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AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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2005-5118-3S

June 30, 2008

Janet E. Fine
Executive Director
Massachusetts Office for Victim Assistance
One Ashburton Place, Suite 1101
Boston, Massachusetts 02108

Dear Ms. Fine:

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we have conducted an audit of certain activities of the Victims of Drunk Driving Trust Fund (DDTF) for the period March 8, 2002 through April 30, 2006. In planning and conducting our audit of the DDTF, we considered the Massachusetts Office for Victim Assistance's (MOVA) internal controls over:

- Financial and program records
- Oversight of revenues from fines levied by the courts
- Awarding and administration of grant funds
- Compliance with enabling legislation and program policies and procedures

Our review was conducted in accordance with applicable generally accepted government auditing standards. Additionally, our review included an evaluation of the DDTF's compliance with the Office of the State Comptroller's (OSC) policies; Massachusetts General Laws; and other applicable laws, rules, and regulations, and included such tests and procedures as we considered necessary. Toward that end, our audit noted certain matters and made recommendations relating to improvements needed in MOVA's internal control structure and processes as well as instances of noncompliance with enabling legislation, DDTF program guidelines, and OSC regulations.

As a result of our review, management has initiated corrective action to improve the identified issues. For this reason, we encourage management to continue to pursue implementation of our recommendations as well as look for other opportunities for improvement and potential solutions to be certain that MOVA fulfills its responsibility to establish and maintain effective internal controls, to comply with applicable laws and regulations, and to gather meaningful financial and performance measures to assist decisions regarding grant resource allocation and service delivery.

The observations, comments, and recommendations contained in the accompanying Attachment summarize management matters that came to our attention during our review and are presented as opportunities for strengthening MOVA's internal controls and operational efficiency. Accordingly, our report is intended for use by management in taking corrective action where needed.

We appreciate the courtesy and cooperation extended by you and your staff during our audit. If you have any questions or need additional information, we will be pleased to accommodate you.

Sincerely,

A handwritten signature in black ink, reading "A. Joseph DeNucci". The signature is written in a cursive, flowing style.

A. JOSEPH DeNUCCI
Auditor of the Commonwealth

cc: Attorney General Martha Coakley, Chair, Victim and Witness Assistance Board

OBSERVATIONS, COMMENTS, AND RECOMMENDATIONS

1. DRUNK DRIVING TRUST FUND ADMINISTRATION

A key Massachusetts Office for Victim Assistance (MOVA) responsibility, in its role as the executive staff to the Victim and Witness Assistance Board,¹ is the monitoring and overseeing of the Victims of Drunk Driving Trust Fund (DDTF)² revenues incurred from fines levied by the courts and the distribution of these funds through grants to Commonwealth community-based programs for support services to victims of Operating Under the Influence (OUI) incidents. During our review, however, we identified administrative, procedural, and systemic weaknesses that resulted in investment income shortfalls to the DDTF; insufficient levels of communication and coordination among different state agencies regarding roles and responsibilities; and information gaps that hinder MOVA's monitoring capabilities of individual court collection performances and the effectiveness of the statewide collection system as a whole. If left unaddressed, these weaknesses could have an adverse impact upon the sustainability and availability of the DDTF and the provision of mandated victim services.

Specifically, our review noted that over a three-year period (March 8, 2002 through March 15, 2005) MOVA did not have necessary internal controls in place to determine that the courts' accounted for and collected DDTF fines, collections of which totaled \$943,268.37, and that deposits with the Office of the State Treasurer (OST), were invested in a manner that secured the highest rate of return available and that the interest earned on the principle was credited to the DDTF. By not monitoring investment activity and informing OST, we determined that the DDTF experienced investment earning shortfalls of \$20,082,³ or the equivalent of 40% of the average grant awarded in fiscal year 2004. Chapter 10, Section 66, of the General Laws states, in part:

¹ MOVA's activities are governed by the Victim and Witness Assistance Board, as established by Chapter 258B, Section 4, of the Massachusetts General Laws.

² The Victims of Drunk Driving Trust Fund, established by Chapter 52 of the Acts of 2002 and codified as Chapter 10, Section 66, of the General Laws, was enacted on March 8, 2002. The statutory intent of the fund is to provide funding to Massachusetts community-based programs to support services directed toward victims of OUI incidents. Pursuant to Chapter 90, Section 24, of the General Laws, anyone subject to the \$50 assessment, which is not subject to waiver for any reason, shall pay the courts, and the courts shall make monthly deposits to the Office of the State Treasurer (OST).

