



# Professional/Technical Contract Expenditures

Internal Controls and Compliance Audit

July 2014 through February 2017

January 11, 2018  
REPORT 18-02

Financial Audit Division

**OFFICE OF THE LEGISLATIVE AUDITOR**  
STATE OF MINNESOTA

## Office of the Legislative Auditor Financial Audit Division

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The Financial Audit Division at the Office of the Legislative Auditor (OLA) performs three types of audits of entities within the state's executive and judicial branches:

- **Financial Statement** audits determine whether an entity has prepared its Comprehensive Annual Financial Report in accordance with governmental accounting principles. The division provides audit opinions on the financial reports for the State of Minnesota, the state's three large public pension plans, and the Minnesota Sports Facilities Authority.
- **Federal Grant Compliance** audits determine whether the state has complied with federal requirements for many of its largest federal programs. Often called the *Single Audit*, the federal government requires these audits as a condition of receiving federal grants.
- **Internal Controls and Legal Compliance** audits determine whether an entity has internal controls to effectively manage the risks of its financial operations and whether it has complied with legal compliance requirements chosen for testing.

The Financial Audit Division has a staff of about 35 auditors, many of whom are licensed CPAs and hold other certifications. The division conducts its audits in accordance with *Government Auditing Standards* established by the Comptroller General of the United States.

One requirement of the audit standards is a periodic review of the division's system of quality control by audit peers from across the country. The division's most recent peer review report is available at: [www.auditor.leg.state.mn.us/fad/pdf/fadpeer.pdf](http://www.auditor.leg.state.mn.us/fad/pdf/fadpeer.pdf)

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OLA also has a **Program Evaluation Division** that evaluates topics periodically selected by members of the Legislative Audit Commission.

In addition, OLA may conduct a **Special Review** in response to allegations and other concerns brought to the attention of the Legislative Auditor. The Legislative Auditor conducts a preliminary assessment in response to each request for a special review to determine what additional action, if any, OLA should take.



## OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

January 11, 2018

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Legislative Audit Commission

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Department of Human Services

John Stine, Commissioner  
Pollution Control Agency

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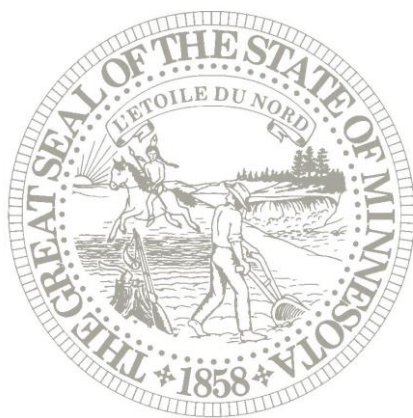
This report presents the results of our internal controls and compliance audit of professional/technical contracts for the period July 1, 2014 through February 28, 2017. The objectives of the audit were to determine whether state agencies had adequate internal controls over those expenditures and complied with applicable legal requirements.

This audit was conducted by Sonya Johnson, CPA, CFE (Auditor Manager) and assisted by Kayla Borneman, CPA, CFE (Auditor-in-Charge); Shannon Hatch; Kevin Herrick, CISA; Kris Schutta; and Ali Shire, CPA.

We received the full cooperation of the departments' staff while performing this audit.

James Nobles  
Legislative Auditor

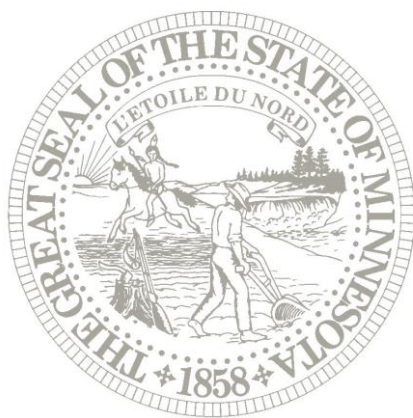
Christopher Buse  
Deputy Legislative Auditor



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# Report Summary

## Background

Over fiscal years 2015, 2016, and 2017, the state paid approximately \$1.2 billion for professional/technical services to outside contractors.

