

COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE
FINANCIAL AUDIT
FOR THE THREE YEARS ENDED JUNE 30, 1993

OCTOBER 1993

Financial Audit Division
Office of the Legislative Auditor
State of Minnesota

93-55

COUNCIL ON AFFAIRS OF SPANISH SPEAKING PEOPLE

FINANCIAL AUDIT FOR THE THREE YEARS ENDED JUNE 30, 1993

Public Release Date: October 29, 1993

No. 93-55

OBJECTIVES:

- Test compliance with certain finance-related legal provisions.
- Review internal control structure , policies and procedures in the following categories:
- employee payroll expenditures, grant expenditures, professional/technical contracts and other purchased services, travel and per diem expenditures, and gift and grant revenues.

CONCLUSIONS:

We found six areas where the council did not comply with applicable legal provisions:

- The council overspent its appropriation authority for fiscal year 1992 and 1993.
- The council did not comply with certain professional/technical contract requirements.
- The council overpaid \$665 in travel expenditures.
- The council has not been compensating its members in accordance with applicable statutes.
- The council did not follow required procedures for workshops.
- The council has not adequately maintained its records and files.

We found ten areas where the internal control structure needed improvement:

- The council overspent its appropriation authority for fiscal years 1992 and 1993.
- The council paid three contractors more than allowable under the terms of their contracts.
- The council managed professional/technical contracts inappropriately.
- The council overpaid \$665 in travel expenditures.
- The council did not process some travel advances properly.
- The council made unreasonable and unallowable expenditures.
- The council did not comply with grant requirements.
- The council established improper fiscal relationships with two outside organizations.
- The council did not follow required procedures for workshops.
- The council has not adequately maintained its records and files.

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

FINANCIAL AUDIT DIVISION



STATE OF MINNESOTA

OFFICE OF THE LEGISLATIVE AUDITOR

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JAMES R. NOBLES, LEGISLATIVE AUDITOR

Senator Phil Riveness, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. Carlos Gallego, Chair
Council on Affairs of Spanish-Speaking People

Members of the Council on Affairs of Spanish-Speaking People

Mr. Roy Garza, Executive Director
Council on Affairs of Spanish-Speaking People

Audit Scope

We have conducted a financial related audit of the Council on Affairs of Spanish-Speaking People as of and for the three years ended June 30, 1993. Our audit was limited to only that portion of the State of Minnesota financial activities attributable to the transactions of the council, as discussed in the Introduction. We have also considered the internal control structure of the Council on Affairs of Spanish-Speaking People.

We performed this audit pursuant to a law passed during the 1993 legislative session. Laws of 1993, Chapter 369, Section 18 require the council to submit a financial related audit to the Legislature by November 15, 1993. This report is the result of the required audit.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial activities attributable to the transactions of the council are free of material misstatements.

As part of our consideration of the internal control structure, we performed tests of the council's compliance with certain provisions of laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

Scope Limitation

The council administered an AIDS Partnership Grant from the Minnesota Department of Health from 1989 through December 31, 1990. As seen in the Introduction section of this report, expenditures for the AIDS Partnership Grant totaled \$65,572 in fiscal year 1991, or about 6.7 percent of total financial activity for the three year audit period. As of January 1, 1991, the

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council transferred the responsibility for administering the AIDS grant to Chicanos Latinos Unidos En Servicio (CLUES). At that time, the council transferred the remaining grant balance of about \$3,000, as well as all supporting records, to CLUES. Representatives of CLUES advised the council that the records were presently in storage and would be difficult to access. As a result, we did not pursue these records further and could not satisfy ourselves as to the propriety of the council's AIDS Partnership expenditures during the audit period. We have, however, referred this issue to the grantor agency, the Department of Health, for further consideration.

