



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of Human Services
Developmental Disabilities Council**

July 1, 1998 to April 30, 2000

**Richard L. Fair
State Auditor**

LEGISLATIVE SERVICES
COMMISSION



New Jersey State Legislature

OFFICE OF LEGISLATIVE SERVICES

OFFICE OF THE STATE AUDITOR

125 SOUTH WARREN STREET

PO BOX 067

TRENTON NJ 08625-0067

RICHARD L. FAIR
State Auditor
(609) 292-3700
FAX (609) 633-0834

SENATE

BYRON M. BAER
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GERALD CARDINALE
RICHARD J. CODEY
DONALD T. DiFRANCESCO
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NIA H. GILL
LORETTA WEINBERG

ALBERT PORRONI

Executive Director

(609) 292-4625

The Honorable Christine Todd Whitman
Governor of New Jersey

The Honorable Donald T. DiFrancesco
President of the Senate

The Honorable Jack Collins
Speaker of the General Assembly

Mr. Albert Porroni
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the Department of Human Services, Developmental Disabilities Council for the period July 1, 1998 to April 30, 2000.

If you would like a personal briefing, please call me at (609) 292-3700.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter M. Guilfoyle".

Peter M. Guilfoyle
Assistant State Auditor

July 26, 2000

Table of Contents

	Page
Scope	1
Objectives	1
Methodology	1
Conclusions	2
Findings and Recommendations	
Internal Controls - Documentation	3
Policies and Procedures - Acceptable Expenditures	6
Compliance with Purchasing Regulations	8
Operational Oversight	9
Compensatory Leave Time for Council Employees	11
Consultants/Employees	12
Appendix	
Auditee's Response	14

Department of Human Services Developmental Disabilities Council

Scope

We have completed an audit of Department of Human Services, New Jersey Developmental Disabilities Council (DDC) for the period July 1, 1998 to April 30, 2000. Our audit included financial activities accounted for in the state's General Fund.

Annual expenditures of the New Jersey Developmental Disabilities Council are \$ 1.1 million excluding grant programs. Responsibilities of the New Jersey Developmental Disabilities Council as enumerated in New Jersey Public Law 1979, Chapter 105 included: reviewing the needs and problems of the developmentally disabled, promoting public awareness, encouraging self-advocacy, and recommending program and construction priorities. Another responsibility is to foster cooperation and communication among other agencies providing services to the developmentally disabled.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, federal regulations, and policies of the agency. Provisions that we considered significant were documented and compliance with

those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample transactions were judgmentally selected.

Conclusions

We found that the financial transactions included in our testing were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses and matters of compliance with laws and regulations meriting management's attention. We have also commented on the need for the council to increase its oversight of the day-to-day operations.

The council should improve internal controls in the areas of supporting documentation and proper approval of expenditures.

Internal Controls - Documentation

It is management's responsibility to establish and maintain an adequate system of internal controls. Good internal controls are essential in achieving the proper conduct of government business with full accountability for the resources made available. They also facilitate the achievement of management objectives by serving as checks and balances against undesired actions. Our review of expenditure transactions found that the council has not established an adequate internal control system. We noted that the council did not always receive or retain adequate supporting documentation for expenditures. In addition, there were not always required approvals for payments. These weaknesses indicate the need to improve the control environment at the council and for management to place a stronger emphasis on designing effective internal controls to reduce the possibility of erroneous or irregular transactions taking place and not being detected.

Certain supporting documentation for training seminar hotel charges were routinely discarded after one year due to the belief that the documents were no longer required. The discarded documentation included copies of the council's agreements with the hotels specifying terms and prices for the venue. This violates a state statute which mandates a three to seven year retention period for fiscal documents. In addition, we noted that other documentation to support activity expenditures were not obtained or prepared. Such documentation included listings of people attending the events and/or staying at the hotels, and their roles in the events. Without such documentation, it is difficult to determine if payments were accurate and allowable. The following examples were noted.

- The council did not have copies of the agreements with the hotel for two payments totaling

approximately \$17,000 for accommodations in connection with weekend training seminars. Terms, prices for the venue, and listings of people staying at the hotel and their roles in the seminars could not be substantiated.

