OLA

OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial-Related Audit

Office of the Ombudsman for Mental Health and Mental Retardation

July 1, 1997, through June 30, 2000

JUNE 22, 2001 **01-32**

Financial Audit Division

The Office of the Legislative Auditor (OLA) is a professional, nonpartisan office in the legislative branch of Minnesota State government. Its principal responsibility is to audit and evaluate the agencies and programs of state government (the State Auditor audits local governments).

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- Promote Accountability,
- Strengthen Legislative Oversight, and
- Support Good Financial Management.

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OFFICE OF THE LEGISLATIVE AUDITOR
State of Minnesota • James Nobles, Legislative Auditor

Senator Ann H. Rest, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Roberta Opheim, Ombudsman
Office of the Ombudsman for Mental Health and Mental Retardation

We have audited the financial activities of the Office of the Ombudsman for Mental Health and Mental Retardation for the period from July 1, 1997, through June 30, 2000. Our audit scope included payroll and other administrative expenditures and a review of the office's interagency agreements with the Department of Human Services. The audit objectives and conclusions are highlighted in the individual chapters of this report.

We conducted our audit in accordance with *Government Auditing Standards*, as issued by the Comptroller General of the United States. Those standards require that we design the audit to provide reasonable assurance that the Office of the Ombudsman for Mental Health and Mental Retardation complied with provisions of laws, regulations, and contracts that are significant to the audit. The office's management is responsible for establishing and maintaining the internal control structure and complying with applicable laws, regulations, and contracts.

Pursuant to Minn. Stat. Section 3.975, this report has been referred to the Attorney General. The Attorney General has the responsibility to ensure the recovery of state funds and, in fulfilling that role, may negotiate the propriety of individual claims.

This report is intended for the information of the Legislative Audit Commission and the management of the Office of the Ombudsman for Mental Health and Mental Retardation. This restriction is not intended to limit the distribution of this report, which was released as a public document on June 22, 2001.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen
Deputy Legislative Auditor

End of Fieldwork: March 9, 2001

Report Signed On: June 18, 2001

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Office of the Ombudsman for Mental Health and Mental Retardation

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Audit Participation

The following members of the Office of the Legislative Auditor prepared this report:

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Jeanine Leifeld, CPA, CISA	Audit Manager
April Snyder	Auditor-In-Charge

Exit Conference

We discussed the findings and recommendations included in this report with the following representatives of the Office of the Ombudsman for Mental Health and Mental Retardation at an exit conference held on May 23, 2001:

Roberta Opheim	Ombudsman
Paul Doyle	Policy and Administrative Services Director
Brian Relay	Client Services Director
Jean Bartlett	Office Manager

Report Summary

Key Findings and Recommendations:

- The Office of the Ombudsman for Mental Health and Mental Retardation did not adequately separate certain payroll duties. Two administrative office employees have full access to input personnel records and time worked into the payroll system. If the office needs to allow both employees access for backup purposes, it should establish and document mitigating controls, such as independent review of payroll reports. (Finding 1, page 5)
- The office overpaid a former employee $2,006 in mileage reimbursement. The office should work with the Attorney General to recover the overpayment. It should review all employee reimbursement claims to ensure that employees claim the correct mileage reimbursements. (Finding 2, page 7)
- The office did not comply with applicable legal provisions when paying one contractor. The office should not allow work to begin before the contract is completed and signed. The office should review all contractor invoices to ensure that all expenses claimed relate to the contract. (Finding 3, page 8)
- The office incorrectly coded some occurrence dates in the accounting system. The occurrence date is the date the goods or services were received and the office incurred the liability. The office should ensure that it uses the correct occurrence dates when entering disbursement transactions. (Finding 4, page 8)
- The office did not adequately document its review and approval of invoices before payment. The office should ensure proper review and approval, including a comparison of invoices to the related contract terms, if applicable. (Finding 5, page 9)
- The office did not properly administer the financial terms of its interagency agreements with the Department of Human Services for the Demonstration Project for Persons with Disabilities. It should work with the Department of Human Services to resolve the remaining issues relating to the interagency agreements.(Finding 6, page 11)

Background:

The Office of the Ombudsman for Mental Health and Mental Retardation is an independent agency created by the Legislature in 1987. It has a broad mandate to "promote the highest attainable standards of treatment, competence, efficiency, and justice…for persons receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance." The office consists of a central office in St. Paul, offices in Duluth and Cambridge, and regional offices located at the Regional Treatment Centers in Anoka, Brainerd, Fergus Falls, St. Peter, and Willmar. Each regional office has an advocate available to assist clients and others.

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Chapter 1. Introduction

The Office of the Ombudsman for Mental Health and Mental Retardation is an independent agency created by the Legislature in 1987. Roberta Opheim has been the Ombudsman for Mental Health and Mental Retardation throughout our audit period. The office has a broad mandate to "promote the highest attainable standards of treatment, competence, efficiency, and justice…for persons receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance." The Ombudsman has statutory authority to:

- Prescribe the methods by which complaints to the office are made, reviewed, and acted upon;
- Mediate or advocate on behalf of a client;
- Investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms work to promote the health, safety, and welfare of clients;
- Gather information about and analyze the actions of an agency, facility, or program and enter and view the premises of an agency, facility, or program:
- Examine records of an agency, facility, or program on behalf of a client;
- Assess the health or serious injury of a client;
- Subpoena a person to appear, give testimony, or produce documents relevant to a matter under inquiry; and
- Attend Department of Human Services Review Board and Special Review Board proceedings.

