



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued August 5, 2011

North Shore Community Action Programs, Inc.

For the period July 1, 2007 through December 31, 2009



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North Shore Community Action Programs, Inc. (NSCAP) was established in 1965 under the Economic Opportunity Act of 1964 as a not-for-profit human service organization. Currently, NSCAP serves 26 cities and towns on the North Shore and its mission is to help low-income people empower themselves as they move towards self-sufficiency and also to motivate the larger community to be more responsive to the needs of low-income people. During our audit period, NSCAP operated a variety of programs offering services in the areas of housing/homelessness, energy, income maintenance, education and training, and homecare under contracts with state agencies. NSCAP's administrative office is located in Peabody and during our audit period, the agency employed approximately 139 full-time and part-time employees.

The scope of our audit was to examine the various administrative and operational activities of NSCAP during the period of July 1, 2007 through December 31, 2009. Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits issued by the Comptroller General of the United States. The objectives of our audit were to (1) determine whether NSCAP had implemented effective management controls and (2) assess NSCAP's business practices and its compliance with applicable laws, rules, and regulations and the various fiscal and programmatic requirements of its state contracts.

Our audit identified that NSCAP has not established adequate internal controls over a number of its administrative activities and the agency's Board of Directors is not constituted in the manner required by NSCAP's by-laws, nor is the Board meeting all of its oversight responsibilities. These conditions have resulted in NSCAP procuring tens of thousands of dollars in goods and services on a non-competitive basis, inadequate documentation to substantiate payroll and other expenses charged to one of NSCAP's state-funded programs, the questionable allocation of indirect costs to programs, the potential misuse of state funds to provide services to a related party, and taxable fringe benefits to one employee not being reported to state and federal tax authorities.

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1. INADEQUATE CONTROLS RELATIVE TO THE ADMINISTRATION OF CONTRACTS RESULTED IN NSCAP PROCURING TENS OF THOUSANDS OF DOLLARS IN SERVICES ON A NON-COMPETITIVE BASIS

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We found that contrary to state regulations, NSCAP had not developed written policies and procedures that govern its administration of contracts and in particular, the procurement of goods and services. As a result, we found that during our audit period, NSCAP purchased services totaling tens of thousands of dollars without using a competitive bidding process. Consequently, NSCAP and the Commonwealth cannot be assured that all purchases of goods and services made during the audit period were conducted in a fair and equitable manner or that NSCAP received all of these goods and services at the lowest possible cost.

2. INADEQUATE DOCUMENTATION TO SUBSTANTIATE THAT \$82,875 IN PAYROLL EXPENSES AND \$3,890 IN OTHER EXPENSES WERE PROPERLY CHARGED TO ONE OF NSCAP'S STATE-FUNDED PROGRAMS **7**

According to state regulations, contracted human service providers such as NSCAP are required to maintain adequate documentation to substantiate all billings against state contracts. Despite this requirement, we found that NSCAP had not developed a system of record detailing in which of NSCAP's programs its employees were working. As a result, during the period July 1, 2007 through June 30, 2008, NSCAP billed a total of \$82,875 for payroll expenses associated with four staff members, including the agency's Executive Director, against the contract that funded its Scattered Sites Family Emergency Shelter Program (SSFES). However, the documentation maintained by NSCAP indicated that the majority of these staff expenses were not incurred through this program. We also identified an additional \$3,890 in expenses charged to the SSFES contract in fiscal year 2008 for items such as travel, computers, and a projector that were not incurred through that program.

