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OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Parks and Trails Fund

Internal Controls and Compliance Audit

July 2012 through February 2015

February 11, 2016 **Report 16-04**

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Conclusion on Internal Controls

The Financial Audit Division bases its conclusion about an organization's internal controls on the number and nature of the control weaknesses we found in the audit. The three possible conclusions are as follows:

Conclusion	Characteristics
Adequate	**The organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Generally Adequate	**With some exceptions, the organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Not Adequate	**The organization had significant weaknesses in the design and/or implementation of its internal controls and, as a result, the organization was unable to effectively manage the risks related to its financial operations.**

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

February 11, 2016

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Members of the Legislative Audit Commission

Thomas Landwehr, Commissioner
Department of Natural Resources

Adam Duininck, Chair
Metropolitan Council

Members of the Metropolitan Council

This report presents the results of our internal controls and compliance audit of the Legacy Amendment-Parks and Trails Fund for the period from July 2012 through February 2015. The objectives of this audit were to determine if the Department of Natural Resources and the Metropolitan Council had adequate internal controls to ensure they used Parks and Trails appropriations for the intended purposes and complied with applicable legal requirements.

This audit was conducted by Brad White, CPA, CISA, CFE (Audit Director), Sandy Ludwig (Audit Supervisor), and auditors Carmen Marg-Patton, CPA, CFE, and Nick Ludwig, CPA.

We received the full cooperation of the Department of Natural Resources and the Metropolitan Council staff while performing this audit.

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Table of Contents

Report Summary

Background

The Parks and Trails Fund is one of the four funds created when voters approved the "Legacy Amendment" to the Minnesota Constitution in 2008.[1] The amendment increased the state's sales tax by three-eighths of one percent for 25 years and dedicated 14.25 percent of the additional revenue to the Parks and Trails Fund. The constitutional amendment requires that money in this fund be used to "support parks and trails of regional or statewide significance." The Legislature appropriates money from the Parks and Trails Fund for specific purposes. The two largest recipients of appropriations from the fund have been the Department of Natural Resources and Metropolitan Council.

This audit examined expenditures from the Parks and Trails Fund by the Department of Natural Resources and the Metropolitan Council during the period from July 2012 through February 2015. The audit focused on whether the department and council had adequate internal controls to ensure that they used money from the Parks and Trails Fund in compliance with purposes described in the state constitution, the appropriation laws, and other finance-related legal requirements.

Conclusion

The Department of Natural Resources had generally adequate internal controls and generally complied with most legal requirements applicable to the use of Legacy money from the Parks and Trails Fund appropriations. However, the department did not ensure that its cost allocation methodology for administrative costs complied with the Parks and Trails Fund appropriation laws.

The Metropolitan Council did not have adequate internal controls to monitor its grant recipients; however, for the items we tested, the grant recipients complied with legal requirements applicable to the use of money from the Parks and Trails Fund and for purposes specified in appropriation laws.

[1] *Minnesota Constitution,* art. XI, sec.15, provides for the distribution of the additional dedicated sales tax revenue into four funds, as follows: Outdoor Heritage Fund, 33 percent; Clean Water Fund, 33 percent; Parks and Trails Fund, 14.25 percent; and the Arts and Cultural Heritage Fund, 19.75 percent.

Findings

- The Metropolitan Council did not sufficiently monitor Parks and Trails Fund grants to regional park implementing agencies. (Finding 1, page 13)
- The Department of Natural Resources could not show how the administrative costs it allocated complied with the "directly related to and necessary for" and the "supplement not substitute for" requirements. (Finding 2, page 16)

Background

In 2008, Minnesota voters approved a constitutional amendment, commonly referred to as the "Legacy Amendment." The amendment increased the state sales tax by three-eighths of one percent for a 25-year period and required specific percentages of the new revenue to be deposited into four separate Legacy funds, including the Parks and Trails Fund.[2] In this report, we refer to this additional sales tax revenue as "Legacy money." The constitutional amendment requires that money in the Parks and Trails Fund be spent only to "support parks and trails of regional or statewide significance."[3] The Legislature appropriates money from the Parks and Trails Fund for specific purposes.

The Department of Natural Resources established the Parks and Trails Legacy Steering Committee to participate in the design of a 25-year Parks and Trails Legacy Plan.[4] The Committee included staff from the Department of Natural Resources, Metropolitan Council, and other local units of government.[5] The Committee created a vision that identified four strategic directions to serve as the heart of the 25-year plan.[6] The Department of Natural Resources has used the plan within its Parks and Trails Division to categorize and prioritize projects funded with Legacy money from the Parks and Trails Fund. The Metropolitan Council has also incorporated the plan into its Park Policy Plan to ensure that the council's projects align with the strategic directions established in the 25-year plan. The plan's four strategic directions are shown in Exhibit A.

[2] *Minnesota Constitution,* art. XI, sec.15, provides for the distribution of the additional dedicated sales tax revenue into four funds, as follows: Outdoor Heritage Fund, 33 percent; Clean Water Fund, 33 percent; Parks and Trails Fund, 14.25 percent; and the Arts and Cultural Heritage Fund, 19.75 percent.

[3] The Legacy Amendment also defines the purposes for which money from the other Legacy funds may be used.

