



Department of Human Rights

Internal Controls and Compliance Audit

October 2021

Financial Audit Division

OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

Financial Audit Division

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • Joel Alter, Interim Legislative Auditor

October 27, 2021

Members
Legislative Audit Commission

Rebecca Lucero, Commissioner
Minnesota Department of Human Rights

This report presents the results of our internal controls and compliance audit of the Minnesota Department of Human Rights (MDHR) for the period July 1, 2018, through March 31, 2021. The objectives of this audit were to determine if the MDHR had adequate internal controls over selected financial activities and complied with significant finance-related legal requirements.

MDHR did not agree with all findings as stated in their response on page 25 of this report. In addition, on page 26 of this report, MDHR said it substantially complied with a “standard of 5% materiality for a financial audit.” However, that standard is not applicable in this audit, which was an internal controls and compliance audit. We have considered all additional information presented by MDHR and believe the evidence we obtained and the testing we performed during the course of the audit supports our conclusions.

This audit was conducted by Tracy Gebhard, CPA (Audit Director); Valentina Stone, CPA (Audit Coordinator); and auditors Sarah Bruder, CPA; Bill Dumas; Daniel Hade; and Erick Olsen.

We received the full cooperation of Minnesota Department of Human Rights staff while performing this audit.

Sincerely,

Lori Leysen, CPA
Deputy Legislative Auditor

Tracy Gebhard, CPA
Audit Director



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Introduction

Through the Minnesota Human Rights Act, the Minnesota Department of Human Rights (MDHR) is responsible for protecting and enforcing the civil rights of Minnesotans. It primarily does so by: (1) investigating charges of discrimination, (2) ensuring equity and inclusion for state contracting, and (3) educating to reduce discrimination and disparate outcomes. MDHR employs approximately 46 investigative, legal, equity and inclusion, administrative, community engagement, communications, and public policy staff to do this work. To fund its work, MDHR receives appropriations from the legislature and collects receipts including fees to certify business compliance with affirmative action and equal pay.

The Office of the Legislative Auditor (OLA) conducted this audit to determine whether MDHR had adequate internal controls to ensure it safeguarded state resources, complied with significant finance-related legal requirements, and resolved prior audit findings.¹ We audited equal pay and workforce certificate fees collected by MDHR, payroll and nonpayroll expenditures, and inventory of fixed assets. The period under examination went from July 1, 2018, through March 31, 2021.

Internal controls are the policies and procedures management establishes to govern how an organization conducts its work and fulfills its responsibilities. A well-managed organization has strong controls across all of its internal operations. If effectively designed and implemented, controls help ensure, for example, that inventory is secured, computer systems are protected, laws and rules are complied with, and authorized personnel properly document and process financial transactions.

Minnesota Law Mandates Internal Controls in State Agencies

State agencies must have internal controls that:

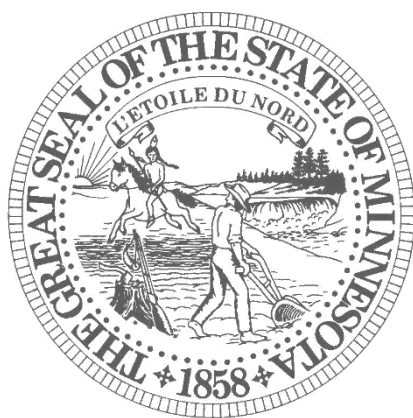
- Safeguard public funds and assets and minimize incidences of fraud, waste, and abuse; and
- Ensure that agencies administer programs in compliance with applicable laws and rules.

The law also requires the commissioner of the Department of Management and Budget to review OLA audit reports and help agencies correct internal control problems noted in those reports.

— *Minnesota Statutes 2020, 16A.057*

Auditors focus on internal controls as a key indicator of whether an organization is well managed. In this audit, we focused on whether MDHR had controls to ensure that it safeguarded state resources, including fixed assets and fees collected, spent state funds, and accurately paid its vendors and employees in compliance with state legal requirements and internal policies and procedures.

¹ Office of the Legislative Auditor, Financial Audit Division, *Department of Human Rights: Internal Controls and Compliance Audit* (St. Paul, 2014).

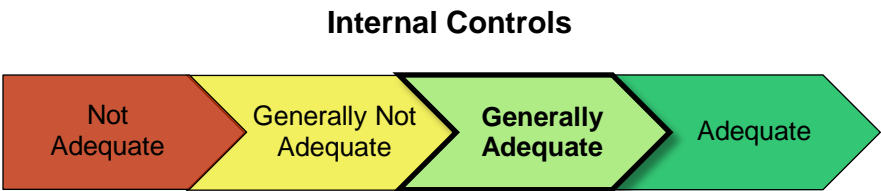


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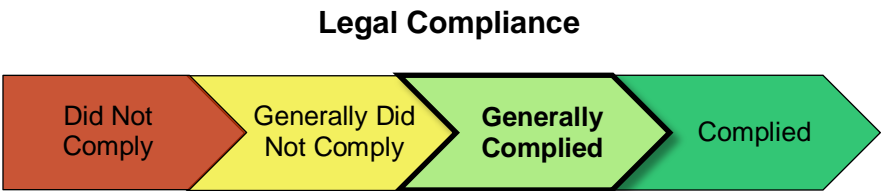
Internal Controls

OLA found that internal controls over the areas in our audit scope were generally adequate to ensure that the Minnesota Department of Human Rights safeguarded state resources, complied with significant finance-related legal requirements, and resolved prior audit findings.



Legal Compliance

The Minnesota Department of Human Rights generally complied with most finance-related legal requirements.



However, we identified some control weaknesses and instances of noncompliance as listed in the findings section below.

Findings

	Internal Controls Not Adequate	Did Not Comply with Legal Requirements and State Policy
Finding 1. Prior Finding: MDHR did not assign the appropriate employees access to approve timesheets. (p. 14)	✓	✓
Finding 2. MDHR did not comply with applicable bargaining unit agreements and state policy when employees earned overtime pay or compensatory time. (p. 15)	✓	✓
Finding 3. MDHR could not provide evidence that it reviewed a key payroll report: the Payroll Register. (p. 16)	✓	✓

(Continued on next page.)

