



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial Audit Division Report

Special Review: State and City Contracts with the Minnesota Council on Compulsive Gambling



Financial Audit Division

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

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OFFICE OF THE LEGISLATIVE AUDITOR

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Department of Human Services

Mr. Herb Bergson, Mayor
City of Duluth

Ms. Elizabeth George, Chief Executive Officer
Minnesota Council on Compulsive Gambling

Members of the Minnesota Council on Compulsive Gambling Board of Directors

We have conducted a special review of the Minnesota Council on Compulsive Gambling's financial management of public funds received from the Minnesota Department of Human Services and the City of Duluth for the period November 28, 2001, through December 31, 2004. The Minnesota Council on Compulsive Gambling is a nonprofit organization whose mission is to provide information, to facilitate research, and conduct professional training about gambling addiction. For calendar years 2002 through 2004, the state and City of Duluth provided approximately 60 percent of the council's funding.

We conducted the special review after receiving allegations about the council's management practices and the quality of its services. Based on our initial assessment, we decided to conduct a special review and issue this report. The following Report Summary highlights our objectives and conclusions. We discuss the issues more fully in the individual chapters of the report.

Pursuant to *Minnesota Statutes* 3.975, we have referred this report to the Attorney General. The Office of 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.

The report is intended for the information of the Legislative Audit Commission and other legislators, the management of the Department of Human Services, the City of Duluth, and the management of the Minnesota Council on Compulsive Gambling. This restriction is not intended to limit the distribution of this report, which was released as a public document on June 3, 2005.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

Report Signed On: June 1, 2005

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Audit Participation

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

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Jeanine Leifeld, CPA, CISA	Audit Manager
Marla Conroy, CPA, CISA	Director of Investigations
Sonya Johnson, CPA	Investigator
Carrie Meyerhoff	Program Evaluator

Exit Conference

The following representatives from the Minnesota Council on Compulsive Gambling participated in an exit conference on May 19, 2005:

Minnesota Council on Compulsive Gambling:	
Stuart Sivertson	Board President
Elizabeth George	Chief Executive Officer
Lorraine Grymala	Vice President and Information Technology Director

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Report Summary

Key Findings:

- The Minnesota Council on Compulsive Gambling received payments for costs not allowed under the state or city contracts (Findings 1 and 6, pages 10 and 22). The council did not have adequate support for some of the costs it charged to the contracts. (Findings 2 and 7, pages 12 and 23)
- Some of the council's deliverables under the state contract did not meet the state's expectations and were late (Finding 3, page 13). The council did not provide all of the deliverables required under the 2002 and 2003 city contracts. (Finding 9, page 25)
- The Department of Human Services did not verify the financial information that supported the council's reimbursement requests under the 2002-2003 grant contract. (Finding 4, page 16)
- The City of Duluth did not include key accountability provisions in its contracts with the council. (Finding 10, page 26)
- The Legislature should consider either allowing the Department of Human Services to competitively award compulsive gambling funds or giving state agencies more explicit authority over the grant funds. (Finding 5, page 17)

The audit report contained a total of 10 findings; 5 relating to the State of Minnesota contracts and 5 relating to the City of Duluth contracts.

Audit Scope:

We conducted a special review of the Minnesota Council on Compulsive Gambling's financial management of public funds received from the Minnesota Department of Human Services and the City of Duluth during the period from November 28, 2001, through December 31, 2004. We conducted the special review after receiving allegations about the council's management practices and the quality of its services.

Background:

The Minnesota Council on Compulsive Gambling is a nonprofit organization that received a majority of its funding through state and City of Duluth contracts. The council reported about \$500,000 in revenue in calendar year 2004.

Although we do not have audit jurisdiction for the City of Duluth, we agreed to include the city's contract as part of our special review.

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Chapter 1. Introduction

Background

We conducted a special review of the Minnesota Council on Compulsive Gambling's financial management of public funds received from the Minnesota Department of Human Services and the City of Duluth for the period November 28, 2001, through December 31, 2004. We conducted the special review after receiving allegations about the council's management practices and the quality of its services.

The Minnesota Council on Compulsive Gambling is a nonprofit organization, established in 1988. Ms. Elizabeth George was a member of the council's initial board of directors in 1988 and currently serves as the council's executive director. The board of directors has six members. It meets at least annually, or at the request of its President, or at least one-third of the total membership. The board meeting minutes indicate that the board conducts periodic reviews of the council's financial information, including the council's annual financial statement audit results.

The council has the following mission statement:

The mission of the Minnesota Council on Compulsive Gambling is to provide information, to facilitate research and conduct professional training about gambling addiction. The Council studies treatment techniques, methods and programs, provides public education and prevention services, and develops and implements problem gambling helpline services. These efforts are primarily directed at those individuals considered to be at highest risk for developing a gambling problem, especially adolescents.

For calendar years 2002 to 2004, the State of Minnesota and the City of Duluth provided approximately 60 percent of the council's funding. The council also generated revenues from membership fees, on-line training, and sale of copyrighted curriculum and products. Table 1-1 shows the council's funding for calendar years 2002 through 2004. The council's most significant expenditure was employee salaries and benefits. In 2003, employee salaries and benefits exceeded the council's total reported revenues. Other major expenditure areas included professional services, printing, travel, and internet fees.

The Minnesota Council on Compulsive Gambling uses an accounting software package to record its financial information. The accounting software allows the council to record its financial activity by funding source. The council assigned unique codes within its accounting system to track State of Minnesota, City of Duluth, and other specific revenues and expenditures.

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Table 1-1
Minnesota Council on Compulsive Gambling
Summary of Cash Receipts
Calendar Years 2002-2004

Sources of Funds	2002	2003	2004
State of Minnesota ⁽¹⁾	\$195,312	\$ 56,188	\$ 85,000
City of Duluth	148,096	148,096	148,096
Other Sources	240,707	126,854	216,032
Total	<u>\$584,115</u>	<u>\$331,138</u>	<u>\$449,128</u>

(1) In addition to the amounts shown, the council received a \$48,500 cash advance in December 2001 for the fiscal year 2002-2003 state grant. The council received a total of \$300,000 for the 2002-2003 state grant contract.

Sources: Auditor prepared based on the Minnesota Council on Compulsive Gambling's 2002 and 2003 Audited Financial Statements and the council's accounting records.

The Minnesota Council on Compulsive Gambling also conducts business under two other names: the North American Training Institute and the American Academy of Health Care Providers in the Addictive Disorders, Inc. The Minnesota Council on Compulsive Gambling's financial activity includes transactions conducted under the other two names.

The council, doing business as North American Training Institute (NATI), designs and conducts specific knowledge and advanced training programs. According to the council's web site, NATI also serves as a library of research-based information, articles, and data about gambling addictions.

In July 2002, the council merged with the American Academy of Health Care Providers in the Addictive Disorders (American Academy). The American Academy is a nonprofit, credentialing organization devoted to maintaining quality standards for the provision of treatment in the addictive disorders. The American Academy was created to establish a core set of standards of competence for addiction treatment professionals. The American Academy provides the Certified Addiction Specialist credential. The Certified Addiction Specialist emphasizes alcoholism, other drug addiction, eating disorders, compulsive gambling, and sex addiction. Nurses, doctors, psychologists, psychiatrists, social workers, and counselors comprise the American Academy's membership.

Objective and Methodology

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

- Did the Minnesota Council on Compulsive Gambling comply with the requirements of its state and city contracts?
- Did the Minnesota Department of Human Services and the City of Duluth adequately monitor the Minnesota Council on Compulsive Gambling's compliance with their contracts?

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We examined the accounting records of the Minnesota Council on Compulsive Gambling and interviewed selected employees and the current board president. We also interviewed staff from the Department of Human Services and the City of Duluth. We reviewed relevant documents, including the state and city contracts and reports. Our review, however, was not a full audit of the Minnesota Council on Compulsive Gambling's financial records. In addition, we did not evaluate whether the services and products produced by the council were effective in dealing with gambling addiction.

We obtained electronic copies of the council's accounting records for November 2001 through February 2005. The council's accounting records were audited by an independent audit firm for calendar years 2001, 2002, and 2003. At the time of our review, an audit had not been conducted for calendar year 2004. In order to verify the accuracy of the 2004 accounting records, we reviewed the council's reconciliations of its monthly bank statements to its accounting records. Because the council did not resolve the differences between the bank statements and the accounting records, we could not confirm that the council accurately recorded all accounting transactions.

The council did not track expenditures by specific projects or deliverables. We found this problematic, especially in the case of staff time, because the council worked on similar projects for the city and the state, as well as for itself. Therefore, we could not conclude whether the city and state subsidized each other or the council for work performed that was not part of the city or state contracts.

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Chapter 2. The State of Minnesota Contracts

Chapter Conclusions

The Minnesota Council on Compulsive Gambling inappropriately received over \$32,000 in reimbursements from the Department of Human Services under the 2002-2003 contract. In addition, the council did not substantiate certain other costs charged to the state grant contracts.

