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NO. 2009-1436-3S

INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
HAMPSHIRE SHERIFF'S OFFICE
JULY 1, 2007 TO SEPTEMBER 30, 2008

OFFICIAL AUDIT
REPORT
MARCH 11, 2010

INTRODUCTION
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The Hampshire Sheriff's Office (HSO) was established as an independent state agency on September 1, 1999 as a result of the abolishment of Hampshire County government pursuant to Chapter 300 of the Acts of 1998. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which stipulated that the Hampshire Sheriff became an employee of the Commonwealth, but remained an elected official, and retained administrative and operational control over the HSO, the Jail, and the House of Correction. The HSO has an inmate capacity of 248 inmates, and had an average inmate census of 302 during our audit period.

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we audited certain activities at HSO for the period July 1, 2007 to September 30, 2008. Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such audit tests and procedures as we considered necessary. The objective of our audit was to review and examine internal controls over financial and program activities at HSO, including the Civil Process Division (CPD).

AUDIT RESULTS
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1. PRIOR AUDIT RESULT RESOLVED REGARDING REIMBURSEMENT RATE FOR HOUSING FEDERAL INMATES
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Our prior audits (Nos. 2002-1436-3S & 2004-1436-3S) disclosed that federal inmates were being housed at the HSO under an Intergovernmental Service Agreement with the United States Marshals Service (USM). Under the specific terms of this agreement, the HSO provides housing, transportation, medical, and all necessary support services for the secure custody, care, and safekeeping of federal inmates at the same level as local inmates. The federal government reimbursed the HSO at a rate of \$88 per day per inmate. The agreement has a provision for annual renegotiation of the daily reimbursement rate. Our prior audits have noted that these reimbursement rates have not been renegotiated or reviewed since the inception of the agreement in May 1997. As a result, the Commonwealth may have received lower reimbursements than the actual costs of housing the federal inmates. The HSO is not obligated to house federal inmates and does so as a "professional courtesy" to the United States Marshals Service. Our follow-up audit disclosed that the reimbursement rate has still not been renegotiated, although we noted that the number of federal inmates has been significantly reduced. The HSO, as an alternative to renegotiation, continued to accept one or two federal inmates to keep the contract in order to protect the interests of the HSO in case the HSO should need the revenue generated by these inmates at a future time. In concert with this position, we found that the HSO has put in place procedures to ensure that it continues to monitor and review the costs of housing federal inmates in comparison to the daily reimbursement rate, to ensure that the HSO covers its cost of housing a Federal inmate and is maximizing this potential revenue when accepting Federal inmates.

2. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED **6**

During our follow-up audit, we determined that the HSO had not fully resolved the prior audit issues regarding (a) the collection and disposition of telephone commissions, (b) improvements to the Internal Control Plan, (c) Generally Accepted Accounting Principles (GAAP) reporting, (d) the civil processing function and the deposit of fees, and (e) improvements to non-GAAP fixed assets, equipment, and inventory.

a. Clarification Needed Regarding the Deposit of Telephone Commissions **6**

Prior audit reports (Nos. 2002-1436-3S & 2004-1436-3S) noted that the HSO receives commissions on telephone services to inmates and these commissions are deposited into the Inmate Benefit Fund. When the HSO was transferred as a result of the change in legal status from county government to an independent agency of the Commonwealth, uncertainty existed regarding where these funds should be deposited, and which Massachusetts General Laws were applicable. Conflicting legislation, Chapter 29, Section 1, and Chapter 127, Section 3, of the General Laws, identify how state revenue is to be processed. Because telephone commissions may meet the revenue criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the HSO's Inmate Benefit Fund. Therefore, our prior audit reports recommended that the HSO seek legal clarification as to which law applies. Our follow-up audit disclosed that corrective action had not been taken regarding telephone commissions. The HSO is still depositing telephone commission funds into its Inmate Benefit Fund, and there has been no clarification as to which General Law applies. The HSO maintains that there is a need for the Legislature to clarify this matter, and until such time as clarification is received, the HSO intends to continue with its current practice. Also, subsequent to the completion of our audit, Chapter 61 of the Acts of 2009 transferred the remaining county sheriffs' offices to the Commonwealth and the law states that telephone commissions remain with the Office of the Sheriff. Chapter 61, Section 22 also establishes a special commission to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of its operations, administration, regulation, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposit and use of the telephone commissions and propose legislation that would make these functions consistent statewide. In response to the audit report, the HSO stated that it defers any change in interpretation or application of the current laws to the special commission created by the Legislature.

b. Internal Control Plan Needs Further Improvement **9**

Our prior audits (Nos. 2002-1436-3S & 2004-1436-3S) disclosed that the HSO still had not developed an internal control plan (ICP), even though information in our prior audit showed that the HSO was familiar with the Office of the State Comptroller's (OSC) requirements on internal control plans. Our prior reports noted that although the HSO did have a comprehensive departmental policy and procedures manual that could be used to develop its ICP, the HSO did not address the need for the ICP. Additionally, the HSO officials noted that there have been several changes in Administrative and Finance personnel at the HSO due to early retirements and resignations. New personnel assuming these positions were in the process of learning the appropriate actions that

need to be taken in order to comply with ICP requirements. Our follow-up audit disclosed that the HSO has made significant improvements in developing a detailed ICP. We noted that HSO administrators have added substantial information to the ICP; specifically, an extensive risk assessment identifying and defining HSO's major risks and creating policies and procedures for responding to these risks. However, the HSO still needs to continue to update and improve its ICP to include all segments and divisions within its operations. Most notably missing from the ICP, either by direct inclusion or by reference, is the Civil Process Division (CPD), which is an integral part of the HSO's operations. In response to the audit report, the HSO is incorporating the CPD in its ICP.

c. Improvements Still Needed in GAAP Reporting

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Our prior audit (No. 2004-1436-3S) noted that the HSO's Generally Accepted Accounting Principles (GAAP) Report submitted to the OSC had not contained all required information regarding accounts receivable, assets held in trust, and materials and supplies. Cash balance of inmate funds and the assets of the CPD were not included in the GAAP report. Although our follow-up audit disclosed that reporting improvements had been made, the GAAP Reports for fiscal years 2007 and 2008 did not include the cash balances totaling \$535,432 and \$564,990, respectively, for several accounts held in trust, including civil process Fees, Inmate Custodial Accounts, and Inmate Benefit funds. The HSO should ensure that all future GAAP reports contain all necessary information as required by the OSC's GAAP instructions. In response to the audit report, the HSO stated that it will include civil processing funds in all future GAAP reports.

d. Clarification Still Needed Regarding the Civil Processing Function and the Deposit of Fees