	Internal Controls Not Adequate	Did Not Comply with Legal Requirements and State Policy
Finding 4. MDHR could not provide documentation to show that it authorized and validated the accuracy of pay increases and adjustments processed by the Department of Administration's Small Agency Resource Team (SmART). (p. 18)	✓	✓
Finding 5. MDHR did not always have segregation of duties over procurement and payment or have the authorized employee approve payments. MDHR did not document its review of a key expenditure report. (p. 19)	✓	✓
Finding 6. MDHR did not maintain accurate inventory records. (p. 21)	✓	✓

Background

Minnesota Department of Human Rights Overview and History

In 1967, the Legislature enacted into law the Minnesota Human Rights Act—one of the strongest civil rights laws in the country.² The law states that discrimination “[t]hreatens the rights and privileges” of Minnesotans and “menaces the institutions and foundations of democracy.”³ In the same year, the Legislature established the Minnesota Department of Human Rights (MDHR) to administer and enforce the Minnesota Human Rights Act.⁴

The mission of MDHR is to make Minnesota discrimination-free. MDHR achieves this mission by: (1) investigating charges of discrimination, (2) ensuring equity and inclusion for state contracting, and (3) educating to reduce discrimination and disparate outcomes. As of April 2021, MDHR employed approximately 46 investigative, legal, equity and inclusion, administrative, community engagement, communications, and public policy staff to do this work.

Since MDHR has a small number of employees, beginning in 2015, it contracted with the Department of Administration’s Small Agency Resource Team (SmART), which provides accounting, payroll, and human resources services to MDHR.⁵ This allows MDHR to focus its resources on achieving its mission. However, MDHR retains decision-making authority and is responsible for compliance with state legal requirements. MDHR executes two-year service-level agreements (commonly known as interagency agreements) with SmART. These agreements describe the scope of services and responsibilities of each party.

Audit Scope, Objectives, Methodology, and Criteria

The Office of the Legislative Auditor (OLA) conducted this audit to determine whether MDHR had adequate internal controls to ensure it safeguarded state resources, complied with significant finance-related legal requirements, and resolved prior audit findings.⁶ We audited equal pay and workforce certificate fees collected by MDHR, payroll and nonpayroll expenditures, and inventory of fixed assets. The period under examination went from July 1, 2018, through March 31, 2021.

² *Minnesota Statutes* 2020, 363A.

³ *Minnesota Statutes* 2020, 363A.02, subd. 1(b).

⁴ *Minnesota Statutes* 2020, 363A.06, subd. 1(a).

⁵ *Minnesota Statutes* 2020, 16B.371(a) authorizes the commissioner of administration to provide administrative support services to small agencies.

⁶ Office of the Legislative Auditor, Financial Audit Division, *Department of Human Rights: Internal Controls and Compliance Audit* (St. Paul, 2014).

Workforce and Equal Pay Certificate Fees

This part of the audit focused on the collection of workforce and equal pay certificate fees and the timeliness of certificates issued. OLA designed its work to address the following questions:

- Were MDHR's internal controls adequate to ensure that it appropriately collected, safeguarded, and deposited certificate fees, and issued certificates timely?
- Did MDHR collect the appropriate certificate fees, accurately account for those fees, and issue certificates timely?
- Did MDHR resolve prior audit findings?

To answer these questions, OLA interviewed staff from MDHR to gain an understanding of internal controls and compliance over the collection of certificate fees and issuance of certificates. To ensure MDHR had adequate internal controls and complied with legal requirements, we performed the following testing.

We verified population completeness by reconciling certificate applications and cash receipts recorded in MDHR's application system and check log, respectively, to the state's accounting system. We also tested (1) a systematically selected sample of 24 of 1,373 equal pay certificate applications and a random sample of 36 of 1,842 workforce certificate applications to determine if MDHR issued certificates timely, and collected, deposited, and recorded the fees accurately; (2) a random sample of 8 of 33 months within our audit scope to determine if MDHR accurately performed monthly reconciliations of credit card receipts; and (3) a random sample of 60 of 332 check deposits to determine if MDHR completed a check log, deposited fees timely, and accurately recorded deposits in the state's accounting system.

Payroll

This part of the audit focused on the accuracy of the compensation paid to employees. OLA designed its work to address the following questions:

- Were MDHR's controls adequate to ensure it accurately compensated employees in compliance with applicable legal provisions?
- Did MDHR accurately compensate employees in compliance with applicable legal provisions?
- Did MDHR resolve prior audit findings?

To answer these questions, OLA interviewed staff from MDHR to gain an understanding of the internal controls and compliance over payroll. To ensure MDHR had adequate internal controls and complied with legal requirements, we performed the following testing.

We reviewed the assignment of primary and backup approvers who approve MDHR employee timesheets. We analyzed payroll expenditures charged to dedicated or restricted funding sources to ensure that funding was used appropriately, and we analyzed holiday pay to ensure compliance with state policy. We tested a random sample of (1) 60 of 3,361 timesheets for compliance with state policy regarding approvals and adjustments; (2) 60 of 255 overtime or compensatory time payments and five key items for compliance with bargaining unit agreements, accuracy, and appropriate authorization; (3) 7 of 16 new hires and one key item for authorization and compliance with state statute; and (4) pay increases for 8 of 53 employees within our audit scope for compliance with bargaining unit agreements, accuracy, and appropriate authorization. Finally, we tested all separation and retroactive adjustment payments to ensure the payments were accurate and made to eligible employees.

Nonpayroll Expenditures

This part of the audit focused on expenditures other than payroll. OLA designed its work to address the following questions:

- Were MDHR's controls adequate to ensure it obtained goods and services in compliance with applicable legal provisions, and accurately paid for those goods and services?
- Did MDHR obtain goods and services in compliance with applicable legal provisions, and accurately pay for those goods and services?

To answer these questions, we interviewed staff from MDHR to gain an understanding of internal controls and compliance over nonpayroll expenditures. To ensure MDHR had adequate internal controls and complied with legal requirements, we performed the following testing.

