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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF
GROW ASSOCIATES, INC
JULY 1, 2006 TO MAY 1, 2009**

**OFFICIAL AUDIT
REPORT
APRIL 26, 2010**

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GROW Associates, Inc. (GROW) was organized in Massachusetts on November 9, 1973 as a charitable nonprofit organization under the name of the Randolph Occupational Workshop, Inc. The agency was formed by a group of parents to provide continuing education, occupational training, and extended employment for individuals with developmental disabilities who cannot function independently in the employment market. On November 15, 1996, the agency changed its name to GROW. Currently, GROW operates three programs (Employment Support, Community Based Day Support, and Day Habilitation) designed to teach a variety of job-related skills to more than 140 adults and adolescents with developmental disabilities residing primarily in southern Massachusetts.

The scope of our audit was to examine various administrative and operational activities of GROW during the period July 1, 2006 to May 1, 2009. Our audit objectives consisted of the following:

- Conduct a follow-up review of the issues identified during our prior audit of GROW (No. 2004-4478-3C) to determine what corrective measures GROW had taken to address the problems we identified during this audit
- Determine whether GROW had implemented effective internal controls over all aspects of its operations
- Assess GROW's business practices and its compliance with applicable laws, rules, and regulations, as well as the various fiscal and programmatic requirements of its state contracts.

During our audit, we determined that GROW had adequately resolved all but one of the issues we identified during our prior audit and was taking measures to fully address the remaining issue. However, during our current audit period, GROW inappropriately allocated as much as \$177,797 in administrative compensation to two of its state-funded programs, misreported \$80,000 in program revenues, charged \$8,409 in unallowable expenses against its state contracts, and charged \$2,364 in unallowable late payments against its state contracts. We also found several instances in which GROW's principal state funding agency, the Department of Developmental Services (DDS), provided funding to GROW through questionable contract amendments. These amendments allowed GROW to receive approximately the same level of funding from DDS during the audit period even though GROW provided services to almost 25% fewer consumers than it agreed to under the contracts. We also found that during fiscal year 2008, DDS provided GROW with an additional \$20,000 under the contract that funded its Community Based Day Support program that was not related to the services being provided under this program and did not take measures to ensure that these funds were expended for their intended purposes.

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a. Unallowable Salary Expenses Totaling \$28,830 Reimbursed to the Commonwealth **5**

During our prior audit, we found that GROW billed its state contracts for \$72,075 in salary and related expenses for its former Executive Director to function as a full-time employee of GROW. However, during this time period the former Executive Director was also being paid as a part-time employee of the Town of Randolph School Department. We calculated that, as a result of this arrangement, \$28,830 of the compensation expenses billed by GROW against its state contracts during this fiscal year for its former Executive Director represented unallowable billings that should be remitted to the Commonwealth. During our follow-up review, we found that GROW had reimbursed the Commonwealth for the unallowable salary expenses in question. Further, we determined that GROW's current Executive Director works full-time at GROW and has no other employment commitments during the time he is working at GROW.

b. Internal Controls over State Contract Revenue Improved **5**

Our prior audit noted that GROW had not established an adequate system of internal controls over its state contract revenue to ensure that it is properly recorded and reported. Specifically, GROW did not have any written policies or procedures relative to the recording of revenue, and rather than recording the actual reimbursements it received from state agencies as state contract revenue, GROW simply recorded the amounts it billed to state agencies as the revenue it actually received in its financial records. As a result, during fiscal year 2003, GROW overstated the state revenue it received in the financial report it submitted to the Commonwealth by \$75,016. During our follow-up review, we determined that GROW has improved its internal controls in this area and is correctly recording and reporting its revenue.

c. Internal Controls over Employee Fringe Benefits Improved **6**

Our prior audit noted that during fiscal years 2002 and 2003, GROW awarded fringe benefits totaling \$10,401 to certain members of its administrative staff that were not available to all staff members under GROW's formal written personnel policies and procedures. These benefits included \$3,849 in fully paid family health care to GROW's Executive Director and \$6,552 in extra vacation time provided to GROW's Executive Director and Assistant Executive Director/Program Director. Fringe benefits such as these that are not available to all employees under an established formal written policy are nonreimbursable expenses under state contracts. During our follow-up review, we found that GROW had reimbursed the Commonwealth for the unallowable fringe benefit expenses in question. We also found that all the benefits that were being provided to staff during our audit period were consistent with agency policies and procedures.

d. Administrative and Internal Controls over Various Agency Operations Improved **6**

Our prior audit noted that GROW had not developed and implemented an adequate system of internal controls over various aspects of its operations. Specifically, GROW had no written accounting policies and procedures or an accounting manual to ensure the accuracy of its financial transactions, reports, and recordkeeping. As a result, there was inadequate assurance that GROW's financial assets and Commonwealth funds were being properly safeguarded or that transactions relative to these accounts were properly authorized, recorded, and reported. During our follow-up review, we determined that GROW has established formal written policies and procedures over various key activities and has developed a written accounting manual that addresses its financial transactions, reports, and recordkeeping.

2. PRIOR AUDIT RESULT PARTIALLY RESOLVED - INTERNAL CONTROLS OVER ALLOCATION OF STAFF WAGE EXPENSES NEED IMPROVEMENT **6**

Our prior audit revealed that GROW had not established adequate controls over the allocation of wages paid to its employees as required by state regulations and the terms and conditions of its state contracts. Specifically, GROW did not require its salaried staff to document the hours worked or the functions benefited (e.g., specific program, cost center) and did not follow its own policies and procedures to document non-exempt staff hours charged to state programs. Moreover, for three members of GROW's administrative staff (the Executive Director, Assistant Executive Director, and Business Manager), we found that there were no time sheets to document the hours worked or the programs benefited by these individuals. For other staff members, time records were incomplete (e.g., indicated an arrival time but not a departure time and were not signed by the staff person's supervisor). As a result, there was inadequate assurance that all of the \$1,465,897 in wages paid to GROW's employees and allocated against state contracts during our audit period was accurate.

During our follow-up review, we found that GROW has implemented a time sheet reporting system that requires employees to document the hours they work, the program or function benefited, and the signatures of both the employee and their supervisor. We tested all 64 timesheets submitted by 10 of the 41 employees working at GROW during the months of June 2007, February 2008, and April 2009, including GROW's Executive Director, Business Manager, Office Administrator, Community and Vocational Program Directors, and several program staff. Our review revealed that all employees filled out the required timesheets; however, in some instances, time records were incomplete.

3. AS MUCH AS \$177,797 IN ADMINISTRATIVE COMPENSATION INAPPROPRIATELY ALLOCATED TO TWO STATE-FUNDED PROGRAMS **8**

We found that during our audit period, GROW charged \$177,797 of the salary expenses of three of its administrative employees (its Executive Director, Office Administrator, and Receptionist) directly to two of its state-funded programs instead of allocating these expenses across all of its programs as required by state guidelines. Since there was no documentation to substantiate that these three individuals actually worked directly in these two programs, these charges resulted in GROW's misreporting various information in the financial reports that it filed with the Commonwealth during fiscal years 2007 and

2008. Specifically, these incorrect charges resulted in GROW's overstating in its financial reports the actual level of staffing it provided in these two programs, as well as the actual salary expenses it incurred in these program, by as much as \$177,797. GROW also understated the percentage of its total funding that it spends on administrative costs versus program services. The information in GROW's financial statements is used by state agencies and others to assess various aspects of GROW's operation and performance and is also used by GROW's state funding agencies as a basis for future contract negotiations and funding decisions. Because GROW did not properly account for these salary expenses in its financial statements, it did not provide the users of this information, including its state funding agencies, with the accurate information necessary for these purposes.

