The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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AUDITOR

NO. 1998-0290-3

INDEPENDENT STATE AUDITOR'S REPORT ON CERTAIN ACTIVITIES OF THE DEPARTMENT OF PUBLIC HEALTH'S OFFICE OF EMERGENCY MEDICAL SERVICES

OFFICIAL AUDIT REPORT

MARCH 13, 2000

INTRODUCTION

Background

The Office of Emergency Medical Services (OEMS) was established by Chapter 111C of the Massachusetts General Laws for the purposes of reducing premature death and disability from critical illness and injury through the coordination of emergency medical care statewide. Toward this end, OEMS established programs, such as ambulance inspections, Emergency Medical Technicians (EMT) training and registration, and production of treatment protocols to be followed allowing for continuity in providing emergency patient care. OEMS also awarded contracts to five regional Emergency Medical Services (EMS) councils and one State Emergency Services Medical Director.

OEMS was formalized as the state level of oversight involving emergency medical services in October 1973, with the passage of Chapter 111C of the General Laws, which was derived from work already underway at the local levels in response to the federal EMS Act (Public Law 93-154) providing federal funds for the development of EMS programs at the state level. At its inception, Chapter 111C required that one-third of all ambulance operators/attendants be trained as EMTs by July 1, 1975; two-thirds be trained by July 1976; and all operators and attendants be trained by July 1, 1977.

In 1974, the Department of Public Health (DPH) was awarded a $1,888,891 grant from the U.S. Department of Health, Education and Welfare. Those initial funds and continuing federal grants enabled OEMS to establish and maintain both the ambulance license and EMT training and certification programs. As of July 1998, these programs require the oversight of approximately 290 ambulance services, 1,258 ambulances, and approximately 20,000 EMTs of various skill levels.

The organizational structure of OEMS includes the Office of the Director, the Ambulance Regulation Program, the EMT Training Program Coordinator, and the EMT Registration Program. Additionally, OEMS contracts with five regional EMS councils to provide additional support, including training evaluation, disaster planning, and a ambulance service and hospital data, as follows:

Regional Office	Location
Western Massachusetts EMS	7 Denniston Place Northampton, MA 01060
Central Massachusetts EMS	361 Holden Street Holden, MA 02520
Northeast EMS	16 Delcarine Street Wakefield, MA 01880
Metropolitan Boston EMS	200 Wheeler Road, Suite 600 Burlington, MA 01803
Cape and Islands EMS	P.O. Box 1197 Hyannis, MA 00260

Funding sources for OEMS operations and service programs include state-appropriated funds, federal funds, and retained earnings from the Ambulance Inspection Program.

Audit Scope, Objectives, and Methodology

The scope of our audit included an examination of OEMS activities during fiscal years 1997 and 1998. The primary focus of our audit was to examine OEMS's activities relative to the administration of its Ambulance Inspection Program and the monitoring of its contractual services. Our examination was conducted in accordance with applicable generally accepted government auditing standards for performance audits issued by the Comptroller General of the United States and, accordingly, included such audit tests and procedures as we considered necessary to meet our audit objectives.

Our overall objective was to determine whether OEMS's program objectives were being met and expected results were being achieved in the most efficient and effective manner. Our specific objectives were to:

1. Obtain an understanding of OEMS programs, including the responsibilities and activities of OEMS and the system of management controls in place relative to these programs, including obtaining input from service providers who are regulated by OEMS.

2. Assess the process established and implemented to monitor the activities of contracted service providers to determine whether this process ensures that purchased services are necessary, adequate, and appropriate.

3. Make recommendations, where necessary, on how OEMS can improve its administration of the programs under its control.

To meet our audit objectives, we reviewed all applicable laws, regulations, policies, and procedures relative to OEMS programs. We also reviewed regulations and other publications issued by the state's Operational Services Division in regard to the procurement and monitoring of purchase-of-service and consultant contracts. We also conducted interviews with OEMS staff to gain an understanding of how OEMS determines its service needs, how its contracting and program licensing process operates, what controls exist to ensure compliance with both contract provisions and applicable laws and regulations, and what monitoring and evaluation processes were being followed by OEMS.

In order to assess OEMS's licensing activities under the Ambulance Inspection Program, we attended three licensing and inspection site visits consisting of two public and one private ambulance service to obtain an understanding of the process followed by OEMS and to identify areas that are reviewed during the routine licensing process. We also reviewed the five purchase-of-service contracts and one consultant contract in effect at the time of our review.

Finally, we met with representatives of two of the regional EMS councils to verify their compliance with the scope of services to be provided and to obtain their input on issues identified during our audit relative to contracting procedures and monitoring of OEMS.

AUDIT RESULTS

1. Ambulance Inspections

According to data provided by the Office of Emergency Medical Services (OEMS), as of June 1998, the Department of Public Health (DPH) was responsible for the licensing and inspection of approximately 287 ambulance service providers and 1,250 vehicles. Our review of OEMS indicated that OEMS was not meeting its regulatory mandate of performing an annual licensing review of Advanced Life Support (ALS) ambulance services and a biennial review of Basic Life Support (BLS) ambulance services. Specifically, we noted that 191, or 74%, of the 259 tested ambulance services were not inspected prior to the expiration of their license and that 68, or 26%, were inspected on a timely basis. Moreover, of the 191 ambulance services not inspected prior to the expiration of their license, 71, or 37%, were still operating with expired licenses at the time of our testing. Our review also noted that, for the providers not inspected on a timely basis, it took OEMS one to nine months to subsequently review them. The remaining 28 ambulance service providers were not tested due to files being out of OEMS or the fact that the provider was so large that it could not be readily reviewed. DPH inspectors noted that the large providers (those with many ambulances) are inspected on a test basis. For example, at the time of our review, one ambulance service provider had approximately 420 ambulances. For one inspector to handle the inspection procedure at this provider, based on a typical four-hour inspection, it would take approximately 40 weeks to inspect all the vehicles. Accordingly, although contrary to the requirement of annual inspections, OEMS inspectors would inspect only a few vehicles and make a determination to issue licenses for all provider ambulances. For practical purposes, if those vehicles inspected were considered to be satisfactory, then all vehicles were considered to be satisfactory and licenses were issued.