Management Responsibilities

The management of the council is responsible for establishing and maintaining an internal control structure. This responsibility includes compliance with applicable laws, regulations, contracts, and grants. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- assets are safeguarded against loss from unauthorized use or disposition;
- transactions are executed in accordance with applicable legal and regulatory provisions, as well as management's authorization; and
- transactions are recorded properly on the statewide accounting system in accordance with applicable policies and procedures.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

Internal Control Structure

For purposes of this report, we have classified the significant internal control structure policies and procedures into the following categories:

- employee payroll expenditures,

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- grant expenditures,
- professional/technical contracts and other purchased services,
- travel and per diem expenditures, and
- gift and grant revenues.

For all of the internal control structure categories listed above, we obtained an understanding of the designs of relevant policies and procedures. We did not express an opinion on the internal control structure taken as a whole.

Conclusions

Our consideration of the internal control structure disclosed the conditions discussed in findings 1 through 6 and 8 through 11. We consider these to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data.

A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial activities being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We believe these reportable conditions constitute several material weaknesses:

- spending controls (finding 1),
- contracts (findings 2 and 3),
- travel (findings 4 and 5), and
- grants (finding 8).

The results of our tests indicated the following instance of noncompliance with the provisions referred to in the audit scope. The council did not comply with Minn. Stat. Section 257.0755 for one month during fiscal year 1991. The statute created an Ombudsperson for Families for each of the minority councils. The statute states that "[each ombudsperson] shall be in the unclassified service." However, the council originally hired the ombudsperson as a contractor. The contractor began working on June 1, 1992. Subsequently, the ombudsperson contract was denied, pursuant to the statute requiring that the ombudsperson be a state employee. The ombudsperson became an unclassified employee, as required, effective July 1, 1992.

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Material instances of noncompliance are failures to follow requirements, or violations of prohibitions, contained in statutes, regulations, contracts or grants that cause us to conclude that the aggregation of the misstatements resulting from those failures or violations is material to the financial activities being audited. The results of our tests of compliance disclosed the instances of material noncompliance noted in finding 1.

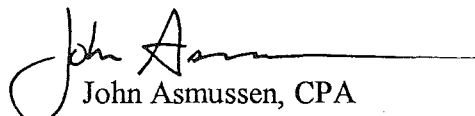
Except for the issues discussed in the preceding two paragraphs and in findings 3, 4, 7, 10, and 11, with respect to the items tested, the council complied, in all material respects, with the provisions referred to in the audit scope paragraphs. With respect to items not tested, nothing came to our attention that caused us to believe that the council had not complied, in all material respects, with those provisions.

As discussed in the Scope Limitation section of this letter, we have referred a copy of this report to the Department of Health for further consideration regarding the AIDS Partnership Grant. We have also referred a copy of this report to the Department of Human Services to help resolve the issues cited in findings 2 and 8. These findings question the propriety of certain foster care and adoption grant expenditures.

Pursuant to Minn. Stat. Section 3.975, findings 2, 4 and 6 have been referred to the Attorney General. The Attorney General has the responsibility to ensure the recovery of state funds and in fulfilling that role may negotiate the propriety of individual claims.

This report is intended for the information of the Legislative Audit Commission and management of the council. This restriction is not intended to limit the distribution of this report, which was released as a public document on October 29, 1993.


James R. Nobles
Legislative Auditor


John Asmussen, CPA
Deputy Legislative Auditor

End of Fieldwork: August 9, 1993

Report Signed On: October 22, 1993

Council on Affairs of Spanish-Speaking People

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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
Jeanine Leifeld, CPA	Audit Manager
Patrick Ryan	Auditor-In-Charge
Susan Rumpca, CPA	Auditor

Exit Conference

The findings and recommendations in this report were discussed with the following officials of the Council on Affairs of Spanish-Speaking People at an exit conference held on October 14, 1993:

Roy Garza	Executive Director
Diane Johnston	Office Manager
Carlos Gallego	Council Chairperson
Eustolio Benavides, III	Council Vice-Chair

Council on Affairs of Spanish-Speaking People

Introduction

The Council on Affairs of Spanish-Speaking People was established under the authority of Minn. Stat. Section 3.9223. The primary mission of the council is to promote the social, economic and political development of the Spanish-speaking community within the state. It also encourages involvement of Hispanics in the policy-making process of the state of Minnesota. The council consists of seven members, appointed by the governor. The council employs three full-time staff. Eduardo Wolle served as the executive director of the council until January 1993. The council appointed Roy Garza as the new executive director in May 1993.