The Office of the Ombudsman for Mental Health and Mental Retardation consists of a central office in St. Paul, offices in Duluth and Cambridge, and regional offices throughout the state. The regional offices are located in Regional Treatment Centers in Anoka, Brainerd, Fergus Falls, St. Peter, and Willmar. Each regional office has an advocate available to assist clients and others.

Office of the Ombudsman for Mental Health and Mental Retardation

Table 1-1 shows the office's financial activity for fiscal years 1998, 1999, and 2000.

Table 1-1
Office of the Ombudsman for Mental Health and Mental Retardation
Sources and Uses of Funds
Fiscal Years 1998 through 2000

	1998	1999	2000
Sources:			
State Appropriations (1)	$1,399,000	$1,270,320	$1,338,000
Interagency Agreement (2)	0	72,000	79,000
Other deposits	0	842	35
Transfers-In (3)	6,561	0	47,121
Balance Forward In	18,439	77,888	46,903
Total Sources	$1,424,000	$1,421,050	$1,511,059
Uses:			
Payroll	$1,090,802	$1,109,593	$1,135,340
Rent – Space	37,346	42,912	53,736
Printing & Advertising	21,529	12,878	8,613
Professional/Technical Services	91,157	70,865	53,488
Communications	15,319	21,568	22,339
Travel	31,175	32,603	36,692
Supplies	26,744	12,323	18,110
Equipment	15,902	25,601	45,845
Other Expenditures	8,053	44,242	24,026
Total Expenditures	$1,338,027	$1,372,585	$1,398,189
Transfers Out	8,085	1,562	0
Balance Forward Out	77,888	46,903	112,870
Total Uses	$1,424,000	$1,421,050	$1,511,059

Note (1) The fiscal year 1999 state appropriation total is net of cancellations totaling $27,680.

Note (2) In fiscal year 1999, the office entered into an interagency agreement with the Department of Human Services to provide an external advocate for the Demonstration Project for Persons with Disabilities. We discuss the agreement in more detail in Chapter 4 of this report.

Note (3) The fiscal year 2000 transfer in consists of a small agency infrastructure grant from the Department of Administration's Office of Technology. The technology funding initiative provided $47,121 for computer equipment and upgrades.

Source: Minnesota Accounting and Procurement System (MAPS) for fiscal years 1998, 1999, and 2000 as of March 15, 2001.

Chapter 2. Payroll

Chapter Conclusions

The Office of the Ombudsman for Mental Health and Mental Retardation accurately recorded its payroll expenditures in the accounting records. For the items tested, the office properly compensated employees in compliance with employee compensation plans or bargaining unit requirements. However, the office continues to have a lack of adequate separation of duties over certain aspects of payroll processing and review.

Payroll represents the largest expenditure for the Ombudsman for Mental Health and Mental Retardation. The office spent $3,335,735, or 81 percent of total expenditures, on employee payroll costs over the audit period. Employees were covered by various compensation plans or bargaining units including the Managerial Plan, Middle Management Association (MMA), Minnesota Nurse's Association (MNA), Minnesota Association of Professional Employees (MAPE), and American Federation of State, County, and Municipal Employees (AFSCME).

The office recorded payroll and personnel transactions in the State Employees Management System (SEMA4). SEMA4 interfaced payroll expenditures into the Minnesota Accounting and Procurement System (MAPS).

Audit Objectives and Methodology

Our audit of payroll expenditures focused on the following objectives:

- Did the Office of the Ombudsman for Mental Health and Mental Retardation's internal controls provide reasonable assurance that payroll expenditures were properly authorized, based on work performed, and accurately recorded in the accounting system?

- Did the office limit update access to SEMA4 to only those employees who required access to perform job responsibilities? Was access limited to only the required areas?

To address these objectives, we interviewed office personnel to gain an understanding of the internal control structure for processing payroll transactions. We reviewed employee access to update SEMA4 human resource and payroll data. We analyzed and tested employee compensation to ensure compliance with the terms of the compensation plans or bargaining unit provisions. We noted legislative changes to statutory provisions governing compensation for the Ombudsman for Mental Health and Mental Retardation and analyzed payroll transactions to determine whether the Ombudsman's salary was at or below 85 percent of the governor's salary.

Office of the Ombudsman for Mental Health and Mental Retardation

Conclusions

The Office of the Ombudsman for Mental Health and Mental Retardation accurately recorded its payroll expenditures in the accounting records. For the items tested, the office properly compensated employees in compliance with employee compensation plans or bargaining unit requirements. The Ombudsman's salary complied with Minn. Stat. Section 15A.0815, subd. 3. However, the office continues to have a lack of adequate separation of duties over payroll.