The Office of the Legislative Auditor conducted this audit to determine whether the Department of Administration's Office of State Procurement provided adequate oversight of professional/technical contract processes and expenditures for five state departments. The departments, which had the largest expenses for professional/technical contracts during the three fiscal years covered by our audit, included Corrections, Education, Human Services, Transportation, and the Pollution Control Agency.

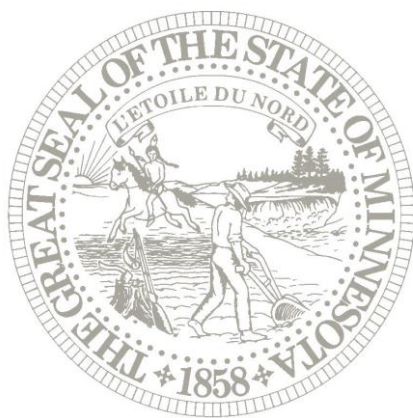
## Conclusion

For the departments included within the scope of our audit, we concluded that the Department of Administration's Office of State Procurement provided generally adequate oversight over their use of professional/technical contracts.

In addition, we concluded that the departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency generally selected contractors and executed contracts in accordance with applicable legal requirements; accurately paid for services received; and properly recorded the expenditures in the state's accounting system. However, we did find some instances of noncompliance and internal control weaknesses, as noted in the findings in this report.

## Audit Findings

- The Pollution Control Agency did not properly approve or validate some contractor payments. (Finding 1, page 7)
  - Three agencies did not fully comply with a contract requirement that they retain a specified amount of money pending the successful completion of a contract. (Finding 2, page 7)
  - All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on the performance of contractors, and the department failed to enforce the requirement. (Finding 3, page 8)
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## Background

The commissioner of the Department of Administration has broad authority over the procurement of goods and services by agencies in the state's executive branch. State law says, for example:

The commissioner shall acquire all goods, general services, building construction, and utilities needed by agencies. The commissioner shall make all decisions regarding acquisition activities. The commissioner shall conduct all contracting by, for, and between agencies and perform all contract management and review functions for contracts, except those functions specifically delegated to be performed by the contracting agency, the attorney general, or as otherwise provided for by law.<sup>1</sup>

Our audit focused on the state's professional/technical services contracting process, which is overseen by the Department of Administration's Office of State Procurement.

Professional/technical services are generally intellectual in nature and can include consultation, analysis, evaluation, prediction, planning, programming, or recommendation. These services result in the production of a report or the completion of a task.<sup>2</sup> State agencies may contract for professional/technical services to obtain expertise not available in their departments, or to augment current staffing levels to meet seasonal or temporary work demands.

The contracting process involves several phases, as follows:

- **Determine a need for services.** Agencies determine the need for contracted services. For services anticipated to exceed \$25,000, agencies must submit a certification form to the Department of Administration explaining that no state employee is available or able to perform the work.
- **Select the contractor.** Once the Department of Administration approves the need for contracted services, agencies must publicize notice of the contract and solicit proposals. Agencies review and rate proposals to select the contractor that provides the best value. In some cases, an agency may determine that only one contractor is able to provide the desired service, and the agency must justify its determination to the Department of Administration.
- **Execute the contract.** The agency prepares and signs the contract and arranges for the contractor to sign it. The Department of Administration

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<sup>1</sup> *Minnesota Statutes* 2016, 16C.03.

<sup>2</sup> *Minnesota Statutes* 2016, 16C.08, subd. 1.

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also reviews and signs the contract, unless the department delegated that authority to the agency. The department's review is supposed to validate that (1) the contracting agency has complied with state laws and policies; (2) the work called for is necessary; and (3) the contracting agency has specified a satisfactory method for evaluating, monitoring, and using the results of the contract.

- **Monitor the contract.** The agency must monitor the contractor's progress, ensure the contractor's compliance with all terms of the contract, and approve contractor invoices for payment.

We limited our analysis to contracts executed by executive branch agencies, excluding Minnesota State and all information technology contracts. Table 1 shows the expenditures under those contracts for fiscal years 2015 through 2017.