³ Source: OST monthly DDTF deposit activity from March 8, 2002 through March 15, 2005 and Fidelity Investments monthly earnings calculations, based on monthly interest rates during deposit activity period, had the OST set up a separate investment fund with Fidelity Investments.

The State Treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to him under this section...in such a manner as to secure the highest rate of return available consistent with the safety of the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund.

Our review disclosed that even though the DDTF was set up as a separate fund in the Massachusetts Management Accounting and Recording System (MMARS),⁴ DDTF funds deposited with the OST were not invested separately. Rather, according to OST representatives, DDTF funds were pooled and earning interest with other accounts that were not established as separate. As such, due to the lack of a sufficient level of interdepartmental communication and coordination between MOVA, the OST, and the Office of the State Comptroller (OSC), as well as uncertainty about roles and responsibilities, interest earned on DDTF funds were not credited to the DDTF, posted in MMARS, or reported on DDTF financial statements. As a result of our review, on March 15, 2005, the OST set up a separate DDTF investment account with Fidelity Investments and was instructed by MOVA to invest \$908,000 in short-term investments. Moreover, since establishing the separate investment account, DDTF investments have earned over \$99,000 in investment income as of June 30, 2007. Furthermore, investment earnings are now recorded in MMARS and reported in the Statutory Basis Financial Report prepared by the OSC. In the final analysis, because such resources are critical to carrying out the statutory intent of the DDTF and its long-term financial planning, it is important that MOVA, in conjunction with the OST and the OSC, ensure that DDTF is properly credited with all interest earned on deposits previously pooled and earning interest during the period March 8, 2002 through March 25, 2005.

We are pleased that MOVA has taken steps to address these issues as they became aware of them; however, our review uncovered significant information gaps that, if unresolved, will continue to hamper MOVA's ability to effectively assess individual and statewide operating performances of the courts, as well as to perform monthly reconciliations of the DDTF; both measurements that can assist management in identifying financial and operating efficiencies and in developing long-term strategic planning and decision-making procedures regarding resource allocation. For example, MOVA presently receives a monthly Revenue Reconciliation Management Report from the Administrative Office of the Trial Court (AOTC) that shows all DDTF fines collected by each court, statewide. This report is the sole means used by MOVA to

⁴ MMARS represents the official financial records of the Commonwealth.

monitor revenue collections from fines levied by the courts. Although the DDTF collection information is a critical component of the process, it is not an effective gauge of how well the system is working or could be working. Gathering such information as the individual court annual assessment level, percentage of unpaid assessments, and average dollar amount for assessments will provide more meaningful performance indicators about how effectively and efficiently individual courts, and the statewide system as a whole, are operating. Moreover, without such information, it will be difficult for MOVA to pinpoint and address problems that can arise during the long process of assessing and collecting DDTF fines. Along these lines, our review noted that MOVA is not performing periodic reconciliations of DDTF receipt activity, expenditure activity, and investment earning activity to the DDTF MMARS balance. As a result, should an incorrect or invalid entry occur in MMARS, MOVA likely would not detect the error. Moreover, mistakes in MMARS could lead to inaccurate financial statements. The investment earnings shortfalls discussed earlier best illustrate this point. Although MOVA has access to fund balance information in MMARS, the absence of information on transaction details poses a barrier that does not allow for a proper reconciliation.

To remedy these issues, MOVA needs to reassess its internal business processes and procedures to identify any management and accountability issues. Improving communication and establishing stronger working relationships among different levels of state agencies should help ensure the accessibility of valid, reliable, and useful financial and operational information. Toward that end, MOVA should initiate group collaboration between the AOTC, the OST, and the OSC, with the goal of improving performance and accountability. This action should serve to foster cooperation and open lines of communication, reach an agreement on a common approach for developing and disseminating information, and facilitate the adoption of solutions, thereby enhancing MOVA's ability to effectively and efficiently carry out its responsibilities.

Auditee's Response

The report accurately reflects the communication challenges that MOVA faced regarding investment of funds during the beginning years of this fund. With guidance from the Office of the State Auditor, MOVA was able to invest DDTT funds into short-term investments.

