

Special Review

Minnesota Men of Color



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Dianne Mandernach, Commissioner
Department of Health

Nicholas Metcalf, Executive Director
Minnesota Men of Color

Members of the Minnesota Men of Color Board of Directors

We have conducted a special review of the Minnesota Men of Color's financial management of state grants received from the Department of Health for the period from 1999 to 2003. We also reviewed the Department of Health's administration of these grant contracts. The Minnesota Men of Color is a nonprofit organization, established in December 1998. It offers HIV/STD (Human Immunodeficiency Virus and Sexually Transmitted Disease) prevention, testing, intervention, and outreach services to Minnesota's African American, Arab/Middle Eastern, Asian Pacific Islander, Chicano/Latino, and North American gay, bisexual, and transgender populations. For fiscal years 1999 through 2003, the Department of Health's HIV/STD Prevention Services Section awarded the Minnesota Men of Color grants totaling \$698,565.

We conducted the review in response to complaints alleging that the Minnesota Men of Color had used grant funds for unauthorized purposes and that, even though the Minnesota Men of Color had not paid certain costs, the organization had continued to report those costs to the Department of Health for reimbursement. Based on preliminary information obtained from the Department of Health, we decided to pursue the matters and issue a special report.

Pursuant to Minn. Stat. Section 3.975, we have referred this report to the Office of 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, the management of the Department of Health, and the management of the Minnesota Men of Color. This restriction is not intended to limit the distribution of this report, which was released as a public document on October 30, 2003.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

End of Fieldwork: August 1, 2003

Report Signed On: October 27, 2003

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

Special Review: Department of Health Grants to Minnesota Men of Color

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Audit Participation

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

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Jeanine Leifeld, CPA, CISA	Audit Manager
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Exit Conferences

The following representatives from the Department of Health participated in the exit conference held on October 1, 2003:

Dianne Mandernach	Commissioner
Aggie Leitheiser	Assistant Commissioner
Richard Wexler	Senior Advisor to the Commissioner
David Hovet	Director of Financial Management
Harry Hull	Division Director – Infectious Disease Epidemiology Prevention and Control
Kip Beardsley	Manager, STD & HIV Section
Julia Ashley	Assistant Section Manager, STD & HIV Section

The following representatives from the Minnesota Men of Color participated in the exit conference held on September 26, 2003:

Nicholas Metcalf	Executive Director
Joseph Ward	Board Treasurer

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Report Summary

We have conducted a special review of the Minnesota Men of Color's financial management of state grants received from the Department of Health for the period from 1999 to 2003. We also reviewed the Department of Health's administration of these grant contracts. The Minnesota Men of Color is a nonprofit organization, established in December 1998. It offers HIV/STD (Human Immunodeficiency Virus and Sexually Transmitted Disease) prevention, testing, intervention, and outreach services to Minnesota's African American, Arab/Middle Eastern, Asian Pacific Islander, Chicano/Latino, and North American gay, bisexual, and transgender populations. For fiscal years 1999 through 2003, the Department of Health's HIV/STD Prevention Services Section awarded the Minnesota Men of Color grants totaling \$698,565, although actual payments to the organization totaled \$337,349.

Our objective in conducting this special review was to answer the following questions:

- Did the Minnesota Men of Color expend grant funds in accordance with legal requirements and grant contract provisions?
- Did the Department of Health adequately monitor the Minnesota Men of Color's compliance with its grant agreements?

Key Conclusions

- The Minnesota Men of Color did not have the administrative capability to properly account for the use of grant funds received from the Department of Health. The organization had a very small staff and did not adequately maintain its critical financial systems. Of the \$337,349 the Department of Health disbursed to the Minnesota Men of Color, we identified a total of \$27,227 in undocumented and other questioned costs.
- The Minnesota Men of Color did not comply with several financial-related and programmatic requirements of the grant contracts relating to staffing, training, program materials, and service levels. It also did not file the required forms to maintain its status as a not-for-profit corporation and did not carry the required workers' compensation insurance.
- The Department of Health did not adequately monitor its grant contracts with the Minnesota Men of Color. The department did not take sufficient action when it became clear that the Minnesota Men of Color was not complying with grant provisions. Despite noncompliance with grant contract requirements and deliverables, the department continued to fund the grantee organization, including an increased award for the 2003-2005 grant period.
- The Department of Health did not structure certain aspects of its grant contracts with the Minnesota Men of Color to provide for adequate oversight.

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Chapter 1. Introduction

Background

We have conducted a special review of the Minnesota Men of Color's financial management of state grants received from the Department of Health for the period from 1999 to 2003. We also reviewed the Department of Health's administration of these grant contracts. The Minnesota Men of Color is a nonprofit organization, established in December 1998. It offers HIV/STD (Human Immunodeficiency Virus and Sexually Transmitted Disease) prevention, testing, intervention, and outreach services to Minnesota's African American, Arab/Middle Eastern, Asian Pacific Islander, Chicano/Latino, and North American gay, bisexual, and transgender populations. The organization has the following mission statement:

A diverse group of men of color united to celebrate our cultural and sexual identities. We exist as a resource for communities to encourage our brothers in their personal struggles with identity. We provide our diverse, collective, and unified voice to our communities about issues as they relate to us individually, socially, and politically.

For fiscal years 1999 through 2003, the Department of Health's HIV/STD Prevention Services Section awarded the Minnesota Men of Color grants totaling \$698,565. The department funded the grants to the Minnesota Men of Color partially through the state's General Fund and partially through a federal grant for health department-based HIV prevention activities (CFDA#93.940). Table 1-1 summarizes the Department of Health's grant awards and payments to the organization for the grant periods.

Table 1-1
Minnesota Men of Color
Grants Funds Awarded and Disbursed by the Department of Health
1999-2003

<u>Contract Period</u>	<u>Amount Awarded</u>	<u>Total Disbursed</u>	<u>State Share</u> ⁽⁴⁾	<u>Federal Share</u> ⁽⁵⁾
January 1999 to December 2000 ⁽¹⁾	\$150,000	\$150,000	\$75,000	\$75,000
October 2000 to December 2002 ⁽²⁾	212,500	170,881	86,385	84,496
January 2003 to December 2005 ⁽³⁾	<u>336,065</u>	<u>16,468</u>	<u>16,468</u>	
Total	<u>\$698,565</u>	<u>\$337,349</u>	<u>\$177,853</u>	<u>\$159,496</u> ⁰

- (1) Although the grant contract period began on December 31, 1998, the contract was fully executed and signed by the Department of Health on April 22, 1999.
- (2) This was an amendment to the January 1999 to December 2000 contract. It was originally for \$170,000, but was later amended to add an additional \$42,500, making the total contract award amount \$212,500.
- (3) The Department of Health originally awarded a grant of \$336,065 to the Minnesota Men of Color for 2003 through 2005. As a result of budget cuts, the department ultimately reduced the grant amount to \$28,006 and cancelled the contract as of March 31, 2003.
- (4) The state share was funded through the state's General Fund.
- (5) The federal share was funded through a federal grant for health department-based HIV prevention activities (CFDA#93.940)

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Source: Grant contracts and the Minnesota Accounting and Procurement System.

In February 2003, a complainant contacted the Office of the Legislative Auditor with concerns regarding the financial management of the Minnesota Men of Color organization. The complainant alleged that the Minnesota Men of Color had used grant funds received from the Department of Health for unauthorized purposes. The complainant also alleged that, even though the Minnesota Men of Color had not paid certain costs, the organization had continued to report those costs to the Department of Health for reimbursement.

In response to the allegations, we conducted a preliminary assessment to determine whether the issues warranted further review. Based on preliminary information obtained from the Department of Health, we decided to pursue the matter and issue a special report.

Objectives and Methodology

Our objective in conducting this special review was to answer the following questions:

- Did the Minnesota Men of Color expend grant funds in accordance with legal requirements and grant contract provisions?
- Did the Department of Health adequately monitor the Minnesota Men of Color's compliance with its grant agreements?

In conducting this special review, we interviewed staff within the Department of Health's HIV/STD Prevention Services Section and obtained documentation such as grant contracts, invoices, monitoring reports, and correspondence between the department and the Minnesota Men of Color. We tested the Department of Health's reimbursements to the Minnesota Men of Color for the period January 1, 1999, through March 31, 2003. We examined the Minnesota Men of Color's accounting records and interviewed its employees. We reviewed relevant documents at the organization, including bank statements, cancelled checks, and invoices supporting reimbursement requests to the Department of Health. Our review, however, was not a full audit of the Minnesota Men of Color's financial records.

Chapter 2. Minnesota Men of Color Expenditures and Compliance

Chapter Conclusions

The Minnesota Men of Color did not have the administrative capability to properly account for the use of grant funds received from the Department of Health. The organization had a very small staff and did not adequately maintain its critical financial systems. As of March 2003, it had not entered many of its 2002 and 2003 transactions into its accounting system. It also did not promptly reconcile its bank account. In 2002 and 2003, it submitted reimbursement requests to the Department of Health based on estimated rather than actual expenditures. Of the \$337,349 the Department of Health disbursed to the Minnesota Men of Color, we identified a total of \$27,227 in undocumented and other questioned costs.