Pursuant to statute, the Department of Administration provides the council with administrative services. These services include entering payroll, receipt, and disbursement transactions into the state's accounting systems. In addition to the revenues listed below, the council received state appropriations of \$190,000 in fiscal year 1991, \$213,000 in 1992, and \$220,000 in fiscal year 1993. The following is a summary of the council's financial activities for the three years ended June 30, 1993:

	<u>Year Ended June 30</u>		
	<u>1993</u>	<u>1992</u>	<u>1991</u>
Revenues	\$31,643	\$23,966	\$80,027
Expenditures:			
Payroll	\$158,197	\$148,507	\$144,077
Professional/Technical Contracts	26,338	12,833	43,647
Purchased Services	4,414	8,140	18,096
Travel and Per Diems	16,527	17,819	15,221
AIDS Partnership Grant	0	0	65,572
Other	<u>75,171</u>	<u>41,406</u>	<u>44,399</u>
Total Expenditures	\$280,647	\$228,705	\$331,010

Sources: Statewide Accounting System Estimated/Actual Receipts Reports and Managers Financial Reports as of the September Closing of fiscal years 1993, 1992, and 1991.

Current Findings and Recommendations

1. The council overspent its appropriation authority for fiscal years 1992 and 1993.

The council did not adequately monitor its budget during fiscal years 1992 and 1993. As a result, the council overspent its appropriation in both fiscal years. This is a violation of Minn. Stat. Section 10.17. The statute makes it unlawful to incur liabilities in excess of appropriated funds.

The council overspent its fiscal year 1992 appropriation by at least \$3,150 and its fiscal year 1993 appropriation by \$3,550. When it became apparent that the council could not pay all of its fiscal year 1992 liabilities, the council agreed to allow the Department of Administration to pay these obligations with fiscal year 1993 appropriation funds. In fiscal year 1993, the council notified the Department of Finance of the shortfall as required by state policy. With the permission of the Department of Finance, the council paid the remainder of its fiscal year 1993 liabilities from its fiscal year 1994 appropriation.

Several factors contributed to the appropriation overspending. We cited some of the factors in findings 2 and 4, concerning overpayments to contractors and employees and in finding 6, concerning the council's use of its appropriation for unreasonable and unallowable expenditures.

In addition, the council paid at least three invoices twice during the audit period. The overpayments totaled \$287. The council had received duplicate invoices for two of the expenditures because the council had not paid the original invoices promptly. The council subsequently paid both original and duplicate invoices. The council also double paid the lodging expense for a guest speaker. The council paid the hotel for the speaker's lodging and also reimbursed the speaker for lodging. From the documentation available, we could not determine whether the speaker had, in fact, paid the hotel for lodging before seeking reimbursement. It does not appear that the council received credits or refunds for any of these duplicate payments.

Finally, Department of Administration paid at least three invoices from accounts different than those specified by the council. The three invoices totaled \$712. For example, Administration paid one invoice from the appropriation account, even though the council had instructed Administration to pay the invoice from the ombudsperson grant. It does not appear that these coding errors were ever corrected.