We analyzed MDHR's nonpayroll expenditures to identify unusual trends or significant changes in financial operations. We tested a random sample of 60 of 1,156 expenditures to ensure (1) the appropriate MDHR employee approved the purchase order, payment, and receipt of goods or services; and (2) the goods or services were received, the expenditure was accurately recorded in the state's accounting system, and the purchase was reasonable and related to MDHR's mission. In addition, we tested a random sample of 30 of 1,156 expenditures to ensure MDHR paid the agreed upon rate in accordance with the bid or contract.

Inventory of Assets

This part of the audit focused on MDHR's inventory and safeguarding of assets. OLA designed its work to address the following questions:

- Were MDHR's internal controls adequate to ensure it safeguarded assets and kept accurate records in compliance with applicable legal provisions?
- Did MDHR safeguard assets and keep accurate records in compliance with applicable legal provisions?
- Did MDHR resolve prior audit findings?

To answer these questions, we interviewed MDHR staff to gain an understanding of internal controls and compliance over the inventory and safeguarding of assets. To ensure MDHR had adequate internal controls and complied with legal requirements, we performed the following testing.

We reviewed the inventory records to determine if MDHR performed a periodic physical inventory in compliance with state policy. We also (1) compared the assets purchased in the state's accounting system to inventory records to ensure MDHR added these assets to its inventory records, and (2) reviewed MDHR's annual inventory records to identify assets that were disposed of during our audit period. Finally, we tested a random sample of 8 of 46 asset disposals and eight key items to determine if MDHR properly documented and disposed of these assets.

We conducted this performance audit in accordance with generally accepted government auditing standards.⁷ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. When sampling was used, we used a sampling method that complies with generally accepted government auditing standards and supports our findings and conclusions. That method does not, however, allow us to project the results we obtained to the populations from which the samples were selected.

We assessed internal controls against the most recent edition of the internal control standards, published by the U.S. Government Accountability Office.⁸ To identify legal compliance criteria for the activity we reviewed, we typically examine state and federal laws, state administrative rules, state contracts, and policies and procedures established by the departments of Management and Budget and Administration. We also examined the service-level agreements between MDHR and SmART, as well as MDHR policies and procedures.

⁷ Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards* (Washington, DC, December 2011).

⁸ Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington, DC, September 2014). In September 2014, the State of Minnesota adopted these standards as its internal control framework for the executive branch.

Receipts

The Minnesota Department of Human Rights (MDHR) receives an annual General Fund appropriation to finance the majority of its operating activities. The General Fund appropriation amounts for fiscal years 2019, 2020, and 2021 were \$4,580,000, \$4,911,000, and \$5,131,000, respectively. In addition, MDHR collects fees for the issuance of workforce and equal pay certificates, as required by state statute.⁹ MDHR deposits the workforce and equal pay certificate fees in its human rights fee and equal pay certificate Special Revenue Fund accounts, respectively, as dedicated receipts.¹⁰ Fees collected are used to cover the costs MDHR incurs when it issues certificates. Exhibit 1 shows the total receipts collected by MDHR from July 1, 2019, through March 31, 2021.

Exhibit 1: Receipts, Fiscal Years 2019, 2020, and 2021

Receipt Type	FY 2019	FY 2020	FY 2021 ^a	Total
Federal Investigation Fees ^b	\$225,200	\$170,700	\$188,900	\$ 584,800
Workforce Certificate Fees	166,518	78,450	41,110	286,078
Equal Pay Certificate Fees	87,110	67,200	42,310	196,620
Donations for Dr. Martin Luther King Jr. Day Celebration ^c		88,500	43,500	132,000
Private Grant Funds ^d			100,000	100,000
Other Receipts ^e	35,169	10,925	89,955	136,049
Total Receipts	\$513,997	\$415,775	\$505,775	\$1,435,547

^a Fiscal Year 2021 includes receipts through the end of the audit scope, March 31, 2021, and not through the end of the fiscal year.

^b "Federal Investigation Fees" include an annual payment from the federal government for its investigation of employment discrimination.

^c "Donations for Dr. Martin Luther King Jr. Day Celebration" include donations from state agencies and private corporations to support the Governor's Annual Dr. Martin Luther King Jr. Day Celebration. MDHR assists the Governor's Office in organizing the celebration.

^d "Private Grant Funds" include a one-year grant from the Joyce Foundation to support policing experts in connection with the civil rights investigation of the Minneapolis Police Department.

^e "Other Receipts" include reimbursement for litigation and hearing costs for unfair discriminatory practice, as specified in *Minnesota Statutes* 2020, 363A.29, subd. 11, and fees collected from an MDHR provided training on various civil rights topics.

SOURCE: State of Minnesota's accounting system.

⁹ *Minnesota Statutes* 2020, 363A.36, subd. 2; and 363A.44, subd. 2, for workforce and equal pay certificates, respectively. Effective July 1, 2021, *Laws of Minnesota* 2021, First Special Session, chapter 11, art. 3, secs. 19 and 23 amended the fee from \$150 to \$250 for workforce and equal pay certificates, respectively.

¹⁰ The Special Revenue Fund accounts contain money paid by businesses to the state, as directed by *Minnesota Statutes* 2020, 363A.36, subd. 2; and 363A.44, subd. 2, for workforce and equal pay certificates, respectively.

Workforce and Equal Pay Certificate Fees

Our audit of MDHR's receipts focused solely on the workforce and equal pay certificate fees.

Workforce Certificates: The Minnesota Human Rights Act requires businesses with 40 or more employees on a single day in the past year in Minnesota, or in the primary state of business, and that plan to execute a contract with a state agency in excess of \$100,000 to obtain a workforce certificate prior to responding to any requests for proposals.¹¹ To obtain a workforce certificate, businesses must submit a standardized application form, including an Affirmative Action Plan, within 120 days of the initial application and pay a fee.¹² MDHR reviews the application, including the Affirmative Action Plan, and, as required by state statute, either approves it and issues a certificate or contacts the vendor within 15 days when deficiencies have been identified in the application.¹³ Workforce certificates are valid for four years.¹⁴

Equal Pay Certificates: The Minnesota Human Rights Act requires businesses with 40 or more employees on a single day in the past year in Minnesota, or in the primary state of business, and that plan to execute a contract with a state agency in excess of \$500,000 to obtain an equal pay certificate prior to responding to any requests for proposals.¹⁵ To obtain an equal pay certificate, businesses must submit a standardized application form and pay a fee.¹⁶ MDHR reviews the application, including the Affirmative Action Plan, and, as required by state statute, either approves it and issues a certificate or contacts the vendor within 15 days when deficiencies have been identified in the application.¹⁷ Equal Pay certificates are valid for four years.¹⁸

For both workforce and equal pay certificates, MDHR collected a fee of \$150 during our audit scope.¹⁹ Businesses can pay the fee online by credit card, through the mail, or in-person by check. From March 2020 through January 31, 2021, due to the COVID-19 pandemic, the Legislature provided an exemption from obtaining workforce or equal pay certificates for businesses responding to emergency purchasing procurements with a state agency.²⁰ Exhibit 2 shows the amount of fees collected by payment type.

