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**INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
EXECUTIVE OFFICE OF PUBLIC SAFETY
HOMELAND SECURITY FUNDS
AS OF DECEMBER 31, 2006**

**OFFICIAL AUDIT
REPORT
AUGUST 28, 2008**

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The Executive Office of Public Safety (EOPS) and its subsidiary agencies have primary responsibility for the Commonwealth of Massachusetts' homeland security, and are responsible for overseeing most of the domestic homeland security federal grant programs in Massachusetts. EOPS is the State Administrative Agency (SAA) responsible for applying for, receiving, and administering the Homeland Security (HS) and Urban Area Security Initiative (UASI) federal grant funds for Massachusetts.

In accordance with Chapter 11, Section 12, of the General Laws, we have conducted an audit of EOPS' HS and UASI federal grants. The purpose of our review was to examine EOPS' management and accountability of HS funds to determine whether funds are being used for the purposes intended and in compliance with applicable laws, rules, and regulations.

AUDIT RESULTS

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1. POLICIES AND PROCEDURES NEED TO BE IMPLEMENTED TO EFFECTIVELY MAXIMIZE THE USE OF FEDERAL GRANT FUNDS

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As of December 31, 2006, the EOPS had not expended all HS and UASI grant funds by their deadline and had not requested extensions of the deadlines for the two federal grants that expired on September 30, 2006 and October 31, 2006 which had available balances of \$182,842 and \$1,570,012, respectively. As a result, as of March 1, 2007, federal funds totaling over \$1.75 million for the two grants may not have been available to the Commonwealth of Massachusetts for the reimbursement of expenditures. These HS funds were intended for planning, exercises, training, equipment, and administrative costs. Some HS funding is restricted by earmarking for certain regions or communities as defined by the federal government. The first six federal HS and UASI grants made available to EOPS exceeded \$190 million, of which EOPS had expended \$121 million as of December 31, 2006, leaving an available balance of more than \$69 million from these grants. The City of Boston had the largest grant awards, and was significantly slower than the Commonwealth's other four regions to request reimbursement. In response to our audit report, EOPS acknowledged that requests for time extensions were not done in a timely fashion. EOPS reported that the \$69 million in unexpended grant funds were still available because there were signed contracts with recipients that obligated these funds. Therefore, the funds were not in danger of being reverted. However, even though there were signed contracts and funds were obligated, if funds are not drawn down before the grants expire, the funds may no longer be available. EOPS indicated that the majority of these funds are with the City of Boston, which has been slow in submitting requests for reimbursement. EOPS has subsequently been working closely with the City of Boston to improve the timeliness of their submissions.

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The EOPS federal grant management system needs improvements to prevent: (a) exceeding the maximum allowable amount for federal grant administration costs, (b) the draw down of federal grant funds in excess of immediate cash needs, and (c) the reimbursement of unallowable grant costs. As of December 31, 2006, EOPS exceeded its authorized federal grant administration limit by \$892,230 for two closed federal grants (\$186,999 for the fiscal year (FY) 2003 State Homeland Security Grant and \$705,231 for the FY 2003 State Homeland Security Grant Program II.) Our review disclosed that the spending of these administrative funds had been utilized in total, rather than by each program limit for administrative expenses.

Our review also disclosed that federal funds on hand exceeded immediate cash needs by \$1.3 million. Having excess cash on hand could subject EOPS and the Commonwealth to a variety of restrictions for future reimbursements and payment of interest. EOPS needs to strengthen internal control procedures and require a proper reconciliation of its draw down funds for immediate cash needs. Also, our audit disclosed unallowable federal HS grant costs to sub-recipients for (1) training classes in the EOPS-approved budget, (2) reimbursement of \$2,973.88 for undocumented general and administrative costs, and (3) reimbursement of \$2,985 for unallowable costs for 300 units of mace/pepper gas. Finally, EOPS charged the full cost of an Information Technology contract, totaling \$55,000, to the HS grant, rather than allocating the specific charges to their respective grants.

In response to our audit, EOPS acknowledged that the maximum allowable amount for federal grant administration costs was exceeded, but it believed that it was prohibited from making corrections in the Massachusetts Management Accounting and Reporting System (MMARS) because of the close of the fiscal year. Additionally, EOPS responded that it did not have federal funds on hand greater than immediate cash needs. Lastly, EOPS believes that the full cost of the Information Technology contract was appropriate. We contend that the issues disclosed in our report remain. Our review of management and administration funds determined that restrictive language prohibited the use of these funds in excess of allowable allocation. Moreover, continuing appropriations in the MMARS system do allow for the accounting of adjustments from previous fiscal years. Regarding excess federal funds on hand greater than immediate cash needs, we reported this issue during our review of EOPS in conjunction with the Single Audit of the Commonwealth of Massachusetts for the fiscal year ended June 30, 2006. EOPS needs to continue to work closely with the Office of the State Comptroller to strengthen its federal grant reconciliation process to ensure that federal funds on hand are only for immediate needs. Finally, on the issue of the appropriateness of the full cost of the IT contract charged to homeland security grant funds, the audit disclosed that the scope of the work had changed, and that an amended contract should have been executed with the vendor.

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The EOPS sub-recipient contract process and internal controls need improvement to eliminate the need for contract settlements. Contract settlements are signed when a state agency has reached agreement with a vendor that a service was performed and accepted without benefit of a contract. During state fiscal year 2005, EOPS signed a settlement agreement with a sub-recipient for \$2,265,176 after neglecting to sign either a contract amendment or a new contract with the sub-recipient prior to the contract termination date, as required by the Office of State Comptroller (OSC) and Operational Services Division (OSD) joint policy for Amendments, Suspensions, and Terminations. In response to our audit, EOPS acknowledged that its sub-grantee did not follow the instructions provided to them, but it also believes that this was an isolated incident and that EOPS complied with OSC guidelines to resolve the matter. However, this situation was allowed to get to the point that a settlement agreement was needed because EOPS did not have adequate internal controls in place.

4. IMPROVEMENTS NEEDED IN FOLLOWING UP ON ISSUES RAISED BY SITE VISITS AND/OR DESK REVIEWS **20**

EOPS performed 21 desk reviews and 26 site visits of sub-recipients during state fiscal years 2004 and 2005. Our review of the EOPS sub-recipient monitoring reports noted issues with the follow-up and corrective action taken by EOPS. EOPS received the required sub-recipient Office of Management and Budget (OMB) Circular A-133 audit reports but did not review the reports due to inadequate staffing. Therefore, EOPS did not determine whether there were findings or reportable conditions that should have been corrected in a timely manner, in accordance with A-133 requirements. Also, the EOPS sub-recipient monitoring process did not hold sub-recipients accountable to take corrective action for noted deficiencies in a timely manner and better document whether or not sub-recipients resolved deficiencies. EOPS attempted to address this issue by implementing an alternative system to address its responsibility to receive and review sub-recipients' A-133 audit reports. However, this alternative system needs improvement; specifically, multi-year grant recipients submitted only the initial annual A-133 audit report and did not submit audit reports for the subsequent years of the grant award. Additionally, EOPS sub-recipient guidelines require that a financial quarterly report be submitted to EOPS within 30 days after the end of a quarter. Our review noted that one sub-recipient did not submit quarterly financial reports to EOPS for a full year and that a second sub-recipient did not submit quarterly financial reports to EOPS for five consecutive quarters.

In response to our audit, EOPS acknowledged that improvements were needed in following up with sub-grantees and reviewing audit reports for findings and/or reportable conditions. EOPS updated its policies and procedures and grant management manual regarding site visits to correct deficiencies in its follow up. Additionally, a Grants Coordinator was hired to facilitate oversight of report submissions, site visits and desk reviews of sub-grantees. Also, EOPS' alternative system for sub-recipient monitoring requires sub-recipients to submit a summary report regarding audit findings related to EOPS grants. EOPS believes that its alternative system that was developed for reviewing the A-133 audit reports submitted by subrecipients suffices to meet A-133 guidelines because it was approved by the Department of Homeland Security (DHS). However, we

remain concerned that the alternative system for sub-recipient reviews is insufficient because reviews of A-133 reports only occur for the *initial* year of any grant. Many of the grants are multi-year grants and A-133 compliance needs to be met by reviewing reports every year. In addition, the summary form only requires that audit issues be identified as they relate to the federal grant funding being received, and not for material general audit findings for the recipient as a whole.