- A \$9,498 invoice for a final session's hotel accommodations and graduation banquet cited the presence of 137 guests at the banquet. Beyond the 35 participants at the session, there was no list of attendees to validate the guest count and identify their role at the event. Another payment for \$3,328 for dinner for 100 people at the year-end celebration for Project Take Charge also lacked a list of attendees. In addition, there was no hotel agreement on file with detail information to verify the accuracy of the charges.
- Reimbursements made by the DDC for expenses incurred by regional family support councils often lacked adequate supporting documentation for the costs claimed. Examples of such reimbursements were: 1) \$263 for travel, postage, telephone and other miscellaneous expenses which was only supported by an informal handwritten recap of the mileage being claimed, 2) \$110 for unsupported child care expenses, and 3) \$981 reimbursed to an individual with only the following notation on the face of the state payment voucher, "Replace Money to bank account".
- The council had created a generic invoice which was used by some of its vendors rather than an actual vendor's invoice; however, the generic form was often not accompanied by adequate documentation to support the charges. Examples of charges paid using the generic form were \$250 for a personal care assistant to provide physical assistance to disabled participants at a training seminar and \$300 for a disc jockey at a year-end celebration for one of the council's training courses.

- In some instances the fiscal officer would be the only one to approve payments even though there was an agreement with the Department of the Treasury that a second authorized approval would be required and documented. Payments included four hotel invoices totaling \$35,630, \$250 for a personal care assistant, and \$300 for disc jockey services.
- An employee approved their own travel expense vouchers for \$644. The travel voucher should have been approved by their supervisor or by another council employee designated by the council to approve travel vouchers.

Recommendation

We recommend that the council improve their system of internal controls by establishing procedures that require the submission and retention of adequate support documentation to justify the validity and propriety of expenditures. We also recommend that the council adhere to Treasury approval requirements with either the Executive Director or Deputy Executive Director of the council providing the second authorized approval signature after reviewing the payment documents processed by the fiscal officer. Finally, travel expenses should be approved by the supervisor or designated employee.

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Policies and Procedures Acceptable Expenditures

The council should develop guidelines to define what constitutes an acceptable expenditure.

The council did not have guidelines for what constitutes acceptable travel or other expenditures. Such policies should address what are allowable activities, who is eligible, establish cost limits for the various categories of expense, and require documentation to support the expenditure.

The council's enabling legislation permits the payment of council members' necessary expenses incurred in the performance of their duties; however, we noted that the council also paid travel, hotel and meal expenses for members of the general public attending their seminars and other activities. Since such expenses would not be governed under state travel regulations, the council needs to establish guidelines. Our tests indicated that the agency paid for travel expenses submitted by the attending public without prior formal approval or without restrictions to the costs incurred. We also noted other expenditures that either did not appear to be reasonable or were not allowed under the federal Office of Management and Budget Circular A-87 (OMB-A87) which defines allowable expenditures for federal grants, New Jersey Department of the Treasury Circular Letter 98-03 governing travel expenses, and council policies. Such expenditures included alcoholic beverages, charitable donations, and entertainment.

For example, two disabled members of the general public attending a council activity were transported from their respective homes at a cost of \$2,332. The mileage rate charged by the company was \$6 per mile whereas the cost of other similar trips for transporting disabled attendees by a different vendor was only \$2 per mile.

The council also paid travel expenses of \$1,254 for seven trips taken by a council member via taxi service. Only one charge of \$231 for transporting the

member to a council meeting could be documented as relating to business of the council.

In April 1998, eight self-advocates accompanied council members to a national conference in Anchorage, Alaska. Both federal and state regulations allow travel reimbursement for council members and employees, but make no provision for other individuals.

In another case, the council paid \$6,500 for a live musical performance at its statewide disabilities convention. Entertainment expenses are not permitted under OMB-A87.

Finally, the council rented a combination television/video cassette recorder for \$200 per day for a seminar even though the council already owned one.

Recommendation

We recommend that the council establish written policies and procedures to govern the expenditure process including provisions to define what constitutes an allowable program expense, cost limits, eligibility requirements, etc. The council should ensure that all such policies and procedures drafted by the council are in accordance with all applicable federal and state regulations. A specific issue that should be addressed is whether travel expenses for attendees from the general public should be paid by the council and at what rates. We further recommend that the DDC exercise greater oversight over the expenditures made by council staff by subjecting them to periodic review and approval.

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Compliance with Purchasing Regulations

The council should develop written policies and procedures to govern its purchasing activities.