The Minnesota Men of Color also did not comply with several financial-related and programmatic requirements of the grant contracts. It did not maintain the required staffing levels and did not comply with all of the training requirements. It did not meet many of the required deadlines for submitting program materials. It also did not achieve the service levels required by the 1999-2000 grant contract. Finally, it did not file the required forms to maintain its status as a not-for-profit corporation and did not carry the required workers' compensation insurance.

The Minnesota Men of Color included the following description of the organization as part of its first grant application to the Department of Health in May 1998:

MMC [Minnesota Men of Color] is a volunteer driven grassroots initiative that began as a social group for men who identify as Gay, Bisexual and Transgender (GBT) and are African American, Native American, Latino, and Asian. Initially MMC began to meet and talk about experiences living in Minnesota as GBT men and integrating our ethnic identities. It was through these informal support groups that the men involved identified the need to create an organization for, and about, men of color who have sex with men (MCSM).

The grant application identified the Minnesota Men of Color as “a volunteer run agency exempt from workers’ compensation insurance . . .” However, it listed an oversight board consisting of eight board members. In the beginning, the Minnesota Men of Color used the Minnesota American Indian AIDS Task Force as its fiscal agent. The Minnesota Men of Color applied for approval as a public, nonprofit (501.C3) organization in February 1999. It received notification

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of its exempt status from the Internal Revenue Service on March 29, 1999, and opened its first bank account under its own name on June 9, 1999.

Table 2-1 shows the major funding sources for the Minnesota Men of Color from 1999 through 2003. During that period, its major source of funding was the state through its Department of Health grants for HIV/STD prevention. In addition, the Minnesota Men of Color received funding through Hennepin County for culturally appropriate capacity building and for health education for men of color living with HIV and AIDS. It also obtained some small, private foundation grants and donations.

Table 2-1
Minnesota Men of Color
Major Sources of Funding – Cash Basis
January 1999 through March 2003

<u>Calendar Year</u>	<u>Dept. of Health ⁽³⁾</u>	<u>Hennepin County</u>	<u>Other</u>	<u>Cash Basis Total</u>
1999	\$32,669	\$29,108	\$12,677	\$74,454
2000	115,756	31,784	18,244	165,784
2001	86,824	39,239	45,958	172,021
2002	79,226	⁽¹⁾	104,996	184,222
2003 ⁽²⁾	<u>22,873</u>	⁽¹⁾	<u>10,549</u>	<u>33,422</u>
Totals	<u>\$337,349</u>	<u>\$100,130</u>	<u>\$192,424</u>	<u>\$629,903</u>

(1) Due to the lack of records discussed in Finding 1, we could not specifically identify Hennepin County's funding in 2002 and 2003 and, therefore, included the funding as part of 'Other.'

(2) Data through March 31, 2003, only.

(3) See Table 1-1 for a summary of the Department of Health's grant awards to Minnesota Men of Color for calendar years 1999 through 2003.

Source: Minnesota Men of Color's bank statements and bank reconciliations for the period from June 1999 through March 2003.

Grant Contract Deliverables

As shown in Table 1-1, the Minnesota Men of Color received three grant awards totaling \$698,565 from the Department of Health's HIV/STD Prevention Services Section during calendar years 1999 through 2003 for community outreach to men of color who have sex with men. Its first award was a two-year grant contract of \$150,000 for the period from December 31, 1998, through December 31, 2000 (the 1999-2000 contract). The Department of Health amended the first contract, providing the Minnesota Men of Color with an additional \$212,500 for the period from October 2000 to December 2002 (the 2000-2002 amendment). The Department of Health also awarded the organization \$336,065 for the period from January 2003 to December 2005 (the 2003-2005 contract). The Minnesota Men of Color called its program Ikce Wichasha (Lakota for "A Common Man").

The grant contracts between the Minnesota Men of Color and the Department of Health contained numerous deliverables and detailed recitations of grantee responsibilities. Table 2-2 provides a list of the Minnesota Men of Color's duties according to the 1999-2000 grant contract. The 2000-2002 amendment and the 2003-2005 contract between the Minnesota Men of Color

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and the Department of Health contained virtually identical deliverables. In the following sections of the chapter, we discuss in more detail the specific grant responsibilities, as well as the Minnesota Men of Color's success in achieving the required deliverables.

Table 2-2
Minnesota Men of Color Responsibilities/Deliverables
1999-2000 Grant Contract with Minnesota Department of Health

Responsibility/Deliverables	Time Frame
<u>Program Staff and Training</u>	
Hire and maintain one .2 FTE executive director	Through December 31, 2000
Hire and maintain one FTE community liaison (educator)	Through December 31, 2000
Maintain services of one .5 FTE outreach worker	Through December 31, 2000
Provide the state with written notice of staff changes	Within 30 days of each change
Provide program training to all program staff	Through December 31, 2000
Ensure that at least one program staff attends state training	Through December 31, 2000
Ensure that program staff are trained in data collection	Through December 31, 2000
Ensure that staff attend Red Cross HIV/AIDS instructor course	By June 30, 1999
<u>Program Materials, Plans and Tools</u>	
Review and revise existing HIV and STD educational materials	None specified
Develop and distribute program promotional materials	None specified
Develop a flyer or a brochure describing the grantee's program	By June 30, 1999
Develop or adopt and modify a referral list	By June 30, 1999
Develop a plan for referral of HIV infected clients	By June 30, 1999
Update hotline staff on the grantee's activities and services	Through December 31, 2000
Develop a HIV/STD prevention program curriculum	By September 30, 1999
Develop a HIV/STD risk assessment tool	By June 30, 1999
Develop an outreach plan	By June 30, 1999
Develop a HIV/STD prevention education/risk reduction program	Through December 31, 2000
Provide interpretation and/or translation for prevention program	Through December 31, 2000
<u>Program Service Levels</u>	
Provide targeted outreach of at least 656 contacts	Through December 31, 2000
Provide at least 1310 hours of street outreach	Through December 31, 2000
Provide 437 HIV/STD individual prevention counseling sessions	Through December 31, 2000
Provide 437 multi-session HIV/STD group counseling sessions	Through December 31, 2000
<u>Program Evaluation</u>	
Submit program evaluation reports	Semiannually
Submit program narrative reports	Semiannually
Develop data collection and recording instruments	By May 1, 1999
Collect data and assess and improve evaluation efforts	Through December 31, 2000
Implement and revise program evaluation instruments	Through December 31, 2000
Consult with the state on program services and products	Monthly
Convene meetings of program staff	Bi-weekly

Note: This table uses the 1999-2000 contract as an example of contract deliverables. As discussed in Chapter 3, Finding 5, the 2000-2002 amendment and the 2003-2005 contract between the Minnesota Men of Color and the Department of Health contained virtually identical deliverables.

Source: State grant contract with the Minnesota Men of Color for the period beginning December 31, 1998, through December 31, 2000.

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Program Staff and Training

The Minnesota Men of Color did not comply with the staffing and training requirements outlined in the grant contracts with the Department of Health. Table 2-3 highlights the staffing levels the organization was required to maintain, as well as the actual staffing levels achieved.

Table 2-3
Minnesota Men of Color Staffing Levels
1999 through March 2003

Position ⁽¹⁾	Required Staffing ⁽¹⁾	Date Hired	Date Vacated
Executive Director	One .20 FTE (1999-2000) One .10 FTE (2000-2002)	December 31, 1998	Still employed ⁽²⁾
Community Liaison	One 1.0 FTE (1999-2000) One 1.0 FTE (2000-2002)	September 21, 1999 June 11, 2001	July 13, 2001 March 15, 2002 Vacant ⁽²⁾
Outreach Workers	One .50 FTE (1999-2000) Two .75 FTE (2000-2002)	February 11, 2000 February 11, 2000 January 22, 2001 August 23, 2001 March 11, 2002 May 2002 ⁽³⁾	October 13, 2000 October 11, 2002 June 26, 2001 March 1, 2002 Still employed ⁽²⁾ Still employed ⁽²⁾

(1) The grant agreements required that these positions be filled at the stated full-time equivalent (FTE) levels for the periods ending December 31, 2000, and December 31, 2002, respectively.

(2) As of March 2003.

(3) In May 2002, the organization obtained the services of a contracted outreach worker.

Sources: The Minnesota Men of Color's grant agreements with the Department of Health, semiannual *Program Narrative Reports* for the period January 1-June 30 and July 1-December 31, 1999 through 2002, and organization records.

The Minnesota Men of Color took longer than anticipated to initially fill the grant contract positions. As shown in Table 2-3, the executive director hired the organization's first community liaison on September 21, 1999, even though the 1999-2000 grant period began on December 31, 1998. In February 2000, over a year after the grant contract began, he hired the first outreach workers - two employees who shared the .50 FTE position.

