few Inspectors General have successfully resisted or minimized these diverting burdens, they are the exception to the rule, and clearly run a substantial risk of incurring the displeasure of their agency heads, reflected in the allocation of agency funds, raises, and promotions.*

An in-depth review by the Department of a sample of 160 criminal cases handled by eight Inspector General offices, including two non-mayoral offices, revealed that many complaints had apparently been investigated poorly. These results indicate the high degree to which non-corruption functions drain the attention and resources of IGs away from corruption investigations. More to the point, the Department cannot exercise continuing control over individual cases on a routine basis without daily control of the active investigative mechanism. Periodic surveys, such as the one accomplished and described here, are only useful for illustrative purposes, and cannot reach, except in the broadest sense, specific derelections in unfolding investigations.

While these problems might be ameliorated to some extent by the imposition of better reporting and review proce-

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* Individual descriptions of IG offices, of the functions of each office, and of the agencies in which they work can be found in the Appendix.

dures, the real problem lies deeper, undermining the entire anti-corruption effort of the City. As long as the real control of Inspectors General lies in the hands of agency heads, the Department cannot be held responsible for the failures of the Inspector General system. Without such responsibility, the focus of Department attention and effort will be on those matters for which it will clearly be held accountable. Agency heads, on the other hand, tend to yield leadership and responsibility for corruption investigation to the Department, in spite of the fact that they control the major part of the resources necessary for such investigations. Failure is inevitable under these circumstances.

A new order is essential in which leadership and responsibility go hand in hand. The anti-corruption functions and budgets of the Inspector General program, including those of the non-mayoral agencies,* must be placed under the complete control and direction of the Commissioner of Investigation. Such control will finally permit the implementation of citywide anti-corruption strategies, supported by resources that can be distributed readily and effectively to implement such programs. Career paths will be developed to retain the best of the IG staff, and to encourage movement from agency to agency of those with special expertise or ability. Staff who do not meet standards with respect to the investigation or prevention of corruption will be transferred, demoted, or dismissed. Most importantly, a chain of command and responsibility will be forged that will finally give the field anti-corruption effort of the City coherence and accountability.

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* Board of Education, Health and Hospitals Corporation, Housing Authority, and Off-Track Betting Corporation.

II. EVOLUTION OF THE INSPECTOR GENERAL PROGRAM

The evolution of the Inspector General program is one of progressive movement towards integration with the Department of Investigation. The first formal provision establishing local eyes and ears in each City agency for the Department appeared in Executive Order 21 of August 19, 1970. The order required that each agency head designate one or more staff members to receive complaints from the public. The agency head or a designated representative was made responsible for notifying the Department of any attempts to corrupt agency employees by persons seeking to do business with the City.

One of the first acts of Mayor Abraham Beame was to adopt this order as his own Executive Order 1 of January 1, 1974. Six months later, the Department issued guidelines for compliance with the order that permitted the representative designated by the agency head to conduct investigations of corruption if such investigations received the prior approval of the Department and were subsequently guided by the Department.

The Knapp Commission's exposure of lackluster internal corruption investigations by the New York City Police Department, and a dispute between the Mayor and the Comptroller over ledger entries, led the State Charter Revision Commission for New York City to recommend in its Preliminary Report of 1975 that the "Inspector Generals" of each agency be "brought into a closer relationship with the Department of Investigation," through the addition of a requirement that all Inspector General appointments receive the approval of the Commissioner of Investigation. This requirement was adopted by voters in a 1975 plebiscite, together with the requirement that the Department "monitor and evaluate the activity of Inspectors General in the agencies to assure uniformity of activity by them."

Investigation Commissioner Nicolas Scoppetta notified agency heads in March 1977 that these new charter provisions would become effective on July 1, 1977, and requested their cooperation in allowing the Inspectors General to comply with new Departmental reporting requirements "that will enable us to increase the effectiveness of the Inspector Generals' anti-corruption activities. ..."

Executive Order 16, issued by Mayor Edward Koch on July 26, 1978 went significantly beyond the requirements of the Charter amendments in seeking to place Inspectors General under the leadership of the Department of Investigation. The order required the establishment of IG units in all mayoral agencies, whose activities the Commissioner of In-

vestigation was to "direct." Inspector General jurisdiction was expanded to become essentially concurrent, though subordinate, to that of the Department. This jurisdiction included "the investigation and elimination of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct, and incompetence within their respective agencies." Inspectors General remained, however, on the payrolls of their agencies.

In short order, the number of mayoral Inspectors General increased from 11 to 24, and non-mayoral agencies established IG offices as well. The Department responded by creating an Inspector General Liaison Unit of one attorney and an assistant. The unit grew moderately over the next seven years to include by 1985 an Assistant Commissioner, two attorneys, and two support staff. The total personal services budget of mayoral Inspector General offices by 1980 was approximately $7.9 million, while that of the Department was $1.8 million. Over the next five years, the Inspector General personal services budget increased overall by 94% to $15.3 million, while that of the Department reached $2.9 million, an increase of 61%.