**Table 1**  
**Professional/Technical Contract Expenditures**  
**Fiscal Years 2015 through 2017**

<u>Agency</u>	<u>Fiscal Years</u>			<u>Total</u>
	<u>2015</u>	<u>2016</u>	<u>2017<sup>a</sup></u>	
Transportation	\$117,537,018	\$135,953,397	\$106,756,602	\$ 360,247,017
Corrections	45,044,404	48,061,923	53,135,236	146,241,563
Human Services	39,031,881	44,671,782	36,939,076	120,642,739
Pollution Control	27,814,776	27,897,698	21,913,126	77,625,600
Education	26,677,455	27,455,045	20,422,296	74,554,796
Military Affairs	14,611,946	23,556,547	20,418,836	58,587,329
Natural Resources	15,925,076	14,180,816	15,010,325	45,116,217
Veterans Affairs	4,600,036	12,748,281	16,498,741	33,847,058
Management and Budget	11,795,927	10,519,309	9,376,728	31,691,964
Health	11,237,119	8,349,530	8,819,817	28,406,466
Explore Minnesota Tourism	9,702,181	8,483,245	8,027,823	26,213,249
Labor and Industry	7,737,926	7,724,905	8,259,660	23,722,491
Public Safety	7,323,739	8,306,307	7,194,058	22,824,104
Commerce	5,686,230	6,461,073	8,883,428	21,030,731
Administration	6,486,647	7,042,586	6,396,096	19,925,329
MnSURE	7,331,634	5,941,314	5,800,552	19,073,500
Agriculture	4,530,671	6,353,822	5,234,496	16,118,989
Iron Range Resources Board	4,580,960	4,807,859	5,117,759	14,506,578
Other Agencies	<u>24,184,458</u>	<u>22,723,091</u>	<u>19,158,149</u>	<u>66,065,698</u>
Total	<u>\$391,840,084</u>	<u>\$431,238,530</u>	<u>\$383,362,804</u>	<u>\$1,206,441,418</u>

<sup>a</sup> This table includes fiscal year 2017 expenditures through June 30, 2017; however, the scope of our audit included fiscal year 2017 expenditures through February 2017.

Source: State of Minnesota's accounting system.

We focused our audit on the five state agencies with the highest total expenditures.

## **Audit Objective, Scope, and Methodology**

Our objective for this audit was to answer the following questions:

- Did the Department of Administration's Office of State Procurement provide adequate oversight of state agencies' use of professional/ technical contracts to ensure compliance with applicable legal requirements?
- Did the departments of Corrections, Education, Human Services, Transportation and the Pollution Control Agency select contractors and execute contracts in accordance with applicable legal requirements; accurately pay for services received; and properly record the expenditures in the state's accounting system?

Our audit scope included professional/technical services expenditures for the period July 1, 2014, through February 28, 2017. To meet our audit objective, we gained an understanding of statewide policies issued by the Department of Administration through its State Contracting Manual and each agency's internal policies and procedures for professional/technical contracts. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements.

We examined samples of contracts exceeding \$50,000 and reviewed supporting documentation to determine whether the selected state agencies' controls over professional/technical services expenditures were adequate and if the transactions complied with laws, policies, and contract provisions. We selected some samples that began during our scope and other samples that ended during our scope to test for compliance with the different phases of the contracting process.

We conducted the audit in accordance with generally accepted government auditing standards.<sup>3</sup> Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions.

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<sup>3</sup> U.S. Government Accountability Office, *Government Auditing Standards*, December 2011.

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## Audit Criteria

We assessed the selected state agencies' internal controls against the most recent edition of the internal control standards, published by the U.S. Government Accountability Office.<sup>4</sup>

To identify legal compliance criteria for the transactions we tested, we examined the requirements in the following:

- Minnesota Statutes
- Department of Administration's State Contracting Manual
- State agencies' policies and procedures

## Conclusion

For the departments included within the scope of our audit, we concluded that the Department of Administration's Office of State Procurement provided generally adequate oversight over their use of professional/technical contracts.

In addition, we concluded that the departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency generally selected contractors and executed contracts in accordance with applicable legal requirements; accurately paid for services received; and properly recorded the expenditures in the state's accounting system. However, we did find some instances of noncompliance and internal control weaknesses, as noted in the findings in this report.