During several contract periods, both the community liaison and outreach worker positions were vacant. As shown in Table 2-3, the Minnesota Men of Color experienced substantial staff turnover in the outreach worker position, particularly during the award period ending December 31, 2002. In addition, the organization did not employ the required community liaison after March 2002.

The Minnesota Men of Color also did not consistently provide written notification of staffing changes to the Department of Health, as required in the grant contracts. There was some evidence documenting staff turnover, but there was also several instances where the department's various managers assigned to the grant asked about the Minnesota Men of Color's

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staffing. As one grant manager stated, “I know for certain that I was not notified according to the contract, that [a certain outreach worker] left. It wasn’t until at least a month later that I “heard through the grapevine” and asked [the executive director] about it. This grantee did not consistently inform MDH of staff changes.”

The Minnesota Men of Color also did not comply with all of the grant contract training requirements. The grant contracts had the following four categories of training:

- Training shall provide accurate, meaningful, and timely information about HIV/STD epidemiology, prevention, and services. Training shall also include topics about sexual diversity, cultural diversity, sexual health, chemical use, homophobia, racism, and safer needle use practices in the prevention of HIV/STD infection. Training shall emphasize affective, cognitive, cultural, and behavioral approaches to the prevention of HIV/STD infections among Minnesota Men of Color Who Have Sex With Men.
- At least one program staff person . . . shall attend GRANTEE training sessions to be provided by the STATE . . .
- The GRANTEE shall insure that the program staff persons . . . are trained regarding the administration of the data collection and evaluation instruments . . .
- The staff persons . . . shall attend the American Red Cross HIV/AIDS Instructor Course or a comparable course . . . [This requirement appeared in the 1999-2000 contract, but not in the 2000-2002 amendment nor the 2003-2005 contract.]

It appears that the Minnesota Men of Color attempted to provide the required staff training. For example, the community liaison attended the required Red Cross training in September 1999. However, we did not see evidence that the two outreach workers who were hired in February 2000 received the training. Also, due to the significant staff turnover, subsequently hired staff did not always receive all required training.

Program Materials, Plans, and Tools

We could not determine whether the Minnesota Men of Color ever developed and submitted all the program materials required by the grant contract. As shown in Table 2-2, the 1999-2000 contract listed several deliverables in the area of program materials, plans, and tools, including such items as a flyer or brochure describing the program, a referral list and plan, a risk assessment tool, and an outreach plan. In addition, the contract stated “The GRANTEE shall submit any new or revised educational materials to the STATE for review and approval by the STATE prior to their utilization or dissemination.” The Department of Health has a specific document (“Form A”) entitled *Request for Review and Approval of Products*, to be used by contractors and staff to document the AIDS/STD Prevention Services Section’s review and approval of program materials.

As a part of each semiannual *Program Monitoring and Program Outcome Evaluation Report* to the Department of Health, the Minnesota Men of Color completed a program development task

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checklist. The checklist shows a pattern of missed contract deadlines. It appears that Department of Health grant managers renegotiated deadlines with the Minnesota Men of Color on several occasions. Table 2-4 is an excerpt of the Minnesota Men of Color's program development task checklist for the period ended December 31, 2000. However, after a review of Department of Health file information, we were unable to verify many of the dates achieved, as shown on the task checklist. Department of Health officials told us that they had no evidence that the Minnesota Men of Color ever submitted either the referral plan or the risk assessment tool.

Table 2-4
Minnesota Men of Color Program Development Tasks
Status as of December 31, 2000

Tasks	Expected Timeline ⁽¹⁾	Date Achieved ⁽²⁾
Development Brochure or Flyer Describing HIV/STD Program	June 30, 1999	January 20, 2000
Referral Plan for HIV Infected Clients	June 30, 1999	January 20, 2000
Develop HIV/STD Prevention Curriculum	June 30, 1999	December 10, 1999 ⁽³⁾
Develop HIV/STD Risk Assessment Tool	September 30, 1999	January 20, 2000
Develop Outreach Plan	June 30, 1999	April 2000

- (1) Expected timelines are consistent with the grant deadlines shown listed in Table 2-2.
(2) Dates shown on the program development task list. However, we were unable to verify many of the dates from a review of Department of Health files.
(3) The Department of Health's review panel rejected the proposed curriculum on May 20, 2000.

Source: The Minnesota Men of Color's semiannual *Program Monitoring and Program Outcome Evaluation Report* for the period July 1, 2000, through December 31, 2000, signed by the organization's executive director on February 20, 2001.

The Minnesota Men of Color submitted the required HIV/STD prevention program curriculum in January 2000. However, a department AIDS materials review panel unanimously rejected the curriculum as being unacceptable on May 1, 2000. The materials review panel ultimately approved the curriculum in November 2000. However, the Minnesota Men of Color's program development task checklists continued to show the curriculum task as having been achieved as of December 10, 1999.

In several instances, the Department of Health reminded the Minnesota Men of Color of the grant requirement for prior review and approval of program materials. In July 1999, the grant manager noted the need for the Minnesota Men of Color to use Form A for its materials. In September 2001, the grant manager again expressed concerns about materials submitted by the Minnesota Men of Color. In part, the manager commented, "Why was this material submitted so late? One product was used as far back as April." In December 2001, at the midpoint of the second two-year contract period, a grant manager sent a letter to the Minnesota Men of Color's executive director, again reminding him of the prior approval requirement. That letter stated:

The enclosed Request for Review and Approval of Products for the "Postcard for the Holidays" was developed on 12/4/01 and distributed by mail before the 12/10/01 approval date. In the future, please note that it may take up to one month for materials to be reviewed. Please plan your material development accordingly.

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Finally, many of the materials the Minnesota Men of Color submitted for review and approval appeared to promote the organization's social events, rather than the HIV/STD disease prevention program. There was little evidence as to how the Minnesota Men of Color intended to address HIV and STD issues and prevention at these events. The Minnesota Men of Color's promotional brochure states only that "MMC [Minnesota Men of Color] provides a safe community space for social and cultural events and HIV/AIDS risk reduction to all People of Color. . ." In their prevention materials, the federal Center for Disease Control acknowledges that outreach may be more effective when "safer sex promotional events [are] embedded in a series of fun social activities."

Program Service Levels and Program Evaluation

The Minnesota Men of Color did not achieve all the service levels required by the 1999-2000 grant contract. As shown in Table 2-2, the contract listed specific service level targets over the term of the contract in the areas of environmental outreach, street outreach, individual counseling sessions, and group counseling sessions. Table 2-5 shows the service level requirements in both the 1999-2000 grant contract and the 2000-2002 amendment, with the corresponding levels reported by the Minnesota Men of Color as being achieved.

Table 2-5
Minnesota Men of Color Program Service Levels
Status as of December 31, 2000 and December 31, 2002

Deliverable	Required Level	Reported Level
<u>1999-2000 contract</u>		
Targeted outreach	656 contacts	3511 contacts
Street outreach	1310 hours	766 hours
Individual counseling sessions	437 sessions	440 sessions
Group counseling sessions	437 sessions	13 sessions
<u>2000-2002 amendment</u>		
Education and risk reduction	900 contacts	7700 contacts
Group counseling	500 individuals	731 individuals
Individual counseling	500 individuals	1253 individuals

Sources: Department of Health grant contracts with the Minnesota Men of Color for 1999-2000 and the amendment for 2000-2002. The Minnesota Men of Color's semiannual *Program Monitoring and Program Outcome Evaluation Report* for the period July 1, 2000, through December 31, 2000, and for the period from July 1, 2002, through December 31, 2002.

We question the Minnesota Men of Color's reported level for targeted outreach during 1999. The 1999-2000 contract makes the following outreach requirement:

Through December 31, 2000, the GRANTEE shall provide targeted environmental outreach including street outreach as outlined in the Outreach Plan . . . The GRANTEE shall provide a total of at least 656 contacts with MOCSM [men of color who have sex with men] utilizing the curriculum described . . . above.

As seen in Table 2-4, the Minnesota Men of Color had neither the required outreach plan nor the required curriculum during 1999. As a result, it is unclear what methodology the organization

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used when performing its 1999 outreach. As discussed above, the Minnesota Men of Color did not develop its curriculum at least until the end of 1999, and the Department of Health's review panel did not approve the curriculum until November 2000. We question whether the Minnesota Men of Color could conduct effective outreach without an approved plan and curriculum in place.

The Department of Health's grant manager recognized that the Minnesota Men of Color were slow in starting its state-funded programming and producing the grant contract deliverables. In her summary comments on the Minnesota Men of Color's *Program Monitoring and Program Outcome Evaluation Report* for the reporting period July through December 1999 (dated May 23, 2000), the grant manager asked the Minnesota Men of Color to describe additional activities in which staff were engaged during the reporting period. She also stated, "Because so few objectives were achieved, further explanation about other activities in which you participated is needed."

Other Grant Requirements

The Minnesota Men of Color did not comply with several other grant contract requirements. It did not file the required forms to maintain its status as a not-for-profit corporation and did not carry the required workers' compensation insurance.