1. PRIOR FINDING PARTIALLY RESOLVED: The office did not adequately separate certain payroll duties.

The Office of the Ombudsman for Mental Health and Mental Retardation did not adequately separate duties over the entry of time worked into SEMA4, the state's personnel and payroll system. In our last audit, we reported that the office manager had complete control over the offices's personnel and payroll functions. The office responded by creating an additional administrative position. However, the office gave both administrative office employees full update system access privileges, allowing both employees to input personnel records and time worked into SEMA4. .The same employees are also reviewing the necessary SEMA4 reports each pay period. If the office needs to allow both employees access for backup purposes, it should establish and document mitigating controls, such as independent review of the SEMA4 reports.

Recommendation

- *The office should separate duties relating to payroll and personnel. If duties cannot be adequately segregated, the office should initiate and document mitigating controls, such as independent review of the necessary SEMA4 reports.*

Chapter 3. Administrative Expenditures

Chapter Conclusions

We identified weaknesses in the Office of the Ombudsman for Mental Health and Mental Retardation's internal controls over its nonpayroll administrative expenditures. Some of these weaknesses resulted from the office's small size. We also noted the following instances of noncompliance:

- ***The office overpaid a former employee $2,006 in mileage reimbursement.***
- ***The office did not comply with applicable legal provisions when paying one contractor.***
- ***The office incorrectly coded some occurrence dates in the accounting system.***
- ***The office did not adequately document its review and approval of invoices before payment.***

The office's nonpayroll administrative expenditures include rent, purchased services, business expenses (including travel), supplies and materials, communications, computer and systems services, repairs, alterations and maintenance, printing and advertising, employee development and equipment. These expenditures totaled approximately $773,066, or 19 percent of the office's operating costs during the audit period. The Ombudsman for Mental Health and Mental Retardation uses the Minnesota Accounting and Procurement System (MAPS) to pay vendors and record administrative expenditures.

Audit Objectives and Methodology

Our review of administrative expenditures addressed the following objectives:

- Did the office accurately report other administrative expenditures in the accounting records and comply with applicable legal provisions and management's authorization?
- Did the office make lease payments according to the terms of the lease agreements in effect?

To address these objectives, we interviewed staff to gain an understanding of the internal control structure for administrative expenditures. We performed analytical tests on expenditure transactions throughout the audit period. We tested all the rent expenditures and tested a sample of all other administrative expenditures. We reviewed transactions for accuracy and compliance with applicable legal provisions, internal policies, and management's authorization.

Conclusions

As discussed below, we identified instances of noncompliance with applicable legal provisions and policies when testing the office's administrative expenditures. The office overpaid a former employee $2,006. The office also did not comply with applicable legal provisions when paying for one contract. In addition, the office incorrectly coded certain expenditures. Furthermore we found a weakness in the office's internal controls over administrative expenditures. The office did not adequately document its review and approval of invoices before payment.

2. The office overpaid a former employee for mileage reimbursements.

The office overpaid a former employee $861 in mileage during fiscal years 1998 through 2000. Since the conclusion of our audit, the office uncovered an additional $1,145 in overpayments to the employee for fiscal years 1996 and 1997.

The office did not adequately review the mileage the employee claimed for compliance with the MAPE labor agreement and compensation plan limits. The MAPE labor agreement states:

> When an employee does not report to his/her permanent work location during the day or makes business calls before or after reporting to his/her permanent work location, the allowable mileage shall be:
> 1) the lesser of the mileage from the employee's residence to the first stop or from his/her permanent work location to the first stop;
> 2) all mileage between points visited on State business during the day; and
> 3) the lesser of the mileage from the last stop to the employee's residence or from the last stop to his/her permanent work location.

Despite this requirement, the former employee routinely claimed reimbursement from his home, rather than using the lesser of the mileage from his residence or his permanent workplace when computing mileage reimbursement.

Recommendations

- *The office should work with the Attorney General's Office to collect the mileage overpayment that occurred.*

- *The office should properly review all employee expense reimbursement claims to ensure that employees claim the correct mileage reimbursements.*

3. The office did not comply with applicable legal provisions when paying one contractor.

The Office of the Ombudsman for Mental Health and Mental Retardation allowed a contractor, who was a retired employee, to start and finish a project before completing the related contract. Also, as a part of the contract, the former employee requested reimbursement for expenses that occurred while the person was still employed by the office.

The office did not complete a contract before allowing the vendor to perform the work. According to office staff, the vendor began work in June 1999 and ended by September 1999. The contract, which was not valid until October 8, 1999, showed a beginning date of September 2, 1999, and an ending date of June 30, 2000. The office paid the vendor in July 2000. The office should not allow contractors to begin work until all parties have signed a legal contract.

As a part of the contract, the vendor requested and received reimbursement for expenses that were clearly from the period when the vendor was an office employee. These expenses, totaling $181, were for parking, lodging, and meals. Some of the vendor's mileage reimbursement claims appear to be from the period before the person's retirement. However, there was inadequate mileage documentation to determine whether the travel occurred during or after employment. The office coded and paid the expenses as part of the former employee's contract. The expenses occurred during fiscal year 1999, but the office did not pay them until the end of fiscal year 2000.

Recommendations

- *The office should not allow work to begin on contracts until the contract is completed and signed. Contractors should complete all work during the contract period.*
- *The office should review all contractor invoices to ensure that all expenses claimed relate to the contract.*

4. The office incorrectly coded some occurrence dates in the accounting system.

In some cases, the office used the incorrect delivery, or occurence dates when coding disbursements into MAPS, the state's accounting system. In 5 of 25 samples tested, the office used either the default occurrence date or another date in MAPS. The occurrence date is the date the goods or services were received or rendered. This date is important because the state uses it to determine which fiscal year the activity occurred in for financial reporting purposes. It is also meant to be a management tool for budgeting purposes.