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INTRODUCTION

Background

The Executive Office of Public Safety (EOPS) and its subsidiary agencies have primary responsibility for the Commonwealth of Massachusetts' homeland security, and are responsible for overseeing most of the domestic homeland security federal grant programs in Massachusetts. EOPS is the State Administrative Agency (SAA) responsible for applying for, receiving, and administering the Homeland Security (HS) and Urban Area Security Initiative (UASI) federal grant award funds for Massachusetts. The Secretary of Public Safety serves as the Homeland Security Advisor to the Governor.

The Homeland Security Act, which was signed into law in November 2002, transferred over 22 federal entities to a newly created Department of Homeland Security (DHS). DHS coordinates activities designed to (1) prevent terrorist attacks within the United States; (2) reduce the vulnerability of the United States to terrorism; (3) minimize the damage and assist in the recovery from terrorist attacks that occur within and outside the United States; (4) carry out all functions of entities transferred to DHS; (5) ensure that the functions of the agencies and subdivisions within DHS that are not directly related to securing the homeland are not diminished except by a specific Act of Congress; (6) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland, and (7) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

The first year that EOPS had HS funding responsibilities was federal fiscal year (FFY) 2003. The Massachusetts Emergency Management Agency (MEMA) had originally been designated as the SAA for HS funding responsibilities provided by the Office of Domestic Preparedness (ODP) prior to FFY2003 funding. In early 2003, Governor Romney designated the EOPS as the SAA for HS grant funding provided by the ODP. The EOPS Programs Division, the existing grant-making agency, was assigned responsibility for HS grants. As grant funding amounts have increased and the program areas have become more complex, the grant-making responsibility for HS has become significant enough to become its own division within EOPS, working alongside the Programs Division.

The Homeland Security Grant Program (HSGP) for FFY2004 required states to submit a HS strategy prior to the awarding of any funds. This strategy was to be reviewed and approved by the ODP, the primary office within DHS responsible for providing HS training, funds, and technical support to assist state and local jurisdictions. The strategy had to define the vision, goals, and objectives that will guide how state departments, agencies, and authorities will work in partnership with federal, regional, local, and private sector entities to enhance statewide capabilities to detect, prevent, respond to, and manage the consequences of acts of terrorism and other critical incidents. Funding obtained through the grant program was to be utilized to implement the goals and objectives defined in the state strategy.

On February 6, 2004, EOPS, the current SAA for the Commonwealth's HSGP, submitted the State Homeland Security Strategy (SHSS) to the ODP. ODP subsequently approved the SHSS on February 17, 2004.

FFY2005 HSGP guidelines required each state to review and refine their SHSS. EOPS submitted its revised SHSS and on April 10, 2006, the Commonwealth received formal notification that the DHS had approved its submission. In accordance with HSGP guidelines, EOPS must make 80% of annual allocations directly available to local municipalities. State agencies and authorities must compete for portions of the remaining 20% of HS grant funds.

The Commonwealth's Homeland Security Strategy requires that HS funding be used in a coordinated manner and for specific purposes, as follows:

[The] Commonwealth will take steps to ensure that all homeland security funding received from the Department of Homeland Security and other federal entities are utilized in a coordinated manner. The Commonwealth will use these funds to offset the cost of planning activities; acquire equipment and technology; develop training programs; plan and conduct training exercises; and (carry out) any other purposes expressly authorized by the federal government.

Oversight

DHS and ODP make state HS grant funds available to states, which then distribute sub-awards to state and local units of government. DHS provides planning, training, exercise, equipment, and management of federal grant funds for emergency prevention, preparedness, and response personnel in all 50 states.

EOPS works in partnership with federal, regional, local, and private sector entities to enhance statewide capabilities to detect, prevent, respond to, and manage the consequences of acts of terrorism and other critical incidents.

Advisory Councils

Massachusetts has five HS Regions: Northeast, Southeast, Central, Western, and Metro Boston. Each region has a Homeland Security Advisory Council. The councils are the governing body for their respective region. Each council has local municipality representation from the following eleven disciplines: Law Enforcement, Fire Services, Emergency Management, Public Health, Hospital, Emergency Medical Services, Public Safety Communications, Local Government Administration, Public Works, Regional Transportation Authority, and Correctional Services.

EOPS assigns a Programs Division Advisor to act as liaison between the EOPS and the regions. EOPS has developed written guidelines to establish responsibilities to carry out the strategic SHSS. Specific roles have been established to ensure a working partnership with the federal, state, and regional sectors.

Additionally, each council has contracted with a fiduciary agent within their region to act on the council's behalf for receipt and administering of grant awards. The fiduciary agents utilized by the five councils are pre-existing Regional Planning Councils established to assist communities with issues of regional significance. The five regions and fiduciary agents are as follows:

- Northeast Region – Metropolitan Area Planning Council (MAPC)
- Southeast Region – Southeastern Regional Planning and Economic Development District (SRPEDD)
- Central Region – Central Massachusetts Regional Planning Commission (CMRPC)
- Western Region – Franklin Regional Council of Governments (FRCOG)
- Metro-Boston – The City of Boston

EOPS representatives and the respective fiduciary agent provide oversight and guidance to ensure that grant funds are allocated and expended in compliance with applicable laws, regulations, and federal grant requirements.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor conducted a review of the EOPS HS Division. Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included audit procedures and tests that we considered necessary under the circumstances.

The purpose of our audit was to examine EOPS' management and accountability of HS funds to determine whether funds were being used for the purpose intended, in compliance with applicable laws, rules, and regulations, and in accordance with the goals and objectives defined in the SHSS. To achieve our audit objectives, our review included:

- Analyzing EOPS' expenditures and distributions of federal grant awards from HS accounts.
- Identifying all sub-grantees receiving HS funds from EOPS, including the amount received and the purpose of the funding.
- Examining the EOPS system for monitoring sub-grantees (e.g., reporting requirements, on-site visits, expenditure reviews, etc.) to determine whether the monitoring system was adequate to ensure that grant funds are being expended in compliance with grant requirements.
- Interviewing EOPS management and staff, reviewing selected transactions, and reviewing HS grant program backup documentation (contracts, invoices, quarterly reports, and other required documentation).
- Reviewing the Office of the State Comptroller's (OSC) Massachusetts Management and Accounting Reporting System (MMARS) reports.
- Reviewing the EOPS organizational structure and assessing management and administrative controls.
- Reviewing copies of the Catalog of Federal Domestic Assistance (CFDA) guidelines; Title 28, Chapter I, Part 66, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*; the EOPS internal control plan; accounting records; and other source documents.
- Assessing internal controls over financial and management activities.
- Reviewing EOPS monitoring of sub-recipients (eligible cities and towns) that receive federal funds passed through EOPS.

Our audit was intended to assist EOPS in the ongoing development, implementation, and improvement of internal controls and the overall stability of financial and administrative operations. These controls and operations will help ensure that EOPS HS funds are being used for the purposes intended and in compliance with applicable laws, rules, and regulations. Additionally, our audit will help to ensure that sub-grantees receiving HS funds from EOPS are monitored and that the monitoring system is adequate to ensure that grant funds are being expended in compliance with grant requirements.

Based upon our audit, except as noted in the Audit Results section of this report, for the areas tested, EOPS has (1) maintained adequate internal controls over HS grant funds; (2) properly maintained and accounted for HS funds received and expended; and (3) complied with applicable laws, rules, and regulations.