The primary responsibility of the Ambulance Inspection Program is to license ambulance providers and inspect vehicles used in conjunction with patient transport. The vehicle inspectors are also involved in the approval of new vehicles put into service at any time as well as other functions such as emergency

planning and assisting service providers with information on new vehicle purchases or proper policies to be maintained by the service providers. During our review period, these inspections and related activities were performed primarily by three inspectors; however, by the end of the review period there were only two. (Subsequent to our review period, a new inspector was hired.) OEMS personnel revealed that, over the years, there have been as many as five inspectors to handle the task of inspecting and licensing approximately 287 service providers and 1,250 vehicles.

As previously stated, the licensing and inspection function was performed by three inspectors who are responsible for the on-site inspection of vehicles and the review of adherence to operating procedures and reporting of the ambulance services. The site visit consists of a thorough review of each vehicle the ambulance service wishes to use and includes a mechanical, inventory, equipment, and maintenance review. Inventory of medical supplies for adequacy and expiration date is also performed.

As part of our review, we went on scheduled site visits with the inspectors to three service providers needing inspections for relicensing. The three providers included two towns maintaining ambulance services and one major company providing ambulance services for several communities. For the three providers visited, we observed the inspection of 21 vehicles. Each provider was extremely accommodating and helpful during each inspection.

We also examined the prior inspection reports of the selected providers to check whether similar deficiencies existed between inspections. OEMS inspectors informed us that they do not review prior reports to determine repeated deficiencies. However, our review noted certain conditions that were repeated from the prior reports.

During our site visits with OEMS inspectors, we found that a very thorough and comprehensive review is undertaken. The inspectors appear knowledgeable in all areas of the inspection process and were helpful in assisting the service providers in assessing their deficiencies and procedures, including where to gain additional support to address problems.

During our review of the three providers, the inspectors noted many deficiencies, including inadequate, contaminated, broken, or missing medical equipment; expired medication; vehicle

maintenance deficiencies; and inadequate service operation recordkeeping. Examples of deficiencies noted are as follows:

Supplies

- Primary ambulance cot (patient stretcher) had loose wheels, roll pins pulling free, or protruding, missing latches; broken locks and handles; torn pad covers; and dried body fluids. Two cots were in such bad shape that the inspector immediately took the cots out of use and ordered new or repaired cots before relicensure.

- Portable suction units did not work, had crimped tubing, or loose parts, lacked mask shields, or were dirty units (one unit was noted as having biohazardous material on it).

- Inadequate first aid kits, e.g., no tourniquets, expired dextrose (glucose), dirty (blood-stained) scissors, inoperative blood pressure gauges, rusted scissors, and no penlight flashlight.

- Dirty, blood-stained splints, torn coverings on splints, worn spine boards, and worn or torn fabric on stair chair.

- Missing pillows, sheets, blankets, sterile aluminum foil, polyethylene film, measuring device in poison antidote kit, or disposable towels.

- Contaminated material left in trash compartment on ambulance, and full sharps container.

- Expired epinephrine (medication used for allergic reactions and heart stimulation).

Vehicle Construction

- Problems with the installed oxygen (O_2) system; outlet plate coming off wall; O_2 gauge not visible; broken door to installed O_2, broken latch on O_2 unit.

- Installed suction system was miswired, did not have a vacuum, or had crimped tubing.

- Medical equipment and supplies improperly secured on ambulances.

- Torn cushions on seats, and squad bench, latches broken on squad bench.

- No trash compartments on several ambulances.

- Broken dome lights, faulty rear-door mechanisms, inoperative air conditioning, loose body molding/trim on vehicles, bubbling paint on vehicles bumpers, and loose steps.

- Suspension deficiencies, worn shocks, and springs.

- Leaking power steering system, worn parking brake cables, significant oil leaks (gaskets and seal), leaking radiator or water pump, leaking transmission fluid, and high-speed idle set too high.

- Ambulance windshield wipers improperly operating, horn or spotlight not working, alarm on back-up lights not working, public address microphone not working, and miscellaneous lights (warning lights) dysfunctional.

Vehicle Equipment

- No NIOSH (National Institute for Occupational Safety and Health) hazardous material guidebooks on ambulance.
- Improperly housed equipment exposed sharp objects; fire extinguishers not secured.
- Missing tools in toolboxes.

Service Operations, Records, and Written Policies and Procedures

- No driver's licenses on file.
- No written policies and procedures.
- No system to obtain and maintain required records (inspector was unable to locate necessary documents to support personnel data).
- Missing data on trip records (e.g., time-in/time-out data; names of ambulance attendants).
- No system to identify primary patient cots for the purpose of inventory and maintenance control.
- Inadequate system of initial acceptance of new vehicles and inadequate oversite of vehicle operating systems and daily checks.
- Inadequate supervision of day-to-day operations to ensure that essential medical equipment is properly maintained.

During our site reviews, the conditions of several ambulances made it necessary to pull three vehicles out of service. As a result, one ambulance was replaced with a brand new ambulance, and the others had to be serviced before they were relicensed and put back into operation. It should be noted that, up to the point of inspection, these vehicles were in operation and transporting patients. In fact, one vehicle had just returned to its operational base from an emergency call while the inspection was being made. The ambulance's engine compartment was leaking gasoline, engine coolant, and transmission fluid and had vehicle body parts (loose lower body trim and running board) literally falling off of it.

As previously stated, the violations noted by inspectors are included in a plan of correction filled out by the ambulance service. Included in this plan of correction is the listing of deficiencies and a date by which the ambulance service should correct them. This plan of correction is forwarded to the appropriate inspector, who approves the plan or sends it back for more information. Our review disclosed that, although the plans are almost always accepted, they are not verified. OEMS cited a lack of manpower available to reinspect the vehicles, which puts the ambulance services on the honor system. As a result, the Commonwealth cannot be assured that the necessary corrections were made to ambulances in service.