The council delivered all of the required products under the 2002-2003 grant agreement with the state. In addition, it had delivered all of the products required as of March 2005 under the 2004-2005 grant agreement. However, at least some of the products were delivered late, and a number of the products did not meet the state's expectations. We also have concerns about the quality of some of the final products.

The Department of Human Services did not verify the financial information that supported the council's reimbursement requests. In addition, certain administrative problems relating to the Department of Human Services' contract with the council could have been avoided had the Legislature either allowed the department to competitively award the funds or used more carefully crafted legislation.

In 1989, the Legislature authorized the Department of Human Services to establish a program for the treatment of compulsive gamblers. The department receives appropriations from the lottery prize fund for the compulsive gambling treatment program. For several years, the appropriation law has directed some of the appropriation to the Minnesota Council on Compulsive Gambling. *Laws of Minnesota 2001*, First Special Session, Chapter 9, Article 17 provided:

Compulsive Gambling. Of the appropriation from the lottery prize fund to the commissioner for the compulsive gambling treatment program \$150,000 in fiscal year 2002 and \$150,000 in fiscal year 2003 is for a grant to a compulsive gambling council located in St. Louis County. The gambling council shall provide a statewide compulsive gambling prevention and education project for adolescents...

Similarly, *Laws of Minnesota 2003*, First Special Session, Chapter 14, Article 13C, Sec. 2, Subd. 9 (d)(2) stated:

Compulsive Gambling: Of the appropriation from the lottery prize fund,... \$150,000 each year is for a grant to a compulsive gambling council located in St. Louis County. The gambling council must provide a statewide compulsive gambling prevention and education project for adolescents...

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In compliance with the appropriation laws, the Department of Human Services awarded the council grants totaling \$600,000 for fiscal years 2002 through 2005. The department initiated grant contracts with the council for the periods November 28, 2001, through June 30, 2003, and January 1, 2004, through June 30, 2005. Table 2-1 summarizes the Department of Human Services' grant awards and payments to the organization for the grant periods.

Table 2-1
Minnesota Council on Compulsive Gambling
Grant Funds Awarded and Disbursed by the Department of Human Services
2001 - 2005 (Through February 2005)

<u>Contract Period</u>	<u>Amount Awarded</u>	<u>Amount Disbursed</u>
November 28, 2001, to June 30, 2003	\$300,000	\$300,000
January 1, 2004, to February 28, 2005	300,000	130,000
Total	<u>\$600,000</u>	<u>\$430,000</u>

Sources: Minnesota Council on Compulsive Gambling's state contracts and Minnesota Accounting and Procurement System.

2002-2003 State Grant Contract

The objective of the grant award for the period ending June 30, 2003, was "to increase recognition of problem gambling behavior through a statewide public information campaign. The campaign focus will be on increasing awareness among adolescents and among adults who work with adolescents." The grant contract outlined expected work products or deliverables.

The state contract provided funding on a reimbursement basis, after an initial cash advance. The state monitored payments based on a line item budget that was incorporated into the grant contract. The council received an initial cash advance of \$48,500 in December 2001. The grant contract required a reconciliation of actual expenditures to total grant funds received as of June 30, 2002. The council was then eligible for a second advance of \$51,000 at the beginning of fiscal year 2003. Table 2-2 shows budgeted and reported expenditures under this contract.

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Table 2-2
Budgeted Versus Reported Expenditures
Fiscal Years 2002-2003 Department of Human Services' Grant Contract

Grant Budget Category	Fiscal Year 2002		Fiscal Year 2003	
	Budget Amount	Reported Expenditures	Budget Amount	Reported Expenditures
Salaries/Fringe Benefits	\$ 87,043	\$ 87,043	\$ 91,500	\$121,904
Contracted Services	7,006	7,006	12,000	1,769
Insurance/Bonds/Audits	2,563	2,563	2,500	5,935
Equipment	1,845	1,845	1,500	3,675
Office Supplies	6,561	6,561	5,000	7,546
Production and Air Time	17,478	17,478	21,850	0
Educational Materials	10,944	10,944	2,700	877
Postage	1,954	1,954	2,000	1,869
Copying/Printing	5,848	5,848	2,000	1,923
Rent	1,893	1,893	3,600	3,133
Staff Travel	575	575	3,000	821
Communications-Phone	1,484	1,484	3,000	1,816
Communications-Internet	886	886	3,270	2,808
Total	<u>\$146,080</u>	<u>\$146,080</u>	<u>\$153,920</u>	<u>\$154,076</u>

Sources: State grant contract with the Minnesota Council on Compulsive Gambling for the period November 28, 2001, through June 30, 2003, and council expense reimbursement requests submitted to the department for payment.

2004-2005 State Grant Contract

The purpose of the state grant contract for the period ending June 30, 2005 was to:

-research, develop, and implement a comprehensive, unified approach to:
 - (1) increase the awareness to high school seniors (HSS) of the risks associated with gambling and the odds of winning.
 - (2) educate the secondary audience (adults, families, schools, communities, and systems that influence youth) about the warning signs of high school senior gambling problems.....

The 2004-2005 contract payment terms differed from the previous state contract. The contract budget and subsequent payments were tied to the satisfactory completion of specific tasks or deliverables. The contract specified the deliverable, the expected completion date, and the maximum amount that the department would pay. The contract provided that the state would pay the council after receiving invoices “for services performed and acceptance of such services” by the state. The contract further provided for a reconciliation of actual expenditures to grant funds received as of June 30, 2005. In a subsequent contract amendment, effective January 18, 2005, the department and the council agreed to additional payment terms, which provided a cash advance of \$25,000 followed by project cost reimbursements based on the project expenses as documented by receipts, invoices, travel vouchers, and timesheets. The contract amendment continued to require a reconciliation of actual expenditures to grant funds received as of June 30, 2005, with any excess funds remitted to the state by July 31, 2005. Table 2-3 outlines the contract duties, due date, project budget, and amount received as of February 2005.

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Table 2-3
Minnesota Council on Compulsive Gambling Responsibilities/Deliverables
Fiscal Years 2004-2005 Department of Human Services Grant Contract

Responsibility/Deliverables	Timeframe	Amount Budgeted	Amount Received
<u>Planning and Strategy Development</u>			
Review and synthesize data	Due January 2004	\$ 5,000	\$ 5,000
Conduct focus groups/present findings	Due February 2004	20,000	20,000
<u>Concepts, Messages and Materials</u>			
Resource directory	Due April 2004	25,000	25,000
Core planning group	Due May 2004	10,000	10,000
Public relations plan	Due June 2004	10,000	10,000
Staff time to develop concepts and messages	Due June 2004	20,000	20,000
Web site enhancement	Due February 2004	5,000	5,000
<u>Evaluation</u>			
Select evaluator	Due June 30, 2004	5,000	5,000
<u>Booklet</u>			
Reproduce 1,000 copies of <i>What About Me?</i> booklet	Due February 15, 2005	5,000	0
<u>Messages</u>			
Audio and video key messages	Due June 30, 2005	120,000	0
Billboard and theater screen messages	Due June 30, 2005	70,000	0
Total		\$295,000	\$100,000

Sources: State grant contract with the Minnesota Council on Compulsive Gambling for the period January 1, 2004, through June 30, 2005, and Minnesota Accounting and Procurement System as of February 2005.

We identified several concerns involving the council's use of state grant funds and compliance with contract provisions. We discuss these concerns in Findings 1 through 3. Findings 4 and 5 discuss issues related to the state's process for awarding grant funds and its oversight of grant contracts.

Findings and Recommendations

1. The council received payments that did not comply with the requirements of the 2002-2003 state grant contract.

The council received reimbursement for \$20,517 in costs that did not comply with the 2002-2003 state contract and an additional \$11,766 in costs that did not comply with the Department of Human Services intended use of the grant funds.

Expenses Not Incurred: The council received \$16,943 in reimbursements for postage, equipment, and production and airtime on the final reimbursement request for the period ending June 30, 2002, even though the council had not yet incurred the costs. The grant contract allowed for quarterly reimbursements and states, "Reimbursement shall be . . . based on the *previous quarter's expenses* as documented by receipts, invoices, travel vouchers, and time sheets [emphasis added]." In addition, the grant contract required a reconciliation of actual

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expenditures to grant funds received as of June 30, 2002, with any excess returned to the state by July 31, 2002. It appears the council reported the \$16,943 in anticipated expenditures to avoid repayment of excess grant funds as of June 30, 2002. The council said these amounts related to purchase orders, but were unable to provide us with copies of any orders. We did not see purchase orders used as a regular part of the council's purchasing process.

Unallowable Costs: The council received \$1,018 in reimbursements for membership fees and meal expenses for the Kiwanis and Rotary Clubs and the Duluth Chamber of Commerce and for an employee's contract parking costs. The council reported these items as a part of the "office supplies" budget line. These items were not specified on the program line item budget. The grant contract states, in part, "Compensation shall be consistent with the Program Line Item Budget..."

Duplicate or Missing Invoices: The council was reimbursed for the same expense twice, resulting in an overpayment of \$2,100. The council also received reimbursement of \$456 for which it could not provide original invoices. The contract states, "Reimbursement shall be . . . documented by receipts, invoices, travel vouchers, and time sheets."

