Department of Law and Public Safety
Division of Consumer Affairs

July 1, 2006 to December 31, 2008
The Honorable Jon S. Corzine
Governor of New Jersey

The Honorable Richard J. Codey
President of the Senate

The Honorable Joseph J. Roberts, Jr.
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 Law and Public Safety, Division of Consumer Affairs for the period of July 1, 2006 to December 31, 2008. If you would like a personal briefing, please call me at (609) 292-3700.

Stephen M. Eells
Assistant State Auditor
August 28, 2009
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Department of Law and Public Safety  
Division of Consumer Affairs  

Scope

We have completed an audit of the Department of Law and Public Safety, Division of Consumer Affairs for the period July 1, 2006 to December 31, 2008. Our audit included financial activities related to administrative functions of the division accounted for in the state's General Fund. We did not audit the transactions or balances of the division's "confidential funds" as these are reviewed and reconciled by the department's internal audit unit. In addition, we did not audit the programmatic functions of the individual professional boards and bureaus.

Revenues for the division were $89 million and $68 million for fiscal years 2007 and 2008, respectively. Revenues are derived from professional licenses, registrations, examination fees, fines and penalties. Annual expenditures for the audit period averaged $75 million. The prime responsibility of the division is to assure fair, equitable, and competent treatment of the consumer in practices relating to the acquisition of goods and services and the use of professional and occupational services.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the division's programs, were reasonable, and were recorded properly in the accounting system. We also tested for resolution of significant issues noted in our prior audit report dated October 14, 2003.

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 Department of the Treasury, and policies of the division. 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 internal controls.

Both statistical and nonstatistical sampling 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 randomly and judgmentally selected. To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the division and performed tests to determine if the corrective action was effective.

Conclusions

We found that the financial transactions included in our testing were related to the division's programs, were reasonable, and were recorded properly in the accounting system. In making these determinations we noted certain internal control weaknesses in the division's monitoring of operations in the areas of compliance with state procurement guidelines and compliance with procedures for terminated employees. We also noted the division has complied with significant issues in our previous audit report except for time reporting.
The division should improve its monitoring procedures to ensure compliance with prior audit recommendations, Department of the Treasury directives and internal policies.

Monitoring of Operations

We noted areas where improvements in the monitoring of operations will improve the division’s adherence to Department of the Treasury and departmental/divisional policies and procedures as well as compliance with prior audit recommendations.

Compliance to Purchasing Guidelines

In general we found the division does follow required procedures when purchasing goods and services using a Delegated Purchasing Authority (DPA). The Department of the Treasury Circular Letter 06-16-DPP defines a DPA purchase as a transaction that cannot be procured through a state contract, the State Distribution and Support Service Center (DSS), the Bureau of State Use Industries (DEPTCOR), or the Central non-profit agency (CNA), and which does not exceed the DPA threshold. During the audit period the division processed an average of thirty percent of its purchases as DPAs. Total annual purchases during the period averaged $4 million. We tested 29 DPA purchases and noted varied exceptions to the circular letter requirements. Fifteen purchases should not have been a DPA purchase. Four of these purchases should have been processed using a state contract. Ten of the DPA items totaling $170,000 were used for legal services and expert witnesses to testify in court regarding complaints filed by several professional boards. The proper process would involve requesting a Waiver of Advertising. The remaining DPA was used to purchase from a vendor whose contract with the state had expired. We also noted six exceptions regarding obtaining and documenting adequate price competition. In four transactions the vendor utilized was identified as a sole source vendor, but the division did not adequately support this classification. The division obtained three price quotes for the other two DPAs rather than the four written quotes required by the
circular. In addition, we noted ten items were missing vendor disclosure forms which are required to be on file when purchasing items as a DPA. Failing to follow state purchasing guidelines could effect the ability of the state to obtain the most beneficial prices in its future procurement practices.

Audit Compliance

In our previous audit report we recommended the division strengthen internal control procedures for both timekeeping and leave record maintenance to reduce the likelihood of erroneous payments and misstatements of leave time. We also recommended strengthening management controls by insisting on proper supervisory review of every employee's time sheet, evidenced by written signatures. Currently, we reviewed 580 time records and sampled and tested work/leave activity for 71 employees and noted the following exceptions.

- Leave taken by two employees was not posted to their leave records.
- Twenty-one employees did not log out/in for lunch periods as required (these varied from one to all days of the pay period). Two employees did not log in/out any work day.
- Two hundred fifty-nine of the 580 time records were missing supervisory approval.