4. \$80,000 IN PROGRAM REVENUES MISREPORTED **12**

We found that contrary to Operational Services Division (OSD) guidelines, GROW misreported a total of \$80,000 in revenues it received from DDS during fiscal years 2007 and 2008 to fund a Family Support Services program. Specifically, although OSD requires contracted human service providers such as GROW to separately report in the financial statements that it files with OSD revenue and expense information for each program they operate, GROW reported the revenues and expenses that it received from DDS to fund its Family Support Services program during these two fiscal years as revenue and expenses in its Employment Support program. As a result, GROW did not provide OSD, its state funding agencies, and other users of this information with accurate information that would allow them to assess GROW's performance relative to its administration of its Family Support Services program or, in the case of GROW's state funding agencies, to use as a basis for future contract negotiations and funding decisions.

5. \$8,409 IN UNALLOWABLE EXPENSES CHARGED AGAINST FAMILY SUPPORT CONTRACT **14**

During fiscal year 2008, DDS provided GROW with \$9,398 in funding in the contract that funded its Family Support program for it to use for home renovations to improve the safety and living conditions to the home of one of its consumers. We found, however, that rather than using these funds for these purposes, GROW allowed the consumer and his family to spend this money on other non-renovation-related items such as approximately \$5,000 on two different vacations and \$2,500 in mileage reimbursements for GROW's staff. Since these funds were not used for the purposes for which they were provided, these funds represent unallowable costs under GROW's contract for this program.

6. \$2,364 IN UNALLOWABLE LATE PAYMENTS CHARGED TO THE COMMONWEALTH **17**

We found that, during our audit period, GROW expensed penalties and late fees totaling \$2,364 against its state contracts. According to OSD regulations, these expenses are unallowable and nonreimbursable under GROW's state contracts.

OTHER MATTERS

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During of our audit of GROW, we identified two issues that involved both GROW and questionable actions taken by GROW's principal state funding agency, DDS. We believe that these issues warrant the attention of both GROW's management and DDS. Accordingly, we are therefore disclosing them in this report.

1. QUESTIONABLE CONTRACT AMENDMENTS PROVIDED BY DDS TO GROW RESULTED IN GROW'S RECEIVING THE SAME LEVEL OF FUNDING UNDER TWO CONTRACTS FOR PROVIDING APPROXIMATELY 25% FEWER SERVICES

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According to state regulations, state agencies such as DDS are required to obtain the best value for their state funding and should not amend any contract unless the amendment results in lower costs or in a more cost-effective or better value than was presented in the original contract. During the audit period, we noted at least two instances in which DDS amended its contracts with GROW. However, these amendments were solely for the purposes of providing GROW with additional funding, and in each case, DDS received less services, approximately 25% fewer units of service, than it had originally contracted with GROW to provide.

2. QUESTIONABLE DISTRIBUTION OF FUNDING BY DDS THROUGH THE COMMUNITY BASED DAY SUPPORT PROGRAM CONTRACT PAID FOR EXPENSES INCURRED IN GROW'S FEDERAL DAY HABILITATION PROGRAM

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On May 30, 2007, DDS amended the contract that funded GROW's Community Based Day Support (CBDS) program and provided GROW with \$20,000 in additional funding for a "one time adjustment for the conversion to the Day Habilitation Program." According to DDS officials, this funding was for anticipated costs that were going to be incurred by GROW in starting up a new federally funded Day Habilitation program. However, since the contract in question was negotiated and awarded to GROW for the sole purpose of operating a state-funded CBDS program, we do not believe that providing funding for another federally funded program under this same contract that had nothing to do with the CBDS program was an appropriate contracting practice. Specifically, since DDS provided the funding for these start-up costs under one contract rather than providing this funding under a separate contract, DDS did not ensure that it had adequate controls over GROW's use of these funds. In fact, we found that GROW did not establish a separate account that documented how these funds were spent and did not report in its financial statements that it filed with OSD how these funds were expended. Rather, these funds were simply reported as revenues and expenses relative to GROW's CBDS program. As such, DDS does not have the ability to determine whether these funds were used for their intended purposes in compliance with regulations and contractual terms and conditions.

INTRODUCTION

Background

GROW Associates, Inc., (GROW) was organized in Massachusetts on November 9, 1973 as a charitable nonprofit organization under the name of Randolph Occupational Workshop, Inc. The agency was formed by a group of parents to provide continuing education, occupational training, and extended employment for individuals with developmental disabilities who cannot function independently in the employment market. On November 15, 1996, the agency changed its name to GROW.

Currently, GROW operates three programs (Employment Support, Community Based Day Support, and Day Habilitation) designed to teach a variety of job-related skills to more than 140 adults and adolescents with developmental disabilities who primarily reside in southern Massachusetts. GROW's services are designed to meet the needs of individuals by offering them employment training, finding jobs of their choice in the community, and offering them a way to give back to the community by volunteering and participating in their community.

GROW's Employment Support program is designed to work closely with consumers, their families, and employers to optimize personal growth achievement by promoting positive employment experiences. This is accomplished by assessing each participant's occupational skills and interests, and securing appropriate employment opportunities that best utilize the participant's abilities. GROW also operates an in-house production facility located in Avon for production/assembly work performed by its consumers and provides practical training programs within three businesses it operates: GROW Bistro, GROW Cleaning Crew, and GROW Landscaping/Lawn Care.

GROW's Community Based Day Support (CBDS) program offers individuals the opportunity to participate in structured group activities. Training is provided in this group activity format to teach skills such as money management, communication, street safety, using public transportation, ordering meals on their own, buying and shopping, and performing other everyday life skills.

GROW's Day Habilitation program provides a structured treatment program of therapeutic and habitation services, which are medically driven to elevate the participants' level of functioning and to facilitate independent living and self-management in their communities. This program was designed to allow individuals to participate in their communities, enjoy good health, and communicate one's

needs and desires. Services offered within this program include on-site nursing, occupational and physical therapy, speech/language therapy, and training in and assistance with daily living activities. GROW also offers consultation with a behavior specialist whereby participants are helped to integrate and participate in activities within their communities.

During the audit period July 1, 2006 to May 1, 2009, GROW received funding primarily from the state's Department of Developmental Services (DDS) as well as other governmental and private funding sources, as indicated in the following table:

Summary of Revenue

Revenue Sources	Fiscal Year 2007	Fiscal Year 2008
Contributions	\$ 16,633	\$ 18,005
Private In-Kind	5,304	3,600
Dept. of Developmental Services*	1,399,239	1,485,379
Other Mass. State Agency-POS (salary reserve)	21,230	18,556
Mass. Local Govt./ Quasi-Govt. Entities	44,414	63,338
Medicaid	129,620	340,132
Client Resources	74	1,625
Commercial Activities	100,066	206,682
Investment Revenue	2,019	260
Other Revenue	<u>3,747</u>	<u>19,172</u>
Total	<u>\$1,722,346</u>	<u>\$2,156,749</u>

* Formerly the Department of Mental Retardation

Audit Scope, Objectives, and Methodology

The scope of our audit was to examine various administrative and operational activities of GROW during the period July 1, 2006 to May 1, 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit objectives consisted of the following:

- Conduct a follow-up review of the issues identified during our prior audit of GROW (No. 2004-4478-3C) to determine what corrective measures GROW had taken to address the problems we identified during this audit.
- Determine whether GROW had implemented effective internal controls over all aspects of its operations.
- Assess GROW's business practices and its compliance with applicable laws, rules, and regulations, as well as the various fiscal and programmatic requirements of its state contracts.

In order to achieve our objectives, we first assessed the internal controls established and implemented by GROW over its operations. The purpose of this assessment was to obtain an understanding of management's attitude, the control environment, and the flow of transactions through GROW's accounting system. We used this assessment in planning and performing our audit tests. We then held discussions with GROW officials and reviewed organization charts; internal policies and procedures; and all applicable laws, rules, and regulations. We also examined GROW's financial statements, invoices, and other pertinent financial records to determine whether expenses incurred under its state contracts were reasonable; allowable; allocable; properly authorized and recorded; and in compliance with applicable laws, rules, and regulations. We also performed audit work necessary to determine the specific actions GROW had taken to correct the deficiencies identified in our prior audit report, dated October 12, 2004, and to assess the adequacy of such actions.