This distribution of resources, in addition to increasing the dependence of the Department on Inspectors General to monitor and investigate corruption in their expanding agencies, served to highlight the inability of the Department to meaningfully supervise or direct the activities of these far-flung offices. Even with a staff of five, the Inspector General Liaison Unit could at most nominally oversee the IGs. Thousands of complaints were referred to IGs by the Department annually. The unit often took months to act upon criminal cases sent to the Department by the IGs for referral to a prosecutor. Little evidence exists that concerted efforts were undertaken by the Department to establish priorities or policies for the IG program beyond the initial period in which the offices were first established. Regular visits with IG staff at their office sites were clearly impossible, and most business was conducted by phone. Additionally, the quality of data received by the Department concerning IG activities appears to have been highly unreliable, both because the Department failed to clearly define terms and categories such as "case," "complaint," "criminal," and "investigation," and because, for the most part, the accuracy of the data was never verified by the Department.

One explanation for this only nominal supervision of the program would appear to be that the resources of the Department were overextended in all operational areas. Equally important, however, is the lack of Department responsibility for and practical control over the program.

The time has come to recognize and to remedy the flaws in the structure of the Inspector General program that have permitted these anomalous and problematic situations to arise. Never before have these inadequacies been revealed in so harsh a light. Never before have the momentum and the need for change been so compelling.

III. IDENTIFICATION, ANALYSIS, AND ELIMINATION OF CORRUPTION RISKS WITHIN CITY AGENCIES

The most significant inadequacy in the City's anti-corruption program lies in the almost total absence of comprehensive, strategic planning in the various agencies and departments of government to identify and eliminate corruption hazards in internal organization and procedures. Inspector General anti-corruption programs are overwhelmingly reactive in nature, in that the principal activity consists of investigating complaints on a volume basis from sources inside the agency, from the public, and, in great measure, from the Department of Investigation. There is very little preventive thinking about, for example, how contracting and procurement procedures are structured, within a framework of integrity considerations. Multi-level oversight, checks and balances, scrutiny of deviation from formally promulgated standards, covert exposure mechanisms, and other techniques widely recognized as essential devices to deter and protect against corruption are not, as a general rule, devised and pursued routinely in the IG offices.

More surprisingly, there has been no systematic and ongoing program in the Department of Investigation to assist agencies in dealing effectively with the corruption hazard problem. The Department's small corruption prevention bureau has done important work in a few agencies each year, but overall, no collaboration on joint approaches to potential corruption risks has been developed by the Department and its sister agencies throughout the government.

Unless a coherent, centrally controlled structure for corruption prevention rooted in bureaucratic systems is developed and implemented, the City will continue in the future to be injured by public wrongdoing.

To test the ability of the current Inspector General program to proactively identify and assess corruption risks within each agency, the Department requested Inspector General offices to describe "conditions, procedures, or practices that create the opportunity for criminal acts that substantially undermine the integrity of municipal functions through improper diversion of significant amounts of public monies or the gross abuse of governmental authority." The responses were of very uneven quality. Most of the hazards identified do not appear to be founded upon an adequate, objective analysis of agency systems, procedures, or past patterns of practice. The clear inadequacy of a substantial number of the Inspector General submissions reveals not merely a lack of training in methods of analyzing potential corruption trouble-spots, but the difficulty of shifting the attention of an unstructured, unaccountable, leaderless

program from concrete complaints presenting finite problems to more abstract, systemic problems presenting greater potential anti-corruption impact on the one hand, but greater risk of investigative failure on the other.

A. ADEQUACY OF INSPECTOR GENERAL REVIEW

In spite of the reporting requirements imposed by the definition of corruption risks, some of the risks were clearly irrelevant to the purposes of the survey (failure to provide the IG office with its own budget, or low pay for investigators). Others were related to disciplinary issues. A few dealt with serious matters in a clearly flippant and unsatisfactory manner.

Many of the corruption risks reported were attempts to identify areas of possible systemic corruption, although some risks had been developed as a result of a single case. Some were the result of reasoning and speculation that, if a particular function operates within an agency, that of itself constitutes a corruption risk--without evaluating internal control systems and management within the function. Others indicated long-standing, recognized problems (bribery in inspectional services, for example) for which no solutions or even new approaches were offered.

On the whole, the risks evidenced a general, commonsense concern for identifying and dealing with corruption risks. However, most of the responses were not supported by in-depth, proactive probes, investigations, audits, or internal control reviews to concretize these concerns. As a group, with some exceptions, despite the experience of years of functioning within each agency, IG offices have failed to adequately analyze the potential for corruption within their agencies. The risks as presented by the Inspectors General do not reveal the extent to which the City is subject to endemic threats to the maintenance of governmental integrity. With one exception, no IG was able to place an estimated dollar value on the possible extent of losses placed at risk by the hazard. The one exception described a potential dollar loss that had been identified by an outside consulting firm.

Invariably, apart from those factors outside the control of the Inspectors General, each IG reported a lack of sufficient staff, a lack of technically competent staff, or the press of other business as reasons for not pursuing or completing probes and investigations into areas of risk.

B. AREAS OF RISK

The theoretical corruption risks discussed by the Inspectors General may be grouped into 10 areas of concern:

Bribes, extortion, and kickbacks related to the possibility of manipulating licensing processes; of subverting regulations governing City property sales and purchases; gaining access to confidential and privileged information; of evading safeguards designed to protect the public from toxic and other dangerous materials; of avoiding the fair and complete assessment and payment of personal, business, sales and real property taxes; and of avoiding the imposition and payment of fines and penalties.