Challenges continue to exist regarding interdepartmental communication. MOVA will request a meeting with OST and OSC to discuss how DDTF can be properly credited with interest on deposits made before March 25, 2005. Similarly, further efforts have been

made, and will continue to be made, to strengthen coordination with AOTC. MOVA has requested on many occasions that AOTC provide regular deposits into the DDTF account. This has not occurred; however, over the last month, there has been an improved response from AOTC to work toward making this happen. MOVA has also requested information from the AOTC and OSC regarding why final year figures for AOTC deposits and the Statutory Basis Financial Report do not match, though we have not received a response from any party. The challenge we face is that while we are responsible to implement that statute, the other state agencies involved in collections and handling of funds are not accountable to our office. Continued efforts are being made to establish effective coordination and response. We are, as always, open to guidance on this issue.

2. SUBRECIPIENT MONITORING

Subgrant recipient monitoring is an essential component of the contracting (grant) process. If done correctly, monitoring should ensure that subgrant recipients comply with the terms of the contract (grant), that performance expectations are achieved, and that any problems or shortfalls are identified and resolved. Without a sound monitoring process, a contracting agency does not have adequate assurance that it received what it contracted for or that funds were spent in accordance with the grant requirements. For this reason, department heads and their staff must be responsible stewards of funds entrusted to them. During our review, we determined that during the grant cycle October 2003 through June 2004⁵ and for the greater part of the grant cycle July 2004 through December 2005, DDTF subgrant recipients⁶ were awarded funds valued at \$150,000 and \$449,990, respectively, and were not required to regularly provide MOVA staff with supporting documentation for invoiced (cost-reimbursement)⁷ costs. Under the DDTF grant management program, subgrant recipients were simply required to submit a MOVA-approved “Request for Reimbursement” invoice to MOVA on a quarterly basis. Furthermore, the DDTF Program Guidelines (February 2003) only required subgrantees that did not submit reimbursement invoices for two consecutive quarters to provide supporting documentation with all subsequent invoices. Because MOVA procedures do not ensure that essential financial and program performance information is routinely delivered, they risk losing valuable information and lack the analytical and assessment capabilities needed to detect fiscal and programmatic

⁵ During the grant cycle October 1, 2003 through June 30, 2004, MOVA awarded its first DDTF grants totaling \$150,000 as follows: Mothers Against Drunk Driving (MADD) - \$55,000; Mental Health Association of Greater Lowell - \$52,000; and Brockton Family and Community Resources, Inc. - \$43,000.

⁶ See Appendix, Drunk Driving Trust Fund Schedule of Grant Recipient Funding, October 1, 2003 through December 31, 2007.

⁷ The cost-reimbursement method is a purchase arrangement in which the purchasing agency pays the contractor (subgrant recipient) for budgeted costs that are actually incurred in delivering services specified in the contract, up to a stated maximum obligation.

problems early. Moreover, management cannot be certain that awarded DDTF funds are being used for the services it purchased and that victims impacted by drunk driving incidents are receiving quality services.

The DDTF Director of Grants Management and Program Resources pointed out that desk reviews and annual site visits to subgrantees were being performed. Although these monitoring techniques are important, not requiring subgrantees to provide supporting documentation will continue to put at risk whether funds were spent in accordance with contract requirements and/or whether subgrantees were reimbursed for services not performed. An example of this is a site visit conducted by MOVA—accompanied by OSA staff—in which MOVA concluded that its DDTF-funded program⁸ required subgrantee changes. Most notable were MOVA “Not Satisfactory” ratings given to the following key financial management categories:

- Subgrantee separates DDTF from other funds.
- Accounting records were available for review.
- Staff timesheets are compliant with DDTF guidelines.
- Agency can demonstrate its internal cost of managing DDTF funding and budget in terms of staff time and related costs.
- Sufficient backup documentation exists for DDTF invoices.
- There is a sufficient procedure for tracking DDTF funds.
- Program is spending funds as outlined in the grant.

In addition to the foregoing financial management matters, MOVA was first notified during its March 2005 site visit that DDTF-funded restorative justice activities were discontinued due to the resignation of the grantee’s Director of Victim Services in January 2005. Although MOVA required the grantee to propose and seek approval for services that will replace the funded restorative justice services, given the recordkeeping concerns noted above, MOVA cannot ensure that DDTF funds were used only to reimburse services performed.

⁸ Grant recipient: Mothers Against Drunk Driving, March 25, 2005 site visit. DDTF Program Name: DDTF Victim Services.

