NO. 2000-5078-2

INDEPENDENT STATE AUDITOR'S REPORT ON CERTAIN ACTIVITIES OF THE ORGAN TRANSPLANT FUND, THE NATURAL HERITAGE AND ENDANGERED SPECIES FUND, THE MASSACHUSETTS AIDS FUND, AND THE MASSACHUSETTS UNITED STATES OLYMPIC FUND

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- $249,920 in donations of computers and printers were distributed to nonprofit organizations and paid for partly out of the AIDS Fund and partly from other state funds.

- $89,295 in cash was distributed to five organizations to subsidize administrative positions within these organizations. This expenditure was partly paid from the AIDS Fund and partly from other state funds.

- $15,000 was distributed to a gay pride in youth organization. The payment voucher did not indicate that it was for the education, treatment, or research of AIDS..

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INTRODUCTION

Background

As authorized by Chapter 11, Section 12, of the Massachusetts General Laws, we have completed an audit of the voluntary contributions collected by the Department of Revenue (DOR) through Massachusetts individual income tax returns and expended through four separate funds controlled by the Department of Public Health (DPH), the Division of Fisheries and Wildlife (DFW), and DOR. Our audit covered the Organ Transplant Fund, the Natural Heritage and Endangered Species Fund, the Massachusetts AIDS Fund, and the Massachusetts United States Olympic Fund. Individual contributions by law may be made to these funds through the check-off on the income tax return. Corporate contributions may also be made to the Natural Heritage and Endangered Species Fund. These contributions increase the amount of taxpayers' payments or decrease the amount of their refunds.

The purpose of our audit was to determine the amount of money contributed to these funds by taxpayers during the period of our review, how the money was spent, and whether the expenditures were in compliance with the statutes that established these funds. DOR annually distributes the contributions to the departments responsible for administering these funds, as follows:

Fund	Department
Organ Transplant Fund	Department of Public Health
Massachusetts AIDS Fund	Department of Public Health
Massachusetts United States Olympic Fund	Department of Revenue
Natural Heritage and Endangered Species Fund	Initially the Office of the State Treasurer, but subsequently transferred by the Legislature to the Division of Fisheries and Wildlife

As shown in the table below, the Department of Revenue has collected a total of $4,525,737 in voluntary contributions since 1994.

Commonwealth of Massachusetts Voluntary Tax Contributions

1994 to 2000

	1994 to 1998	1999	2000	Total 1994 to 2000	Percent
Organ Transplant Fund	$ 822,019	$195,378	$177,620	$1,195,017	26.40
Natural Heritage and Endangered Species Fund	1,128,419	228,202	197,411	1,554,032	34.34
Massachusetts AIDS Fund	1,116,736	204,873	169,294	1,490,903	32.94
Massachusetts U.S. Olympics Fund	185,715	44,746	55,324	285,785	6.32
Total	$3,252,889	$673,199	$599,649	$4,525,737	100.00

Organ Transplant Fund

Chapter 10, Section 35E, of the General Laws established the Organ Transplant Fund to assist residents of Massachusetts in paying all or part of any cost associated with a medically required organ transplant. This fund consists of revenues received from gifts, grants, donations, federal government reimbursements, and voluntary contributions from individual tax returns. DOR prepares a Cash Transfer (CT) document to transfer the funds received by contribution into the Organ Transplant Fund Account, where it is used by DPH. The State Treasurer is required to deposit these funds to obtain the highest interest rate available while leaving funds available for immediate withdrawal without penalty. One person at DPH manages the Organ Transplant Fund as part of her responsibilities. The majority of expenditures from the fund are for the reimbursement of autoimmune-suppressant drugs. In fiscal year 2000, $132,963 was expended from this account. To be eligible for reimbursement, a person must have received an organ transplant, be a resident of Massachusetts, have a gross income of under $60,000, and not have reimbursements available from other sources.

Natural Heritage and Endangered Species Fund

Chapter 10, Section 35D, of the General Laws established the Natural Heritage and Endangered Species Fund (Fund 108) for nongame wildlife programs in the Commonwealth. This fund is kept at the State Treasurer's Office and is used by the Legislature as a source of money to fund by appropriation two accounts that are managed by DFW.