AUDIT RESULTS

1. POLICIES AND PROCEDURES NEED TO BE IMPLEMENTED TO EFFECTIVELY MAXIMIZE THE USE OF FEDERAL GRANT FUNDS

The Executive Office of Public Safety's (EOPS) management of the federal Homeland Security (HS) and Urban Area Security Initiative (UASI) grants process needs improvement to maximize the use of all federal funds before the authorized grant periods end. As of December 31, 2006, EOPS had expended about \$121 million of the \$190 million awarded in HS and UASI funds, leaving over \$69 million, or approximately 64% unspent from the six federal grants awarded.

As of December 31, 2006, EOPS had not requested extensions of the deadlines for two federal grants that expired on September 30, 2006 and October 31, 2006. These grants had available balances of \$182,842 (fiscal year (FY) 2003-State Homeland Security Grant) and \$1,570,012 (FY 2003-State Homeland Security Grant - Program II), respectively at year-end. Federal grant guidelines restrict the time frame within which reimbursement can be requested from the federal government. If not requested within the appropriate time limit, federal grant funds may no longer be available.

As of March 1, 2007, the two expired federal grants had exceeded the allowable time period to request reimbursement for grant expenditures and submit the final financial grant report. As a result, over \$1.75 million of federal grant funds for the two expired grants may not have been available to the Commonwealth of Massachusetts.

The United States Department of Homeland Security Financial Management Guide, January 2006, requires that requests for expenditure reimbursement be submitted prior to the grant expiration date, as follows:

Chapter 13, Close Out Process...within 90 days after the end date of the award...

- 1. Cash Reconciliation – The recipient should request reimbursement for any funds due to cover expenditures and obligations (incurred prior to the grant expiration date and liquidated within 90 days after the grant expiration date) at award closeout...*

Federal grant guidelines state that the final financial grant report is due 120 days after the end of the award period. After the final request date for federal grant reimbursement, EOPS faces a tight federal grant deadline of 30 days to prepare and submit the final financial grant report. Thus, untimely reimbursement requests for the closed federal grants placed these funds at risk due to regulations that restrict the last day that reimbursement can be requested. It is crucial

that EOPS has fiscal mechanisms in place to ensure that HS funds are allocated and effectively expended for the entire grant amount within the authorized period for each grant. In some cases, requests have been made and grant periods have been extended five times.

Our review of the federal grant process indicates several areas that could take up to six months, without any significant expenditure of grant funds, for the state and council review and approval process, as follows:

- Councils give local communities about one to two months to apply for funding.
- Councils take about one to two months to approve funding.
- Council approval information is forwarded to EOPS, which takes about one to two months for approval of the applicable local community funding.

Due to EOPS' inefficient management of HS grant funds, unused grant funds of over \$69 million were at risk of being lost, representing approximately 36% of the \$190 million in grant funds awarded to Massachusetts to purchase equipment and train first responders such as firefighters, police, ambulance, and medical personnel. The chart below summarizes details about the six grants. Additionally, Appendix I details further information regarding the status of grant funds as of December 31, 2006. Appendix I also includes grant extension requests by EOPS to keep grants open to accomplish their objectives.

**EOPS State Homeland Security and Urban Area Security Initiative Grants
as of December 31, 2006**

Grant Name	Grant Number	Original Grant Award Amount	Grant Funds Reimbursed	Grant Funds Available
FY2003 – SHSG	2003-TE-TX-0189	\$ 11,711,000	\$ 11,528,158	\$ 182,842
FY2003 – SHSG Program II	2003-MU-T3-0004	31,020,000	29,449,988	1,570,012
FY2004 – SHSG	2003-GE-T4-0050	45,638,500	40,669,883	4,968,617
FY2005 – HSGP	2005-GE-T5-0007	<u>62,436,056</u>	<u>16,585,449</u>	<u>45,850,607</u>
Subtotal		<u>\$150,805,556</u>	<u>\$ 98,233,478</u>	<u>\$52,572,078</u>
FY2003 – UASI Program II	2003-EU-T3-0004	\$ 16,727,125	\$ 15,015,791	\$ 1,711,334
FY2004 – UASI	2004-TU-T4-0025	<u>22,723,418</u>	<u>7,572,288</u>	<u>15,151,130</u>
Subtotal		<u>\$ 39,450,543</u>	<u>\$ 22,588,079</u>	<u>\$16,862,464</u>
Totals		<u>\$190,256,099</u>	<u>\$120,821,557</u>	<u>\$69,434,542</u>

Legend:

- SHSG – State Homeland Security Grant Program
- UASI – Urban Area Security Initiative Grant Program
- HSGP – Homeland Security Grant Program

The FFY2005 Homeland Security Grant Program award for approximately \$62 million includes earmarked funds of \$26 million for UASI that are administered by the City of Boston. The City

of Boston has the largest grant awards and was significantly slower than the Commonwealth's other four regions to request reimbursement. For example, an EOPS sub-recipient monitoring report stated that EOPS performed a technical assistance review to determine why no spending had been conducted to date. The contract award for \$1,398,009 was dated February 23, 2004, and as of the site visit on June 3, 2005, 15 months after the award, no payment vouchers had been submitted to EOPS for reimbursement. The other four regions in the state had spent and requested reimbursement for the majority of their awarded HS grants.

In the event that a council is not expending funds in the appropriate time frame, the money may revert to EOPS for re-allocation to fund other regions. In such a case, the funds would go to a region that expressed a need that EOPS was unable to award due to lack of funding during its original request for funds. However, the DHS earmarked some UASI funding solely for Metro Boston Homeland Security Region (MBHSR) that is administered by the City of Boston.

DHS earmarked over \$16 million of the federal funds that had not been drawn down by EOPS for the MBHSR, which is comprised of nine communities: Boston, Brookline, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop.

We conducted a site visit at the City of Boston during May 2006 to address the slow billing process. We were informed that all grant expenditures were made and they only had to prepare billings to be submitted for reimbursement from EOPS.

As of December 31, 2006, seven months after our site visit, the City of Boston still did not request reimbursement from EOPS for grant expenditures for two of the grants. The City of Boston's quarterly financial reports filed with EOPS do not state any reasons for not requesting the funds in a timely manner. Some items purchased had a backlog that contributed to the delay between expenditures and the request for reimbursement.

EOPS' *Summary of Homeland Security Accomplishments* addresses several factors that impacted the new HS funding in FFY2003 and the subsequent available funding. Below are excerpts from the Summary explaining why HS funds have not moved as expeditiously as possible:

- *The EOPS HS strategy provides consistency and direction to all HS activity in the state... No funds can be disbursed that are not planned in accordance with this strategy. The EOPS mandated that funds could not be spent on major projects until the planning phase was completed. Regional planning councils were given a few months to complete their strategic plan for funding priorities, working with their fiduciary agent.*

- *The rapid and dramatic increase in available federal funding in 2003...offered an allowable equipment list that included thousands of items.*
- *In FFY2004, Massachusetts pioneered a risk-based approach to funding which is now being adopted by other states and by DHS. This innovative approach allows funds to be applied where they are most needed, making more efficient use of the federal investment in Massachusetts. This assessment involved the identification of critical assets, special events and potential threat elements and blending those lists with current threat intelligence so as to identify those potential targets that were at the greatest risk of being attacked.*
- *Communities may not expend funds for communication projects until they certify that the project is consistent with the statewide strategy.*
- *Early on, the limited supply of ODP approved training slowed the process...the demand for these services far exceeded the supply of available classes...only 25% of our FFY 2003 grantees receiving training funds were able to spend their grant dollars in a timely fashion due to such restrictions...*
- *The process of distributing federal funds through a state agency to a municipality, often via a regional planning agency, involves multiple processing and administrative steps relying on technologies and systems infrastructure that are sometimes incompatible.*

Review of various HS regional quarterly financial reports identified several additional reasons that could delay the spending of grant funds:

- HS and UASI contracts have a much higher spending limit than most communities have available for grant expenditures while waiting for reimbursement.
- Regions contracted with consultants to plan, study, and identify their particular needs because their staff did not have technical assistance knowledge to identify all specialized HS and UASI needs.
- Funds were left over from projects deemed redundant of other statewide efforts or projects that came in under budget.