Recommendation

- *The office should ensure that it uses correct occurrence dates when entering disbursement transactions into MAPS.*

5. The office did not adequately document its review and approval of invoices before payment.

The office did not always verify invoices to the related contract terms. In addition, the office's authorization to pay invoices was not always clearly documented.

In two cases, the office made payments on invoices that were not in accordance with the related contract. The office overpaid the Office of the Attorney General by a total of $195 in fiscal year 1999. The Attorney General billed the office at an incorrect contract rate on two invoices, and the office did not catch the error. In another case, the office underpaid its rent in fiscal year 1999 by $2,879 when the vendor sent an invoice for the wrong amount.

In addition, many of the office's invoices do not show sufficient evidence of review and approval. Invoices often are simply signed "OK to pay," with no indication of who approved the invoice and whether it was an authorized person. To ensure that the office only pays for authorized purchases, and that a sufficient separation of duties exists between purchasing and payment, all invoices should be properly approved, including the date and signature of the approver.

Recommendation

- *The office should ensure that invoices are properly reviewed and approved before payment. This should include a comparison of invoices to the related contract terms, if applicable.*

Chapter 4. Interagency Agreements

Chapter Conclusion

The Office of the Ombudsman for Mental Health and Mental Retardation did not properly administer the financial terms of its interagency agreements with the Department of Human Services for the Demonstration Project for Persons with Disabilities.

The Laws of Minnesota for 1997 Chapter 203, Article 8, set up a Demonstration Project for Persons with Disabilities. Both the federal and state government provided funding for this project. The commissioner of the Department of Human Services was in charge of the project. The law required enrollees in the demonstration project to have access to external advocacy services. In part, the law stated:

> These advocacy services shall be provided through the ombudsman for mental health and mental retardation directly, or under contract with private, nonprofit organizations, with funding provided through the demonstration project. The funding shall be provided annually to the ombudsman's office based on 0.1 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during those years. Funding for external advocacy shall be provided for each year of the demonstration project.

Pursuant to this law, the Department of Human Services entered into its first interagency agreement with the Office of the Ombudsman for Mental Health and Mental Retardation to provide these advocacy services.

Later, the demonstration project's funding changed. The Laws of 1999, Chapter 245, subd. 9, provides the following to the commissioner of Human Services for fiscal years 2000 and 2001:

> Of the appropriation under Minnesota Statues, Section 256B.77, no more than $79,000 per year may be paid for external advocacy under MinnesotaStatutes, Section 256B.77, subdivision 14.

Pursuant to this law, the Department of Human Services entered into a second interagency agreement with the Office of Ombudsman for Mental Health and Mental Retardation for fiscal years 2000 and 2001.

Table 4-1shows the revenues the office received from the Department of Human Services for the project.

Table 4-1
Demonstration Project for Persons with Disabilities
Fiscal Years 1999 and 2000 Interagency Agreements

Fiscal Year(s)	Total Contract Amount	Start Date (per Contract)	End Date (per Contract)	Date Contract Signed	Date(s) Paid
1999	$72,000	May 30, 1999	June 30, 1999	June 15, 1999	June 28, 1999 (1)
2000-01	$158,000	Nov. 15, 1999	June 30, 2001	Nov. 30, 1999	June 26, 2000, and February 22, 2001(2)

Note (1): The Department of Human Services paid $72,000 to the office on June 28, 1999. Since the interagency agreement was signed so late in fiscal year 1999, the office worked with a Department of Finance executive budget officer to ensure that the funds could be rolled forward to be spent in FY2000.

Note (2): The FY2000-01 interagency agreement provided for a payment of $79,000 each year by the Department of Human Services. Payment for FY2000 was to be made "in one lump sum payment, upon final execution of this agreement." Payment for FY2001 was to be made on July 1, 2000. Human Services made actual payments of $79,000 on June 26, 2000, for FY2000 and $70,455 on February 22, 2001, for FY2001.

Source: Auditor review of Interagency Agreements and accounting system data.

Audit Objectives and Methodology

Our audit of the interagency agreements for the demonstration project focused on the following objectives:

- Did the Office of the Ombudsman for Mental Health and Mental Retardation comply with the terms of the interagency agreements with the Department of Human Services for the demonstration project?
- Did the office properly record interagency agreement expenditures and revenues in the accounting records?

To address these objectives, we interviewed office personnel to gain an understanding of the interagency agreements for the demonstration project. We also interviewed personnel from the Department of Human Services concerning the agreements. We reviewed the interagency agreements and work plan to determine validity and when work began. We also analyzed revenues and expenditures to determine accuracy of payments and expenditures, which included payroll, to the interagency agreements and work plans.

Conclusion

The office did not properly administer the financial terms of its interagency agreements with the Department of Human Services for the Demonstration Project for Persons with Disabilities.

6. The Office of the Ombudsman for Mental Health and Mental Retardation did not properly administer the financial terms of its interagency agreements with the Department of Human Services.

