

**MINNESOTA AMATEUR SPORTS COMMISSION
FINANCIAL AND COMPLIANCE AUDIT
FOR THE TWO YEARS ENDED JUNE 30, 1989**

JANUARY 1990

MINNESOTA AMATEUR SPORTS COMMISSION

FINANCIAL AND COMPLIANCE AUDIT FOR THE TWO YEARS ENDED JUNE 30, 1989

Public Release Date: January 24, 1990

No. 89-78

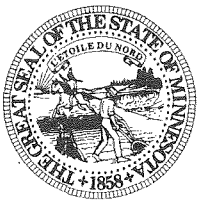
OBJECTIVES:

- EVALUATE INTERNAL CONTROL STRUCTURE: Payroll, administrative disbursements, receipts, and nonprofit corporations.
- TEST COMPLIANCE WITH CERTAIN FINANCE-RELATED LEGAL PROVISIONS.

CONCLUSIONS:

- Internal controls were found to be effective overall. However, the report indicates that receipts could be deposited more timely.
- Noncompliance with finance-related legal provisions was cited for:
 - The commission's not establishing itself as an independent agency apart from the Department of Trade and Economic Development.
 - The commission's establishing an inappropriate relationship with two affiliated nonprofit corporations.

Contact the Financial Audit Division for additional information.
(612) 296-1730



STATE OF MINNESOTA

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JAMES R. NOBLES, LEGISLATIVE AUDITOR

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Legislative Audit Commission

Members of the Legislative Audit Commission

Wayne Faris, Chair
Minnesota Amateur Sports Commission

Members of the Minnesota Amateur Sports Commission

Paul Erickson, Executive Director
Minnesota Amateur Sports Commission

and

David J. Speer, Commissioner
Department of Trade and Economic Development

Audit Scope

We have completed a financial and compliance audit of the Minnesota Amateur Sports Commission for the two years ended June 30, 1989. Section I provides a brief description of the Minnesota Amateur Sports Commission's activities and finances. Our audit was made in accordance with generally accepted auditing standards and the standards for financial and compliance audits contained in the U.S. General Accounting Office Government Auditing Standards, and accordingly, included such audit procedures as we considered necessary in the circumstances.

Accounting for the commission is done by the Department of Trade and Economic Development. Therefore, finding 1 overlaps into activities of both the commission and the Department of Trade and Economic Development. We ask that both agencies respond to it.

Internal Accounting Control Systems

One objective of this audit was to study and evaluate major internal accounting control systems; payroll, disbursements made through statewide accounting, and receipts at the Minnesota Amateur Sports Commission, in effect as of May 31, 1989.

The management of the Minnesota Amateur Sports Commission is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly.

Senator John E. Brandl, Chairman
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Because of inherent limitations in any system of internal accounting control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with the procedures may deteriorate.

Finance-Related Legal Provisions

Another objective of this audit was to verify that financial transactions were made in accordance with significant finance-related laws. The Minnesota Amateur Sports Commission is governed generally by Minn. Stat. Chapter 240A. This statute creates the Minnesota Amateur Sports Commission and gives it authority to operate.

The Minnesota Amateur Sports Commission is subject to certain general legal provisions which affect the financial management of most state agencies. Minn. Stat. Section 16A.275 requires daily depositing of receipts exceeding \$250. Minn. Stat. Sections 16B.06-.08 give the commissioner of Administration the authority to set policy for contracting and bidding purchases. Minn. Stat. Sections 43A.07-.08 provide the authority for classification of employees and salary changes as negotiated with the various bargaining units. Minn. Laws 1987, Chapter 400, Section 13 established the operating appropriation for fiscal years 1988 and 1989. Minn. Laws 1987, Chapter 400, Section 8, Subd. 3 established the appropriation to build the complex in Blaine and the swimming center. Minn. Laws 1988, Chapter 686, Article 1, Section 16 appropriated additional operating funds for fiscal year 1989.

The management of the Minnesota Amateur Sports Commission is responsible for the agency's compliance with laws and regulations. In connection with our audit, we selected and tested transactions and records from the programs administered by the the Minnesota Amateur Sports Commission. The purpose of our testing of transactions was to obtain reasonable assurance that the Minnesota Amateur Sports Commission, in all material respects, administered its prorams in compliance with applicable laws and regulations.

