

STATE OF MINNESOTA

Office of the State Auditor



Rebecca Otto
State Auditor

**MINNESOTA FINANCIAL CRIMES
TASK FORCE
COLUMBIA HEIGHTS, MINNESOTA**

AGREED-UPON PROCEDURES

**TWELVE MONTHS ENDED
JUNE 30, 2007**

Description of the Office of the State Auditor

The mission of the Office of the State Auditor is to oversee local government finances for Minnesota taxpayers by helping to ensure financial integrity and accountability in local governmental financial activities.

Through financial, compliance, and special audits, the State Auditor oversees and ensures that local government funds are used for the purposes intended by law and that local governments hold themselves to the highest standards of financial accountability.

The State Auditor performs approximately 160 financial and compliance audits per year and has oversight responsibilities for over 3,300 local units of government throughout the state. The office currently maintains five divisions:

Audit Practice - conducts financial and legal compliance audits of local governments;

Government Information - collects and analyzes financial information for cities, towns, counties, and special districts;

Legal/Special Investigations - provides legal analysis and counsel to the Office and responds to outside inquiries about Minnesota local government law; as well as investigates allegations of misfeasance, malfeasance, and nonfeasance in local government;

Pension - monitors investment, financial, and actuarial reporting for approximately 730 public pension funds; and

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The State Auditor serves on the State Executive Council, State Board of Investment, Land Exchange Board, Public Employees Retirement Association Board, Minnesota Housing Finance Agency, and the Rural Finance Authority Board.

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**MINNESOTA FINANCIAL CRIMES
TASK FORCE
COLUMBIA HEIGHTS, MINNESOTA**

**Twelve Months Ended
June 30, 2007**



Agreed-Upon Procedures

**Audit Practice Division
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INDEPENDENT AUDITOR'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Oversight Council
Minnesota Financial Crimes Task Force

We have performed the procedures enumerated below, which were agreed to by the Minnesota Financial Crimes Task Force (MNFCTF) solely to assist the MNFCTF in evaluating the appropriateness and administration of its policies, practices, and related financial data. These procedures were applied to the MNFCTF's records as of and for the twelve months ended June 30, 2007. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the MNFCTF. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

1. Procedure

Review minutes of the MNFCTF meetings and relevant documented policies, reports, and agreements.

Findings

We obtained and reviewed the documents listed below which provided us with a sense of the administrative environment of the MNFCTF. More specific procedures were applied in relation to certain of these items as identified in the remainder of this report.

- a. Minutes of the Oversight Council
- b. Fiscal Expense Policy and Procedures (dated May 27, 2004 REV.1.1)
- c. Evidence/Property Room Policy and Procedure (dated June 20, 2007)

- d. Release of Evidence to Rightful Owner Policy and Procedure (dated August 8, 2007)
- e. Retailers Protection Association (RPA) Salary Expense Reimbursement Procedures
- f. RPA Expense Reimbursement Procedures
- g. Vendor Expense Reimbursement Procedures
- h. Overtime Expense Reimbursement Procedures
- i. Employee Expense Reimbursement Procedures
- j. Travel/Training/Meeting Expense Policy
- k. MNFCTF Bylaws (approved at April 26, 2007, Oversight Council meeting)
- l. State of Minnesota grant contracts and amendments
- m. Purchase of service agreement between the MNFCTF and RPA and amendments
- n. Sample Memorandum of Understanding between the MNFCTF and members

As a result of this review, the following observations are noted.

Minutes of Meetings

Minn. Stat. ch. 13D requires public bodies to hold open meetings, provide notice of such, and record the actions of the members. The MNFCTF is subject to these requirements.

The intent of the Oversight Council is to meet at least quarterly. The minutes primarily document discussion items or status updates. In addition, the minutes identify those in attendance and those unable to attend. Often, all individuals noted in the minutes are identified as members, when actually certain of them are not Oversight Council members.

Usually, for the action items identified in the minutes, the motion is noted as being unanimously approved. It is unclear whether the Oversight Council is complying with Minn. Stat. § 299A.681, subd. 2, which states that the legislative members of the Council may not vote on matters before the Council.

The December 1, 2006, Oversight Council minutes state that the \$3.6 million biannual task force budget for the 2007 legislative session was presented for a motion and then passed. Minn. Stat. § 13D.01, subd. 4(b), requires that the vote of each member of the governing body must be recorded on each appropriation of money.

The Oversight Council has at least one functioning committee. There are no official minutes for the meetings of this committee.

The Oversight Council, at a minimum, must be aware of and satisfy the statutory open meeting law requirements. Beyond that, how elaborate and extensive the minutes should be is largely a policy matter for determination by the governing body in the exercise of reasonable judgment and discretion.