Fund 108's revenue consists of all revenues from gifts, grants, donations, federal government reimbursements, and voluntary contributions from individual tax returns. DOR prepares a CT document to transfer the voluntary tax contributions into Fund 108. Through CT documents, DFW also deposit sales and federal reimbursements into this fund. The State Treasurer is required to deposit these funds in such a manner as will secure the highest interest rate available while leaving funds available for immediate withdrawal without penalty. The amounts in this fund cannot be used until they are subsequently appropriated by the Legislature. When appropriated by the Legislature, Fund 108 is distributed into two state accounts: The Natural Heritage and Environmental Account and The Non-Game Management and Research Account. These two accounts are used for conservation and environmental purposes. The amounts received by these two accounts for fiscal years 1999 and 2000 and their funding sources are listed in the table below:

State Account Fisheries and Wildlife	Funding Source	Percent	Total Amount	
			1999	2000
Natural Heritage and Environment Account	Fund 108	50	$171,137	$181,333
Inland Fisheries and Game Fund	General Fund	50	171,137	181,333
			$342,274	$362,666
Non-Game Management and Research Fund	Fund 108	75	$324,883	$320,219
	General Fund	25	108,294	106,739
			$433,177	$426,958

Four individuals are being paid as employees out of each of these two state accounts. In fiscal year 2000, $425,510 was expended out of the Non-Game Management Account, and $330,483 was expended out of the Natural Heritage and Environment Account. There is only one major contractor in both accounts, Manomet Observatory Inc., which employs individuals that work with state employees. In fiscal year 2000, the amount of this contract was $300,000.

Massachusetts AIDS Fund

Chapter 10, Section 35R, of the Massachusetts General Laws established the Massachusetts AIDS Fund to be administered by the Commissioner of Public Health. Revenues of the fund consist of contributions from individual tax returns, grants, and other donations. Chapter 111, Section 2E, of the General Laws specifies that this money is to be used solely for research treatment, experimental treatment, and education related to Acquired Immune Deficiency Syndrome (AIDS). The expenditures from this fund by statute shall not replace existing local, state, and federal AIDS-related funding. Additionally, no more than 6% of the money held may be used for the administration of the fund. DOR prepares a cash transfer (CT) document to transfer the funds received by contribution into the Massachusetts AIDS Fund Account, where it is used by DPH. By statute, the State Treasurer is required to deposit funds collected to obtain the highest interest rate available while leaving funds available for immediate withdrawal.

Massachusetts United States Olympic Fund

Chapter 10, Section 35O, of the General Laws established the Massachusetts United States Olympic Fund. Revenues by statute consist of fees from U.S. Olympic Committee motor vehicle license plates, contributions from individual tax returns, gifts, grants, and donations. Chapter 10, Section 35O, specifies that this money is to be used to assist residents of the Commonwealth in paying all or part of any costs associated with the development, maintenance, and operation of the United States Olympic Team participating in the Olympics and the United States Paralympic team participating in the Paralympics. The fund is administered by DOR, which prepares a CT document to transfer the funds received by contribution into the Massachusetts United States Olympic Fund. The Registry of Motor Vehicles also prepares a CT document to transfer funds received on the sales of Olympic motor vehicle license plates to the Massachusetts United States Olympic Fund. DOR periodically transfers these funds to the United States Olympic Committee, which has management responsibilities over the U.S. Olympic and Paralympic Teams. The only payments made by the DOR from this fund are to the U.S. Olympic Committee.

Audit Scope, Objectives, and Methodology

At DPH, we held discussions with the Assistant Commissioner of Public Health and officials of the AIDS Department and the Organ Transplant Fund; at DOR, we spoke to the official managing the Massachusetts U.S. Olympic Fund; and at DFW, we interviewed the officials managing the two appropriations funded by the Natural Heritage and Endangered Species Fund. We examined relevant Massachusetts laws, DPH memoranda dealing with billings against cost reimbursement contracts, and the minutes of the Non-Game Advisory Committee for calendar years 1998, 1999, and 2000. Based on our preliminary assessment of risk, we tested these revenues and expenditures for legal compliance and adequate documentation. Our audit was conducted in accordance with generally accepted government auditing standards.

Except as discussed in the Audit Results section, our audit indicated that expenditures made from the Organ Transplant Fund, Natural Heritage and Endangered Species Fund, Massachusetts AIDS Fund, and Massachusetts U.S. Olympic Fund were made in accordance with applicable laws, rules, and regulations for the areas reviewed.