[4] *Laws of Minnesota* 2009, Chapter 172, art. 3, sec. 2(a), appropriated money to the Department of Natural Resources to collaborate with partners to develop a 25-year long range plan for parks and trails.

[5] Other Local Units of Government include cities, counties, regional park implementing agencies, the Parks and Trails Council of Minnesota, and Explore Minnesota Tourism.

[6] http://www.legacy.leg.mn/sites/default/files/resources/parks_trails_legacy_plan_0.pdf.

Exhibit A
Parks and Trails Legacy Steering Committee
Parks and Trails Legacy Plan
25-Year Long-Range Plan - Strategic Directions

1) Connect people and the outdoors – Better develop Minnesota's future users of parks and trails through efforts to increase life-long participation of activities at regional parks and trails.
2) Acquire land, create opportunities – Create new and expanded park and trail opportunities to satisfy current users as well as to reach out to new ones.
3) Take care of what we have – Provide safe, high-quality parks and trails experiences by regular re-investment in park and trail infrastructure and natural resource management.
4) Coordinate among partners - Enhance coordination across the large and complex network of public, private, and nonprofit partners that support Minnesota's parks and trails to ensure seamless, enjoyable park and trail experiences for Minnesotans.

Source: Minnesota Department of Natural Resources, *Parks and Trails Legacy Plan* (St. Paul, MN, February 14, 2011). The plan is available at: http://www.legacy.leg.mn/sites/default/files/resources/parks_trails_legacy_plan_0.pdf.

The Legislature appropriates money from the Parks and Trails Fund to several entities. The Minnesota Department of Natural Resources and the Metropolitan Council were the largest recipients of money from the Parks and Trails Fund in fiscal years 2013, 2014, and 2015, as shown in Table 1.

Table 1
Parks and Trails Fund Appropriations
For Fiscal Years 2013, 2014, and 2015
In Thousands

	Fiscal Years			
Entities	2013	2014	2015	Total
Department of Natural Resources	$22,327	$25,431	$25,637	$ 73,395
Metropolitan Council	16,141	16,821	16,953	49,915
University of Minnesota	0	250	0	250
Legislature	0	7	6	13
Total	$38,468	$42,509	$42,596	$123,573

Source: *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 3; *Laws of Minnesota* 2013, chapter 137, art. 3.

We focused our audit on the use of Legacy money from the Parks and Trails Fund by the Department of Natural Resources and the Metropolitan Council. We tested these entities' use of Parks and Trails Fund money because they received most of the money appropriated by the Legislature. The department and the council used much of the money they received to provide grants to other organizations, particularly local units of government. They awarded some grants to recipients chosen through a competitive process; they awarded other grants to recipients specifically designated by the Legislature in the appropriation law.

Minnesota Department of Natural Resources

The Minnesota Department of Natural Resources states that its mission is to conserve and manage the state's natural resources, provide outdoor recreation opportunities, and provide for commercial uses of natural resources in a way that creates a sustainable quality of life. Governor Mark Dayton appointed Tom Landwehr as commissioner of the department in January 2011. The department operates under *Minnesota Statutes* 2014, Chapter 84. The department has seven divisions and maintains regional offices throughout the state. The regional offices have personnel representing the department's various divisions and a regional director to coordinate the department's efforts throughout the region.

The department's Parks and Trails Division is responsible for the development, administration, and management of state and regional parks and trails, and water recreation areas. The division used Legacy money from the Parks and Trails Fund to purchase land, extend and connect existing trails, further develop the regional park system, and administer grants to local units of government through the Parks and Trails Legacy Grant Program.

The department created the Parks and Trails Legacy Grant Program to provide grants to local units of government to support parks and trails of regional or statewide significance. Through the grants, the local units of government used the money to purchase land, extend and connect existing trails, and further develop the regional parks at the local government level.

Table 2 summarizes the department's expenditures from the Parks and Trails Fund appropriations from July 1, 2012, through June 30, 2015.

Table 2
Department of Natural Resources
Expenditures from the Parks and Trails Fund
July 2012 through June 2015
By Fiscal Year

Expenditure Type	Fiscal Years 2013	2014	2015[1]	Total
Land Acquisitions and Development	$ 4,478,069	$ 6,467,802	$ 7,633,515	$18,579,386
Grants	2,018,170	7,151,540	5,735,714	14,905,424
Purchased Services	2,342,860	3,423,099	4,028,708	9,794,667
Payroll	2,834,934	3,399,409	2,683,219	8,917,562
Indirect Costs	1,072,711	1,422,475	1,814,449	4,309,635
Supplies and Materials	758,874	1,509,441	693,857	2,962,172
Other Expenditures[2]	1,902,504	1,684,555	1,719,499	5,306,558
Total Expenditures	$15,408,122	$25,058,321	$24,308,961	$64,775,404

[1] While our audit scope included expenditures through February 28, 2015; for comparison purposes, this table includes all fiscal year 2015 expenditures.

[2] Other expenditures include equipment, repairs, and other miscellaneous items.

Source: State of Minnesota's accounting system.

In June 2015, the Legislature passed a law to shift the Parks and Trails Legacy Grant Program responsibilities from the department to the Greater Minnesota Regional Parks and Trails Commission.[7] The Greater Minnesota Regional Parks and Trails Commission will administer all new grants for state fiscal year 2016.