Educational Materials: The council inappropriately received \$11,766 in reimbursement from the state for educational materials. The council charged its retail price to the state when distributing its educational materials. In some cases, the council distributed private, copyrighted educational materials at events not authorized by the state contract. The amount the council charged to the state grant contract for these materials was not eligible for reimbursement. In other cases, the council distributed materials at events required by the state contract. The council charged the state grant for these materials, despite a Department of Human Services' directive to the contrary. Prior to signing the grant contract, the Department of Human Services told the council in writing that it did not want the council to distribute its products in fulfillment of the state contract.

Table 2-4 summarizes the questioned costs under the 2002-2003 state grant contract.

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Table 2-4
Schedule of Questioned Costs
Fiscal Years 2002-2003 Department of Human Services' Grant Contract

Category	Amount Charged	Amount Questioned
Production and airtime ⁽¹⁾	\$17,478	\$12,903
Office supplies ⁽²⁾	14,107	2,358
Educational materials	11,821	11,766
Contracted services ⁽³⁾	8,775	2,100
Equipment ⁽⁴⁾	5,520	1,500
Postage ⁽⁵⁾	3,823	1,555
Staff travel ⁽⁶⁾	1,396	101
Total	<u>\$62,920</u>	<u>\$32,283</u>

- (1) The council requested \$12,903 in reimbursement for costs not incurred as of June 2002.
- (2) The council requested \$1,340 in reimbursement for costs not incurred as of June 2002. The requests for reimbursement also included the following unallowable costs: \$675 in organizational/club dues and \$343 in parking.
- (3) The council submitted and received reimbursement twice for an invoice totaling \$2,100.
- (4) The council requested \$1,500 in reimbursement for costs not incurred as of June 2002.
- (5) The council requested \$1,200 in reimbursement for costs not incurred as of June 2002. The amount questioned also includes reimbursement of \$355 for which the council could not provide an invoice.
- (6) The council received reimbursement for travel totaling \$101 for which it could not provide supporting documentation.

Source: Minnesota Council on Compulsive Gambling's reimbursement requests submitted to the Minnesota Department of Human Services and Minnesota Council on Compulsive Gambling's accounting records.

Recommendation

- *The Department of Human Services should recover any costs that did not comply with the provisions of the state grant contract.*

2. The council did not substantiate certain other costs charged to the state grant contracts.

The council did not have adequate support for some of the costs it charged to the state grant contracts. Both the 2002-2003 and 2004-2005 contracts state:

The GRANTEE must reimburse the STATE . . . any amounts . . . for which the GRANTEE'S books, records or other documents are not sufficient to clearly substantiate that those amounts were used by the GRANTEE to perform grant services.

There are various ways for an organization to substantiate its costs. First, an organization can use documents, such as invoices and timesheets, to substantiate the actual costs it incurred or time it spent fulfilling a specific contract activity. Alternatively, an organization can use indirect cost allocation. "Indirect costs" are costs that cannot be readily assigned to a specific activity or contract and, generally, benefit many or all of an organization's programs. Examples of typical indirect costs include administrators' salaries, rent, phone and internet charges, and office supplies. An organization can allocate these costs among its various funding sources or programs based on a plan or process that is reasonable and defensible.

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The council used indirect cost allocation to spread most of its costs among state contract work and other work the council did (such as fulfilling the Duluth contract and running the American Academy). However, the council did not have a rationale for its allocation of costs and could not show that the indirect costs charged to the state grants were reasonable based on the work performed pursuant to the grant contract.

Specifically, the council charged a percentage of its salaries to the state grant using indirect cost allocation. However, the council did not have support, such as time studies or samples of actual employee time worked, to justify the percentages used. The council charged \$208,946 in payroll and fringe benefit costs to the 2002-2003 state grant contract. The grant states, "Reimbursement shall be . . . documented by receipts, invoices, travel vouchers, and time sheets." Although most council employees recorded their time by project on their timesheets, the council did not use the timesheets to charge salary costs directly or to verify the reasonableness of the salary allocation percentages it used. We compared a sample of employee timesheets to the allocation percentages. For example, we reviewed certain technical support employees' timesheets. In four of the six pay periods reviewed, the employee-prepared timesheets indicated that they spent a majority of their time on the American Academy. The council did not charge any of the employees' salaries to the American Academy in its accounting system for calendar years 2002-2004. Instead, the salary costs were charged predominately to the state and city contracts. We are concerned that the council could not substantiate that the salary percentages charged represented the actual work performed by its employees.

Recommendation

- *The Department of Human Services should require the council to substantiate indirect costs charged to the state grant contract and should require repayment of any amounts that are not defensible.*

3. The council did not produce some deliverables by contract due dates, and some deliverables did not meet state expectations.

In several cases, the deliverables produced by the council were not finalized until after the specified due date in the state contract. In addition, the Department of Human Services had concerns about the quality of some of the products produced. Both grant contracts state:

All services provided by GRANTEE pursuant to this grant contract shall be performed to the satisfaction of the STATE, as determined by the sole discretion of its authorized representative...

The 2002-2003 and 2004-2005 contracts between the Department of Human Services and the council contained several deliverables, some with required due dates. In some cases, the council submitted products late. For example, the council submitted the focus group report created under the 2004-2005 contract about two weeks after its due date. In addition, the council completed the booklet reprint required under the 2004-2005 contract about six weeks after its due date. In

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other cases, the council delivered original versions of products by their due date, but revisions resulted in the final products being late. For example, the council submitted the second fact sheet produced under the 2002-2003 contract about one week prior to the fact sheet's due date, but revisions resulted in the department granting final approval after the due date. Similarly, the council submitted the web enhancements required under the 2004-2005 contract by their due date, but the enhancements were not finalized until about two-and-a-half months later.

We identified several issues relating to the council's ability to produce products that met state expectations by the required due dates.

- The quality and format of drafts submitted by the council contributed to timeliness issues. The Department of Human Services' staff told us that the product drafts submitted by the council required more editing and revision than is generally required for products submitted by grantees. For example, the council's first draft of the treatment provider booklet, developed under the 2002-2003 contract, contained numerous typographical and grammatical errors. Although the purpose of draft reviews is, in part, to find and correct errors, we were surprised by the number of errors that were in the draft the council submitted to the department. In addition, the council's first drafts were not always complete. For example, the fact sheet and poster drafts contained only text and not the visual elements.
- Misunderstandings between the department and council about the deliverables' form and content also led to the council not meeting the department's expectations and due dates. For example, the council submitted the resource directory it produced under the 2004-2005 contract by its April 2004 due date, but the final directory was not completed until July 1, 2004. Table 2-5 shows the correspondence between the council and the department regarding this product. The table illustrates the attempts by both parties to resolve the differing expectations for the directory.
- The layers of product review required at the department likely contributed to the timeliness issue. Typically, the manager of the problem gambling grants, one of her colleagues, the director of the Mental Health Division, and the communications office were involved in reviewing the council's submissions. For some products, the Problem Gambling Advisory Committee, other department staff, or technology staff were consulted. Generally speaking, it takes longer to review and revise products when more layers and iterations of review are involved.

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Table 2-5
Correspondence Between the Department of Human Services and the Minnesota Council on Compulsive Gambling Related to the 2004-2005 Resource Directory

Relevant contract language:

B. Developing and Pre-testing Concepts, Messages, and Materials

1. Develop a multi-strategy, multi-partner public education awareness plan. Build on youth development theories of other disciplines involving risk behavior and mental health prevention activities with the high school seniors.

a) For each objective, list clearly described, appropriate and realistic key strategies necessary and frequency to accomplish.

b) Include realistic time frames and identify appropriate staff by name or staff title responsible for each activity to carry out the strategy.

c) If volunteers will be utilized, report how they will be recruited and supported.

d) Indicate the start date and plan for each anticipated activity.

e) Involve many different sectors of the community in a variety of ways...

Outcome measure: Resource directory—a short, complete summary with information about proven strategies and resources focusing on youth development and gambling risk behavior to assist with planning, implementing, and evaluating the pilot project activities in Duluth that can be replicated in other Minnesota communities.