Contracting and capital construction projects may theoretically present opportunities for illegal bribes or kickbacks connected with the payment of change orders for unnecessary or unperformed work; with the selection of the lowest responsible bidder; with the award of subcontracts; with the supervision and inspection of contractor work; and with the timeliness of contract payment.

Bribery within the inspectional services may possibly provide opportunities for bribery of inspectors for non-issuance of violations affecting the health and safety of the public.

Misappropriation and embezzlement could conceivably occur in those systems having inadequate monitoring, tracking and reconciliation procedures for the handling of cash or other forms of payment for violations, applications, renewals and settlements.

Drug or alcohol abuse may, in theory, be manifested as disciplinary problems in individual cases, and may affect services to the public wherever supervisory controls are inadequate to detect behavior influenced by substance abuse.

Conflicts of interest and patronage could possibly interfere with objective judgments concerning the hiring, evaluation and promotion of unqualified employees as well as the award of contracts that promote the best interests of the City.

Sexual abuse might arise wherever poorly supervised adults are placed in charge of children.

Thefts and unauthorized use of agency property may present the possibility of special problems in those agencies holding large inventories of goods or having wide distributions of motorized vehicles or equipment.

Misuse of authority and unprofessional conduct might be found among employees serving particularly vulnerable citizens such as the elderly, the disabled, and the young.

Other risks discussed by the Inspectors General included the performance of private security guard services and enforcement patrols, failure to deliver services, lack of investigative case control systems, dual employment by City employees, recipient and tenant fraud, computer-related frauds, and computer security.

Although the Inspectors General were asked to concern themselves solely with corruption risks, as defined, 11 Inspectors General listed areas which are management concerns and responsibilities related to time and leave abuse. The emphasis the Inspectors General place on time and leave abuse as corruption risks is indicative of the degree to which management concerns have intruded into the IG offices under the dual reporting structure.

These theoretical areas of risk identified by the Inspectors General must, of course, be taken seriously as beginning points, as functions open to corruption and dishonesty. They are not, however, informed and systematic vectors of where resources should be placed to find and close porous systems that could support manipulation of procedures or allow abuse of power to go undetected. There is an urgent need to critically, systematically, and uniformly probe the risk areas the Inspectors General have described, as well as other significant areas that should have been included. To this point, the Inspectors General, with some exceptions, have lacked the leadership, guidance, ability, will, and impetus to investigate, identify, and expose any deep-rooted and systematic conditions conducive to corruption that may be thriving within their agencies. This failure has been a prime contributor to our ignorance of the nature and extent of municipal corruption.

This failure cannot be remedied through temporary adjustments, projects, or training. The problem is endemic to a system that puts responsibility for the daily reward and discipline of a disparate array of field officers into the hands of the very agencies they monitor. As the corruption risks summarized above demonstrate, the task at hand is too complex and sensitive to attack without a coherent, centrally devised strategy that can be implemented by a dedicated cadre of investigators, unfettered by ambiguous lines of authority. Without such change, there can be no assurance that these issues will be ably and systematically addressed.

Furthermore, a newly organized, centrally controlled, and professionally led Inspector General System must attack the corruption hazard problem in strict collaboration with agency heads. In this connection, a concrete strategic anti-corruption agenda should be jointly devised and agreed to in January of each year by the Commissioner of Investigation and the Commissioner of each agency, and this annual agenda should be formally filed with the Mayor. In December, a joint assessment of this anti-corruption plan should also be filed with the Mayor, in order to provide the City with a government-wide blueprint and progress report on corruption prevention and investigation.

IV. REVIEW AND ANALYSIS OF THE ADEQUACY OF CASE INVESTIGATION

It is apparent that there can be no assurance under the current structure that the Inspector General program can adequately perform its chief anti-corruption function--the investigation of alleged criminal activity. A review by this Department of documents indicating the quality of criminal matters handled by Inspector General offices has disclosed a substantial number of apparently poorly or uninvestigated criminal complaints. While none of the individual cases raises issues of any great magnitude, collectively they indicate a potentially serious structural failure in the City's system for the control of corruption.

The Department has not, and, given the current system, cannot in any fair or meaningful way hold Inspectors General individually accountable for failure to properly conduct routine criminal investigations. The cases included in the review, for example, have been evaluated according to standards that excluded possibly mitigating considerations of undocumented investigative activity, prioritization, and resource allocation. Some cases that appear to have been poorly investigated may merely be reflective of a failure to maintain a complete investigative file regarding the pursuit of all reasonable leads, and thus may in fact have been adequately investigated. Other investigations rated as poor may reflect an intelligent determination by the Inspector General that limited resources would be better expended on cases of greater substance.

Because of the dual reporting structure, however, the Department has simply not been in a position to either fully control the methods of Inspector General record maintenance or to assess the propriety of each Inspector General's response to pressure from agency heads to perform non-corruption related tasks. To attempt to retroactively impose such controls or make such assessments would be an impossible task. The pursuit of investigative leads for which documentation is sought is now cold, and the informal, undocumented process by which priorities have hitherto been set for Inspectors General does not lend itself to accurate historical reconstruction.