As part of our review, we returned to two of the ambulance companies cited by the OEMS inspectors to verify that the deficiencies were addressed. Although one of the ambulance services indicated that it had implemented its plan of correction, we found obvious misrepresentations, including rear door hold-open devices that were not replaced, formica on the ambulance interior that was not repaired, and a parking brake line was not repaired. Additionally, we noted at this ambulance service and one other that outdated medical supplies had been removed but not replaced and that other medical supplies remained even though they had expired in the interim of our two visits. Although some of the repeated deficiencies might be defined as minor in nature, our follow-up visit revealed serious flaws in the inspectional process.

105 CMR 170.710 states, in part:

> Failure to submit an acceptable and timely plan of correction or failure to correct in accordance with the plan are grounds for enforcement action including suspension or revocation of a license.

Moreover, the enforcement section of 105 CMR 170.710 states that “no person shall knowingly make an omission of a material fact or a false statement in any application or other document filed with the Department” and allows for fines of not less than $100 and not more than $500 for each offense (each day the offense continues is deemed a separate offense).

The inspectors informed us that they could not remember any ambulance service being fined but could remember a few suspensions at some time previous to our audit period. However, the ambulance company could not provide the paperwork to verify these statements.

Both the lack of timely inspections and follow up is a concern because DPH has considered this program to be a public health need. Emergency services, which provide vital life-saving treatment and transport, must have the total confidence of the public. However, without adequate internal support from DPH, the Ambulance Inspection Program is in danger of becoming meaningless and ineffective.

Recommendation: DPH should ensure that OEMS's Ambulance Inspection Program is adequately staffed to ensure inspectional/licensing coverage for all ambulance service providers. In addition, OEMS should ensure that ambulance service providers that fail inspections implement their corrective action plans and should fine or suspend those providers that do not do so, in accordance with 105 CMR 170.710. Additionally, alternative inspection procedures should be explored as opposed to 4 hour inspections of a few vehicles and then assuming the fleet is satisfactory based on the results of a few.

Auditee's Response: In its response, DPH concurred with the result and indicated that additional resources would help to alleviate the problems noted. Additionally, DPH indicated it planned to review additional ways to utilize regulatory sanctions to effect ambulance service compliance.

2. Inadequate Monitoring of Vendor and Consultant Contracts

Our review revealed that OEMS's monitoring and evaluation of vendor and consultant contracts was inadequate. Specifically, we found that OEMS had not developed and implemented written policies and procedures relative to the monitoring and evaluation of program services to determine whether programs are operating in the most effective and efficient manner. As a result of this inadequate monitoring and evaluation, one consultant was reimbursed for unallowable expenditures and continually incurred contract overruns.

As noted in the background section, OEMS contracts with five regional Emergency Medical Services (EMS) councils, whose primary objectives are to provide such services as coordinating communication systems, evaluating training programs, developing and amending a regional EMS plan, conducting inventories of available medical services and capabilities, and evaluating their effectiveness.

In fiscal year 1990, OEMS used a competitive bidding process to obtain these services. Prior to fiscal year 1990, the regional councils were operating under a request for sole source authorization in

accordance with 801 CMR 25.06. In anticipation of the passage of a bill entitled "An Act to Improve the Emergency Medical Services System," DPH had language inserted in the fiscal year 1994 state budget, which stated that the regional EMS Councils in effect as of January 1, 1992 shall remain the councils and receive a funding appropriation of $400,000. (However, the councils also receive federal funds of $500,000 per year.) In effect, this language precluded OEMS from the need to competitively bid for these services or obtain a waiver of competitive procurement. Additionally, it effectively elevated the regional councils to a virtual state department status with their own state budget appropriation. Because of the state budgetary language, which mandated that these five councils remain as the only councils to provide services to OEMS, OEMS lost leverage for oversight responsibility, thereby making the councils autonomous. At the time of this report, the legislation to change the current OEMS regulations had not been passed, thus this situation continues.

We visited two of the five regional EMS councils to determine whether they were meeting their contract objectives. Our review of OEMS monitoring activities revealed that OEMS performed only a limited review of bills submitted by the councils for reimbursement and did not review or evaluate their programs. Although the two councils we visited both maintained a communication system, one was brand new and the other was outdated and in need of constant repair. Neither council could provide its regional EMS plan, and one was providing training when a provision of its contract was to evaluate training, thus placing it in the position of evaluating its own training courses.

The lack of monitoring, coupled with an exemption to the state's competitive-bidding process, has allowed for a situation to develop where the regional EMS councils have not established common procedures. Although the goal of the program was to provide continuity within the Commonwealth in providing EMS services, our review indicated that the councils essentially act on their own, often at cross purposes, and in some cases against the provisions of their contract.

Subsequent to our audit period, OEMS, taking advantage of recent changes to 815 CMR 2.00, went from a contract basis to a grant basis in fiscal year 1999 to fund the regional EMS councils. We were informed that this was to clearly define and establish the councils' responsibilities and improve

accountability, which would address our concerns in regard to the controls over monitoring as well as provide measurable goals and objectives. In response to this new development, we reviewed the conditions of the grant and found that one of the councils was receiving funding despite not having filed its Public Charities Report with the Attorney General's Office, contrary to Part B, Section 2, of the grant application, which states: "Each Regional EMS Council shall meet all statutory, regulatory and reporting requirements mandated by the Secretary of State and the Division of Charities of the Office of the Attorney General for private, non-profit 501(c)(3) organizations." This requires all regional councils to file an annual Public Charities Report with the Attorney General's Office to be in compliance with the grant conditions. Based upon this observation, it will be necessary for OEMS to strengthen its oversight of the grants to the councils.

In addition, OEMS has entered into a consultant contract for its medical director. This competitively procured contract has been in existence since fiscal year 1993 and has consistently been reimbursed at a rate of $50.40 per hour. (The original maximum obligation was $26,200 for fiscal year 1997 and $25,000 for fiscal year 1998.) The scope of services provided in Attachment A of the consultant's contract, in effect during our audit period, listed such services to be provided as advising OEMS of medical implications of pre-hospital care; reviewing Advanced Life Support (ALS) training programs; acting as chief examiner in all ALS examinations; attending meetings of the Statewide Medical Care Advisory Board; providing medical consultation to the investigations office of OEMS; providing EMS development advice on new levels of certification and state policies; and providing opinions and advice to the various OEMS directors on evaluation of pre-hospital care. Moreover, the final service outlined in Attachment A of the medical director's contract is to "represent the state office at New England Regional Council meetings and any EMS Regional Council meetings, as requested."