The Minnesota Men of Color did not file the required annual corporate registration, as required by Minn. Stat. Section 317A.823. The annual registration includes the name of the corporation, address of its registered office, registered agent, and name and business address of an officer or other individual. The Secretary of State issued a certificate of involuntary dissolution of the Minnesota Men of Color on April 17, 2002, for failure to file the annual registration in 2001. This means that the Secretary of State's Office no longer recognizes the Minnesota Men of Color as a Minnesota corporation.

In addition, as of January 2003, the Minnesota Men of Color had not filed its Internal Revenue Service (IRS) Form 990 for calendar years 2001 or 2002. The IRS requires nonprofit organizations, such as the Minnesota Men of Color, that are exempt from income taxes to submit form 990 each year. We also found no evidence that the Minnesota Men of Color notified the IRS that it had been statutorily dissolved and was no longer recognized as a Minnesota corporation. As part of the determination of nonprofit status, the IRS requires that any changes in an organization's sources of support, purpose, or character be reported to it.

The Minnesota Men of Color also did not promptly pay its employment and payroll taxes. In correspondence dated May 13, 2002, the Internal Revenue Service granted the Minnesota Men of Color an extension of time to pay the \$4,780 in employment taxes it owed.

Finally, the Minnesota Men of Color did not carry workers' compensation insurance, as required by the grant contracts and by statute. In signing the 2003-2005 grant agreement, the Minnesota Men of Color certified compliance with Minn. Stat. Section 176.181, Subd. 2, which requires workers' compensation insurance coverage. The Minnesota Men of Color originally had coverage, but was cancelled in December 2002 due to nonpayment.

Special Review: Department of Health Grants to Minnesota Men of Color

Terms of Payment

Generally, the Department of Health made payments under its grant contracts with the Minnesota Men of Color on a reimbursement basis. All three grant contracts had similar payment language. For example, the 1999-2000 contract stated:

Payments shall be made by the STATE promptly after GRANTEE'S presentation of an invoice listing expenditures for the month for services performed and acceptance of such services by the STATE'S authorized representative. . . .

The expectation was, therefore, that the Minnesota Men of Color would incur the costs and then seek reimbursement on a monthly basis. The contract did not require the Minnesota Men of Color to provide documentation, such as accounting reports, underlying bills, or cancelled checks, to support its monthly invoices to the department.

Both the 1999-2000 grant contract and the 2000-2002 amendment recognized the organization's newness and its lack of broad-based financial support. The 1999-2000 contract allowed for a \$15,000 advance to be paid upon the grant contract execution. The 2000-2002 amendment allowed for a \$21,250 advance. Both the contract and the amendment required the Minnesota Men of Color to repay the advance through a reduction of each monthly invoice throughout the grant period.

The Minnesota Men of Color had a small staff and few administrative resources during the grant periods. The executive director performed most of the administrative responsibilities of the organization. At various times, he obtained the services of staff members and independent contractors to perform various bookkeeping and accounting functions. The Minnesota Men of Color's board treasurer became involved in many of these functions in mid-2002, including the responsibility for paying the organization's bills.

Conclusions

The Minnesota Men of Color did not have the administrative capability to properly account for the use of grant funds received from the Department of Health. The organization had a very small staff and did not adequately maintain its critical financial systems. In 2002 and 2003, it submitted reimbursement requests to the Department of Health based on estimated, rather than actual expenditures. Of the \$337,349 the Department of Health disbursed to the Minnesota Men of Color, we identified a total of \$27,227 in undocumented and other questioned costs.

The Minnesota Men of Color also did not comply with several financial-related and programmatic requirements of the grant contracts. It did not maintain the required staffing levels and did not comply with all of the training requirements. It did not meet many of its required deadlines for submitting program materials. It also did not achieve the service levels required by the 1999-2000 grant contract. Finally, it did not file the required forms to maintain its status as a not-for-profit corporation and did not carry the required workers' compensation insurance.

Special Review: Department of Health Grants to Minnesota Men of Color

1. The Minnesota Men of Color did not have the administrative capability to properly account for the use of grant funds received from the Department of Health.

The Minnesota Men of Color did not keep adequate financial records during the later part of the grant period. It did not enter transactions into the accounting system and did not maintain documentation to support its disbursements. In addition, the organization did not adequately document its allocation of costs between funding sources. It also did not timely perform certain accounting functions, including bank reconciliations. Finally, it did not resolve errors and variances identified during the bank reconciliation process.

As of March 2003, the Minnesota Men of Color had not entered many of its 2002 and 2003 transactions into its accounting system. Until the end of 2001, the Minnesota Men of Color used a software program called Mind Your Own Business (MYOB) to record its transactions and account for its financial activities. When invoices arrived, staff completed a financial request form showing the vendor, the amount paid, the general ledger account number, and the funding source. Staff entered information monthly from the financial request forms into the organization's accounting system, coding each transaction based on funding source. The executive director then used MYOB reports as a basis for preparing reimbursement requests to the Department of Health. According to Minnesota Men of Color staff, the organization began to have problems with the MYOB accounting software in late 2001, and the staff could no longer rely on the accuracy of reports produced from the system. The organization purchased a new accounting software package but, as of March 2003, had not entered any transactions after August 2002 into the new system.

In addition, the Minnesota Men of Color did not maintain supporting documentation for many of its 2002 and 2003 financial transactions. Until mid-2002, the organization maintained files of supporting documents, including cancelled checks, invoices, and payment request forms, for each month's reimbursement request to the Department of Health. However, for all payments the Minnesota Men of Color made after August 2002, the staff was unable to provide copies of invoices for any of its nonpayroll disbursements.

In addition, the Minnesota Men of Color did not adequately document its allocations of costs between funding sources. The organization changed the amounts and percentages of certain fixed costs that it charged to the Department of Health grant each month. For example, the grant contracts allowed the Minnesota Men of Color to charge a certain percentage of the executive director's salary to the grant. The organization changed the percentage and amount it charged over the timeframe of the grants, and it is unclear how it determined the appropriate salary amount it charged each month. Also unclear was how the organization charged other nonpayroll fixed costs to the grant. The rationale appeared to be determined, at least in part, on the amount of funding available at the time.

Many Minnesota Men of Color bank reconciliations were either not done or were untimely. The organization could not provide copies of bank reconciliations for four months during 2000 nor for any months during 2002 or 2003. Minnesota Men of Color staff did not complete many of the bank reconciliations that were on file until up to 18 months after the financial activity

Special Review: Department of Health Grants to Minnesota Men of Color

occurred. Many of these delays occurred because of staff turnover or inconsistencies in assignment of responsibilities. Complete, timely reconciliations are a key control to ensure the accuracy and completeness of financial information recorded in the accounting system.

The Minnesota Men of Color also did not resolve the errors or variances that were identified as a result of the bank reconciliations. For example, the ending bank statement balance for September 1999 and December 2001 did not agree with the bank reconciliation balances. Amounts listed on the bank reconciliations also did not agree with the related accounting system deposits and disbursements for five months in 2001. Finally, except for January 2000, ending book balances recorded on the bank reconciliation did not agree with balances recorded on summary reports printed from the accounting system for September 1999 to December of 2001.

Excessive staff turnover and problems with accounting software contributed to untimely bank reconciliations. Errors and variances in bank reconciliations also resulted from problems with accounting software and the lack of supervisory review of bank reconciliations. Without proper supervisory review and timely resolution of variances, errors and irregularities may occur and remain undetected.

Recommendations

- *The Minnesota Men of Color should complete its conversion to the new accounting software program and properly code and enter all 2002 and 2003 financial transactions into the system.*
- *The Minnesota Men of Color should appropriately document its rationale for allocating costs to grant funds.*
- *The Minnesota Men of Color should improve controls over bank reconciliations by performing reconciliations on a timely basis, appropriately resolving any variances, and submitting bank reconciliations to a supervisor for an independent review.*

2. The Minnesota Men of Color was overreimbursed during the grant periods.

The Minnesota Men of Color received \$27,227 more in reimbursements from the Department of Health than it was eligible to receive over the course of the three grant contracts. Table 2-6 shows the questioned cost amounts by contract period.

In several months, the organization's reimbursement requests did not agree with the underlying accounting records. In some cases, the Minnesota Men of Color had miscoded transactions on the accounting system. In other cases, the totals presented on the reimbursement requests did not trace to supporting documentation. Based on our review of the organization's accounting records, we believe that the net effect of the miscodings and errors was \$3,785.