¹¹ *Minnesota Statutes* 2020, 363A.36, subds. 1 and 1a(b)(1).

¹² *Minnesota Statutes* 2020, 363A.36, subd. 2, requires businesses to pay a fee. The following website requires businesses to submit the application form, including the Affirmative Action Plan, within 120 days: <https://mn.gov/mdhr/certificates/workforce-certificate/>.

¹³ *Minnesota Statutes* 2020, 363A.36, subd. 1(d).

¹⁴ *Minnesota Statutes* 2020, 363A.36, subd. 1.

¹⁵ *Minnesota Statutes* 2020, 363A.44, subds. 1 and 1a(b)(1).

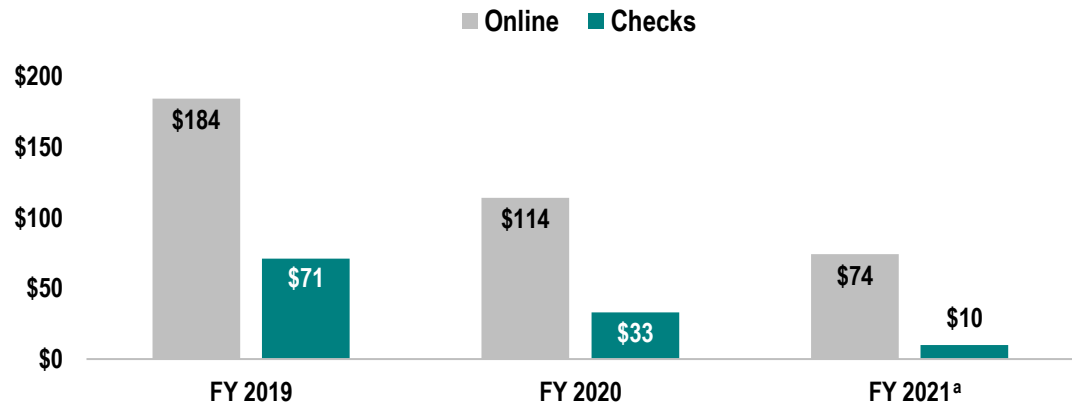
¹⁶ *Minnesota Statutes* 2020, 363A.44, subd. 2.

¹⁷ *Minnesota Statutes* 2020, 363A.36, subd. 3.

¹⁸ *Minnesota Statutes* 2020, 363A.44, subd. 1.

¹⁹ *Minnesota Statutes* 2020, 363A.36, subd. 2; and 363A.44, subd. 2, for workforce and equal pay certificates, respectively. Effective July 1, 2021, *Laws of Minnesota* 2021, First Special Session, chapter 11, art. 3, secs. 19 and 23 amended the fee from \$150 to \$250 for workforce and equal pay certificates, respectively.

²⁰ *Laws of Minnesota* 2020, chapter 71, art. 2, sec. 14.

Exhibit 2: Fees Collected by Payment Type, Fiscal Years 2019, 2020, and 2021 (in thousands)

^a Fiscal Year 2021 includes fees collected through the end of the audit scope, March 31, 2021, and not through the end of the fiscal year.

SOURCE: State of Minnesota's accounting system.

Our testing of workforce and equal pay certificate fees found that MDHR had adequate internal controls to ensure that it collected the appropriate certificate fees, accurately accounted for those fees, safeguarded and deposited receipts, and issued certificates timely. In addition, we found that MDHR collected the appropriate certificate fees, accurately accounted for those fees, and generally issued certificates timely. Since our 2014 audit, MDHR made significant improvements over receipts and resolved the prior audit findings related to receipts.²¹

²¹ Office of the Legislative Auditor, Financial Audit Division, *Department of Human Rights: Internal Controls and Compliance Audit* (St. Paul, 2014).



Expenditures

The Minnesota Department of Human Rights (MDHR) had expenditures totaling approximately \$14.9 million during the period covered by our audit scope. Exhibit 3 breaks down these expenditures by type.

Exhibit 3: Expenditures, Fiscal Years 2019, 2020, and 2021

Expenditure Type	FY 2019	FY 2020	FY 2021 ^a	Total
Payroll	\$4,104,655	\$4,164,087	\$3,241,285	\$11,510,027
State Provided IT Services ^b	487,883	304,606	364,759	1,157,248
Rent ^c	377,025	251,249	192,030	820,304
Professional and Technical Services	139,904	151,797	103,260	394,961
SmART Support Services	109,000	107,000	80,250	296,250
Supplies and Equipment ^d	68,171	293,965	10,700	372,836
Other Costs ^e	145,938	95,168	67,882	308,988
Total Expenditures	\$5,432,576	\$5,367,872	\$4,060,165	\$14,860,614

^a Fiscal Year 2021 includes expenditures through the end of the audit scope, March, 31, 2021, and not through the end of the fiscal year.

^b "State Provided IT Services" expenditures for Fiscal Year 2019 include \$79,211 of Fiscal Year 2018 expenditures and costs associated with an upgrade to its compliance software system.

^c "Rent" expenditures for Fiscal Year 2019 include about \$88,000 in construction costs for its new office space. In Fiscal Year 2020, MDHR saved approximately \$30,000 in rent because it relocated from the Orville L. Freeman Office Building to the Griggs Midway Building.

^d "Supplies and Equipment" expenditures for Fiscal Year 2020 include \$244,000 to furnish 45 cubicles and 11 offices.

