



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Department of Human Services

Special Review



Financial Audit Division

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OLA's Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division also investigates allegations that state resources have been used inappropriately.

The division has a staff of approximately fifty auditors, most of whom are CPAs. The division conducts audits in accordance with standards established by the American Institute of Certified Public Accountants and the Comptroller General of the United States.

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

Through its Program Evaluation Division, OLA conducts several evaluations each year and one best practices review.

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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

Report Summary

Department of Human Services Special Review

Key Findings:

- The department did not structure its contract with DeafBlind Services Minnesota, Inc. (DBSM) to ensure that the deaf-blind grant funds were being used in accordance with the applicable appropriation laws. Although the appropriation law consistently referred to “providing services” to deaf-blind children and their families, the department did not write the grant contract to ensure that DBSM provided a maximum number of direct service hours to clients. In addition, the contracts did not limit the amount of administrative or indirect costs that DBSM could charge to the grant. Finally, the department did not have proper controls to ensure that DBSM did not report the same service hours to more than one state agency.
- The department did not adequately monitor the DBSM grant contract in two areas. First, it continued to fund DBSM when the organization fell short of direct service hours as outlined in the grant agreement. Second, the department did not require DBSM to report actual grant expenditures when requesting reimbursements.

In November 1997, the Department of Human Services awarded DeafBlind Services Minnesota, Inc., (DBSM) a private, nonprofit agency, a grant contract for \$150,000 to provide certain services to deaf-blind persons. Pursuant to Laws of 1998 that directed DHS to grant \$100,000 to DBSM, the department increased the contract to a total of \$250,000 in August 1998.

In January 1999, a complainant contacted the Office of the Legislative Auditor with concerns regarding DBSM. The complainant alleged that DBSM violated appropriation laws in its use of the grant funds. The complaint also alleged that DBSM received payment from more than one state agency for the same service hours. This report provides the results of our investigation into this complaint.

The department’s response is included in the report.

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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
Marla Conroy, CPA, CISA	Director of Investigations
Jean Mellett, CPA, CFE	Investigator

Exit Conference

The following staff from the Department of Human Services participated in the exit conference held on April 17, 2000:

Tom Moss	Deputy Commissioner
Jeanette Taylor-Jones	Assistant Commissioner
Mary Orr	Manager of Economic and Community Support Strategies
Bruce Hodek	Director of Deaf and Hard of Hearing Services
Jan Radatz	Program Planner for Deaf and Hard of Hearing Services
Dave Ehrhardt	Director of Internal Audit



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

Representative Dan McElroy, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. Michael O'Keefe, Commissioner
Department of Human Services

We have conducted a special review of a Department of Human Services grant contract with DeafBlind Services Minnesota, Inc. (DBSM), a nonprofit service provider, for the period from November 18, 1997, through June 30, 1999. We conducted the review as a result of a complaint we received regarding the grant agreement. Specifically, the complainant alleged that DBSM's use of grant funds violated appropriation laws. The complaint also alleged DBSM inappropriately requested reimbursement for the same service hours from more than one state agency. We conducted a preliminary assessment for the purpose of determining whether the situation warranted further review. Based on the documents submitted by the complainant and discussions with both the Department of Human Services and DBSM personnel, we decided to pursue the matter further and issue a special report.

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 Department of Human Services. This restriction is not intended to limit the distribution of this report, which was released as a public document on May 11, 2000.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: February 23, 2000

Report Signed On: May 8, 2000

Department of Human Services Special Review

Chapter 1. Introduction

Background

For fiscal years 1998 and 1999, the Legislature appropriated a total of \$2,948,000 to the Department of Human Services for deaf and hard-of-hearing service grants. As a part of this appropriation, the Legislature set aside funding to provide services to deaf-blind children and their families. The department's Deaf and Hard of Hearing Services Division, authorized under *Minn. Stat.* Section 256C.233, is responsible for administering these grants. In November 1997, the department awarded DeafBlind Services Minnesota, Inc. (DBSM), a private, nonprofit agency, a grant contract for \$150,000 to provide certain services to deaf-blind persons. Pursuant to Laws of 1998 that directed DHS to grant \$100,000 to DBSM, the department increased the contract to a total of \$250,000 in August 1998.