Metropolitan Council

The Legislature established the Metropolitan Council (the council) as a public corporation and political subdivision of the state to plan and coordinate the orderly growth and development of the seven-county metropolitan area.[8] The council is governed by a 17-member board; all board members are residents of the

[7] *Minnesota Statutes* 2014, 85.536, established the commission to undertake system planning and provide recommendations to the Legislature for grants of Legacy money from the Parks and Trails Fund to counties and cities outside the seven-county metropolitan area for parks and trails of regional significance.

[8] *Minnesota Statutes* 2014, 473.121, defines the seven-county metropolitan area to include the counties of Anoka; Carver; Dakota (excluding the city of Northfield); Hennepin (excluding the cities of Hanover and Rockford); Ramsey; Scott (excluding the city of New Prague); and Washington.

metropolitan area. The Metropolitan Council states that its mission is to foster efficient and economic growth for a prosperous metropolitan region, which includes developing regional park plans and providing grants to local units of government for park development purposes. Governor Mark Dayton appointed Adam Duininck as chair of the Metropolitan Council in January 2015. The council operates under *Minnesota Statutes* 2014, Chapter 473.

The council's Community Development Department administers grants to ten regional park implementing agencies.[9] *Minnesota Statutes* require the council to distribute appropriations of Legacy money from the Parks and Trails Fund to the ten regional park implementing agencies in accordance with the formula established in law.[10] The formula requires that about 90 percent of the money be used for environmental programs and capital improvement projects and about 10 percent be used for land acquisitions.

The council used all Legacy money from the Parks and Trails Fund to provide grants to local units of government; it did not use any of the appropriated money for its administrative and oversight costs.

Table 3 summarizes the council's grant expenditures of Legacy money from the Parks and Trails Fund from July 2012 through February 2015.

Table 3
Metropolitan Council
Expenditures from the Parks and Trails Fund
July 2012 through February 2015
By Fiscal Year

	Fiscal Years			
Expenditure Type	**2013**	**2014**	**2015**	**Total**
Grants	$13,995,508	$12,397,375	$10,150,284	$36,543,167
Total Expenditures	$13,995,508	$12,397,375	$10,150,284	$36,543,167

Source: Metropolitan Council's accounting system.

[9] *Minnesota Statutes* 2014, 473.351, subd. 1(a), defines the ten regional park implementing agencies to include the counties of Anoka, Washington, Ramsey, Scott, Carver, Dakota, the city of St. Paul, the city of Bloomington, the Minneapolis Park and Recreation Board, and the Three Rivers Park District.

[10] *Minnesota Statutes* 2014, 85.53, subd. 3, describes the formula the council must follow for Parks and Trails Fund appropriations. The formula includes five factors: populations represented by the regional park implementing agencies, number of visitors to the parks, number of nonlocal visitors, the amounts the regional park implementing agencies spend on operation and maintenance costs, and the total acreage of the parks.

Audit Objective, Scope, and Methodology

The objective of our audit of expenditures of Legacy money from the Parks and Trails Fund by the Department of Natural Resources and the Metropolitan Council, for the period July 2012 through February 2015, was to answer the following questions:

- Did the Department of Natural Resources and the Metropolitan Council have adequate internal controls to provide reasonable assurance that they used Legacy money from the Parks and Trails Fund for the purposes outlined in appropriation laws; reasonably and consistently allocated allowable costs to Parks and Trails Fund appropriations; accurately paid grant recipients and vendors in accordance with management's authorization; complied with finance-related legal requirements; and created reliable financial data?
- For items tested, did the Department of Natural Resources and the Metropolitan Council use Legacy money from the Parks and Trails Fund appropriations for the intended purposes in compliance with the significant finance-related legal requirements?

To meet our audit objective, we used the following methodology: We gained an understanding of the department's and council's financial policies and procedures. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements. We obtained and analyzed the accounting data to identify unusual trends or significant changes in financial operations. In addition, we selected financial transactions and reviewed supporting documentation to determine whether the department's and council's internal controls over grant expenditures were effective. We also tested whether grant and other expenditures complied with applicable legal criteria. When invoices and other supporting documentation were not available at the council, we obtained the documents directly from the regional park implementing agencies that received the grant money.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Criteria

We assessed the Department of Natural Resources' and the Metropolitan Council's internal controls using the internal control standards published by the

U.S. Government Accountability Office.[11] Specifically for internal controls over grants at the Department of Natural Resources, we assessed the department against the policies and procedures established for executive branch state agencies by the Department of Administration's Office of Grants Management.[12] In the absence of council policies and procedures, we used the Office of Grants Management policies and procedures as best practices.

To establish legal compliance criteria for the grants and other expenditures we tested, we examined the requirements in the following documents:

- Minnesota Constitution, art. XI, sec.15.
- *Minnesota Statutes* governing the Parks and Trails Fund:
  - *Minnesota Statutes* 2014, 85.53
  - *Minnesota Statutes* 2014, 473
- Laws appropriating money from the Parks and Trails Fund:
  - *Laws of Minnesota* 2009, chapter 172, art. 3
  - *Laws of Minnesota* 2010, chapter 361, art. 3, sec. 6 and 7
  - *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 3
  - *Laws of Minnesota* 2012, chapter 264, art. 3
  - *Laws of Minnesota* 2013, chapter 137, art. 3
  - *Laws of Minnesota* 2014, chapter 312, art. 12, sec.6, subd. 4
- Minnesota Department of Natural Resources Policies and Procedures, including its Parks and Trails Legacy Grant Program Reimbursement Manual and grant agreements.
- Metropolitan Council Grant Agreements.