^e "Other Costs" include indirect costs, employee development costs, printing, advertising, subscriptions, shipping and mailing, vendor expense reimbursements for mileage, and employee reimbursements. We did not audit approximately \$31,587, \$16,217, and \$18,480 of other costs listed above for fiscal years 2019, 2020, and 2021, respectively, which includes indirect costs, employee reimbursements, and any purchases made with a state purchasing card.

SOURCE: State of Minnesota's accounting system.

Payroll

As of April 2021, there were 46 employees at MDHR. These employees work within the areas of investigations, equity and inclusion, external relations and finance, legal, and administrative units. Employees are subject to various bargaining unit agreements depending on their position.

MDHR assigns primary and backup approvers to employees within the state payroll system. Primary approvers are the employees' direct supervisors and are designated with primary responsibility to approve employee timesheets. Backup approvers are other MDHR employees and SmART payroll staff.²²

²² See page 5 of this report for more information about the service-level agreement between MDHR and SmART and the services SmART performs for MDHR.

FINDING 1 – PRIOR FINDING

MDHR did not assign the appropriate employees access to approve timesheets.

We found that MDHR assigned one employee as the primary approver for their own timesheets for 16 months and another employee as a primary approver for their own timesheets for approximately four months. For two additional employees, MDHR assigned the employees as backup approvers for their own timesheets. Three of the four employees—two as primary approvers and one as a backup approver—approved their own timesheets during our audit scope a total of 53 times.

MDHR did not comply with state policy, which states that “employees should not approve their own timesheets.”²³ In addition, MDHR did not have controls in place to ensure compliance. Instead, MDHR relied on SmART to ensure compliance with state policy, and, for one employee assigned as a primary approver for their own timesheet, MDHR relied on incorrect guidance it received from SmART.²⁴

The state’s payroll system generates a report that identifies timesheets that have been approved by a backup approver. This report would only have flagged the employee assigned as a backup approver for their own timesheet. State policy states that agencies “should review the...report” and “management should be notified of on-going problems.”²⁵ According to the service-level agreement between MDHR and SmART, it is the responsibility of SmART staff to review this report and communicate exceptions to MDHR. There is no such report that identifies primary approvers that approve their own timesheets. As such, it is important that MDHR assigns the appropriate employees to approve timesheets.

By allowing employees to approve their own timesheets, MDHR increases its risk of fraud and error, as employees may not accurately report hours worked or leave hours taken.

RECOMMENDATIONS

- **MDHR should assign the appropriate employees access to approve timesheets.**
 - **MDHR should remove employees’ access to approve their own timesheets.**
 - **MDHR should review and ensure compliance with state policy regarding timesheet approval.**
-

²³ Department of Management and Budget, Statewide Operating Policy and Procedure PAY0017, *Self Service Time Entry*, issued February 2011.

²⁴ In an e-mail dated November 25, 2019, SmART human resources staff informed MDHR that the Commissioner has the authority to approve her own timesheets. We confirmed with the Department of Management and Budget, the creator of the state policy, that this was not allowed.

²⁵ Department of Management and Budget, Statewide Operating Policy and Procedure PAY0017, *Self Service Time Entry*, issued February 2011.

Generally, MDHR employees have the ability to earn either overtime pay or compensatory time at either 1 or 1.5 times the employee's hourly wage, depending on the employee's bargaining unit agreement. Overtime is paid when incurred and compensatory time is paid when an employee takes time off at a later date for hours previously earned. During our audit scope, MDHR employees were paid almost \$16,000 in overtime and accumulated over \$67,000 in compensatory time.

FINDING 2

MDHR did not comply with applicable bargaining unit agreements and state policy when employees earned overtime pay or compensatory time.

During our audit scope, we identified the following errors with MDHR overtime pay and compensatory time earned:

- For 2 of 60 samples tested, we found that two employees were not eligible for the compensatory time earned at 1.5 times the employee's hourly wage. To be eligible for overtime under the bargaining unit agreement, these two employees needed to work more than 40 hours during a week excluding sick, vacation, holiday, and other nonproductive time.²⁶ However, we found that in these cases, sick, vacation, and holiday hours were included in hours worked. As a result, the employees were overpaid \$418.49.
- In addition, for 1 of 5 key items listed above, the employee was paid overtime at 1 instead of 1.5 times the employee's hourly wage, as required by the employee's bargaining unit agreement.²⁷ As a result, the employee was underpaid \$63.44.
- For 18 of 60 samples and 2 of 5 key items tested, we found no evidence that the employees requested overtime or compensatory time from their supervisors or that the supervisors approved overtime or compensatory time before it was earned. State policy requires that "no state employee may be compensated for overtime hours worked unless such overtime has been approved in advance."²⁸ As a result, the employees were paid \$9,138 without evidence of approval.

When we spoke to MDHR about the incorrect payments, MDHR informed us that it was the responsibility of SmART payroll staff to determine employee eligibility to earn overtime pay or compensatory time. In subsequent conversations with SmART and after reviewing the service-level agreement, we have determined that this is MDHR's responsibility.²⁹

²⁶ Minnesota Association of Professional Employees Contract, 2019-2021, art. 27, sec. 2.

²⁷ American Federation of State, County, and Municipal Employees Contract, 2019-2021, art. 6, secs. 2 and 5B.

²⁸ Department of Management and Budget, Operating Policies and Procedures PAY0012, *Requesting and Reporting Overtime*, issued September 2009.

²⁹ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Human Resources (SmART), 2018-2019 and 2020-2021, *Exhibit B, Policies and Procedures*.

MDHR did not develop its own policies and procedures regarding overtime pay and compensatory time earned, nor did MDHR follow state policy. MDHR initially told us that it complies with state policy by approving, via e-mail, overtime or compensatory time before it is earned. After we requested that documentation, MDHR then told us that it complies with state policy by requiring employees to document prior approval of overtime or compensatory time earned on their timesheet. MDHR stated that when the supervisor approves the timesheet, they are also acknowledging that they approved the overtime or compensatory time prior to the employee earning it. When we spoke to MDHR about the lack of evidence for prior approval of overtime or compensatory time, MDHR told us that there is no requirement that it must document prior approvals.