The following *Findings and Recommendations* section provides further explanation about these instances of noncompliance and internal control weaknesses.

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<sup>4</sup> Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government*, (Washington D.C., September 2014.) In September 2014, the State of Minnesota adopted these standards as the internal control framework for the executive branch.

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## Findings and Recommendations

**The Pollution Control Agency did not properly approve or validate some contractor payments.**

### Finding 1

State policy requires agencies to review and approve invoices to certify that goods were received in good condition, services were properly rendered, and requests were not previously paid.<sup>5</sup> During our review of contracts at the Pollution Control Agency, we found several instances where invoices were not properly reviewed or approved.

The Pollution Control Agency paid contract invoices with unallowable hourly rates. For one contract, four of the ten invoices tested had hourly rates that exceeded amounts permitted under the contract, resulting in an overpayment of \$1,544. Comparing invoice details to contract terms and conditions is a key control to prevent overpayments.

The Pollution Control Agency also failed to obtain adequate documentation to substantiate some contract payments. For 17 of the 34 invoices tested, the department paid contractors without getting sufficient evidence to validate the appropriateness of charges. Totaling \$65,411, these charges included items such as travel expenses and payments to subcontractors. Obtaining detailed documentation is an important control to prevent reimbursements for unallowable costs.

#### *Recommendations*

- *The Pollution Control Agency should collect the \$1,544 in overpayments. The agency should also review all contractor invoices we did not test to identify additional overcharges.*
- *The Pollution Control Agency should obtain adequate documentation to substantiate all charges on contractor invoices.*

**Three agencies did not fully comply with a contract requirement that they retain a specified amount of money pending the successful completion of a contract.**

### Finding 2

The departments of Corrections and Human Services and the Pollution Control Agency did not always retain the appropriate portions of amounts owed to contractors. Some contracts included retainage provisions that prohibited agencies from paying more than 90 percent of the total amount until contractors fulfilled all

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<sup>5</sup> Department of Management and Budget Policy 0803-01, *Payment Requests, Preparation, and Approval*.

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obligations. Other retainage provisions required agencies to withhold 10 percent of each invoice. Our testing found high rates of noncompliance with retainage provisions, as illustrated in Table 1.

**Table 1**  
**Contract Retainage Testing Exceptions**

Entity	Contracts Tested	Retainage Errors	Error Rate
Department of Corrections	6	1	17%
Department of Human Services	10	3	30%
Pollution Control Agency	7	2	29%

Retaining a portion of the contract amount until all work is complete is a key control to help guarantee satisfactory performance. Particularly with long and complex contracts, retainage provisions also help protect the state from unforeseen issues that may arise as projects near completion.

*Recommendation*

- *The departments of Corrections and Human Services and the Pollution Control Agency should comply with retainage requirements that are in some contracts to protect state interests.*

## Finding 3

**All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on the performance of contractors, and the department failed to enforce the requirement.**

The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency were in widespread noncompliance with contract reporting provisions. For all contracts over \$25,000, state agencies must submit reports to the Department of Administration after the completion of the work.<sup>6</sup> This statutory requirement helps ensure greater transparency into the use of vendors. The requirement also helps identify contractors that do not perform satisfactory services. Table 2 illustrates the statutory reporting noncompliance rates found during our contract testing.

<sup>6</sup> *Minnesota Statutes* 2017, 16C.08, subd. 4(c).

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**Table 2**  
**Required Contract Reporting Testing Exceptions**

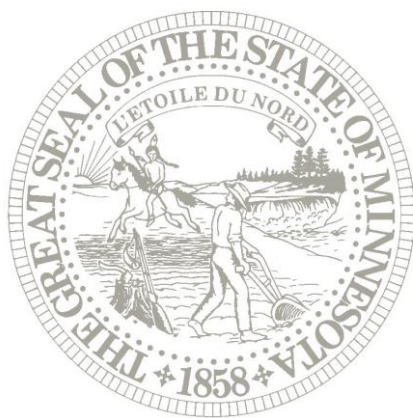
Entity	Contracts Tested	Reporting Omissions	Error Rate
Department of Corrections	4	3	75%
Department of Education	6	5	83%
Department of Human Services	4	3	75%
Department of Transportation	7	6	86%
Pollution Control Agency	5	5	100%

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Our testing indicated that none of the agencies had sufficient internal controls to ensure compliance with the statutory reporting requirements. However, given the widespread noncompliance, we also question whether the Department of Administration is taking a strong enough leadership role as the state's central procurement agency.