The office did not follow the financial terms of its interagency agreements with the Department of Human Services. In addition, the office did not properly account for costs under the agreement. It did not separately track expenditures relating to the demonstration project and it charged certain unallowable costs to the project.

The office began incurring demonstration project costs before it finalized an agreement with the Department of Human Services for the project. The office, after talking to the legislators, began work on the project during the fall of 1998. The interagency agreement for fiscal year 1999 was not finalized until June 15, 1999, with a stated start date of May 30, 1999. Because of the way the Department of Human Services structured the interagency agreement, the office had 15 days to start and finish the fiscal year 1999 duties, which included:

- Soliciting input from the stakeholders of the project on how best to establish an independent advocacy system.
- Collaborating with the Department of Human Services on the design of the independent advocacy system.
- Collaborating with the demonstration sites and local and state consumer and advocacy representatives to design the independent advocacy system by sponsoring focus groups.

The Department of Human Services employees who initiated and approved the original interagency agreement no longer work for the department. Current department employees could not provide us with an explanation of how the agreement structure was established or how they anticipated that the office could start and finish its comprehensive duties under the agreement within 15 days.

Because the office was unable to spend the entire fiscal year 1999 interagency agreement amount before June 30, 1999, it worked with a Department of Finance executive budget officer to allow the remaining amount to carry forward to fiscal year 2000. In addition, the office continued to work on the project during the early part of fiscal year 2000, even though the effective date of the fiscal year 2000-2001 agreement was not until November 30, 1999.

The office did not separately track and account for costs relating to the demonstration project. Although the office set up a separate account for the project, it did not consistently charge project costs to that account. During the audit, the office provided us with a detailed list of project expenditures for fiscal year 1999, totaling $40,395.

Finally, the office did not correctly allocate expansion construction costs to the demonstration project. The office paid for 19 percent of the expansion construction from its operating appropriation, while the demonstration project paid for 71 percent, or $24,000, of the construction costs. Although some of the construction was attributable to the demonstration project, the office overcharged the project based on the size of the project room compared to the rest of the expansion area. The office did not have the documentation for the expansion construction allocation.

Recommendations

- *The office should work with the Department of Human Services to resolve the remaining issues relating to the interagency agreements.*

- *The office should determine a complete accounting of all costs relating to the demonstration project for fiscal years 1999 though 2001 to ensure that it spent the entire interagency receipts amount on project related activities.*

Status of Prior Audit Issues
As of March 9, 2001

Most Recent Audit

Legislative Audit Report 97-52, issued in September 1997, covered the period from July 1, 1995, through June 30, 1997. It included an audit of the office's payroll and other administrative expenditures. The report included three findings. We noted that the office did not adequately separate duties both in the payroll and personnel functions and in the purchasing and disbursement functions. We also found that the office did not justify compensatory time earned by certain employees, as required by the applicable bargaining agreements.

The office has resolved the separation of duty issue in the purchasing and disbursement functions, and has significantly limited its use of compensatory time. It has implemented some procedures to separate the payroll and personnel duties. We repeat the remaining portions of that issue as Finding 1 in the current report.

State of Minnesota Audit Follow-up Process

The Department of Finance, on behalf of the Governor, maintains a quarterly process for following up on issues cited in financial audit reports issued by the Legislative Auditor. The process consists of an exchange of written correspondence that documents the status of audit findings. The follow-up process continues until Finance is satisfied that the issues have been resolved. It covers entities headed by gubernatorial appointees, including most state agencies, boards, commissions, and Minnesota State colleges and universities. It is not applied to audits of the University of Minnesota, any quasi-state organizations, such as the metropolitan agencies, or the State Agricultural Society, the state constitutional officers, or the judicial branch.

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STATE OF MINNESOTA
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June 12, 2001

James R. Nobles
Legislative Auditor
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles:

I have reviewed the audit report prepared by your staff covering the period from July 1, 1997 through June 30, 2000 related to financial controls for the Office of Ombudsman for Mental Health and Mental Retardation. This agency has discussed the contents of the report with staff from your agency. Attached is a copy of our response to the issues raised in your report along with actions this agency has taken or will take to address those issues.

I would like to thank April Snyder and Jeanine Leifeld, the Audit team for the professional way this audit was handled. I continue to view the audit process and it's subsequent recommendations as a continuous learning and quality improvement process.

All of our administrative staff strives to comply with all state laws and rules and perform their functions using sound accounting principles. They rigorously investigate procedures they are not familiar with, contact help desks for the MAPS and SEMA4 systems and the contract assistance staff, when unsure of how to proceed. However due to the size of the agency, the number of administrative staff, and the number of complex administrative tasks that agencies must perform regardless of size, we do not have the time or ability to have any one person become an expert in a specialized area.

As was discussed in the exit interview, I ask that this report be viewed in context of the limitations of staff and resources within small agencies. Accordingly, we view this process as a resource to assist us in our efforts to understand and comply with state policies.

Please do not hesitate to contact me if you or members of your agency have further questions.