Our review of the expenses incurred under this contract indicated that: (1) the contract was consistently amended to provide for additional hours and funding and (2) the consultant was being reimbursed for out-of-state travel to conferences for OEMS personnel. Although reimbursements for out-of-state travel for consultants are not specifically prohibited, they must be specifically required in the

contract's scope of services. According to the Operational Services Division, which is responsible for the oversight of state procurement, "a contract employee may not be reimbursed for travel expenses unless such provisions were included in their contract."

We found three instances during our audit period where the consultant was reimbursed for out-of-state travel to conferences in Idaho, Florida, and Alabama. Moreover, the expenses incurred during this travel revealed a total of $1,207 in unallowable expenses and an additional charge of $195 for annual membership dues to attend these conferences. Included in these unallowable costs were excessive days stayed in hotels before and after the conference dates, increased room and transportation costs for the consultant's spouse, increased meal allowances for the extra days, and the use of a rental car at one of the conferences. However, at two of the three conferences, an OEMS state employee also attended and incurred none of the charges listed above. In fact, the consultant was reimbursed $826 more than the state employee for attending these two conferences. The chart below lists the expenses incurred in detail by both the consultant and the state employee:

Coeur D'Alene, Idaho

	Consultant	State Employee
Airfare	$ 494	$ 514
Hotel	591	650
Meals	59	59
Transportation	186	-
Other	-	19
Total	$1,330	$1,242

Naples, Florida*

	Consultant
Airfare	$ 192
Hotel	916
Meals	172
Transportation	8
Registration and Course Fees	710
Total	$1,998

Orange Beach, Alabama

	Consultant	State Employee
Airfare	$ 406	$ 463
Hotel	954	518
Meals	165	97
Transportation	63	-
Car Rental	228	-
Total	$1,816	$1,078

*No state employee attended this conference.

Aside from whether these expenses were necessary or allowable, it is incumbent on the part of the consultant to keep expenses to a minimum as well as OEMS to monitor any expenses consultants incur for allowability and necessity. It is the responsibility of the contracting agency to monitor the activities and reimbursement of its consultants. Our review noted that the consultant exceeded the 500 reimbursable hours in both fiscal years reviewed.

Our review also noted that, according to internal OEMS documents, the fiscal year 1997 contract was supplemented with funds from the DPH's account with a now-defunct subsidiary agency, the Massachusetts Health Resource Institute (MHRI). The lack of funds in the contract resulted from a transfer from the reimbursable hours to the travel line in order for the contractor to attend two out-of-state conferences. Further, by not monitoring the contractor's monthly reimbursable hours, the expected billings were used up in the first nine months of the contract.

Our review also indicated that the fiscal year 1998 contract required an amendment to increase the consultant's needed hours because the previous practice of using MHRI funds was discontinued when the fund was eliminated. The amendment to the fiscal year 1998 contract was to cover the period March 15, 1998 to June 30, 1998 with a maximum obligation of $12,500. Again, internal documentation revealed that the need for this amendment arose from a lack of monitoring in regard to the hours worked by the consultant.

Our review of the comments made by the OEMS personnel on the contract award revealed that this problem had been ongoing for some time prior to our audit period. OEMS e-mails between the Director

and the OEMS accountant indicated that when the MHRI account was closed they would have to better manage the consultant's hours worked because the extra revenue would no longer be available to them.

Recommendation: OEMS should institute a policy whereby all consultants and contractors are monitored in accordance with a set criteria based upon their contractual obligations. Included in the monitoring procedures should be periodic site reviews, desk reviews, and monthly reviews of contract funds expended to ensure availability of funds at the end of the fiscal year. Additionally, OEMS should recover the $1,402 it reimbursed its consultant for out-of-state travel that was unnecessary and unallowable. OEMS should also discontinue the practice of paying for consultants to attend professional conferences.

Auditee's Response: In its response, DPH stipulated that the 1998 regulatory changes which permitted a grant application and review process to be developed would allow DPH to reinforce its efforts for more appropriate monitoring and oversight of the regional councils. DPH also noted that OEMS had conducted a thorough review of out-of-state travel expenses. As a result of the audit and its own review, OEMS requested and received reimbursement of $689.10 for unallowable travel expenses. DPH is still reviewing this matter to determine if additional recovery is warranted.

3. Potential Conflict in the Licensing of OEMS Employees as EMTs

Our review noted that a number of OEMS employees were licensed and, in some cases, functioning as EMTs in their off hours. OEMS is granted the authority to originally certify and later renew EMTs under 105 CMR 170.900 through 105 CMR 170.930. Specifically, we found that three of these 16 OEMS employees indicated that they volunteered or worked for organizations that OEMS does business with or regulates, and that eight OEMS employees were currently certified as EMTs by OEMS.

We requested any legal opinions on the issue of overseeing licenses of OEMS employees by either DPH's legal department or the State Ethics Commission. The only document that could be produced was from a State Ethics Commission ruling made in April 1992, which determined that the employee in question was a "special state employee" because he did not work full time. However, all the employees who responded to our questionnaire were full time and would fall under the more stringent interpretation

of the State Ethics Commission's rulings. Even under the lesser "special state employee" ruling, the State Ethics Commission decided that the employee was prohibited under Section 4 "from receiving compensation from a private party in relation to particular matters in which DPH has a direct and substantial interest." None of the current employees have sought an opinion from the State Ethics Commission or disclosed the matter in writing to DPH's legal department.

Massachusetts law sets a minimum standard of ethical conduct for all state employees and officials, outlined in detail under Chapter 268A, Section 4, of the General Laws. The law restricts what a public employee may do on the job, after hours, and upon leaving public service. In addition, of particular concern was Section 23, in regard to the appearances of conflict of interest. Specifically, Section 23 of the General Laws states that:

> No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:
>
> (1) accept other employment involving compensation of substantial value, the responsibilities of which are inherently incompatible with the responsibilities of his public office. . . .
>
> (3) act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

By working for OEMS, the EMTs have direct access to the people who do the certification process and track the mandatory training hours needed to recertify their license. Additionally, those who work as EMTs in their off hours are employed by an ambulance service over which OEMS has regulatory control, including inspection and licensing.