During our audit, we determined that GROW had adequately resolved all but one of the issues we identified during our prior audit and was taking measures to fully address the remaining issue. However, we found that, during our audit period, GROW inappropriately expensed as much as \$177,797 in administrative compensation to two of its state-funded programs, misreported \$80,000 in program revenues, charged \$8,409 in unallowable expenses against its state contracts, and charged \$2,364 in unallowable late payments against its state contracts. We also found several instances in which DDS, GROW's principal state funding agency, provided funding to GROW through questionable contract amendments. These amendments allowed GROW to receive approximately the same level of funding from DDS during the audit period even though GROW provided services to almost 25% fewer consumers than it agreed to under the contracts. We also found that during fiscal year 2008 DDS provided GROW with an additional \$20,000 under the contract that funded its Community Based Day Support (CBDS) program that was not related to the services being provided

under this program and did not take measures to ensure that these funds were expended for their intended purposes.

Our audit was not made for the purposes of forming an opinion on GROW's financial statements. We also did not assess the quality and appropriateness of all program services provided by GROW under its state-funded contracts. Rather, our report was intended to report findings and conclusions on the extent of GROW's compliance with applicable laws, rules, regulations, and contractual agreements, and to identify services, processes, methods, and internal controls that could be made more efficient and effective.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS RESOLVED

a. Unallowable Salary Expenses Totaling \$28,830 Reimbursed to the Commonwealth

During our prior audit (No. 2004-4478-3C), we found that GROW Associates, Inc., (GROW) billed its state contracts for \$72,075 in salary and related expenses for its former Executive Director to function as a full-time employee of GROW. However, during this same time period, the former Executive Director was also being paid as a part-time employee of the Town of Randolph School Department. We calculated that, as a result of this arrangement, \$28,830 of the compensation expenses billed by GROW against its state contracts during this fiscal year for its former Executive Director represented unallowable billings that should be remitted to the Commonwealth. During our follow-up review, we found that GROW had reimbursed the Commonwealth for the unallowable salary expenses in question. Further, we determined that GROW's current Executive Director works full-time at GROW and has no other employment commitments during the hours he is working at GROW.

b. Internal Controls over State Contract Revenue Improved

Our prior audit noted that GROW had not established an adequate system of internal controls over its state contract revenue to ensure that it is properly recorded and reported. Specifically, GROW did not have any written policies or procedures relative to the recording of revenue, and rather than recording the actual reimbursements it received from state agencies as state contract revenue, GROW simply recorded the amounts it billed to state agencies as its revenues in its financial records. As a result, during fiscal year 2003, GROW overstated the state revenue it received in the financial report it submitted to the Commonwealth by \$75,016. During our follow-up review, we determined that GROW has improved its internal controls in this area. Specifically, GROW has developed written policies and procedures over its state revenue in the areas of billings and receivables and also records the actual revenue it receives rather than the revenue it bills in its financial records. We also noted that GROW's Business Manager reconciles GROW's bank statement information to GROW's financial records on a monthly basis to ensure that all revenue received is properly recorded. Further, GROW maintains an accounts receivable aging report

that must be reconciled to its financial records on a monthly basis to ensure that GROW's receivables are properly recorded and reported. Based on our audit testing, the controls that GROW has implemented in this area appear to be adequate and have resulted in GROW's revenue being properly recorded and reported during the current audit period.

c. Internal Controls over Employee Fringe Benefits Improved

Our prior audit noted that during fiscal years 2002 and 2003, GROW awarded fringe benefits totaling \$10,401 to certain members of its administrative staff that were not available to all staff members under GROW's formal written personnel policies and procedures. These benefits included \$3,849 in fully paid family health care to GROW's Executive Director and \$6,552 in extra vacation time provided to GROW's Executive Director and Assistant Executive Director/Program Director. Fringe benefits such as these that are not available to all employees under an established formal written policy are nonreimbursable expenses under state contracts. During our follow-up review, we found that GROW had reimbursed the Commonwealth for the unallowable fringe benefit expenses in question. We also found that all the benefits that were being provided to staff during our audit period were consistent with GROW's formal written policies and procedures.

d. Administrative and Internal Controls over Various Agency Operations Improved

Our prior audit noted that GROW had not developed and implemented an adequate system of internal controls over various aspects of its operations. Specifically, GROW had no written accounting policies and procedures or an accounting manual to ensure the accuracy of its financial transactions, reports, and recordkeeping. As a result, there was inadequate assurance that GROW's financial assets and Commonwealth funds were being properly safeguarded or that transactions relative to these accounts were properly authorized, recorded, and reported. During our follow-up review, we noted that GROW has established formal written accounting policies and procedures and has developed a written accounting manual that addresses its financial transactions, reports, and recordkeeping.

2. PRIOR AUDIT RESULT PARTIALLY RESOLVED - INTERNAL CONTROLS OVER ALLOCATION OF STAFF WAGE EXPENSES NEED IMPROVEMENT

Our prior audit revealed that GROW had not established adequate controls over the allocation of wages paid to its employees as required by state regulations and the terms and conditions of

its state contracts. Specifically, GROW did not require its salaried staff to document the hours worked or the functions benefited (e.g., specific program, cost center) and did not follow its own policies and procedures to document non-exempt staff hours charged to state programs. Moreover, for three members of GROW's administrative staff (the Executive Director, Assistant Executive Director, and Business Manager), we found that there were no time sheets to document the hours worked or the programs benefited by these individuals. For other staff members, time records were incomplete (e.g., indicated an arrival time but not a departure time and were not signed by the staff person's supervisor). As a result, there was inadequate assurance that all of the \$1,465,897 in wages paid to GROW's employees and allocated against state contracts during our audit period was accurate.

During our follow-up review, we found that GROW has implemented a time sheet reporting system that requires all employees to document the hours they work, the program or function benefited, and the signatures of both the employee and supervisor. We tested all 64 timesheets submitted by 10 of the 41 employees working at GROW during the months of June 2007, February 2008, and April 2009, including GROW's Executive Director, Business Manager, Office Administrator, Community and Vocational Program Directors, and several program staff. Our review revealed that all employees filled out the required timesheets; however, in some instances, time records were incomplete, as follows:

Time Sheet Deficiencies

Deficiency	Deficiencies	Tested	Percent Deficient
No Time Sheet	1	64	2%
No Function Benefited	19	64	30%
No Employee Signature	2	64	3%
No Approved Signature	4	64	6%

We brought this matter to the attention of GROW officials, who stated that in the future, all timesheets will be checked by GROW's Business Manager to verify that they are properly completed. Also, during our audit, we noted that GROW's administrative staff held a meeting with all agency staff to reinforce the importance of properly recording their time and attendance.

Recommendation

GROW should take the necessary measures to ensure that all staff consistently complete their time sheets in accordance with GROW's established time and attendance policies and procedures.

Auditee's Response

GROW did not provide any written comments relative to this audit result.