AUDIT RESULTS

1. ORGAN TRANSPLANT FUND ISSUES

As discussed below, our examination of the Organ Transplant Fund revealed the following issues: (a) the Advisory Council on Organ Transplants was not meeting in accordance with state law, (b) the Organ Transplant Funds has not established official regulations, and (c) eligibility guidelines could be improved.

a. Advisory Council on Organ Transplants Not Meeting in Accordance with State Law

The Advisory Council on Organ Transplants, which has oversight responsibility over the Organ Transplant Fund, is required by Chapter 17, Section 15, of the General Laws to meet four times a year to help coordinate organ transplant activity within the Commonwealth of Massachusetts. However, the council has met only once since 1987, and no minutes were kept then to indicate what business was conducted.

The Advisory Council on Organ Transplants consists of the Commissioner of Public Health, the Commissioner of Public Welfare, the president of the Massachusetts Medical Society, and six persons appointed by the governor who are experienced in the field of organ donations or transplants. In addition to establishing regulations for the Organ Transplant Fund, Chapter 17, Section 15, of the General Laws provides that the council should meet at least four times each year and:

- Assist the Commissioner of Public Health and the Director of the Division of Organ Transplants in coordinating the efforts of all public and private agencies within the Commonwealth concerned with the donation and transplantation of human organs,
- Advise the Commissioner and Director on policy and priorities of need in the Commonwealth for a comprehensive program relative to organ donations and transplants, and;
- Review the annual plans, the proposed annual budget, and the programs and services of the division and make recommendations to the commissioner in regard thereto.

Our audit indicated that there was only very minimal activity by the Advisory Council on Organ Transplants since 1987, when it established guidelines for the administration of this

fund. Fund officials advised us that there was one meeting in 1997, but since board minutes were not prepared, it is unclear what business was conducted at that meeting. DPH does not have a director of the Division of Organ Transplants. Instead, one employee within DPH's Health Care Quality Division handles the day-to-day operations of the fund. Since the council met only once in the past 14 years, it has not assisted DPH in the coordination of all public and private agencies within the Commonwealth concerned with organ donations.

In response to our question about how the objectives of Chapter 17, Section 15, are being met, we were provided with correspondence from the Commissioner of DPH to the CEOs of transplant hospitals within Massachusetts that indicated goals to be met and progress made in the area of organ donations. For example, a letter from the Commissioner dated November 5, 1999 to a CEO of a transplant hospital stated:

> *We are asking you and every other CEO of a transplant center in Massachusetts to join this important initiative. We truly believe that with full participation we can demonstrate and document a real breakthrough in organ donation, saving the lives of more patients, strengthening the transplant programs, and positioning the Massachusetts transplant centers, collectively and individually, as national benchmarks.*

The statute clearly required the Advisory Council on Organ Transplants to coordinate the efforts of organ transplants within the Commonwealth. However, the Commissioner of DPH is apparently taking action by a different means than by enlisting the help of the CEOs of transplant hospitals.

Recommendation

DPH should either comply with this statute or take the necessary legislative steps to modify the existing law.

Auditee's Response

> *The Council's role is to assist and advise the Commissioner and the Director in connection with their efforts. While the Council provided invaluable assistance in 1986 and 1987 when the Fund's operating procedures, standards and guidelines were developed, there has been little need for the Council's assistance since then. Rather, the Department has sought more effective means of assistance in fulfilling its*

coordinating role and meeting the objectives of section 15. The draft report notes one of the Department's initiatives in this area. In conjunction with the New England Organ Bank, the Department has been enlisting the participation of CEO's of the Commonwealth's transplant centers to improve organ donation through a statewide campaign to increase public awareness.

However, consistent with the recommendation in the draft report, the Department will assess the future role of the Advisory Council. It will either seek to have the Advisory Council reconstituted or will propose legislation to eliminate the Council in favor of a more effective and flexible means of furthering the goals of section 15.

b. The Organ Transplant Fund Has Not Established Official Regulations

The Organ Transplant Fund has not complied with Chapter 17, Section 15, of the General Laws, which requires that regulations be established setting forth the eligibility requirements for assistance from the fund. Because regulations have never been established, the fund relies on internal guidelines that were developed in 1987. Because guidelines lack the public exposure of regulations, the fund may have been underutilized, potentially contributing to the shortcomings in the eligibility requirements noted below.