During our review of selected expenditure transactions, we found that the council did not have adequate written policies and procedures to establish proper guidelines and controls over purchasing activities. Furthermore, we noted that the council had acquired goods and services without following state purchasing procedures. The Department of the Treasury's Circular Letter (CL) 98-18-DP required that agencies first purchase goods or services from state contract vendors or state operated service bureaus. If items were not available through these sources, the circular letter established requirements to obtain competitive quotations from at least three vendors.

During fiscal year 1999, the council expended \$21,000 for photographic services and \$12,000 for business stationary and other printed specialty items from non-contract vendors even though there were state contracts available, as well as an in-house print shop run by the Department of the Treasury. The agency should have attempted to procure these services and items from approved sources before resorting to a non-contract vendor. In addition to photographic and printing services, the council expended \$23,000 for personal care assistants and employed three consultants without obtaining the required three quotations. Two of the consultants received approximately \$8,000 each, while the third consultant's payments exceeded \$15,000.

It was also noted that when the council used state contracts they would not always comply with the requirements of the Purchase Bureau's Notice of Award (NOA) or would modify the terms of the contract. For example, the council conducts training seminars for developmentally disabled New Jerseyans at various hotels throughout the state. During our audit period, the council spent \$230,000 for these services. The council was required to obtain quotes from three hotels on the approved

vendor list for the geographic area where the event was to be held and select the hotel offering the best price for the agency's conference specifications. Our review of the hotel invoices disclosed that the council's staff would select a hotel that they wanted to use from the list and did not engage in competitive bidding.

In another case, a printing contract had been established for the council's publications. Total payments under this contract amounted to \$156,000. A test transaction found that the vendor was paid \$14,392 for a printing run of one publication. This was nearly 50 percent more than the standard contract price of \$9,820 because the council wanted a different color process than provided for in the contract.

Recommendation

We recommend that the council develop adequate written policies and procedures to govern the purchasing process and ensure that such policies and procedures are in accordance with applicable federal and state regulations.



Operational Oversight

The DDC should increase its oversight of operations.

The council consists of 30 members: 18 public members and 12 ex-officio members from various state agencies. The council employs individuals as it deems necessary to direct and conduct the day-to-day operations. Currently, the board does not formally review or approve detail expenditures, neither before or after the fact. Since the DDC is not subject to oversight by the Department of Human Services, internal controls could be improved if the board provided more fiscal oversight. This does not mean that they need to approve every invoice prior to payment, but there should be criteria established where the board is informed about certain expenditures. For instance, the board could approve detail budgets for certain activities and then receive follow-up reports on actual spending. This would permit the

council to increase its oversight of the operation of its staff and programs.

We further noted that during the last year, April 1999 through March 2000, the council could not conduct official business at four of its six meetings due to the lack of a quorum. As a result, administrative decisions such as approving budgets, personnel actions, or new initiatives were delayed or not acted upon. This forced the council staff to postpone new initiatives or to go forward without formal approval.

In addition, N.J.S.A. 30:1AA-9 stipulates, “The council shall report annually, not later than July 1, to the Governor and the Legislature as to its activities and including any recommendations for administrative and legislative action it deems appropriate.” The council has not issued an annual report since 1990.

Recommendation

We recommend that the council develop and implement a plan to provide effective oversight over its operations and increase attendance at council meetings. The plan should include a process to review and monitor staff activities, and accommodate council members’ needs to encourage their active participation. If members do not wish to participate, the removal and replacement of public council members should be initiated in accordance with the council’s by-laws.

We further recommend that the council issue an annual report in order to keep the legislature and the governor better informed of their objectives and accomplishments.

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Compensatory Leave Time for Council Employees

The council should establish a compensatory leave time policy.

Although the council is an agency located in-but-not-of the Department of Human Services, the department acts as the Appointing Authority for payroll and personnel actions. The department has delegated this authority at varying times to the Division of Developmental Disabilities. We found that the council had not established a compensatory leave time policy for its employees. Such a policy would establish who can earn compensatory time as well as when and how much they can earn and accumulate.

We noted the following council maintained internal records of compensatory leave time that were not reported on the official records submitted to the appointing authority. As a result, the official records reported that employees were at work when they were not. The leave not reflected on the official record as a result of compensatory leave time usage ranged from one day to eight weeks. Due to a change in the division's time reporting procedures as of January 2000, the council's compensatory leave time is now reflected on the official records. However, the internal compensatory leave time balances were moved to the official records without verification of their accuracy.