Some of the legal requirements in these documents apply generally to the use of money from any Legacy fund, and others apply specifically to the money appropriated to the Minnesota Department of Natural Resources and the Metropolitan Council from the Parks and Trails Fund in fiscal years 2013, 2014, and 2015.

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[11] Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government*, (Washington D.C., September 2014). In September 2014, the State of Minnesota adopted these standards as the internal control framework for the state's executive branch. The Metropolitan Council is also in the process of implementing the federal internal control standards into its policies.

[12] *Minnesota Statutes* 2014, 16B.97, required the commissioner of Administration to "…create general grants management policies and procedures that are applicable to all executive agencies."

Two legal requirements specific to the use of Legacy money have been controversial and subject to conflicting interpretations. We refer to them as the "**supplement not substitute for**" and "**directly related to and necessary for**" requirements.[13] Both of these requirements are designed to ensure that the Legacy money is only used for its intended purposes.

The "supplement not substitute for" requirement originates in the state constitution and says that Legacy money must only be used to "supplement traditional sources of funding…and may not be used as a substitute."[14] Unfortunately, neither the Legacy Amendment nor a subsequent statutory provision defines what constitutes "traditional sources of funding."

For example, it is unclear how many years an expense must be funded from a particular revenue source for that source to be considered "traditional." In addition, entities do not know whether it is an allowable use of Legacy money to maintain certain programs and activities when the Legislature has reduced or eliminated a "traditional" source of funding for those programs and activities.

The "directly related to and necessary for" requirement (intended to limit the amount of Legacy money used for administrative costs) limits the use of Legacy money to only those costs that are directly related to and necessary for a legislatively authorized Legacy project or activity. For example, the appropriation law enacted in 2011 said:

> Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation.[15]

In 2013, legislation changed this restriction to state the following:

> Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must be spent in accordance with Minnesota Management and Budget's Guidance to Agencies on Legacy Fund Expenditure.[16]

[13] For a more extended discussion of these two legal requirements, see Office of the Legislative Auditor, Program Evaluation Division report, *The Legacy Amendment*, issued November 2011, pages 45-58 (St. Paul, MN).

[14] *Minnesota Constitution*, art. XI, sec. 15.

[15] *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 3, sec. 2, subd. 2.

[16] *Laws of Minnesota* 2013, chapter 137, art. 3, sec. 2, subd. 2.

The Minnesota Management and Budget's guidance does not provide agencies with clear direction about when it is appropriate to allocate administrative costs to Legacy funds or identify appropriate methodologies for those allocations. Instead, it compares the direct and necessary requirement to federal indirect cost requirements, and leaves room for agency management's interpretation and discretion.

In a 2011 report about the Legacy Amendment, we identified these two requirements as ongoing issues because the concepts involve complex questions without easy answers. We also emphasized that the requirements could not be ignored.[17]

Complying with these requirements continues to be a challenge. Since 2011, our audits of entities using Legacy money have questioned whether they complied with these requirements. We understand that justifying the use of Legacy money at a detailed level requires additional staff time and involves costs. But, in our view, that greater level of effort and documentation is necessary to show compliance. We think that entities using Legacy money must be able to show that they have not used Legacy money as a substitute for traditional sources of funding, and they have used the money only for costs that are "directly related to and necessary for" the specific appropriation they received.[18]

Conclusion

The Department of Natural Resources had generally adequate internal controls and generally complied with most legal requirements applicable to the use of Legacy money from the Parks and Trails Fund appropriations. However, the department did not ensure that its cost allocation methodology for administrative costs complied with the Parks and Trails Fund appropriation laws.

The Metropolitan Council did not have adequate internal controls to monitor its grant recipients; however, for the items we tested, the grant recipients complied with legal requirements applicable to the use of money from the Parks and Trails Fund and for purposes specified in appropriation laws.

The following *Findings and Recommendations* section provides further explanation about the exceptions noted above.

[17] In applying these legal requirements, we followed *Minnesota Statutes* 2014, 645.16, which provides guidance on interpreting and applying state law. It says, in part, "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions. When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit."

[18] Office of the Legislative Auditor, Program Evaluation Division, *The Legacy Amendment*, November 2011, page 57 (St. Paul, MN).

Findings and Recommendations

Finding 1

The Metropolitan Council did not sufficiently monitor Parks and Trails Fund grants to regional park implementing agencies.[19]

State appropriation laws direct Parks and Trails Fund money to the Metropolitan Council for grants for metropolitan parks and trails. *Minnesota Statutes* further require that the Metropolitan Council has a responsibility to monitor the use of funds by its grant recipients and to ensure the funds expended were in compliance with state law.[20] The council was unable to provide us with evidence that it properly monitored grant recipient expenditures from the Parks and Trails Fund.