Chapter 17, Section 15, of the General Laws requires the Advisory Council on Organ Transplants to "assist the director of the division of organ transplants to establish regulations which shall set forth standards and guidelines by which said director shall both select individuals who shall receive funds from the Organ Transplant Fund . . . and determine the amount each such individual shall receive." In 1987, the Advisory Council prepared guidelines for selecting individuals who will receive funds from the Organ Transplant Fund.

The Organ Transplant Fund guidelines are internal to the operations of the DPH and lack the public exposure that regulations would receive. Currently, doctors, social workers, and drug companies inform individuals of the availability of transplant funds. Lack of exposure may have caused underutilization of the fund. If fund regulations were filed publicly, the citizens of the Commonwealth may become more knowledgeable about this fund, and the demand for transplant funds might increase with this greater exposure.

Recommendation

DPH should comply with Chapter 17, Section 15, of the General Laws by promulgating regulations as required. Hopefully, the public disclosure of these regulations will provide additional notice to the public of the availability of these funds and provide additional suggestions for improvements.

Auditee's Response

Since 1986 the Organ Transplant Fund has been administered pursuant to written standards and guidelines that were developed at that time. The draft report correctly notes that the literal language of section 15 contemplates the promulgation of regulations containing the standards and guidelines to select individuals who shall receive assistance from the fund, and to determine the amount of assistance each individual is to receive. Accordingly, the Department has developed draft regulations incorporating these standards and criteria. The Department would prefer to promulgate these regulations without delay. However, section 15 provides that the Council is to assist in the establishment of the regulations. In order for this activity to occur, the appointed members of the Advisory Council will have to be reappointed by the governor since their terms have expired. This may cause some delay in the final adoption of the new regulations.

c. Eligibility Guidelines for the Organ Transplant Fund Could Be Improved

Our audit indicated that DPH's guidelines for determining eligibility for assistance under the Organ Transplant Fund could be improved. Specifically, DPH could periodically recertify applicants' eligibility status and include all sources of applicant income during the certification and recertification process.

Eligibility guidelines for the Organ Transplant Fund state that its funds can be used for any medical, rehabilitation, and other costs related to transplant, except evaluation. The fund is considered a fund of last resort, a resource to be used when a patient's federal, state, and private insurance funds have been exhausted. To be eligible, an applicant must be a resident of the Commonwealth and submit a completed copy of a Massachusetts income tax form, which is used to determine an applicant's eligibility for assistance. To be eligible, the family income of the applicant must be under $60,000, a limit that has not changed since 1987.

Applicants fill out an application form and submit it to DPH. One of the purposes of the application form is to determine the type of insurance an applicant has and to ensure that

reimbursement is not available through another source. If reimbursement is not available through another source and the income on the submitted tax form is below $60,000, the application is accepted and reimbursements are provided to the individual. Documentation of bills submitted to the fund for reimbursement must show that the bills were submitted to other appropriate-third party sources, which did not pay them.

We noted that DPH has no periodic recertification process to determine continued eligibility, and that DPH's definition of income does not include certain types of income, such as U.S. government interest income, that should be included.

Recommendation

DPH should establish an applicant recertification process and consider income from all sources when determining applicant eligibility. Moreover, these guidelines should ultimately be promulgated as regulations.

Auditee's Response

The Department has not periodically recertified applicants' eligibility because, in the experience of the program, applicants' incomes tend to decline due to their disability. However, the Department will follow the draft report's recommendation and has included a recertification requirement in the draft regulations. Traditionally, the Department has used state tax returns to verify residence and income eligibility. As the draft report notes, examining only the state return may have resulted in overlooking certain income. (i.e., United States government interest income). Although, given the experience of the program, it is highly unlikely that applicants will have sufficient interest income to approach the $60,000 threshold. However, in the future, the Department will now require the submission of both state and federal returns as part of the eligibility determination process.

2. CERTAIN DIVISION OF FISHERIES AND WILDLIFE REVENUE EARMARKED FOR THE NATURAL HERITAGE AND ENDANGERED SPECIES FUND NOT PROPERLY RECONCILED OR INVENTORIED

Based on our visit to the Division of Fisheries and Wildlife's (DFW) Westborough Office, we determined that the revenues from publications sold by DFW are deposited into the Natural Heritage and Endangered Species Fund. It was noted that DPW does not maintain an inventory of these publications and does not periodically reconcile sales revenue. In fiscal year 2000, $24,808 was earned by these sales. While these publications may have a low risk

of theft since they are mostly of a technical nature, there is a greater risk that cash from the sales of these publications could be subject to loss, theft, or misuse. This risk is complicated by the lack of detailed records showing how many publications were sold to the public or donated to libraries and public offices. Without appropriate records being maintained, it is not possible to determine how much publication revenue should have been earned.