Conclusions

In our opinion, the Minnesota Amateur Sports Commission's system of internal accounting control in effect on May 31, 1989, taken as a whole, was sufficient to provide management with reasonable, but not absolute assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly.

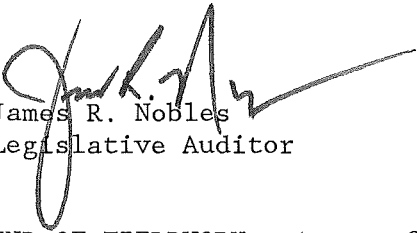
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Section II, finding 3, represents a weakness in the Minnesota Amateur Sports Commission controls. We believe the weakness subjects the Minnesota Amateur Sports Commission to an unnecessary financial risk and should be corrected. Progress on resolving this finding will be reviewed during the next year.

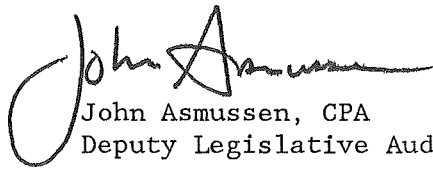
The results of our testing of transactions and records indicate that the Minnesota Amateur Sports Commission complied with the aforementioned finance-related legal provisions, except for findings 1 and 2 cited in Section II. Nothing came to our attention in connection with our audit that caused us to believe that the Minnesota Amateur Sports Commission was not in compliance with other applicable legal requirements.

We find exceptions for both the Minnesota Amateur Sports Commission and the Department of Trade and Economic Development in finding 1. Because both agencies are affected by finding 1, we asked both agencies to respond. We found that both entities did not comply with all statutory provisions because of finding 1.

We would like to thank the Minnesota Amateur Sports Commission and the Department of Trade and Economic Development staff for their cooperation during this audit.



James R. Nobles
Legislative Auditor



John Asmussen, CPA
Deputy Legislative Auditor

END OF FIELDWORK: August 31, 1989

REPORT SIGNED ON: January 16, 1990

MINNESOTA AMATEUR SPORTS COMMISSION

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AUDIT PARTICIPATION

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

John Asmussen, CPA	Deputy Legislative Auditor
Warren Bartz, CPA	Audit Manager
Lori Pellicci, CPA	Auditor-In-Charge

EXIT CONFERENCE

The findings and recommendations in this report were discussed with the following officials of the Minnesota Amateur Sports Commission and the Department of Trade and Economic Development at an exit conference which was held on December 20, 1989:

Paul Erickson	Executive Director, Minnesota Amateur Sports Commission
Jayne Khalifa	Chief of Staff, Department of Trade and Economic Development
Terry Pohlkamp	Director of Administrative Management, Department of Trade and Economic Development

MINNESOTA AMATEUR SPORTS COMMISSION

I. INTRODUCTION

The 1987 Legislature created the Minnesota Amateur Sports Commission under Laws of 1987, Chapter 400, Sections 44 through 51 (coded Minn. Stat. Chapter 240A). The commission consists of nine voting members, four with experience in promoting amateur sports. It also has two nonvoting members, one from the State House of Representatives and one from the State Senate. The commission appointed Paul Erickson as the executive director of the commission in September 1987. The commission's duties include promoting and developing amateur sports in the state, sponsoring and sanctioning a series of statewide amateur athletic games, and constructing amateur sports facilities.

The commission has accomplished a number of tasks since its inception. It has assisted numerous Minnesota communities and sport associations in bidding for major sporting events. The commission has been instrumental in securing several prominent sporting events to be held in Minnesota. The National Sports Center in Blaine is currently under construction and scheduled for completion in January 1990. In addition, it has also granted \$3 million to the University of Minnesota for construction of a swim center.

The Minnesota Amateur Sports Commission currently operates out of the Department of Trade and Economic Development. The department also performs all of their administrative services. The commission financed its operations primarily through the Special Revenue Fund in fiscal year 1988 and the General Fund in fiscal year 1989. It finances land and construction contracts through the Building Fund. It also accepts gift money for amateur sports purposes. Activities were limited during fiscal year 1988, because it was the first year of operation. Expenditures for fiscal years 1988 and 1989 are shown below:

Minnesota Amateur Sports Commission Expenditures

	Fiscal Year	
	1989	1988
Salaries	\$ 257,411	\$ 129,521
Land Purchases and Improvements	1,386,297	-0-
Building Construction	4,881,722	-0-
Other Contracts	1,175,101	482,641
Administrative Expenditures	257,828	49,210
Grants	15,000	-0-
TOTAL	<u>\$7,973,359</u>	<u>\$ 661,372</u>

Source: Statewide Accounting System Manager's Financial Reports
as of September 3, 1988 and September 2, 1989.