On October 6, 1998, in response to our questioning this issue, the legal department of DPH sent a request for determination to the State Ethics Commission for its advisory opinion.

Recommendation: OEMS should follow the rulings made by the State Ethics Commission and maintain the documentation of the decision at OEMS and DPH's legal office for necessary future reference.

Auditee's Response: In its response, DPH stated that in June 1999, it received a report from the State Ethics Commission indicating that there appeared to be no conflicts of interest among OEMS staff. The report would be used to set up procedures within OEMS to assure that no conflicts of interest concerning OEMS staff will develop in the future.

EXHIBIT

Ambulance Inspection Report Form

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
AMBULANCE INSPECTION REPORT FORM - SERVICE

OEMS FORM 500-24 (8/96) S

PAGE ___ OF ___

SERVICE NUMBER	SERVICE NAME	LICENSEE	DATE
	ADDRESS	BUSINESS PHONE / INSPECTOR	OFFICE USE ONLY
	CITY/STATE/ZIP	MANAGER NAME	

INSPECTION CODES 1 = COMPLIANT 20 = NOT COMPLIANT 30 = UNSANITARY - BIOHAZARD 90 = OTHER
11 = CORRECTED DURING INSPECTION 21 = PARTIALLY COMPLIANT 31 = UNSANITARY - OTHER

	INSPECTION CODES	SERVICE OPERATIONS 170.200 ET SEQ
S 01		LICENSURE
S 02		CERTIFICATION OF VEHICLES & PERSONNEL
S 03		STAFFING
S 04		INSURANCE
S 05		ADVERTISING
S 06		INCIDENT OR ACCIDENT REPORTS
S 07		DISPLAY OF LICENSE
S 08		RESPONSIBILITY TO DISPATCH, TREAT & TRANSPORT
S 09		PUBLIC ACCESS
S 10		DISPATCH COMMUNICATIONS
S 11		MEDICAL COMMUNICATIONS
S 12		AVAILABILITY & BACKUP
S 13		SPECIAL REQUIREMENTS TO OPERATE CLASS V
S 14		HEATED GARAGE
S 15		STORAGE SPACE
S 16		SUPPLIES
S 17		NON-DISCRIMINATION
S 18		AFFILIATION AGREEMENT
S 19		ALS PROCEDURES & POLICIES
S 20		REGISTRATION W/ DIV. OF FOOD & DRUGS - 170.995
		RECORDS 170.240
S 21		PERSONNEL
S 22		PREVENTIVE MAINTENANCE
S 23		VEHICLE REGISTRATION
S 24		FAA CERTIFICATION (CLASS IV)
S 25		LICENSES FOR PILOTS (CLASS IV)
S 26		FCC LICENSES
S 27		TRIP RECORDS
S 28		TRIP RECORDS LEFT @ RECIEVING FACILITY

	INSPECTION CODES	WRITTEN POLICIES & PROCEDURES 170.235
S 27		CERTIFICATION & RECERT OF PERSONNEL
S 28		RESPONSIBILITY TO RESPOND, TREAT & TRANSPORT
S 29		DELIVERY OF PT. TO NEAREST APP. FACILITY
S 30		NON-DISCRIMINATION
S 31		BACKUP SERVICES
S 32		USE OF BACKUP SERVICES
S 33		DISPATCH
S 34		COMMUNICATIONS
S 35		STOCKING SUPPLIES
S 36		SANITARY PRACTICES
S 37		USE OF LIGHTS & WARNING SIGNALS
S 38		STAFFING OF AMBULANCES
S 39		CONDUCT OF PERSONNEL
S 40		MECHANICAL FAILURES
S 41		INSPECTION AUTHORITIES
S 42		TRANSPORT OF DEAD BODIES
S 43		PARENT RIGHTS
S 44		PATIENT RESTRAINTS
S 45		DISPOSAL OF HAZARDOUS WASTE
S 46		MANDATED REPORTING
S 47		INFECTION CONTROL PROCEDURES
S 48		DESIGNATED INFECTION CONTROL OFFICER
S 49		TRIP RECORDS LEFT @ RECIEVING FACILITIES
S 50		INFECTION CONTROL PROCEDURES
S 51		MAINTENANCE OF DEFIBRILLATOR
S 52		CONTROL & INSPECTION OF EPI-PENS

SERVICE - ORIGINAL

EXHIBIT (Continued)

Ambulance Inspection Report Form

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
AMBULANCE INSPECTION REPORT FORM - VEHICLE

CEMS FORM 500-21 (8/96) **V-1**

UNIT ID NO. | PAGE OF

SERVICE NUMBER	SERVICE NAME	AMBULANCE CERT.	EXP	LICENSE PLATE NO	INSPECTOR	DATE

INSPECTION CODES: 1 = COMPLIANT; 11 = CORRECTED DURING INSPECTION; 20 = NOT COMPLIANT; 21 = PARTIALLY COMPLIANT; 30 = UNSANITARY - BIOHAZARD; 31 = UNSANITARY - OTHER; 90 = OTHER

	INSPECTION CODES	VEHICLE CONSTRUCTION & MAINTENANCE
V01		STAR OF LIFE CERTIFICATE - 3.19
V02		PAYLOAD ALLOWANCE - 3.5.2
V03		ELECTRICAL LOAD TEST - 3.7.6
V04		GROSS VEHICLE WEIGHT RATING - 3.5.3
V05		INSTALLED O2 SYSTEM - 3.12.1
V06		INSTALLED SUCTION SYSTEM - 3.12.3
V07		LOCATION OF MEDICAL EQUIPMENT & SUPPLIES - 3.11.1
V08		SQUAD BENCH, SEATS, & BACKRESTS - 3.10, 3.11
V09		LITTER FASTENERS & ANCHORAGES - 3.11.7
V10		INTERIOR STORAGE ACCOMMODATIONS - 3.11
V11		INTERIOR SURFACES - 3.10.17
V12		PT. COMPARTMENT CONTROLS/ILLUMINATION - 3.8
V13		NO SMOKING/SEAT BELT SIGNS - 3.15.2
V14		ENVIRONMENTAL SYSTEMS/CONTROLS - 3.13
V15		DOORS/WINDOWS - 3.10
V16		BUMPERS & STEPS - 3.9.6
V17		AMBULANCE BODY STRUCTURE - 3.10
V18		VEHICLE DIMENSIONS - 3.4.11
V19		EXTERIOR STORAGE ACCOMMODATIONS - 3.11.2
V20		COLOR, PAINT & FINISH - 3.16.2
V21		EMBLEMS & MARKINGS - 3.16