In January 1999, a complainant contacted the Office of the Legislative Auditor with concerns regarding DBSM. The complainant alleged that DBSM violated appropriation laws in its use of the grant funds. The complaint also alleged that DBSM received payment from more than one state agency for the same service hours. This report provides the results of our investigation into this complaint.

Objectives and Methodology

The primary objectives of our review of the grant agreement between the Department of Human Services and DBSM were to answer the following questions:

- Did the department have an adequate process to ensure that deaf-blind grant funds awarded to DBSM were spent in accordance with appropriation laws?
- Did the department adequately monitor compliance with the DBSM grant agreement?
- Did DBSM inappropriately receive payment from more than one state agency for the same service hours?

In conducting our review, we obtained information from DBSM and from the Deaf and Hard of Hearing Services Division of the Department of Human Services. We reviewed certain documents, including the grant request for proposal, grant contracts, and reports DBSM submitted to the department. We did not audit the books or records of DBSM as part of this review.

Chapter 2. Administration of Deaf-blind Grants

Chapter Conclusions

The department did not structure its contract with DBSM to ensure that the deaf-blind grant funds were being used in accordance with the applicable appropriation laws. Although the appropriation law consistently referred to “providing services” to deaf-blind children and their families, the department did not write the grant contract to ensure that DBSM provided a maximum number of direct service hours to clients. In addition, the contracts did not limit the amount of administrative or indirect costs that DBSM could charge to the grant. Finally, the department did not have proper controls to ensure that DBSM did not report the same service hours to more than one state agency.

The department did not adequately monitor the DBSM grant contract in two areas. First, it continued to fund DBSM when the organization fell short of direct service hours, as outlined in the grant agreement. Second, the department did not require DBSM to report actual grant expenditures when requesting reimbursements.

In the Laws of 1997, Chapter 203, Article 1, the Legislature appropriated deaf and hard-of-hearing funding to the Department of Human Services with the following requirements:

\$150,000 for the biennium is for a grant to an organization that provides services to deaf-blind persons. The grant must be used to provide additional services to deaf-blind children and their families. Such services may include providing intervenors to assist deaf-blind children in participating in their communities, and family education specialists to teach siblings and parents skills to support the deaf-blind child in the family.

In August 1997, DBSM responded to a request for proposal from the Department of Human Services to provide services to individuals with deaf-blindness under this appropriation law. In November 1997, the department awarded DBSM a \$150,000 grant contract to provide these services. The contract period ran from November 18, 1997, through June 30, 1999.

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At the time it was awarded the contract, DBSM already had a \$266,000 grant contract with the department for fiscal years 1998 and 1999 to provide a variety of services. That contract, for the period from July 1, 1997, through June 30, 1999, included a detailed workplan and stated that DBSM would serve 22 children with an average total of 5,232 hours of service in fiscal year 1998 and 26 children with an average total of 5,904 hours of service in fiscal year 1999.

In its proposal for the new \$150,000 contract, DBSM stated the funds would be used for salaries, and that it would increase the number of children served to 30 children per year. DBSM also stated that these 30 children would receive 7,104 hours of service in 1998 and 6,720 hours of service in 1999.

In 1998, the Legislature appropriated additional funding specifically to DBSM. Laws of 1998, Chapter 407, Article 1 stated:

\$100,000 for a grant to DeafBlind Services Minnesota, Inc., in order to provide services to deaf-blind children and their families. The services include providing intervenors to assist deaf-blind children in participating in their community and providing family education specialists to teach siblings and parents skills to support the deaf-blind child in the family.

In response to this new law, the Department of Human Services amended its \$150,000 grant agreement with DBSM to include the \$100,000 in additional funding, for a new total grant contract of \$250,000.