3. AS MUCH AS \$177,797 IN ADMINISTRATIVE COMPENSATION INAPPROPRIATELY ALLOCATED TO TWO STATE-FUNDED PROGRAMS

We found that during our audit period GROW charged \$177,797 of the salary expenses of three of its administrative employees (its Assistant Executive Director, Office Administrator, and Receptionist) directly to two of its state-funded programs instead of allocating these expenses across all of its programs as required by state guidelines. Since there was no documentation to substantiate that these three individuals actually worked directly in these two programs, these charges resulted in GROW's misreporting various information in the financial reports that it filed with the Commonwealth during fiscal years 2007 and 2008. Specifically, these incorrect charges resulted in GROW's overstating in its financial reports the actual level of staffing it provided in these two programs, as well as the actual salary expenses it incurred in these programs by as much as \$177,797. GROW also understated the percentage of its total funding that it spends on administrative costs versus program services. The information in GROW's financial statements is used by state agencies and others to assess various aspects of GROW's operation and performance and is also used by GROW's state funding agencies as a basis for future contract negotiations and funding decisions. Because GROW did not properly account for these salary expenses in its financial statements, it did not provide the users of this information, including its state funding agencies, with the accurate information necessary for these purposes.

The state's Operational Services Division (OSD), the state agency responsible for regulating and overseeing the activities of all contracted human service providers such as GROW, has promulgated regulations and contract conditions that require all human service providers doing business with the state to maintain their accounting records in accordance with generally accepted accounting principles. In order to facilitate compliance with this requirement, OSD

has also developed the Uniform Financial Statements and Independent Auditor's Report (UFR) Audit & Preparation Manual, which provides guidance to contracted human service providers and their auditors on how to classify and document agency costs and how to report various information in the UFRs that most contracted human service providers are required to file annually with OSD. The manual points out that organizations typically incur both direct costs, which can be attributed to a specific program or activity, and indirect costs, which need to be accounted for in a specific manner, by stating, in part:

Some expenses are directly related to, and can be assigned to, a single major program or service or a single supporting activity. Other expenses are related to more than one program or supporting activity, or to a combination of programs and supporting services. These expenses should be allocated among the appropriate functions. . . . If an expense can be specifically identified with a program or supporting service, it should be assigned to that function (direct costs). . . . If direct identification (that is, assignment) is impossible or impracticable, an allocation is appropriate. . . . Where employees perform duties that relate to more than one function, the salaries of such individuals, as well as all other expenses which pertain to more than one function, should be allocated to the separate functional categories, based on procedures that determine, as accurately as possible, the portion of the cost related to each function. . . .

Administration and support (management and general) costs include expenditures for the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related purposes for meeting organizational goals and objectives. "Overall direction" includes the salaries and expenses of the chief officer of the organization and his or her staff. . . .

The salaries and expenses of the chief executive officer and his or her staff that are associated with this activity should be prorated among fund-raising and the programs receiving the direct support The time spent directly supervising the fund-raising or program director and the specific duties and functions receiving direct supervision must be documented by time sheets . . . or appointment calendars that reflect time spent on the activity and fund-raising or program outputs.

As noted above, in those instances in which a person who typically functions in an administrative capacity works directly in programs, GROW is required to formally document the time these individuals worked in each program. We found, however, that during fiscal years 2007 and 2008, GROW charged \$177,797 in salary expenses for three of its administrative staff as direct costs to two of its programs (Employment Support and Community Based Day Support) despite the fact that there was no documentation to substantiate what amount of time, if any, these individuals actually worked in these two programs. The table below summarizes the salary expenses of the three individuals that were charged to the two programs.

Administrative Compensation Charged Directly to Programs*

Position	FY 2007	FY 2008	Total
Asst. Executive Director	\$59,536	\$42,365	\$101,901
Office Administrator	0	27,112	27,112
Receptionist	<u>18,249</u>	<u>5,601</u>	<u>23,850</u>
Total salary	<u>\$77,785</u>	<u>\$75,078</u>	<u>\$152,863</u>
Fringe Benefits	5,149	5,631	10,780
Payroll Tax	<u>6,751</u>	<u>7,403</u>	<u>14,154</u>
Total Compensation	<u>\$89,685</u>	<u>\$88,112</u>	<u>\$177,797</u>

* \$27,483 of these employees' salaries was charged to administration during fiscal years 2007 and 2008 and is not included in these amounts.

According to GROW officials, the three employees in question did spend some of their time working in these two programs. However, the timesheets for these three employees for the period of time in question indicated that they worked exclusively in central administration, and there was no time reported by any of these three individuals substantiating that they had worked in either of these two programs.

As previously noted, each year contracted human service providers such as GROW are required to file UFRs with OSD. The information in these UFRs is used by state agencies and others to assess various aspects of the provider's operation and performance and as a basis for future contract negotiations and funding with state purchasing agencies. Because GROW did not properly account for these salary expenses in the UFRs it submitted to OSD during fiscal years 2007 and 2008, it did not provide OSD, its state funding agencies, and others with the accurate information necessary for these purposes.

The misinformation provided by GROW to OSD during these two fiscal years resulted in several significant reporting errors. First, the total program expenses, and in particular program staffing levels, in the two programs in question were overstated by as much as \$177,797. Second, the amount GROW reported as its overall administrative compensation is understated by as much as \$177,797. If these compensation expenses were reported correctly, the administrative expenses incurred by GROW would have considerably exceeded the amounts that were budgeted in GROW's contracts for these expenses, as detailed in the following table:

**Employment Services Contract
Administrative Expenses**

Fiscal Year	Contract	Actual	Variance	Variance Percentage
2007	\$139,960	\$239,354	\$ 99,394	71%
2008	\$212,002	\$224,825	<u>12,823</u>	6%
Total			<u>\$112,217</u>	

**CBDS Contract
Administrative Expenses**

Fiscal Year	Contract	Actual	Variance	Variance Percentage
2007	\$57,100	\$98,897	\$41,797	73%
2008	\$30,000	\$63,484	<u>33,484</u>	112%
Total			<u>\$ 75,281</u>	

During our audit, we discussed this issue with GROW officials, who stated that they were unaware of the OSD requirement regarding the need to document the time staff spent working in programs. However, these officials stated that for fiscal year 2009, the compensation of these three individuals will be reported as administrative expenses in GROW's UFR and that in the future GROW will take measures to ensure that it documents the amount of time each employee, including its administrative staff, spends working in each program.

Recommendation

GROW should amend its fiscal year 2007 and 2008 UFRs to properly allocate the \$177,797 in salary expenses to all of its programs in a manner consistent with OSD guidelines. In the future, GROW should take measures to ensure that it properly documents the hours worked and the programs benefited by all of its staff, particularly those administrative staff who may spend some of their time working directly in programs.

Auditee's Response

In response to this audit result, GROW officials provided the following comments:

... In retrospect, we could have charged the \$177,797 to Administration and let the UFR allocation formula charge each program with the appropriate amount on Line 52E, and

likewise could have budgeted more money under "Agency Admin. Support Allocation" on the contract budget pages, and less money on budget lines 102 and 137. We are now following the correct procedure on our state contracts and will continue to do so in the future. Since our previous audit firm disbanded and is no longer doing audits, we hereby request that we not have to file amended UFR reports. ... it would be an untold expense and a difficult undertaking, and it would not change the grand totals expended to state contracts on the UFR's.

Auditor's Reply

As noted above, we found that during our audit period, GROW charged \$177,797 of the salary expenses of three of its administrative employees directly to two of its state-funded programs instead of allocating these expenses across all of its programs as required by state guidelines. These charges resulted in GROW misreporting various information in the financial reports that it filed with the Commonwealth during fiscal years 2007 and 2008. In its response, GROW stated that it is now following state guidelines relative to these expenses. If this is in fact the case, we believe that any measures taken by GROW to address this matter were necessary and responsive to our concerns.

4. \$80,000 IN PROGRAM REVENUES MISREPORTED

We found that, contrary to OSD guidelines, GROW misreported a total of \$80,000 in revenues it received from the Department of Developmental Services (DDS) during fiscal years 2007 and 2008 to fund a Family Support Services program. Specifically, although OSD requires contracted human service providers such as GROW to separately report in the financial statements that it files with OSD revenue and expense information for each program they operate, GROW reported the revenues and expenses that it received from DDS to fund its Family Support Services program during these two fiscal years as revenue and expenses in its Employment Support program. As a result, GROW did not provide OSD, its state funding agencies, and other users of this information with accurate information that would allow them to accurately assess GROW's performance relative to its administration of its Family Support Services program or, in the case of GROW's state funding agencies, to use as a basis for future contract negotiations and funding decisions.