3. QUESTIONABLE ALLOCATION OF AT LEAST \$627,092 IN INDIRECT COSTS **11**

The state's Operational Services Division (OSD) has established guidelines that require all contracted human service providers such as NSCAP to allocate their indirect expenses to programs using one of four accepted cost allocation methods. The purpose of using one of these four approved methods is to ensure that all of an agency's indirect costs are allocated to its programs in an equitable and consistent manner so that the results of each program's activities are accurately reported in the financial statements the provider files with the Commonwealth. One of the methods that a provider can use is the Multiple Allocation Base method (MAB). Under this method, a provider's indirect costs are distributed to programs using multiple percentages. However, a provider must obtain prior approval from OSD and its principal state purchasing agency to use a MAB method. During fiscal years 2007 and 2008, we determined that NSCAP used a MAB method to allocate \$627,092 of indirect costs to its programs. However, we found several problems with how NSCAP allocated these expenses. First, NSCAP did not have a formal written cost allocation plan as required by OSD regulations. Second, NSCAP never obtained prior approval from OSD or its principal state purchasing agency to use this allocation method. Third, NSCAP could not adequately substantiate the reasonableness of the multiple percentages it used to allocate these expenses. Finally, we found that contrary to OSD guidelines, NSCAP allocated its budgeted, rather than actual, indirect costs to its programs. As a result, there is inadequate assurance that the results of NSCAP's program activities as reported in the financial statements submitted to the Commonwealth during these two fiscal years are accurate.

4. NSCAP MAY BE IMPROPERLY USING THOUSANDS OF DOLLARS IN STATE FUNDS TO PROVIDE SERVICES TO A RELATED PARTY **15**

We found that NSCAP is providing administrative services to a related party, River House, Inc. of Beverly (RH). Specifically, under a Memorandum of Understanding (MOU) between NSCAP and RH, the two organizations are partnering in the development, reconstruction, and operation of an emergency shelter for homeless men called River House. Under this MOU, NSCAP was designated as the "fiscal agent,

property manager and shelter operator” and was required to “provide oversight of fiscal requirements, daily operations and property management.” In addition, the MOU states that NSCAP will act as the employer of River House staff; provide orientation, training, supervision, and other supports as needed; oversee the selection of tenants and collect rents; and provide full financial and accounting services that will include, but not be limited to, accounts payable, payroll, accounts receivable, federal and state tax compliance, and report filings and bank reconciliations. In return for these services, RH agreed to pay NSCAP a management fee which, according to NSCAP officials, was arbitrarily set at 7% of RH’s operating budget. NSCAP uses its own staff, primarily funded by its state contracts, to perform these services. However, based on our audit work, we determined that NSCAP may be using thousands of dollars of state-funding through staff compensation and other resources over and above any management fees it may be collecting from RH to provide these services. According to state regulations, expenses such as these that are not directly related to the social services purposes of NSCAP’s operations are unallowable.

5. UNALLOWABLE FRINGE BENEFITS TOTALING \$5,200 PROVIDED TO ONE EMPLOYEE NOT REPORTED TO THE APPROPRIATE STATE AND FEDERAL TAXING AGENCIES

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During fiscal years 2008 and 2009, NSCAP paid the agency’s Maintenance Coordinator what it referred to as a stipend for the use of his personal truck for work he did at NSCAP. During these fiscal years, these stipend payments totaled \$5,200. However, NSCAP did not have any formal written policies or procedures that authorized the provision of this fringe benefit to this individual. According to state regulations, fringe benefits such as these that are not part of an established policy of NSCAP are not reimbursable under state contracts. In addition, during fiscal year 2008, NSCAP reimbursed its Maintenance Coordinator \$750 for what NSCAP records indicate were tools purchased in order to perform certain maintenance projects at NSCAP. However, since NSCAP indirectly purchased the tools in question, they belong to the agency. For this reason, NSCAP needs to account for and properly safeguard its assets. Moreover, we found that contrary to IRS requirements and regulations promulgated by the state’s Department of Revenue, NSCAP did not report the stipend compensation as a taxable fringe benefit on the Form W-2 that it issued to this individual.