1. The Department of Human Services did not ensure that deaf-blind grant funds were spent in accordance with appropriation laws.

The department did not structure its contract with DBSM to ensure that the deaf-blind grant funds were being used in accordance with the applicable appropriation laws. Although the appropriation law consistently referred to “providing services” to deaf-blind children and their families, the department did not write the grant contract to ensure that DBSM provided a maximum number of direct service hours to clients. In addition, the contracts did not limit the amount of administrative or indirect costs that DBSM could charge to the grant. Finally, the department did not have proper controls to ensure that DBSM did not report the same service hours to more than one state agency.

The Department of Human Services’ contract with DBSM did not adequately correlate goals and objectives to funding. One of the requirements of the department’s request for proposal regarding the \$150,000 grant was to “identify budget-based performance indicators correlating results of the program with funding.” Although DBSM identified specific program goals in its response to the request for proposal, it only provided the department with broad budget summary information. DBSM included a budget summary showing total costs for its children’s program and indicated that it would use the

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\$150,000 grant to fund salaries. However, DBSM did not budget specific salary costs to individual program goals.

Because of the way the contract was written, the department did not have a meaningful mechanism to evaluate DBSM's performance in relation to its funding. In its suggestions for clear contract drafting, the state's contract manual recommends that agencies "list precisely what you want to get" and "determine how you know when you got what you wanted." The department did not follow these suggestions when setting up the funding criteria for its contracts with DBSM and, as a result, it did not link payments to DBSM to specific levels of service.

The department should have considered structuring at least part of the contract as a fee for service arrangement. Since the program goals listed a budgeted number of children and service hours, the department should have made a part of the grant funding specifically contingent on achieving those service goals. By using a fee for service format, the department would have been able to accurately link payments to service hours provided.

The Department of Human Services did not limit the amount of administrative or indirect costs that DBSM could charge to the grant. Because of the vague funding arrangement for the \$150,000 grant, the department could not specifically determine how much of the grant DBSM was using to provide direct services to deaf-blind children and their families, and how much it was using to support its overall organization. In its proposal for the additional \$100,000 in funding, DBSM informed the department that it intended to use the money "to strengthen its infrastructure to support the growth that has occurred." DBSM highlighted its understanding of the legislation for the additional funding in an Email from its executive director to the department's grants analyst. It stated:

Essentially I am asking you guys for \$100,000 in the kids department without providing more hours. We need the additional funds for competitive pay and to put infrastructure in place.

DBSM specifically stated in its revised goals that it would like "to keep the numbers we committed to at the same level." DBSM revised its goals to include hiring a children's program director, a volunteer coordinator, and a half-time secretary to support the clerical and administrative work of the program. In addition, DBSM's goals included increased pay and training hours to intervenors. The Department of Human Services amended its contract with DBSM to provide it with the additional \$100,000 in funding. However, the amendment did not require any changes to the number of service hours to be provided. As a result, the department signed the amendment allowing DBSM to receive an additional \$100,000 to provide the same level of direct services as it was already obligated under contract to provide.

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In addition, the Department of Human Services did not have adequate controls to ensure that DBSM was not reporting the same service hours as were being reported to the Department of Economic Security. During fiscal years 1997 to 1999, the Department of Economic Security's State Services for the Blind also contracted with DBSM to provide rehabilitation services for deaf-blind persons. The agreement provided that the State Services for the Blind would reimburse DBSM \$65 per hour for children, youth, and family direct service instruction. DBSM provided similar services under its contracts with the State Services for the Blind and the Department of Human Services. In fact, in some cases, DBSM provided services to the same children under both agreements. Until February 1999, DBSM's performance reports to the Department of Human Services included hours that DBSM had billed to the State Services for the Blind. We did not identify an overpayment resulting from DBSM's reporting of total service hours, because the Department of Human Services' grant agreement was not written as a fee for service contract, nor did it provide the costs associated with each goal or objective.