The division had concurred with our previous findings and indicated changes to its procedures would eliminate these errors. While changes were made, the division did not continue its monitoring of these procedures which resulted in our current exceptions.

Also in our prior audit, we reported that approximately 12 percent of the 884 computer related items in the division's fixed asset inventories did not have identifying inventory tags for control purposes. The division attributed the momentary lack of compliance to Department
of the Treasury requirements to a change in personnel. During fiscal years 2007 and 2008 the division purchased $2.2 million in equipment. We sampled 53 computer related items purchased totaling $87,430 and noted that 19 totaling $42,946 were not on the Management Information System’s inventory records list. We could not locate 12 ($15,360) of the 19 computers.

Compliance to Procedures for Terminated Employees

While reviewing procedures followed for terminated employees, we noted that 18 of 52 employees who left the division retained access to the computerized information system. The human resources office notifies the information systems office when persons terminate their employment so they can remove them from access authorization lists. The management information systems office has lost its supervisor and the applicable duties were not distributed among remaining personnel. Proper monitoring could have discovered this condition.

Recommendation

We recommend the division be more proactive in its monitoring process to ensure compliance with audit recommendations as well as established Department of the Treasury directives and general internal control practices. We recommend that the division:

- Comply with Department of the Treasury circular guidelines when purchasing goods and services through the use of delegated purchasing authority (DPA). Request a waiver of advertising when appropriate, rather than using a DPA to obtain legal services and expert witnesses to testify in court regarding complaints filed by the professional boards.
- Strengthen internal controls by following their procedures for both time keeping and leave record maintenance.
The division should also require proper supervisory review of employee time sheets, evidenced by written signature.

- Ensure that all required assets are included in the management information system inventory records. Management should also determine the disposition of the 12 missing assets.
- Follow procedures to ensure access capabilities to the division’s computerized information systems are removed for employees leaving the division’s employment.
State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

August 25, 2009

Stephen M. Eells, Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
P.O. Box 067
125 S. Warren Street
Trenton, New Jersey 08625-0067

Dear Mr. Eells:

Enclosed is the response to the audit report of the Division of Consumer Affairs.

Please include this document with your release of the audit to the Governor and the Legislature.

Very truly yours,

[Signature]
Daniel W. Foster,
Administrator

DWF:RWK: fj
Enclosure
C: Anne Milgram, Attorney General
    David Szuchman, Director, Division of Consumer affairs
    June Levy, Chief Administrative Officer, Division of Consumer Affairs
    Kristen A. Fischer, Director, Office of the Attorney General
bgo481
MEMORANDUM

TO:       Ronald Kraemer, Deputy Director
           Office of the Attorney General

FROM:    June Levy, Chief Administrative Officer
           Division of Consumer Affairs

DATE:    August 20, 2009

SUBJECT: Division of Consumer Affairs Audit Response Comments

This is in response to Stephen M. Eells’ letter of August 5, 2009 to AG Milgram regarding the audit report for the Division of Consumer Affairs.

To the Auditor’s conclusion that the Division of Consumer Affairs should improve its monitoring procedures to ensure compliance with prior audit recommendations, Department of Treasury directives and internal policies, please refer to the comments below.

According to the Auditor’s report, with regard to the Compliance to Purchasing Guidelines the findings regarding Delegated Purchase Authority (DPA), it was found that in general the Division of Consumer Affairs does follow required procedures when purchasing goods and services using a DPA. For those exceptions that were noted please see the Division’s response below.

1. “Fifteen purchases should not have been a DPA purchase. Four of these purchases should have been processed using a state contract.”

DCA RESPONSE: For two of the four DPA purchases, although the vendors were state contracted vendors, the items purchased were not on state contract and therefore these purchases were appropriately handled by DPA. For the remaining two purchases, which were related to credit card merchant fees that were incurred when we implemented online renewals, these services were under state contract; however, the contracts were not secured through the Purchase Bureau but rather were Agency Contract Orders secured by the Office of Management and Budget (OMB), Dept. of Treasury. This was the first time that the Division had come across this type of a situation and it had utilized Purchase Orders (POs) to pay for these services rather than Agency Orders (AOs). This occurred in FY06 and part of FY07. This issue had already been addressed and rectified by the Division prior to this last audit.
2. "Ten of the DPA items totaling $170,000 were used for legal services and expert witnesses to testify in court regarding complaints filed by several professional boards. The proper process would involve requesting a Waiver of Advertising."