According to OSD's UFR Audit & Preparation Manual, contracted human service providers such as GROW are required to report the revenues and expenses of each program they operate separately, as follows:

A separate Program Supplemental Information Schedule . . . is prepared for each individual program. Each cost reimbursement contract represents a single UFR program with its own UFR program number and Program Supplemental Information. . . .

These specific reporting requirements were established by OSD to allow it and other oversight agencies to effectively monitor the activities of contracted human service providers to ensure their compliance with applicable laws and regulations as well as the specific terms and conditions of the contracts that fund these programs.

During fiscal years 2007 and 2008, DDS provided GROW with \$40,000 in funding each year to operate a Family Support program. As previously noted, since this money funded a separate and distinct program, GROW was required to establish within its financial records separate accounts relative to the operation of this program and report separately in the UFRs it filed with OSD the actual revenues it received and the expenses it incurred in this program. However, we found that, rather than establishing appropriate accounting categories for this program, GROW simply reported the revenue it received and expenses incurred in this program in its Employment Support program. Since the revenue and expense information relative to GROW's Family Support program was not reported separately, it made it impossible for OSD and DDS to have a full understanding of how the program was functioning or whether the funds that were provided to GROW relative to the operation of this program were expended for their intended purposes. As previously noted, each year most contracted human service providers such as GROW are required to file UFRs with OSD. The information in these UFRs is used by state agencies and others to assess various aspects of the providers' operation and performance and as a basis for future contract negotiations and funding with state purchasing agencies. Because GROW did not properly account for these salary expenses in the UFRs it submitted to OSD during fiscal years 2007 and 2008, it did not provide OSD, its state funding agencies, and others with the accurate information necessary for these purposes.

During our audit, we brought this matter to the attention of GROW officials, who indicated that, beginning in fiscal year 2009, GROW stopped operating its Family Support program and that, going forward, they will work with GROW's private accounting firm to make sure all program activities are reported individually as required in GROW's UFRs.

Recommendation

GROW should take the measures necessary to ensure that the activities relative to all of its programs are properly recorded and reported in accordance with OSD guidelines.

Auditee's Response

In response to this audit result, GROW officials provided the following comments:

Beginning in FY09 we have a new independent auditor. We will be sure that any distinct programs will be reported as such on the UFR in the future.

Auditor's Reply

Based on its response, GROW agrees with our conclusion and is taking measures to address our concerns relative to this matter.

5. \$8,409 IN UNALLOWABLE EXPENSES CHARGED AGAINST FAMILY SUPPORT CONTRACT

During fiscal year 2008, DDS provided GROW with \$9,398 in funding in the contract that funded its Family Support program that was to be used by GROW for renovation work to improve the safety and living conditions at the home of one of GROW's consumers. We found, however, that rather than using these funds for these purposes, GROW allowed the consumer and her family to spend some of this money on items not related to home renovations, such as approximately \$5,000 on two different vacations. GROW also used \$2,500 of this funding to pay for mileage reimbursements for its staff. Since these funds were not used for the purposes for which they were provided, they represent unallowable costs under GROW's contract for this program.

The state's Executive Office for Administration and Finance (EOAF), the Office of the State Comptroller (OSC), and OSD have jointly issued Commonwealth Terms and Conditions for Human and Social Services (Contract Conditions), with which all contracted human service providers such as GROW must comply. According to these Contract Conditions, "The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract." Further, 808 Code of Massachusetts Regulations (CMR) 1.05 promulgated by OSD identifies costs that are reimbursable under state contracts as "Those costs reasonably incurred in providing the services described in the contract."

As noted in Audit Result No. 4, during our audit period, DDS was funding a Family Support program at GROW. During fiscal year 2008, the contract that funded this program included a \$9,398 cost reimbursement component that, according to the contract, was to be spent as follows:

Due to the continued health issues of [a GROW consumer] and need for improvement to home to maintain safety and living conditions GROW will work with the family to gain access for needed repairs. This budget was also modified to include cost reimbursement on said items.

The contract established the following budget for these expenses:

Family Support Services Contract Budget

Program Component	Amount
Contracted Client Transportation	\$1,000
Goods and Materials	1,739
Other Commercial Products and Services	<u>6,659</u>
Total	<u>\$9,398</u>

During our audit, we reviewed the documentation GROW was maintaining relative to the expenses associated with this contract component and found that these funds were in fact not expended for the home improvement/safety renovations agreed to in GROW's contract with DDS. Rather, the majority of this funding was spent on vacation expenses for the consumer and family members and for GROW employee mileage expenses, as detailed below:

Description	Total
Contracted Client Transportation	\$1,776
Staff Mileage Expenses	2,467
Recreation	18
Vacation and Trips	3,910
Shopping for Vacation	1,000
Memberships	<u>238</u>
	<u>\$9,409</u>

During our audit, we brought this matter to the attention of GROW officials, who stated that, because much of this funding was actually spent on the consumer in question, they did not believe that the expenses in question were inappropriate. However, clearly GROW's contract for this program did not provide for the funds to be spent in this manner. If GROW wanted to spend these funds for purposes other than those specified and agreed to in the contract, it should have notified DDS and sought to formally amend this contract so that the funds could be spent in this manner.

As noted in the table above, only \$1,000 of the \$9,409 was spent on expenses that were agreed to in the contract (\$1,000 in contracted client transportation). As such, the remaining \$8,409 in expenses that GROW charged against this contract for the items detailed represent unallowable expenses under this contract.

Recommendation

GROW should reimburse DDS the \$8,409 in unallowable expenses charged against its DDS Family Support Services contract during fiscal year 2008. In the future, GROW should take measures to ensure that it does not spend any state funds on expenses that are unallowable and that have not been formally agreed to in the contracts that fund its programs.

Auditee's Response

In response to this audit result, GROW officials provided the following comments:

While the Family Supports contract was not officially amended, we believe we expended the funds according to the family's needs, with DDS acknowledgment. It would be a hardship to repay \$8,409 to the state for funds that were expended by us to support the family.

Auditor's Reply

As noted above, during fiscal year 2008, DDS provided GROW with \$9,398 in funding in the contract that funded its Family Support program that was to be used by GROW for renovation work to improve the safety and living conditions at the home of one of GROW's consumers. We found, however, that rather than using these funds for these purposes, GROW allowed the consumer and her family to spend some of this money on items not related to home renovations, such as approximately \$5,000 on two different vacations. GROW also used \$2,500 of this funding to pay for mileage reimbursements for its staff. Since these funds were not used

for the purposes for which they were provided, they represent unallowable costs under GROW's contract for this program.

In its response, GROW officials acknowledge that the contract was not properly amended but contend that the funds in question were expended in accordance with the family's needs and with DDS's approval. However, we take exception to part of this assertion. Specifically, clearly the family's needs for this additional funding were established during the contracting process and specifically included in the contract in question, by stating:

Due to the continued health issues of [a GROW consumer] and need for improvement to home to maintain safety and living conditions GROW will work with the family to gain access for needed repairs...

This was what was agreed to between DDS and GROW as to how these funds were to be used and there was no documentation to substantiate that DDS approved of GROW expending these funds in any matter other than what was specified in this section of the contract. Further, as noted above, a significant portion of these funds (over 25%) was spent on mileage reimbursements for GROW's staff. We do not see how this expenditure was in accordance with the family's needs. Clearly, if the family no longer needed the home repairs in question to address the health issues of the consumer, GROW should have notified DDS of this fact and amended the contract accordingly to document that both GROW and DDS were in agreement as to how these additional funds would be used.