Special Review: Department of Health Grants to Minnesota Men of Color

Table 2-6
Minnesota Men of Color Questioned Costs
1999-2003

	<u>Contract Period</u>			<u>Total</u>	<u>State Share</u> ⁽³⁾	<u>Federal Share</u> ⁽⁴⁾
	<u>1999-2000</u>	<u>2000-2002</u>	<u>2003-2005</u>			
Miscodings and errors ⁽¹⁾	\$100	\$3,685	\$ 0	\$3,785	\$6,539	\$(2,754)
Over-recovery of 2000 advance	0	(787)	0	(787)	0	(787)
Undocumented reimbursement requests ⁽²⁾	<u>0</u>	<u>14,901</u>	<u>9,328</u>	<u>24,229</u>	<u>10,225</u>	<u>14,004</u>
Total	<u>\$100</u>	<u>\$17,799</u>	<u>\$9,328</u>	<u>\$27,227</u>	<u>\$16,764</u>	<u>\$10,463</u>

- (1) Includes reimbursements for expenditures that were not properly coded or recorded in the general ledger, as well as situations where the underlying expenditure records did not match the amount claimed on the reimbursement request. The amounts shown are net of both calculated over-and under-reimbursements.
- (2) Includes reimbursements for nonpayroll disbursements that lacked invoices and other supporting documentation. These amounts include payments totaling \$1,880 that the Minnesota Men of Color made to the board treasurer.
- (3) The state share was funded through the state's General Fund.
- (4) The federal share was funded through a federal grant for health department-based HIV prevention activities (CFDA #93.940)

Sources: Auditor review of Minnesota Men of Color documents and analysis of reimbursement requests to the Department of Health.

In addition, the Department of Health overrecovered its advance to the Minnesota Men of Color on the 2000-2002 amendment. Minnesota Men of Color received a \$21,250 advance for the 2000-2002 period. In order to satisfy the advance amount, it was to reduce each subsequent monthly invoice by a certain amount outlined in the grant agreement. However, the Minnesota Men of Color did not reduce its invoices by the correct amount and, thus, the Department of Health over-recovered the advance by \$787.

The Minnesota Men of Color also had \$24,229 in undocumented reimbursements under the 2000-2002 and 2003-2005 contract periods. Generally, the Department of Health made payments under its grant contracts with the Minnesota Men of Color on a reimbursement basis. All three grant contracts had similar payment language. For example, the 2000-2002 amendment stated:

Payments shall be made by the STATE promptly after GRANTEE'S presentation of an invoice listing expenditures for the month for services performed and acceptance of such services by the STATE'S authorized representative. . .

The expectation was, therefore, that the Minnesota Men of Color would incur the costs and then seek reimbursement on a monthly basis. The contract did not require the Minnesota Men of Color to provide documentation, such as accounting reports, underlying bills, or cancelled checks, to support its monthly invoices to the department.

Due to a lack of summary accounting information, the reimbursement requests the Minnesota Men of Color submitted during calendar years 2002 and 2003 were based on estimated amounts. The organization's intent was to complete the coding of 2002 transactions and input everything

Special Review: Department of Health Grants to Minnesota Men of Color

into the accounting system. However, that input cannot occur unless the documentation supporting many of its 2002 and 2003 disbursements can be found. Due to lack of any current accounting reports and supporting documents, the organization cannot account for \$24,229 in nonpayroll reimbursements from the Department of Health.

As a part of the undocumented 2002 and 2003 reimbursement amount, we were unable to determine the legitimacy of payments totaling \$1,880 made to the Minnesota Men of Color's board treasurer. The treasurer was, at the time the payments were made, the only authorized signer on the organization's checking account. We were unable to substantiate the treasurer's claim that the checks written to him were, for the most part, repayments of loans he made to the organization. The treasurer did not provide us with any documentation that he had originally incurred and paid for these costs.

Finally, the Minnesota Men of Color did not submit its final reimbursement request to the Minnesota Department of Health within the timeframes outlined in the grant agreement, which provided "failure to submit an invoice within 90 days shall result in a reduction of ten percent for services rendered that month." The Minnesota Men of Color did not submit its reimbursement request for March 2003 within the required time limit.

Recommendations

- *The Minnesota Men of Color should repay the \$27,227 in undocumented and other questioned costs to the Department of Health. The Department of Health should work with the federal Department of Health and Human Services to resolve the federal portion of the questioned costs.*
- *If adequate supporting documentation cannot be found, the Minnesota Men of Color should seek reimbursement for the \$1,880 paid to the board treasurer.*
- *The Minnesota Men of Color should complete and submit the final reimbursement request for March 2003 to the Department of Health.*

3. The Minnesota Men of Color did not comply with several financial-related and programmatic requirements of the grant contracts.

As discussed earlier in this chapter, the Minnesota Men of Color did not comply with several requirements of its grant contracts with the Department of Health. The following is a summary of the Minnesota Men of Color's noncompliance identified during our review:

- It did not comply with the required staffing levels. It took longer than anticipated to initially fill the grant contract positions, and during several contract periods, both the community liaison and outreach worker positions were vacant.

Special Review: Department of Health Grants to Minnesota Men of Color

- It did not consistently provide written notification of staffing changes to the Department of Health.
- It did not comply with all of the grant contract training requirements.
- It did not submit all required program materials for the Department of Health's approval prior to their use.
- It did not achieve all the service levels required by the 1999-2000 grant contract.
- It did not file the required annual corporate registration to the Secretary of State.
- It did not file its Internal Revenue Service (IRS) Form 990 for calendar year 2001 and 2002.
- It did not promptly pay its employment and payroll taxes.
- It did not carry the required workers' compensation insurance.

Although none of these requirements directly affected the Department of Health's terms of payment under the grant contracts, they all represent breaches of the contract between the two parties. In some cases, they also represent violations of law. According to the conditions of payment contained in the 1999-2000 contract:

All services by GRANTEE pursuant to this grant contract shall be performed to the satisfaction of the STATE, as determined in the sole discretion of its authorized representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations. GRANTEE shall not receive payment for work found by the STATE to be unsatisfactory, or performed in violation of federal, state, and local law, ordinance, rule and regulation.

Recommendation

- *The Minnesota Men of Color should work with the Department of Health to determine what financial consequence, if any, results from its noncompliance with grant contract terms.*

Chapter 3. Department of Health Grant Monitoring

Chapter Conclusions

The Department of Health did not adequately monitor its grant contracts with the Minnesota Men of Color. The department did not take sufficient action when it became clear that the Minnesota Men of Color was not complying with the grant contracts. Despite noncompliance with grant contract requirements and deliverables, the department continued to fund the grantee organization, including an increased award for the 2003-2005 grant period.

In addition, the department did not properly structure certain aspects of its grant contracts with the Minnesota Men of Color. It allowed for identical program material deliverables in multiple contracts. It also did not require the Minnesota Men of Color to provide documentation supporting its reimbursement requests. Finally, the contracts all provided for reimbursement based only on program costs, rather than on the level of service provided.

In January 1998, the Department of Health issued a request for proposal for its HIV/STD prevention program grants. The department set up community review committees to evaluate proposals for seven targeted population groups. Based on this evaluation process, the Minnesota Men of Color was approved and received its first two-year grant contract of \$150,000 for the period from December 31, 1998, through December 31, 2000 (the 1999-2000 contract) for community outreach to men of color who have sex with men.

Although the grant contract period began on December 31, 1998, the Minnesota Men of Color had not yet received its not-for-profit (501.C3) status as of that date. In correspondence dated January 4, 1999, a representative from the AIDS/STD Prevention Services Section informed the Minnesota Men of Color that the Department of Health was unable to process a grant contract until the Minnesota Men of Color obtained its 501.C3 status. The Minnesota Men of Color received notification of its exempt status from the Internal Revenue Service on March 29, 1999, and the contract was fully executed and signed by the Department of Health on April 22, 1999.

As shown in Table 1-1, the Minnesota Men of Color received grant awards totaling \$698,565 from the Department of Health's HIV/STD Prevention Services Section during calendar years 1999 through 2003. The Department of Health's first grant contract with the Minnesota Men of Color provided for two-year funding of \$150,000, or \$75,000 per year. The Department of Health funded the grant equally from the state's General Fund and a federal program (CFDA#93.940) for health department-based HIV prevention activities (\$37,500 from each source each year).

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In February 2002, the Department of Health issued a new request for proposal for its HIV health education and risk reduction programs. The Minnesota Men of Color again applied for funding and was approved by the department's review committee. Based on this evaluation process, the Minnesota Men of Color received a new award for \$336,065 for the period from January 1, 2003 through December 31, 2005 (the 2003-2005 contract).

Conclusions

The Department of Health did not adequately monitor its grant contracts with the Minnesota Men of Color. The department did not take sufficient action when it became clear that the Minnesota Men of Color was not complying with the grant contracts. Despite noncompliance with grant contract requirements and deliverables, the department continued to fund the grantee organization, including an increased award for the 2003-2005 grant period.

In addition, the department did not properly structure certain aspects of its grant contracts with the Minnesota Men of Color. It allowed for identical program material deliverables in multiple contracts. It also did not require the Minnesota Men of Color to provide documentation supporting its reimbursement requests. Finally, the contracts all provided for reimbursement based only on program costs, rather than on the level of service provided.

4. The Department of Health did not take sufficient action when it became clear that the Minnesota Men of Color was not complying with grant contract provisions.