*Recommendations*

- *The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency should submit required contract reports.*
  - *The Department of Administration should more proactively monitor compliance with contract reporting statutes.*
-



January 2, 2018

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

Dear Mr. Nobles,

Thank you for the opportunity to review and respond to the Professional/Technical Contracts Expenditures Internal Controls and Compliance Audit. The audit and its recommendations identify additional opportunities for the Department of Administration (Admin) to benefit all Minnesotans by leading innovation, creating solutions, and providing exceptional services in the area of state procurement.

We are pleased with your overall conclusion that Admin's Office of State Procurement provides adequate agency oversight. And, we agree with the audit's recommendations for opportunities to make additional improvements in the areas of state contract management and contract oversight of Professional and Technical Service contracts.

**Admin's response to the findings:**

In response to **Findings 1, 2, and 3**, as they relate to overall contract management by the agencies, Admin acknowledges the difficulties facing agencies related to contract management. Assuring proper payment is an important obligation that must be met to protect the public interest and be good stewards of taxpayer funds. Similarly, the requirement that agencies properly hold and release retainage is an appropriate and necessary tool to ensure vendor performance, help secure needed outcomes, and establish vendor incentives to comply with contractual requirements. Finally, accountability mandates that the state maintain consistent and valued records of the performance of its vendors and that agencies work in a shared space to provide that information.

The Office of the Legislative Auditor's reinforcing of the importance of contract management and oversight is appreciated. Admin will continue to work with our agency partners to provide training, assistance, and tools related to these issues and other contract management requirements. In addition, Admin will review its current guidance related to contract management to determine how we can be more effective in supporting agencies' needs to deliver better contract management. In particular, we will consider the opportunity for expanded Office of State Procurement oversight and modern eProcurement tools to better support the state's tracking and monitoring of contract requirements and overall contract management functions.

In response to **Finding 3**, "the Department of Administration should more proactively monitor compliance with contract reporting statutes," we agree. It should be noted that in recent years Admin brought forward legislation to reduce the reporting threshold from \$50,000 to \$25,000, moved to an online reporting tool, and revamped the reporting metrics to align more closely with the ratings approach commonly taken by commercial retailers. Admin also championed legislation that provides legal protections for state employees who complete the required reporting. We believe these actions help provide more consistent, thoughtful, and transparent data.

As we continue our ongoing efforts to improve our services and oversight, and in response to the findings in this audit, we will provide agencies with periodic reports identifying expired contracts and reminding agencies of their obligation to submit contract evaluation reports. It is our hope that this additional engagement will lead to better compliance and we will increase efforts to track and monitor progress to ensure that outcome.

**Persons responsible:**

Alice Roberts-Davis, Assistant Commissioner  
Property and Procurement

**Target Completion Date:**

March 30, 2019

Again, we appreciate the opportunity to respond to the findings in your report. We value the work of your office and the professionalism of your staff. If you have any questions or need additional information, please contact Assistant Commissioner Alice Roberts-Davis.

Sincerely,

A handwritten signature in black ink that reads "Matthew G. Massman". The signature is fluid and cursive, with a large, stylized "M" and "G".

Matthew Massman  
Commissioner

January 2, 2018

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

Dear Mr. Nobles,

Thank you for the opportunity to review and respond to the findings and recommendations reported as a result of the recent internal controls and compliance audit of *Professional Technical Contract Expenditures* for the period of July 1, 2014 through February 28, 2017. Below you will find our responses to the two findings that included the Department of Corrections (DOC):

**Finding 2: Three agencies did not fully comply with a contract requirement that they retain a specified amount of money pending the successful completion of a contract.**

*Recommendation*

- *The departments of Corrections and Human Services and the Pollution Control Agency should comply with retainage requirements that are in some contracts to protect state interests.*

Response:

The DOC agrees with this finding and recommendation. As the result of an internal audit of professional/technical contracts, we updated our policy and implemented procedures in July of 2015 to withhold 10 percent of each contractor's invoice unless otherwise specified in the contract. The instance of non-compliance identified in this audit report occurred before those procedures were in place.