The EOPS and council review and approval system, which can take up to six months without any significant expenditure of grant funds, needs to be more efficient. Policies and procedures are not in place to provide a process for sub-recipients to maximize use of federal funds by the federal grant expiration date. The EOPS administrative grant application, review, and approval process is not timely or efficient. The system does not assist regions in the timely preparation of their budget to be submitted to EOPS for approval. The process does not require regions to provide timely verbal or documented clarification of the submitted application and budget to assist the EOPS review process prior to granting application or budget approval. The existing procurement procedures are not efficient, and there is no statewide process for purchasing the same type of goods needed by two or more of the state's five regions. The regions' billing

processes do not provide EOPS with an expenditure summary recap with all billings or the required supporting documentation to assist the reimbursement review process.

Recommendation

EOPS should maximize the use of federal grant funds. EOPS should track, monitor, and allocate all available funds consistent with the state HS strategy by implementing the following actions:

- Working closer with the sub-recipients to identify and resolve issues that can delay the spending of federal grant funds in a timely manner.
- Coordinating efforts to increase the efficiency of the review and approval time of grant applications.
- Determining if procedures can be enhanced and standardized to assist the procurement of similar goods.
- Implementing policies and procedures that require sub-recipients to notify the EOPS of their total uncommitted funds prior to the contract expiration date.
- Re-allocating uncommitted funds for expenditure in a timely manner.

Auditee's Response

The draft audit report states that EOPS was in danger of reverting over \$1.7 [million] of FFY03 grants back to the federal government because an extension had not been requested. EOPS acknowledges that our requests to the federal government for time extensions were not done in a timely fashion. This was primarily due to staffing issues at the time, as both the Assistant Director for Grant Operations and the Assistant Director for Preparedness had left. We did file for extensions after the close of the grants. These extensions were granted, primarily because the Department of Homeland Security recognized that the Division was understaffed. We subsequently processed payments in the amount of \$1.5 [million] against these balances. The staffing issues that caused this late submission have been rectified and the Division Director has been assigned responsibility for ensuring that extensions are requested in a timely fashion.

The draft audit report further states that as of December 31, 2006 ... there was \$69 [million] in unexpended funds. We believe that this statement makes it appear that these funds were in danger of reverting to the federal government. This was not the case. While the funds were unexpended, we had signed contracts with recipients, so these funds were obligated. Currently, there is an unspent balance of \$26 [million] in obligated funds. These funds do not expire until 9/30/2008.

A majority of these funds had been obligated to the City of Boston, which has been historically slow in submitting requests for reimbursement to this Office. We have worked closely with the City to improve their submissions and have seen a significant improvement in the timeliness of these submissions. Currently, EOPSS staff meets with city grant managers two to three times per month to assist in this timely processing. The draft audit report mentions an unspent balance of \$16 [million]. This balance is now at

\$6 [million] and the City has until 6/30/2008 to submit their remaining requests for reimbursement.

EOPS remains committed to strong oversight of its Federal Grants and we will continue to work closely with our sub-grantees to make sure that funds are being spent properly and on time. We work to ensure that excess funds are identified and reallocated in a timely manner to ensure that the Commonwealth is getting the most from its Federal Grant programs.

Auditor's Reply

EOPS believes that the \$69 million in unexpended grant funds were not in danger of being reverted to the federal government because there were signed contracts and funds were obligated. However, even if there are signed contracts and funds are obligated, if these funds are not drawn down before the grants expire, then the funds may no longer be available. Also, we have concerns about maximizing the use of federal funds and their overall facilitation. At the conclusion of fieldwork in December 2006, documentation regarding obligated grant funds had not been received by EOPS from the City of Boston, over seven months after our site visit to the subrecipient.

2. INTERNAL CONTROL IMPROVEMENTS NEEDED OVER FEDERAL GRANT MANAGEMENT SYSTEM

EOPS' fiduciary responsibility as the entity in charge of allocating federal funds is defined in Title 28 Code of Federal Regulations Chapter I, Section 66.3, which defines a grantee as "the government to which a grant is awarded and which is accountable for the use of the funds provided."

The EOPS Homeland Security grant management system that oversees budget controls, cash management, and reimbursement of allowable grant expenditures needs to be improved. Specifically, EOPS needs to improve internal controls over its federal grant management system to prevent: (1) exceeding the maximum allowable amount for federal grant administration costs, (2) the draw down of federal grant funds in excess of immediate cash needs, and (3) the reimbursement of unallowable grant costs. Our review disclosed the following:

a. Federal Grant Administrative Costs

As of December 31, 2006, EOPS had exceeded its authorized federal grant administrative expenditures by \$892,230 for two closed federal grants. The DHS grant Guidance and Application Kit has restrictive language that limits the amount of grant funds that can be expended for administrative costs. EOPS exceeded the maximum allowable expenditure

amount by \$186,999 for its FY2003 - State Homeland Security Grant and by \$705,231 for its FY2003 - State Homeland Security Grant Program II, respectively. The maximum allowable administrative cost for the FY2003 State Homeland Security Grant planning allocation funds was \$822,000 and the maximum allowable administrative cost for the FY2003 State Homeland Security Grant Program II funds was \$806,520. Appendix II details EOPS' administrative spending as of December 31, 2006.

Our review of the spending of these administrative funds disclosed that funds have been utilized in total, rather than by program, thereby co-mingling programmatic administrative funds. As a result, the Commonwealth of Massachusetts would be responsible for any ineligible grant costs that had been reimbursed with federal grant funds.

The DHS Financial Management Guide, dated January 2006, Chapter 4, *Managing Federal Funds*, requires recipients to maintain accounting systems to accurately account for federal grant funds in accordance with state laws, as follows:

All recipients are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them...State recipients shall expend and account for grant funds in accordance with State laws and procedures for expending and accounting for their own funds.

Funds specifically budgeted and/or received for one project may not be used to support another without prior written approval of the awarding agency...

Where the conduct of a program or one of its components is delegated to a subrecipient, the direct recipient is responsible for all aspects of the program, including proper accounting and financial recordkeeping by the subrecipient...

Office of Management and Budget (OMB) Circular A-87, Attachment A, Section (C)(3) – *Allocable Costs*, clearly states in subsection (a): “A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.” OMB Circular A-87 also goes on to state, in Section (C)(3), subsection (c): “Any cost allocable to a particular Federal award or cost objective under the principles provided in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.”

EOPS should ensure the adequacy and accuracy of administration funds available to administer the remaining federal HS and UASI grants.

b. Excess Federal Funds on Hand Greater Than Immediate Cash Needs

Our review determined that excess federal funds were drawn down by EOPS, exceeding immediate cash needs by about \$1.3 million. (See State Auditor's Office Audit Report 2007-0019-16S, Audit Result No. 3, *Improvements Needed over Reconciliation of Federal Grant Expenditures and Reimbursements.*)

The DHS Financial Management Guide, dated January 2006, Chapter 5, *Payments*, specifies that states can be liable for federal funds drawn down before the funds are needed, as follows:

The Cash Management Improvement Act (CMIA...Under this Act, States are no longer exempt from payment of interest to the Federal government resulting from drawing down funds prior to the need to pay off obligations incurred. States must pay interest in the event that the States draw down funds before the funds are needed to pay for program expenses...