6. THE COMPOSITION OF NSCAP’S BOARD OF DIRECTORS IS NOT CONSISTENT WITH THE REQUIREMENTS OF ITS CORPORATE BY-LAWS AND THE AGENCY’S BOARD IS NOT MEETING ALL OF ITS OVERSIGHT RESPONSIBILITIES

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We found that during the period covered by our audit, NSCAP never had the required 18 persons who represented the poor and public and private business sectors serving on its Board of Directors, as called for in its corporate by-laws. By not maintaining its Board membership in accordance with its corporate by-laws, NSCAP is not ensuring that all of the groups it was established to serve are receiving adequate representation on NSCAP’s Board. We also found that NSCAP’s Board was not meeting all of its oversight responsibilities. For example, the terms and conditions of NSCAP’s state contracts require the Board to annually review the performance of its Executive Director and based on this review, set the Executive Director’s compensation by formal vote. Despite this requirement, we found that NSCAP never formally evaluated the Executive

Director's performance to substantiate the \$14,000 in salary increases awarded during our audit period. In addition, NSCAP's by-laws provide for its Board to dismiss any member if absent from three consecutive meetings or five meetings within a 12-month period. However, we found that between July 2007 and March 2009, nine of the agency's Board members missed at least five and as many as 12 meetings (eight missed three consecutive meetings), but no disciplinary actions were taken by the Board against these individuals. Because NSCAP's Board is not meeting all of its oversight responsibilities, it cannot be assured that the agency is meeting all of its objectives in the most economical and efficient manner.

7. INADEQUATE ADMINISTRATIVE AND INTERNAL CONTROLS OVER CERTAIN AGENCY OPERATIONS **25**

During our audit, we found that NSCAP had not developed and implemented an adequate system of internal control over certain aspects of its operations. Specifically, we found that the agency does not have a policy that prohibits the charging of bad debt expenses against its state contracts and in a few cases did not ensure that it performed all of the necessary Criminal Offender Record Information (CORI) checks on staff members.

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INTRODUCTION

Background

North Shore Community Action Programs, Inc. (NSCAP) was established in 1965 under the Economic Opportunity Act of 1964 (Pub.L. 88-452, 78 Stat. 508, 42 U.S.C. § 2701) as a not-for-profit human service organization. Currently, NSCAP serves 26 cities and towns on the North Shore and its mission is to help low-income people empower themselves as they move towards self-sufficiency and also to motivate the larger community to be more responsive to the needs of low-income people. During our audit period, NSCAP operated a variety of programs offering services in housing/homelessness, energy, income maintenance, education and training, and homecare under contracts with the Department of Transitional Assistance (DTA), the Department of Elementary and Secondary Education (DESE), the Massachusetts Rehabilitation Commission (MRC), and the Executive Office of Housing and Economic Development (EOHED). A complete description of the programs operated by NSCAP during our audit period appears in the Appendix to this report. NSCAP's administrative office is located in Peabody and during our audit period, the agency employed approximately 139 full-time and part-time employees. NSCAP receives the majority of its funding from contracts with state agencies, as indicated in the table below:

<u>Revenue**</u>	<u>Fiscal Year*</u>	
	<u>2008</u>	<u>2009</u>
Total Contributions and In-Kind	\$ 389,509	\$ 333,572
Total grants	765,313	993,882
DTA	1,931,116	1,889,909
MRC	13,036	-
Mass State Agency Non - POS	-	252,116
DESE	194,699	-
Exec. Office of Elder Affairs	8,747	-
EOHED	3,039,534	4,016,153
Other Mass. State Agency POS	-	7,443
Mass Local Govt./Quasi POS	-	134,302
Private Client Fees	1,071,674	1,120,820
Direct Federal Grants	203,632	175,867
Investment Revenue	779	1,172
Other Unrestricted Revenue	<u>153</u>	<u>67,850</u>
Total Revenue	<u>\$7,618,192</u>	<u>\$8,993,086</u>

*NSCAP's fiscal year runs from October 1st through September 30th as opposed to the Commonwealth's fiscal year, which runs from July 1 through June 30th.

**The revenue information was extracted from NSCAP's Uniform Financial Statements and Independent Auditor's Reports that it filed with the Commonwealth.

Audit Scope, Objectives, and Methodology

The scope of our audit was to review various administrative and operational activities of NSCAP during the period of July 1, 2007 through December 31, 2009.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit procedures consisted of the following:

1. A determination of whether NSCAP had implemented effective management controls, including the following:
 - Processes for planning, organizing, directing, and controlling program operations
 - Policies and procedures to ensure that resource use is consistent with laws and regulations
 - Policies and procedures to ensure that resources are safeguarded and efficiently used
2. An assessment of NSCAP's business practices and its compliance with applicable laws, rules, and regulations and the various fiscal and programmatic requirements of its state contracts.