This Department's survey of the handling of allegations received by the Inspector General offices suggests a variety of conclusions. One conclusion that is clearly supportable is that the procedures and systems employed by the offices under the current structure are inadequate. The sample of cases reviewed by this Department supports the inference that inadequate procedures may have been employed in other

matters handled by those offices. This conclusion is valid because the survey of cases focused on the policies and procedures applied to the investigation of complaints.

However, another inference which is not supported by this survey is that the inadequately investigated allegations would have resulted in prosecutable cases of wrongdoing. This survey cannot establish what the result would have been had all the allegations received been investigated properly. Many allegations, after investigation, result in a finding that the allegation cannot be substantiated. No conclusion can be reached that the percentage of well-investigated allegations resulting in a positive finding of wrongdoing would have resulted in a like percentage of positive findings of wrongdoing had all the complaints been well-investigated. The likelihood of certain outcomes to an investigation depends on multifarious variables, the effect of which cannot be predicted with any certainty.

This review clearly demonstrates, however, the necessity of establishing through the Department a controlling set of investigative methods and priorities, backed by citywide flexibility to allocate the resources necessary to meet those objectives.

The Department conducted a case evaluation of eight randomly selected IG offices representing two large (Human Resources Administration and Department of Sanitation), two medium (Departments of Health and Parks and Recreation), and two small (Department of Consumer Affairs and Taxi and Limousine Commission) mayoral agencies and two non-mayoral agencies (Board of Education and Housing Authority). Working from the case logs of each IG, the Department randomly chose an initial sample of 24 cases, evenly distributed over the six-month period January through June, 1985. Only cases which involved criminal allegations were selected for evaluation; trivial matters and cases where the initial complaint did not give sufficient information for a case to be initiated were excluded. Where necessary, additional cases were randomly selected so that twenty cases were evaluated at each IG office. The evaluations were conducted by DOI senior examining attorneys, and reviewed by DOI executive managers-attorneys. Some of the cases evaluated are described below.

The review was designed to evaluate the completeness and adequacy of investigative efforts. It rated the use and sufficiency of interviews, records and documentation, the use of undercover and surveillance methods and informants, reviews and consolidation of case information to detect patterns of corruption, and the use and sufficiency of various types of background checks. The review also examined the adequacy of supervision and managerial reviews.

Timeliness of investigative action and case disposition were also considered.

The sample results clearly indicate several important conclusions: the large number and distribution within all eight IG offices of poor or very poor quality case investigations; the failure of supervisory and management review to provide uniformly adequate and reliable investigative efforts; allowance of investigative cases to languish, pending a timely conclusion; and the failure to develop proactive or self-initiated criminal investigations.

The evaluation yielded the following results:

A. OVERALL CASE EVALUATION

Each case was ranked on the overall quality of the investigative effort. The rankings were as follows: "outstanding effort," involving especially thorough or innovative case work; "good," better than adequate effort, evidence of some creative thinking or special effort; "fair," minimal but adequate effort; "poor," some potential case leads neglected; "very poor," leads of potential major significance neglected or inadequately pursued.

- Seven cases (4%) displayed an outstanding effort. Of these, two IG offices were responsible for five cases. Within four IG offices, no cases were rated as outstanding.

- Seventy-four cases (46%) were rated as either poor (37 cases) or very poor (37 cases). "Poor" cases were found in each of the eight offices evaluated, and "very poor" cases in seven. Of these cases, eleven (7%) gave no evidence of any investigation having been performed.

- The remaining 79 (49%) cases were rated as either good (38 cases) or adequate (41 cases).

B. ADEQUACY OF CASE SUPERVISION AND MANAGEMENT

The case records were reviewed to determine if there was evidence of supervisory direction and IG management review and approval. The record of supervision was reviewed to determine if there were opening supervisory conferences to provide staff direction; indications of guidance during the investigation; and supervisory review and approval of the investigative conclusions. The Department also examined the

record to determine if there was evidence of management review and approval of investigative conclusions and dispositions.

- The case records contained evidence of full supervisory monitoring for 72 cases (45%), and indications of at least partial supervisory oversight, usually taking the form of review and approval of investigative conclusions, for 59 cases (38%). While there was documented evidence of at least some supervisory activity for a total of 131 (83%) of the cases, there was no evidence of any supervisory activity for 26 cases (17%). Three offices accounted for 20 of these cases.*

- There was evidence of management review and approval of investigative conclusions and dispositions for 134 cases (87%) and none for 20 cases (13%)**

- The presence of supervisory and management oversight did not seem to make a significant difference in improving and controlling the quality of the investigative effort. Although, for all seven of the cases rated as "outstanding," there was documented evidence of both supervisory and management review and approval, for the 37 cases which were rated "poor," 31 (84%) indicated evidence of supervisory direction or approval and 34 (92%) of management approval. For the 37 cases rated "very poor," 26 (70%) cases evidenced supervisory oversight and 29 cases (78%) management approval.

C. TIMELINESS OF INVESTIGATIVE EFFORT

The number of days that was required to process a criminal case was calculated from the assignment of a case to an investigator until the investigative effort was completed within the IG office, usually indicated by the date of management review and approval. All cases that had been referred to DOI for prosecution review or directly to a District Attorney were excluded from this sample, since

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* Adds up to 157; three cases were excluded from this test for technical reasons.