Recommendations

- *The council should monitor expenditures to prevent exceeding appropriation limits in the future.*
- *The council should develop procedures to prevent duplicate payments.*
- *The council should contact vendors for refunds or credits on the three existing duplicate payments.*

Council on Affairs of Spanish-Speaking People

Recommendations (Continued)

- *The council should work with the Department of Administration to review and correct account coding errors.*

2. The council paid three contractors more than allowable under the terms of their contracts.

In three cases, the council paid contractor expenses above the amounts allowed within their contracts. In one case, the council paid a contractor to attend a training seminar in addition to the contractor's regular monthly fee. The contract, for a foster care and adoption specialist, specified compensation of \$1,443 per month. The contractor received \$1,443 in November 1992. However, the council also paid the contractor an additional \$866 for the hours the contractor attended a training seminar in November 1992. As discussed further in finding 8, neither the grant nor the contract allowed for these additional duties and travel costs.

In another case, the council paid a contractor \$72 more than the contract amount and provided unallowed per diems to the contractor. The council hired a contractor to video tape a conference. The contract specified compensation of \$1,300, which was to include the cost of equipment rental, tape stock, duplication, set up time, and travel time. However, the council also paid the contractor \$71.82 for mileage to and from the conference. The contract did not allow for these additional charges. The council also paid the same contractor three days of "per diems" at \$25 per day to tape a cable show. The council should have executed a formal contract, rather than informally paying per diems to the contractor.

Finally, the council paid \$33 for another contractor's parking costs. The contract did not acknowledge these additional costs. Therefore, the council had no obligation to pay them.

Recommendations

- *The council should review the three contracts and collect any overpayments made to contractors.*
- *The council should adhere to the terms specified in its contracts.*

3. The council managed professional/technical contracts inappropriately.

The council has inadequately controlled professional/technical contracts. The council has failed to adhere to contract beginning and ending dates and has not obtained the proper approvals for its contracts.

The council has not adequately monitored the beginning and ending dates on its contracts. The council did not encumber funds until after contractors began working for twelve of sixteen contracts tested. Minn. Stat. Section 16A.15, Subd. 3, specifies that an agency may not incur obligations until funds are encumbered. In one case, the council established a contract with one contractor from July 1, 1990 through December 31, 1990. The contract was not authorized and

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encumbered until December 24, 1990. However, the contractor billed for services beginning July 1, 1990. Another contractor received up to \$3,326 from the council before the contract was executed. A third contract contained conflicting beginning dates, so we could not determine if the council paid for services provided before the contract period.

The council also paid a contractor \$700 for services provided from November 15, 1990 through March 15, 1991, even though the contract period ended on January 31, 1991. From the documents on file, we could not determine how much the council paid the contractor for work performed after the contract period ended.

The council was unable to provide us with copies of final work products for at least six contracts which occurred during the audit period. In one case, the council paid a contractor \$966 to prepare a report on the council's activities but never received a work product. According to the former executive director, the council never received a report from the contractor. The former executive director stated that the contractor did research at the council office and also performed general office work. However, the office work was not specified in the contract. The council paid the contractor the entire contract amount even though it never received the final product.

Finally, the council is not approving contracts as required by law. We saw no evidence that a majority of the council members approved contracts, as Minn. Stat. Section 3.9223, Subd. 5 requires. The statute also requires the council chair and executive director to execute contracts. The council chair did not sign nine of the sixteen contracts tested.

Recommendations

- *The council should not allow contractors to begin work until contracts are properly approved and funds are encumbered.*
- *The council should retain copies of work products completed by contractors.*
- *The council should approve and the chair should sign all contracts, as required by Minn. Stat. Section 3.9223, Subd. 5.*

4. The council overpaid \$665 in travel expenditures.

The council did not always follow employee travel expense reimbursement guidelines. The council paid mileage at incorrect rates, reimbursed employees for meals when not in travel status, reimbursed employees twice for the same meal expenditures, and reimbursed employees for unallowable expenses.