While the following is not an exhaustive list, and while some of the items listed are already included in the minutes of the Oversight Council meetings, specific items for the Council's consideration to be included in its minutes are:

- type of meeting (regular, special, adjourned regular, adjourned special, recessed, and emergency);
- date and place the meeting was held;
- time the meeting was called to order;
- list of members present and absent;
- list of others present;
- approval of minutes of the previous meeting, with any corrections noted;
- election of officers;
- appointments of representatives to the Council, committees, or outside organizations;
- reports of the officers and committees;
- identification of contracts and grants awarded;
- abstentions from voting due to a conflict and the member's name and reason for abstention;
- approval of policies and bylaws;
- identification of review of financial activity, including a detailed listing of all bills allowed or approved for payment; and
- reason the meeting was concluded and the time the meeting concluded.

Review of MNFCTF Financial Activity

Based on our review, the extent of financial monitoring and oversight provided by the Oversight Council consists primarily of approving the MNFCTF's budget. In the MNFCTF Fiscal Expense Policy and Procedures dated May 27, 2004, the statewide Commander, the Commander's designated alternate, or the Advisory Committee Chair has the authority to approve all expenditures. Anoka County also reviews, validates, and processes all payments of claims.

However, as the governing body of the MNFCTF, the Oversight Council has a responsibility to be aware of and monitor the financial activity, including expenditures, cash balance, grant activity, and budget to actual information, of the MNFCTF on a regular basis. As the Minnesota Department of Public Safety's (DPS) grantee of the funds used by the MNFCTF and as the MNFCTF's fiscal agent, Anoka County has a responsibility to provide the aforementioned financial information to the Oversight Council for review and monitoring.

Dating and Approving Policies

Not all documents listed in items a. through n. above were dated, and the policies developed in 2007 were not noted in the minutes as being approved by the Oversight Council. In order to track the relevant applicability, the following should be dated when they are initially approved, implemented, or revised: bylaws, formal written policies, and written internal procedures. In addition, formal written policies of the MNFCTF should be approved by the Oversight Council.

2. Procedure

Identify and evaluate the policies and practices related to seized property, the evidence room, and forfeitures.

Findings

The MNFCTF had no written policies and procedures for seized property, the evidence room, and forfeitures until an internal review of the evidence room was completed on June 20, 2007, the result of which was a well-written, comprehensive Evidence/Property Room Policy and Procedure. A related policy and procedure addendum, Release of Evidence to Rightful Owner, was prepared in August 2007.

Evidence Room Property Reports

As part of our review of the evidence room, we selected a sample of ten cases to test that (1) the property inventory listed on the Property Report was located in its assigned place in the evidence room, and (2) the proper signatures appear on the Property Report.

The results of our testing showed that, for one case, a bedroom set, including headboard, footboard, side rails, and a queen size mattress and box spring were not in the evidence room or the off-site storage garage. The owner/Business Director of RPA and the Crime Analyst in charge of the evidence room explained in a signed, notarized statement that the items in question were donated to the Salvation Army. However, neither MNFCTF nor RPA personnel were able to provide a receipt from the Salvation Army for the donation.

We recommend the policies and procedures for seized property and the evidence room be updated to add procedures to be followed when donating property. A receipt detailing the charitable organization, date, and specific property being donated should be obtained for all property donations.

Disposition of Forfeitures

The MNFCTF has sound, written policies and procedures for cash and property seized at crime scenes. However, it has no formal, written policies and procedures for the disposition of cash that has subsequently been forfeited. Cash forfeitures are currently placed in an account with Anoka County pending a decision by the MNFCTF on how the funds are to be used.

We recommend the MNFCTF develop formal, written policies and procedures for the disposition of forfeited funds. The policy should include the types of expenditures that can be made from forfeited funds or whether there are any restrictions on the use of the funds. Once funds are forfeited, if there is deemed to be a need to track the disposition, that level of accounting could also be addressed in the policies.

3. Procedure

Identify and evaluate the policies and practices related to buy funds.

Findings

Buy Funds Policies and Procedures

The MNFCTF maintains a separate bank account used to pay confidential informants providing valuable information on MNFCTF cases. Confidential informant payments are cash only; there are no checks associated with the account. The Commander of the MNFCTF is the only individual authorized to withdraw cash from the account and has custody of the only cash card issued. The Commander, with input from the investigator assigned to the case, determines to whom and for how much the payment should be made. The Commander turns the cash over to the investigator who then makes arrangements to pay the confidential informant.

The Commander maintains a Buy Log with the following information:

- transaction date,
- transaction description,
- confidential informant's name,
- deposits to and withdrawals from the account,
- balance remaining in the account, and
- balance spent from the account.

A Crime Analyst employed by RPA reconciles the bank statements to the Buy Log maintained by the Commander. The Commander has possession of the Buy Log; no one other than the aforementioned Crime Analyst reviews or has access to the Buy Log.

The following weaknesses were noted in the MNFCTF's buy fund practices:

- There are no formal, written policies and procedures for buy funds.
- Other than the informant's name, there is no documented information in the Buy Log to link payments made to specific case files or the investigators to whom the cash was entrusted.
- Investigators do not sign for the cash received from the Commander.
- The Buy Log prepared by the Commander is not reviewed by a member of the Oversight Council or its designee.