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In accordance with Chapter 37, Section 11, of the General Laws, deputy sheriffs throughout the Commonwealth collect fees for the service of civil process. Our prior audits (Nos. 2002-1436-3S & 2004-1436-3S) noted that clarification was needed regarding whether civil processing fees should be deposited into the Commonwealth's General Fund or retained by the HSO. Our prior audits disclosed that civil processing fees were being collected and retained for HSO by its CPD for the serving of legal papers and documents (e.g., summons, subpoenas, complaints, and writs). These civil processing fees retained by the CPD are "off line" and not accounted for, reported, and recorded on the Massachusetts Management Accounting and Reporting System (MMARS). Our follow-up audit disclosed that this condition still has not been rectified and fees are still maintained off line from MMARS. Our prior audit identified five employees from the HSO's CPD that were not considered state employees, and were paid from civil processing fees. The HSO needed to determine the status of these employees as to whether they should be considered state employees, contract employees, or some other status that complies with applicable Commonwealth laws, rules, and regulations. Our follow-up audit disclosed that this issue on the status of CPD employees remains unresolved. We found that three of the seven current CPD employees are considered state employees and are paid from the HSO's state appropriation. The four other employees, deputies who serve process documents, are not considered employees of the Commonwealth of Massachusetts and are still paid from fee revenue collected from the service of civil process. HSO should further review the functions of its CPD and its accounting, reporting, processing, and management of civil processing fees. Also, Chapter 61, Section 22 establishes a special commission to

investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of its operations, administration, regulation, governance, and finances, including recommending legislation. The special commission should review the sheriffs' offices' civil processing functions and the deposit and use of fees and propose legislation to make the operation of the civil processing function and deposit of fees consistent for all sheriffs' offices. In response to the audit report the HSO indicated that if the Commission determines any other method of administering the civil process function, the HSO will follow the directive or procedures determined to be in the best interest of the Commonwealth.

e. Non-GAAP Fixed Asset Accounting and Reporting Needs Improvement

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Our prior audit (No. 2004-1436-3S) disclosed that the HSO was not in full compliance with the OSC regulations regarding the accounting and reporting of non-GAAP (Generally Accepted Accounting Principles) fixed assets, equipment, and other inventory. We found that the HSO's listings of non-GAAP items and the internal procedures that the HSO had in place did not effectively account for, control, and maintain these items for effective reporting purposes because these computerized listings were not complete and, in many instances, did not contain all the attributes and fields of data entered for each item of inventory. Our follow-up audit disclosed that the HSO has made some improvements to its inventory system procedures by establishing a central receiving location. This centralized receiving location ensures that (1) all fixed assets are received at one central location, (2) the purchasing agent is notified immediately of all deliveries, (3) shipping documents are compared to purchase orders and sales invoices for agreement, and (4) assets are tagged before they are sent to their final location. However, the non-GAAP inventory listings still need to be improved upon and updated, since many items still do not contain appropriate information readily identifying the model, make, or other signifying features to distinguish the items from other like items on the inventory listing. Items identified on inventory listings still were incomplete, with missing cost, date-of-purchase information, and identifying tag numbers. In addition, the policies and procedures established for the non-GAAP inventory items still need to be reviewed, updated, and referenced to the OSC guidelines. In response to the audit report, the HSO stated that it has purchased an updated inventory system and records asset values within state guidelines.

3. INADEQUATE INTERNAL CONTROLS WITHIN THE CIVIL PROCESS DIVISION

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Our audit noted that the HSO needed to strengthen its internal controls within the Civil Process Division (CPD) and include or reference the CPD in its ICP (see Audit Result No. 2b). Further, the CPD has not developed written internal controls, policies and procedures pertaining to its operation, or conducted a risk assessment. Specifically, we noted an absence of any policies and procedures in place for the CPD to control accounting practices, cash management, payroll & personnel, accounts receivable, collection policies, accounts payable, security, purchasing and inventory, budgeting and spending plans, signatory authorizations on transactions, consulting contracting, credit or charge card usage, building or space rentals, leasing, computerization, computer access and system usage, Internal Revenue Service (IRS) and Department of Revenue (DOR) reporting, and the process of serving documents. Also, the CPD is holding outstanding checks not presented for payment within one year from their date of issue; does not

make daily cash deposits, thereby putting revenue at greater risk to theft or misuse; did not include civil process cash balances in the GAAP Reports for fiscal years ending June 30, 2007 and June 30, 2008; did not issue IRS or DOR Form(s) 1099 MISC; and maintained inadequate cash-management practices, which may have resulted in lost interest income annually. In response to the audit report, the HSO indicated that it would take corrective action to improve the internal controls of the CPD.

APPENDIX**24**

Chapter 647, Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies**24**

INTRODUCTION

Background

The Hampshire Sheriff's Office (HSO) was established as an independent state agency as of September 1, 1999, as a result of the abolishment of Hampshire County government pursuant to Chapter 300 of the Acts of 1998. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which stipulated that the Hampshire Sheriff became an employee of the Commonwealth, but remained an elected official. The Sheriff also retained administrative and operational control over the HSO, the Jail, and the House of Correction.

The HSO ensures protection of the community by providing a safe and secure environment as well as correctional and educational services at its facilities. The HSO received \$12,361,376 and \$13,240,012 in funding for fiscal years 2008 and 2009, respectively, for the operation of the Jail, House of Correction, and any other statutorily authorized facilities and functions. The HSO has approximately 170 employees. Its main facility, the Hampshire Sheriff's Office, Jail, and House of Correction, has an inmate capacity of 248, and during our audit period had an average inmate census of 302. As presently structured, the HSO is responsible for running and overseeing all aspects of its facilities, which consist of the HSO, the Jail, the House of Correction, the Pre-release Center, and the Community Corrections Center. The HSO has an extensive inmate support network consisting of multiple programs, including various adult basic education classes, health education, job training and life skills management programs, parent education, special education, and other social and education programs.