Sincerely,

Roberta C. Opheim

Roberta C. Opheim
Ombudsman

Attachment

Office of the Ombudsman for Mental Health and Mental Retardation
June 12, 2001

Official Response to the Office of Legislative Auditor
Audit Report covering July 1, 1997 through June 30, 2000

Agency Context

The Office of Ombudsman for Mental Health and Mental Retardation is a small independent state agency. During the period of the audit, it employed 19.5 FTEs Regardless of size, the agency is required to comply with all of the same financial and administrative procedures as the large state agencies. To perform the financial and administrative functions of the agency, the agency currently has two FTEs performing the day to day tasks of the budgeting (BBS), personnel administration, payroll (SEMA4), purchasing, vendor payments (MAPS), and contract writing and monitoring. Besides these tasks, each of these individuals have a number of other assigned duties they are required to perform that are not related to items covered in a financial audit. Due to illness, vacations and emergencies each person is required to have some back up knowledge of the other person's functions, in order to provide back up and continuity of services. The agency does not have any accountants or CPAs on staff.

By nature of the work done by the agency and the agency's size, staff must be knowledgeable in a whole host of professional areas, which by definition makes them generalists. Accordingly they must rely heavily on the help and assistance of the agency's Executive Budget Officer, help desk associates for BBS, MAPS and SEMA4, DOER staffing and labor relations divisions, Dept. of Administration's contract personnel and other professional contacts, when they perform a new function they are not familiar with or perform a task they do infrequently.

Because of the size of this function within the agency, many practices are developed though meeting and conferring between members of a small team. They often agree or come to understandings on procedures and tasks. The downfall is that because of our small size, close proximity to each other, and informality of the interactions, they sometimes do not feel a need to always record those procedures, so while reasonable practices may have been employed, it may not be documented in a way that is clear to an outside auditor or other interested party.

Background

Many, but not all, issues discussed in this audit report occurred during Fiscal Year 1999. Prior to this audit period, this small agency had a relatively simple, single budget structure and a single general fund appropriation. This made all financial transactions relatively clear cut and the entire process was done by a single individual, the Office Manager. The previous Legislative Audit acknowledged that while tasks were performed correctly, the agency did not employ sound practices by ensuring that there was a separation of certain duties like the personnel and the payroll functions and the purchasing and vendor payment systems. Accordingly this put the agency at risk by giving one person too much authority. While the agency acknowledged the weakness, the agency had budget constraints that made it difficult to comply. The agency did employ some review procedures to modify its practices and minimize its risk. The agency also began to look for opportunities to hire additional financial/administrative staff to allow for that separation in the future. The Office Manager at that time had been with the agency for over 10 years and was knowledgeable in all aspects of agency financial functions.

On July 1, 1998, the Office Manager took a mobility assignment with the Department of Administration. The Ombudsman's Office then hired a new Office Manager on a mobility assignment. None of the candidates for the Office Manager position had a generalist background that was essential for this position. It was the intent of the agency to retain this mobility staff member after the original Office Manager returned from the mobility position. This would allow the agency to have two knowledgeable staff in the administrative area, allowing for a better separation of duties.

One of the difficulties for this position was that fact that there was no one in the agency with the knowledge to adequately train the new Office Manager. The new Office Manager attended training for MAPS, SEMA4, and BBS at the beginning of the mobility assignment and literally learned on the job.

During this audit period a number of things happened that required the time and attention of agency leadership. Some of these events were crises and required immediate attention to prevent loss of government resources. The following list of items were outside of the normal events of the agency. These consumed a great deal of agency time and attention, bringing about a feeling of chaos and stress for all agency staff:

- The 1998 legislative session provided language requiring the agency to provide external advocacy for the Demonstration Project for Persons with Disabilities (DPPD) being developed by the Department of Human Services (DHS). This required developing a plan for assistance for some disability groups that we had never served before and setting up a separate budget accounting system for this project which had never been done by this agency.

- The agency was in the final stages of development, training and implementation of a major change in computer equipment and software including a new Case Management System (CMS).

- On July 1, 1998, the agency's only financial person, the Office Manager went on a one year mobility assignment. The agency brought in a new Office Manager, on a mobility assignment.

- On July 7, 1998 the agency's part-time Information Technician (IT) person resigned and we promoted an administrative support person to the vacant part-time IT position.

- From December of 1998 to December of 1999 the new part-time IT person was on medical leave. The former Office Manager who was gone on mobility was the only other person in the agency with technical knowledge of our computer system.

- In the spring of 1999 a long-term employee resigned. Between the resignation and the exit date, this employee engaged in a number of disputes and a grievance with leadership and other agency staff affecting agency morale and productivity.

- This resignation resulted in another staff being re-assigned to a new work location. In response to that reassignment the staff member grieved the reassignment but did not pursue arbitration and instead filed a lawsuit against the agency.

- In the spring of 1999 the Medical Review Coordinator (MRC) retired and a new MRC had to be hired and trained. This is a highly technical medical position and only one person knew all the aspects of the position. There was very little overlap in timing to allow for appropriate training. There were Medical Alerts that needed to be written and the agency entered into a Professional Technical Services Contract with the former MRC.

- In April of 1999 all of the active case files within the CMS were deleted. While the problem was noticed within one working day, the recreation/rebuilding of the database and tightening of security took several months. Discovering the problem and recovering the lost data was a critical task for the agency especially with the part-time IT person on medical leave. Agency management worked with other state agencies, and outside contractors to rebuild the database at the same time as assessing the cause in an effort to prevent similar occurrences. The matter was turned over to law enforcement.