EOPS' potential liability for drawing down excess funds is further defined in the Title 28 Code of Federal Regulations Chapter I, Section 66.52, "*Collection of Amounts Due,*" which states:

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

- (1) Making an administrative offset against other requests for reimbursements*
- (2) Withholding advance payments otherwise due to the grantee, or*
- (3) Other action permitted by law.*

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Having excess cash on hand could subject EOPS and the Commonwealth to a variety of restrictions for future reimbursements. EOPS needs to strengthen its internal control procedures in the area of federal grant reconciliations. Internal control improvements, specifically a proper reconciliation procedure, would ensure that EOPS only draws down funds for immediate cash needs. This will ensure that EOPS avoids the potential issue of owing interest on cash prematurely drawn down.

c. Review of Allowable/Unallowable Costs

EOPS' fiduciary responsibility is to assist sub-recipients with the submission of accurate information so that expenses incurred can be fully reimbursed. Sub-recipients are encouraged to inquire with EOPS for guidance about whether questionable costs are reimbursable prior to

incurring the actual costs. This guidance should occur when the budget is submitted to EOPS for approval or during the implementation of the approved budget for any questionable costs not fully detailed in their budget. On occasion, a specific federal grant cost is in question and the EOPS contacts their Federal Grant Manager for guidance. The guidance is for costs not specifically addressed by the HS allowable cost guidelines. EOPS attempts to obtain written approval from a Federal Grant Manager about questioned HS costs that may or may not be allowable.

Our test of selected transactions and reports disclosed the following cost issues that were not allowable:

- An EOPS sub-recipient monitoring report stated, “It was found that the original reviewer of the contract allowed many unallowable costs in their proposed draft budget.” The questioned amount for a particular training course was not listed in the EOPS sub-recipient monitoring report. The EOPS informed us that the employee that approved the course did not receive formal training on allowable costs and that this employee’s supervisor did not review this matter. The sub-recipient’s budget was revised and approved only for allowable federal grant courses.
- EOPS reimbursed a sub-recipient \$2,973.88 without adequate supporting documentation. The general and administrative billing rate included a 24.55% additional charge billed to a consultant for travel-related expenses. The federal grant guidelines allow sub-recipients to be paid for *documented* allowable administrative costs; therefore, the \$2,973.88 is a questionable cost and not qualified for reimbursement.
- EOPS reimbursed a sub-recipient \$2,985 for the purchase of 300 units of mace/pepper gas at \$9.95 per unit. The EOPS reviewed its records but did not locate any Federal Grant Manager’s approval for this purchase. Since there was no approval for the purchase, it is not an allowable expense. EOPS recovered this overpayment by reducing a subsequent reimbursement to this sub-recipient by \$2,985.

Our review also determined that EOPS entered into a service contract with a consultant for \$55,000 to: (1) facilitate electronic submission of municipal applications for HS grant funding, and (2) conduct a feasibility study for the automation of the Bullet-Proof Vest Reimbursement Program. The cost of the individual tasks was \$45,000 for the HS e-filing and \$10,000 for the Bullet-Proof Vest Program feasibility study. EOPS charged the full cost of \$55,000 to the applicable HS grant, rather than allocating the specific charges to their respective grants. When we inquired about the allocation, EOPS needed to verify with the consultant about the specific work completed. This verification by EOPS came over three years after EOPS paid the consultant. Strengthening the internal controls over allocating costs to federal grants and monitoring the work of contractors will significantly reduce risk. Properly allocating costs to

federal grants would ensure that grants are utilized accurately, efficiently, and effectively and minimize the concern of unallowable costs charged. Additionally, strong controls will eliminate the need to verify specific charges with contractors *subsequent* to work being completed.

The Code of Federal Regulations Title 28, Chapter I, Part 66, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, Subpart C, Section 66.20, *Standards for Financial Management Systems (b)(5)*, states: “Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability and allocability of costs.”

DHS has issued Grant Guidance and Application Kits for each of the Homeland Security and UASI grants, to be referenced when applying for a grant and during the expenditure of grant funds. The HS Grant Guidance and Application Kit defines the authorized allowable equipment costs for which grant funds can be used, and EOPS must comply with and ensure that expenditures of grants are allowable and eligible for reimbursement.

Recommendation

EOPS needs to improve and strengthen its financial procedures to ensure that federal expenditures are made in accordance with grant restrictions, requirements, regulations, and laws. The EOPS grant accounting system should be improved to ensure that federal grant expenditures do not exceed federal grant awards. The EOPS should ensure that adequate funds are available to administer the remaining federal HS and UASI grants.

EOPS should contact its Federal Grant Manager to resolve the issue regarding the federal administrative expenditures that exceeded allowable amounts.

Additionally, EOPS should incorporate procedures to ensure that federal grant funds requested for reimbursement are reduced to immediate cash needs, and should improve supervisory review, monitoring, and timely reconciliation of federal grants. EOPS should also credit excess federal grant funds to the applicable federal grant or refund the excess funds to the federal government, and ensure that specific charges are made to their respective grants rather than consolidated and charged to the HS grant.

EOPS should also review its records to determine if there are any other federal grant overcharges. EOPS’ procedures should be improved to only reimburse allowable and allocable federal grant expenditures. The EOPS supervisor should train and monitor the staff that

reviews and approves budgets and purchase goods and services to ensure only allowable costs are approved and properly allocated. EOPS should also take the necessary action to collect any unallowable federal grant expenditures from sub-recipients and credit the applicable federal grant charged for all unallowable costs.

Auditee's Response

The draft audit report notes that EOPS over expended its FFY03 Management and Administration set aside (M&A) in error by \$892,230. EOPSS acknowledges this and notes that this error was identified by our fiscal staff prior to this audit and was disclosed to the audit team. Also, prior to the audit, EOPSS staff contacted FEMA staff to disclose the error and to seek their advice on how to resolve it.

By the time these errors were found, the period of time in which we could make accounting adjustments occurred had passed. The Massachusetts Management Accounting and Reporting System (MMARS) cannot accommodate corrections to a previous fiscal year after the final close of that year.

Because of this, FEMA advised EOPS staff to use FFY05 M&A dollars to fund any projects that were slated for FFY03 program funds but could not be processed due to the overspending of the M&A funds.

As a result of this problem, EOPS instituted new policies to track M&A funds. When new grant funds are now received, two program codes are established for grants that have M&A dollars associated with them. One program is set-up to track the program funds and a second program code is set-up to track M&A funds. This has allowed EOPSS to improve its internal controls and reduce the chances of any errors associated with the funding.

The draft report also notes under this heading that EOPS had excess Federal Funds on hand greater than immediate cash needs. This excess cash was not due to excess draws done in error, but rather due to the unanticipated consequences of making a routine expenditure correction transaction (EX).

The final issue discussed under this heading deals with the review of allowable/unallowable costs. The draft report discusses a \$55,000 contract that EOPS had with XFACT, Inc. The initial purpose of this contract was to create both an online computer application for Homeland Security and to complete a feasibility study for the Bullet Proof Vest Program. The original budget for the contract called for \$45,000 to be spent for the Homeland Security application and \$10,000 to be spent on the Bullet Proof Vest Study. The report notes that the final bill was paid entirely from Homeland Security Funds. At the time the invoice was received, Fiscal staff noted that it did not match the initial plan. This matter was brought to the attention of the EOPSS Chief Information Officer, prior to the bill being paid. The Chief Information Officer explained that he had directed the vendor to concentrate only on the Homeland Security aspect of the contract and that no work had been done on the Bullet Proof Vest study. The charge of \$55,000 to Homeland Security funding was appropriate.

Auditor's Reply

The concerns discussed within this finding remain. Our review of management and administration funds determined that restrictive language, provided in the DHS Guidance and

Application Kit, prohibited the use of these funds in excess of allowable allocations. Additionally, continuing appropriations in the MMARS system do allow for the accounting of adjustments from previous fiscal years.

EOPS also explained that excess federal funds on hand were due to an unanticipated consequence from a routine expenditure correction transaction in MMARS. This resulted in a duplicate draw of revenue and was adjusted when the issue came to light with the assistance of the Office of the State Comptroller (OSC). The issue came to light during our review of EOPS in conjunction with the Single Audit of the Commonwealth of Massachusetts for the fiscal year ended June 30, 2006. At the time this was first discovered, EOPS indicated that it needed to reconcile each grant to MMARS. EOPS should continue to work closely with the OSC to strengthen its federal grant reconciliation process to ensure that federal funds on hand are only for immediate needs.