In this case, had MOVA grant policies required the grantee to submit supporting documentation with each reimbursement invoice, it is likely that many of the financial management shortcomings uncovered during the site visit would have been recognized sooner during the desk review.

As a result of our review, MOVA has initiated corrective steps by conducting site visits at other subgrantees, issuing reports with specific recommendations and required corrective action, and designating grantee response due dates. Moreover, as previously recommended, DDTF program guidelines⁹ now require that all subgrantees submit supporting documentation with monthly or quarterly Request for Reimbursement invoices to support eligible program service costs. These are positive steps that, if consistently carried out, will provide valuable information to MOVA's grant program. Such linkage enables MOVA and subgrantees to act in concert to improve financial management and program performance issues. For that reason, we encourage management to continue to make the monitoring and accountability of DDTF funds a top priority and to pursue additional information that can be used to benchmark subgrantee performance and compliance with contract terms and conditions. The following are other suggested steps to enhance contract-monitoring performance:

- Periodically review the language in the grant agreement to validate that the grantee is complying with terms of the grant agreement.
- Require and review progress reports to verify that the grantee is meeting performance deadlines or is on schedule.
- Develop a checklist to remind grant administration staff of deadlines and other reminders during the grant period.
- Solicit victim feedback on grantee performance and outcomes.
- Conduct timely follow-up meetings and site visits with the grantee to determine whether areas identified as needing improvement are satisfactorily corrected. Reject or hold invoices, upon notice to the subgrantee, until completed requirements are fulfilled.

⁹ Drunk Driving Trust Fund Victim Services Grant – Program Guidelines, July 2005, revised: 02/01/06.

Auditee's Response

All DDTF funded programs are now required to provide detailed back-up documentation to MOVA when submitting their reimbursement invoices. Invoices are held if, after review of back-up documentation, there are any questionable expenses identified. The DDTF Program Manager ensures that follow-up occurs to address any concerns prior to approving any reimbursement.

Our DDTF Program Manager is currently scheduling site visits with all 6 funded DDTF programs to occur before December 1, 2008 for the grant period January 1, 2008 through December 31, 2008. Additionally, he has established quarterly provider meetings with funded agencies to discuss their progress in meeting their program goals and is able to provide technical assistance to them in addressing any challenges. This is in addition to review of performance reports, an annual program guidelines training which providers are required to attend, and regular phone contact with the six currently funded programs.

3. INTERNAL CONTROLS OVER FIXED ASSETS

Commonwealth departments that own fixed assets have the custodial responsibility for the management of those fixed assets. Management responsibilities include conducting an annual physical inventory, reconciling the results of the physical inventory annually to the Fixed Asset Subsystem¹⁰ in MMARS or to the department's in-house system, and reporting the results in accordance with requirements as they relate to each group of fixed assets to proper authorities. Toward that end, the Commonwealth's Fixed Asset Subsystem relies on individual departments to enter correct and appropriate asset information into the system. Our review noted that MOVA did not have a formal asset management program in place to properly track and control fixed assets of the Commonwealth. For this reason, MOVA was not in compliance with the aforementioned fixed asset obligations set by the OSC as well as internal policies and procedures.

Management indicated that it did not conduct annual physical inventories and reconciliations of fixed assets. Furthermore, we determined that (a) not all non-GAAP fixed assets were recorded

¹⁰ The Fixed Asset Subsystem is a component of MMARS whose purpose is to provide a uniform and fully automated method to account for and report on GAAP (Generally Accepted Accounting Principles) or the optional reporting of non-GAAP fixed assets owned by Commonwealth departments. All GAAP fixed assets must be maintained on the Fixed Asset Subsystem in MMARS.

in MMARS or within the department's internal system, only fiscal year 2004 Information Technology (IT) acquisitions and other IT equipment on hand—valued at \$41,058—were recorded in-house; (b) a complete inventory listing was not maintained and made available for internal and external audit purposes; and (c) the tagging of assets with a permanent identification tag number was not implemented. In doing so, MOVA's fixed assets did not receive the OSC-required management treatment to ensure that all assets (GAAP fixed assets, non-GAAP fixed assets) are properly accounted for, safeguarded, and accurately reported and valued in the Fixed Asset Subsystem in MMARS or the department's in-house system and was not in compliance with the department's Internal Control Plan, which placed joint monitoring responsibility over the inventory of GAAP and non-GAAP fixed assets with the Assistant Financial Manager and Chief of Staff.