- In September of 1999 the agency's server crashed and some data was lost permanently. The crash exacerbated the situation caused by the previous loss of data. Extensive work had to be done, including retrieval of data and the purchase and installation of a new server and creation of new mail files for all employees.

In summary, the Office of Ombudsman is a small agency and there is little or no duplication of positions. As a result, when key staff are absent there are no persons adequately trained to fill in during the absence.

Report Findings and Recommendations

- **Finding 1, - Payroll** - The report conclusion states that the agency accurately recorded its payroll expenditures in the accounting records but the office continues to have a lack of adequate separation of duties over certain aspects of payroll processing and review.

  Response: As indicated in the report, this relates to a finding in the previous agency audit. The agency updated some review and signoff procedures and established a goal to be able to hire another staff person in this area and separate the critical functions. That goal was realized when the person hired to fill the Office Manager's position while she was on a mobility assignment, agreed to stay with the Ombudsman Office and fill the role envisioned from the last audit report. Both staff members were fully trained and had full access to the SEMA4 system to allow for back up during absences. During this time frame one employee entered payroll, the other employee would review the payroll report as a cross check. However when the auditor checked the report, no initials or names were recorded, making it impossible to determine who reviewed the report.

The agency has responded by requiring the Director of Administration to review and sign off on the payroll reports and the monthly reports. The Director of Administration does not have security access to the SEMA4 system.

However, the agency objects to the concept that we now need three people to do what one person did in the previous audit period. We recognize the potential for risk but believe it is minimized by the size of the agency and its budget. Any form of fraud or gross error would be discovered faster than in a large agency. Because of the size of the agency we need to have people be able to do multiple tasks and be cross-trained. We understand the audit recommendation to be best practice but believe it to be unrealistic in a small agency and a contributor to the size of government bureaucracy.

- **Finding 2, - Mileage Reimbursement -** The audit report found that the agency overpaid a former employee for mileage reimbursements.

  Response: The Ombudsman's office instructs all new employees of their responsibility to comply with appropriate bargaining units, and all state and agency policies. All employees are informed they are the accountable person when filling out their expense reimbursement forms. All employee expense reports are reviewed and signed off by the employee's supervisor who is responsible for knowing what travel and other expenses have been authorized for that employee. The administrative staff then enters the reimbursements into the system. This would present three levels of opportunity to catch a mistake. The Ombudsman's Office has seven regional offices plus a central office. Each of the regional staff persons operates alone in the field in an assigned region and is required to travel extensively throughout their regions and to the central office. This results in long range supervision of these employees and the supervisor learns to develop a level of trust with staff due to the nature of their relationship. Because of the nature of the fieldwork, many expense reports are filed each pay period. The employee who was overpaid was a long-term employee of this agency and had submitted correct expense reports in the past. S/he knew the rules regarding mileage from home to work because s/he had held a leadership position within the agency in the past and had correctly trained at least one current employee on the mileage from home rule. The data entry person did not routinely check each entry for compliance with bargaining units and all rules and policy but would return incorrect reports when there were obvious errors.

The agency wants to thank the OLA staff for bringing this matter to their attention. As a result of the OLA finding and verbal recommendation to review this employee’s prior years expense reports, the agency went back as far as agency records existed and did a further review and found additional overpayments. As a result, the agency has contacted the Attorney General's Office and intends to pursue revenue recapture by all legal means available. This finding was a reminder that all agency staff and supervisors need to remain vigilant in their review of detailed expense reports to prevent the loss of public funds. The agency has also clarified role responsibility for the employee, supervisor and data entry person and the supervisor involved has developed use of tools for cross checking mileage claims.

- **Finding 3, - Contractor Payment-** The report states the office did not comply with applicable legal provisions when paying one contractor. This related to the Professional Technical Services Contract with the former MRC who retired from state employment in April of 1999. The finding related to the contractor starting work before the contract was finalized and to payment for expenses that should have been employee reimbursements during his/her employment rather than paid out of the contract.

  Response: The agency acknowledges the mistakes made on this contract. However, the mistakes were unintentional and the amounts paid to the contractor were entirely for legitimate work and expenses incurred by this contractor, however, they were not done in accordance with state rules. This contract was the agency’s first contract done with a former employee and was prepared by the new Office Manager who was not experienced in contracts. There were a number of important functions that needed to be performed in the Medical Review area that could not be completed prior to this employee's retirement date. This individual was the only person at that time with the information to complete this work. S/he was willing to complete the work but wanted to wrap this up as soon as possible so s/he agreed to finalize these projects. At the same time the Office Manager was attempting to research the correct type of contract, the appropriate language and the technical procedure. This timing resulted in the mistakes made on this contract.

The agency has subsequently become more knowledgeable in contracts and has already improved its practices. However, the agency now is judicious in not allowing any contractor to begin work prior to the finalization of the contract. The agency also now requires the responsible staff member to review and sign off on all invoices submitted by the vendor to ensure costs are appropriate to the terms of the contract.

- **Finding 4, - Occurrence dates** - The report found that the office incorrectly coded some occurrence dates in the accounting system.