Date	Correspondence
April 26	The department e-mails the council that the department received the directory.
April 29	The department e-mails the council that "the Resource Directory looks like a literature review. The B.1a-e [contract items] should be included... [The division director] will be reviewing it next. She will be out of the office until...May 4."
April 30-	The council and department exchange e-mails about scheduling a conference call. The department suggests May 17
May 13	or 18 and indicates that it is faxing a resource directory as an example to discuss. The executive director of the council responds that the fax did not come through.
May 14	The department e-mails the web address for the resource directory (that did not fax on May 13) to the council. The council e-mails the department that "I looked over the ... resource directory that you referred to and we are pleased that our submission to you mirrors this directory. What may look to you as a literature review is the element of the outcome measure that you required '...information about proven strategies.' We thought you would like this type of documentation of proven strategies. We carefully reviewed and followed the outcome measure B-1—Outcome Measure—to be sure we provided all that you were looking for. ... It is our understanding that this is the 'product' for which payment is made. Hope this helps."
May 17-	The council and department exchange e-mails about scheduling a conference call. The department e-mails that the
25	directory should have an index of resources. The council responds that it will add the index to its list of changes.
May 27	Department staff e-mails the director of the division that the council would like a conference call with her. It appears that a conference call occurs without the division director.
June 3	The council e-mails the department that, if the division director does not have any additional comments, the council will incorporate staff's changes and send the revised directory to the department. The department responds that the division director has been out of the office and will contact the council.
June 22	The department e-mails the council indicating that the division director was unable to reach the executive director by phone the previous week and includes a list of 14 comments and concerns, as well as links to a number of other similar projects. The division director also e-mails the executive director concurring with the list of 14 items and adding 3 items. The executive director responds that "there may be some misunderstandings amongst the three of us about the resource directory...Contract duties B a-e, do not fit with B. When [we] met by phone, we discussed this and I recall our agreement that it would be placed within 3 a-b. I have many of the elements outlined but it was putting the cart before the horse and simply did not make sense..." She indicates the need for a brief telephone call.
June 23	Department staff send a memo to the council with an overview of the goals for the contract and indicates that it will need to create a contract amendment if duties are to be reallocated. The council responds that it will look at the memo and asks, "Did my email...about the Outcome Measure help you-all understand the rationale for our design of the resource directory?" The council sends another e-mail asking for more clarification about the amendment reference in the e-mail.
June 24	The department e-mails the council that, "The directory is a technical assistance towards achieving the final product. The directory should not have any commentary or narrative other than an abstract or brief description. What you presented looks more like a facilitators guide rather than a resource directory."
June 30	The department sends the council a memo recapping a conference call about the June 23 memo.
July 1	The council submits a revised directory.
	Additional council-department correspondence focusing on the June 23 memo and June 30 memo follow.

Sources: State grant contract with the Minnesota Council on Compulsive Gambling for the period January 1, 2004, through June 30, 2005, and the Office of the Legislative Auditor's review of correspondence between the council and the Department of Human Services.

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It appears that at least some staff in the department also had misgivings about some of the council's final products. In an August 2004 e-mail, the director of communications commented about the 2004-2005 public relations plan, "While I understand this is not in front of me for review or approval, I have to tell you that I found this to be of poor quality." In addition, the state paid only \$20,000 for \$50,000 in invoices that the council submitted for a strategy plan and media venues because the department was unable to accept the draft materials in total. Finally, upon our questioning how the council's submission for the core planning group met the intent of the contract, department staff said: "We acknowledge that it was perhaps inadequate."

The council's final products reflect the council's work and the department's input and, with the exceptions noted above, the department ultimately accepted them. However, we have concerns about the quality of some of them. For example, the first fact sheet and booklet that the council created under the 2002-2003 contract include punctuation and grammatical errors. In addition, the fact sheet includes some inaccurate or overstated information that does not agree with the source documents. The web site enhancements created by the council under the 2004-2005 contract also contain inaccuracies. We also have concerns about the appearance and functionality of the youth web site—www.probablynot.net—that the council assisted the department in creating and that the department has hosted since October 2003.

Recommendation

- *The Department of Human Services should evaluate the quality and timing of grant deliverables and should not pay for deliverables that do not meet the contract requirements.*

4. The Department of Human Services did not verify the financial information that supported the council's reimbursement requests.

The Department of Human Services did not ensure compliance with the 2002-2003 grant contract requirements. The department did not verify the financial information submitted by the council, either by requesting supporting documentation or conducting site visits to review the council's accounting records. Instead, the department relied on the council to satisfy state contract requirements and have effective financial controls over the state grant funds.

The state has established some guidelines for agencies to follow when managing state grants. The Department of Administration included a chapter on state agency grant administration in its Professional/Technical Services Contract Manual. It provides that the state agency has the responsibility to monitor its grantee's performance.

The Contract Manual identifies the following ways a state agency can monitor performance:

- Obtain and review third party certifications indicating that the work is satisfactorily completed (by an inspector).

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- Perform site visits using a fiscal/program management checklist as a tool to ensure the grantee's contract compliance.
- Engage an independent auditor/public accountant to perform a contract compliance audit of the grantee's activities and subsequently review the auditor's report.
- Obtain and thoroughly examine all payment documentation submitted for reimbursement and the documentation that evidences that the grantee obtained any required match funds.

The Department of Human Services changed the council's contract to a deliverable or product-based contract in 2004-2005. According to department staff, the change was an attempt to provide more accountability over the state grant funds.

Recommendation

- *The Department of Human Services should improve its grant monitoring process by performing periodic site visits and reviewing grantee financial information.*

5. The Minnesota Legislature contributed to grant administration problems by specifying a grant recipient in law.

Certain administrative problems could have been avoided had the Legislature either allowed the Department of Human Services to competitively award these grant funds or used more carefully crafted legislation. The Legislature precluded funds for an adolescent gambling education and awareness program from being awarded through a competitive process when it specified that the funds be awarded to "a compulsive gambling council in St. Louis County." Only one organization in the state met that definition.

The state's grant with the Minnesota Council on Compulsive Gambling illustrates the consequences of not using a competitive grant process. First, naming recipients in law creates inefficiency. Theoretically, the lack of competition prevents the state from obtaining the best services at the lowest possible cost. In addition, according to department staff, they spent an inordinate amount of time working on the grants with the council. In Finding 3, we discussed the efforts required of the department to obtain products from the council.

In a previous review of state grant management, we found that the practice of specifying grant recipients in law raised questions about the appropriate level of state agency oversight. State agencies and grant recipients may not be clear as to the state agency's role in overseeing the grant. In addition, grant recipients may not be receptive to an agency's concerns or suggestions, believing they are "entitled" to the funds as provided in law. We think that, even if a grantee is specified in law, the state agency has oversight responsibility concerning the proper use of the funds.

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Recommendations

- *The Legislature should refrain from specifying grant recipients in law, instead allowing state agencies to award grant funds through a competitive process.*
- *If the Legislature continues to specify recipients in law, we suggest it carefully craft the legislation to give state agencies explicit authority over the grant funds. The appropriation language should indicate funding up to a certain dollar amount contingent upon the recipient's compliance with the state grant contract.*

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Chapter 3. The City of Duluth Contracts

Chapter Conclusions

The Minnesota Council on Compulsive Gambling spent nearly \$7,000 of city funds on items that were not specifically identified in the budget document that was incorporated in the City of Duluth contract. In addition, the council did not substantiate certain other costs allocated to the city contract. Finally, the council could not adequately document that it spent \$68,603 fulfilling the contract's specific activities.

The council could not provide adequate evidence that it satisfied the deliverables we reviewed under the 2002 and 2003 city contracts. The council was able to provide evidence for the activities and deliverables we reviewed under the 2004 contract.

The City of Duluth could improve its oversight of the contract with the council. The city accepted a council budget that did not clearly identify or limit total administrative costs or allow for monitoring of expenditures. The city's contract with the council did not address important elements, such as repayment of funds, contract cancellation, and ownership of property. The city also did not ensure that the council submitted the required financial reports for 2002 and 2004 and did not review financial information to ensure the council complied with contract terms, including spending city funds as intended.

Since 1994, the City of Duluth has contracted with the Minnesota Council on Compulsive Gambling to provide a compulsive gambling prevention and education program in the City of Duluth. The program has focused on senior citizens and youth. The city has funded the contracts with revenues received from the Fond-du-Luth Casino. The council and one other Duluth-based organization that provides gambling treatment have received annual contracts.

For calendar years 2002 through 2004, the city awarded the council \$148,096 annually. The city made equal quarterly payments to the council. Each year, the council submitted a proposal and a budget to the Duluth City Council for approval. For 2002 to 2004, the budget listed line item expenditure amounts as well as budget amounts for specific activities. Table 3-1 summarizes the council's use of city funds.

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Table 3-1
Summary of Council Revenues and Charges to the City of Duluth Contract
Calendar Years 2002-2004

Description	2002	2003⁽¹⁾	2004⁽⁴⁾	Total
Revenues:				
City of Duluth Contract	\$148,096	\$148,096	\$148,096	\$444,288
Expenditure Charges:⁽²⁾				
Salaries and Fringe ⁽³⁾	\$ 80,137	\$ 94,733	\$ 85,932	\$260,802
Insurance	2,203	2,947	1040	6,190
Bank Service Fees	0	191	236	427
Office Supplies	3,209	2,948	2188	8,345
Postage & Shipping	185	984	624	1,793
Telephone	1,187	2,040	737	3,964
Rent	2,620	4,465	2,421	9,506
Staff Travel	0	2,066	905	2,971
Repairs and Maintenance	548	238	248	1,034
Printing & Graphics	20,721	7,837	1,275	29,833
Air Time TV	2,865	4,419	2,310	9,594
Air Time Radio	1,959	1,516	695	4,170
Advertising Expense	534	400	67	1,001
Magazine Subscriptions	0	23	0	23
Organizational/Club Dues	1,169	2,032	1,421	4,622
Parking	486	444	346	1,276
Meeting & Special Events	1,145	2,024	1,179	4,348
Trade Shows & Conferences	174	1,359	1,544	3,077
Internet Expense	812	1,676	351	2,839
Equipment	1,364	623	314	2,301
Web Site Development	711	2,120	1,670	4,501
Professional Services Fees	2,556	8,915	1,597	13,068
Total Charges	\$124,585	\$144,000	\$107,100	\$375,685
Revenues Over Expenditure Charges	\$ 23,511	\$ 4,096	\$ 40,996	\$ 68,603

(1) The 2003 figures reflect accounting records after adjustments and reallocation of expenses discussed in Finding 7.