The council reimbursed travel mileage at incorrect rates. In several instances, council staff claimed mileage reimbursement at the higher rate of \$.27 per mile, even though they exceeded the 50 mile personal car daily limit. Central Motor Pool regulations require employees to request a state vehicle when they anticipate traveling in excess of 50 miles per day. If no state vehicle is available or it is impractical for the employee to use a state car, Central Motor Pool will issue the employee a control number. The control number enables the employee to claim the higher \$.27 reimbursement rate. Without the control number, employees are only eligible for \$.21 per mile.

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The council overpaid employees a total of \$210 during the audit period by inappropriately using the higher rate.

The council incorrectly reimbursed employees and council members for meals when they were not in travel status. The council reimbursed both employees and council members for meals when they were within 35 miles of the council work station, or technically not in travel status. Pursuant to Department of Finance Policy and Procedure 06:05:15, employees must be in travel status to be eligible for meal reimbursements. Council members who receive per diems for attending council meetings are also not eligible for meal reimbursement unless they are in travel status. The council overpaid meals by a total of \$312.

Five council members also erroneously charged the expenses of their spouses on a council trip during fiscal year 1993. The council has successfully collected repayments from all but one of the council members. The remaining former member owes the council \$27.68.

In addition, the council paid meal expenses twice on some occasions. Employees charged meals to their hotel bill and claimed the same meals on their employee expense reports. Department of Finance travel policies forbid charging meals directly to hotel bills for this reason. In some cases, employees claimed meals when flying, while the airline served a meal. Employee meal reimbursement overpayments totaled \$64.

Finally, the council paid the former executive director for ineligible laundry charges and for having a private automobile towed. Department of Finance travel policies do not allow laundry reimbursement until after the employee has been in travel status for at least a week. In this case, the employee had been in travel status less than a week. In addition, the state has no provision for reimbursing an employee's private vehicle towing expenses. Overpayments for these unallowable expenditures totaled \$51.

Recommendations

- *The council should seek reimbursements from employees and council members who were reimbursed incorrectly.*
- *The council should monitor travel reimbursements for correct mileage rates in accordance with applicable guidelines established by the Department of Finance.*
- *The council should reimburse meal expenditures only when employees and council members are in travel status.*
- *The council should reimburse employees only for allowable expenditures.*

5. The council did not process some travel advances properly.

The council did not complete and process two employee travel advances correctly. In one case, the council provided a \$3,235 advance to a contractor of the council. The contractor had the

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advance for over three weeks before using it to purchase airline tickets for presenters at a council event. The council should use travel advances to provide funds for employees only. The council should have paid for the airline tickets through the state system and not have allowed the contractor an advance.

In another case, a council employee received an \$800 advance, including \$600 for meals, while on a five day trip to a conference. However, according to the employee's bargaining agreement, actual meal reimbursements for a five day trip would have totaled only \$204. The employee did not base the travel advance on a reasonable estimate of actual reimbursable expenses.

In addition, the employee did not repay the excess advance until over four months after returning from the trip. The employee ultimately repaid \$299 of the advance. The Department of Finance requires employees to submit expense reports and receipts to settle a travel advance within five working days after the last day of travel.

Finally, on the same expense report, the employee claimed reimbursement for the meals of another council employee. This is not allowed by the Department of Finance travel policy. Council employees should have submitted their own advance request and settlement documents.

Recommendation

- *The council should correctly complete and process employee travel advances.*

6. The council made unreasonable and unallowable expenditures.

The council paid for several unreasonable and questionable expenditures, including Christmas and farewell dinners, college tuition for an employee, and groceries and movie rentals at a retreat sponsored by the council.

The council paid for Christmas dinners in 1991 and 1992. Employees, contractors, and volunteers attended these holiday parties. The council spent a total of \$283 on the two events. In addition, the council paid for three farewell dinners for two former employees and a group of interns who had worked for the council. The total spent on the three dinners was \$192. Employee parties, including holiday parties, are specifically prohibited by the Department of Employee Relations Administrative Procedure 4.4 - Special Expense Policy.