In addition to its correctional programs, the HSO is responsible for the service of legal papers and notices through the HSO's Civil Process Division (CPD). The CPD is a subdivision of the HSO and employs four part-time deputies and three full-time staff employees. The deputies are paid from revenues collected in the service of civil process, and are not employees of the Commonwealth of Massachusetts. The three full-time staff employees are paid a bi-weekly salary from the HSO's state appropriations budget. Annual audited financial statements for the fiscal year ended June 30, 2008 identified fees collected totaling \$327,184, less operating expenses of \$288,482, resulting in \$38,702 operating income.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we audited certain activities at HSO for the period July 1, 2007 to September 30, 2008. Our audit was conducted in accordance with applicable generally accepted governmental auditing standards and, accordingly, included such audit tests and procedures as we considered necessary. The objective of our audit was to review and examine internal controls over financial and program activities at HSO, including Community Corrections Center and the Civil Process Division (CPD). Our main objectives were to determine whether: 1) financial records are accurate, up-to-date, and maintained in accordance with established criteria; 2) office costs and expenditures, including payroll and administrative costs, are appropriate and reasonable; 3) controls over revenue and fees are proper and adequate; 4) inventory control systems are adequate to safeguard supplies and equipment; and 5) the office's internal control structure is suitably designed and implemented to safeguard Commonwealth assets and in compliance with the Office of the State Comptroller's Internal Control Guide and Chapter 647 of the Acts of 1989. In addition, we followed up on our prior audits (Nos. 2002-1436-3S & 2004-1436-3S).

Our audit methodology included interviewing HSO personnel, observing transaction processing, examining and tracing documentation through HSO's systems, conducting physical inspections and reviews of HSO's fixed assets and inventory, assembling various agency documentation, and performing other audit procedures deemed necessary.

As a result of our audit, except as noted in the Audit Results section of this report, we have determined that, for the areas tested, HSO has maintained adequate internal controls over its financial and program operations in accordance with prescribed requirements and has complied with applicable laws, rules, and regulations.

Subsequent Events

Subsequent to the completion of our audit, Chapter 61 of the Acts of 2009, An Act Transferring County Sheriffs to the Commonwealth, was approved by the Legislature on August 6, 2009, effective January 1, 2010. This law transfers Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk County sheriffs to the Commonwealth. Section 22 of the Act establishes a special commission to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of its operations, administration,

regulation, governance, and finances, including recommending legislation. Section 22 delineates the composition of the special commission and its mission as follows:

Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members: 1 of whom shall be a member of the Massachusetts Sheriffs Association; 2 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the minority leader of the house of representatives; 2 of whom shall be appointed by the president of the senate; 1 of whom shall be appointed by the minority leader of the senate, and 2 of whom shall be appointed by the governor for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices...

The commission, as part of its review, analysis and study and in making such recommendations regarding the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices, shall focus on and consider the following issues, proposals and impacts:

- (1) the possible consolidation, elimination or realignment of certain sheriffs' offices and the potential costs savings and other efficiencies that may be achieved by eliminating, consolidating and realigning certain sheriffs offices to achieve pay parity;*
- (2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;*
- (3) the reallocation of duties and responsibilities of sheriffs' office as a consequence of any such consolidation or reorganization;*
- (4) the best management practices including, but not limited to, administrative procedures, payroll systems, software updates, sheriff's ability to negotiate cost effective contracts and the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;*
- (5) the consideration of any other issues, studies, proposals or impacts that, in the judgment of the commission, may be relevant, pertinent or material to the study, analysis and review of the commission; and*
- (6) The need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement services, family connection services and re-entry opportunities; provided however, the review shall consider the need and present adequacy of placement of female prisoners and detainees in each country [sic]; and provided further, that all departments, divisions, commissions, public bodies, authorities, boards, bureaus or agencies of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the responsibilities of the commission subject to considerations of privilege or the public records law.*

The commission shall submit a copy of its final report of its findings resulting from its study, review, analysis and consideration, including legislative recommendations, if any, to the governor,

president of the senate, speaker of the house of representatives, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on state administration and regulatory oversight and the clerks of the senate and house of representatives not later than December 31, 2010.

The Office of the State Auditor (OSA) has conducted numerous audits of sheriffs' offices that have been transferred to the Commonwealth prior to the passage of Chapter 61. Our audits have disclosed instances of inconsistencies amongst the sheriffs' offices regarding their financial operations and the application of various conflicting laws, rules, and regulations and have made recommendations to address these issues. Our recommendations in this audit, where appropriate, will be directed to the special commission for its consideration and use during its study and investigation for the reorganization and consolidation of sheriffs' offices throughout the Commonwealth.

AUDIT RESULTS

1. PRIOR AUDIT RESULT RESOLVED REGARDING REIMBURSEMENT RATE FOR HOUSING FEDERAL INMATES

Our prior audits (Nos. 2002-1436-3S & 2004-1436-3S) disclosed that federal inmates were being housed at the HSO under an Intergovernmental Service Agreement with the United States Marshals Service (USM). Under the specific terms of this agreement, the HSO provides housing, transportation, medical, and all necessary support services for the secure custody, care, and safekeeping of federal inmates at the same level as local inmates. The federal government reimbursed the HSO at a rate of \$88 per day per inmate. The agreement has a provision for annual renegotiation of the daily reimbursement rate. Our prior audits have noted that these reimbursement rates have not been renegotiated or reviewed since the inception of the agreement in May 1997. As a result, the Commonwealth may have received lower reimbursements than the actual costs of housing the federal inmates.

The HSO is not obligated to house federal inmates and does so as a “professional courtesy” to the United States Marshals Service. HSO officials indicated that there is presently no incentive to house federal prisoners, since all revenues go into the Commonwealth’s General Fund in accordance with Chapter 29, Section 2, of the Massachusetts General Laws.

In response to our prior audit (No. 2004-1436-3S), the HSO responded:

In May of each year the rate received by the facility is compared to that received by other institutions. The HSO has consistently received a higher rate than other institutions, thus eliminating the need to renegotiate, lacking a guarantee that the rate would be higher than that already paid.

Our prior audit also noted that the HSO administrators reviewed these reimbursement rates in October 2003, and concluded the following in a letter to the Hampshire Sheriff:

Franklin County and Hampden County presently house Federal inmates. The rate that we are paid for holding a Federal inmate is \$88 per day, which is more than Hampden County, Franklin County, or Essex County. The \$88 per day figure is reflective of our costs for holding their inmates and I feel if we re-evaluate and increase the costs it may cause the Marshal Service to relocate their inmates to other facilities. More likely to Wyatt in Rhode Island, due to slots available.

Under the present conditions the Commonwealth of Ma. has the greatest benefit by having these inmates in our facility as they receive the first \$150,000 generated by the Federal Inmate Holds. With that in mind I feel that we should remain at the \$88 per day

as a business practice, unless we become aware of other Massachusetts facilities that are making considerably more on the daily rate.

Our follow-up audit disclosed that the reimbursement rate has still not been renegotiated. However, we noted the number of federal inmates has been significantly reduced. The HSO, as an alternative to renegotiation, continued to accept one or two federal inmates on a very limited basis, at the \$88 a day rate, to keep the contract in order to protect the interests of the HSO in case the HSO should need the revenue generated by these inmates at a future time. Rate averages statewide and nationwide for housing Federal inmates at local penal facilities range from \$46-\$92 a day.