Certain employees of the council were earning significant compensatory leave time during weekend council activities. Since there was no policy addressing when compensatory leave time could be earned, we found employees received as much as 11 hours per day of compensatory leave time in addition to compensatory leave time for the actual hours of the formal activities. These hours were earned during social hours and sleep time on overnight stays when the employees were on call. We also noted that employees routinely earned compensatory leave time for working through lunch.

The council's internal records indicated that two executive management employees were earning, accumulating, and using compensatory leave time. In accordance with N.J.A.C. 4A:3-5.3(d)2 and as confirmed by Department of Personnel officials, these employees were not entitled to accumulate compensatory leave time beyond the same pay period. We further noted that the timesheets for these employees often had no supervisory approval.

Recommendation

The council should establish a policy governing the awarding of compensatory leave time. This policy should be consistent with state law as required by federal regulation, and the provisions of Title 11, Civil Service as required by the council's enabling legislation. In addition, the division should verify the accuracy of the internal compensatory leave time balances moved to the official records. We also recommend the accumulation of compensatory leave time for executive management be discontinued.



Consultants/Employees

The council should properly classify the individuals it employs.

During the period 1997 through 1999, the council employed five consultants to supplement their staff since additional authorized positions were not available. Although the individuals were paid as vendors or grantees, it appears that they were in effect employees of the council based upon the following conditions.

Individuals were paid an hourly rate. Supporting the payment to these individuals was either a state agency timesheet or statement of hours worked. They performed the work themselves and the council established the methods used to accomplish the work. Their product was an integral part of the council activities. Therefore, the work performed by the individuals was united within the operation showing they were subject to direction and control of the council. The individuals performed their duties

on the council's premises, who provided the resources to fulfill their assignments. Furthermore, some individuals were devoting full time to council activities thereby restricting them from performing other gainful work.

The conclusion that these individuals were employees was further supported by the fact that in fiscal year 2000 the five consultants officially became state employees when positions were created. Paying employees as consultants is in violation with federal and state income tax, unemployment tax, and disability tax regulations. As such, the state may be subject to additional penalties and fines.

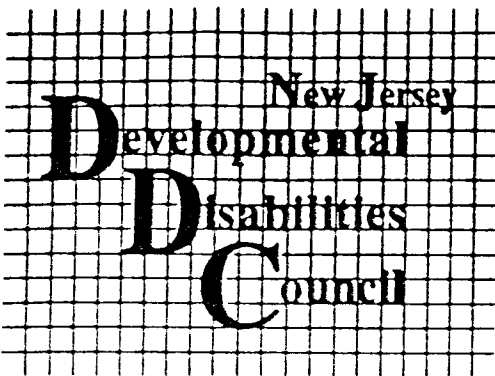
Recommendation

The council should establish policies governing the hiring of staff and obtaining consulting services. This policy should be consistent with state and federal laws and should avoid the commingling of vendors, employees, and grantees.

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Appendix

Auditee's Response



Francis L. Nardi
Chairman

Serge Sobolevitch, *Ph.D.*
Vice-Chairman

Ethan B. Ellis
Executive Director

Richard L. Fair, State Auditor
Office of the State Auditor, Office of Legislative Services
PO Box 067
Trenton, N.J. 08625

Dear Mr. Fair:

As Chairperson of the N.J. Developmental Disabilities Council {through 6/30/2000}, I am sending to you this response regarding the final audit of the Council.

Thank you for the opportunity to comment on the audit report of the NJ Developmental Disabilities Council.

The following account is my recollection of how these responses to the audit were acted upon.

The Council staff prepared this response. A presentation of the draft of this response was made to the Council in Executive Session on June 29, 2000. All members were not present and some members did not stay for the entire session. In two instances, designees were in attendance for the members and were told by the Chair that they could not vote.

Because of the confidentiality of the draft of the audit report I made a decision not to send it out to the Council members thus the members present had not seen the audit report prior to the presentation of the staff's draft response. During the latter part of the meeting the members and designees present had the opportunity to review the draft audit report.

At that meeting Council members offered suggestions for language reflecting an affirmative spirit of compliance. The response includes those changes in language.

No formal action of the Council was taken. One member requested to be on record as formally disagreeing with the response.

As a last appointment of my chairmanship I appointed a committee to work on the audit recommendations and to set in place the necessary policies and procedures to be set forth by the Council in Accordance with State and Federal regulations.