Recommendations

- *The department should write its grant contracts to ensure grantees provide budget based performance indicators that correlate results of the program with funding.*
- *The department should identify the amount of deaf-blind grant funds that can be used for administrative or indirect costs.*

2. The Department of Human Services did not adequately monitor its grant with DBSM.

The department did not adequately monitor the DBSM grant contract in two areas. First, it continued to fund DBSM when the organization fell short of direct service hours as outlined in the grant contract. Second, the department did not require DBSM to report actual grant expenditures when requesting reimbursements.

DBSM did not provide the proposed number of service hours in either fiscal year 1998 or 1999. The grant agreement stated that DBSM would serve 30 deaf-blind children each year by providing 7,104 and 6,720 service hours in fiscal years 1998 and 1999, respectively. In fiscal year 1998, DBSM told the department that it could not accurately calculate the number of service hours it provided to deaf-blind children. In July 1998, DBSM sent a letter to DHS about internal staffing problems that had occurred within DBSM's children's program and included a partial update on the corrective action they were taking to address the problems. Part of this letter stated:

We now see that we are unable to accurately calculate the exact number of hours you have requested for the DHS report for the third and fourth quarters and have done our best to estimate the information. We also were

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unable to separate the administrative hours from the direct service hours (for those staff who worked full time).

DBSM also did not meet its direct service goals in fiscal year 1999. DBSM reported serving 19 children by providing 3,474 hours of service in fiscal year 1999. DBSM provided roughly half the hours in 1999 that they agreed to provide to deaf-blind children and their families. Despite the lack of proper reporting of service hours, the department continued to make payments to the organization under the contract.

In addition, the department did not pay DBSM based on the actual cost of providing services to deaf-blind persons. When requesting reimbursements, DBSM did not submit itemized monthly schedules of actual expenditures nor specific receipts and invoices as required by the grant. The grant contract states:

Reimbursement shall be one initial cash advance of \$25,000 followed by monthly cost reimbursement based on the previous month's expenses as documented by receipts, invoices, travel vouchers, and timesheets.

Instead of submitting actual costs for reimbursement, DBSM asked for a prorated share of its original budgeted amounts each month. As a result, the department was not aware of the actual program costs incurred by DBSM during the grant period. The department also could not determine whether DBSM was actually using the grant funds for children and family support services, as required by the appropriation law.

Recommendations

- *The department should ensure grantees comply with the terms of the grant contracts.*
- *The department should consult with the Attorney General's Office concerning potential recovery of deaf-blind grant funds.*



Minnesota Department of **Human Services**

May 4, 2000

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

Dear Mr. Nobles:

The Department of Human Services appreciates the opportunity to respond to the Office of Legislative Auditor (OLA) draft of the special review report. It is our understanding that our response will be published in the Office of the Legislative Auditor's final audit report. Although the Department concurs that the Deaf and Hard of Hearing Services Division's contracting policies and procedures need improvement, we do not concur with the report's conclusions concerning the objectives of the DeafBlind Services of Minnesota's (DBSM) \$150,000 grant; the Department's responsibility for the \$100,000 directly appropriated to DBSM by Laws of Minnesota 1998, chapter 407, article 1; and the OLA's narrow viewpoint on the concept of direct services for deafblind children.

DBSM's \$150,000 Grant

The first issue concerns the definition of "providing services" as it is used in the appropriation language. The OLA contends that "providing services" translates into direct intervenor service hours to children and their families. The OLA applied its own interpretation of legislative language, determining intent based on the meaning it believes a reasonable person would attribute to the words in the law. The Department applied its knowledge and expertise in serving deaf, hard of hearing, and deafblind people when interpreting appropriation language for grant contract administration.