Our audit found that the HSO's position of accepting federal inmates at the present \$88 a day rate is reasonable because of the limited space and beds the HSO currently has to offer for housing inmates; it is presently 14% over capacity. In concert with this position, we found that the HSO has put in place procedures to ensure that it continues to monitor and review the costs of housing federal inmates in comparison to the daily reimbursement rate, to ensure that the HSO covers its cost of housing a Federal inmate and is maximizing this potential revenue when accepting Federal inmates.

2. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED

During our follow-up audit, we determined that the HSO had not fully resolved the prior audit issues regarding (a) the collection and disposition of telephone commissions, (b) improvements to the Internal Control Plan, (c) Generally Accepted Accounting Principles (GAAP) reporting, (d) the civil processing function and the deposit of fees, and (e) improvements to non-GAAP fixed assets, equipment, and inventory.

a. Clarification Still Needed Regarding the Deposit of Telephone Commissions

Prior audit reports (Nos. 2002-1436-3S & 2004-1436-3S) noted that the HSO receives commissions on telephone services to inmates and these commissions are deposited into the Inmate Benefit Fund. When the HSO was transferred to the Commonwealth, uncertainty existed regarding where these funds should be deposited, and which General Laws were applicable. Chapter 29, Section 2, of the General Laws states, in part:

All revenue payable to the commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund and revenue

for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

Moreover, Chapter 29, Section 1, of the General Laws defines state revenue as follows:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earning on such income.

However, Chapter 127, Section 3, of the General Laws states, in part:

Any monies derived from interest earned upon the deposit of money and revenue generated by the sale or purchase of goods and services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent.

Because telephone commissions may meet the revenue criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the HSO's Inmate Benefit Fund. Therefore, our prior audit reports recommended that the HSO seek legal clarification as to which law applies.

Our follow-up audit disclosed that corrective action had not been taken regarding telephone commissions. The HSO is still depositing telephone commission funds into its Inmate Benefit Fund, and there has been no clarification as to which General Law applies.

The HSO maintains and agrees with the OSA that there is a need for the Legislature to clarify this matter, and until such time as clarification is received, the HSO intends to continue with its current practice. During the audit period, the HSO collected \$151,493 in telephone commissions.

Subsequent to our audit, Chapter 61 of the Acts of 2009 was approved by the Legislature on August 6, 2009, which transferred certain county sheriffs' offices' operations (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) to the Commonwealth. The law states that inmate telephone funds shall remain with the Office of the Sheriff. Chapter 61 of the Acts of 2009, Section 12(a)(b)(c), states, in part, as follows:

(a) Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.

- (b) Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state, and local governments and other such accounts and regarding which revenue shall remain with the sheriff's office.*
- (c) Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.*

This law further complicates the matter due to the existence of a previously enacted law that may be inconsistent with the law cited above with respect to the deposit of telephone commissions.

Recommendation

Chapter 61, Section 22 establishes a special commission (See Introduction Section – Subsequent Events) to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for the reorganization and consolidation of its operation, administration, regulation, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposition and use of telephone commission and recommend legislation for the consistent handling and use of telephone commission.

Auditee's Response

Telephone commissions received via telephone services to inmates are deposited into the Inmate Benefit Fund. The prior audit conducted by the State Auditor's Office as well as the most recent audit concluded that conflicting legislation exists regarding where the funds should be deposited. The prior audit "recommended that the Hampshire Sheriff's Office seek legal clarification as to which law applies".

The Hampshire Sheriff's Office (HSO) did confer with legal counsel on this issue. We believe Chapter 127 Section 3 has been applied consistently in the deposit of inmate telephone commissions to the Inmate Benefit Fund.

Chapter 127 Section 3 Any monies derived from interest earned upon the deposit of such money and revenue generated by the sale or purchase of goods or services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent.

The state auditor report notes that: a special commission has been established to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of its operations, administration,

regulation, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposit and use of the telephone commissions and propose legislation that would make these functions consistent statewide."

The HSO defers any change in interpretation or application of the current laws to the special commission created by the legislature.

b. Internal Control Plan Needs Further Improvement

Our prior two audits (Nos. 2002-1436-3S & 2004-1436-3S) disclosed that the HSO had not developed an internal control plan (ICP) in accordance with Chapter 647 of the Acts of 1989 and the guidelines issued by the Office of the State Comptroller (OSC). HSO officials stated that they rely on their policies and procedures manual to document administrative and accounting internal controls. Additionally, the HSO officials noted that there have been several changes in Administrative and Finance personnel at the HSO due to early retirements and resignations. New personnel assuming these positions were in the process of learning the appropriate actions that need to be taken in order to comply with ICP requirements. We recommended that the HSO should continue to seek assistance and direction from the OSC and ensure that it continues to improve and monitor its internal controls.

Our follow-up audit disclosed that the HSO has made significant improvements in developing a detailed ICP. We noted that HSO administrators have added substantial information within the updated ICP to include: a statement by the Hampshire Sheriff on the importance of the ICP and its purpose; a general mission statement; statements on integrity, ethics, philosophy, staff conduct, and expectations; goals and objectives; and statements addressing the five critical elements of sound internal controls (control environment, risk assessment, control activities, information and communication, and monitoring). Also, the three other components of expanded internal control—objective setting, event identification, and risk response—recommended by the OSC in its Enterprise Risk Management (ERM) plan have been incorporated into the ICP.

Specifically, HSO developed an improved, extensive risk assessment by identifying and defining its major risks and creating policies and procedures for responding to these risks. The HSO identified eight major areas of risks that need to be controlled and mitigated with plans for response, including: Employee and Inmate Safety and Security, Inmate Treatment, Food Service, Pharmaceuticals, Education, Work Release, Funding, and Inappropriate Use of State Funding.

We noted that each risk was defined with detailed controls identified and references made to the proper policies and procedures necessary to mitigate these risks. In addition, the HSO has developed an ongoing process of internal audits by the Sheriff/Facility Administrator, including: announced and unannounced audits of all or part of facility activity; direct participation in facility programs or operations; and facility inspections of the physical plant on an ongoing basis to maintain current information about physical plant status, including inspection content.

However, we found that the HSO still needs to continue to update and improve its ICP to include all segments and divisions within its operation. Most notably missing from the ICP either by direct inclusion or by reference is the Civil Process Division (CPD), which is an integral part of the HSO operation. In order for the ICP to be effective it must address the HSO activities throughout its entire organization, including all divisions, segments (i.e. other programs including Community Corrections, radKIDS Child Safety Program, etc.), and other integral areas of operation. The inclusion of the CPD within the ICP needs to be addressed in light of issues identified within the audit (see Audit Result No. 3). Such additions to the ICP will only enhance the ICP, to which the HSO has made excellent improvements and updates over the past few years. The ICP provides the HSO with an effective tool in administering and monitoring its entire operation and serves as crucial documentation in times of crises and/or significant employee turnover.