The council reimbursed a former council employee \$500 for college courses during fiscal year 1992. Several of these courses, such as Introduction to Literature and History of Religions, do not appear to be work related. As a basis for providing the reimbursement, the former executive director said that the employee "demonstrated to be one of these role models for Hispanic youth." However, we question the appropriateness of reimbursing these courses.

Finally, the council reimbursed the former executive director \$42.56 for groceries at a retreat sponsored by the council. The council had already paid the retreat center \$3,640 for meals and lodging while staying at the facility. We question whether it was appropriate to purchase groceries when meals were already provided and paid for using state funds. The former executive direc-

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tor claimed an additional \$24.26 for movie rentals and other refreshments for the retreat. We were unable to determine the justification for this expense from the documents available.

Recommendation

- *The council should develop guidelines to ensure that funds are expended in a prudent and reasonable manner.*

7. The council has not been compensating its members in accordance with applicable statutes.

The council has continued to compensate its council members at the wrong per diem rate. Pursuant to Minn. Stat. Section 15.059, Subd. 3, "members of advisory councils and committees must be compensated at the rate of \$55 per day spent on council or committee activities." The legislature amended this law from the previous rate of \$48 per day in 1990. However, the council has continued to pay its members at the \$48 rate. As a result, we estimate that the council underpaid its members by approximately \$900 during the audit period.

Recommendation

- *The council should compensate its members in accordance with the statutory per diem rate.*

8. The council did not comply with certain grant requirements.

The council does not follow proper procedures for some of its grants. It spent some grant funds on items not included as allowable expenditures in the grant agreements. It also combined certain grant funds and used them for other purposes without written grantor approval.

The council did not obtain written grantor approval for spending grant funds differently than the grant budget allowed. For example, the council had an interagency agreement with the Department of Human Services for foster care and adoption. The council set up a contract with a foster care/adoption trainer. The council paid \$2,740 in training registration fees, air fare, hotels, and meals when the contractor attended a training seminar. The \$24,000 grant budget did not include allowances for training.

For another \$5,000 agreement with the Department of Human Services, the contractor incurred virtually all travel costs after the grant period had ended. The grant agreement began April 27, 1992 and was to end on June 30, 1992. \$520 of the travel costs occurred after June 30.

In another case, the council used \$1,000 of a \$10,000 grant to pay council members' travel expenses. The grant did not allow the council to use the funds in this manner.

Finally, the council combined remaining portions of three grants into a leadership and community development account. In addition, the council combined portions of two other grants into a leadership training account. The executive director discussed combining the funds with the

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various grantor agencies. However, the council could not provide any written evidence that the grantors had approved using the grant funds for these purposes.

Recommendation

- *The council should obtain grantor approval in writing prior to using grant funds for purposes not specifically cited in grant agreements and for time frames not covered by the grant agreement.*

9. The council established improper fiscal relationships with two outside organizations.

The council improperly assumed the role of a fiscal agent for two individuals who received grants from private foundations. The council could not provide copies of the original grant agreements for either of these arrangements.

One individual received a \$10,000 grant from a private foundation through the council. According to the former executive director, the council agreed to accept the grant funds so it could pass the money on to the individual. Although the council had a contract with the person, it did not take any responsibility for monitoring the work of the contractor. The council paid the individual the \$10,000 without requiring the contractor to show evidence that the work was completed. For example, the council paid the individual \$4,000 for office set up and equipment. However, the contractor did not provide detailed documentation to support the payment. We were unable to determine whether, in fact, the contractor purchased the equipment and, if so, where it is now. The council also paid this contractor the final \$100 of the contract well after the contract period, without support for any additional hours worked.

The council also served as a fiscal agent for another individual who received a \$5,246 grant from a private foundation. The council set up a contract with the individual to transfer the grant funds. We do not believe it is appropriate for the council to take on the role of a fiscal agent. Acting as a fiscal agent provides no benefit to the state and the council could incur a liability if the parties involved fail to perform the grant obligations.