MINNESOTA AMATEUR SPORTS COMMISSION

II. CURRENT FINDINGS AND RECOMMENDATIONS

1. The commission has not established itself as an independent agency apart from the Department of Trade and Economic Development.

The commission depends upon the Department of Trade and Economic Development (DTED) for administrative and financial support. It is also subject to the department's administrative controls. State law does not authorize this relationship between the commission and the department. Applicable legal provisions treat the commission as an independent agency. Thus, we are concerned that the commission is unjustly benefiting from the relationship. Furthermore, the department is able to exercise control over the commission, without having been granted the necessary authority.

The program originated in 1987, under an interagency agreement with the Governor's Office. The commission's executive director, Paul Erickson, was originally hired as an employee of the department in January 1987. The Legislature established the commission as an independent agency pursuant to Minn. Laws 1987, Chapter 400, Section 44. The same law also gave DTED some responsibility for amateur sports. The department was appropriated bonding money to construct an amateur sports facility pursuant to Section 8, Subdivision 3. The relationship between the commission and the department remained unchanged after the 1987 laws were enacted.

The department provides the commission with complete accounting and payroll services. Department managers approve commission contracts and sign the biweekly timesheet for the commission's executive director. The commission follows department administrative policies and procedures. The department effectively continues to treat the commission as one of its divisions. The commission's biennial budget request is included as part of the department's request. The commission does not reimburse the department for any administrative support costs. In addition, the department paid over \$35,000 in fiscal year 1988 for commission salary costs. The commission lacked the resources to hire the staff itself.

The situation is complicated because the commission's operating appropriation does not provide adequate funding for the commission to exist without DTED support. According to the executive director, the commission attempted to present its budget independent from DTED in the 1989 session. In his original budget request, additional resources were sought for administrative costs. However, he told us that the Department of Finance combined the commission's budget into DTED's budget. As a result, it continued to presume that it is subject to DTED control and entitled to its administrative support. Therefore, it has not received sufficient funding to support itself independent from DTED.

An alternative solution would be to seek a legislative amendment which would grant DTED the authority to provide the commission with administrative services. Several other state commissions are recognized in this manner by state law. Statutes for other DTED boards designate the staff

MINNESOTA AMATEUR SPORTS COMMISSION

as department employees or otherwise recognize them as components of DTED. Examples are the Minnesota Public Facilities Authority, the Rural Development Board, and the Minnesota Agriculture and Economic Development Board. The commissioner of Trade and Economic Development serves as the chairman or a board member.

Another possible solution would be to request assistance from the Department of Finance. The current operation has been basically efficient as it existed. However, the commission is moving to new headquarters in Blaine, some distance from the DTED offices, and Finance staff could be involved in processing financial transactions.

Finally, we recognize that DTED is authorized to provide administrative services for the commission's bond proceeds. State law appropriates bonding and construction funds for athletic sites and buildings to the department, rather than to the commission. Accordingly, DTED is responsible for managing the bond funds. However, the bonding law does not authorize DTED to offer the commission broader administrative support.

RECOMMENDATION

- The commission should obtain its administrative services either by:
 - seeking legislation authorizing it to receive administrative services from DTED;
 - acquiring the resources necessary to provide for its own administrative needs, or
 - seeking assistance from the Department of Finance.

2. The commission established an inappropriate relationship with two affiliated nonprofit corporations.

We question the relationship between two nonprofit corporations which were established. The commission is empowered by Minn. Stat. Section 240A.03, Subd.13 to establish nonprofit corporations and charitable foundations. At the time of our audit, it was affiliated with two such organizations. The Star of the North State Games, Inc. was established in 1984 prior to the commission's creation. The commission established the World Masters Game III 1993 Foundation under the provisions of Minn. Stat. Chapter 317, known as the Minnesota Nonprofit Corporation Act. The commission subsequently has established other nonprofit corporations.