Person Responsible:

**Chris Dodge, Agency Chief Financial Officer**

Completion Date:

**Completed September 30, 2015**

**Finding 3: All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on performance of contractors, and the department failed to enforce the requirement.**

*Recommendation*

- *The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency should submit required contract reports.*

Response:

The DOC agrees with this finding and recommendation. At least one of the instances of non-compliance identified in the audit report occurred before the procedures mentioned in the previous response were implemented. It appears a report was completed for another instance but wasn't properly submitted to the Department of Administration. We will submit the reports and work to ensure they are properly submitted in the future.

Person Responsible:

**Chris Dodge, Agency Chief Financial Officer**

Estimated Completion Date:

**March 31, 2018**

Thank you again for this opportunity to respond, and for the professional work demonstrated by your staff.

Sincerely,

*/s/ Tom Roy*

Tom Roy  
Commissioner

CC: Lisa Wojcik, Assistant Commissioner  
Chris Dodge, Agency Chief Financial Officer  
Nicole Green, Financial Management Director  
Tracy Gerasch, Policy and Legal Services



January 2, 2018

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

Dear Mr. Nobles,

Thank you for your work on behalf of the citizens of the State of Minnesota and the opportunity to respond to the finding for the Minnesota Department of Education (MDE) which were included in the Report on Internal Controls and Compliance of Professional Technical Contracts. Since this report includes all findings statewide, our response will specifically address only the finding related to MDE.

**Finding 3: All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on the performance of contractors, and the department failed to enforce the requirement.** *Recommendation: The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency should submit contract reports.*

MDE Response: MDE considers this finding resolved.

Of the six reports tested, five were not submitted at the completion of the audit field work. Since that time, the three performance reports for the contracts that ended June 30, 2017, have been submitted.

MDE was unable to find the definition of “final completion of a contract” in statute, or Administrations Contracts Manual or any of the state policies/procedures that defines contract completion. Therefore, we interpreted “final completion of a contract” to mean close-out of the contract – after receipt of the final invoice and after a determination has been made as to whether the “contractor has satisfactorily fulfilled the terms of the contract.”

After we became aware of this timing issue, we reached out to the Office of State Procurement (OSP) asking for clarification and guidance. OSP informed us that they interpreted “final completion of a contract” to be the end date of the contract, with the report due within 30 days thereafter.

Now that we have a clear understanding of the timeline for submitting performance evaluations, we will ensure the timely completion of performance evaluations. To ensure that performance evaluations are completed, beginning in July 2017, the MDE Contracts Unit established a spreadsheet to track and ensure the timely and accurate completion of all aspects of the contracts process. This is reviewed monthly to ensure compliance.

In addition, MDE is working diligently to educate and inform staff of their roles and responsibilities in managing their contracts. The team created a PT Contracts Manual and periodically provides contracts trainings.

I appreciate the opportunity to respond to these findings for the Minnesota Department of Education. Please contact Denise Anderson at 651-582-8560 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Brenda Cassellius". The script is fluid and cursive, with the first name "Brenda" and last name "Cassellius" clearly legible.

Dr. Brenda Cassellius  
Commissioner

CC: Denise Anderson, Chief Financial Officer  
Andre Pahl, Agency Finance Director



Minnesota Department of Human Services  
Elmer L. Andersen Building  
Commissioner Emily Piper  
Post Office Box 64998  
St. Paul, Minnesota 55164-0998

December 29, 2017

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

Dear Mr. Nobles:

Thank you for the opportunity to review and comment on the findings in the Office of Legislative Auditor's draft reported titled *Professional/Technical Contract Expenditures Internal Controls and Compliance Audit covering the period July 1, 2014, through February 28, 2017*. We appreciate and value the thorough examination of our professional and technical contracting controls, and have appreciated the opportunity to work with your dedicated and professional staff during this audit.