Lastly, EOPS feels that the issue regarding the charge of \$55,000 to Homeland Security funding was justified. According to EOPS, their Chief Information Officer gave an authorization to amend the scope of the contracted work. However, once the scope of the work changed, an amended contract should have been executed with the vendor. We encourage EOPS to ensure that their internal controls for contract management and execution are compliant with standards developed for contracts between Commonwealth agencies and vendors.

3. IMPROVEMENTS NEEDED IN THE SUB-RECIPIENT CONTRACT PROCESS

During state fiscal year 2005, a settlement agreement was signed with a grantee for \$2,265,176. This settlement agreement was signed because neither a new contract nor a contract amendment was signed prior to the contract termination date. Settlement agreements are needed when a state agency and vendor reach agreement that a service was performed and accepted without benefit of a contract or contract extension.

The settlement agreement for \$2,265,176 was necessitated due to an agreement for the consolidation of the remaining balances on three separate contracts into a single contract. The purpose of the consolidation was to save money by negotiating a larger contract for the purchase of radio interoperability communications equipment and to simplify the coordination of the purchase by selecting one organization to contract the procurement.

The grantee submitted a purchase order for the procurement of the communications equipment while EOPS was working toward allocating the funds. The purchase order was issued on September 30, 2004 in anticipation of EOPS completing the consolidation of funds, but the new contract was not signed until January 12, 2005. When the grantee later submitted a reimbursement request, EOPS could not pay the reimbursement because a new grantee contract had not yet been signed.

EOPS contacted the Office of the State Comptroller (OSC) for guidance and the OSC Chief Counsel instructed EOPS to sign a settlement agreement so that the grantee could be paid. The OSC settlement and release form states, in summary, that the vendor and EOPS reached agreement that a service was performed and accepted without benefit of a contract, and in consideration of the settlement payment, the vendor releases the state from any and all claims arising out of the claimed performance and circumstances. The 815 Code of Massachusetts Regulations (CMR) 2.05, *Contractual Requirements for Grants and Grant Payments*, was established to assist departments with the administration of grants and subsidies, stating, in part:

- (1) *The identification of a Grantee in a notice or a letter of a Grant award creates no contractual obligation for a department or the State. A Department cannot issue Grant payments until the contractual documents...are properly executed and filed in accordance with policies and procedures issued by the Office of the Comptroller.*
- (2) *Commonwealth Terms and Conditions Contract and Standard Contract Form. ...The Standard Contract Form and attachments must identify the amount, duration and scope of the Grant...*
- (5) *Grant Payments and Compensation. A Grantee shall be compensated in accordance with the specific terms and conditions of a Grant identified in the Standard Contract Form...*

Because of the lack of oversight with contractual terms between EOPS and the grantee, the EOPS legal counsel approved the settlement agreement to be signed in compliance with the Office of State Comptroller's (OSC) and Operational Services Division's (OSD) joint policy for Amendments, Suspensions, and Terminations. The joint OSC and OSD policy states, in part: "If a Contractor improperly incurs obligations (provides performance) for which compensation will be invoiced prior to the Effective date, and the performance is accepted by the Department, these obligations must be resolved through a Settlement process." The joint policy goes on to state: "This improper performance may occur [...] (b) during a lapse in time between the termination date of a Contract and a renewal amendment (the parties failed to timely sign a contract amendment)." Lastly, the joint policy specifically states: "The use of

settlements is a corrective action that should be used rarely and should not be a standard solution to a Department's failure to timely execute contracts or contract amendments."

The EOPS internal control plan does not include the following: (1) directions to grantees that no goods or services are provided until a contract is signed, and (2) the grantee will not be compensated for goods or services provided after the signed contract expiration date.

Strengthening oversight of contractual agreements will not only ensure proper receipt of goods and services, but will also reduce the need for settlement agreements and the potential for additional liability to the Commonwealth.

Recommendation

EOPS should improve its written internal control plan to ensure that management signs all contracts or amendments with grantees in a timely manner to comply with 815 CMR 2.05. The contract system should include written notifications to sub-recipients stipulating that work should not be performed or goods acquired until EOPS and the grantee sign a new contract or a contract amendment prior to the contract termination date.

Auditee's Response

The draft audit report details a settlement agreement that was executed between EOPS and the Greater Boston Police Council (GBPC) in the amount of \$2.3 [million].

This agreement was a result of GBPC executing a purchase order prior to the appropriate contract documents being in place with EOPSS. Our staff became aware of this when the invoice was submitted, and it was initially and appropriately rejected by fiscal staff. EOPS has very clear regulations advising sub-grantees that they are not allowed to perform any work prior. This was an isolated incident and we followed State Comptroller guidelines to resolve, and in fact met with Comptroller staff to arrive at a resolution. This resulted in the execution of a settlement agreement between the Greater Boston Police Council and the Executive Office.

While we do acknowledge that our sub-grantee did not follow the instructions we gave them, the State Comptroller acknowledges that these situations do occur – although should happen rarely – and so has issued guidance for state agencies to follow in these situations. EOPS followed this guidance and has taken steps to limit the likelihood of future such problems.

Auditor's Reply

We acknowledge in the report that EOPS followed OSC guidelines to resolve this issue. However, our main concern is that the situation was allowed to get to the point that a settlement agreement was needed because EOPS did not have adequate internal controls in place.

4. IMPROVEMENTS NEEDED IN FOLLOWING UP ON ISSUES RAISED BY SITE VISITS AND/OR DESK REVIEWS

Our review of EOPS sub-recipient monitoring reports disclosed that improvements were needed over its monitoring, review, and response to the required Office of Management and Budget (OMB) A-133 audit reports received from sub-recipients. OMB Circular A-133 requires sub-recipients who receive over \$500,000 in federal funds to submit an audit report, or written notification that an audit has occurred, to EOPS. Also, the EOPS sub-recipient monitoring process did not hold sub-recipients accountable to take corrective action for noted deficiencies in a timely manner, and to better document whether or not sub-recipients resolved deficiencies.

EOPS' monitoring goals are based on the risk and dollar amount of the contract. Monitoring ensures that grantees are taking reasonable steps to administer their projects in accordance with their implementation plan, and are compliant with federal and state laws, regulations, guidelines, and EOPS special grant conditions.

The EOPS HS Division conducts two types of monitoring – desk review and site visit. The EOPS staff site visits are either a programmatic or a fiscal review, and are conducted to provide consultation and technical assistance.

An EOPS desk review with a grantee determines the sub-recipient's progress in reaching its goals and objectives by assessing the following:

1. Obstacles they have encountered with implementation of the project,
2. Proficiency in training and/or technical assistance,
3. The amount of funding left to spend and to request, and
4. Any missing documents or information.

The majority of the sub-recipient funding (over 75%) was for small local preparedness grant awards totaling \$12,820. All 351 cities and towns in the Commonwealth were eligible to apply for small grants.

EOPS conducts educational seminars for sub-recipients that outline grant reporting and documentation requirements and provide technical assistance. EOPS sub-recipient contracts have special conditions to comply with; specifically, the requirement to file quarterly programmatic and financial reports with EOPS.

The EOPS sub-recipient monitoring responsibilities required by the Office of Management and Budget (OMB) Circular Number A-133, Subpart D, Section 400 (d) state that pass-through entities shall perform the following:

(2) Advise sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of sub-recipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements.

(4) Ensure that sub-recipients expending ...(\$500,000 for fiscal years ending after December 31, 2003) or more in Federal awards during the sub-recipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the sub-recipient's audit report and ensure that the sub-recipient takes appropriate and timely corrective action.

The OSC's Sub-recipient Monitoring Policy provides guidance to comply with federal grant requirement use of funds, as follows:

State departments that accept federal funds are responsible for monitoring the use of those funds, even when the grants are passed through to...other government agencies (sub-recipients)...the department is responsible for sufficient oversight of the funds to ensure funds are spent in accordance with the federal grant requirements...Departments must...responsibly monitor the use of these funds.