During our audit scope, the council awarded 93 grants totaling over $36.5 million to ten regional park implementing agencies.[21] We tested 20 of these grants; the grant amounts ranged from $59,656 to $2,898,970. The council appropriately awarded grants based on the formula detailed in statute.[22] The grants were to be used for the four strategic directions identified in the 25-year Legacy Parks and Trails Plan (see Exhibit A). For example, the recipient of one grant used the money to connect existing trails to neighboring communities to provide safe biking routes.

The council had the following deficiencies in its monitoring of the grants we tested:

- The Metropolitan Council did not comprehensively assess the risks related to administering and monitoring grants made with Legacy money from the Parks and Trails Fund. In addition, the council did not document its internal controls to address those risks.

  The internal control framework being implemented by the council states that management "should identify, analyze, and respond to risks related to

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[19] We had a similar finding related to the Metropolitan Council's grants of money from the Environment and Natural Resources Trust Fund. See Office of the Legislative Auditor, Financial Audit Division Report 16-03, *Environment and Natural Resources Trust Fund*, issued February 11, 2016, Finding 1.

[20] *Minnesota Statutes* 2014, 85.53, governs the Parks and Trails Fund, and subd. 2(d), states that "Grants funded by the Parks and Trails Fund must be implemented according to section 16B.98 and must account for all expenditures." *Minnesota Statutes* 2014, 16B.98, subd. 6, states that, "A granting agency shall diligently administer and monitor any grant it has entered into."

[21] The ten regional park implementing agencies include the counties of Anoka, Carver, Dakota, Ramsey, Scott, Washington, the city of Bloomington, the city of St. Paul, the Minneapolis Park and Recreation Board, and the Three Rivers Park District, pursuant to *Minnesota Statutes* 2014*,* 473.351, subd. 1(a).

[22] *Minnesota Statutes* 2014*,* 85.53, subd. 3, and *Minnesota Statutes* 2014*,* 473.351, subd. 3. The formula is based on operation and maintenance expenditures, total acreage, population of the metropolitan area, and relative share of local and nonlocal visits.

achieving its defined objectives."[23] The framework also states that management "should design control activities to achieve objectives and respond to risks."[24]

The council had assessed some risks, had many control activities in place, and had performed some activities to monitor the performance and effectiveness of those controls. However, the council had not identified or assessed the risks related to noncompliance with state laws that could occur by the grant recipient (a regional park implementing agency) and had not developed controls to monitor grant recipients' compliance. Without an adequate assessment of the risks and effective internal controls designed to address those risks over the grant program, the council increased the chance that significant deficiencies could occur and not be detected.

- The council did not obtain or review regional park implementing agencies' land appraisals and appraisal reviews to ensure the agencies planned to pay a reasonable price for the land. (An appraisal is an opinion about the value of real property; an appraisal review is verification of the appraiser's qualifications and appraisal methods.) Without seeing the appraisal, the council did not have assurance that the purchase price was competitive and fair.

  Council staff stated that they relied on the regional park implementing agencies to obtain appraisals for land purchases. The staff also stated that they used a Geographic Information System to verify that the land purchased is within park boundaries.

- The council did not require regional park implementing agencies to submit documentation sufficient for council staff to be able to determine whether expenses were allowable.[25] The council required the agencies to provide a schedule of payments made to their vendors (including the vendor names, amounts, dates paid, and check numbers), but did not require the agencies to always submit invoices, purchase agreements, settlement statements, or deeds. Without this supporting documentation, the council was unable to determine whether the expenses were actually incurred in the amounts and at the times that the regional park implementing agencies reported. Further, the council was unable to determine whether the expenses were allowable based on the state constitution, state statutes, and appropriation language.

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[23] Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington D.C., September 2014) page 37.

[24] Ibid., page 45.

[25] A similar finding was included in the Office of the Legislative Auditor Financial Audit Division Report 14-06, *General Obligation Bond Expenditures,* issued March 6, 2014, Finding 5.

Because the council was unable to provide us with sufficient documentation, we directly obtained invoices from the regional park implementing agencies. In one grant we tested, the agency had inadvertently paid a $3,136 invoice twice, and the council reimbursed the agency for both payments.

- The council did not routinely visit regional park implementing agencies for the purpose of monitoring how the agencies administered the council's grants. Without monitoring visits, the council did not have assurance, for example, that a regional park implementing agency's internal controls over land acquisitions were adequate, or that an agency had procedures in place to identify and avoid any conflicts of interest. Some agencies' staff we talked to stated that the council had not conducted a formal monitoring visit in the last five years.

  For state agencies, the state's Office of Grants Management requires at least one monitoring visit per grant period on all grants over $50,000 and at least annual monitoring visits of grants over $250,000.[26] While the policy is not applicable to the council, it sets a reasonable standard and expectation that monitoring visits are an important part of the oversight responsibilities of entities that grant public money.

These deficiencies increased the risk that regional park implementing agencies could use grant money inappropriately and not comply with grant agreements or state law.

Recommendations

- *The Metropolitan Council should clearly document and periodically review its risks, internal control activities, and monitoring functions related to its oversight responsibilities for Parks and Trails Fund grants.*

- *The Metropolitan Council should develop procedures for reviewing appraisals to ensure regional park implementing agencies obtain current and complete appraisals that support the purchase price when acquiring land with money from the Parks and Trails Fund.*

- *The Metropolitan Council should require regional park implementing agencies to submit invoices, purchase agreements, settlement statements, and deeds to support reimbursement requests. The council should review this documentation to ensure reimbursed costs are allowable and compliant with legal requirements.*

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[26] Department of Administration, Office of Grants Management, Operating Policy and Procedure Number 08-10, *Policy on Grant Monitoring*.