** Adds up to 154; six cases excluded for technical reasons.

these cases were often not closed within the IG office until a response had been received. The sample size was thus reduced from 160 to 126. An additional four cases that were open for only a single day and involved no investigative activity were excluded. Where there was no definitive date for case assignment, the date the complaint was received was used. The days were counted as calendar, not business, days.

- The average number of days required for completion for all cases within the reduced sample was 177.

- The longest time a single case was open was 590 days; the shortest was six days. Six of the IGs had cases within the sample which exceeded 350 days.

- No correlation between the number of days cases involving similar investigative matters were open and the success or failure of the investigative efforts as determined by the case evaluation were detected. Often, there was no detectable relation between the time a case remained open and the complexity of a case and the level of required investigative effort.

These figures, while apparently indicative of excessive delays in the conduct of routine investigations, cannot be interpreted meaningfully absent points of reference against which to compare the reasonableness of the delays. Lack of Department control over the IGs prevents the proper assessment of this data, because the Department has not been in a position to assess the complexity of cases handled by IGs, the shortage of resources available to devote to criminal, as opposed to disciplinary, investigations, and the effects of competition between the priorities of agency heads and those of the Department.

D. OTHER RESULTS OF THE EVALUATION

- Of all the cases in our sample, only six (4%) were self-developed or self-initiated by an IG (i.e. not stimulated by a complaint or referral). Of 154 complaints or referrals, 18 were forwarded by the Department of Investigation. No substantial differences in investigative quality or effort between cases referred by DOI and all other sources were apparent.

- Complaints originated from a variety of sources: 51 (32%) originated from the general public; 18 (11%) were anonymous; 68 (43%) originated from either agency man-

agers (36) or agency employees (32) and six (4%) came from management and employees of City agencies other than the Inspector General's own; six complaints originated with contractors or vendors and eleven from other sources.

The survey indicated the overall inadequacy of the criminal investigative effort. Among the causes are ambivalence about the degree to which criminal investigations should take priority over service-oriented functions helpful to agency management; the lack of sufficient staff dedicated to criminal investigation; and the lack of technical, supervisory, and managerial competence. It is likely that all three are major contributors, in varying degrees, to poor performance. There are significant examples of excellent IG investigative performance, just as there were outstanding investigative efforts identified in the case sample. However, without clear allocation of responsibility for the City's investigative effort to the Department, it will be impossible to establish a fully reliable assessment of the competence of the Inspector General program and, to the extent that the assessment is unsatisfactory, to set the program right.

It is nonetheless quite apparent that the IGs in many instances have been productive and responsible managers within their agencies.

The next section of the report will review functions and responsibilities the IGs have undertaken in many City agencies which do not contribute strictly to identification and reduction of corruption.

V. NON-CORRUPTION FUNCTIONS

The IGs, since their establishment, have been involved in a wide variety of functions within their agencies. Foremost among these have been the disciplinary services that are vital to the management of each agency. The IGs have also been called upon by their agency commissioners to perform a variety of service, operations, and managerial functions. It is clear that the demands of such functions have been instrumental in sapping the resources and time of investigative staff and managers and have been significant contributors to the overall failure to pursue municipal corruption.

A. DISCIPLINARY FUNCTIONS

Every Inspector General office engages in the disciplinary function. It is clear from our review that this function has flourished, becoming a major one that, in many IG offices, frequently surpasses the time and effort devoted to criminal investigation. The time and manpower required by the disciplinary procedures and the large annual volume demand a dedicated and concentrated effort to meet this critical responsibility within each agency.

A disciplinary case often requires a substantial investment of time and effort. A full disciplinary action may require that the investigator review personnel and investigative files, collective bargaining agreements, agency regulations, guidelines, codes of conduct, and procedures, and policy statements. Often extensive interviews are necessary with the target, complainants, witnesses, supervisors, and managers. Surveillance is sometimes required. Upon completion of the investigative phase, a written report of findings and recommendation for action must be written, discussed, and reviewed by IG supervisors and managers, and a particular course of action must be approved. Charges must be drafted, filed, and served. An informal conference is often held and the witness prepared to give testimony while continuing discussions are held with supervisors, managers, and union representatives and evidence is prepared. When voluntary agreement is not reached with the employee, a hearing is held, often followed by an appeal process. Once penalties are ordered, monitoring must take place to see that they are imposed.

The mayoral Inspectors General have reported that, during 1985, they opened 7,878 disciplinary investigations. Charges were substantiated in 3,116 of the cases.

The IGs reported some 29 different areas of concern within the broad category of disciplinary actions. While some of them are clearly substantial matters, others are vague in nature, and some are evident management responsibilities, more easily documented by local managers than by IG investigation.

Among the areas of disciplinary activities reported were: the drafting and amendment of agency disciplinary and conduct rules, regulations, and guidelines; home visitations to confirm medical and sick leave and investigations of the necessity for long-term medical leave; time and leave abuse and excessive lateness; insubordination, disruptive behavior, intoxication, incompetence, conduct unbecoming a City employee, failure to properly deliver services, and absence from place of assignment; issue of agency or City equipment, supplies, facilities, and resources; failure to supervise or manage properly and managerial impropriety; sexual harassment and assaults by employees; and residency violations.