Although my tenure as Chairman of the Council ended on June 30, 2000 I am deeply invested in the Council serving the citizens of New Jersey. It is my strong hope issues raised in the audit will be satisfactorily resolved in the near future and the Council will remain a strong force.

Francis L. Nardi,
Chairman
NJ DD Council through June 30, 2000

The N.J. Developmental Disabilities Council's Response to the Confidential Draft Audit Report of the State Auditor, Office of Legislative Services

Scope

The audit report puts the Council's annual expenditures at \$1.1 million.

In Response . . .

- The Council's annual budget is \$1.9 million. \$1.43 million comes from a federal formula grant; the balance consists of a \$306,000 state appropriation plus other state match. According to federal statute, the council has two federal fiscal years to encumber each annual grant and a third year to liquidate the funds, so expenditures may vary from one fiscal year to another. Total expenditures for the period 10/98 to 9/99 were \$1,714,313.

The audit report states that the Council was created by executive order in 1971 and established pursuant to N.J. Public Law 1979, Chapter 105

In Response . . .

- The Council was actually established by The 1970 Amendments to the Developmental Disabilities Services and Facilities Construction Act (PL 91-517) which mandated the creation of a Council in each state as a condition of receiving federal funding under the Act. The executive orders dating back to 1971 referred to in the audit report merely implemented that federal statute and its subsequent amendments in New Jersey. The Council was later established in state law when congress, at the suggestion of the Reagan Administration, introduced legislation that would have repealed the council's federal mandate. That legislation never passed and the state statute has not been amended to reflect further amendments to the federal law.

The audit report's statement of the Council's responsibilities is out of date and does not mention the primary activities of systemic change and advocacy (see PL 104-183, Section 124.)

Internal Controls : Documentation

The audit report notes the absence of documentation for two hotel payments totaling approximately \$17,000.

In Response . . .

- Both payments were made when Project Take Charge was contracted out. The contractor's administrative coordinator maintained the documentation in question in for one year and then discarded it. This practice was stopped when the Council moved the project in-house. Files are now maintained in accordance with state regulations and attendance records for each event are now kept.

The audit report questions a hotel invoice for \$9,498 for the graduation of a Partners in Policy class, which cited the presence of 137 guests at a banquet for 35 graduates and one for \$3,328 for a reunion dinner for 100 Projects Take Charge graduates.

In Response . . .

- Council members, state legislators and the family members of the graduating class are invited to and frequently attend the Partners in Policymaking graduation ceremony. This event honors the significant investment of time and effort of the participants over the previous eight months. The Project Take Charge Reunion brings together former graduates of the project to recognize their ongoing commitment to advocacy and self-growth. Both celebrations not only recognize the substantial accomplishments of the graduates, they also provide recognition from others for those accomplishments, which has often been denied them simply because of their disabilities. Such experiences are the core of what the Council is mandated to do to prepare people with disabilities to participate in the lives of their communities.
- As a result of the audit, attendance records, along with the role of each attendee, i.e., graduate, family member, trainer, Council member, etc. will be maintained for both events henceforth.
- The Council developed the generic invoice as a method of documenting the services rendered or being reimbursed. Use of this form has ceased and all service providers now submit personal invoices for services rendered or receipts for reimbursement.
- The project coordinators who directly supervised the services rendered and one of the authorized individuals signed the payment approvals cited. All future payment approvals will only be signed by authorized individuals after confirmation, in the form of initials, by the responsible staff person that services were received.

Response to Recommendations

The Council will comply with these and other recommendations made in this report by developing and maintaining a written and online policies and procedures manual (henceforth referred to as the online manual) accessible to all Council and staff members which will include, among other items, requirements for the submission and retention of adequate support documentation for expenditures. The applicable sections of the manual will also be distributed to Monday Morning facilitators and the officers of the Regional Family Support Councils. The online manual will be developed by Council staff and reviewed and approved by its members.

The executive or deputy director will review and approve in writing all payment documents processed by the fiscal officer. During an absence of either executive officer for ten working days or more, the chairperson of the council will review and approve in writing any payment documents reimbursing the executive officer present.

Policies and Procedures: Acceptable Expenditures

The audit report makes the blanket statement that the Council does not have guidelines for what constitutes acceptable travel and other expenditures.

In Response . . .