(2) This schedule does not include the charges relating to the dissemination of educational materials. The council does not record those activities in its general ledger.

(3) Amount includes allocated salaries, payroll taxes, other fringe benefits, and pension plan contributions.

(4) At the time of our audit, the council was contemplating further adjustments to the 2004 general ledger.

Source: Minnesota Council on Compulsive Gambling's general ledger balances at December 31 for City of Duluth contract.

In addition to its budget document, the council also prepared an activity proposal. The proposal outlined various program deliverables or activities directed at senior citizens and adolescents. The 2002 and 2003 activity proposals were similar. Table 3-2 provides a list of council activities to be conducted under the 2002 city contract.

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Table 3-2
Minnesota Council on Compulsive Gambling Activities
Example of Council Activities and Deliverables
2002 Contract with the City of Duluth⁽¹⁾

- Recruit new members to the senior advisory board
- Provide a senior on-line bulletin board
- Link national interest on topic of seniors and gambling through collaboration with Louisiana State University and Dr. Joyce Johnson
- Continue web-based magazine *You Bet Your Life*, print and distribute a combined total of 5,000 copies of *You Bet Your Life* magazine and *Wanna Bet* magazine
- Publicize avenues for seniors to access computer equipment through articles in *You Bet Your Life*, community newspapers, and public service announcements
- Encourage new/old forms of personal healthy expression as alternatives to gambling through advertising opportunities for seniors to contribute to *You Bet Your Life* utilizing the advisory committee local senior newspapers/publications, and other means, and host a Duluth event in recognition, including media/press releases
- Publish *Wanna Bet* online, including quarterly editorials
- Focus on redesign of *Wanna Bet* online
- Develop, disseminate, and air public awareness messages targeting youth and seniors (print, radio, TV)
- 25 educational presentations to organizations (youth and seniors)
- Conduct a minimum of three press releases/media alerts
- Continue to use the *Wanna Bet* curriculum
- Distribute 10,000 brochures, posters, pencils, t-shirts, booklets, etc.
- Participate in one-day citywide youth education and prevention program
- Highlight City of Duluth leadership in collaboration with new book: *Youth, Gambling, and Society*
- Provide a narrative summary of activities to Duluth
- Provide a financial report to Duluth

(1) The council's contracts with the City of Duluth do not clearly specify deliverables that are unique, quantifiable, and measurable. We have attempted to remove duplicative and summary deliverables from this list.

Source: City of Duluth contract with the Minnesota Council on Compulsive Gambling for the period January 1, 2002, through December 31, 2002.

We identified several concerns involving the Minnesota Council on Compulsive Gambling's use of City of Duluth funds and compliance with contract provisions. We discuss these concerns in Findings 6 through 10.

We do not have audit jurisdiction for the City of Duluth, and we did not conduct a comprehensive review of the city's financial practices relating to contracts. However, as we analyzed the council's use of state and city funds, we identified ways the city could improve its oversight of this activity. Therefore, we make various recommendations relating to contract monitoring.

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Findings and Recommendations

6. The council spent some City of Duluth funds on unallowable items.

The council spent \$6,664 of city funds on items that were not specifically identified in the budget document that was incorporated in the City of Duluth contract. The council charged legal fees, organizational dues, bank service fees, parking fees, food expenses for board members and staff, magazine subscriptions, and gifts and flowers to the city contract under the “operational costs” budget category. These costs do not appear among the specific costs identified in the budget document in the “operational costs” category. We also question expenses for staff travel to attend Duluth Days at the State Capitol and the Annual Minnesota Educators Health Conference in the Twin Cities. We do not think these costs fall within the activities and budget included in the contract. The contract budget lists only local travel. Table 3-3 summarizes the questioned costs related to the City of Duluth contracts.

Table 3-3
Schedule of Questioned Costs
Calendar Years 2002-2004

Category	Amount Charged	Amount Questioned
<u>Allocated Expenses:</u>		
Bank Service Fees	\$ 427	\$ 253
Organizational Dues	4,622	3,921
Parking	1,276	1,238
Professional Services Fees	13,068	349
<u>Direct Expenses:</u>		
Meetings and Special Events	4,348	227
Staff Travel and Conferences	6,048	653
Magazines	23	23
Total	<u>\$29,812</u>	<u>\$6,664</u>

Source: Minnesota Council on Compulsive Gambling's accounting records.

In addition, the council received \$68,603 in City of Duluth funds which it could not adequately document that it spent on contract-related activities. As seen in Table 3-1, city revenues exceeded the costs the council charged to the contract. The council could not document that it used the additional amount to fulfill activities under the contract. However, as discussed in Table 3-1, footnote 2, the council did not record the charges relating to the dissemination of educational materials in its accounting system. The city contract states, “Council will provide a...program...in accordance with the proposal and budget attached...”

Recommendation

- *The City of Duluth should work with the council to resolve the \$75,267 in questioned contract costs.*

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7. The council did not substantiate certain other costs allocated to the city contract.

As discussed in Finding 3, the council did not have adequate support for its allocations of indirect costs between various funding sources. The council used indirect cost allocation to charge most of its costs to the city contract and other funding sources. However, the council did not have a rationale for its allocation of costs and could not show that the indirect costs charged to the city contract represented the council's efforts on the products and services produced in fulfillment of the contract. Each contract that the city had with the council states, "The City will pay the council \$148,096 for the services provided under this contract..."

The council also moved costs among its funding sources. Table 3-4 shows that the council moved \$15,306 of costs to the City of Duluth contract in 2003.

Table 3-4
City of Duluth
Minnesota Council on Compulsive Gambling
Expenditure Analysis 2003

Expenditure Description	Direct Costs Charged	Indirect Costs Charged	December 2003 Cost Shifts	Other Adjustments⁽⁶⁾	Totals
Salaries and Professional Services ⁽¹⁾	\$ 0	\$ 89,092	\$ 6,015	\$ 599	\$ 95,706
Payroll Tax and Other Fringe ⁽²⁾	0	7,942	0	0	7,942
Bank Service Charges	0	17	174	0	191
Insurance, Bonds, Audit	0	1,465	0	1,482	2,947
Program Supplies ⁽³⁾	0	5,163	2,278	(1,133)	6,308
Postage	0	636	232	116	984
Printing & Graphics	4,075	0	2,500	1,262	7,837
Rent	0	2,782	1,454	229	4,465
Staff Travel	737	0	386	943	2,066
Telephone Other ⁽⁴⁾	0	1,141	919	(20)	2,040
Internet Access/Website Development	0	2,274	1,170	352	3,796
Advertising Expense	0	333	0	67	400
Meetings & Conferences	0	3,018	178	187	3,383
Air Time TV	8,469	0	0	(4,050)	4,419
Air Time Radio	2,886	0	0	(1,370)	1,516
Educational Material Distribution ⁽⁵⁾	0	0	0	0	0
Total	<u>\$16,167</u>	<u>\$113,863</u>	<u>\$15,306</u>	<u>(\$1,336)</u>	<u>\$144,000</u>

- (1) Salaries and Professional Services include the following expenses: Professional fees, accounting and audit, and legal fees.
- (2) Payroll taxes and other fringe benefits are not allocated during the year. The expenses are accumulated in one general ledger account and not allocated on the accounting system to the council's program areas. The amount allocated reflects our calculation of cost related to the City of Duluth contract based on payroll allocations made by the council.
- (3) Program Supplies includes the following expenditure accounts: Office Supplies, Equipment, Repairs & Maintenance, Magazine Subscription, Organizational/Club Dues, and Parking. Refer to Finding 6 for further discussion.
- (4) Telephone Expenses related to long distance is directly charged to the program areas; however, other telephone-related expenses are allocated.
- (5) The council did not record educational materials on its accounting system.
- (6) The amounts include adjusting journal entries at year-end.

Source: Minnesota Council on Compulsive Gambling's accounting records for calendar year 2003.

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The council provided the following reasons for some of the cost shifts:

- The council moved over \$6,000 of expenditures initially charged to the state contract to the City of Duluth contract. The council did not have a state contract for the period July 1, 2003, through December 2003. During this period, however, the council charged indirect costs to the state program accounts on its accounting system. On December 31, 2003, the council reallocated over \$6,000 of expenditures charged to the state accounts to the City of Duluth accounts.
- The council also moved other general management expenses to the city contract. For example, the council shifted \$2,000 to the city contract for costs related to the council's helpline. The council explained that it moved these costs to reflect the number of helpline callers from Duluth. The council's vice president stated, "...Since [the council] via [its contract vendor] are providing resources and information on problem gambling for local callers, a portion of the monthly ... fee was reallocated to [the city contract]." However, the helpline was not an identified activity under the City of Duluth contract.