	INSPECTION CODES	VEHICLE CONSTRUCTION & MAINTENANCE
V22		WHEELS / TIRES - 3.6
V23		CHASSIS - FRAME / BODY MOUNTING - 3.10.7
V24		UNDERCOATING / RUSTPROOFING - 3.17
V25		FOUR WHEEL DRIVE COMPONENTS - 3.16
V26		SUPENSION - 3.6.5.10
V27		STEERING - 3.6.6
V28		BRAKE SYSTEM - 3.6.5.7
V29		EXHAUST SYSTEM - 3.6.4.6
V30		POWER UNIT - 3.6.3
V31		AIR POLLUTION CONTROL - 3.6.4.3
V32		FUEL SYSTEM - 3.6.4.4
V33		COOLING SYSTEM - 3.6.4.5
V34		AUTOMATIC TRANSMISSION - 3.6.5.2
V35		ELECTRICAL SYSTEM - 3.7.1
V36		BATTERY SYSTEM - 3.7.7
V37		DRIVERS COMPARTMENT / CONTROLS - 3.9
V38		MARKING OF SWITCHES, INDICATORS, CONTROL DEVICES - 3.7.11
V39		ENVIRONMENTAL CONTROLS - 3.13
V40		WARNING INDICATORS - 3.7.1.1
V41		BACKUP ALARM - 3.15.2
V42		HIGH - IDLE SPEED CONTROL - 3.7.6.1
V43		WINDSHIELD WIPERS / WASHERS - 3.7.4
V44		VAILD RMV INSPECTION
V45		HORN - 3.7.5
V46		SPOLIGHT - 3.8
V47		OUTSIDE REARVIEW MIRRORS - 3.9.5
V48		SIREN / PUBLIC ADDRESS SYSTEM 3.14
V49		HEADLIGHTS - 3.8
V50		PARKING LIGHTS - 3.8
V51		BRAKE LIGHTS - 3.8

SERVICE ORIGINAL

EXHIBIT (Continued)

Ambulance Inspection Report Form

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
AMBULANCE INSPECTION REPORT FORM - VEHICLE

OEMS FORM 500-21 (8/98) **V-2**

UNIT ID NO. | PAGE OF

SERVICE NUMBER	SERVICE NAME	AMBULANCE CERT.	EXP	LICENSE PLATE NO	INSPECTOR	DATE

INSPECTION CODES: 1 = COMPLIANT; 11 = CORRECTED DURING INSPECTION; 20 = NOT COMPLIANT; 21 = PARTIALLY COMPLIANT; 30 = UNSANITARY - BIOHAZARD; 31 = UNSANITARY - OTHER; 90 = OTHER

	INSPECTION CODES	VEHICLE CONSTRUCTION & MAINTENANCE	INSPECTION CODES	VEHICLE COMMENTS
V52		BACKUP LIGHTS - 3.8		
V53		TURN SIGNALS - 3.8		
V54		SIDEMARKER LIGHTS FLASH W /TURN SIGNALS) - 3.8		
V55		LICENSE PLATE LAMP (S) - 3.8		
V56		HAZARD WARNING LIGHTS - 3.8		
V57		CLEARANCE LAMPS (OPTIONAL) - 3.8		
V58		EMERGENCY LIGHTING - 3.8.2		
V59		FLOOD & LOAD LIGHTS - 3.8		
V60		VEHICLE PERFORMANCE - 3.4		
V61		MANUALS, & HANDBOOK OF INSTRUCTION - 3.2		
V62		WORKMANSHIP - 3.23		
		VEHICLE EQUIPMENT		
E01		EQUIPMENT TO GAIN ACCESS		
E03		MAPS		
E04		FIRE EXTINGUISHERS, 1 IN PT. COMPT.		
E05		(2) SIX VOLT HANDLIGHTS		
E06		1 CHOCK BLOCK		
E07		(6) 30 MIN. ROAD FLARES OR (6) DOT REFLECTORS		
E08		HAZARDOUS MATERIAL GUIDEBOOKS		
E09		BINOCULARS		
E10		TRIAGE TAGS		
E11		PROTECTIVE EQUIPMENT (anticipated exposures) (x2)		
R01		TWO WAY RADIO DISPATCH		
R02		TWO WAY RADIO HOSPITAL		
R03		PORTABLE HOSPITAL RADIO (ALS)		

SERVICE ORIGINAL

EXHIBIT (Continued)

Ambulance Inspection Report Form

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
AMBULANCE INSPECTION REPORT FORM - BLS SUPPLIES & VEHICLE EQUIPMENT

OEMS FORM 800-22 (8/98) **M**

UNIT ID NO | PAGE OF

SERVICE NUMBER	SERVICE NAME	AMB. CERT#	EXP	CLASS	VEH. TYPE	LEVEL	DATE
VEHICLE IDENTIFICATION NUMBER		LICENSE PLATE NO	INSPECTED BY	INSPECTION TYPE ☐ Pre-Inspect ☐ Remount ☐ Replace ☐ Addition ☐ Interim ☐ Renew			
LOCATION	CHASSIS/ DATE	BODY/DATE	MILEAGE				

CREW NAME 1	EMT NUMBER	EMT EXP	ACLS EXP	CPR EXP	DR. LIC.
CREW NAME 2	EMT NUMBER	EMT EXP	ACLS EXP	CPR EXP	DR. LIC.