DCA RESPONSE: The use of non-Purchase Bureau procurement of litigation services is based on Attorney General Formal Opinion No. 98-0141. In addition, Circular Letter 09-10 governing professional services review, control, monitoring and extensions specifically excludes the procurement of legal services and expert witnesses by the AG. As the services were for legal services and expert witnesses related to AG matters, a Waiver of Advertising was not required. Therefore, the DPA process was the proper process to secure these services.

3. "The Remaining DPA was used to purchase from a vendor whose contract with the state had expired."

DCA RESPONSE: This occurred when the state contract for records storage was awarded to a new vendor. The files that were stored with the original state contracted vendor needed to be moved and stored with the new vendor that was awarded the contract. There was money owed to the original vendor for the storage of our files for the period of time it took to transfer our files to the new vendor. This was an unusual situation and is not one that is representative of the Division’s normal procurement practices.

4. "We also noted six exceptions regarding obtaining and documenting adequate price competition. In four transactions the vendor utilized was identified as a sole source vendor; but the division did not adequately support this classification. The division obtained three price quotes for the other two DPAs rather than the four written quotes required by the circular."

DCA RESPONSE: These four transactions where a sole source vendor was identified, but not adequately supported, were done as part of a grant that was received specifically for Investor Education. The services that were secured were specifically for advertisement in compliance with the intent of the grant. The vendors were chosen and the services secured by an employee overseeing the Investor Education Program without the knowledge or approval of the Division’s Fiscal Office. Once the Division’s Fiscal Office became aware of this, steps were taken to ensure this would not happen again. The Division now has a centralized Consumer Education and Outreach Program and the person overseeing this program is aware of grant management and procurement protocols.
As for the remaining two items where three quotes were received rather than the required four, this was a result of a change in the circular letter that required four quotes to be obtained for certain purchases such as computer hardware and software. The exceptions that were found had occurred in the earlier years when the change was implemented. This issue had already been addressed and rectified by the Division prior to this last audit.

5. “In addition, we noted ten items missing vendor disclosure forms which are required to be on file when purchasing items as a DPA.”

DCA RESPONSE: This had occurred early on when the new rules were implemented requiring certain vendor forms (EO 134) to be obtained. The specific items noted in the Auditor’s report as missing vendor disclosure forms were largely from purchases made in FY06. This issue had already been addressed and rectified by the Division prior to this last audit.

With regard to Audit Compliance specifically regarding the timekeeping and leave record maintenance the Auditor’s reports states “In our previous audit report we recommended the division strengthen internal control procedures for both timekeeping and leave record maintenance to reduce the likelihood of erroneous payments and misstatements of leave time.”

1. “We also recommended strengthening management controls by insisting on proper supervisory review of every employee’s time sheet, evidenced by written signatures.”

DCA RESPONSE: The Division had initially complied with the Auditor’s recommendation from the previous audit report and had created and distributed a new time sheet for division-wide use. Managers were directed to use the new time sheet in lieu of the existing time sheet that they had been using. They were directed to sign the time sheet each day and check the time sheets against the leave reports to ensure better controls over timekeeping. However as a result of staffing reductions and changes in the HR Office, the division had not conducted the regular audits of the time sheets which resulted in the exceptions found. The Division’s HR Office has since been reorganized and will now conduct monthly spot audits of the time sheets and check them against the Time and Leave Reporting System (TALRS) to ensure compliance and proper tracking and reporting of employees’ time.
With regard to the computer related equipment inventory issue, the Division has recently ordered an asset tracking system that includes a bar code tag printer, a bar code reader and an inventory data base software program to address this weakness and better track the equipment. As for the missing computers, the Division found that nine of these computers had been relocated to other areas in the division; however, the new locations for these computers were never updated in the system. The inventory report has now been updated to reflect the current locations of these computers. The remaining three computers are still being tracked down to determine their current location.

Last, with regard to the Auditor’s findings related to computer access for terminated employees, the Division has already developed and implemented a protocol which includes a weekly notification from the Office of Human Resources to the Information Technology Office that includes the names and separation dates of each employee that has left the division. The newly established SOP is attached for your review and files.

JL:ml

c:  David Szuchman, Director
Division of Consumer Affairs

Dan Foster, Administrator
Office of the Attorney General

Barbara Haley, Deputy Administrator
Office of the Attorney General