- Council members and staff have been and are reimbursed for travel expenses in accordance with Treasury guidelines and federal law, except that members are not reimbursed for wages lost or the equivalent if a member is unemployed while attending Council functions as the federal statute permits. However, the audit does reveal the need to expand these guidelines to address a number of areas they do not currently cover.

The audit report questions the cost of transporting two people with disabilities from their homes to a Council-sponsored training event at a per-mile cost of \$6, while other trainees were transported to the same event for only \$2 a mile by a different vendor.

In Response . . .

- The cost and availability of transportation for people with disabilities varies widely throughout the state. The extent of the person's disability may also impact the cost. The Council has actively developed creative transportation options and works with participants individually to come up with cost-effective solutions. Guidelines on reimbursement and allowable expenditures will be developed, but individual needs must continue to guide the amounts allowed to provide this accommodation in accordance with the requirements of the law.

The audit questions the payment of transportation for a Council member to attend seven meetings, only one of which was documented as a council meeting.

In Response . . .

- The member cited was appointed by the Council chairperson as its legally mandated representative to another state body whose six meetings he attended and for which his expenses were reimbursed by the Council. Executive staff verified documentation of the meetings and his transportation to them before reimbursement was authorized. That documentation was available, but not requested by the auditors.

The audit questions travel reimbursements for self-advocates, Council members and support persons to attend an international self-advocacy conference in Anchorage, Alaska, in April 1998.

In Response . . .

- The full Council specifically approved the expenditure of no more than \$20,000 for this activity at its January 1998, meeting. The self-advocates who were not Council members had been invited to present at the conference because of their participation in a nationally recognized project sponsored by the Council. The expenditures questioned by the auditors had the prior approval of both DHS and the Treasury Department.

The audit questions the \$200 rental of TV/video equipment for a training session when the Council owned comparable equipment.

In Response . . .

- The training coordinator requested a reasonable accommodation to rent the television/video recorder at the training site because she had a back problem and could not lift the one the council owned into and out of her car. Because of the short notice of the request, no other option could be put in place.

The audit report questions the expenditure of \$6,500 for a live band at the Statewide Disabilities Convention.

In Response

- The Council's federal enabling legislation gives it broad authority to use its funds to train, organize and mobilize people with disabilities and their families to educate and therefore influence elected public officials through a wide variety of means. (Among federal statutes, it is unique in that regard.) It also encourages councils to promote the inclusion of people with disabilities in experiences from which they are often excluded because of discrimination resulting from those disabilities. The Council sponsors the convention to accomplish both goals simultaneously: to enable people with disabilities to educate elected public officials and to experience the activities associated with political conventions, events from which most have been excluded because of their disabilities. Live entertainment is an integral part of such events. The band hired by the Council to play at the convention has a national reputation and is led by two brothers who use wheelchairs. It was included on the convention program to broaden the variety of successful role models people with disabilities can aspire to and fulfill.

Response to Recommendations

In this and other sections of the audit report, there are several statements suggesting that the Council pays the expenses of members of the general public to attend events it puts on, sponsors or endorses. That is simply not the case. Section 124(c)(4) State Plan Implementation lists 11 examples of eligible Council activities, many of which involve the council in paying the expenses of people with disabilities, their personal assistants and/or their families to participate in training seminars and related advocacy activities. Far from being members of the general public, these individuals are specifically selected because their disabilities or the disabilities of their family members qualify them to benefit from and/or contribute to the activities for which they have been chosen.

The Council will include in its online manual provisions that define allowable program expenses in accordance with federal and state statutes. Those provisions will be updated to include additional program activities approved in future state plans adopted by the Council. The provisions will describe the circumstances under which it will pay the expenses of people with disabilities and their families who are neither Council or staff members to attend trainings, conferences, retreats and related events at the Council's expense and will establish general guidelines for the reimbursement of those expenses.

Those provisions will recognize that those expenses vary widely depending on the nature the persons' disabilities, the supports required because of those disabilities and the availability of those supports, including transportation, both where the persons live and where the activity takes place. They will also comply with anti-discrimination statutes

which prohibit the Council from excluding people with disabilities from the activities it sponsors on the basis of the expense involved but will require prior executive staff review and approval in writing for expenses that exceed the general guidelines.

As described elsewhere, staff will develop and the Council will approve both a program and an administrative budget and periodically review expenditures charged against them.

Compliance with Purchasing Regulations

The audit report questions the expenditure of \$21,000 for photographic services.