INSPECTION CODES
1 = COMPLIANT
11= CORRECTED DURING INSP.
20= NOT COMPLIANT
21= PARTIALLY COMPLIANT
30= UNSANITARY - BIOHAZARD
31= UNSANITARY -OTHER
90= OTHER

	INSPECTION CODES	BLS SUPPLIES
M01		1 AMBULANCE COT
M02A		1 ADULT BAG MASK VENTILATOR
M02B		1 PEDI BAG MASK VENTILATOR
M03A		1 PORTABLE O2 RESUSC. W/ ACCESSORIES
M03B		INSTALLED O2 SYSTEM SUPPLIES
M04		1 PORTABLE SUCTION UNIT
M05		#1 FIRST AID KIT
M05A		#2 FIRST AID KIT
M06		TRACTION SPLINTS (Adult, Child)W/ACCESSORIES
M07		PADDED BOARD SPLINTS (2 @ 2 SIZES)
M08		1 FULL SPINE BOARD W/ACCESSORIES
M08A		1 HALF SPINE BOARD W/ACCESSORIES
M09		STAIR CHAIR
M10		AUXILIARY STRETCHER
M11		TRANSFER SHEET
M12		WRAPPED OROPHARYNGEAL, NASAL AIRWAYS
M13		(24) STERILE GAUZE PADS 4"x4"
M14		12 STERILE DRESSINGS 5"x9" or SANITARY NAPKINS
M15		(6) STERILE UNIVERSAL DRESSINGS 10"x30"
M16		(12) ROLLER BANDAGE 3" or 4"
M17		(12) TRIANGULAR BANDAGES
M18		ADHESIVE TAPE (1", 2" @ 2 ea)
M19		1 BANDAGE SHEARS
M20		(2) BURN SHEETS
M21		OBSTERTRICAL KIT
M22		POISON ANTIDOTE KIT

	INSPECTION CODES	BLS SUPPLIES
M 23		(2) IRRIGATION FLUID
M24		1 ROLL STERILE ALUMINUM FOIL
M25		1 ROLL POLYETHYLENE FILM
M26		1 ADULT BEDPAN
M27		MOTION SICKNESS BAGS (2)
M 28		2 PILLOWS W/WATERPROOF COVERS
M 29		6 SHEETS
M 30		4 BLANKETS
M 31		4 TOWELS
M 32		2 BOXES DISPOSABLE PAPER TISSUES
M 33		2 PACKAGES OF DISPOSABLE DRINKING CUPS
M 34		4 COLD PACKS
M 35		INFECTION CONTROL KIT (2 EMT'S)
M 36		IMMOBILIZATION BAGS (2) 6"x9"
M 37		1 RING CUTTER
M 38		1 CHILD SIZE SPHYGMOMANOMETER
M 39		1 LARGE SPHYGMOMANOMETER (Large adult or Thigh cuff)
M 40		(2) PLASTIC BAGS WITH TIES
M 41		CONTAMINATED TRASH CONTAINER W/ BIO-HAZARD BAGS & TIES
M 42		SHARPS CONTAINER
M 43		(2) EYE SHIELDS/FACE MASK
M 44		GLOVES
M 45		HAND CLEANER

	INSPECTION CODES	OTHER SUPPLIES
Z 01		PASG
Z 02		SEMI-AUTOMATIC DEFIBRILATOR
Z 03		AUTO-INJECTORABLE EPINEPHRINE

I, the undersigned representative of the above service, acknowledge receipt of a copy of this inspection form, applicable supplemental forms and corrective action statements

SIGNATURE OF INSPECTOR _____ DATE _____ SIGNATURE OF PERSON IN CHARGE OF SERVICE _____ DATE _____ PLAN OF CORRECTION DUE

SERVICE - ORIGINAL

APPENDIX

105 CMR 170 Excerpts of Regulations for the
Implementation of Chapter 111C of the Massachusetts General Laws
Governing Ambulance Services and Coordinating Emergency Medical Care

105 Code of Massachusetts Regulations (CMR) 170.500 Licensing of Ambulance Services:

Any person who proposes to establish and operate an ambulance service shall apply for and obtain from the Department [DPH] an ambulance service license before initiating service.

170.501: Basic Life Support (BLS) Ambulance Services:

Any person who proposes to establish or operate and maintain an ambulance service for the provision of BLS services must meet all the requirements for licensure upon application for licensure.

170.502: Advanced Life Support (ALS) Ambulance Services:

All ambulance services which provide ALS service must be licensed to do so. Such services must meet the standards for licensure as a BLS service as well as the standards for licensure as an ALS service as set forth in 105 CMR 170.985 *et seq*. and 105 CMR 170.1000 through 170.1070, which establishes implementation dates for compliance with ALS requirements.

Concerning the license application, 105 CMR 170.510 Service License and Vehicle Inspection Fee pertains as follows:

A non-refundable fee established by the Department [DPH], pursuant to M.G.L. c.111C, S 2(2), shall be submitted with: (1) the completed application for license form, and (2) upon acquisition of any additional vehicles during the licensure period. The fees are as follows:

(A) Ambulance Service License.
(1) BLS: $200.00 biennially
(2) ALS: $300.00 annually

Upon receipt and review of an application for licensure, DPH will make a finding concerning the responsibility and suitability of each applicant for licensure. 105 CMR 170.525: Processing of Applications, states:

a. The Department will endeavor to act on applications for original licensure within 60 days of receipt of the completed forms and fees required. A license will be issued to those applicants meeting the requirements of 105 CMR 170.000.

b. Applicants for license renewal must submit the forms required above to the Department at least 60 days prior to the expiration of their current license.

c. The Department will endeavor to act upon renewal licenses within 60 days of the applicant's submission of documents required above. In the event that the Department is unable to act within the 60-day period, the ambulance service may continue to operate until the Department takes action on the application. If, however, an application is not submitted in a timely fashion in accordance with 105 CMR 170.525, then the service may not continue to operate without written permission by the Department.

d. A license to operate an ambulance service shall not be renewed if there are any outstanding assessments issued pursuant to 105 CMR 170.730.

e. A license shall remain in effect for a period of 12 to 24 months, at the discretion of the Department.