By not complying with state policy and applicable bargaining unit agreements and not documenting the approval before overtime or compensatory time is earned, MDHR increases its risk that employees were paid overtime or allowed additional time off for unnecessary work or for work not performed.

RECOMMENDATIONS

- **MDHR should comply with applicable bargaining unit agreements and state policy when employees earn overtime pay or compensatory time.**
 - **MDHR should design and implement controls to ensure compliance with bargaining unit agreements and state policy regarding overtime and compensatory time.**
-

The state's payroll system allows users to generate various reports to ensure the accuracy of payroll expenditures. MDHR is responsible for the review of two reports: (1) the Payroll Posting Audit Trail and (2) the Payroll Register. The Payroll Posting Audit Trail shows the employees' pay and the funding source from which MDHR paid the employee. The Payroll Register shows pay rates, hours worked, and leave taken after payroll staff post all necessary adjustments, including leave adjustments and pay increases, in the state's payroll system.

FINDING 3

MDHR could not provide evidence that it reviewed a key payroll report: the Payroll Register.

MDHR initially told us that it reviews the Payroll Register. However, when we requested documentation that showed MDHR's review of the Payroll Register, MDHR could not provide any documentation of its review.

State statute and policy requires agencies to review the Payroll Register, document their review of these reports, and retain the documentation for audit purposes.³⁰ State policy specifically states:

Agencies should document the review of these reports so that the auditors can verify that the review is being accomplished. Agencies determine the method of documenting the review of the reports. One way this may be accomplished is by keeping a log detailing the date of review, person reviewing, and any discrepancies that were found.

When we inquired as to why MDHR did not document its review of the Payroll Register, we received a response from SmART that there was no state requirement that the review of this report be documented. However, we also obtained the e-mail SmART sends to MDHR at the end of each pay period with the Payroll Register and instructions. In that e-mail, SmART instructs MDHR to “review, initial and date this [Payroll Register] verifying the review has been completed; and maintain this file record at your location.”³¹

By not reviewing the Payroll Register, MDHR increases its risk that employees were not paid correctly and adjustments posted by SmART were not accurately recorded. This is especially important since MDHR is ultimately responsible for the accuracy of payroll despite outsourcing its human resources and payroll functions to SmART.

RECOMMENDATIONS

- **MDHR should comply with state statute and policy regarding the review of the Payroll Register.**
 - **MDHR should document and retain its review of the Payroll Register.**
-

MDHR employees receive annual pay increases. Within the service-level agreements MDHR has with SmART, the agreement assigns responsibility to MDHR for completing annual performance appraisals, which, if indicating satisfactory performance, authorize a performance increase for the employee.³² In addition, MDHR is responsible for requesting and authorizing adjustments to employee timesheets. The agreements indicate that SmART is responsible for processing those transactions in accordance with MDHR’s authorization and instruction. SmART is also responsible for retaining documentation of the performance appraisal and the timesheet adjustments.³³

³⁰ *Minnesota Statutes* 2020, 43A.37, subd. 1; and Department of Management and Budget, Statewide Operating Policy and Procedure PAY0028, *Agency Verification of Payroll and Human Resources Transactions*, issued August 2011.

³¹ *Minnesota Statutes* 2020, 43A.37, subd. 1; and Department of Management and Budget, Statewide Operating Policy and Procedure PAY0028, *Agency Verification of Payroll and Human Resources Transactions*, issued August 2011.

³² Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Human Resources (SmART), 2018-2019 and 2020-2021, *Exhibit B, Employee Evaluation*.

³³ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Human Resources (SmART), 2018-2019 and 2020-2021, *Exhibit A, File Maintenance and Storage*.

FINDING 4

MDHR could not provide documentation to show that it authorized and validated the accuracy of pay increases and adjustments processed by SmART.

During our audit scope, MDHR could not provide documentation to show that it authorized and validated the accuracy of the following payroll transactions:

- For 1 of 8 employees tested, the employee received a 3.4 percent performance increase despite receiving an unsatisfactory performance appraisal. The employee received a total of \$997 in additional compensation as a result.
- For 5 of 8 employees tested, we could not determine if the employees received satisfactory performance appraisals to support their pay increase.
- For 5 of 36 employee timesheets, we could not determine if the adjustments to the timesheets were authorized and accurate.

The bargaining unit agreements require increases to be given if satisfactory performance is indicated.³⁴ In addition, documentation of the performance appraisals and timesheet adjustments must be retained.³⁵

When we inquired, MDHR stated that the employee who received an unsatisfactory performance appraisal actually received a satisfactory performance appraisal and we were provided an incorrect appraisal. However, MDHR did not provide any other documentation demonstrating a satisfactory performance appraisal. In addition, it is SmART's responsibility to retain all performance appraisals and documentation for timesheet adjustments in accordance with the service-level agreement.³⁶ Despite the language within the service-level agreement, MDHR is ultimately responsible for all of its financial activity. MDHR also could not provide evidence that it reviewed these transactions for accuracy.

By not retaining documentation and reviewing transactions processed by SmART, MDHR increases its risk that transactions processed were inaccurate and/or not authorized.

³⁴ Minnesota Association of Professional Employees Contract, 2019-2021, art. 24, sec. 5; American Federation of State, County, and Municipal Employees Contract, 2019-2021, art. 18, sec. 5; and the Managerial Plan, 2019-2021, ch. 14, *General Salary Increases and Performance Based Salary Increases*.

³⁵ Department of Management and Budget, Statewide Operating Policy and Procedure PAY0023, *Prior Period Adjustments Policy*; and PAY0024, *Current Period Adjustments*, issued June 15, 2021.

³⁶ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Human Resources (SmART), 2018-2019 and 2020-2021, *Exhibit A, File Maintenance and Storage*.

RECOMMENDATIONS

- **MDHR should work with SmART to ensure evidence is retained to show that MDHR authorized and validated the accuracy of pay increases and adjustments processed.**
 - **MDHR should ensure the accuracy and legitimacy of performance increases and adjustments to timesheets.**
-

Nonpayroll Expenditures

Of the total expenditures incurred during our audit scope, MDHR spent approximately 22 percent on expenses other than payroll. These other expenditures included state-provided information technology services, rent, SmART support services, professional and technical contracts, supplies, equipment, and other costs.