Despite substantial evidence that the Minnesota Men of Color was not complying with grant contract requirements and deliverables, the department continued to fully fund the organization, including an increased award for the 2003-2005 grant period.

As discussed in Chapter 2, the Department of Health had indications that the Minnesota Men of Color was not complying with certain aspects of the grant contracts, including the following:

- There was excessive turnover of program staff and substantial periods during the grants where program positions were vacant. This should have caused concerns about the effectiveness of the organization's outreach.
- The Minnesota Men of Color did not meet many of its required deadlines for submitting program materials. The Department of Health's grant manager renegotiated the deadlines on several occasions.
- The Minnesota Men of Color did not achieve the service levels required by the 1999-2000 grant contract. We question the reasonableness of the outreach service level reports for 1999, since the Minnesota Men of Color had neither the required outreach plan nor the required curriculum in place during 1999.

Despite receiving a \$15,000 advance on the 1999-2000 grant contract, the Minnesota Men of Color's executive director almost immediately began asking the Department of Health about the

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timeliness of payment on its reimbursement requests. In an email to the grant manager dated October 29, 1999, the executive director stated, “I was wondering about the timeline for turning checks around from the state for reimbursement. . . I am trying to work out a cash flow projection.” In file notes dated April 2000, the grant manager again cited the organization’s cash flow problems and stated, “I think he was asking if there was a way to get more money than the 1999-2000 grant award. [I] encouraged him to seek other funding.” By 2002, the Minnesota Men of Color’s cash flow situation was becoming more serious. It is our understanding that the organization’s treasurer began hand-carrying invoices to the Department of Health for processing and requesting that he be allowed to pick up the reimbursement checks, rather than having them mailed out.

It also became clear to the Department of Health that the Minnesota Men of Color was no longer current on paying some of its expenses. In correspondence dated May 13, 2002, which the Department of Health had on file, the Internal Revenue Service granted the Minnesota Men of Color an extension of time to pay the \$4,780 in employment taxes it owed. The Minnesota Men of Color had not paid the employment taxes, even though the Department of Health had provided the organization with monthly salary reimbursements, which included fringe benefits. In notes from a meeting with the Minnesota Men of Color in January 2003, the grant manager wrote, “We have been reimbursing for these line items – obviously they aren’t being paid. Where is that \$ going?” In response to the concerns that were raised, the Department of Health requested and received invoices from the Minnesota Men of Color beginning in January 2003.

The grant contracts provided for remedies and even cancellation of the contract as a result of grantee nonperformance. For example, section V of the 1999-2000 contract states:

Upon GRANTEE’S substantial failure to comply with the provisions of this grant contract, the STATE may terminate this grant contract without prejudice to the right of the STATE to recover any money previously paid. The termination shall be effective upon the STATE giving GRANTEE written notice at its last known address.

The original Request for Proposal for the HIV/STD prevention grants, dated January 5, 1998, stated:

The grant period is established for 24 months, January 1, 1999 – December 31, 2000. Funded programs may be eligible to apply for additional future funding through December 31, 2003. This **continuation or expansion funding will be dependent upon** the availability of state and federal HIV/STD prevention funds to the MDH [Minnesota Department of Health] and **satisfactory program performance during the first two years** [emphasis added].

Despite the fact that the Minnesota Men of Color took longer than anticipated to set up their program under the first contract, the Department of Health funded the organization for 2000-2002 under an amendment to the first contract.

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In addition, we saw no evidence that the Department of Health considered past performance when awarding the organization its 2003-2005 contract. Although the review panel recommended that the Minnesota Men of Color be funded, we were unable to verify that the panel had all of the information they needed to make an informed funding decision. We found several cases in which grant managers for the Minnesota Men of Color sent internal memos and correspondence expressing their concerns about the grant. This correspondence included the following email from the grant manager for the Minnesota Men of Color to the HIV/STD Prevention Services Section program manager on January 21, 2003:

As we represent . . . the taxpayers of Minnesota, I do not feel comfortable moving forward with MN Men of Color's 2003-2005 contract until the following issue has been addressed and rectified: They continue to bill the Health Department for reimbursements they have said they paid, when in fact they have not been paid. These items include occupancy, salaries, fringes, telephone, and other basic overhead expenses. These expenses are still delinquent (although they have consistently been paid reimbursements), additionally, this has been on-going for at least 8 months. It is imperative that this DOES NOT carry-over into the next funding cycle!!!

Despite grant manager concerns, as well as indications of noncompliance during previous contract periods, the Department of Health signed a new grant contract with the Minnesota Men of Color on January 31, 2003, only ten days after the grant manager had written the email. The new grant, in the amount of \$336,065, was for the period from January 1, 2003, through December 31, 2005. Only after state budget problems, resulting in the unallotment of state HIV grant funds, did the Department of Health terminate its contract with the Minnesota Men of Color as of March 31, 2003.

We believe that the Department of Health did not sufficiently uphold its responsibility to properly administer the grants to the Minnesota Men of Color. It did not respond appropriately when instances of noncompliance were identified and did not ensure that the grant funds were used as intended.

Recommendation

- *The Department of Health should exercise its rights under grant contracts to decrease or cancel funding when it identifies instances of substantial contract noncompliance.*

5. The Department of Health did not properly structure certain aspects of its grant contracts with the Minnesota Men of Color.

In several aspects, the Department of Health's grant contracts with the Minnesota Men of Color were not structured in a way to provide for adequate oversight. The department did not require the Minnesota Men of Color to provide copies of its general ledger detail, or other documentation supporting its reimbursement requests. It required identical program material

Special Review: Department of Health Grants to Minnesota Men of Color

deliverables in its contracts. Finally, all of the department's contracts with the Minnesota Men of Color provided for reimbursement based on program costs, rather than on the levels of service provided.

The grant contracts did not require the Minnesota Men of Color to provide documentation, such as accounting reports, underlying bills, or cancelled checks, to support its monthly invoices to the department. The contract required the department to reimburse the Minnesota Men of Color based on a monthly invoice. However, since it did not require any supporting documentation, it was impossible for the department to sufficiently validate grantee financial information. This became increasingly important when the Minnesota Men of Color began submitting estimated costs on its invoices, rather than actual expenditures (see Finding 2 for more information).

In addition, the 2003-2005 grant contract between the department and the Minnesota Men of Color contained several deliverables that were identical to those included in the 1999-2000 contract. As can be seen in Table 2-2, the 1999-2000 grant contract required the development of many program materials, plans, and tools in order to properly structure the grantee's outreach and make it effective. With one exception, all of the items listed under program materials, plans, and tools for the 1999-2000 contract were repeated as requirements in the 2000-2002 amendment, with new established deadlines. We question why the 2000-2002 amendment and the 2003-2005 contract continued to require the development of the same materials as the first contract. We believe that the subsequent agreements should have concentrated more on service levels and less on providing materials that should have been completed before December 31, 2000.

Finally, the Minnesota Men of Color grant contracts did not link payments to levels of service provided. Instead, reimbursements were based solely on salaries and other program costs, rather than on the levels of service the grantee achieved. Because of this, the department did not ensure that the Minnesota Men of Color provided a maximum number of direct service hours to clients. We believe that the level of services provided should have played a much greater role in subsequent grant contracts, after many of the basic programming materials had been developed.

Recommendations

- *The department should consider requiring grantees to provide documentation, such as accounting reports, underlying bills, or cancelled checks, to support invoices to the department.*
- *The department should consider writing its grant contracts to ensure that, at least in part, funding is tied to service level achieved.*

Special Review: Department of Health Grants to Minnesota Men of Color

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MINNESOTA MEN OF COLOR

United to celebrate our cultural and sexual identities.

October 22, 2003

Jeanine Leifeld, CPA
Audit Manager
Office of the Legislative Auditor
State of Minnesota
Room 140 Centennial Building
658 Cedar St
St. Paul, MN 55155-1603

Dear Ms. Leifeld,

The enclosed is the response to the special report of your office of Minnesota Men of Color's financial management of state grants received from the Department of Health for the period of 1999 to 2003. This response has not been changed from the initial submittal of the original report which had been reissued subsequent to a discussion with the representatives of the Department of the health.

The reports that have been provided have not been shared with anyone other than the Executive Director and Board Treasurer as requested. The response that is provided is the official response of the 2 individuals who participated in this audit. Any further response or action from the full board has not been sought and will be done so when this report becomes available.

If you have any additional questions please call 612-821-2314.

Sincerely,

/s/ Nicolas Metcalf

Nicolas Metcalf
Volunteer Executive Director

/s/ Joseph Ward

Joseph Ward
Board of Director, Treasurer

Minnesota Men of Color Response

Once we were notified via letter that a complain had been filed against the organization indicating that Minnesota Men of Color(M MC) was to be investigated due to allegations funds received by Minnesota Department of Health for HIV/STD prevention grant had been used for unauthorized purposes we worked diligently and expediently to assist. We immediately negotiated an April 1, 2003 meeting with representatives from the Office of Legislative Auditor (OLA). During our initial meeting we were told that a complaint had been filed anonymously and there would be an investigation and the process that would be undertaken to investigate. We were told to make our financial information available immediately. At our initial meeting we did discuss with the OLA staff that due to the Governors unallotment MDH would terminate MMC's HIV/STD prevention program effective March 31, 2003. We also discussed that we had to decrease our overhead costs and had just completed a move to a more affordable space We negotiated a time within 2 weeks from our initial meeting. We worked with the OLA staff to make information available and answer questions during and after their on site investigation.