6. \$2,364 IN UNALLOWABLE LATE PAYMENTS CHARGED TO THE COMMONWEALTH

We found that, during our audit period, GROW expensed penalties and late fees totaling \$2,364 against its state contracts. According to OSD regulations, these expenses are unallowable and nonreimbursable under GROW's state contracts.

808 Code of Massachusetts Regulations 1.05 identifies the following costs as being unallowable and nonreimbursable under state contracts:

Any interest or penalties incurred because of late payment of loans or other indebtedness, late filing or payment of federal and state tax returns, municipal taxes, unemployment taxes, social security, and the like

We found that, despite this requirement, GROW incurred \$2,364 in fees and penalties because of late payments during our audit period.

During our audit, we brought this matter to the attention of GROW officials, who stated that they were unaware that late fees and penalties are nonreimbursable expenses under state contracts. However, these officials told us that, going forward, GROW will report all such late fees as nonreimbursable expenses in its UFRs.

Recommendation

GROW should remit to the Commonwealth the \$2,364 in unallowable late fees it charged against its state contracts during our audit period. In the future, GROW should take measures to ensure that it does not charge any such unallowable expenses against its state contracts.

Auditee's Response

In response to this audit result, GROW officials provided the following comments:

We have sufficient Offsets for FY07 and FY08 that could cover Non-reimbursable Expenses of \$2,364 if we amended our UFR's and transferred the penalties and late fees to line 54E, thereby negating a remittance to the Commonwealth. As stated in #3 above, amending the UFR's will be a costly and perhaps difficult process..

Auditor's Reply

Although GROW may have had other non-state funds to cover the nonreimbursable expenses in question, according to the UFRs it filed with OSD during the fiscal years 2007 and 2008, it used state funds to pay for these nonreimbursable expenses. Consequently, we again recommend that GROW remit to the Commonwealth the \$2,364 in unallowable late fees it charged against its state contracts during our audit period. We also again recommend that in the future, GROW should take measures to ensure that it does not charge any such unallowable expenses against its state contracts.

OTHER MATTERS

During our audit of GROW Associates, Inc., (GROW) we identified two issues that involved both GROW and questionable actions taken by GROW's principal state funding agency, the Department of Disability Services (DDS). We believe these issues warrant the attention of both GROW's management and DDS and are therefore disclosing them in this report.

1. QUESTIONABLE CONTRACT AMENDMENTS PROVIDED BY DDS TO GROW RESULTED IN GROW'S RECEIVING THE SAME LEVEL OF FUNDING UNDER TWO CONTRACTS FOR PROVIDING APPROXIMATELY 25% FEWER SERVICES

OSD has promulgated 801 Code of Massachusetts Regulations (CMR) 21.01(2), which requires all state agencies procuring goods or services to abide by the principal of "best value," by stating, in part:

Best Value. The result of common sense Procurement decision-making consistent with the States Procurement Principles, which are to balance and support the achievement of: required outcomes, best quality economic value, timely performance, minimizing the burdens on administrative resources, expediting simple or routine purchases, flexibility in developing alternative Procurement and business relationships, encouraging competition, encouraging the continuing participation of quality Contractors and supporting State and Department Procurement planning and implementation.

Additionally, the Office of the State Comptroller (OSC) and OSD have issued guidance to all state agencies, in the publication entitled "Amendments, Suspensions or Terminations," on the appropriate use of contract amendments, which states, in part:

Departments must demonstrate good faith and fair dealing when initiating any notice of termination, suspension or amendment. Departments must be able to demonstrate that there exists a good business justification or legal necessity that supports the contract change.

Finally, 801 CMR 21.00 states that a state agency and a contracted service provider can negotiate a contract amendment that results in a lower price or better value to the Commonwealth by stating, in part:

The Department may negotiate with Selected Bidder(s) prior to execution of a Contract, and with Contractors after a Contract has been executed, as follows:

...the Department and a Selected Bidder or Contractor may negotiate a change in any element of Contract performance or cost, identified in the original RFR or the Bidder's or Contractor's Response, which results in lower costs or in a more cost effective or better

value than was presented in the Bidder's or Contractor's originally selected Best Value Response. . . .

The best value standard and the requirements of 801 CMR 21.00 allow a state department and a selected bidder (or a contractor) to negotiate a change in any element of contract performance or cost identified in the Request for Responses or the bidder's response that results in lower costs or a more cost-effective or better value contract than was presented in the bidder's original selected response.

During the audit period, we noted at least two instances in which DDS amended its contracts with GROW. However, these amendments were solely for the purposes of providing GROW with additional funding, and in each case, DDS received less services, approximately 25% fewer units of service, than it had originally contracted with GROW to provide. A description of these two amendments follows:

- During fiscal year 2007, DDS awarded GROW a contract with a maximum obligation of \$391,004 to operate its Community Based Day Support (CBDS) program. Under the terms and conditions of this contract, GROW agreed to offer individuals participating in the program the opportunity to participate in structured group activities. In return for these services, GROW was to be compensated at a unit rate equal to \$43.81 per client for each day a client participated in the program, for a total of 8,925 billable units. However, on January 19, 2007, DDS authorized an amendment to this contract that retroactively increased the daily unit rate to GROW from DDS for each day a consumer participated in the program from \$43.81 to \$61.33 and decreased the billable units to 6,375. According to the contract amendment, the reason for this amendment was that the units of service "have been adjusted as individuals have been moved from the CBDS program to the newly licensed Day Habilitation program." During our audit period, GROW did in fact move 12 consumers from its CBDS program to its Day Habilitation program. However, the services provided to these 12 consumers in the Day Habilitation program were fully paid for by the contracts that funded this program. Consequently, we see no reason why DDS would need to provide GROW with the maximum obligation amount of its CBDS contract, since it did not provide services to 12 of the consumers in this program.
- During fiscal year 2008, DDS awarded GROW a contract with a maximum obligation of \$993,766 to operate its Employment Support program. Under the terms and conditions of this contract, GROW agreed to provide individuals participating in this program with employment experiences by securing appropriate opportunities that best utilize the participant's abilities either in GROW's in-house workshop or in outside employment. In return for these services, GROW was to be compensated at a rate of \$8.70 per client for each hour a client participated in the program, which resulted in a total of 114,226 billable units. However, on March 21, 2008, DDS authorized an amendment to this contract that retroactively increased the hourly rate to GROW from DDS for each hour a consumer participated in the program from \$8.70 to \$12.36 and decreased the billable units to

85,695. According to the contract amendment, the reason for this amendment was a “reduction in units to accurately reflect slot usage.”

In our opinion, these amendments were not consistent with the state’s best value requirement, since they resulted in the Commonwealth’s ultimately paying higher costs for less services.

During our audit, we met with officials from DDS’s South Coastal Area Office to discuss this matter. During our meeting, the DDS Regional Operations Manager stated that typically DDS will execute a contract amendment such as the ones described above and retroactively reduce the billable units and increase the unit rate the provider will receive in instances where the vendor provided additional services that were not being reimbursed under the contract. The Regional Operations Manager indicated that these circumstances would be clearly described in the reason for amendment section of the contract. However, such was not the case with DDS’s amendments with GROW. The Regional Operations Manager stated that during fiscal years 2007 and 2008 GROW was in transition in that it was moving its offices to a new location, and GROW’s former Executive Director left abruptly. According to the Regional Operations Manager, as a result of the move, GROW’s occupancy cost almost doubled, and DDS believed that it was in the Commonwealth’s best interest to allow GROW to receive all of the funding allowed under the contracts in question because DDS was concerned that GROW might go out of business.