State law provides the commission with various direct powers and duties which may obviate the need for establishing nonprofit corporations. The commission may solicit and accept grants and gifts. Gift or grant proceeds are appropriated to the commission and available for it to spend. The commission may also enter into contracts, acquire property, obtain insurance, and conduct other business associated with amateur athletics. State law also assigns certain duties to the commission. Specifically, Minn. Stat. Section 240A.06 requires it to sponsor and

MINNESOTA AMATEUR SPORTS COMMISSION

sanction a series of statewide amateur games. Star of the North State Games, Inc. currently offers competition of this form through its Star of the North Games.

As a consequence of creating a separate corporation, the commission loses its direct authority over the corporate activities. It also loses much of its ability to assign commission employees to conduct the activities. A corporation should conduct its business autonomously from the commission, under its own authority. Corporate decisions should not be made or unduly influenced by the commission. Corporation employees, not commission employees, should perform the tasks necessary to support and fulfill corporate responsibilities.

We are concerned that the commission has not delineated clear lines of authority between itself and the two nonprofit corporations. The corporations do not function as autonomous entities and are often confused with the state commission. Commission employees make most corporate decisions and perform most of corporate duties. We recognize that the commission needs to maintain a relationship with the corporations; however, we believe it must formalize any agreements or exchanges of services through written contracts.

We also believe that the commission should reconsider its relationship with nonprofit corporations. In particular, it needs to avoid any role in the governance or fiscal responsibilities of independent nonprofit corporations. The two situations present different circumstances and are discussed separately.

Star of the North State Games, Inc.

Star of the North State Games, Inc. was created to raise and contribute funds to support a series of amateur sports competitions, the Star of the North Games. The commission provides support services for the corporation. These services include collecting and depositing registration fees and donations, paying bills, and maintaining its checkbook. During fiscal year 1989, the commission collected approximately \$185,000 in fees for the corporation. Checks are signed by the commission employees. Corporate officials are not involved with approving the invoices or signing the checks.

State law requires the commission to sponsor the type of games offered by the corporation. Accordingly, we acknowledge that legally the commission may provide support in the form of services to the corporation. However, the commission has not entered into a formal written agreement with the Star of the North State Games, Inc. Providing services according to a verbal understanding, raises the risk of confusion and potential disagreements. Also, the commission must avoid making decisions or exercising authority which is reserved for the corporation. Thus, we believe the commission should rely on corporate officials to make spending decisions.

MINNESOTA AMATEUR SPORTS COMMISSION

Finally, we believe that any receipts collected by the commission must be deposited in the state treasury. Minn. Stat. Section 16A.275 directs state agencies to deposit receipts in the state treasury, unless otherwise provided by law. Minn. Stat. Chapter 240A does not provide the commission with any authority to collect and deposit receipts outside the state treasury. It makes no difference that the commission may be collecting receipts in a fiduciary capacity on behalf of an independent corporation. If receipts are collected by a state agency, then the funds must be deposited in the state treasury. The fiduciary nature of the funds could be recognized by maintaining them in a separate account in the state treasury.

World Masters Games III 1993 Foundation

The World Masters Games III 1993 Foundation was created for raising funds to support sporting events, competition, and training as a means to foster national and international amateur sports competition. It received funds from persons who were traveling on athletic business and getting a discount by using the Amateur Sports Commission name. The commission collected foundation receipts and deposited them in a checking account which it maintained for the foundation. The commission also spent money from the account to promote the games.

The foundation was not independent from the commission. A commission member and commission employee served as two of the four foundation board members. One of these commission representatives also was the authorized signatory for the foundation's checking account. The foundation did not have any staff of its own. Commission staff currently are working to establish the foundation as an independent entity.

RECOMMENDATIONS

- The commission should avoid any role in the governance or fiscal responsibilities of independent nonprofit corporations. The commission should discontinue the practice of maintaining separate checking accounts and collecting receipts for nonprofit corporations.
- The commission should establish formal, written agreements with nonprofit corporations when exchanging services or offering support. The agreement should specify the support to be provided by the commission and the benefits to be offered by the corporation.

3. The commission did not deposit its gift receipts promptly.

The Minnesota Amateur Sports Commission receives gifts from private entities for amateur sports-related purposes. During fiscal year 1989, the commission collected \$44,365 in gifts. However, the staff did not deposit eight of the eleven gifts for 3-26 days. The amounts of the gifts ranged

MINNESOTA AMATEUR SPORTS COMMISSION

from \$500-\$9,000. Minn. Stat. Section 16A.275 states, "an agency shall deposit receipts totaling \$250 or more in the state treasury daily."