Recommendation

- *The council should avoid entering into fiscal agent relationships.*

10. The council did not follow required procedures for workshops.

The council did not properly match revenues and expenditures for a workshop held in August 1992. The council estimated the workshop cost to be approximately \$540. The council paid the workshop expenses from the General Fund but deposited the registration fees into the Gift Fund. Department of Finance Policy and Procedure 06:06:10 and Minn. Stat. Section 16A.721 require agencies to set up an account in the Special Revenue Fund to account for workshop revenues and expenditures. The policy allows the Department of Finance to transfer any remaining unencumbered balance of the account to the General Fund at the end of the fiscal year in which the workshop occurred. Because the council deposited workshop fees into the Gift Fund, but paid work-

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shop expenditures from the General Fund, the General Fund paid more than its share of the workshop costs.

Recommendations

- *The council should deposit workshop revenues and pay related expenditures in accordance with Department of Finance Policy and Procedure 06:06:10.*
- *The council should work with the Department of Finance to reimburse the General Fund by transferring revenues relating to the workshop from the Gift Fund to the General Fund.*

11. The council has not adequately maintained its records and files.

The council does have an adequate record retention system. The council completed a records retention schedule in 1979. However, it has not strictly followed that schedule. During our audit, many records were not readily available. For example, the council could not locate copies of grant agreements for four grants the council received. For these grants, we could not determine if the council used the grant funds according to the grant agreements, or if the council complied with the reporting requirements.

The council could not provide copies of the reports required by the two interagency agreements with the Department of Human Services. Although the agreements called for ten reports, the council could only locate two of them. It was therefore unclear whether the council had prepared and sent the required reports.

Pursuant to Minn. Stat. Section 15.17, the council is responsible for its records. The council should only dispose of records through the records disposal process cited in Minn. Stat. Section 138.17.

Recommendation

- *The council should revise its records retention schedule and implement procedures to ensure all financial records are maintained.*



STATE OF MINNESOTA

SPANISH SPEAKING AFFAIRS COUNCIL

506 RICE STREET, ST. PAUL, MN 55103

296-9587

October 15, 1993

James R. Nobles
Legislative Auditor
OFFICE OF THE LEGISLATIVE AUDITOR
Centennial Building
St. Paul, MN 55155

Dear Mr. Nobles:

This will serve as a response to the October 8, 1993 legislative audit conducted by your office on the Spanish Speaking Affairs Council.

First, I would like to express my appreciation to your staff; John Asmussen, Jeanine Leifeld, Patrick Ryan, and Susan Rumpca on the manner in which they conducted the audit. They were superb.

Second, I want to express my outrage at how this office was used for personal gain and allowed to go on for three years by the Department of Administration, Fiscal Services Division.

Finally, I want to reiterate that the audit of the Council on Affairs of Spanish-Speaking People was as of and for the three years ended on June 30, 1993. I started as Executive Director on May 24, 1993. This is relevant because it means the responses are from the point of view of someone who wasn't on staff when the irregularities occurred. With this in mind, I offer the following comments:

1. **The council overspent its appropriation authority for fiscal years 1992 and 1993.**

Our data confirms these overexpenditures which, in our opinion, were the result of incompetency and lack of attention to detail. However, I want to assure you that we have taken several

steps to prevent this from happening during my tenure as Executive Director. First, I have assigned the budget controlling to Diane Johnston, Office Manager, with the authority to refuse any expenditures if a particular line item cannot support the expenditures. Moreover, Diane manually monitors expenditures in consultation with the Department of Administration, Fiscal Services, Division. For instance, she meets with Reinhardt Ohmann, Fiscal Services Division, every month to review the status of the budget and make any necessary modifications. Finally, her and I meet monthly to review the overall budget and make mid-year corrections, if necessary.

Regarding your recommendations to contact vendors for refunds or credits on their existing duplicate payments, we will make every effort to carry out this recommendation.