In our opinion, the practice of providing this type of additional funding to certain contracted human service providers under the contract amendment process is not consistent with the best value requirement of state contracts. Further, this practice could be viewed as discriminatory by the provider community, since this funding is not being made available to all contracted providers under an established policy of DDS. Although we acknowledge the fact that the services provided by contracted human service providers such as GROW are essential in ensuring that consumers receive their required services, a department of the Commonwealth should not be in the position of taking unusual measures to ensure the economic health of certain contracted providers. We believe that DDS needs to review its practice of providing additional funding to its contracted human service providers under the circumstances described above and take whatever measure it deems necessary, including ensuring that it only engages in those practices that are consistent with best value standard of state contracts.

DDS Comments

In response to this matter, DDS officials provided comments, which are excerpted below:

In this draft finding, the [OSA] concludes that certain contract amendments to various day and employment service contracts between DDS and GROW were contrary to the "best value standard" contained in 801 CMR 21.00. For the reasons set forth below, we do not agree with this conclusion.

Example #1: FY2007 GROW CBDS Contract Amendment

In this example, the [OSA] highlights a mid-year amendment to a fiscal year 2007 Community-Based Day Supports contract that adjusted units downward to reflect the fact that 12 individuals were moved to a day habilitation contract, noting that this amendment, while decreasing units, reflected an increased unit rate and a basically unchanged contract maximum obligation level...

With respect to the [OSA's] claim that GROW received [additional funding] we note that the UFR listing for the program in question reflects the fact that the program operated at a significant deficit for both FY2006 (\$95,591) and FY2007 (\$98,049), notwithstanding the funding provided by the amended, increased unit rate. Area Office and Regional Office staff confirm that the DDS historical funding available to this program had not kept pace with the costs of meeting the increasing needs of the individuals being supported in the contract and that GROW and DDS had engaged in considerable discussions and planning regarding how to address program funding issues. When the opportunity to maintain the funding level while addressing the heightened needs of the smaller number of remaining individuals was created, as a result of the planned transition of twelve individuals to an alternatively funded day habilitation program, DDS was able to redistribute its available funding against a smaller consumer base. More specifically, the DDS South Coastal and Brockton Area Directors, in reviewing the situation, determined that it would be beneficial for the individuals remaining in the program to permit GROW to retain existing direct support staff in the CBDS program and by doing so enhance their staffing ratios. The ratio improved from a 1:8.5 to a 1:6. This enhanced ratio meant that the program could increase community activities and provide more individualized supports to service recipients.

*We find we must raise an issue relating to the [OSA's] use of the "best value" concept in this instance. The [OSA] correctly notes that under this concept Commonwealth agencies are responsible to take steps to ensure that contract agreements are cost-effective in nature, providing the lowest reasonable price for quality services. In addition, however, in its definition of "best value," OSD notes that contract budgets should "support the achievement of: required outcomes" and **should "encourage the continuing participation of quality Contractors ..."** [Emphasis supplied] In situations in which consumer needs are increasing and Commonwealth funding has been generally stagnant, it may be the case that available public funding may, over time, cease to be sufficient to fully support the original program goals, outcomes and objectives. This may ultimately threaten the provider's ability to continue providing a particular service. Where this is the case, departments like DDS have an obligation to work with providers to address chronic under funding issues, as DDS did with GROW.*

In short, then, we believe that DDS actions in working with GROW to transition some individuals to an alternately funded day habilitation program and amending the contract to utilize existing DDS funding to more adequately support CBDS program operations

were reasonable. The amendment supported the ongoing achievement of CBDS outcomes for the individuals being supported and encouraged the continuing participation of GROW, a provider of quality services to DDS for many years. Additionally, the resulting GROW rates remained at or below the rates of comparable providers delivering comparable services to the Department. In light of this, we believe that DDS properly took steps to ensure "best value" under existing OSD guidelines.

• *Example[#2]: FY2008 GROW Employment Supports Contract Amendment*

In this example, the [OSA] again outlines an amendment process that purportedly added funds to an existing GROW contract while at the same time reducing units. In the [OSA's] view, these amendments did not provide "best value" and resulted in the Commonwealth paying higher costs for less services. As in the cases above, we do not agree with the [OSA's] conclusion.

The Employment Supports contract in question started the year seriously under funded and a first round amendment was initiated to add funds specifically targeted by the Legislature to support this program's operation, to restore a prior Governor's 9C reduction, and to add a consumer. This amendment increased the contract value by \$133,800.80, taking it from \$859,965.40 to \$993,766.20. This amendment resulted in an increase in units purchased, due to the restoration of units reduced in the 9C cut (units which were already factored into the original unit rate) and to the addition of a new consumer. Since the total program cost increased by \$133,800.80 but the budgeted units were increased by the addition of the new consumer this created an increased rate and increased units for the balance of the fiscal year. This first amendment, thus, could not be construed as paying higher costs for fewer services, since service units were generally increased as a result of this amendment. Additionally, DDS was required by law to distribute the Legislatively-directed funds to GROW, in recognition of the fact that this program was seriously in need of additional support, particularly for transportation services. Such a statutory directive on the part of the Legislature, we feel, bolsters our view that this amendment was consistent with the "best value" requirement, as it supported properly funding the delivery of high-quality services to the individuals in the program and it encouraged the continued participation of GROW as a provider of such services...

Later in the year, additional funds were added to the contract to address unfunded transportation needs (\$51,891.35) and to engage a financial consultant to strengthen financial and accounting systems at GROW (\$13,000). At the same time as funding was added to address these issues, GROW and DDS determined, after reviewing attendance information relating to the program that a number of individuals were not attending on a full-time basis and sharing program slots fully, leading to a situation in which contract billing at the lower attendance level would be insufficient to reimburse the program for actual staffing and other resources being provided throughout the contract year. As a result, a second amendment was produced, adding the necessary transportation and financial consultant funding and reducing units to reflect actual utilization levels for the fiscal year. Although units were reduced and costs were increased, this is clearly not a case in which the Commonwealth paid more for the same service. Rather, DDS added funds to fully address the reasonable costs of continuing program transportation and to expand GROW's capacity to manage the financial and administrative challenges that it was facing at the time...

GROW'S Comments

In response to these matters, GROW officials provided comments, which are excerpted below:

We believe the number of units was reduced to accommodate the late timing in the year that the amendment took place; it was the only way the unit rate could be formulated so that we could receive the remaining dollars of the maximum obligation of the contract. ...we operated at a total deficit of (\$176,516) in our state contracted programs for FY07 and FY08, even after receiving additional amended funds, and our cumulative deficit from 1993 through June 30, 2008, on state contracts amounted to (\$1,346,080), as reported on the FY08 UFR. Finally, any research on the broad provider community and related contract rates would show that GROW's reimbursement rates are below the median; that's even more relevant when considering that we provide transportation for most of the individuals we serve, inclusive in our rates of reimbursement. ... It also should be clarified that Grow was forced to move from its prior facility due to a health (mold) hazard in the building, which the landlord refused to address. Furthermore, the rent per square foot of \$7.89 in our new facility is below market rates and was the best alternative we could find at the time.

Auditor's Comments

In its response, DDS acknowledges the fact that the 2007 amendment to GROW's CBDS contract redistributed the maximum funding authorized by this contract to a smaller consumer base. As stated in our report, this resulted in the Commonwealth paying a higher cost for fewer services, which in our opinion, is not consistent with the state's best value requirements. DDS contends that this was done because the remaining consumers in this program had "heightened needs" and GROW and DDS decided to reallocate the total funding provided under this contract to the consumers remaining in the program. However, as noted above, according to the contract amendment, the stated reason for this amendment was that the units of service "have been adjusted as individuals have been moved from the CBDS program to the newly licensed Day Habilitation program." The assertion made by DDS in its response that the remaining consumers receiving services under the fiscal year 2007 CBDS contract had heightened needs was not supported by any documentation provided to us by GROW or DDS nor was this assertion made to us during our discussions on this matter with officials from both of these entities during the conduct of our audit field work.