Within the service-level agreement between MDHR and SmART, the agreement assigns responsibility to MDHR for obtaining bids, initiating procurement of goods and services, entering into contracts, and approving payments.³⁷ And, according to the agreement, SmART is responsible for entering the purchase orders, contracts, and payments into the state's accounting system. However, MDHR is responsible for the accuracy and legitimacy of all expenditure transactions entered within the state's accounting system.

FINDING 5

MDHR did not always have segregation of duties over procurement and payment or have the authorized employee approve payments. MDHR did not document its review of a key expenditure report.

We tested 60 transactions and found the following errors:

- One employee approved the purchase and payments of six transactions totaling over \$59,000.
- An employee, who was not authorized to approve invoices for payments, approved two transactions totaling approximately \$11,800.
- An employee, who was not listed as a state authorized representative within the contracts, approved four transactions totaling \$11,245.³⁸

³⁷ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Financial Management and Reporting (SmART), 2018-2019 and 2020-2021, *Exhibit A, Procurement and Contracts*.

³⁸ A state authorized representative is an MDHR staff member designated in the contract as having the authority to approve payments under the contract.

The service-level agreement MDHR has with SmART states, “Invoices for services received under a contractual agreement must be authorized for payment by the person designated in the contract as the state’s authorized representative.”³⁹ In addition, the agreement requires MDHR to identify the employees authorized to approve purchase orders and payments and requires a separation of those duties. It goes on to say, “In those instances where separation is not feasible[,] compensating controls such as independent review must be established.”⁴⁰ To address instances where separation is not feasible, SmART provides MDHR with a detailed expenditure report each month. The agreement also requires MDHR to periodically review fiscal reports, including the expenditure reports, to ensure the integrity of its fiscal data.

MDHR did not have adequate controls to identify those authorized to approve purchases and payments and to ensure that only authorized individuals approved purchases and payments. In addition, MDHR did not document its review of key expenditure reports that would further ensure that expenditures charged were appropriate and for MDHR.

Without adequate controls, MDHR increases the risk that it paid for services not performed, goods not received or ordered, or paid for another state agency’s expenditures.

RECOMMENDATIONS

- **MDHR should segregate duties over procurement and payment and only allow authorized employees to approve payments.**
 - **MDHR should validate the legitimacy and accuracy of the payments that were not approved by the authorized employee or where the purchase order and payment were approved by the same employee, and review expenditure reports.**
-

Inventory of Assets

MDHR purchases and maintains various assets necessary to achieve its mission. Most of these assets are classified as sensitive items. Sensitive items are generally for individual use or are items that could easily be sold, stolen, or misused, according to state policy.⁴¹ MDHR’s sensitive items include computers, monitors, printers, video equipment, cameras, voice recorders, and cell phones.

³⁹ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Financial Management and Reporting (SmART), 2018-2019 and 2020-2021, *Exhibit B, Payment Authorization*.

⁴⁰ Service-level agreement between Minnesota Department of Human Rights and Minnesota Department of Administration Financial Management and Reporting (SmART), 2018-2019 and 2020-2021, *Exhibit C, Policy and Recommendations Regarding Separation of Duties*.

⁴¹ Department of Administration, Property Management Reporting and Accountability Policy, issued May 1, 2014.

In accordance with the service-level agreement, MDHR is responsible for keeping accurate inventory records, conducting a complete physical inventory at least biennially, and accurately disposing of assets.⁴² State-issued computers and related accessories are the property of Minnesota IT Services (MNIT) and it is MNIT that is responsible for keeping accurate inventory records, conducting a complete physical inventory, and disposing of those assets. MDHR conducts an inventory of its assets annually.

FINDING 6

MDHR did not maintain accurate inventory records.

We identified the following errors within MDHR's inventory records and safeguarding of assets:

- For 3 of 46 assets listed within the inventory records as disposed, MDHR could not provide the asset disposition request form, required by state policy, to be completed and authorized prior to disposing of an asset.⁴³
- For 2 of 46 assets listed within the inventory records as disposed, we found that the assets were not disposed and were still in use.

MDHR did not separate duties. The same employee was responsible for purchasing, recording, disposing of assets, and conducting a periodic inventory. MDHR told us that it was unable to separate duties and instead implemented various mitigating controls. However, MDHR did not provide any documentation to support the existence of any mitigating controls, including a secondary review, which may have detected the errors we identified.

State policy requires agencies to maintain complete and accurate inventory records.⁴⁴ In addition, state policy requires that agencies ensure adequate separation of duties or develop mitigating controls if segregation of duties is not feasible.⁴⁵

Without accurate inventory records and separation of duties, MDHR has a greater risk of misappropriation of assets.

RECOMMENDATIONS

- **MDHR should maintain accurate inventory records.**
 - **MDHR should segregate duties in its inventory process or develop and implement internal controls to effectively mitigate risk.**
-

⁴² Biennial physical inventory is also required by the Department of Administration, Property Management Reporting and Accountability Policy, issued May 1, 2014.

⁴³ Department of Administration, Property Management Reporting and Accountability Policy, issued May 1, 2014.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*



List of Recommendations

- The Minnesota Department of Human Rights (MDHR) should assign the appropriate employees access to approve timesheets. (p. 14)
- MDHR should remove employees' access to approve their own timesheets. (p. 14)
- MDHR should review and ensure compliance with state policy regarding timesheet approval. (p. 14)
- MDHR should comply with applicable bargaining unit agreements and state policy when employees earn overtime pay or compensatory time. (p. 16)
- MDHR should design and implement controls to ensure compliance with bargaining unit agreements and state policy regarding overtime and compensatory time. (p. 16)
- MDHR should comply with state statute and policy regarding the review of the Payroll Register. (p. 17)
- MDHR should document and retain its review of the Payroll Register. (p. 17)
- MDHR should work with the Department of Administration's Small Agency Resource Team (SmART) to ensure evidence is retained to show that MDHR authorized and validated the accuracy of pay increases and adjustments processed. (p. 19)
- MDHR should ensure the accuracy and legitimacy of performance increases and adjustments to timesheets. (p. 19)
- MDHR should segregate duties over procurement and payment and only allow authorized employees to approve payments. (p. 20)
- MDHR should validate the legitimacy and accuracy of the payments that were not approved by the authorized employee or where the purchase order and payment were approved by the same employee, and review expenditure reports. (p. 20)
- MDHR should maintain accurate inventory records. (p. 21)
- MDHR should segregate duties in its inventory process or develop and implement internal controls to effectively mitigate risk. (p. 21)





October 25, 2021

Joel Alter, Interim Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building
658 Cedar Street
Saint Paul, MN 55155

Dear Legislative Auditor Alter,

Thank you for the opportunity to review and comment on your office's report titled, "Department of Human Rights: Internal Controls and Compliance Audit," from October 20, 2021. We appreciate the work of your staff to review the work of the Minnesota Department of Human Rights (MDHR).