Below are the Department's responses to the findings and recommendations.

**Audit Finding 2**

Three agencies did not fully comply with a contract requirement that they retain a specified amount of money pending the successful completion of a contract.

**Audit Recommendation 2**

*The departments of Corrections and Human Services and the Pollution control Agency should comply with retainage requirements that are in some contracts to protect state interests.*

**Response to Audit Recommendation 2**

The Department agrees with this finding and recommendation. In response to the items found by your staff during this audit, we have updated our annual training to emphasize the active management and oversight of all contractual stipulations, to include complying with terms related to retainage. We will also work throughout the year to remind staff of compliance requirements specific to retainage. Additionally, we will evaluate the payment process to identify and implement internal controls focused on improved performance in this area.

Responsible Person: David Greeman, Director, Budget Analysis

Estimated Completion Date: June 30, 2018

**Audit Finding 3**

All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on the performance of contractors, and the department failed to enforce the requirement.

**Audit Recommendation 3**

*The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency should submit required contract reports.*

**Response to Audit Recommendation 3**

The Department agrees with the finding and recommendation. In December 2017, our Contracts Unit began notifying our programs of a new contractor evaluation form process that is required of all programs related to professional/technical contracts that includes an electronic method for programs to send completed forms to the Department of Administration. This process change has already been integrated into our annual training program. Additionally, we will continue to evaluate our contracting process to identify and implement controls focused on improved compliance in this area.

Responsible Person: Sebastian Stewart, Acting Director, Contracting, Procurement and Legal Compliance

Estimated Completion Date: June 30, 2018

Thank you again for the professional and dedicated efforts of your staff during this audit. 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 Gary L. Johnson, Internal Audit Director, at (651) 431-3623.

Sincerely,

*/s/ Emily Piper*

Emily Piper  
Commissioner

January 5, 2018

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

Dear Mr. Nobles:

Thank you for the opportunity to review and respond to the Office of the Legislative Auditor's (OLA) findings and recommendations resulting from a recent internal controls and compliance audit of professional/technical contracts at various agencies, including the Minnesota Pollution Control Agency (MPCA). The MPCA takes its fiscal responsibilities seriously and determines to comply with our legal obligations. As such, the MPCA appreciates the professional review conducted by OLA staff and the guidance provided by the auditors during the review so that some of the potential Findings could be resolved during the course of the audit.

The MPCA has written a response to each of the pertinent audit findings and recommendations within your report.

**Finding 1: The Pollution Control Agency did not properly approve or validate some contractor payments.**

**OLA Recommendations:**

- ***The Pollution Control Agency should collect the \$1,544 in overpayments. The agency should also review all contractor invoices we did not test to identify additional overcharges.***
- ***The Pollution Control Agency should obtain adequate documentation to substantiate all charges on contractor invoices.***

**Agency response:** The MPCA will thoroughly review all contractor invoices, including contacting the contractor for additional information to support their invoiced amounts. If documentation is insufficient to merit payment, we will collect back the overpayment.

To ensure adequate documentation is present prior to making payments on contractor invoices, we will develop and provide training for contract managers. We will provide training at regular intervals to maintain staff ability to complete this requirement, and establish internal controls to enable appropriate oversight of process performance.

**Implementation Date:** April 30, 2018

**Responsible Manager:** Joshua Bunker, Chief Financial Officer

**Finding 2: Three agencies did not fully comply with the contract requirement that they retain a specified amount of money pending the successful completion of a contract.**

**OLA Recommendation:**

- ***The departments of Corrections and Human Services and the Pollution Control Agency should comply with the retainage requirements that are in some contracts to protect state interests.***

**Agency response:** The Agency will develop and provide training for contract managers to ensure that no more than 90 percent of the amount due under professional/technical contracts is paid until the contractor has satisfactorily fulfilled all terms of the contract. The balance due will only be paid upon verification of satisfactory completion. We will provide training at regular intervals to maintain staff ability to complete this requirement, and establish internal controls to enable appropriate oversight of process performance.