- *The Metropolitan Council should conduct annual monitoring visits of the regional park implementing agencies.*

Finding 2

The Department of Natural Resources could not show how the administrative costs it allocated complied with the "directly related to and necessary for" and the "supplement not substitute for" requirements.[27]

The methodology the Department of Natural Resources used to estimate and allocate administrative costs to the Parks and Trails Fund appropriations was generally reasonable; however, the department could not show how the methodology limited administrative expenses to those that were "directly related to and necessary for" each specific appropriation or how it ensured that its use of money from the Parks and Trails Fund was a "supplement not substitute for" traditional sources of funding.[28]

We acknowledge that it may be challenging for the department to comply with these requirements because much of its funding is from specific sources that limit the use of the money to designated purposes. As a result, any costs not paid by one fund have to be paid by another fund. In an effort to allocate administrative costs fairly to its many sources of funding and to comply with these requirements, the department has paid close attention to its cost allocation methodologies and changed its allocation methodologies for each fiscal year we tested. The department developed written policies identifying administrative costs it believed met the "directly related to and necessary for" requirement. In addition, to limit the amount of administrative costs paid with Legacy money, the department capped the percentage of administrative costs it would allocate to appropriations funded with Legacy money.

Despite these efforts, we think the department had the following deficiencies in its cost allocation methodologies:

- **Allocation of leadership services costs** - The department could not show us how its allocation of costs it identified as leadership services were directly related to and necessary for the purposes of appropriations from the Parks and Trails Fund, or how paying for those costs with money from the fund did not substitute for traditional sources of funding. The department included in its leadership services costs the salaries and all other costs (such as rent, equipment, and travel) associated with leadership

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[27] We had a similar finding related to the Metropolitan Council's grants of money from the Environment and Natural Resources Trust Fund. See Office of the Legislative Auditor, Financial Audit Division Report 16-03, *Environment and Natural Resources Trust Fund*, issued February 11, 2016, Finding 4.

[28] We discuss these legal requirements generally in the Audit Criteria section of this report, and in more depth in an earlier report, Office of the Legislative Auditor, Program Evaluation Division, *The Legacy Amendment*, November 2011 (St. Paul, MN).

positions, including the commissioner, deputy commissioner, assistant commissioners, the directors of the regional offices, and legal services.

While leadership is necessary to the general operations and functions of the department, it is less clear how the associated costs are directly related to and necessary for the department to accomplish the specific purpose of an appropriation from the Parks and Trails Fund. In addition, since these costs were paid from other sources of funding before money from the Parks and Trails Fund was available, it is not clear how this use of money from the Parks and Trails Fund is a supplement to, rather than a substitute for, traditional sources of funding. We think it is the department's responsibility to document and demonstrate in detail how the use of money from the Parks and Trails Fund for leadership services meets these legal requirements.

During fiscal years 2012 through 2014, the department allocated leadership services costs totaling $212,680 to Parks and Trails Fund appropriations, but did not allocate those costs to appropriations from the other Legacy funds (the Outdoor Heritage and Clean Water funds) or to the Environment and Natural Resources Trust Fund (another constitutionally created fund with similar legal requirements).

Unlike the Parks and Trails Fund, these other funds have oversight entities external to the department. Those entities, to varying degrees, review and authorize (or recommend) projects and monitor how the money is used by entities receiving appropriations from the funds.[29] These other oversight entities have different understandings about the meanings of the "directly related to and necessary for" and "supplement not substitute for" requirements, and have placed more stringent limitations on how money from these funds can be used.

In fiscal year 2015, department management decided not to allocate leadership services costs to the Parks and Trails Fund, consistent with how it treated those costs for the other Legacy funds and the Environment and Natural Resources Trust Fund.

- **Allocations of other administrative costs** - The department allocated about $4.3 million during fiscal years 2013 through 2015 for other administrative costs (such as human resources, financial services, and information technology) to appropriations from the Parks and Trails Fund. It allocated the costs by combining them into one large cost pool and then allocating the pooled costs to the divisions based on their employee

[29] The Legislative-Citizens Commission on Minnesota Resources oversees the use of money from the Environment and Natural Resources Trust Fund; the Clean Water Council oversees the use of money from the Clean Water Fund (a Legacy fund); the Lessard-Sams Outdoor Heritage Council oversees the use of money from the Outdoor Heritage Fund (a Legacy fund).

> counts, appropriations, and expenditures. The department did not document how costs allocated through this methodology had a direct relationship to and were necessary for the purposes of the appropriations from the Parks and Trails Fund. We think that the "directly related to and necessary for" language requires the department to analyze and document the direct relationship of the administrative costs to the specific appropriations.