We met with OLA staff after receiving our initial report and found that the investigation included information that was not discussed in our initial meeting and the scope of the investigation reached beyond the financial information of the organization. We also indicated that with a decreased number of staff we would work with them as best as we could during their investigation. The loss of MDH HIV/STD funding resulted in a significant cut in the organizations operations and were considering shutting the organization down. Currently, MMC has no paid staff but in the first part of this year had 4 FTE positions to administer programming and oversight of day to day operation.

The objective and methodology used by the OLA draft report does not include that the OLA staff looked into other matters regarding the operation of the organization. OLA staff reviewed MMC's staff daily logs, MMC's Board of Director Meeting Minutes, MMC's Executive Director Report to the Board of Directors, all MMC grant files, and MMC Employee Policies and Procedures. The on site investigation took in total 3 weeks in which 3 OLA staff were on site gathering information and making copies. During the time OLA staff was on site for the investigation MMC staff were available for answering questions and on-going meetings with the investigators regarding the operation of the organization. They continued to be in contact with the organization up until the final report was written. The staff of MMC did its best to meet the needs of OLA office considering the significant organizational changes that were occurring and eventual decision to let all staff go due to financial cutbacks.

Although the OLA report is sensationalistic in nature and facts are taken out of context it is our hope that by reading this you will begin to get an environmental context of our work. We have chosen to respond to the report in a point by point fashion:

Background:

Minnesota Men of Color (MMC) began as a social group for men of color who identified as Gay, Bisexual or Transgender in April 1997. Minnesota American Indian AIDS Task Force (MAIATF) served as the organizations fiscal agent up until MMC was able to secure its own 501C3 status. MMC grew slowly from its initial stage to securing a grant to do our first conference “Celebrating Our Lives” in the spring of 1998. It was through this effort and the support of the management of MAIATF that MMC was able to secure funding to conduct a needs assessment for men of color living with HIV/AIDS. MMC hired its first project coordinator August 1998 to begin the process of an assessment and identify on-going programming.

MMC was notified in the fall of 1998 that the organization was to be funded by the MDH HIV/STD prevention grant. MMC worked immediately to secure its 501C3 status and locate an office. With little non profit management experience amongst the project coordinator and Board of Directors the set-up of operational procedures was undertaken to ensure compliance with grants. It was within a year and half MMC grew from a budget of \$2,000 to a budget of over \$100,000 with federal and county contracts. The organization worked as quickly as possible to set up the organization, identify potential staff, and administer programming with 1 project staff person who eventually became the Executive Director of the organization and a small new Board of Directors.

MMC throughout the contract period worked to be in compliance with all the grant requirements. When trying to facilitate a functional administration outside funding was sought but other sources would not fund the organization due to the years of experience as a non profit and the mission of targeting of services to men. MMC had to rely heavily on the experience of the Executive Director and his contacts made with other organizations in growing a non profit organization with little human and unrestricted financial resources.

MMC was notified in January 2003 that MDH was not dispersing funds until the Governor was going to release a new budget. We later found out that we were not going to be receiving HIV/STD prevention grant funds after March 2003 relatively soon afterwards. This cut severely impacted the organization. Consultants were let go, staff were re assigned temporarily, and programming was narrowed down. Leases that were entered into with vendors for the duration of the contract had to be negotiated to be paid off and a debt reduction plan created. The temporary bridge loan that was being sought to bring the organization in compliance with taxes and insurance was not sought after due to the financial uncertainty of the organization.

Although the organization was in a place after 6 years of being a small minority based nonprofit business the experience that had been gained did not prepare the organization for what statewide all non profits were feeling of the impact of decreased individual giving, corporate sponsorship down, and foundation financial support was decreased. MMC has worked most of the last year in restructuring the organization to meet the needs

of its disenfranchised constituency, create a functional administration, delineate duties, and raise much needed money but has not yet been able to recover.

Grant Contract Deliverables

Grant contract deliverables – it was unclear to us that this was under audit as well. MMC staff and Board representative were under the assumption that the financial activity was what was under investigation. Time was spent to find and gather financial and other relevant information for OLA staff after moving to a new location.

As from the first day of this investigation MMC will work with all the appropriate parties to find information but currently there are no paid staff and volunteer Board of Directors of 5 individuals. Consultation with appropriate previous staff needs to be made and it will take time to find information as necessary. The Board of Directors has taken on a more active role in working in day to day operations.

Program Staff and Training

MMC will work with MDH, OLA, and the Attorney Generals office if necessary back up information about staff training is needed. MMC does acknowledge that the Executive Director could have been in regular contact with the Grant Manager to indicate staff changes. MMC contends that the State Grant Manager is partially responsible as well. The State Grant Manager contact could have notified the organization of a problem and on-going dialogue to rectify any situation could have prevented this. Unlike now, when MMC began its operation there was a plethora of jobs available and to identify and secure a person who would work with men of color who have sex with men was difficult. As the reports acknowledges attempts were made to provide in house training.

Program Materials, Plans, and Tools

The approval for program materials for the HIV/STD prevention grant was sought after when appropriate. The administrative oversight needed to comply with this required significant administrative time to ensure the Request for Review and Approval of Products was received. MMC attempted to share this duty with program staff but unfortunately they did not meet all their deadlines. If necessary MMC will work with appropriate agencies and staff to review prior programming for approval.

The HIV/STD prevention curriculum being rejected was news to MMC. Former staff of MMC indicated that approval had been granted but changes to “STD facts” needed to be made. In 2001/2002 MMC was updating the curricula through but unfortunately never completed it due to staff changes.

MMC was not aware that OLA had the expertise to comment on appropriate HIV/STD interventions for target population when promoting events. If MMC was required to include specific HIV/STD prevention information it would have done so. If MMC was

required to outline the organizations preventions objectives it should have been a discussion between contract manager and the Executive Director.

Program Service Levels and Program Evaluation

The 1999-2000 service levels were due to staffing issues. The 1999 outreach plan under question was done through utilizing consultants. If OLA utilized a different definition of Outreach interventions during 1999 activity we would be more than willing to discuss it with MDH to demonstrate that service levels had been met.

Other Grant Requirements

We have determined that a significant amount organizational time was spent in implementation of the state HIV/STD Prevention grant. OLA report commentss on the numerous deliverables required of this contract. Administration of the organization overall was done through a 1.0 FTE Executive Director using at minimum .50 time in management oversight to comply with all programmatic duties of the state HIV/STD prevention contract. This did not leave much time to do other organizational administrative duties.

MMC annual corporate registration had been made in May 2003. MAP for non profits, an organization which specializes in helping small non profits, was brought on to assist in all accounting matters. In May 2003, IRS 990 was submitted and registration for MN Attorney General Office for FY 2001 was done as well. Currently, MAP is working with us to gather the information necessary for FY 2002 reporting requirements.

The IRS 501C3 letter is included to show that financial activity was needed and will be submitted within the next month once the 990 for FY 2002 is completed. MMC still does have its 501C3 federal status.

Payroll Taxes have been negotiated with the IRS for the 3rd, 4th Quarter of 2002 and 1st Quarter of 2003. MDH has required that all the taxes not paid be reimbursed to the state therefore MMC is working to find alternate sources to pay for MDH HIV/STD prevention grant staff taxes throughout these periods. Cash flow was an issue throughout the contract and with the advance and bridge loan MMC was looking forward to having these paid off. Unfortunately, alternative plans had to be developed for consideration.

Workers Compensation insurance will be sought if MMC hires another staff person. MMC is working with insurance company to determine if payment of fee will cover periods under question. MMC is willing to work with all appropriate agencies to ensure this law is abided by.

The Board of Directors of MMC has established protocols of dealing with money. There has been additional accounting controls established in dealing with the organizations finances. The Board Treasurer is working to find all the necessary support information.

Conclusion

MMC as noted in the report did not have the administrative capability to ensure oversight of all the legal requirements to run a non profit and administrate contracts. The state contract turned out to be an enormous amount of time to manage day to day programming. Unsuccessfully, alternate sources were sought but due to the specific nature of the organization and the newness were denied. MMC is working with MAP for Nonprofits to update financial systems and work with them to ensure financial protocols are kept in place. MMC has submitted the necessary information to maintain its not for profit corporation status. MMC is working to rectify the workers compensation insurance if the organization is going to hire another staff person and during the periods in question.

Financial Activity

MMC is working to gather information regarding undocumented requests. After review of the activity in question it has been determined that most of it is operational expenses with a few programmatic expenses. This information is still being sought after for document support.