  Response: This resulted from the administrative staff entering in a default date in the payment system rather than inputting the actual date received. The agency reviewed this and found that all but one of these was from the first part of the audit and is not a problem now. As far as the agency can tell, no occurrence date had any effect on the state’s financial report.

  The administrative staff is now aware of this and will enter the date actually received rather than the computer default date

- **Finding 5, - Review and approval of invoices -** This finding indicated that the office did not adequately document its review and approval of invoices before payment.

  Response: The agency does have a procedure for reviewing and approving payments from invoices. The finding of two incorrect payments made to vendors resulted from a case were two separate invoices were incorrectly submitted by two different vendors and resulted from unusual circumstances not commonly encountered. The first related to an incorrect payment to the Attorney General's Office because that office submitted a bill that contained the correct amount of hours, which was checked by this office. However, the rate of billing was incorrect due to a change in the hourly rate in the amended contract.

  The second occurrence was related to a one month underpayment of the office's central office rent obligation. There was a delay by the landlord in execution of lease renewal for the space occupied by the agency. In additional, additional space was added, rates per square foot changed and leasehold improvements made to the space. Because no contract was in place, the agency could not make its regular monthly rent payments until the lease was fully executed. When the lease was executed, the landlord submitted a bill for back rent, which the agency paid in full. The bill however was not correct and resulted in an underbilling to the agency. This was an accidental oversight on the part of the agency.

  The issue of whether or not invoices were reviewed and appropriately authorized results from a failure to identify the person who reviewed the billing and authorized payment. As a result of this finding the agency requires the reviewer to initial and date when they reviewed the invoice in addition to putting "OK to Pay" on the invoice. Staff will also check for consistency with the contract or purchase order.

- **Finding 6, - Interagency agreement**

Response: The agency openly acknowledges a number of problems with the interagency agreement between The Office of Ombudsman and DHS regarding external advocacy for the DPPD. The agency was not involved in the legislative negotiations that resulted in this function being assigned to this agency. After the legislation passed, the Ombudsman met with the advocacy organizations responsible for asking that the agency be assigned this function. It was clear from those organizations that they did not want DHS to have any control of the external advocacy function. It was felt that it would be a conflict of interest for advocacy to be provided by any entity that was a provider or payer of services. They wanted the Ombudsman Office along with interested advocacy groups to set up advocacy services.

The Office Manager, prior to going on mobility assignment, set up a separate appropriation for the DPPD project. This was the first time the agency had more than one appropriation. In setting up the appropriation, the Office Manager sought the advice of the DOF, which indicated that the appropriation should be set up as an interagency transfer. This would allow work to be attributed to this account even when the funds had not yet been transferred. During this time the agency began the planning of the project because time was critical to meet the project's anticipated start date. When the agency requested the funds be transferred, DHS indicated that they required an interagency agreement including review and approval of the work plan. A number of discussions ensued with each agency contending the funding was either a transfer or needed an agreement.

There was some discussion that to be a transfer, certain wording was required in the legislation. DHS contended that language was not present. This agency asserted that in accordance with advice from DOF and discussions with advocacy organizations, it should be a transfer and that for DHS to have review and approval over the work plan would be contrary to the intent of those who offered the legislation. These discussions occurred over several months with no resolution. This agency had discussions with its EBO and no mention of this required language was made. By late FY 98 DHS advised our project manager that without an interagency agreement, they would not release the funds. The Ombudsman felt this agency had no choice but to enter into this agreement. Even then the funds were not transferred until the last day of the fiscal year. The new Office Manager was not familiar with interagency agreements and did not code appropriate expenses to the DPPD budget.

The agency had serious concerns about whether or not it would receive the funding even though the agency had devoted a great deal of time and resources to the project. We object to the finding that the agency should not have begun work on this project until the agreement was signed. To do that would have harmed the project and would have not been consistent with legislative expectations of the agency. The agency proceeded in good faith on a project that the legislature requested it perform. The second two years of the project resulted in the same type of delays in finalizing the interagency agreements and transfer of funds.

As a result of the DPPD project, the agency anticipated the addition of more staff for the DPPD external advocacy. The existing space was not large enough to accommodate additional staff. Space adjacent to the Ombudsman's space became available but was too large for DPPD staffing needs. The agency worked with other state agencies to split and share that space. This caused construction costs but lower rent to this agency. Absent the DPPD project there would have been no reason for the construction costs; therefore the cost was attributed to the DPPD project. The agency did allocate some of the costs to the OMB budget since there were minor improvements made to the agency's existing space. If the agency had not secured the adjacent space, they would possibly have had to move to secure the needed space. In the end, it was felt that this project was more cost effective.

Ultimately, the DPPD project was canceled. Over the process of this project, this agency learned a number of lessons. The agency does not anticipate these types of problems in the future. The agency will work with DHS to resolve remaining issues related to this project. All future interagency agreements will be handled according to the appropriate process and the project manager will be responsible for the terms of the agreeement.

Summary

This audit has served as an essential learning process for the administrative and management staff of this agency. The addition of another trained financial person and some of the critical incidents certainly made this period one of great transition. An audit performed by the DOF's Internal Control Unit covering Fiscal Year 2000 revealed only two findings. This indicates to the ombudsman that some of the problems prior to that have been improved upon. The agency will continually strive to improve its financial and administrative practices.