It is clear that, within the variety of support and management services provided in each agency, the disciplinary is one of the most critical contributors to the efficiency and effectiveness of agency operations. It demands the full and undivided attention of staff and management solely dedicated to this function. It is harmful to both the disciplinary and investigative functions when the time and effort of a large portion of IG management and staff is divided between the two. Under the current dual-reporting structure, we have placed the Inspector General in a difficult or impossible position. There is a strong tendency to concentrate investigative efforts on disciplinary actions, which bring more immediate results and strong appreciation from agency executive management, as they provide a critical and necessary service. Understandably, many IGs are reluctant to use their limited investigative resources to attempt long-term investigative probes sometimes involving agency managers and executives. Such efforts, which are absolutely necessary if corruption is to be identified and effectively dealt with, are often not understood, appreciated, or tolerated by agency executive management who may come to view the Inspector General as an untrustworthy "outsider" rather than a reliable member of the management team working in partnership for the benefit of the agency.

B. OTHER INSPECTOR GENERAL FUNCTIONS

Under the impetus of the dual reporting system, the Inspectors General, in many instances, have undertaken a number of services in support of agency operations in addition to the investigative and disciplinary. The IGs reported that their managers and staff were involved in the following activities:* serving on and providing information to management and policy committees and various review boards (17); conduct of financial, operations, and investigative audits (15); conduct of physical security reviews, inspections, and operations (14), administration of security and guard personnel (5), computer security (6), and investigation of thefts of personal property from employees (11); employee background (13) and contractor background (10) checks; monitoring of the filing of financial disclosure forms (10); providing training sessions to agency staff (13), including the screening of anti-corruption, security, and courtesy films (3); responsibility for the processing and distribution of staff photo identification cards (8); tracking employee arrests not related to employment (5) and directing employee debt collection (2); drought compliance (4), fuel oil tracking (4), handling service complaints (3), and providing technical assistance to the agency (2), as well as directly assisting specific agency operations (9) and participating in the Operation Double-Check program of reinspections(9); conduct of management reviews and studies (9); contract compliance reviews and administration (5); serving as agency representatives in sexual harassment issues (2); processing parking violations and summons processing (5) and assigning agency parking positions and monitoring agency parking facilities (3). The following functions were each reported by one IG: providing physical security for the commissioner, operating the fire prevention program, maintaining agency key control, administering the agency strike contingency plan, providing security at special events, and developing and administering agency procedures for dealing with undocumented aliens.

Some offices provide relatively few non-corruption functions; others provide many. Some of the functions are essential to the success of agency management and operations. It is not necessary, however, that they be located in the Office of the Inspector General.

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* Numbers in parentheses indicate the number of IG offices reporting each function.

A number of IGs have stated their belief that service and support functions have been assigned their offices to prevent them from initiating investigative probes. Often, an IG will accept or eagerly seek such functions as a means of providing useful and appreciated tasks for his management and staff and of increasing the stature and improving the image of his office within an agency. It appears that the IG office has provided a convenient location within an agency's structure to place a variety of responsibilities. Under the practice of dual reporting, the Commissioner of Investigation has lacked the authority to refuse to allow such functions within an IG office.

VI. THE NEW SYSTEM

Based on the foregoing review, it is recommended that Executive Order 16 be amended to place the anti-corruption function, budget, and staff of the Inspector General program under the principal control of the Commissioner of Investigation, but with strong consultative and planning roles for the agency head, to be exercised in concert with the Commissioner of Investigation. The new structure mandated by the order would include:

The Inspector General Program As a System:

The Inspector General system shall be reconstituted as a single aggregate of personnel and resources under the direction of the Commissioner of Investigation, but deployed on a field basis, as needed, in the various agencies and departments of the Government. The system shall be centrally controlled, with clear lines of responsibility and accountability running between the Commissioner of Investigation and the Inspector General Offices. This unified system will permit the development and implementation of proactive citywide strategies to combat corruption and criminal activity throughout the Government, and to expose and eliminate corruption hazards within and across agency lines. The flexibility of personnel and fiscal resource allocation on a trans-agency basis, in the service of broad common objectives, will bring coherence, economy, and innovation to the war on corruption.

Joint Responsibility:

The Commissioner of Investigation shall be responsible for developing policy and strategy for the Inspector General system, for the preparation and allocation of a system-wide budget, and for the assignment, direction, and evaluation of all Inspector General personnel in the various agencies and departments. This responsibility shall be carried out, however, in a strict, regular, ongoing, and comprehensive collaboration with each agency head.

Agency heads will remain principally responsible for the maintenance of corruption-free agencies through this formal collaborative arrangement, by developing procedures and systems to protect against corrupt activity unique or common in each agency, by hiring employees of integrity, by careful managerial oversight and high-quality supervision of subordinates and staffs, and by adequate review and monitoring of fiscal commitments and processes. The Commissioner of Investigation and agency heads shall, on a mutual and

joint basis, employ the Inspector General system as an instrument to facilitate the development and implementation of a jointly devised anti-corruption policy and program in each agency.