In Response . . .

- Determining how to retain and compensate professional writers and photographers for the Council's publications has been an extensive and complicated process involving several state agencies which often gave conflicting advice to the Council on which regulations governed such matters. After ten years, the Treasury Department, at the urging of Council staff, established a vendor list of artists, which the council and other state agencies now use. The questioned expenditures occurred during the delay in establishing the list. Contributors to the magazine are now selected from it.

The report questions \$12,000 of stationary printing and related costs.

In Response . . .

- In 1991, the Council developed a multi-color stationery design. No state vendor produced such an item and it was put out for bid, as state regulations required. Staff were unaware that those regulations required that such bidding be repeated annually and continued to use the same source for that and other multi-colored stationery items until the auditors brought attention to the mistake. It has been corrected and purchase requirements covering such matters will be included in the online manual.

The audit questions how the Council selected hotels for its retreats and training seminars.

In Response . . .

- Many hotels on the state's vendor's list claim to be accessible, but are not. A hotel claiming accessibility may only have two rooms that can accommodate people who use wheelchairs. The Council's overnight seminars may have twelve or more who need this accommodation. The Council always attempts to use hotels that are on the vendor list and have only used three that were not in the past four years due the problems cited above. Staff was under the impression that they could use any hotel, provided it was on the list with no further bidding required. They were mistaken. Three quotes will be sought for every event held. However, there will be occasions when the lowest bidder will not be able to accommodate the disability-related needs of the Council and others when no approved vendor will be able to do so--the state is that lax in applying its own building code in approving vendors. In those instances, the Council will go outside of the list. Proper documentation will be secured when this occurs.

The report questions the payment of \$14,392 for the printing of one magazine, a 50%

increase over the per-issue average.

In Response . . .

- The added cost was due to the use of an additional color, which the content of the magazine called for. Although that was not in the contract specifications, Council staff sought and received approval from the printing control office to use and pay for it. The specifications in subsequent contracts have been rewritten to permit the use of additional colors when that enhances the publication.

Response to Recommendations

- Written policies and procedures governing the purchasing process in accordance with federal and state regulations will be included in the online manual. So will procedures for documenting the Council's inability to use approved vendors because they fail to meet legal requirements for accessibility or otherwise cannot accommodate the needs of the council's constituents with disabilities. When the Council receives conflicting directives from state agencies or officials, it will ask the state auditor in writing how to resolve them. Personal care assistants are not licensed or otherwise regulated by the state, nor does it maintain an approved vendor's list of those services. Therefore, the council will develop written guidelines to select, employ and reimburse people for such services. It will ask the state auditor to review and comment on those guidelines.

Operational Oversight

- The audit findings question the Council's capacity to perform its major functions.

In Response . . .

- The Council's bylaws establish five standing committees capable of overseeing the major activities of the council. They are:
 - THE EXECUTIVE COMMITTEE, composed of the chairperson and vice-chairperson and chairpersons of its standing committees, which is empowered to set agendas for Council meetings and act for the full Council between those meetings, subject to its review;
 - THE ADMINISTRATIVE COMMITTEE which reviews the administrative budget and presents it for approval by the Council; it sets standards to evaluate the performance of the executive director and oversees the Council's conduct of that evaluation;
 - THE PLANNING COMMITTEE which develops the three-year state plan required by the Council's federal funding source for approval by the Council, monitors the implementation of the plan and prepares an annual update of the plan for consideration by the Council;
 - THE LEGISLATIVE AND SOCIAL ISSUES COMMITTEE which develops public policy positions and strategies to promote those positions for discussion and further action by the Council;
 - THE PUBLIC EDUCATION COMMITTEE, which reviews the Council's public education activities and approves requests for Council support that do not exceed \$2000 each.

Response to recommendations

The appointment of four new Council members and improved communication with the appointments office should result in a full complement of membership by the end of the year. With active membership in both the Council and its standing committees, the Council should exercise greater oversight over its operations.

In the past, the executive director and the fiscal officer prepared an annual administrative budget that was reviewed by the administrative committee and adopted by the Council, which received and approved fiscal progress reports at each meeting. This practice will be reinstated and supplemented by a bimonthly report by the council planner and fiscal officer on the programmatic and financial status of all outstanding grants and contracts.

The audit report recommends that "If members do not wish to participate, the removal and replacement of public council members should be initiated in accordance with the council's bylaws." The Council's state enabling statute gives the Governor the sole power to remove the public members. There is no such provision in the Council's bylaws.