2. **The council paid three contractors more than allowable under the terms of their contracts.**

Clearly, this fiasco is inexcusable. It should have never happened with proper management. For our part, we will not enter into any contracts unless the proper funds are encumbered and funds are appropriated. Also, should we enter into any contracts, we have a policy which requires quarterly reports and a copy of the product contracted for.

3. **The council managed professional/technical contracts inappropriately.**

We agree with this finding and our response is the same as number 2 above, except to add that our new policy is to have the council review and approve all contracts regardless of amount.

4. The council overpaid \$665 in travel expenditures.

Our data supports this finding. Thus, we do not contest it. However, we have instituted a new policy which urges council members to drive, as a group, in a State-owned van to meetings held in Greater Minnesota. Also, staff must use a State car for all Out-State travel. Finally, the council no longer stays overnight prior to council meetings. These actions combined should prevent the misuse of travel funds.

We do, however, urge you to take action to recover the inappropriate use of State funds by the former Executive Director for laundry charges and having a private automobile towed.

5. The council did not process some travel advances properly.

Our records confirm this finding. Moreover, we are troubled by the travel expenditures made by our former Executive Director to pay for travel expense to a conference for a non-council employee. To prevent these mistakes in the future, our new policy is to pay for air travel using the State system. Also, we don't allow for contractor advances. Finally, it seems to us that the Department of Administration, Fiscal Services Division, should have caught this error.

6. The council made unreasonable and unallowable expenditures.

Agreed. We strongly recommend your office refer this matter to the proper State agency to pursue reimbursement of these inappropriate expenditures. Our new policy is to first get approval by the Department of Administration, Fiscal Services Division, for such expenditures.

- 7. The council has not been compensating its members in accordance with applicable statutes.**

While this is accurate, the reason council members were paid \$48.00 vs. \$55.00 was because the Department of Administration, Fiscal Services Division, informed us that the council had taken action asking that it be paid at the lower rate of \$48.00. However, this has now been corrected.

- 8. The council did not comply with certain grant requirements.**

Regarding the foster care and adoption grant, the funds were used differently than what the grant allowed. Why the previous administration did so is a mystery to us.

With regards to combining grants into a leadership and community development grant, this was done with the over-the-phone approval of grantors. In fact, a letter documenting these discussions was sent to the Department of Administration, Fiscal Services Division when the request to combine the grants was initially made. For example, attached is a letter from McKnight Foundation permitting the use of their grant for leadership related articles.

- 9. The council established improper fiscal relationships with two outside organizations.**

It also appears to us that this relationship was not only improper but was poorly managed. Clearly, there was no accountability for the two grants in question. Our new policy is to avoid entering into fiscal agent relationships.

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- 10. The council did not follow required procedures for workshops.**

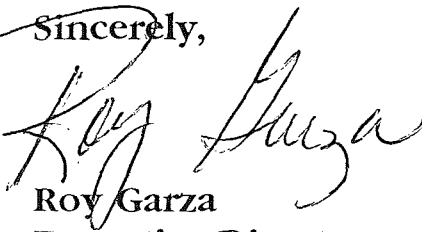
Agreed. Nonetheless, we will through effective management and periodic consultation with the Department of Finance prevent this from occurring again.

- 11. The council has not adequately maintained its records and files.**

We agree. However, as of June of 1993 we began using the Minnesota General Records Retention Schedule For State Agencies. We will also revise the current Minnesota Records Retention Schedule for the Spanish Speaking Affairs Council dated October of 1979. We will develop the schedule with the assistance of the Department of Administration, Public Information/Policy Analysis Division, Richard E. Manthey, 296-6879.

I hope this is helpful. Should you have any questions or concerns, please call.

Sincerely,



Roy Garza
Executive Director
RG/dj

attachment

CC: Council Members
Jeanine Leifeld
Diane Johnston