DFW management officials stated that they were unaware of this problem and expressed an interest to initiate better record keeping, maintain detailed records of publications donated and sold, and conduct periodic physical inventories.

Recommendation

DFW should keep records of its gift and sale activity of these publications, take a periodic inventory of these publications, and reconcile revenue earned to inventory reduction.

Auditee's Response

The Division of Fisheries and Wildlife concurs with your draft findings. We will initiate your recommendations immediately by having Natural Heritage and Endangered Species Program personnel develop and implement a database system whereby accurate record keeping of publications will be maintained. Periodic physical inventories will be conducted and detailed records of publications donated and sold will be maintained. Inventory information will be reconciled with revenue earned information annually.

3. AIDS FUND ISSUES

As discussed below, our examination of the AIDS Fund revealed (a) vendor payments totaling $100,000 not made in accordance with contractual terms, (b) payment procedures under cost reimbursement contracts could be improved and (c) questionable AIDS Fund payments.

a. Payments Totaling $100,000 Not in Accordance with AIDS Fund Contract Terms

In 1998, the Massachusetts AIDS Fund contracted with a vendor to purchase advertising services. The contract provided for the vendor to be paid $100,000 for an advertising campaign to improve the participation of African-Americans in AIDS clinical care initiatives - $56,000 for advertising, $39,000 for personnel costs, and $4,340 for project management.

Seven payments totaling $100,000 were made to this vendor. However, the Department of Public Health (DPH) does not know whether the money was spent in accordance with the terms of the contract or whether the vendor actually incurred these costs or worked those hours, because the vendor's billings lacked sufficient documentation.

Under this cost reimbursement contract, the vendor was required to submit a budget specifying the cost of staff time, the items included in the rate if charges are bundled, and an estimated budget for any other costs. Moreover, in order to receive payment, the vendor was required to submit invoices and supporting documentation on a timely basis with accurate documentation of hours worked.

Under this vendor's submitted budget, the vendor agreed to supply $56,000 in collateral costs for advertising materials and services for an HIV media campaign. Collateral costs include graphic design and creative services to develop a logo and slogan; design, production, and purchase of collaterals (posters, brochures, billboards, print ads, and radio public service announcements); printing; and distribution.

As part of our examination of AIDS Fund expenditures, we tested payments to this vendor and found that they were not in accordance with the terms of the contract. Specifically, a May 1998 invoice of $16,000 indicated that the billing was for "Ongoing Consulting Services for Media Campaign for HIV/AIDS Bureau for period 3/1/98 - 3/31/98 Concept Development – Phase II, Ongoing Testing of Creative, Administrative Service Charge." For another invoice, for $16,000 in June 1998, the billing was for "Ongoing Consulting Services for Media Campaign for HIV/AIDS Bureau for period 5/1/98 through 5/31/98 Production Phase of Advertising Campaign." However, because no documentation was provided with the invoices, it was not possible to determine whether the vendor actually provided the personnel services, collateral costs, and project management. There is, therefore, inadequate assurance that the vendor provided all the services contracted and paid for.

Recommendation

DPH should require vendors to comply with the terms and conditions of their contracts and provide sufficient details with their invoices. In the future, invoices should not be paid unless the vendor provides adequate documentation accompanying the bill specifying the services provided in compliance with the contract. DPH should also conduct its own review of the vendor in question to determine whether all contracted services were actually provided and recover funds for any services not provided.