As part of the licensure/renewal procedures, DPH performs inspections of the ambulance service. 105 CMR 170.520 states:

(a) Agents of the department may visit and inspect the service at any time including:

1. The premises of the ambulance service, including the headquarters, garage or other locations;

2. The storage space for linen, equipment and supplies at any premises of the ambulance service;

3. All records used by the ambulance service, including employee application forms, report of calls for service, accident reports and patient or trip records, and information relating to complaints registered with the service;

4. Any ambulance used by the service.

(b) If, upon inspection deficiencies are found to exist a service may at the discretion of the Department be licensed upon presentation of a timely written acceptable plan of correction, as described in 105 CMR 170.710.

Additionally, 105 CMR 170.640 allows authorized personnel of the DPH to inspect each vehicle, ambulance equipment, and supplies at any time without prior notice. DPH currently employs three inspectors to provide coverage of the ambulance service licensure and inspection process. DPH, through the inspection process, may deny, suspend, revoke, or refuse to review a certificate of inspection for the following grounds:

- Failure of a vehicle to comply with vehicle specifications for the appropriate class enumerated in 105 CMR 170.300 through 170.400;

- Failure to comply with the equipment requirements of 105 CMR 170.400;
- Failure to comply with a department-approved plan of correction;
- Failure to allow DPH to inspect the ambulance vehicle or equipment;
- Lack of sufficient qualified ambulance personnel to staff the vehicle.

When an inspection is to take place for licensure or renewal, OEMS's inspectors schedule, with the service provider, a site visit to perform the inspection process. The inspector brings with him an inspection report, per vehicle to be inspected, which he will check-off as the inspection process goes on. The inspection report (see Exhibit) contains information relating to the Basic Life Support supplies, other supplies, vehicle construction and maintenance, vehicle equipment, service operations, records, written policies and procedures, and other comments. During the inspection process, the inspector will note whether the service is compliant, noncompliant, partially compliant, unsanitary (biohazard or other), or corrected during inspection. According to the inspectors, a typical vehicle inspection usually lasts approximately two to four hours. Upon completion of the inspection procedures, the inspector gives the service provider a copy of the inspection report detailing deficiencies noted. 105 CMR 170.705: Deficiencies, states:

> (a) A deficiency means non-compliance with regulations established herein for the operation of an ambulance service. The Department may find that a deficiency exists upon inspection or other information, such as information that may come through the compliant procedure, as set forth in 105 CMR 170.795.
>
> (b) A deficiency may result in a correction order as set forth in 105 CMR 170.720, in an assessment as provided in 105 CMR 170.730, or in denial, suspension, revocation or refusal to renew a license or certificate of inspection.

When deficiencies are noted, the DPH, in accordance with the regulations, requires the service provider to prepare a written corrective action plan. Specifically 105 CMR 170.710: Plan of Correction, states:

> (a) The Department may require the licensee to submit a written plan of correction for each existing deficiency.

(b) The licensee shall specify in the plan of correction the manner in which the correction shall be made and the date by which the deficiency shall be corrected.

(c) The plan of correction must be submitted to the Department no later than ten days after written notice of deficiencies and request by the Department for submission of a plan. The licensee or his/her agency may be required to submit a plan of correction immediately at the completion of the inspection if deficiencies are found upon inspection which threaten health and safety.

(d) The Department shall attempt to approve or deny the plan of correction within ten days of receipt of the plan. Failure to respond to a submitted plan of correction shall not be deemed to be an acceptance of the plan of correction.

(e) Failure to submit an acceptable and timely plan of correction or failure to correct in accordance with the plan are grounds for enforcement action including suspension or revocation of a license.

Furthermore, DPH may order a licensee to correct a deficiency by sending the licensee a correction order. Pursuant to Chapter 111C, Section 9, of the Massachusetts General Laws, each correction order shall contain the following:

(a) A description of the deficiency or deficiencies;

(b) The period within which the deficiency must be corrected shall not be more than 30 days from receipt of such order, unless an emergency has been declared by the Commissioner;

(c) The provisions of the law and regulations relied on in citing the deficiency.

1. Within seven days of receipt of the correction order, the licensee may file a written request with the Department for administrative reconsideration of the order of any portion thereof. Such request shall contain sufficient information to allow the Department to adequately reconsider the issuance of the order. Failure of the Department to act upon the written request within seven days for filing of the request shall be deemed a denial of the request.

2. If the Department makes a finding in writing that the licensee has made a good faith effort to correct the deficiency within the period prescribed for correction and that the correction cannot be completed by the prescribed date, the Department may permit the licensee to file a plan of correction on a form provided by the Department.

3. In the event that a plan of correction is not approved by the Department, the Department shall set another date by which the correction shall be made. If the correction is not made by that date, then the Department may follow the procedure for assessment of a deficiency set forth in 105 CMR 170.730.

105 CMR 170.730 sets forth the policy for assessment for a deficiency. Specifically, CMR 170.730, states:

> Pursuant to MGL, Chapter 111C, Section 9(b), the Department may in accordance with 105 CMR 170.730(a) through 170.730(b) assess a licensee, ordered to correct deficiencies, $50 per deficiency for each day the deficiency continues to exist beyond the date prescribed for correction in the correction order, as set forth in 105 CMR 170.720 or in such further extension as may be granted, as provided in 105 CMR 170.720(c)(2).
>
> (a) Notice and Opportunity for a Hearing: Pursuant to MGL, Chapter 111C, Section 9(b), before making an assessment, the Department shall give the licensee notice of the assessment. The notice shall contain a description of the deficiency continues to exist beyond the date prescribed for correction in the correction order, as set forth in 105 CMR 170.720 or in such further extension as may be granted, as provided in 105 CMR 170.720(c)(2).
>
> (b) Payment of the Assessment: If after hearing, or waiver thereof, the Department determines that it is appropriate to make an assessment, then, in accordance with MGL, Chapter 111C, Section 9(c), the assessment shall be due and payable to the Commonwealth on the 30th day after notification to the licensee.
>
> (c) Further Enforcement Procedures: By levying an assessment, the Department does not waive its right to invoke other enforcement procedures, such as modification of a license, as provided in 105 CMR 170.540, suspension of a license or certificate of inspection, as provided in 105CMR 170.750, or revocation or refusal to renew a license or certificate of inspection, as provided in 105 CMR 170.760.