Recommendation

- *The City of Duluth should determine whether the council's rationale for allocation of costs complied with the intent of the city contract.*

8. The council did not provide all of the deliverables required under the 2002 and 2003 city contracts.

The council could not provide adequate evidence that it completed all the deliverables required under the 2002 and 2003 city contracts. As shown in Table 3-2, the contracts between the City of Duluth and the council contained several deliverables. The council was able to provide evidence of some contract deliverables, but was unable to substantiate several of the items identified in the contracts. Each contract that the city had with the council states, "Council will provide a compulsive gambling prevention and education program...in accordance with the proposal and budget attached hereto.... The City will pay the Council \$148,096 for the services provided under this contract..."

There were various reasons that the council could not provide the requested evidence. In some cases, the council simply had not fulfilled the deliverable. For example, the 2003 contract required the council to distribute a combined total of 5,000 of its *Wanna Bet* and *You Bet Your Life* magazines in 2003, but the council did not. The council told us that it had intended to reduce the distribution of hardcopy magazines in 2003 due to their cost, but its intention was not reflected in the proposal to the city. The 2002 and 2003 contracts required the council to distribute "10,000 brochures, posters, pencils, No Teen Gambling t-shirts, booklets, and other reminders of health..." The council could not provide evidence that it had done so in either year. In 2002, the council showed distribution of 10,000 items, but only by counting the magazines it distributed in fulfillment of another contract deliverable.

In other cases, the council fulfilled contract activities in ways other than were specified in the contract. For example, the 2003 contract required the council to distribute its youth gambling

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curriculum. The council said it distributed a kit on senior gambling instead. The 2002 contract required the council to conduct 25 educational presentations to organizations. The council provided evidence of 15 presentations to organizations, participation in and distribution of materials during five days of events, and several radio appearances. We asked the council if it made any presentations at one three-day event (which it counted as three presentations), and the council responded that a council staff person was at the event and “spoke with participants of the event.” We question how attending events and making radio appearances fulfill the contract requirement to provide educational presentations to organizations.

Finally, in some cases, the council counted items towards satisfaction of more than one contract deliverable, a practice that we believe did not fulfill the intent of the contract. For example, the council counted distribution of magazines towards that deliverable, but also towards distribution of products. It counted the senior and youth events it either hosted or participated in against deliverables specific to those events, but also as educational presentations to organizations.

Although the council was unable to provide evidence that several contract deliverables were met, it provided adequate evidence for several others. For the 2004 contract, the council provided evidence for both items we reviewed: invoices indicating that it had aired messages on radio and television and documents showing it distributed a book to several Duluth-area libraries. For all three years, the council provided documents in support of the senior and youth events it held or in which it participated. The council maintained online web sites for youths and seniors. And, the council submitted a narrative report of its activities to the city each of the three years we reviewed.

Recommendation

- *The City of Duluth should work with the council to ensure that proposals and related contracts clearly identify each deliverable and should not pay for deliverables that do not meet the contract requirements.*

9. The council did not submit financial reports to the City of Duluth, as required by the contracts.

The council did not submit financial reports to the City of Duluth, as required under the 2002 and 2004 contracts. Although the council provided narrative reports concerning program activities, it did not submit financial reports detailing the use of city funds.

The contracts required the council to submit a financial statement to the city auditor each year detailing how the council had spent the money provided under the contract. The council was to file these financial statements by January 31 following the contract year. The council submitted a financial report for 2003; however, we could not find evidence that the council submitted a report in 2002. Council employees told us that they did not complete the 2004 financial report.

The City of Duluth did not follow up with the council when it did not receive the required financial reports for 2002 and 2004. In addition, it did not conduct site visits to review accounting information and ensure the council complied with contract terms and spent funds as

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intended. As a result, the city did not have adequate financial information when evaluating the council's performance or when making decisions regarding future funding.

Recommendations

- *The City of Duluth should ensure it receives financial reports required under the terms of its contract with the council.*
- *The city should consider expanding its contract monitoring by periodically reviewing supporting documentation for costs.*

10. The City of Duluth did not include key accountability provisions in its contract with the council.

The City of Duluth did not follow a competitive process when it contracted with the council for services. Since 1994, the city has contracted with the Minnesota Council on Compulsive Gambling to provide a compulsive gambling prevention and education program in the city. Each year, the council submits a proposal for services and a budget.

The city accepted the council's proposed budget and activities without modification. These documents did not allow the city to effectively monitor the contract. The budget did not adequately identify or limit total administrative expenses. In addition, the council's budget and proposed activities did not clearly specify all deliverables and budget amounts in ways that were measurable and unique.

The city's contract with the council did not address important elements, such as repayment of funds, contract cancellation, and ownership of property. The contract did not specifically discuss the disposition of any unspent money. In addition, a former city administrator agreed to terms that were not included in the council's contract with the city. In a letter dated August 14, 1996, a former City of Duluth chief administrative officer authorized the council to sell materials that were developed under the City of Duluth contract. The letter stated the council would use the resources from the sale of these materials to help expand both the program and the materials. According to the letter, the city would review the status of this activity when reviewing the council's future requests for funding. We found no evidence to suggest this activity was ever disclosed or discussed at the city council meetings when reviewing new funding requests from the council.

Recommendation

- *The City of Duluth should consider developing contract language to clearly define expectations regarding limitations on the use of funds and addressing issues, such as repayment of unexpended funds, contract cancellation, and property ownership.*



**Prevention & Education
of Problem Gambling**

May 31, 2005

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

Dear Mr. Nobles:

I am writing to provide the formal response of the Minnesota Council on Compulsive Gambling, Inc. (MCCG) to the special review report (the Report) conducted by your office.

The history of service by the MCCG in the state gambling prevention and education community is significant. It explains the decisions of the Minnesota Legislature to author legislation, and the City of Duluth to enter into, contracts for the provision of adolescent compulsive prevention and education programs. As a result of these contracts, significant prevention and education in the areas of youth and gambling has been provided for the city of Duluth and throughout the state of Minnesota. Examples include the successful design and launch of the *Wanna Bet? Online Magazine for Kids* website (www.wannabet.org) which receives over 600,000 hits per year and has been replicated by agencies in several states. These accomplishments demonstrate the value of the programs and services provided by MCCG. For more information about MCCG's other problem gambling prevention and education programs, please visit www.nati.org.

It is important to note that all of the allocated funds from the City of Duluth and the State of Minnesota have been spent on programs and services that are entirely consistent with the mission, goals, objectives, and requirements of the grants.

The Report states some findings of fact which have led to stated conclusions surrounding allowable costs, adequate documentation of some financial costs and expectations of deliverables. The purpose of this letter is to provide readers of the Report with an important framework for the findings, to explain the steps that have been taken to address the issues raised by the findings and to comment on the conclusions OLA has drawn from the findings.

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Before we begin our response to the findings and conclusions in the Report, it is important to point out what generated OLA's special review of MCCG. According to a letter sent to MCCG from the OLA, the reason the OLA conducted the special review of MCCG was in response to media attention, including the Duluth News-Tribune's articles about MCCG's management practices and the quality of its services.

MCCG suggests that the articles themselves were very likely politically motivated. This is evidenced by an email from a board member of a competing Duluth gambling addiction organization. This individual was the head of the City of Duluth Mayor Herb Bergson's transition team. The email from Tim Bearheart was sent to all Duluth City Councilors urging them to deny funding to MCCG. It further urged that such funding be reallocated to the competing gambling addiction organization of which he was a current board member.

To add to MCCG's assertion of political motivation, Duluth Mayor Herb Bergson received a draft copy of the OLA report that is classified by Minnesota law as confidential. Mayor Bergson leaked the report to the Duluth News-Tribune which resulted in a front page headline article and accompanying editorial that appeared in the paper on May 27, 2005. In an email, Duluth Mayor Herb Bergson admitted that he was the responsible party for leaking the confidential draft, which was protected by the Data Practices Act pursuant to Minnesota Statute 3.979 subd. 4.

According to the Data Practices Act, Chapter 13.09, "The penalties for any person who willfully violates the provisions of this chapter or any rules adopted under this chapter is guilty of a misdemeanor."

Further information about the MCCG's assertion of political motivation as well as documentation of the false and defamatory items contained in the Duluth News-Tribune articles are outlined in an open letter from MCCG which is available for review at www.nati.org/tribunerresponse.

CHAPTER 2 FINDINGS AND RECOMMENDATIONS—STATE OF MINNESOTA

MCCG has had four Department of Human Services Problem Gambling Program Grant Managers over the course of its ten contract years. Each Problem Gambling Grant Manager has had his or her own interpretation of what constituted approved methods of accounting and financial reporting required by DHS. MCCG has followed the requirements as outlined, stated, and approved by each of the DHS

Grant Managers. MCCG has come to learn through the audit by the OLA, that DHS Grant Managers were incorrect in their interpretation of State financial requirements.

For example, what the Report has indicated as being “not in compliance” was approved in its entirety by DHS Problem Gambling Program Grant Managers. What we have learned during this audit is that the DHS Problem Gambling Program Grant Managers’ guidance and direction on all matters relating to fulfillment of the contracts has been consistently unreliable and ill-advised.