Auditee's Response

> *The Department believes that it received full value for its $100,000 contract...for a campaign entitled "Get tested Get care" and has on-hand logos, slogans, posters, brochures and billboards that were produced for the campaign. However, this does not obviate the need for the Department to better monitor deliverables and the supporting documentation for vendor invoices in order to insure vendor compliance with a contract.*
>
> *The Department will therefore increase its scrutiny of vendor invoices to insure compliance with the terms and conditions of their contracts. In addition, the Department will conduct a thorough review of the questioned contract.*

Auditor's Reply

Notwithstanding DPH's belief that it received "full value" for this $100,000 contract, without adequate supporting documentation there is inadequate assurance that the vendor complied with all contract requirements and delivered all contracted services. Therefore, DPH's indication that it will increase its scrutiny of vendor compliance, including for the contract in question, is prudent and warranted.

b. The Procedure for Making Payments under AIDS Fund Contracts Needs to Be Improved

DPH's procedure for making payments under its cost reimbursement contracts appears to be flawed in that it does not require documentation by the vendor for non-personnel costs. As a result, payments made under the AIDS Fund cost reimbursement contracts do not adequately explain what is being paid for because documentation for non-personnel costs is not submitted. Moreover, we found several instances in which reimbursements were

misclassified. For example, what was represented on one payment voucher as a reimbursement for the purchase of computers and direct care services was actually a reimbursement for the donation of computers and cash to nonprofit corporations. Further, what was represented on two payment vouchers as reimbursements for expenditures made by two vendors were found to be advances to these vendors after we examined requested supporting documentation from the vendor. In addition, what appeared on a payment voucher as a completed transaction was found to be incomplete and not supported when additional documentation was requested from the vendor.

Under DPH procedures, documentation for the reimbursement of non-personnel costs is not required. All that is required is a statement from the vendor that documentation is available upon request. However, when we tested this procedure by obtaining documentation from three vendors, we found the funds were not spent as indicated on the payment voucher. Therefore, since DPH did not implement its policies to periodically request to review documentation, improper reimbursements were made to vendors based on inadequate documentation.

Moreover, the documents obtained from the vendors and provided to us by DPH did not disclose what funds were expended, what they were expended for, and to whom they were paid. Specifically, we found the following deficiencies:

- A payment voucher indicated that $249,920 was for the purchase of computers for social services. We found, however, that the vendor had actually purchased 111 computers and printers: 24 remained at the vendor for education classes and 87 were donated to nonprofit organizations. (The $249,920 was reimbursed partially by the AIDS Fund and partially by state-appropriated funds.) Although DPH procedures require vendors to certify what services were performed for the cost being reimbursed, the certification of services for this payment voucher did not disclose that these computers and printers had been purchased and donated to nonprofit corporations. Instead, the services were listed as: "redrafted survey," "participated in contract monitoring meeting," "attended MPPG meeting," "developed action plan," "reviewed findings for MAP consultant," "conducted half day session for capacity development," "conducted site visit to one of the Capacity Development groups," "participated in Medicaid training," "participated in the BU Safety Net," "met with a representative of the Russian community about HIV prevention needs," "prisons quarterly reports evaluated," and "had meetings

regarding DOC peer education." In addition to the payment vouchers' not explaining what was being reimbursed, neither the contract nor the statute appears to authorize these donations.

- Under the same payment voucher, $114,295 was reimbursed for direct care salaries. The certification of services, however, did not indicate that any direct care was performed. The additional documentation that we requested disclosed that $89,295 of this amount was used to subsidize five nonprofit organizations (without any apparent benefit to the purposes of the fund). The remaining $25,000 was for consulting costs involving Medicare, acupuncture, and AIDS as indicated below:

Subsidized Organizations	
Center for Community Health	$30,000
Massachusetts Alliance of Portuguese Speakers	30,000
Haitian American Public Health	18,500
Boston Learning Center	6,250
Central Latino de Chelsea	4,545
	$89,295
Consulting Costs	
AIDS Care Project	25,000
Total	$114,295

- Moreover, the certification of services does not indicate that the reimbursement was for donations made to nonprofit corporations and organizations or for consulting costs. It is unclear from the documentation whether the consulting was provided to the vendor or to the Commonwealth. In addition to improperly classifying the payment as direct care salaries, neither the contract nor the statute authorizing the AIDS Fund authorizes subsidies for nonprofit organizations. As discussed above, there was no contractual authority for a vendor to make donations of computers, printers, and cash to nonprofit organizations. When questioned whether they had any written guidelines for the distribution of equipment and cash by a vendor to nonprofit organizations, DPH officials stated that no guidelines exist. Accordingly, the vendor made unauthorized donations that were reimbursed by DPH without its knowing why they were made and what was accomplished. Moreover, it is unclear why these particular organizations were selected to receive these donations of money and equipment.