To this end, in January of each year, there shall be formulated by each agency a concrete and comprehensive anti-corruption program, developed collegially by the agency head, the Commissioner of Investigation, and the Inspector General, designed to identify, evaluate, and eliminate corruption hazards and to pursue significant allegations of corruption in the agency. Once a set of annual target areas and objectives has been agreed upon, principal responsibility for the attainment of these objectives shall reside in the Inspector General Office. Operational and management implementation of any essential change or reorganization shall, of course, be the responsibility of the appropriate agency unit, under the exclusive control and direction of the agency head. In furtherance of these objectives, the Inspector General shall be informed of and have unrestricted access to all regular meetings of agency executives and of managerial staff, and to all records and documents maintained by the agency. There shall be filed with the Mayor, on December 31st of each year, a formal assessment by the Commissioner of Investigation and each agency head of the joint execution of the annual anti-corruption agenda in each agency.

Should other issues, conditions, or problems arise during the year which, in the judgment of an agency head, require investigative attention, the agency head shall direct the Inspector General to modify the annual objectives to the extent necessary to address the new problem. The Inspector General shall notify the Commissioner of Investigation of such modifications, and shall proceed as directed by the agency head if no objection is raised by the Investigation Commissioner.

Agency heads shall be regularly advised by the resident Inspector General on the progress of the anti-corruption program and on all pending corruption studies and investigations. The single and narrow limitation to such briefings will arise where, in the judgment of the Commissioner of Investigation, there is a factual basis indicating that investigative interests might be contravened by sharing knowledge of the investigation with an agency head. The Commissioner of Investigation shall give notice to the Mayor of any decision to apply this exceptional procedure; shall document the basis for the decision; and shall, at the closing of the case, file a conclusion as to the extent to which the investigative findings support or contravene the initial decision to exclude. This exclusionary procedure need not be invoked when the Commissioner of Investigation

is constrained by Grand Jury secrecy requirements from disclosing the existence or character of an investigation being conducted jointly with a public prosecutor.

Management of the Inspector General System:

Inspectors General and Deputy Inspectors General shall be appointed, promoted, reassigned, and terminated by the Commissioner of Investigation, in consultation with the appropriate agency heads. The Commissioner of Investigation and each agency head shall jointly develop a uniform set of tasks and standards, upon which basis Inspectors General and their deputies shall be evaluated jointly by the agency heads and the Commissioner of Investigation. Additional performance requirements may be added, upon the approval of the Commissioner of Investigation, according to the unique requirements of each agency. Agency heads shall submit Inspector General performance evaluations to the Commissioner of Investigation annually for the consideration of the Commissioner of Investigation, who shall then prepare the final evaluation document and upon whose sole final judgment the performance of the Inspector General will be rated.

An equitable, system-wide salary structure will be established. The Department shall develop cross-agency career paths by which the most capable members of the Inspector General system shall be retained and rewarded and their knowledge and experience shared throughout the Inspector General system. Inspectors General and their deputies shall henceforth be prohibited from promotion into managerial and executive positions within the agency to which they are assigned for a period of three years after their employment in those positions.

The budget of the reorganized Inspector General system shall be incorporated into that of the Department of Investigation. Annual budget requests by the Department for the Inspector General system will be reviewed annually with agency heads prior to submission to the Office of Management and Budget.

Inspector General staff shall continue to be located at central offices of their agencies. Sufficient office space shall be provided by the agency and shall be maintained by the agency in a condition at least equivalent to the average condition of principal management offices throughout the agency.

Inspector General offices that currently serve more than one agency shall be reviewed by the Commissioner of Investigation, together with the affected agency heads, to determine the advisability of either reassignment of respon-

sibility for particular agencies from one Inspector General office to another or the creation of new Inspector General offices within agencies currently sharing a single Inspector General office. The final decision to reassign agencies or create new offices shall rest with the Commissioner of Investigation.

Inspector General Task Re-Allocation:

Inspectors General shall be responsible for the identification and investigation of corrupt or criminal activity and conflicts of interest within their respective agencies. Inspectors General shall also assist agency heads in the identification and elimination of corruption hazards. Disciplinary and non-anti-corruption managerial functions and associated investigative tasks shall be reassigned to units within each agency and shall no longer be performed by Inspectors General. Contract background review tasks shall be limited to issues directly indicative of past or current criminal activity. The Vendex system, however, will maintain a central, automated, and fully accessible data repository, containing both performance and background data to inform and support agency contract decisions.

To deal with concrete problems associated with task reallocation, a process will be established by which a comprehensive audit and analysis of the function and workload in each Inspector General office will be jointly conducted by the agency head and the Commissioner of Investigation. In the executive budget process related to expenditures in the fiscal year 1987, the Commissioner of Investigation, together with the appropriate agency head, will conduct an agency-by-agency audit and task identification review in each Inspector General office.

Jurisdiction:

The Inspector General shall have initial jurisdiction on all allegations of corrupt or criminal activity and conflicts of interest. The Inspector General shall also have the discretion to assert jurisdiction over any complaint or allegation alleging wrongdoing, mismanagement, or waste. To facilitate the review of such matters, all complaints or allegations received by or generated from within an agency must be forwarded for preliminary screening to the Office of the Inspector General. Those matters that do not rise to the level of criminal or corrupt activity, or over which the Inspector General does not choose to assert jurisdiction, shall be handled by the agency disciplinary officer or other designated agency staff for further action. The agency head shall retain authority to determine the penalty to be im-

posed in connection with all agency disciplinary proceedings, regardless of the involvement of the Inspector General.