MMC will work with appropriate office regarding miscoding and errors in financial systems. MMC is working closely with MAP for Nonprofits to ensure all compliance issues are met. MMC does recognize that in the past administratively the organization was not capable of such a daunting task of state contract. It is anticipated by bringing an outside source to manage the accounting of the organization that has the expertise will alleviate much of what has occurred.

MMC has instituted financial protocols for its operations. MAP for Nonprofits has worked with the organization since January 2003 to rectify many of the previous issues. With limited human resources this matter will take time and MMC does recognize that it will work with all appropriate agencies to ensure local, state, and federal guidelines are met. MMC's Board of Directors has become a more active board, training is being identified, and volunteer technical expertise is being sought after.

MMC as an organization is nearing its end. Many environmental factors beyond our control have led to this but it is important to the former staff and Board of Directors that all matters regarding this matter are rectified. MMC has been a constituent driven organization and is committed to sharing its story of growth with new organizations. MMC will be remembered as an advocate and service organization by and for GLBT people who are African American, Native American, Asian, Chicano, and Latino.

MINNESOTA
MDH
DEPARTMENT OF HEALTH

Protecting, maintaining and improving the health of all Minnesotans

October 23, 2003

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

Dear Mr. Nobles:

Thank you for the opportunity to respond to the comments and recommendations contained in the “Special Review: Department of Health Grants to Minnesota Men of Color”. Taking the opportunity to observe and document systems in a review is always a learning experience and an opportunity to clarify, prioritize and focus our role in protecting the public health of Minnesota and specifically in this case, reducing the transmission of HIV and other sexually transmitted diseases (STDs).

This letter provides some general comments and response to some general comments in the report as well as addressing specific recommendations. The objective of the review, as stated by the Office of the Legislative Auditor, was to answer the following questions:

- Did the Minnesota Men of Color expend grant funds in accordance with legal requirements and grant contract provisions?
- Did the Department of Health adequately monitor the Minnesota Men of Color’s compliance with its grant agreements?

General Comments:

The review does not completely document the environment in which HIV and STD prevention programs operate. The challenges of behavior change are compounded by the reality that communities most at risk for and impacted by HIV and STDs are communities that have a long history of being disenfranchised or marginalized. The disproportionate impact of disease on specific populations and a corresponding paucity of human and financial resources result in the need to support newly formed agencies. As with any new enterprise, public or private, there will always be growing pains, successes, failures and lessons learned. The charge to reduce health disparities from federal and state levels requires that risks be taken and agencies be supported in the development of more effective interventions. The Minnesota Men of Color was a new agency with a distinct and critical role in reaching the community of men most at risk for acquiring or transmitting HIV. Working with new agencies that fill such a role in a comprehensive network of

providers requires support during program and business practice challenges. The newness of the agency and the critical nature of its role presented unique opportunities, calling for levels of patience and risk that may not have been necessary in communities with access to resources and privilege.

The review does not completely document the complexity of the products expected from and delivered by the Minnesota Men of Color. Delivering a behavioral change intervention to reduce the risk of HIV and STDs is a science and an art that requires strategies giving individuals tools to make nuanced decisions in complex cultural, physical and emotional contexts. Effective decision making skills require programs that use repetition, constant revision of materials and messages, social marketing skills and often defy a standard definition. The review language that questions the effectiveness of the Minnesota Men of Color's intervention efforts and promotional materials is in contradiction to the most current science and guidance from the Centers for Disease Control and MDH on methods to reach hard-to-reach populations. The target audiences for the Minnesota Men of Color's programs are men of color who are at high risk of acquiring and transmitting HIV infection. The strategies proposed by the program are consistent with programs used in other jurisdictions to reach this population.

The review does not completely document the well-established process for awarding grants and amendment at the Minnesota Department of Health. Each of the grant awards cited in this review were made based on the recommendation and input from a community grant review panel and with the concurrence of the program's standing community advisory body. The amendment for 2000-2002 mentioned in the review was part of an extension given to all behavioral intervention grantees and done with the concurrence of the program's standing community advisory body. The additional funding level of the amendment was the result of very narrow time and program restrictions imposed on MDH by the Centers for Disease Control and Prevention and was done with the concurrence of the program's standing community advisory body.

The competitive process followed is a standard Department-wide process that is, by design, separate from grant monitoring procedures and information. This process acknowledges the need to be open to new organizations in underserved and emerging populations at risk for and impacted by disease. While this design is by no means perfect, it serves to facilitate the distribution of funding to new, innovative and sometimes unproven but promising programs. The 2003 grant award process used a community grant review panel that reviewed proposals from many organizations to address an established list of priorities. Information about past performance has been limited in these reviews to avoid decisions based primarily on past performance and instead the review committee focuses on proposed strategies and tactics as described in the proposal. This is an area of

ongoing discussion at the Department and we will consider how to incorporate some information about performance in the grant award process.

The review does not completely clarify or document the role of MDH in monitoring grant agreements with deliverables that are by design ambitious. The primary role of MDH is to provide the technical assistance needed to assure that effective behavioral interventions are being delivered. Review of business practice issues is part of this scope of work only as they relate to the delivery of an intervention. Technical consultation, adjustment of timelines, assistance with establishing stable staffing and other programmatic assistance was provided, if not completely documented in grant files. And while the business practice challenges of the Minnesota Men of Color were by no means insignificant, MDH was not immediately aware of them. As information about the level and depth of the business practice challenges grew, increased scrutiny of the organization and its capability to fulfill the grant requirements was established.

The review does not completely document the steps that MDH did take when programmatic and business practice challenges were brought to our attention. Grant managers were in regular communication with the Minnesota Men of Color to explore barriers and challenges to implementing HIV prevention programs and to renegotiate grant deliverables and timeframes. When the issues of nonpayment of agency taxes became known to MDH, multiple meetings were convened and documentation provided by the Minnesota Men of Color to assure that no state or federal dollars were being spent on the related IRS fines. When concerns were raised about the validity of some of the invoices that were submitted, documentation was obtained from the Minnesota Men of Color to assess the accuracy of their payments. This process resulted in MDH requesting repayment from the Minnesota Men of Color to recover undocumented expenses. And finally, when faced with reduced funding for HIV programs, the decision was made to stop funding the Minnesota Men of Color partially based on significant concerns about its long-term viability.

In response to the specific recommendations of the report:

The Department of Health should exercise its rights under grant contracts to decrease or cancel funding when it identifies instances of substantial contract noncompliance.

- We will develop a process for grant managers to use to evaluate an organization that appears to be struggling to meet the grant requirements or has significant business practice difficulties, such as establishing staffing or submitting required reports.

- MDH includes language in all contracts that address when contracts can be terminated, including for substantial failure to comply with the provisions of the grant. The difficulty is in determining the definition of “substantial failure” especially in a newly forming organization working with new strategies to reach hard-to-reach populations.

The department should consider requiring grantees to provide documentation, such as accounting reports, underlying bills, or cancelled checks, to support invoices to the department.

- MDH does not have adequate staff resources to make submission of supporting documents a requirement for all grantees. However, as was done in the case of Minnesota Men of Color, a request for supporting documentation may be one tool used when specific questions arise.
- We are beginning a process that will identify standard programmatic and business practice trigger points that indicate a need for increased levels of technical assistance and documentation. If this increased level of technical assistance is not effective, a progressive process will be put in place to evaluate the effectiveness of the services provided by the grantee and may result in modifications to or termination of the agreement. This process will include input from the grant manager and review by the Section and Division management.
- We are in the midst of restructuring the STD and HIV Section, which will allow for further standardization and monitoring of invoice processing.
- We are exploring the feasibility of requiring financial audits of all grantees.

The department should consider writing its grant contract to ensure that, at least in part, funding is tied to service level achieved.

- Section restructuring will allow the grantee technical assistance staff to become more focused in providing on-site technical assistance and monitoring of intervention implementation. This will allow MDH to more closely monitor and document the actual implementation of grant deliverables.
- We are exploring ways to simplify grant agreement requirements to focus more on intervention delivery rather than business practice requirements.
- New data collection systems have been implemented to improve documentation of the quantity of community-based interventions to the targeted populations.
- We will explore ways to balance prior performance with the need for an RFP process that is open to new organizations in underserved and emerging populations at risk for and impacted by HIV.
- It is important to note however that delivery of behavioral interventions does not fit well in a fee-for-service model. The deliverable is not easily defined and program implementation and consistency are more important than a specific

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number of encounters.

We completely agree that organizations like the Minnesota Men of Color often operate at a funding level that does not allow the luxury of a fully operational business practice capacity. We also note the difficulty of providing complete oversight of all the challenges such an agency faces. This special review highlighted some areas of improvement in managing the grants addressing HIV and STD prevention. It also highlighted the difficulty of balancing efforts to develop new community expertise and resources to address difficult public health issues with limited resources for such agencies and for technical and business practice oversight.

Sincerely,

/s/ Agnes T. Leitheiser

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