- On another vendor invoice, $46,904.28 in support costs and $24,202.63 in consultant costs were billed. Since the payment voucher did not indicate how these funds were spent, we asked the vendor for the documentation on these two items. What we received from the vendor was inadequate, loose invoices and copies of cancelled checks that were not summarized to support the reimbursement requested. Our

examination of this material disclosed that, although the payment voucher was for June 1997, the vendor's cancelled checks were issued in May 1997, June 1997, and July 1997. Since the period of reimbursement was the month of June 1997, the checks should not have been for May or July. In addition, the checks we were given exceeded the amount of the requested amounts by $12,870.85. In June 1997 alone, the documentation indicates that this vendor overbilled the Commonwealth $27,597.36.

- In addition, 82% of the documentation submitted, $68,804, was for advertising, printing, and media costs. The certification of services accompanying this request for reimbursement, however, does not mention advertising or media costs or anything that would appear to require such costs. The services listed as being performed during June 1997 were "planning for the gay lesbian transgender (GLBT) health access breakfast," "coordinating the GLBT Health Access," "provided consultation and technical assistance on GLBT health project," and "distributed copies of the GLBT access report." It is still unclear why advertising was being reimbursed under this contract and whether this vendor overbilled or underbilled the Commonwealth.

- In general, the additional documents we received from two vendors were inconsistent with payment vouchers which indicated that the reimbursement was for a specific month's expenditures, while the supporting documents indicated that the reimbursement was for months other than the one indicated. Moreover, two of the three vendors examined received funds before the expenditure was actually made. The third vendor was unable to support its prior request. For the first vendor, none of the money listed as being expended in June 1998 for computers, printers, and cash given to nonprofit organizations was actually expended in that month. It was actually spent before and after the month of June: $11,193 in February 1998, $119,683.63 in July 1998, $236,701.60 in August 1998, and $6,249.88 in October 1998. For the third vendor, the $26,694.62 that was reimbursed by the Commonwealth for June 1997 included $21,947.12 that was not expended in June, but in May 1997 $1,197 and in October 1997 $20,882.12. DPH should not have paid these vouchers because the vendor had not yet spent the funds they had billed for. Furthermore, state vendors are required to certify on the payment voucher, "that the goods were shipped or the services rendered as set forth below." The above vendors made this certification even though they had not expended these amounts as they had indicated on their payment vouchers. Without requiring vendors to submit adequate and accurate documentation for their billings, there is little assurance that DPH is receiving the goods and services that it is paying for or that vendors receive more reimbursement than they are entitled.

Recommendation

DPH should require that vendors submit:

- Adequate documentation that all costs billed have been expended in the period for which reimbursement is requested. Moreover, this documentation should indicate the specific purpose for which the expenditure was made.

- The original invoices with a listing of checks showing check number, dates, and amounts to substantiate these expenditures and show how the money was spent.

We also recommend that DPH:

- Routinely request that documentation be provided for review along with invoices in order to deter similar irregularities as those we detected.

- Conduct a review of its vendors for potential overbillings.

- Not reimburse vendors for unauthorized expenditures.

Auditee's Response

The [referenced contract] . . . states that "Planning and system development functions will be provided to the HIV/AIDS Bureau as well as to health and social services organizations such as AIDS service organizations, minority community based organizations, county prisons and the Massachusetts Prevention Planning Group." Under this language, small agencies serving people of color were supported through temporary management assistance in the form of administrative personnel and computer hardware.

The Department does agree that no vendor should ever be reimbursed for unauthorized expenditures. Therefore, the Department shall undertake a review of its current internal controls relative to existing contract monitoring and vendor payment processes, in order to strengthen our ability to ensure vendors comply with the terms and conditions of their contracts, as well as provide sufficient documentation to support future invoices. The Department will also accelerate vendor site visits conducted by our internal audit resources to review vendor billing practices, identify any potential overbillings, and ensure that vendors are not being reimbursed for unauthorized expenditures.