Recommendation

The HSO should continue to improve its ICP to address all areas of operation. The ICP should include updates and references to the CPD and any segment (i.e., Community Corrections, radKIDS Child Safety Program, etc.) or any other integral area of operations, in order to comprehensively address all risks that may prevent HSO from meeting its mission, goals, and objectives.

Auditee's Response

The Hampshire Sheriff's Office is very proud of its Internal Control Plan. The plan was audited by the Quality Assurance Bureau of the Office of the Comptroller. The HSO was informed that the ICP was "excellent" and should be shared with other agencies developing and improving their plans. The final draft of the audit report from the Comptroller's Office has not been received however, the preliminary draft from the auditors stated it "is a very good report". The HSO has been sharing the ICP with three other Sheriff's Offices who were informed that they should utilize the HSO plan in preparing their own.

The State Auditors noted that the Civil Process Office with its three full time employees was not separately included in the ICP. This is true and as a result, the Internal Control team is currently working with the Civil Process Office to prepare controls that mirror those in the plan for the HSO but are specific to that office.

c. Improvements Still Needed in GAAP Reporting

Our prior audit (No. 2004-1436-3S) disclosed that the HSO's Generally Accepted Accounting Principles (GAAP) Report submitted to the OSC had not contained all required information regarding accounts receivable, assets held in trust, and materials and supplies. Cash balance of inmate funds and the assets of the CPD were not included in the GAAP report. Section 6 of the OSC's Closing Instructions requires that these assets be reported as Assets Held in Trust. In response to our prior audit, HSO officials stated that balances for both accounts would be included in the next GAAP report.

Although our follow-up audit disclosed that reporting improvements had been made, the fiscal years 2007 and 2008 GAAP Reports did not include the cash balances, as follows:

	<u>Fiscal Year</u> <u>2007</u>	<u>Fiscal Year</u> <u>2008</u>
Civil Process	\$199,310	\$236,442
Inmate Accounts	63,382	54,549
Inmate Benefit Account	<u>272,740</u>	<u>273,999</u>
Total	<u>\$535,432</u>	<u>\$564,990</u>

The OSC's Fiscal Years 2007 and 2008 GAAP Instructions for Assets Held in Trust state, in part:

"Assets held in trust" are the cash and other assets which the Commonwealth holds in a trustee capacity for third parties. Examples include patient or inmate canteen and gift funds, property and bank accounts. Departmental detail concerning assets held in trust is ordinarily organized by asset type.... Special GAAP reporting is needed only for those assets that are held at the department or facility, or at a local bank, and not accounted for through MMARS.

In accordance with GAAP, the Commonwealth reports both the assets and the corresponding third-party liabilities. It also reports additions to, and deletions from, assets held during the fiscal year, in order to adequately disclose changes in its custodial responsibilities.

*Departments with assets held in trust balances of **less than \$500,000** do not need to provide any GAAP detail. Please write "N/A" on the Transmittal Form **and** the Assets Held in Trust Form.*

HSO officials stated that they were unaware that the CPD cash balance needed to be included in the GAAP report because they believed that the trust balances were less than \$500,000 and did not require any GAAP detail; therefore, "N/A" was checked on the Transmittal Form and the Assets Held in Trust Form (see Audit Result No. 3).

It is important that all financial information be reported on the GAAP transmittal report to ensure that the Commonwealth's Comprehensive Annual Financial Report (CAFR) is complete, accurate, and continues to reflect the high standards demonstrated in past reports. The quality of CAFR financial information depends upon individual and departmental efforts to prepare timely and accurate GAAP reporting packages.

Recommendation

The HSO should ensure that all future GAAP reports contain all necessary information as required by the OSC's GAAP instructions. In addition, the HSO should utilize all of the assistance that is available in complying with the OSC's requirements through the use of OSC's web page, training, and/or helpline.

Auditee's Response

The assets held in trust for the HSO should include the Inmate Benefit Fund, Inmate Accounts and Civil Process funds. In calculating the "Assets Held in Trust" figure the Civil Process Funds were incorrectly not included in the GAAP reporting. However, prior to FY07 these three funds did not exceed the \$500,000 threshold that would result in the need for reporting. In FY07 and FY08 if the Civil Process funds had been included in the reporting of "Assets Held in Trust" the HSO would have exceeded the \$500,000 reporting requirement by \$35,432 in FY07 and \$64,990 in FY08. All future GAAP reports will include Civil Process funds. It should be noted though; at this time it appears the FY10 "Assets Held in Trust" will not exceed the reporting threshold.

d. Clarification Still Needed Regarding the Civil Processing Function and the Deposit of Fees

Deputy sheriffs throughout the Commonwealth collect fees for their service of civil process conducted in accordance with Chapter 37, Section 11, of the Massachusetts General Laws, which states:

Sheriffs and their deputies shall serve and execute, within their counties, all precepts lawfully issued to them and all other process required by law to be serviced by an officer. They may serve process in cases wherein a county, city, town, parish, religious society or fire or other district is a party or interested, although they are inhabitants or members thereof.

The serving of the civil process in accordance with Chapter 262 of the General Laws includes such things as serving summons, warrants, subpoenas, and other procedures requiring legal notification.

Chapter 26, Section 639, of the Acts of 2003 requires that starting in fiscal year 2004, the HSO submit 50% of the increase in its fees to the Commonwealth. The CPD remitted \$71,630 to the Commonwealth's General Fund for the audit period July 1, 2007 to September 30, 2008. Also, during fiscal years (FY) 2007 and 2008, the CPD collected \$321,029 and \$327,184, respectively, in total revenue from fee processing service activity.

On September 1, 1999, the sheriffs' functions, duties, and responsibilities were transferred to the Commonwealth. Since the civil processing function is within the Hampshire Sheriff's legislatively defined duties and responsibilities, fees collected and retained by the deputy sheriffs since the transfer should be considered Commonwealth revenue. Chapter 29, Section 1 of the General Laws defines "fees" as state revenue, as follows:

"State revenue", all income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income.

Chapter 29, Section 2 of the General Laws requires that all Commonwealth revenue be paid into a Commonwealth fund, as follows:

All revenue payable to the commonwealth shall be paid into the General Fund, except revenue required by law to be paid into a fund other than the General Fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

All such revenue shall be deposited in and credited to the General Fund or other state funds during the fiscal year in which it is received. In the event that a question arises as to the correct year to credit the receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and the determination of the comptroller shall be conclusive.