Finding #1: The council received payments that did not comply with the requirements of the 2002-2003 state grant contract.

It is important to note that there is NO suggestion that MCCG did not pay for and provide the deliverables to fulfill its contractual obligations to DHS. What is at question is the ongoing, inconsistent interpretation of State financial requirements.

According to the DHS Problem Gambling Program Grant Managers, under the 2002-2003 contract, MCCG DID meet their expectations. This is evidenced by:

- MCCG provided the deliverables;
- Quarterly invoices were reviewed and approved by the DHS Problem Gambling Program Grant Managers which is in accordance with the contract language that states, “All services provided by GRANTEE pursuant to this grant contract shall be performed to the satisfaction of the STATE, as determined by the sole discretion of its authorized representative;” and
- MCCG was paid for its work.

If, at any point over the years, the DHS Problem Gambling Program Grant Managers would have indicated that MCCG was not meeting the grant requirements, MCCG would have immediately modified its allocation practices.

For example, the OLA’s report notes that MCCG received payment of over \$12,000 from the State for radio spot announcements. The radio announcements began airing in June 2002 with a completion date of August 2002. MCCG’s method of billing DHS utilized a procedure that had been accepted by DHS in past contracts which was a purchase order to request reimbursement for these radio spots. MCCG believed it had met the requirements for reimbursement under the contract because of the following:

- MCCG issued a purchase order to request reimbursement from DHS because it had incurred the

expenses. As is appropriate under a purchase order MCCG paid for the radio spots when it received invoices from the radio stations.

- MCCG's quarterly report that accompanied the invoice in question fully disclosed to the DHS grant manager that the radio spots were in progress—not completed. MCCG believed the purchase order protocol was in keeping with the requirements of the contract.
- MCCG's invoice was paid.

MCCG believed that the procedure was consistent with contract requirements. MCCG has learned from the OLA that this procedure was incorrect.

As a result of this OLA audit, MCCG has become more knowledgeable about correct financial reporting requirements for the State. MCCG continues to be concerned about DHS Problem Gambling Program Grant Managers' lack of understanding of contract requirements. This is evidenced by:

- MCCG's current contract, which began in early 2004, is a product-based contract according to the DHS Problem Gambling Program Grant Managers.
- MCCG learned on May 13, 2005, from the OLA draft report and discussions with OLA staff that MCCG's current contract is NOT a product-based contract but rather a cost reimbursement contract that requires accompanying documentation, such as invoices, time sheets, etc., which are not required under a product-based contract.

It is important to recognize that our situation may not be unique; many, or even all, grantees who have received guidance from DHS Problem Gambling Program Grant Managers may also have similar audit concerns.

Educational Materials. In 2001, educational materials on the topic of youth gambling addiction were scarce in Minnesota and the U.S., with the exception of an educational curriculum, *Wanna Bet?*, and associated collateral materials produced by MCCG in earlier years. DHS did place a budget line item in MCCG's 2002-2003 contract for the purchase and dissemination of youth gambling addiction educational materials.

Two months prior to signing the contract, the then current DHS Problem Gambling Program Grant Manager wrote to MCCG that the State *preferred* not to use MCCG's materials. However, during a DHS

statewide problem gambling advisory committee meeting on January 8, 2003, a significant number of committee members learned of MCCG's existing materials and wanted to incorporate these educational materials into their communities. It was with DHS approval that MCCG provided these educational materials within this budget line item of its contract.

This approval by DHS Problem Gambling Program Grant Manager is further evidenced by MCCG's quarterly reports to DHS which listed specifically disseminating *Wanna Bet?* curricula and other MCCG educational materials. The quarterly reports and invoices were reviewed by the DHS Problem Gambling Program Grant Manager, approved, and paid. This procedure was continued throughout the course of the contract. The OLA has indicated that the letter prior to the contract which indicates that DHS *preferred* not to use our products constitutes noncompliance with DHS' intended use of grant funds.

Finding #2: The council did not substantiate certain other costs charged to the state grant contracts.

As a result of the labor intensive deliverables required for both the State and City grant contracts, a higher percentage of MCCG's staff time was allocated to these cost centers. Our cost allocation protocol was based on annual discussions with an independent CPA during MCCG's independent audit. In an ongoing effort to communicate MCCG's allocation protocol to DHS, MCCG requested site visits from DHS Problem Gambling Program Grant Managers on a minimum of eight occasions, over four years, both in writing and verbally. MCCG was eager for a site visit so that MCCG could review and confirm with DHS the nature of the allocation procedures provided for in the contract. MCCG has not had a site visit from DHS since prior to 2001.

MCCG fully understands that DHS staff time is taken up with many significant and important duties. However, MCCG's recommendation is that periodic site reviews be considered a vital ingredient in providing grantees with correct interpretations of grant requirements.

Further, had DHS requested, at any time, additional documentation beyond MCCG's quarterly report and invoice, MCCG would have gladly provided it.

MCCG and OLA acknowledge that the practice of cost allocation is challenging. MCCG will continue to work with a CPA to find advanced methods of allocating expenses across cost centers.

Finding #3: The council did not produce some deliverables by contract due dates, and some deliverables did not meet state expectations.

The Report indicates that MCCG did not produce some deliverables by their due dates. We are in agreement. MCCG was two weeks late on a report, and a booklet reprint was late by six weeks. It is also accurate that the first fact sheet had punctuation errors. MCCG fully appreciates how important it is to meet each and every contract deadline and to provide error-free products. MCCG regrets any inconvenience that these delays may have caused DHS.

Regarding expectations of drafts submitted to DHS, we are in agreement with the Report that states that the council's first draft of the treatment provider booklet contained no artwork or graphics. It is usual and customary for MCCG to include in the second draft the visual elements along with the text that had previously been approved by DHS. It has only been as a result of the OLA's report that MCCG was made aware that DHS had concerns about this method.

Related to the www.probablynot.net website issues--by early 2003, MCCG had completed 90-percent of the work towards developing a plan and airing 400 television spot announcements. This work included developing a list of proposed station locations, as well as a plan for reach, frequency, and cost. The DHS Problem Gambling Program Grant Managers approved the television spot announcement and the plan. Just prior to airing the television spots, the DHS Gambling Program Manager changed her mind. She requested that in lieu of airing the announcements MCCG would create, design, program, and launch a website for youth and adults on the topic of youth and gambling. Even though MCCG had provided 90-percent of the work towards the television spot announcement deliverables, in order to accommodate the DHS Problem Gambling Grants Manger, MCCG agreed to this amendment. In a timely manner, MCCG provided website content, artwork, program design, all of which were subsequently approved by DHS. The website may be seen at www.probablynot.net.

After the approval, DHS was unsure of which organization would host (maintain) the website. The final decision was that DHS would host the site. DHS made final approval of appearance and functionality of the www.probablynot.net website and MCCG delivered all website files to the State in the approved format and in pristine condition. The site was approved and paid for by the DHS Problem Gambling Program Grant Manager in June 2003. DHS has been responsible for hosting and maintaining the site since September 2003. Any functional issues

associated with the website after MCCG delivered the files to DHS are the responsibility of DHS.

CHAPTER 3 FINDINGS AND RECOMMENDATIONS-CITY OF DULUTH

Finding #6: The council did not comply with the City of Duluth contract requirements concerning allowable costs.

The OLA's report notes that items such as organizational dues, including Rotary and Kiwanis membership, meetings, including staff travel to Duluth Days at the Capital (approximately \$100) and, bank service fees are not allowable under the contract. MCCG has listed these items in its financial statements to the City of Duluth. At no time did officials from the City of Duluth suggest that these expenses were not allowable. MCCG continued to appropriately allocate a portion of these costs to the City of Duluth grant contract.

MCCG does, however, agree that an allocation for professional service fees of \$349 to the City contract in 2003 is an unallowable item. MCCG apologizes for this coding error.

Finally, the \$68,603 in City of Duluth funds ARE adequately documented by narrative reports. Some of the educational materials that were disseminated under the contract were accounted for in each Presentation Summary Report which is compiled and provided to the City annually in narrative format. MCCG understood that it had satisfied their documentation requirement.

Finding #7: The council did not substantiate certain other costs allocated to the city contract.

As a result of the labor intensive deliverables required for both the State and City grant contracts, a higher percentage of MCCG's staff time was allocated to these cost centers. MCCG's cost allocation protocol was based on annual discussions with an independent CPA during MCCG's independent audit.

MCCG and the OLA acknowledge that the practice of cost allocation is challenging. MCCG will continue to work with a CPA to find advanced methods of allocating expenses across cost centers.

Findings #8 & 9: The council did not provide all of the deliverables required under the 2002 and 2003 city contracts. The council did not submit financial reports to the City of Duluth, as required by the contracts.

For the past ten years, deliverables and financial reports have been completed and submitted to the City of Duluth with the exception of the following items:

- The year end 2004 financial statement which will be part and parcel of this audit; and
- MCCG substituted additional website development in lieu of 2500 newsletters. MCCG apologizes for not seeking approval from the City for this substitution.