In considering cost allocation methodologies, department management told us they had followed the guidance provided by the Department of Management and Budget. In its guidance to agencies on Legacy fund expenditures, the Department of Management and Budget tells agencies that the "directly related to and necessary for" language is "intended to promote efficient and effective use of Legacy fund dollars to maximize program dollars and subsequent outcomes for all Minnesotans" and further states that this should be the goal of all state spending. The guidance states that the requirement does not prohibit the use of indirect costs billing for necessary administrative costs and references to federal policies as a guide for understanding allowable Legacy fund expenditures.

We think this guidance may have misguided agencies because it does not sufficiently distinguish how the "directly related to and necessary for" requirement is different from the general "efficient and effective use" goal applicable to all funds. To understand that the requirement for the Legacy funds is unique, you need to revisit the full requirement:

> Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. **Money appropriated in this article must not be spent on indirect costs or other institutional overhead charges** that are not directly related to and necessary for a specific appropriation. [30] [Emphasis added.]

Clearly, this requirement was more restrictive than a general goal to use resources in a way that is "efficient and effective."

Legislation in 2013 and 2015 changed the "directly related to and necessary for" restriction to state the following:

> Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must be spent in

[30] *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 3, sec. 2, subd. 2.

accordance with Minnesota Management and Budget's Guidance to Agencies on Legacy Fund Expenditure.[31]

With the added significance of Minnesota Management and Budget's guidance, the lack of clarity in that guidance becomes more problematic.

Because of the challenges created by the requirements, we believe the department needs to be able to show how its allocation methodologies and the resulting administrative cost allocations comply with the "directly related to and necessary for" and the "supplement not substitute for" requirements as they relate to the use of Legacy money and the purposes of specific appropriations from the Parks and Trails Fund.

Recommendation

- *The Department of Natural Resources should implement cost allocation policies and procedures that ensure that it uses money from the Parks and Trails Fund only for costs that are "directly related to and necessary for" the purposes of the specific appropriations, and that it uses the money as a "supplement not substitute for" traditional sources of funding.*

[31] *Laws of Minnesota* 2013, chapter 137, art. 3, sec. 2, subd. 2, and *Laws of Minnesota* 2015, First Special Session, chapter 2, art.3, sec. 2, subd. 2.

February 5, 2016

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

RE: Parks and Trails Fund
Internal Controls and Compliance Audit

Dear Mr. Nobles,

We appreciate the opportunity to review and respond to the Internal Controls and Compliance Audit for the Parks and Trails Fund. We understand our oversight responsibility for Parks funding and have a long established, transparent grant award and approval process through the Metropolitan Parks and Open Space Commission, our Community Development Committee, and the full Metropolitan Council. We acknowledge the recommendations in the Legislative Auditors report strengthen our internal review and control processes.

As noted in the report, the Council uses all funding from the Parks and Trails Fund to provide grants to regional parks implementing agencies and for the grants tested, grant recipients complied with the legal requirements applicable to the use of money from the Parks and Trails Fund.

Finding 1: The Metropolitan Council did not sufficiently monitor Parks and Trails Fund Grants to regional parks implementing agencies.

Recommendations:

- *The Metropolitan Council should clearly document and periodically review its risks, internal control activities, and monitoring functions related to its oversight responsibilities for Parks and Trails Fund grants.*

- *The Metropolitan Council should develop procedures for reviewing appraisals to ensure regional park implementing agencies obtain current and complete appraisals that support the purchase price when acquiring land with money from the Parks and Trails Fund.*

- *The Metropolitan Council should require regional park implementing agencies to submit invoices, purchase agreements, settlement statements, and deeds to support reimbursement requests. The Council should review this documentation to ensure reimbursed costs are allowable and compliant with legal requirements.*

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- *The Metropolitan Council should conduct annual monitoring visits of the regional park implementing agencies.*

Response:

The Council's Program Evaluation and Audit Department conducts an annual Council-wide risk assessment and presents it to our Audit Committee. This assessment is the result of meetings with management from each of the Council's Divisions. An annual Audit Plan is developed based upon risks identified through this assessment. While each year grant specific internal audits are conducted in accord with our Audit Plan, we will enhance our risk assessment process to include identification and documentation of funding sources, changes in legislation, and staff responsible for grant oversight.

Parks program staff are reviewing and updating standard operating procedures for our parks grant programs with Council's Controller to assure adequate controls are in place and staff are effectively trained on grant oversight roles and responsibilities. For all new grant awards staff will utilize our new grants management system to track and document oversight activities, including appraisal reviews, and an appraisal summary now accompanies every business item recommending award of ENRTF grants. Previously awarded and active grants are also in process of conversion into our grants management system.

While Council staff have frequent contact with regional park implementing agencies at the monthly Metropolitan Parks and Open Space Commission meetings and routine interactions through regularly scheduled meetings and phone conversations, annual site visits focused on monitoring internal controls over grant administration will be incorporated into our overall parks grant program.

In response to the Legislative Auditor's 2014 internal controls and compliance audit for General Obligation Bond Expenditures (Report 14-06), the Council began requiring regional parks implementing agencies to submit documentation (i.e. invoices) in support of grant reimbursement requests. Prior to 2014, invoices were retained by the park implementing agency and reimbursement requests were supported by signed expenditure reports.

Person(s) Responsible/Expected Completion:

- Arlene Schilling - Director Program Evaluation and Audit – Risk Assessment to be completed in 2016 for our 2017 Audit Plan
- Emmett Mullin - Manager, Parks and Open Space; Marie Henderson - Controller – Review and update parks program standard operating procedures/site visits to be completed during 2016.