Our prior audit disclosed that civil processing fees retained by the CPD were "offline" and not deposited in the general fund or some other fund, such as a retained revenue account, nor were they accounted for, reported, and recorded on the Massachusetts Management Accounting and Reporting System (MMARS), the state's accounting management system that is designed to support the financial functions of the Commonwealth, which include all revenue and

expenditure activity. As a state agency, HSO's financial activities should be managed through MMARS.

We recommended that the HSO review the accounting, reporting, processing, and management of civil processing fees and consult with the Office of the State Comptroller (OSC) and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate Commonwealth accounting mechanism that complies with applicable laws, rules, and regulations.

In our follow up audit, we found that, although legislation has been filed to effect change to the methods and management of civil process fees, no legislation has been passed in regards to the accounting, reporting, processing, and management of civil processing fees.

Also, our prior audit (No. 2004-1436-3S) identified five employees from the HSO CPD that were not considered state employees, and were paid from civil processing fees. The HSO needed to determine the status of these employees as to whether they should be considered state employees, contract employees, or some other status that complies with applicable Commonwealth laws, rules, and regulations.

Chapter 34B, Section 13, of the General Laws directed the following:

an employee of a sheriff of an abolished county... shall be an "employee" or "public employee" as defined in Section 1 of chapter 150E, and the sheriff of such county shall be an "employer" or "public employer" as defined in said section 1 of said chapter 150E...

Chapter 150E, Section 1 defines employees as follows:

"Employee" or "public employee", any person in the executive or judicial branch of a government unit employed by a public employer...

Therefore, the HSO needed to determine the status of these employees as to whether they should be state employees, contract employees, or some other status that complies with all applicable Commonwealth laws, rules, and regulations.

Our follow-up audit disclosed that this issue remains unresolved. We found that three of the seven current employees of the CPD are considered state employees and are paid from the HSO's state appropriation. The four other employees, deputies who serve process, are not considered employees of the Commonwealth of Massachusetts and are still paid from fee

revenue collected from the service of civil process. The deputies are paid a fee for service only. These payroll payments, prepared and processed by the CPD, are subject to withholding from income taxes, Social Security withholdings, and annual W-2s for these employees. This contrasts with the three other CPD employees considered state employees, whose payroll documents are processed through the Commonwealth's Human Resource Compensation Management System (HR/CMS) and whose retirement withholdings and W-2s are handled by the Office of the State Treasurer (OST) and Office of the State Comptroller (OSC), respectively.

Not all sheriffs' offices are handling civil processing fees in the same manner. The Essex and Middlesex County Sheriffs' Offices have set up nonprofit entities to run their Civil Process Divisions. The Hampden County Sheriff's Office had set up a for-profit corporation to handle its civil process functions. The Berkshire, Franklin, and Worcester County Sheriffs' Offices do not have separate nonprofit or for-profit corporations to process and handle civil processing fees, similar to HSO. These latter departments have Civil Process Divisions within their state organizational structure. The Office of the State Auditor (OSA) has reported on numerous occasions the major differences between these entities, and the need for state officials, including the OSC and the Secretary of the Executive Office for Administration and Finance, to review the civil process operations for sheriffs' offices that have been transferred to the Commonwealth. Also, in response to our prior audit, the HSO officials, recognizing an overall systemic fragmentation statewide in sheriffs' departments' civil process divisions, stated that it would seek to address the civil process structural issues, as follows:

There appear to be conflicting statutes regarding the operations of civil process. We will continue to pursue clarification concerning the fees collected as well as the organizational structure. We agree with the OSA that there is a need for state officials, including the legislature, the State Comptroller and the Secretary of Administration and Finance to review the statewide practices of all such divisions and establish a clear and consistent policy for reporting and recording receipts.

House Bill No. 3769, An Act Relative to Civil Process Reform, has been filed to revamp the entire state civil process system (currently with the Joint Committee on the Judiciary). Also, subsequent to our audit, Chapter 61 of the Acts of 2009 was approved by the Legislature on August 6, 2009 to transfer certain county sheriffs' offices' operations (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) to the Commonwealth. This law states that civil

process revenues remain with the Office of the Sheriff. Chapter 61, Section 12(a)(b)(c) states, in part, the following:

(a) Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.

(b) Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state, and local governments and other such accounts and regarding which revenue shall remain with the sheriff's office.

(c) Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.

The proposed civil process reform legislation and transition of all other sheriffs' offices into state government presents the Commonwealth with the opportunity to clarify inconsistencies in various laws, ensuring that the CPDs have uniform structures within each sheriff's office.

Recommendation

HSO should review the status of all employees within its CPD as state employees with respect to the existing legislation that governs the civil process function to ensure compliance with all applicable Commonwealth laws, rules, and regulations regarding state finance. HSO should review the accounting, reporting, processing, and management of civil processing fees and consult with the OSC, and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate Commonwealth accounting mechanism that is in compliance with applicable laws, rules, and regulations.

Chapter 61, Section 22, of the Acts of 2009 establishes a special commission, as follows:

for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices.

The special commission should review the sheriffs' offices' civil process functions and the deposit and use of fees and propose legislation to make them consistent for all sheriffs' offices.

Auditee's Response

The audit report states that the prior audit recommended a determination be made of the status of Civil Process employees as to whether they should be considered state employees, contract employees or some other status. This was done after the last audit. The three full time employees were all designated as state employees and the part time employees, paid by the number of process they serve from the funds generated by serving process are contract employees. As noted in the current audit report Chapter 61 section 22 establishes a special commission by the legislature to review the Civil Process functions and deposit of funds. If this commission determines any other method of administering the civil process functions and funds is warranted the HSO will follow the directives or procedures determined to be in the best interest of the Commonwealth.

e. Non-GAAP Fixed Asset Accounting and Reporting Still Needs Improvement

Our prior audit (No. 2004-1436-3S) disclosed that the HSO was not in full compliance with the OSC regulations regarding the accounting and reporting of non-GAAP (Generally Accepted Accounting Principles) fixed assets, equipment, and other inventory. Our audit disclosed that, although the HSO had maintained listings of its non-GAAP fixed assets, it had not updated its internal control policies and procedures for managing its non-GAAP fixed assets in conformance with updated OSC regulations. Non-GAAP fixed assets are items that include vehicles, equipment, furniture, computer software, and all electrical and computer components with a useful life in excess of one year and with an original cost of between \$1,000 and \$49,999. In addition, all buildings, roads, and other infrastructure with an original cost less than \$99,999 are non-GAAP fixed assets. Departments are required under OSC regulations and Chapter 7A, Section 8, of the General Laws to maintain adequate accounting and reporting of internal controls that include controls over non-GAAP fixed assets.