Our review disclosed that EOPS received sub-recipient A-133 audit reports but did not review the reports due to inadequate staffing. Therefore, EOPS staff did not determine whether there were findings or reportable conditions that should have been followed up on in accordance with A-133 requirements. However, in November 2005, EOPS implemented an alternative system to address its responsibility to receive and review sub-recipients' audit reports. This alternative system was submitted for approval to the DHS and was subsequently approved. EOPS required that sub-recipients complete an A-133 report summary form that reviews audit findings related to the EOPS federal grant awarded.

Our review of the alternative system identified the following issues:

1. Multi-year federal grant recipients were required only to submit the *initial* annual A-133 audit report instead of submitting a report annually for the subsequent years of the grant award, in accordance with OMB Circular A-133 requirements.
2. The A-133 audit report summary form requires audit issues to be identified only if directly related to federal grant funding, not for material general audit findings.

The EOPS performed 21 desk reviews and 26 site visits during state fiscal years 2004 and 2005. Of the desk reviews, nine were conducted during FY2004 and 12 during FY2005. Of the site visits, 13 were conducted during FY2004 and 13 during FY2005.

Our review of 13 EOPS sub-recipient desk review and site visit monitoring reports from state fiscal years 2004 and 2005 disclosed instances of non-compliance with the grant regulations. The monitoring reports did not disclose any unresolved sub-recipient issues or EOPS follow-up action taken.

Our review of the sub-recipient monitoring reports disclosed the following, which occurred throughout multiple reports:

- Six sub-recipient monitoring reports questioned whether all sub-grant funds were expended by the sub-recipient's grant deadline.
- Six sub-recipient monitoring reports listed inventory that was received without follow-up action taken by EOPS to verify the receipt of equipment.
- One sub-recipient monitoring report questioned whether the grantee had a policy to tag inventory items that cost less than \$1,000 and were on the inventory list.
- Four sub-recipients did not submit quarterly financial reports within the required 30 days following the end of a quarter.
- One sub-recipient did not submit quarterly financial reports to EOPS for one year; however, this sub-recipient eventually filed a consolidated report for the entire year.

EOPS did not follow up with these sub-recipients to determine if corrective action had been taken.

The sub-recipient monitoring system should provide reasonable assurance that federal awards comply with applicable laws, regulations, and contract provisions. The EOPS sub-recipient monitoring system should track and ensure appropriate and timely follow-up action taken on reported deficiencies, ensure that sub-recipients submit timely quarterly grant reports, and that sub-recipients have a policy that is implemented to tag inventory items. By receiving all sub-recipient quarterly financial reports, the sub-recipient quarterly financial reporting system should consolidate the most current sub-recipient information in the EOPS federal quarterly financial reports that are due 45 days following the end of each quarter.

Recommendation

EOPS should update its sub-recipient monitoring guidelines. The revision should address its responsibilities for monitoring sub-recipients, including conducting supervisory reviews of sub-recipient monitoring reports, ensuring that deficiencies noted are followed up on in a timely manner, and ensuring that OMB Circular A-133 audit reports are submitted annually. EOPS should further ensure that sub-recipients take appropriate and timely corrective action and that EOPS staff document the status of noted deficiencies, including whether or not the sub-recipient has corrected the issue. If necessary, EOPS should withhold federal grant funds from non-compliant sub-recipients until adequate corrective action is implemented.

Auditee's Response

The draft audit report notes the apparent lack of follow-up contact with sub-grantees after the discovery of issues during site visits or desk reviews.

EOPS acknowledges that improvements were needed in this category and have taken steps to correct this. In particular, the EOPSS Homeland Security Division's Policies and Procedures concerning site visits was updated in April 2007 and included in the Homeland Security grant management manual. A copy of this manual is attached to this response.

Also, the Homeland Security Division has recently filled a new position of Grants Coordinator. One of the main duties of this individual is to work with division staff to ensure reports are submitted and site visits/desk reviews are completed in accordance with internal and external requirements.

EOPS acknowledges that, due to inadequate staffing, we did not adequately review audit reports for findings or reportable conditions. In order to both comply with this requirement and to streamline the review of these documents, EOPSS staff proposed an alternative system that required that sub-recipients complete an A-133 summary report that reviews audit findings relating to EOPSS grants. This system was submitted to and approved by DHS staff. EOPSS staff recognized a problem and took appropriate action to correct it.

The draft audit report also notes that our system for reviewing sub-recipient A-133 audit reports does not require sub-recipients to self-report material general audit findings. This is true, however, as noted above, the federal government has approved this policy and it was not instituted until after we received this approval.

Auditor's Reply

Our concerns remain as follows for the alternative system for sub-recipient reviews: 1) Reviews of A-133 reports only occur for the *initial* year of any grant. As many of the federal grants are multi-year grants, the OSA feels that reports should be reviewed annually for compliance. 2) The summary form requires audit issues to be identified only as they relate to the federal grant funding being received, and is not used for material general audit findings involving the recipient as a whole.

OSA staff spoke at length to EOPS representatives about the need to comply with A-133 requirements. EOPS responded that the federal Department of Homeland Security (DHS) signed off on this alternative system and summary form. However, we reiterate that the alternative system may not identify all significant issues involving sub-recipients.

APPENDIX I

Status of Grant Funds as of December 31, 2006 *

Grant Name	Grant Number	Grant Period	Grant Award	Grant Funds Drawn Down	Grant Funds Available	First Grant Extension End Date	Second Grant Extension End Date	Third Grant Extension End Date	Fourth Grant Extension End Date	Fifth Grant Extension End Date
FY2003 SHSG	2003-TE-TX-0189	04/01/2003 – 03/31/2005	\$ 11,711,000	\$ 11,528,158	\$ 182,842	09/30/2005	03/31/2006	09/30/2006	3/31/2007	N/A
FY2003 SHSG II	2003-MU-T3-0004	05/01/2003 – 04/30/2005	31,020,000	29,449,988	1,570,012	10/31/2005	04/30/2006	10/31/2006	4/30/2007	12/31/2007
FY2004 SHSG	2003-GE-T4-0050	12/01/2003 – 11/30/2005	45,638,500	40,669,883	4,968,617	05/31/2006	11/30/2006	05/31/2007	5/31/2008	N/A
FY2005 HSGP	2005-GE-T5-0007	10/01/2004 – 03/31/2007	<u>62,436,056</u>	<u>16,585,449</u>	<u>45,850,607</u>	03/31/2008	N/A	N/A	N/A	N/A
State Homeland Security Grant Program Subtotal			\$150,805,556	\$ 98,233,478	\$52,572,078					
FY2003 UASI II	2003-EU-T3-0004	09/01/2003 – 08/31/2005	\$ 16,727,125	\$ 15,015,791	\$ 1,711,334	2/28/2006	8/31/2006	12/31/2007	N/A	N/A
FY2004 UASI	2004-TU-T4-0025	12/01/2003 – 11/30/2005	<u>22,723,418</u>	<u>7,572,288</u>	<u>15,151,130</u>	5/31/2006	11/30/2006	5/31/2007	11/30/2007	6/30/2008
Urban Area Security Initiative Subtotal			<u>\$ 39,450,543</u>	<u>\$ 22,588,079</u>	<u>\$16,862,464</u>					
Total for Both Programs			<u>\$190,256,099</u>	<u>\$120,821,557</u>	<u>\$69,434,542</u>					

*Subsequent to December 31, 2006, the OSA continued to correspond with EOPS on Grant Adjustment Notices (GAN) for the above-referenced grants. Specifically, the OSA inquired about grants that were extended beyond December 31, 2006 and what their actual end date would be. The table above shows updated end dates.