We recommend the MNFCTF develop formal, written policies and procedures for its buy funds. In addition, to strengthen controls over the MNFCTF's buy funds, case numbers, and investigators' names should be added to the Buy Log; investigators should sign that they have received the indicated amount of cash from the Commander; and the Buy Log should be periodically reviewed by a member of the Oversight Council or its designee.

4. Procedure

Identify and evaluate the policies and practices for tracking, matching, and accounting for personnel costs, including overtime, and other expenditures being reimbursed to member agencies.

Findings

The MNFCTF has well-written, comprehensive policies and procedures for tracking, matching, and accounting for personnel costs, including overtime, and other expenditures being reimbursed to member agencies. As part of our review, we tested a representative sample of 24 MNFCTF disbursements to determine that amounts paid were approved, adequately supported, and followed appropriate legal requirements and established procedures. Seven of the 24 disbursements tested were reimbursements to member agencies; we noted no exceptions.

5. Procedure

Identify and evaluate the policies and practices for procurement or reimbursement of costs, including credit card charges, by/to the RPA.

Findings

The MNFCTF has well-written, comprehensive policies and procedures for procurement and reimbursement of costs, including credit card charges, by/to the RPA.

Documentation of RPA Disbursements

As part of our review, we tested a representative sample of 24 MNFCTF disbursements to determine that amounts paid were approved, adequately supported, and followed appropriate legal requirements and established procedures. Six of the 24 disbursements tested were reimbursements to the RPA for multiple claims; we noted exceptions in two of the six reimbursements to the RPA as follows:

- In two claims, the signature receipt from the credit card was the only item submitted to support the amount to be reimbursed; itemized receipts were not provided. Both of these instances were claims submitted for meal reimbursements at local restaurants totaling \$129.71.
- In two claims, the purpose of the expenditure was unclear.

The statewide Commander of the MNFCTF, the Commander's alternate, or the Advisory Committee Chair is required by policy to approve claims against the MNFCTF. Without adequate documentation, there is not an appropriate basis for determining whether amounts charged for RPA expenses are for a public purpose and comply with the MNFCTF's policies.

We recommend the MNFCTF more closely monitor the documentation submitted by the RPA to ensure that it adequately describes and supports the transactions made.

6. Procedure

Identify and evaluate the responsibilities and conflicts based on the relationships between the MNFCTF, RPA, Anoka County (fiscal agent), and the DPS.

Findings

We reviewed the relationships and responsibilities between the MNFCTF, the RPA, Anoka County, and the DPS. The DPS grants money to Anoka County; that grant is the primary funding source of the MNFCTF. Anoka County acts as fiscal agent for the MNFCTF providing accounting services and maintaining the MNFCTF's books; reviewing, validating, and processing payments of claims; and requesting grant funds. With no employees of its own, the MNFCTF contracts with the RPA for administrative support services. The Commander of the MNFCTF, the owner/Business Director of the RPA, the Anoka County Attorney, and the Commissioner of the DPS are all members of the MNFCTF's Oversight Council. The owner/Business Director of the RPA is the registered lobbyist in the State of Minnesota for both the MNFCTF and the RPA.

Conflict of Interest

The MNFCTF's Oversight Council approves the contract with the RPA and approves the MNFCTF's budget. A significant portion of the MNFCTF's budget is for the RPA contract, which covers all the staffing costs of the RPA as well as other RPA expenditure reimbursements.

Item 11 of the Minnesota Financial Crimes Oversight Council bylaws states:

‘CONFLICT OF INTEREST: Council members shall avoid any actual or the appearance of any conflict between their own respective personal, professional or business interests and the interests of the Council. This applies to any and all actions taken by them as a member of the Council or action on behalf of the Council. In the event that any member has a direct or indirect conflict related to actions to be taken by the Council, or there is the potential for an appearance of conflict, such member shall give notice of the conflict. Notice shall be given to the full Council, and the presiding chair will make the conflict determination. The chair’s ruling may be overridden by two-thirds of the Council members present. If the disclosure is deemed to be an actual conflict or is deemed to create the appearance of a conflict, the Council member shall refrain from discussing, voting, or influencing any other Council member on the pending matter under consideration.’

In the minutes we reviewed of the Oversight Council meetings, there were no notices of potential conflict of interest or abstentions from voting documented.

The owner/Business Director of the RPA appears to have a direct conflict of interest under Item 11 of the MNFCTF’s bylaws. At a minimum, for all Council actions involving the RPA, we recommend the MNFCTF take the appropriate steps as outlined in the bylaws and document the notice, ruling, and abstention from voting in the minutes of the Oversight Council.

* * * * *

We were not engaged to and did not perform an audit of the Minnesota Financial Crimes Task Force’s accounting records, the objective of which would be the expression of an opinion. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Minnesota Financial Crimes Task Force Oversight Council and management and is not intended to be, and should not be, used by anyone other than those specified parties.

/s/Rebecca Otto

/s/Greg Hierlinger

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January 7, 2008