The OSC's Fixed Assets – Acquisition Policy, dated November 1, 2006, states, in part:

Non-GAAP Fixed Assets must be recorded in a Department's inventory and reconciled at least annually. This inventory can be either electronic or on paper, as long as it records the date of purchase, amount, description, location and disposition of an item. Non-GAAP Fixed Assets Inventory are subject to review in the audit process by the State Auditor's Office or the Commonwealth's independent auditors.

The prior audit disclosed that the HSO's listing of non-GAAP items and the internal procedures governing this listing did not effectively account for, control, and maintain these items for effective reporting purposes. The computerized listings were not complete, and, in many

instances, did not contain all the attributes and fields of data entered for each item of inventory. These listings did not adequately provide management a sound and reliable mechanism for monitoring purposes. The HSO's listings did not include cost data on many older items because acquisition dates were not entered to identify age. Also, model, make, and other identifying features were not entered in all cases to distinguish the items from other like items on the HSO's inventory listing. Further, these listings did not provide an adequate basis for evaluation of the total inventory for decisions on replacement, or for disposal of these equipment and furniture items as they become obsolete and unusable.

Our follow-up audit disclosed that the HSO has made some improvements to its inventory system procedures by establishing a central receiving location. This centralized receiving location ensures that (1) all fixed assets are received at one central location, (2) the purchasing agent is notified immediately of all deliveries, (3) shipping documents are compared to purchase orders and sales invoices for agreement, and (4) assets are tagged before they are sent to their final location.

However, we found that the non-GAAP inventory listings still need to be improved upon and updated, since many items still do not contain appropriate information readily identifying the model, make, or other signifying features to distinguish the items from other like items on the HSO's inventory listing. Items identified on inventory listings were still incomplete, with missing cost, date-of-purchase information, and identifying tag numbers. In addition, the HSO's policies and procedures established for the non-GAAP inventory items still need to be reviewed, updated, and referenced to current OSC guidelines.

The OSC has issued guidance for departments in developing sound internal controls for all fixed assets. Within this guidance are instructions to allow departments to set up electronic records. At a minimum, the OSC has recommended that departments identify assets by MMARS code and classification, years of expected use or life, and group classification to allow items to be readily identified within departments' inventory recordkeeping system. To improve its internal controls and specifically its recordkeeping procedures, references should be made within the HSO policies and procedures to address the most current OSC standards, as follows:

Non-GAAP Fixed Assets

Non-GAAP fixed assets are defined as singular assets (including infrastructure) with the following characteristics:

Vehicles, equipment, furniture, computer software, and all electrical and computer components with (1) a useful life of more than one year and (2) with an original cost between \$1,000 and \$49,999

Buildings and other infrastructure with an original cost between \$1,000 and \$99,999

Road infrastructure with a cost of less than \$99,999 per lane mile for roads and bridges.

Software costs below \$50,000. It is important that software be inventoried for license purposes. Departments are subject to liability if they install non-purchased or non-licensed software. Therefore, departments should maintain close scrutiny on software that is installed on every computer.

Non-GAAP Fixed Assets must be recorded in a Department's inventory and reconciled at least annually. This inventory can be either electronic or on paper, as long as it records the date of purchase, amount, description, location and disposition of an item. Non-GAAP Fixed Assets Inventory are subject to review in the audit process by the State Auditor's Office or the Commonwealth's independent auditors.

Recommendation

The HSO should continue to improve and update existing internal controls in its accounting and reporting of non-GAAP inventory items. To properly control and maintain its inventory, the HSO should ensure that all items included on its inventory have complete cost data and identifying features entered onto its electronic recording system, in compliance with OSC guidelines. Additionally, the HSO should consider utilizing more of its resources and computer technology to improve upon its accounting and reporting of non-GAAP assets. This effort would allow the HSO to modernize and update its controls to address the most current OSC guidelines. The inventory listings should be modified to segregate items by MMARS codes and establish group classifications in order to identify HSO's entire inventory. HSO's inventory policy and procedures should be updated accordingly.

Auditee's Response

We concur that the inventory system listing non-GAAP items did not contain all the attributes and fields of data entered for each item of inventory. This resulted from an antiquated inventory system that lists items with initial costs of \$100 from 15 years ago. It was impossible to obtain information on old items with little or no value. Thus, the HSO recently purchased an updated inventory system and increased the floor of asset values that are recorded within state guidelines. The department had been tracking far more non-GAAP items than necessary. The implementation of the new system is in

process. It is expected that this system along with new HSO guidelines will eliminate any further inconsistencies or incomplete information on our non-GAAP purchases.

3. INADEQUATE INTERNAL CONTROLS WITHIN THE CIVIL PROCESS DIVISION

The HSO needs to improve its internal controls within its CPD. Our audit disclosed that HSO did not include or reference the CPD in its ICP (see Audit Result No. 2b). Further, the CPD has neither developed written internal controls or policies and procedures pertaining to its operation nor conducted a risk assessment. The serving of civil process in accordance with Chapter 262 of the General Laws includes serving summons, original writs and precepts, warrants, subpoenas, notices of process, evictions, executions, levys, capias arrest, peace keepers, complaints, temporary restraining orders, notice to quit, notice to show cause, and other legal procedures requiring legal notification. There were no policies and procedures governing the CPD's accounting practices, cash management, payroll and personnel, accounts receivable, collection policies, accounts payable, security, purchasing and inventory, budgeting and spending plans, signatory authorizations on transactions, consulting contracting, credit or charge card usage, building or space rentals, leasing, computerization, computer access and system usage, Internal Revenue Service (IRS) and Department of Revenue (DOR) reporting, and the process for serving documents.

The OSC's Internal Control Guide for departments requires that policies and procedures be established and states, in part:

Controls are most frequently comprised of policies and procedures. After identifying and assessing risks, managers need to evaluate (and develop, when necessary) methods to minimize these risks. A policy establishes what should be done and serves as the basis for the procedures. Procedures describe specifically how the policy is to be implemented. It is important that the organization establishes policies and procedures so that staff knows what is to be done and compliance can be properly evaluated.

The absence of written policies and procedures within the CPD negates HSO's ability to establish sound internal controls. These internal controls allow managers to delegate responsibilities to subordinate staff with reasonable assurance that expected duties will be carried out. Internal controls ensure that management meets its objectives and fulfills its responsibilities. Internal controls are tools that help managers avoid serious problems such as overspending, operational difficulties, and noncompliance with applicable laws, rules, and regulations. An adequate system of internal controls coordinates a department's policies and

procedures to safeguard its assets, checks the accuracy and reliability of its data, promotes operational efficiency, and encourages adherence to prescribed managerial policies.