Auditor's Reply

As noted in our report, there is no contractual or statutorial authority for DPH to use the AIDS Fund to subsidize, "temporarily" or otherwise, the activities of nonprofit organizations. Moreover, even if such authority existed, such subsidies should clearly not be provided through misclassified, inaccurate, unsupported, and unauthorized transactions.

c. Questionable Payments Made From the AIDS Fund

Our audit revealed that certain expenditures were made from the AIDS Fund that do not appear to be authorized under Chapter 111, Section 2E, of the General Laws, which requires that payments out of the AIDS Fund be for AIDS research, treatment, and education:

> *The commissioner may expend amounts contained in the fund, with the advice and under the guidance of the AIDS advisory board, solely for research treatment, experimental treatment, and education related to acquired immune deficiency syndrome. Expenditures from the fund for such purposes shall complement and not replace existing local, state, or federal AIDS-related funding.*

However, as discussed earlier in this report, we noted several AIDS Fund expenditures that do not comply with this statute, and it is unclear whether the purposes of the fund were achieved from these transactions. For example:

- $249,920 in computers and printers given to nonprofit organizations. This gift was paid for partly from the AIDS Fund and partly from other state funds.
- $89,295 in cash was given to five organizations to subsidize administrative positions within these organizations. This expenditure was partly paid from the AIDS Fund and partly from other state funds.
- $15,000 was given to a gay pride in youth organization. However, the corresponding payment voucher did not indicate that it was for the education, treatment, or research of AIDS.
- $8,367 was paid to maintain a computer at DPH.

DPH should comply with Chapter 11, Section 2E, of the General Laws by ensuring that all AIDS Funds expenditures are related to AIDS research treatment, experimental treatment, and education.

Auditee's Response

> *It was the Department's belief that the expenditure of these funds was in keeping with the intent of the Massachusetts AIDS Fund. They supported the development of an infrastructure, generated awareness of the availability of treatment and resources, and permitted the collection of data. Each of these actions is a required precursor to engaging difficult-to-reach populations in research and treatment. However, in accordance with the audit recommendations, the Department will insure that all future expenditures are in strict conformity with the stipulations of the law,*

which require they be used on for AIDS research treatment, experimental treatment, and education.

Auditor's Reply

As noted in our report, Chapter 111, Section 2E, of the General Laws clearly states that AIDS Fund expenditures are to be used solely for AIDS research, treatment, and education. DPH's indication that it will ensure that all AIDS Fund expenditures comply with this legislative requirement is therefore prudent and warranted.

4. MASSACHUSETTS UNITED STATES OLYMPIC FUNDS NOT RESTRICTED TO MASSACHUSETTS RESIDENTS

Chapter 10, Section 350, of the General Laws states that the Massachusetts United States Olympic Fund is to be used "to assist residents of the Commonwealth in paying all or part of any costs associated with the development, maintenance, and operation of the United States Olympic team participating in the Olympics and the United States Paralympic team participating in the Paralympics." Moreover, the Department of Revenue's (DOR) instruction booklet for individual tax returns uses this same statutory wording regarding the purpose of this contribution and fund.

Our audit revealed that the voluntary contributions from individual tax returns are sent directly to the U.S. Olympic Committee for its general purposes and are not specifically earmarked for Massachusetts residents. During the first four years of its existence ending in fiscal year 2000, $326,389 was given to the U.S. Olympic Committee. DOR indicated that the funds given to the U.S. Olympic Committee were given without any restrictions to its use and were not specifically earmarked for residents of the Commonwealth. The U.S. Olympic Committee stated that donations from DOR are commingled with other funds for the benefit of the entire Olympic event. Funds designated by law to be used "to assist the residents of the Commonwealth in paying all or part of any costs" of participating of the U.S. Olympics and U.S. Paralympics should not be used for the general purpose of the U.S. Olympic Committee.

Recommendation

In order to comply with the statute and the intent and wishes of contributors, DOR should ensure that the U.S. Olympic Committee uses these funds for Massachusetts participants.

Auditee's Response

In recent discussions with the U.S. Olympic Committee, we learned that there is no State Olympic organization that can take and disburse these donated funds to Massachusetts Olympic athletes. However, the U.S. Committee is willing to enter into an agreement that would earmark the state's donations only for its resident athletes. Several states already have such agreements with the U.S. Committee.

We propose that the Commonwealth make such an agreement with the U.S. Committee. In the meantime, we will change our instruction booklets to recognize that contributions also go to Paralympic athletes. The U.S. Committee provides money for Olympic and Paralympic athletes.

Auditor's Reply

DOR should comply with the statute by entering into such an agreement with the U.S. Olympic Committee that provides that donations will be used exclusively for Massachusetts' athletes participating in the U.S. Olympics.