Given these powers, the Department of Investigation will finally have the flexibility and the control of field offices that is essential to proactively address current and potential municipal corruption. While Commissioners of Investigation have sporadically attempted to move out of a reactive posture before, such efforts were unsustainable given the lack of resources at the Department, the uneven distribution of resources among Inspectors General, and the difficulties of relying upon Inspectors General with, in some cases, divided loyalties, substantial non-corruption related managerial burdens, and sometimes concerns about the personal and professional consequences of vigorous proactive investigations at their agencies.

Central control will make possible the creation of a disciplined network of impartial observers of agency processes and activities. Through these observer/investigators, the Department will routinely collect and analyze agency and citywide data to be used in the identification of corrupt or potentially corrupt practices. To date, for example, the Department has failed to regularly collect and analyze data concerning the role of politically influential lobbyists and advocates in the award of public contracts by the City. Inspectors General must be sensitized to the risks arising from such activities, and aggressively examine contracts awarded under such circumstances without fear that such probing will displease agency executives.

Data concerning corruption risks will be shared regularly with agency commissioners, who will play an active and agressive role, with the Commissioner of Investigation in addressing them. The data collected will be used to develop investigative strategies to both test for and uncover corrupt activities. Inter-agency strike forces will be created, drawing upon the expertise of staff from several Inspector General offices at once. Such flexibility will permit the Department to launch sustained probes into the long-neglected areas of procurement, land use and regulation, and construction contracting.

The Department will create career paths for Inspector General and Department staff that will benefit the anti-corruption effort through the retention and recognition of outstanding investigative and other staff. Transfer or temporary posting of talent and expertise among Inspector General offices will lead to a more uniform distribution of

capable staff and substantially improve the quality of all offices through the regular redistribution of personnel.

Budget and resource control will allow the Department to ensure that offices are roughly equivalent in staff quality, and that staff and other resources are appropriate to the degree to which an agency is at risk. Such control will ensure, for example, that surveillance operations are no longer at risk of exposure because Inspectors General have to use the readily identifiable cars that are purchased in bulk by each agency. Salary levels will be brought into conformity citywide. And the budget-cutting knife will no longer strike first at the office of aggressive Inspectors General.

Review by Inspectors General of disciplinary and managerial complaints or reports will guard against oversights of possible corrupt activity, maintain IG familiarity with agency processes and procedures, and encourage collaboration of disciplinary and corruption investigators in borderline matters.

It is the strong recommendation of this report that the disciplinary oversight function of the Department of Investigation, involving now largely the gathering of aggregate data on discipline by quarter, be transferred to the Department of Personnel. The responsibility for the review of the hiring and subsequent evaluation of agency personnel should obviously be linked to dismissal or discipline of those same personnel, and this discipline authority must, of course, remain with the agency head. On an agency level, the advocate and investigative disciplinary functions of current Inspector General offices should be transferred to the Office of Legal Affairs, as has been done in the Department of Sanitation.

Staff performing other non-corruption related functions should similarly be transferred to an appropriate management group within the agency. Details of the number and nature of staff to be shifted out of the Inspector General offices and where they should go should be negotiated with each agency based upon an analysis of staff functions provided by each Inspector General and on other information that agencies might feel is appropriate to making such determinations.

The resolution of office space and equipment issues will depend to a large extent on how staff is redistributed, but in principle should be consistent, on a percentage basis, with the reallocation of staff.

VII. CONCLUSION

The Inspector General system is a vital component of New York City's anti-corruption program. Since its inception in the early 1970s, it has been responsible for much effective and innovative work in the systematic reduction of corruption, dishonesty, mismanagement, and inadequate performance by the City's workforce. Many outstanding City officials have served with distinction in various offices of the Inspector General system. Numerous Commissioners have worked creatively and aggressively in partnership with their Inspectors General and brought about high levels of efficiency and integrity. Resources have been systematically expanded for the Inspector General system, particularly during the present Administration.

All this being said, however, serious institutional flaws plainly exist in the Inspector General system. Principally, decisive control of the individual offices remain, in practical effect, in the hands of the agency heads. Because resources, promotions, salary enhancements, and ultimately, therefore, priorities are subject to an agency head's control, the Commissioner of Investigation cannot carry out the duty imposed upon him implicitly by the City Charter and explicitly by Mayoral Executive Order. This has led to the absence of uniformly high standards of practice and procedure across the Inspector General system. This has led to inflexibility in the ad hoc application of Inspector General investigative resources across agency lines. This has led to divided loyalties, confusion on the question of accountability, and an insularity of outlook which has injured the overall quality and deterrent capacity of the field anti-corruption effort. This has led, in some instances, to dereliction of duty, passivity, and a reluctance to aggressively investigate in some cases.

The recommendations contained in this report will, if accepted and implemented, bring about the necessary and logical integration and control of the investigative power in municipal government. This crucial and indispensable reform is irrefutably required by the public interest.