Again, thank you for the opportunity to review and respond to the audit finding and recommendations for the Metropolitan Council.

Sincerely,

Mary Bogie
Chief Financial Officer

Minnesota Department of Natural Resources
Office of the Commissioner
500 Lafayette Road • St. Paul, MN • 55155

February 3, 2016

Mr. James Nobles, Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Auditor Nobles:

RE: OLA Audit Report on Parks and Trails Fund Internal Controls and Compliance Audit, July 2012 through February 2015

Thank you for the opportunity to review and respond to the Office of Legislative Auditor's (OLA) findings and recommendations resulting from the recent audit of the Parks and Trails Fund. We appreciate the professional review conducted by the OLA audit staff. We also appreciate the acknowledgement of our efforts to comply with the requirements of the Parks and Trails Legacy funds, particularly around allocation of administrative costs.

The audit found our allocation methodology for Leadership and Shared Services reasonable; however, the report did find that we could not demonstrate how the methodology limited expenses to those "directly related to and necessary for" each appropriation and ensure the funds where "supplement and not substitute" for traditional sources of funding.

Inclusion of Parks and Trails Legacy funds in our administrative cost allocations were based on standard allocation practices and on the Minnesota Management and Budget (MMB) Guidance on Legacy Fund Expenditures. The MMB guidance was published in December of 2012 at the direction of Laws of Minnesota 2011. Beginning with the Laws of 2013, this guidance became a requirement for agencies to use in determining allowable costs for Legacy Parks and Trails funds.

The report states that the MMB Guidance to Agencies on Legacy Fund Expenditures is misguiding to stating agencies, by not requiring added analysis and documentation to meet the "direct and necessary" and "supplement and substitute" requirements. State agencies are currently caught in the middle of the conflicting opinions between the OLA and the MMB guidance and the need to ensure fund integrity in a reasonable and efficient manner. As pointed out in the report, ensuring these requirements are met can be a challenge while also trying to ensure all programs pay their fair share of administrative costs. We see this conflict within our Leadership cost allocation program.

The department did include Parks and Trails Legacy costs in the Leadership allocation up until fiscal year 2015. The change was not because we felt it was an inappropriate charge, but was made in order to be consistent with other constitutional funds that restrict the allocation of costs to Leadership due to the difficulty in meeting the "directly related to and necessary for" and supplement and not substitute requirements.

This restriction is causing other funds to pay for these costs in a disproportionate share compared to the benefit they receive from Leadership. The constitutional funds, which include Legacy Funds (Parks and Trails, Clean Water and Outdoor Heritage) and Environment and Natural Resource Trust Funds, are a significant portion of our budget, averaging about 30% per year. While it is very difficult to demonstrate these costs are "directly related to and necessary for" and "supplement and not supplant" through a cost allocation methodology, it is difficult to argue that these programs do not benefit from the Leadership activities of the agency. By not being able to charge all funds a share of these costs, other funds are disproportionately paying for these costs.

These costs, as well as the Shared Services costs, and the approach used to allocate these costs, are allowable under the MMB guidance. In addition, the guidance does not require additional documentation. With two separate interpretations, agencies are caught in the middle trying to be efficient, ensure fund integrity and meet statutory requirements at the same time. Currently, we are directed by the appropriation law to use the MMB Guidance in determining how funds are spent, including the allocation of administrative costs. We will continue on this course, pending further clarification from MMB or the Legislature.

The DNR offers the following specific responses regarding the audit finding and recommendation in the audit for the DNR:

Audit Finding
The DNR could not show how the administrative costs it allocated complied with the "directly related to and necessary for" and the "supplement not substitute for" requirements.

Audit Recommendation
The DNR should implement cost allocation policies and procedures that ensure that it uses money from the Parks and Trails Fund only for the costs that "directly related to and necessary for" the purposes of the specific appropriation, and that it uses the money as a "supplement not substitute for" traditional sources of funding.

DNR Response: We agree with the recommendation and consider it partially resolved. We believe our current Shared Services allocation methodology for allocating costs to Legacy Parks and Trails are reasonable and meet MMB guidelines and legal requirements. As pointed out in the audit, we have invested a lot of time and careful thought in creating operational orders, policies and guidelines for the Legacy Funds, including the Parks and Trails Fund to ensure fair distribution of administrative costs across all programs. We have been thoughtful in our approach and feel we have had sound practices that meet statutory, MMB and legislative requirements.

We look forward to the continued conversation with the Legislature, the OLA and MMB to develop an agreed upon methodology and documentation requirements to demonstrate how our Shared Services administrative costs meet the "directly related to and necessary for" requirements in the law. It is hoped that this conversation will also allow for agency Leadership costs to be reviewed as well, however, until a direction is agreed upon, the department will continue to not charge these costs to the Parks and Trails Legacy Fund.

Person Responsible: Barb Juelich, Chief Financial Officer
Date: June 1, 2017 (2017 Legislative Session)

Sincerely,

Tom Landwehr
Commissioner

Copy: Cecile M. Ferkul, Deputy Legislative Auditor, OLA
Barb Juelich, Chief Financial Officer
Katie Shea, Internal Audit Manager