Clearly, one of the main reasons for the underutilization of units in the CBDS program was GROW moving a significant number of consumers from its CBDS program into its Day Habilitation program. In fact, according to GROW's records, 12 consumers from the CBDS contract were transitioned to the Day Habilitation program on or before January 2007. This

corresponds to the amendment to the CBDS contract on January 19, 2007 that reduced the individuals served under this contract from 42 to 30. While we recognize that some of the costs relative to operating the CBDS are fixed and may not change if consumers leave the program, based on the documentation we reviewed, at least some of the CBDS program costs such as occupancy costs were clearly shifted from the CBDS program to the Day Habilitation Program. For example, GROW's fiscal years 2007 and 2008 UFRs report expenses in its Day Habilitation of \$160,358 and \$309,989, respectively. The fact that CBDS program costs were shifted to the Day Habilitation Program is also supported by the September 13, 2006 minutes of the meeting of GROW's Board of Directors in which the Board's proposed budget for the Day Habilitation program reallocated approximately \$100,000 of expenses such as rent and utilities from GROW's Employment and CBDS program contracts to the Day Habilitation program. Also, according to the minutes of GROW's January 10, 2007 Board meeting, the revenue from the Day Habilitation program was, at that time, covering the salaries of the Program Director and Nurse that were formerly charged to the CBDS Program. It was DDS's and GROW's joint responsibility to ensure that the CBDS was adequately funded at the beginning of each contract year based on reasonable estimates of program utilization. If adjustments needed to be made to account for any underutilization of program services during the fiscal year, we believe it would have been fiscally prudent and appropriate to also make corresponding adjustments to variable program expenses when recalculating the new unit rate of reimbursement for these services to ensure that the program received adequate but not excessive funding.

Regarding GROW's fiscal year 2008 Employment Support program contract, our report does not take issue with any funding that was added to this contract other than the March 21, 2008 amendment. In this case, we again question the reasonableness of reducing the number of units that GROW had to serve under this contract without reducing any of the funding provided for these services. In effect, this amendment reduced the level of services GROW was to provide under this contract without making any corresponding reduction to program funding. Once again we acknowledge that some of the costs of this program are fixed and would not change with the number of units of services GROW provides. However, clearly, GROW's management should monitor program utilization on an ongoing basis and should not wait until the end of the fiscal year when the majority of the program's fixed costs have been incurred to decide to amend a contract to account for any program underutilization.

In its comments, DDS contends that the 2008 contract amendment to GROW's Employment Support contract was executed to "expand GROW's capacity to manage the financial and administrative challenges that it was facing at the time." While we acknowledge that it is in the best interests of the Commonwealth that its contracted human service providers remain fiscally healthy, it is not the responsibility of a Commonwealth agency to ensure the economic health of certain contracted providers, since this is clearly the sole responsibility of the management of the provider. As previously stated, we believe that the practice of providing additional funding to certain contracted human service providers under the contract amendment process is not consistent with the best value requirement of state contracts. Further, this practice could be viewed as discriminatory by the provider community, since this funding is not being made available to all contracted providers under an established policy of DDS. Consequently, we reiterate that DDS should review its practice of providing additional funding to its contracted human service providers under the circumstances described above and take whatever measure it deems necessary to ensure that it only engages in those practices that are consistent with best value standard of state contracts.

2. QUESTIONABLE DISTRIBUTION OF FUNDING BY DDS THROUGH THE COMMUNITY BASED DAY SUPPORT PROGRAM CONTRACT PAID FOR EXPENSES INCURRED IN GROW'S FEDERAL DAY HABILITATION PROGRAM

On May 30, 2007, DDS amended the contract that funded GROW's CBDS program and provided GROW with \$20,000 in additional funding for a "one time adjustment for the conversion to the Day Habilitation Program." According to DDS officials, this funding was for anticipated costs that were going to be incurred by GROW in starting up a new federally funded Day Habilitation program.

The 801 CMR 21.08, promulgated by OSD, states the following:

(1) The Contractor shall only be compensated for performance delivered to and accepted by the Department in accordance with the specific terms and conditions of a properly executed Contract. All Contract payments are subject to Available Funding, as described in 801 CMR 21.06(2), and shall be subject to automated intercept pursuant to M.G.L. c. 7A, § 3 and 815 CMR 9.00. Contract payments for Human and Social Services are also subject to the provisions of 808 CMR 1.00. A Department shall be under no legal obligation to compensate a Contractor, or to obtain additional funding for any performance, costs or other commitments, which are made outside of the scope of a Contract.

During our audit, we discussed this matter with DDS officials, who stated that they approved this amendment because they thought it was in the best interest of the Commonwealth to do so since, once the Day Habilitation program was operating, DDS would be able to shift some of the state-funded consumers to the federally funded Day Habilitation program, which would save the Commonwealth some money. We acknowledge that moving the consumers from state-subsidized programs to federally subsidized programs could result in a cost savings to the Commonwealth. However, the contract GROW entered into with DDS was specifically for CBDS services under a specific program code and state expenditure amount. Consequently, to simply give GROW \$20,000 more for services not rendered or costs not incurred under that contract is questionable. Specifically, since DDS provided the funding for these start-up costs under one contract, rather than providing this funding under a separate contract, DDS did not ensure that it had adequate controls over GROW's use of these funds. In fact, we found that GROW did not establish a separate account that documented how these funds were spent and did not report in its financial statements that it filed with OSD how these funds were expended. Rather, these funds were simply reported as revenues and expenses relative to GROW's CBDS program. As such, DDS does not have the ability to determine whether these funds were used for their intended purposes and in compliance with applicable regulations and contractual terms and conditions.

DDS Comments

In response to this matter, DDS officials provided the following comments:

In this finding, the [OSA] concludes that DDS gave GROW "\$20,000 more for services not rendered or costs not incurred" under its FY2007 Community-Based Day Support program. We do not agree with this conclusion. Rather, the Department took steps, after considerable discussion with GROW, to provide additional resources of 1 FTE Direct Care/Program Staff I position, within the normal context of a Community-Based Day Support program, to assist in the process of assessing the appropriateness of individuals potentially identified for transition to the day habilitation model and to work directly with those individuals within the CBDS program for a specified amount of time until they were fully prepared to make a successful transition to the day habilitation program. In this context, then, this funding was not "start-up costs" for a day habilitation but were, rather, resources made available within an existing CBDS contract to work with individuals in the program to identify and work with CBDS service recipients as they prepare for transition to a new and different program model.

Auditor's Comments

According to the June 6, 2007 minutes of the meeting of GROW's Board of Directors, GROW's Executive Director met with DMR (currently DDS) officials and was able to get the additional \$20,000 in question in the Community Based Support Contract "for this year to help offset some of the start-up costs of the Day Habilitation program." Further, according to DDS officials with whom we spoke during the conduct of our audit field work, this funding was for anticipated costs that were going to be incurred by GROW in starting up a new federally funded Day Habilitation program and not as DDS now contends in its comments for a staff person "to assist in the process of assessing the appropriateness of individuals potentially identified for transition to the day habilitation model and to work directly with those individuals within the CBDS program for a specified amount of time until they were fully prepared to make a successful transition to the day habilitation program." As noted above, the amendment to GROW's fiscal year 2007 CBDS contract enabled GROW to receive its full contract amount even though 12 consumers in this program were moved to GROW's Day Habilitation program during the fiscal year. Consequently, we do not see why an additional \$20,000 was added to this program to increase its staffing during a period when over 25% of the consumers were being moved out of the program. If, in fact, this funding was to cover the services of an additional staff person to work in this program for a specific purpose, the contract amended that provided the funding to this program should have stated this fact so that DDS could effectively monitor these funds to see if they were being used for their intended purposes.