N/A = Not Applicable

APPENDIX II

Administrative Spending as of December 31, 2006

Federal Fiscal Year	Grant Program	Program Code	Grant Amount	Allowable Administrative Terms	Allowable Administrative Amount	SFY 2004 Administrative Expenditures	SFY 2005 Administrative Expenditures	SFY 2006 Administrative Expenditures	SFY 2007 Administrative Expenditures	Balance of Administrative Spending Surplus/(Deficit)
2003	State Homeland Security Grant Program - Part I	A HSG103	\$11,711,000	C	\$ 822,000.00	\$ 873,176.10	\$ 135,822.99	-	-	\$(186,999.06)
	State Homeland Security Grant Program - Part II	A HSG203	\$26,884,000	D	<u>806,520.00</u>	<u>429,999.56</u>	<u>1,081,824.71</u>	<u>\$(73.55)</u>	-	<u>(705,230.72)</u>
					<u>\$1,628,520.00</u>	<u>\$1,303,175.66</u>	<u>\$1,217,647.70</u>	<u>\$(73.55)</u>	-	<u>\$(892,229.78)</u>
2004	State Homeland Security Grant Program	FHSG2004	\$34,640,000	3%	\$1,039,200.00	-	\$55,104.85	\$ 935,938.85	\$ 48,156.30	-
	Law Enforcement Terrorism Prevention Program	B FHSG2004	\$10,279,000	3%	<u>308,370.00</u>	-	-	<u>200,000.00</u>	<u>291,351.38</u>	<u>\$(182,981.38)</u>
					<u>\$1,347,570.00</u>	-	<u>\$55,104.85</u>	<u>\$1,135,938.85</u>	<u>\$339,507.68</u>	<u>\$(182,981.38)</u>
2005	State Homeland Security Grant Program	FHSG2005	\$21,863,377	3%	\$ 655,901.31	-	-	\$116,343.47	\$111,190.69	\$ 428,367.15
	Law Enforcement Terrorism Prevention Program	FLETPP05	\$7,950,319	3%	238,509.57	-	-	97,179.24	-	141,330.33
	Transit Security Grant Program	FTSGP05	\$10,600,000	3%	318,000.00	-	-	-	-	318,000.00
	Urban Area Security Initiative	FUAS105	\$28,075,000	3%	<u>842,250.00</u>	-	-	-	<u>11,696.39</u>	<u>830,553.61</u>
					<u>\$2,054,660.88</u>	-	-	<u>\$213,522.71</u>	<u>\$122,887.08</u>	<u>\$1,718,251.09</u>
2006	State Homeland Security Grant Program	FHSGP06ADM	\$11,710,000	5%	\$ 585,500.00	-	-	-	\$56,830.19	\$ 528,669.81
	Law Enforcement Terrorism Prevention Program	FLETPP06ADM	\$10,240,000	5%	512,000.00	-	-	-	-	512,000.00
	Urban Area Security Initiative	FUAS106ADM	\$18,210,000	5%	910,500.00	-	-	-	-	910,500.00
	Buffer Zone Protection Program	FBZPP06ADM	\$2,134,000	5%	106,700.00	-	-	-	-	106,700.00
	Transit Security Grant Program	FTSGP06ADM	\$11,000,000	5%	<u>550,000.00</u>	-	-	-	-	<u>550,000.00</u>
					<u>\$2,664,700.00</u>	-	-	-	<u>\$56,830.19</u>	<u>\$2,607,869.81</u>

A --Both FY2003 State Homeland Security Grant Program Part I and Part II grants were 'Closed' as of 12/31/2006.

B = The FY2004 Law Enforcement Terrorism Prevention Program deficit amount of \$(182,981.38) was not included in the total of overspent administrative funds because the grant was 'Open' as of 12/31/2006.

C = FY2003 State Homeland Security Grant Program - Part I: Administrative Expenses were based on a specific allocation, rather than a percentage of the total grant amount. The FY2003 SHSG Part I grant had four specific allocations: 1) Equipment = \$8,218,000; 2) Exercise = \$2,055,000; 3) Training = \$616,000; 4) Planning and Administrative = \$822,000. The Planning and Administrative budget specifically stated, in part: "States may use funds from the planning and administrative allocation to cover costs associated with updating their needs assessments and strategies, as well as for implementing the State Homeland Security Strategy and the State Homeland Security Grant Program."

D = The FY2003 State Homeland Security Grant Program - Part II grant was actually \$31,020,000 in total. The grant was broken into two allocations: \$26,884,000 for First Responder Preparedness and \$4,136,000 for Critical Infrastructure Protection. The 3% for administrative funds was based on the \$26,884,000 allocation.

APPENDIX III

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Internal Controls within State Agencies

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Chapter 647

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

AN ACT RELATIVE TO IMPROVING THE INTERNAL CONTROLS WITHIN STATE AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Notwithstanding any general or special law to the contrary, the following internal control standards shall define the minimum level of quality acceptable for internal control systems in operation throughout the various state agencies and departments and shall constitute the criteria against which such internal control systems will be evaluated. Internal control systems for the various state agencies and departments of the commonwealth shall be developed in accordance with internal control guidelines established by the office of the comptroller.

(A) Internal control systems of the agency are to be clearly documented and readily available for examination. Objectives for each of these standards are to be identified or developed for each agency activity and are to be logical, applicable and complete. Documentation of the agency's internal control systems should include (1) internal control procedures, (2) internal control accountability systems and (3), identification of the operating cycles. Documentation of the agency's internal control systems should appear in management directives, administrative policy, and accounting policies, procedures and manuals.

(B) All transactions and other significant events are to be promptly recorded, clearly documented and properly classified. Documentation of a transaction or event should include the entire process or life cycle of the transaction or event, including (1) the initiation or authorization of the transaction or event, (2) all aspects of the transaction while in process and (3), the final classification in summary records.

(C) Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority. Authorizations should be clearly communicated to managers and employees and should

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Include the specific conditions and terms under which authorizations are to be made.

(D) Key duties and responsibilities including (1) authorizing, approving, and recording transactions, (2) issuing and receiving assets, (3) making payments and (4), reviewing or auditing transactions, should be assigned systematically to a number of individuals to ensure that effective checks and balances exist.

(E) Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved. The duties of the supervisor in carrying out this responsibility shall include (1) clearly communicating the duties, responsibilities and accountabilities assigned to each staff member, (2) systematically reviewing each member's work to the extent necessary and (3), approving work at critical points to ensure that work flows as intended.

(F) Access to resources and records is to be limited to authorized individuals as determined by the agency head. Restrictions on access to resources will depend upon the vulnerability of the resource and the perceived risk of loss, both of which shall be periodically assessed. The agency head shall be responsible for maintaining accountability for the custody and use of resources and shall assign qualified individuals for that purpose. Periodic comparison shall be made between the resources and the recorded accountability of the resources to reduce the risk of unauthorized use or loss and protect against waste and wrongful acts. The vulnerability and value of the agency resources shall determine the frequency of this comparison.

Within each agency there shall be an official, equivalent in title or rank to an assistant or deputy to the department head, whose responsibility, in addition to his regularly assigned duties, shall be to ensure that the agency has written documentation of its internal accounting and administrative control system on file. Said official shall, annually, or more often as conditions warrant, evaluate the effectiveness of the agency's internal control system and establish and implement changes necessary to ensure the continued integrity of the system. Said official shall in the performance of his duties ensure that: (1) the documentation of all internal control systems is readily available for examination by the comptroller, the secretary of administration and finance and the state auditor, (2) the results of audits and recommendations to improve departmental internal controls are promptly evaluated by the agency management, (3) timely and appropriate corrective actions are effected

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by the agency management in response to an audit and (4), all actions determined by the agency management as necessary to correct or otherwise resolve matters will be addressed by the agency in their budgetary request to the general court.

All unaccounted for variances, losses, shortages or thefts of funds or property shall be immediately reported to the state auditor's office, who shall review the matter to determine the amount involved which shall be reported to appropriate management and law enforcement officials. Said auditor shall also determine the internal control weaknesses that contributed to or caused the condition. Said auditor shall then make recommendations to the agency official overseeing the internal control system and other appropriate management officials. The recommendations of said auditor shall address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The agency oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified.

House of Representatives, December 21, 1989.

Passed to be enacted, *George J. Livanos*, Speaker.

In Senate, December 22, 1989.

Passed to be enacted, *William W. Budge*, President.

January 3, 1990.

Approved, *Richard D. Riordan*, Governor.