RECOMMENDATION

- The commission should deposit receipts promptly in accordance with Minn. Stat. Section 16A.275.

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M E M O R A N D U M

January 11, 1990

TO: James R. Nobles
Legislative Auditor

FR: Paul Erickson
Executive Director
Minnesota Amateur Sports Commission

RE: RESPONSE TO AUDIT REPORT

Listed below are the Minnesota Amateur Sports Commission's responses to the audit report conducted for the past two years ending June 30, 1989.

Response to Finding #1:

We accept that clarification is needed on who performs administrative services for the Minnesota Amateur Sports Commission (MASC). The MASC will take action on this matter and formally accept one of the three recommendations at its January and February 1990 Commission meetings.

Response to Finding #2:

The Commission accepts the finding and has already begun the process in developing a policy to address this issue. While our intent with both corporations has been to offer important start-up assistance on a short term basis, we accept the merit in establishing a more formal process. We have already begun the process of not having MASC members serve on affiliated corporation boards and to have staff not perform any fiscal responsibilities for same affiliates.

The MASC has also begun the process of establishing formal agreements with affiliate corporations where we intend to offer staff support.



MEMORANDUM - James R. Nobles
January 11, 1990
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Response to Finding #3:

We absolutely concur with the recommendation. However, it is important to note that we can deposit gift only with a completed gift acceptance form. At times, private donors were very late in completing and returning this form, while we held the check in our possession. In the future, we intend to not accept donated gifts without a completed gift acceptance form.

If you need additional information, please feel free to contact me at 785-5632. Thank you.

PDE:11

January 12, 1990

Mr. James R. Nobles
Legislative auditor
Office of the Legislative Auditor
Veterans Service Building
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for the opportunity to review the draft management letter based upon your financial and compliance audit of the Minnesota Amateur Sports Commission for the two years ended June 30, 1989. I appreciate the opportunity to respond for inclusion in your final audit report management letter. As you requested, our response will be limited to finding 1.

II. CURRENT FINDINGS AND RECOMMENDATIONS

FINDING 1

1. The commission has not established itself as an independent agency apart from the Department of Trade and Economic Development.

RECOMMENDATION

1. The commission should obtain its administrative services either by:
 - seeking legislation authorizing it to receive administrative services from DTED;
 - acquiring the resources necessary to provide for its own administrative seeds, or
 - seeking assistance from the Department of Finance.

RESPONSE

1. As reported in your audit findings, the department has from the inception of the Minnesota Amateur Sports Commission (MASC) provided complete accounting and payroll services and the commission has followed the department's administrative policies and procedures. The commission's executive director was initially hired by the department and the first biennial budget request for the commission's operating budget and bonding money for an amateur sports facility was included as part of the department's total budget request.

The 1987 Legislature passed authorizing language for the formal creation of the MASC, and appropriated bonding money for an amateur sports facility, as part of the bonding bill passed that session. This is somewhat unique in that authorizing language for the creation of a new entity has in most cases originated in a bill separate from the bonding bill. MASC operating

funds were appropriated from a special revenue fund and no funds were appropriated for administrative and financial operating costs.


There has admittedly been some confusion on the part of the department and the commission with respect to administrative responsibility as a result of the above and the manner in which the funds were appropriated. The bonding funds were appropriated directly to the department along with the administrative and financial responsibility required to properly administer and disburse the funds. The operating funds from the special revenue fund were, however, appropriated in a separate bill to the newly created MASC and did not include staff complement or an appropriation for personnel and fiscal support services.

When the department submitted its 1990-91 biennial budget, the department sought direction from the Department of Finance on whether or not to include the commission in the department's request. It was decided that the commission's request should be included and the commission's presentation of its appropriation request before the appropriate legislative committees was done as part of the department's presentation of all of its program appropriation requests. The Legislature again in 1989 appropriated the MASC operating funds to the commission and the bonding money to the department. The department has continued to provide the administrative support to the commission as the administrative responsibilities for the bonding money still remain with the department.

The actions the department will take in response to the recommendation is as follows:

- Request the Department of Finance to establish separate appropriation accounts from the department for the commission's operating budget;
- Notify the commission that it should seek the necessary resources from the legislature to provide for its own administrative needs; and
- Request temporary authority through the Department of Administration in order to continue providing administrative support until the commission receives the necessary resources to perform its own accounting and payroll services.

Sincerely,


David J. Speer
Commissioner