When this matter was brought to management's attention, MOVA conducted a physical inventory and tagged its assets. In addition, MOVA provided us with a listing of the recently inventoried items. Although this action is a step in the right direction, MOVA should continue to reassess its internal control policies and procedures, including roles and responsibilities, and make all appropriate changes necessary to ensure compliance with the OSC's Fixed Asset Accounting and Management Policy. At a minimum, the department's management of fixed assets must ensure that (a) an annual inventory of fixed assets is executed on or about June 30 of each year for GAAP and non-GAAP assets, which includes a verification of the existence and location of fixed assets; (b) a reconciliation of the fixed asset inventory against department records or the Fixed Asset Subsystem is completed and available for external auditors; (c) all fixed assets are reported in accordance with requirements as they relate to each group of fixed assets and reported to appropriate management; (d) internal controls regarding the safeguarding and recording of assets and asset financial information is developed and maintained in the department's internal control plan; and (e) the department's inventory records for non-GAAP assets consist of no less than the date of purchase, amount, description, location, and disposition of each item. Given the upgraded MMARS system, MOVA should also give strong consideration to maintaining its inventory of non-GAAP assets on the Fixed Asset Subsystem in MMARS. With its enhanced Fixed Asset classification process and direct link to the accounts payable system, departments now can easily associate expenditures with the assets purchased and track both GAAP and non-GAAP assets, thereby improving the audit trail.

Auditee's Response

MOVA has kept a list of inventoried items tagged with specified locations. For IT equipment, MOVA constantly reviews the efficiency of each piece of equipment and frequently performs updates. Therefore, the inventory list has been frequently reviewed and updated. Currently MOVA does not have a set date to perform an annual physical inventory. Based on your recommendation to perform an annual physical inventory on or about June 30 of each year, we will establish such a procedure. MOVA has assigned responsibilities and has the internal procedures and policies for the IT equipment. The Internal Control document is still undergoing revision and reconstruction agency-wide as the result of the recent new model introduced from the OSC Internal Control trainings. This information will be incorporated into that document.

APPENDIX

Drunk Driving Trust Fund Schedule of Grant Recipient Funding

October 1, 2003 through December 31, 2007

Grant Recipients ¹¹	Fiscal Year 2004 ¹²	Funding Cycle Fiscal Year 2005-2006 ¹³	Fiscal Year 2006-2007 ¹⁴
<u>L.U.K., Inc.</u>			
The Step Program (Strengthening, Transitioning, and Empowering Program) of L.U.K. Crisis Center, Inc., provides free services, including counseling, crisis intervention, peer-led groups, support, advocacy, and referral to victims in Central Massachusetts.	-	\$ 79,551.00	\$147,667.50
<u>Saint Anne's Hospital, Social Work Services</u>			
The Drive Program offers outreach and advocacy services to primary and secondary victims of drunk or drugged driving incidents.	-	51,889.00	63,208.50
<u>Brockton Family and Community Resources, Inc.</u>			
Everyone Recovering from Drunk Drivers (ERFDD) program provides a continuum of free, confidential services to individuals and families of Bristol County, Plymouth County, and parts of Norfolk County impacted by an Operating Under the Influence (OUI) offence.	\$ 43,000.00	92,565.00	171,930.00
<u>Mothers Against Drunk Driving (MADD)</u>			
MADD offers direct victims services (statewide) to victims/survivors of impaired driving crashes.	55,000.00	115,243.00	175,092.93
<u>Mental Health Association of Greater Lowell</u>			
Developed the Victims of Drunk Driving Support Services to serve primary and secondary victims of OUI incidents.	52,000.00	110,742.00	169,378.50
<u>Community Crisis Response Team</u>			
Provides timely, coordinated, and situation-specific response to any communities, groups, or individuals in Franklin and Hampshire Counties and in the North Quabbin Region.	-	-	45,010.00 ¹⁵
Total	<u>\$150,000.00</u>	<u>\$449,990.00</u>	<u>\$772,287.43</u>

¹¹ Grant recipient service information represents excerpts from the Grants Management & Program Resources. Source: Massachusetts Office for Victims Assistance (MOVA) Website: www.mass.gov/mova/

¹² October 1, 2003 – June 30, 2004 (9 months)

¹³ July 1, 2004 – December 31, 2005 (18 months)

¹⁴ January 1, 2006 – December 31, 2007 (24 months)

¹⁵ October 1, 2006 – December 31, 2007 (15 months)