The HSO's Chief Financial Officer and Assistant Deputy Superintendent of Administration & Finance stated that CPD was overlooked when the ICP was developed and implemented. These officials also stated that HSO would correct this oversight.

Our audit further disclosed that HSO's CPD is holding outstanding checks not presented for payment within one year from their date of issue; does not make daily cash deposits, thereby putting revenue at greater risk to theft or misuse; did not include civil process cash balances in the GAAP Reports for fiscal years ending June 30, 2007 and June 30, 2008 (see Audit Result No. 2c); did not issue IRS or DOR Form(s) 1099 MISC; and maintained inadequate cash-management practices, which may have resulted in lost interest income annually.

Our audit, which included an examination of the bank reconciliations and cash-management and cash-reporting practices, noted the following issues that need to be addressed:

- The CPD maintained excessive cash balances in its business checking account. The average cash balance in the account was \$243,013 and \$263,092, respectively, during the months of June and September 2008, which received interest at an annual rate of .4%. We noted that during the audit period interest rates fluctuated from 2.25% to 2.75% from various investment instruments available to the HSO. Sound business cash-management practices provide for the maximization of interest earnings, deposit insurance, and fund availability. An HSO official stated that cash-management practices would be reviewed in order to maximize potential interest income.
- The CPD is holding 298 checks totaling \$3,443 not presented for payment within one year from their date of issue. These checks, ranging in amount from \$2.66 to \$93 and dated from June 30, 2002 to September 26, 2007, should have been turned over to the Office of the State Treasurer (OST). Chapter 29, Section 32 of the General Laws states, in part:

Any check issued by the state treasurer or by any agent or agency of the commonwealth, other than checks issued in payment of obligations of the state board of retirement and the teachers' retirement board, which is not presented for payment within one year from its date shall be payable only at the office of the state treasurer.

- Our audit of the June 2008 and September 2008 bank statements found that deposits were made twice monthly rather than daily as required by OSC policy. The June deposits were made on June 12th and 30th and the September deposits were made on September 11th and 30th. All funds are stored in a locked safe and checks are only restrictively

endorsed at the time of deposit preparation, not upon receipt. A new employee was hired with the expectation of making more frequent deposits. The OSC MMARS Policy: Accounts Receivable, Cash Recognition and Reconciliation Policy, dated November 1, 2006, states in part:

A department must deposit all cash receipts in a bank account designated by the Office of the State Treasurer (TRE) daily. Receipts may include cash, checks, and credit cards, and represent accounts receivable or over-the-counter transactions.

- HSO did not consider the CPD cash balances of \$199,310 and \$234,970 for fiscal years 2007 and 2008, respectively, when submitting the respective GAAP reports. Assets held in trust should have been reported as \$535,432 and \$564,990 for fiscal years 2007 and 2008, respectively; however, the submitted GAAP Reports noted N/A (less than \$500,000, see Audit Result No. 2c). The OSC FY 2008 GAAP Instructions, dated June 23, 2008, state in part:

Assets Held In Trust: "Assets held in trust" are the cash and other assets which the Commonwealth holds in a trustee capacity for third parties. Examples include patient or inmate canteen and gift funds, property and bank accounts. Special GAAP reporting is needed only for those assets that are held at the department or facility, or at a local bank, and not accounted for through MMARS.

An HSO official stated that HSO was not aware that the CPD balances were required to be reported and that these funds would be properly reported in the future.

- CPD did not issue 2007 Federal Forms 1099 MISC to two individuals who were paid a total of \$7,068 in calendar year 2007. Additionally, these two individuals also received in excess of \$600 during calendar year 2006, for which no Forms 1099 MISC were issued. The Commonwealth of Massachusetts, Office of the Comptroller, Comptroller Memo FY#2008-11 Issuing and Filing IRS Forms 1099 for Tax Year 2007, states, in part:

When a department makes a reportable payment to a reportable payee and does not use a MMARS vendor-specific vendor code, the department is responsible for issuing the appropriate federal income tax form directly to the payee, with copies to the Comptroller's Tax Clearinghouse for eventual forwarding to the IRS...(1099 MISC will report a minimum combined amount of \$600 or more)...Those using campus or other non-state funds, and are making tax reportable payments, are required to use their own TIN and not the Commonwealth TIN ... Departments should file these tax forms (1099, W-2, 1042-S, 1098T) directly with IRS, SSA and DOR, as appropriate, and not through the Commonwealth's Tax Clearinghouse at CTR.

Recommendation

HSO should establish a system of internal controls within its CPD including the establishment of written policies and procedures to address the operation of the CPD's activities and functions. Once established, a risk assessment should be performed to identify CPD's risks and

the responses to those risks to ensure that assets are protected and responsibilities are being appropriately carried out in an effective and efficient manner. These policies and procedures should be periodically reviewed and updated to reflect current operating conditions. In addition, the HSO should:

- Conduct a review of the CPD cash-management practices to ensure that its checking account balances are kept at a minimum for monthly operational expenditure needs and establish and monitor prudent investment procedures to maximize interest earnings.
- Remit to the Office of the State Treasurer unclaimed checks more than one year old in compliance with Chapter 29, Section 32 of the General Laws and establish a monitoring practice to review old outstanding or unclaimed checks to determine if any corrective action and follow-up activity is warranted.
- Establish and promote more consistent deposit policies and procedures to increase the efficiency of cash management, lessen the exposure of funds to theft or abuse, and comply with OSC policies and procedures.
- Establish procedures both within CPD and the HSO to ensure that all GAAP reporting requirements to the OSC are met.
- Ensure that proper procedures and policies are established and monitored for the reporting of payments made by CPD, which are required to be reported to the IRS and DOR through the filing of Forms 1099-MISC. This reporting should include the retroactive review of all payroll and contracting activity by CPD from calendar year 2006 to the present to ensure that all payments requiring Forms 1099 MISC processing have been properly and accurately reported as required under law.

Auditee's Response

A review of the internal controls needed for the Civil Process Division has been initiated. The policy for that department will mirror, where practical, the accounting, payroll, personnel, and purchasing procedures and controls that are utilized by the Hampshire Sheriff's administrative and finance offices. Changes in the frequency of bank deposits, the holding time for outstanding checks and the use signatory authorizations on transactions are being made. Risk assessments are being developed for the department as part of the internal control policy

APPENDIX

Chapter 647, Acts of 1989, An Act Relative to Improving the 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 F. Sullivan, Speaker.

In Senate, December 22, 1989.

Passed to be enacted,

William W. Budge, President.

January 3, 1990.

Approved,

Richard H. Kaine, Governor.