In the scope of the \$150,000 grant, there were numerous tasks for DBSM. One goal was to provide hands-on help to deafblind children. The Department and DBSM attempted to quantify this goal by including an objective of direct service hours. However, the Department's position is that part of "providing services" to deafblind children and their families includes the recruitment, training, and ongoing support of the intervenors providing the services. Because there is an extremely limited pool of prospective intervenor trainees, contract funds must be used to train qualified individuals. Included in the grant contract were tasks of securing, interviewing,

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and hiring intervenors and providing intervenors with training, support, and skill building expertise. Additionally, the legislation specified the education of siblings and parents in the necessary skills to support the deafblind child in the family. Other critical tasks of the contract included development of individualized Discovery Plans for each child and planning community integration activities. Except for the direct service hour requirement, we believe that DBSM met the conditions set forth in the contract, accomplished the expected tasks, and “provided additional services” as stated in the legislation.

DBSM’s direct appropriation

DBSM worked with the Legislature to secure additional funding for its organization. The result of this effort was a specific appropriation of \$100,000 to DBSM to provide services to deafblind children. The Department was not involved in the legislation. The Department believes that the specific directive of the appropriation language does not provide us with the authority to place conditions upon the use of the funds. We also believe by using the word “include” in the session law’s language, the list of services is non-exclusive. Therefore, DBSM had very broad authority to utilize the funds as they saw fit. When DBSM informed the Department that it intended to use the funding to strengthen infrastructures and provide competitive pay, the Department agreed and did not attempt to increase the direct service hours in the amended contract. We believe the session law’s plain language is very clear in that it preempts the normal contracting process and gives the Department neither the authority to require a spending plan nor to provide oversight of the funds.

Audit Recommendation #1-1

The department should write its grant contracts to ensure grantees provide budget based performance indicators that correlate results of the program with funding.

Department Response #1-1

The Department agrees with the recommendation. As future contracts are written, funding will be tied directly to measurable performance outcomes where appropriate.

Person Responsible: Bruce Hodek, Director, Deaf and Hard of Hearing Services Division

Estimated Completion Date: July 1, 2000, for fiscal year 2001 contracts

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Audit Recommendation #1-2

The department should identify the amount of grant funds that can be used for administrative or indirect costs to ensure that a maximum amount of funds are used for direct services to deaf-blind children.

Department Response #1-2

The Department agrees with the recommendation. The Department will identify administrative and indirect costs in the budgets of its future contracts.

Person Responsible: Bruce Hodek, Director, Deaf and Hard of Hearing Services Division

Estimated Completion Date: July 1, 2000, for fiscal year 2001 contracts

Audit Recommendation #2-1

The department should ensure grantees comply with the terms of the grant contracts.

Department Response #2-1

The Department agrees with the recommendation. The Department will review Deaf and Hard of Hearing Services Division policies and procedures for contract monitoring. The review will include making sure there is adequate documentation of the contractor's performance, the recording of any adjustments of contract expectations and outcomes during the contract, and requiring that reimbursement requests will be based on actual monthly expenditures.

A new measure was incorporated into the contract monitoring protocol of the Deaf and Hard of Hearing Services Division during fiscal year 2000. It includes a formal, written mid-year review of both program and budget contract activities.

Person Responsible: Bruce Hodek, Director, Deaf and Hard of Hearing Services Division

Estimated Completion Date: June 30, 2000

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Audit Recommendation #2-2

The department should consult with the Attorney General's Office concerning potential recovery of deaf-blind grant funds.

Department Response #2-2

The Department disagrees with this recommendation. The session law referred to by the OLA allows for potential recovery of funding in cases where the auditor's examination discloses misuse of public money. The OLA states that it did not audit the books or records of DBSM and did not find overpayments related to intervenor service hours.

The Department will, however, request its Internal Audits Office to conduct a financial audit of the contract in question to ensure that the contract funding has not been misused.

Person Responsible: Bruce Hodek, Director, Deaf and Hard of Hearing Services Division

Estimated Completion Date: August 31, 2000

The Department of Human Services policy is to follow up on all audit findings to evaluate the progress being made to resolve them. Progress is monitored until full resolution has occurred. If you have any further questions, please contact David Ehrhardt, Internal Audit Director, at (651) 282-9996.

Sincerely,

/s/ Michael O'Keefe

Michael O'Keefe
Commissioner

Enclosure

cc: Jeanine Leifeld
Marla Conroy