The Council will comply with requirement that it issue an annual report to the Governor and state legislature.

Compensatory Leave Time for Council Employees

The audit report found that the Council had not established a compensatory leave time policy for its employees.

In Response . . .

- As stated in the report, compensatory leave time is now reflected on the official records submitted to DDD. The practice of maintaining in-house records of compensatory leave time was carried over from the previous director of the council who resigned eleven years ago and was not questioned until the time of this audit. Time sheets documenting the accrual and use of compensatory time for all council staff for the past five years are on file at the council office but were not requested for review by the auditors.
- The requirements regarding the accrual and use of compensatory time are contained in the general job description of the disability services specialist position. These general guidelines were developed because of the unique job descriptions of these positions, which require significant weekend and evening work.
- The notation in the report indicating the significant compensatory time accumulated is true. Staff work long evening and weekend hours because of the nature of the projects the Council has established and the significant dedication of these employees in achieving the goals of the Council. The unclassified positions that were developed were done so specifically because these positions required greater flexibility than traditional civil service positions allow.
- Although the participants of a training project may be engaged in social activities, the

staff are working during these hours ensuring participation, handling issues regarding inaccessible rooms, handling medical and personal care matters and dealing with the hotel staff in general. Eleven hours per day during a Project Take Charge or Partners in Policymaking weekend is the norm.

- The practice of earning comp time for working through lunch has been discontinued.

The audit findings question the accumulation and use of compensatory leave time by the two executive staff members and cite Personnel Department regulations that those executives cannot carry over compensatory leave time beyond the pay period during which it is accrued but can take it off during that pay period.

In Response:

- The state plan approved by the Council and its federal funding agency includes many activities which require the active participation of both executive staff as supervisors, presenters and/or monitors for a majority of weekend days during the year--on average, more than 52 such days a year during which they may work as many as 12 hours a day. The programs include Partners in Policy, Project Take Charge, the Monday Morning Project, the Statewide Disabilities Convention, the SWOT Team and the Statewide Family Support Council. In addition, both executives regularly represent the Council at weekend conferences, training sessions and related events sponsored by the Council, its funding agency or other disability-related agencies in New Jersey and in other states. It is not uncommon for these commitments to occur on three or more consecutive weekends. Council executives cannot meet such obligations, well beyond those incurred by other comparable state executives, and still work 9 to 5 on the other five workdays. At the same time, their weekday obligations often do not permit them to take off enough time during the regular work week to avoid exhaustion unless they can accrue compensatory leave to use during periods during which there are less demands on their time.
- After further examination of this matter, the Council will consider seeking an exemption from the state regulation, which prohibits its executives from accumulating compensatory leave time. It would seek that exemption under the following provisions of the Developmental Disabilities Assistance and Bill of Rights Act--PL 104-183:
 - Sec. 124 (c)(8)(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act;
- The functions in the Council's State Plan require the presence and expertise of its

executives at an inordinate number of weekend activities. The application of the state's compensatory leave time policies would effectively prevent these Council functions from being carried out.

Response to Recommendations

Several policies to correct abuse of compensatory time and incorporate changes in DDD time-keeping practices have been put in place through emails from the executive staff. These will be codified in the online manual. How issues regarding who can accrue how much compensatory leave time over how long a period of time, depending on their job functions and titles, may require additional legal opinions and action to resolve. When they are resolved, the resulting policies will be included in the online manual.

Consultants/Employees

The audit report found that the council retained five individuals as consultants who should have been more properly classified as employees.

In Response . . .

- The status of the consultant positions has been resolved since May 1999. Council staff became aware of the problem with continuing these individuals as consultants in mid-1997. Attempts to correct this situation and convert these positions to full time state unclassified employees began on July 3, 1997. The five individuals are now in full time unclassified Disability Services Specialist positions.

Response to Recommendations

The audit findings contained in this section had been largely addressed by the time the audit was conducted, partly through creating an approved vendors' list for writers and photographers with the Department of Treasury, and partly through the conversion of several consultants to full-time disability services specialists when the state legislature created that title and authorized the council to use it. The online manual will clearly distinguish the functions of employees and consultants and set forth specific guidelines for hiring both. It will also define the circumstances under which council activities should execute through grants or contracts and clearly distinguish between the two processes and their respective purposes.