This report appropriately commends many of the policies and systems in place within MDHR noting that both MDHR's internal controls and legal compliance to be in good condition. Importantly, the report found no evidence of fraud or malfeasance, and noted no major risks with MDHR's financial systems and practices.

Background on the Minnesota Department of Human Rights

The Minnesota Department of Human Rights is proud to be Minnesota's civil rights enforcement agency. The Minnesota Human Rights Act was passed into law in 1967 and protects the civil rights of every Minnesotan. The Act tasks this agency with ensuring no Minnesotan is treated differently because of their race, religion, disability, national origin, sex, marital status, familial status, age, sexual orientation, and/or gender identity. The Act also tasks the agency with regulating State contractors to ensure men and women are compensated equally for equal work, and to ensure that contractors are making good faith efforts to hire people of color so that the companies' employees reflect Minnesota's vibrant communities.

Specific Responses to Recommendations in Report

I am pleased that the report overall finds that both MDHR's internal controls and legal compliance are in good condition. However, the report also made a few specific findings and corresponding recommendations. Below are responses to the specific findings in the report.

1. MDHR did not assign the appropriate employees' access to approve timesheets.

Here, MDHR, on the advice of MMB and SmART, believed correct employees did have appropriate access to approve timesheets. With OLA's clarification, MDHR immediately implemented changes.

2. MDHR did not comply with applicable bargaining unit agreements and state policy when employees earned overtime pay or compensatory pay.

Overall, the report shows that MDHR, with a payroll of \$11,510,027.00 over the audit period, is substantially in compliance with all applicable bargaining unit agreements and state policies, but notes a few errors MDHR made over the audit period.¹

- An overpayment of \$418.49 for two employees who were not eligible for compensatory time due to sick, vacation, or holiday hours.²
- An underpayment for one employee in the amount of \$63.44.³ MDHR has paid this employee.

The report also finds no written evidence of employees requesting overtime or compensatory time before it was earned. MDHR's policy allows, however, for verbal approval of overtime pay or compensatory pay which is then confirmed after the fact by a supervisor approving the employee's timesheets. MDHR's policy is in alignment with what is required under applicable bargaining unit agreements and state policy which is for overtime or compensatory time to be approved in advance. Prior written approval is not required under bargaining agreements or state policy. All employees were correctly paid for what they were approved to work.

MDHR will continue to implement appropriate controls in this area to ensure it is in full compliance with applicable bargaining unit agreements and state policy.

3. MDHR could not provide evidence that it reviewed a key payroll report, the Payroll Register.

MDHR regularly reviews the Payroll Register and works to comply with all documentation requirements. Here, the report recommends documentation that goes beyond what is actually required. Nevertheless, MDHR will consider this recommendation moving forward.

4. MDHR could not provide documentation to show that it authorized and validated the accuracy of pay increases and adjustments processed by SmART.

MDHR agrees that it must provide documentation of performance reviews to SmART on a timely basis and has since worked with supervisors to set that clear expectation moving forward.

5. MDHR did not always have segregation of duties over procurement and payment or have the authorized employee approve payments. MDHR did not document review of a key expenditure report.

MDHR agrees that only authorized employees should approve payments. The majority of these approving errors, which were all proper payments, occurred when leadership staff transitioned into and out of the administration. All issues have since been resolved.

¹ MDHR was surprised to see this finding included in this audit since these errors note issues in 0.0036% and 0.00055% of MDHRs payroll, respectively. This demonstrates substantial compliance well under the normally applied standard of 5% materiality for a financial audit.

² This \$418.49 error accounts for 0.0036% of the \$11,510,027.00 payroll MDHR paid during the audit period.

³ This \$63.44 error accounts for 0.00055% of the \$11,510,027.00 payroll MDHR paid during the audit period.

The report also comments about MDHR's segregation of duties between procurement or payments. With such a small agency, full separation of duties is not feasible. However, as is allowed by policy and contract, and noted in the report, "In those instance where separation is not feasible [,] compensating controls such as independent reviews must be established." Here, MDHR does use compensating controls such as regularly meeting with SmART as well as reviewing the detailed expenditure report SmART provides to MDHR each month. MDHR is committed to using segregation of duties or mitigating controls as appropriate.

6. MDHR did not maintain accurate inventory records.

The report notes three occasions where MDHR failed to complete an asset disposition form for the following items: a damaged white board, a tripod, and a pair of headphones. The issue was not that the items could not or should not have been disposed of, just that the form was not filled out.

MDHR agrees that it must complete the asset disposition form for every item disposed of. MDHR has retrained its staff on use of this form as we refine our inventory process. As part of this process, MDHR will include segregation of duties or mitigating controls as appropriate.

I want to again thank your team for their work and for the insights provided in this final report. Thank you also for the opportunity to provide feedback on this report. I also want to make sure I acknowledge the incredible work of the deeply dedicated team at MDHR to ensure we're properly safeguarding state resources as we work to protect and advance the civil rights of Minnesotans. I also want to thank the Small Agency Resource Team (SmART), and particularly their director Tracey Sigstad, for their assistance with responding to this audit and for the excellent services they provide to MDHR.

MDHR will continue to work to make sure we build on this strong foundation to ensure we can provide Minnesotans with the most effective and efficient service possible.

If you have any further questions, please feel free to email or call me at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read 'RL', is positioned above the printed name of the Commissioner.

Rebecca Lucero, Commissioner
Minnesota Department of Human Rights



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