The MCCG asserts that financial documents WERE submitted to the City of Duluth but this assertion cannot be substantiated by the City because the City's file with the past ten years of MCCG's reports has gone missing.

Former City of Duluth Auditor, Mr. Les Bass, made a significant effort to find the missing file. During a telephone call with MCCG, he concluded that, "The file must be in a box somewhere or someone has taken it and not returned it."

Summary

MCCG appreciates the opportunity to provide this response to the OLA's findings and conclusions about MCCG's management practices.

MCCG would like to reiterate that all of the allocated funds from the City of Duluth and the State of Minnesota have been spent on programs and services that are consistent with the mission, goals, objectives, and requirements of the grants. We would also like to reiterate that there is no suggestion that MCCG did not pay for and provide the deliverables to fulfill its contractual obligations.

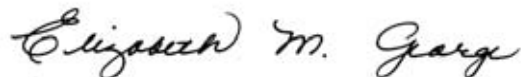
The OLA opened its special review in response to media reports of MCCG's management practices. As we have suggested, these articles may have been politically motivated and used as a means for eliminating MCCG as competitors (see www.nati.org/tribunerresponse). This belief was strengthened during the week of May 23, 2005 when Duluth Mayor Herb Bergson unlawfully disclosed a copy of the draft report to the Duluth News-Tribune. This act must be regarded as a willful violation of the Data Practices Act (Minn. Stat. (2004) 3.979, subd.4) and is subject to penalties as outlined in Chapter 13.

Certainly, in the present media and political environment, it would be impossible for MCCG to conclude any contracts with either the City of Duluth or the State of Minnesota. MCCG does not believe that the

problems disclosed in the present audit justify such a detrimental result. The MCCG's programs have been regarded by many outside observers as uniquely helpful and valuable.

We look forward to the completion of this audit and continuing MCCG's long history of providing exceptional, high quality services in the area of problem gambling prevention and education.

Very sincerely,

A handwritten signature in cursive script that reads "Elizabeth M. George". The ink is dark and the signature is fluid.

Elizabeth M. George
Executive Director



Minnesota Department of **Human Services**

May 31, 2005

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

Dear Mr. Nobles:

The enclosed material is the Department of Human Services response to the findings and recommendations included in the draft audit report of the Department's grants with the Minnesota Council on Compulsive Gambling from November 28, 2001 to February 28, 2005. It is our understanding that our response will be published in the Office of the Legislative Auditor's final audit report.

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

Yours sincerely,

/s/ Kevin Goodno

Kevin Goodno
Commissioner

Enclosure

cc: Jeanine Leifeld

**Department of Human Services
Response to the Legislative Audit Report
On the Minnesota Council on Compulsive Gambling Grants**

Audit Finding #1

The council received payments that did not comply with the requirements of the 2002-2003 state grant contract.

Audit Recommendation #1

The Department of Human Services should recover any costs that did not comply with the provisions of the state grant contract.

Department Response #1

The department agrees with this recommendation and will work with the Office of Attorney General to recover improperly reimbursed costs.

Audit Finding #2

The council did not substantiate certain other costs charged to the state grant contracts.

Audit Recommendation #2

The Department of Human Services should require the council to substantiate indirect costs charged to the state grant contract and should require repayment of any amounts that are not defensible.

Department Response #2

We agree with the recommendation and will request documentation that support their indirect costs claimed against the state grant contracts. If we find costs that should not have been charged to the state grant contracts, we will work with the Office of Attorney General to recover these over payments.

Audit Finding #3

The council did not produce some deliverables by contract due dates, and some deliverables did not meet state expectations.

Audit Recommendation #3

The Department of Human Services should evaluate the quality and timing of grant deliverables and should not pay for deliverables that do not meet the contract requirements.

Department Response #3

The department supports the recommendations that we should not pay for deliverables that do not meet the contract requirements. However, this finding fails to acknowledge the excessive amount of staff time communicating with the contractor through telephone conference calls and emails as well as layers

**Department of Human Services
Response to the Legislative Audit Report
On the Minnesota Council on Compulsive Gambling Grants**

of internal reviews. The intent of the contract was to use the stated skills and expertise of the council's staff to develop messages and products in keeping with the broad scope of the legislative language. We expected to receive professional quality products from the council. When the quality of their work was lacking, the department took the following actions to correct the problems:

- We committed additional staff resources to the contract. In total, we estimate that the resources of one full time staff person were spent on this contract which far exceeds a reasonable standard.
- The Division and Communications Directors became directly involved in the day to day operations of a contract. This hands-on-involvement is generally handled by program staff that are also responsible for other duties.
- We added product reviews to improve the quality of the contract's work. The department's Communication Director aided in our attempt to improve the quality of the product
- The department moved to a product/deliverable contract in 2004-05 in an attempt to better address the concerns stated in this finding.

Audit Finding #4

The Department of Human Services did not verify the council's financial information that supported their reimbursement requests.

Audit Recommendation #4

The Department of Human Services should improve its grant monitoring process by performing periodic site visits and reviewing grantee financial information.

Department Response #4

The department agrees with the recommendation to improve its review of grantee financial information. However, compulsive gambling program staff conducting on-site visits would have not been able to analyze the distribution of the council's personnel time and salaries across multiple accounts as well as specific charges for items such as membership to various organizations. The program staff does not have the necessary accounting knowledge to conduct that type of review. We would note that a number of conversations have occurred with the Minnesota Council on Compulsive Gambling regarding their indirect cost reporting. The report also does not acknowledge that we required a copy of the council's annual independent audit prior to fully executing the 2004-2005 contracts.

Audit Finding #5

The Minnesota Legislature contributed to grant administration problems by specifying a grant recipient in law.

**Department of Human Services
Response to the Legislative Audit Report
On the Minnesota Council on Compulsive Gambling Grants**

Audit Recommendation #5

- *The Legislature should refrain from specifying grant recipients in law, instead allowing state agencies to award grant funds through a competitive process.*
- *If the Legislature continues to specify recipients in law, we suggest it carefully craft the legislation to give state agencies explicit authority over the grant funds. The appropriation language should indicate funding up to a certain dollar amount contingent upon the recipient's compliance with the state grant contract.*

Department Response #5

The department agrees with these recommendations. The previous responses show the inherent difficulties the department staff encountered when required to manage a sole source contract arrangement. We strongly encourage the use of a competitive Request for Proposals process which allows for greater oversight and clarity in roles and responsibilities of both parties from the initial negotiations and throughout the life of the contract.

CITY OF DULUTH

DEPARTMENT OF FINANCE
411 W 1st St, Room 107 Duluth, Minnesota 55802-1190

218/730-5450 218/730-5919 FAX
gstark@ci.duluth.mn.us

Genevieve A. Stark
Director of Finance

May 27, 2005

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

Dear Mr. Nobles:

After meeting with the Mayor, Chief Administrative Officer and City Attorney, following are the City of Duluth's responses to the findings contained in the Special Review of the Minnesota Council on Compulsive Gambling. The City would like to thank the Office of the Legislative Auditor for including the City's interests when conducting this special review.

Finding 6:

Recommendation - The City of Duluth should work with the council to resolve the \$75,267 in questioned contract costs.

City response - The City agrees with the Auditor's recommendation, and will contact the Minnesota Council on Compulsive Gambling to pursue proper accounting of charges, and return of unallowed costs.

Finding 7:

Recommendation - The City of Duluth should determine whether the council's rationale for allocation of costs complied with the intent of the city contract.

City response - The City agrees with the Auditor's recommendation, and will review the allocation with the council to determine if it is acceptable or allowable. If not, the City will pursue the return of these costs.

Finding 8:

Recommendation - The City of Duluth should work with the council to ensure that proposals and related contracts clearly identify each deliverable and should not pay for deliverables that do not meet the contract requirements.

City response - The City agrees with the Auditor's recommendation, and will review the deliverables identified and determine if they meet the terms of the contract, and seek return of funds if appropriate.

Finding 9:

Recommendations -

The City of Duluth should ensure it receives financial reports required under the terms of its contract with the Council.

The city should consider expanding its contract monitoring by periodically reviewing supporting documentation for costs.

City responses -

The City has already taken steps to set up a system to notify us of dates and items due in accordance with the terms of various contracts.

The City will review contract language and insert language to require more stringent and relevant reporting requirements.

Finding 10:

Recommendation - The City of Duluth should consider developing contract language to clearly define expectations regarding limitations on the use of funds and addressing issues, such as repayment of unexpended funds, contract cancellation, and property ownership.

City response - The City agrees with the Auditor's recommendation, and will update and expand the scope of its service contracts.

Again, the City would like to acknowledge its appreciation of the work the Office of the Legislative Auditor did on behalf of the City. We believe that by implementing the above recommendations to the best of our ability, will greatly enhance the account-ability of service providers to the City, and in turn, the City to its constituency—the taxpayers of Duluth.

Sincerely,

/s/ Genevieve A. Stark

Genevieve A. Stark
Director of Finance

cc: Herb Bergson, Mayor
Mark Winson, Chief Administrative Officer
Bryan Brown, City Attorney