**Implementation Date:** April 30, 2018

**Responsible Manager:** Joshua Bunker, Chief Financial Officer

**Finding 3: All of the agencies we examined failed substantially to comply with a legal requirement to file a report with the Department of Administration on the performance of contractors, and the department failed to enforce the requirement.**

**OLA Recommendations:**

- ***The departments of Corrections, Education, Human Services, Transportation, and the Pollution Control Agency should submit required contract reports.***
- ***The Department of Administration should more proactively monitor compliance with contract reporting requirements.***

**Agency response:** The MPCA has developed an internal process to ensure compliance with required contractor performance reporting to the Department of Administration since the time of OLA audit work within the agency. We have discussed our planned process improvement with the Department of Administration.

To ensure consistent completion and reporting of contractor evaluations to the Department of Administration, we will develop and provide training for contract managers in use of the planned system. We will provide training at regular intervals to maintain staff ability to complete this requirement, and establish internal controls to enable appropriate oversight of process performance.

**Implementation Date:** April 30, 2018

**Responsible Manager:** Joshua Bunker, Chief Financial Officer

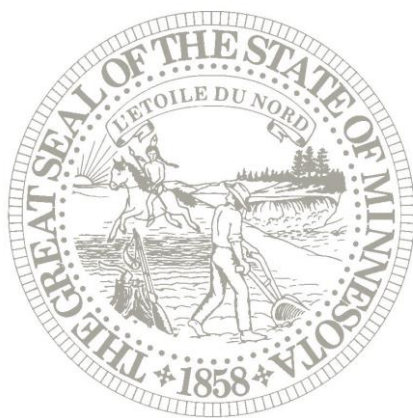
J. Nobles  
January 5, 2018  
Page Three

Thank you again for the opportunity to respond. If you have any questions, please feel free to contact Chief Financial Officer Joshua Bunker at 651-757-2781 or [Joshua.Bunker@state.mn.us](mailto:Joshua.Bunker@state.mn.us).

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Stine". The signature is written in a cursive, flowing style.

John Linc Stine  
Commissioner



Date: December 28, 2017

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

RE: Internal Controls and Compliance Audit - Professional/Technical Contract Expenditures

Dear Mr. Nobles,

Thank you for the opportunity to review the report on professional/technical contract expenditures.

The audit found that MnDOT failed to submit statutorily-required contractor performance evaluation reports to the Commissioner of Administration for 86% of the contracts reviewed.

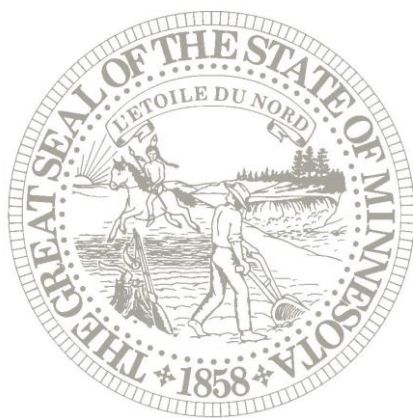
MnDOT will be in full compliance with the reporting requirements of Minnesota Statutes §16C.08 subd. 4 (c) by March 1<sup>st</sup>, 2018. MnDOT will review internal controls, revise procedures, and use technology to remedy this non-compliance. Jim Cownie, MnDOT Deputy Chief Counsel, is responsible for resolving this finding.

Sincerely,

*/s/ Charles A Zelle*

Charles A. Zelle  
Commissioner of Transportation

CC: Susan M. Mulvihill, P.E., Deputy Commissioner  
Daniel Kahnke, Audit Director  
Jim Cownie, Deputy Chief Counsel



For more information about OLA and to access its reports, go to: [www.auditor.leg.state.mn.us](http://www.auditor.leg.state.mn.us).

To offer comments about our work or suggest an audit, evaluation, or special review, call 651-296-4708 or email [legislative.auditor@state.mn.us](mailto:legislative.auditor@state.mn.us).

To obtain printed copies of our reports or to obtain reports in electronic ASCII text, Braille, large print, or audio, call 651-296-4708. People with hearing or speech disabilities may call through Minnesota Relay by dialing 7-1-1 or 1-800-627-3529.



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CENTENNIAL OFFICE BUILDING – SUITE 140  
658 CEDAR STREET – SAINT PAUL, MN 55155