To achieve our objectives, we first assessed the management controls established and implemented by NSCAP over its operations. The purpose of this assessment was to obtain an understanding of management's attitude, the control environment, and the flow of transactions through NSCAP's accounting system. We used this assessment in planning and performing our audit tests. We then held discussions with NSCAP officials and reviewed organizational charts, internal policies and procedures, and all applicable laws, rules, and regulations. We also examined NSCAP's budgets, contracts, invoices, and other pertinent financial records to determine whether expenses incurred under its state contracts were reasonable, allowable, allocable, properly authorized and recorded, and in compliance with applicable laws, rules, and regulations.

Our audit was not conducted for the purposes of forming an opinion on NSCAP's financial statements. We also did not assess the quality and appropriateness of program services provided by NSCAP under its state-funded contracts. Rather, our report was intended to report findings and

conclusions on the extent of NSCAP's compliance with applicable laws, regulations, and contractual agreements and to identify services, processes, methods, and internal controls that could be made more efficient and effective.

AUDIT RESULTS

1. INADEQUATE CONTROLS RELATIVE TO THE ADMINISTRATION OF CONTRACTS RESULTED IN NSCAP PROCURING TENS OF THOUSANDS OF DOLLARS IN SERVICES ON A NON-COMPETITIVE BASIS

We found that contrary to state regulations, North Shore Community Action Programs, Inc. (NSCAP) had not developed written policies and procedures that govern its administration of contracts and in particular, the procurement of goods and services. As a result, we found that during our audit period, NSCAP purchased services totaling tens of thousands of dollars without using a competitive bidding process. Consequently, NSCAP and the Commonwealth cannot be assured that all purchases of goods and services NSCAP made during this period were conducted in a fair and equitable manner or that NSCAP received all of these goods and services at the lowest possible cost.

The state's Operational Services Division (OSD), the state agency responsible for regulating and overseeing the activities of contracted human service providers such as NSCAP, in conjunction with the state's Executive Office for Administration and Finance (EOAF) and the Office of the State Comptroller (OSC), have promulgated Commonwealth Terms and Conditions for Human and Social Services (General Contract Conditions), with which all contracted human service providers must comply. Included within this document is a requirement for agencies such as NSCAP to maintain written policies and procedures relative to the management of their operations. Specifically, Section 7 of the General Contract Conditions, Record-keeping and Retention, Inspection of Records, states, in part:

The Contractor shall maintain adequate written policies and procedures for accounting, management and personnel activities

In regards to the procurement of goods and services, 808 Code of Massachusetts Regulations (CMR) 1.03 (8), promulgated by OSD, states, in part:

All procurements of furnishings, equipment and other goods and services by or on behalf of a Contractor shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Capital Items, as defined in 808 CMR 1.02, shall be acquired through solicitation of bids and proposals consistent with generally accepted accounting principles.

During our audit, we first assessed the internal controls NSCAP had established over its administration of contracts and in particular, the procurement of goods and services, and

determined that NSCAP does not have any formal written policies or procedures in this area. Based on this internal control deficiency, we then asked agency officials to provide us with a list of all the procurements for goods and services that the agency had conducted during our audit period. In response, NSCAP officials couldn't provide us with a complete listing of this information. Further, no contract files containing procurement and/or contract information relative to any goods and services it may have purchased during our audit period were maintained by the agency. Therefore, it was not possible to accurately determine the number of procurements conducted or the amounts paid by NSCAP for goods and services during the audit period. However, in order to obtain an understanding of the agency's procurement practices, we obtained copies of all IRS Form-1099s issued by NSCAP to consultants for services the agency procured during fiscal years 2007 and 2008. According to these forms, during calendar year 2007, NSCAP issued 60 IRS Form-1099s—54 to landlords and six to other consultants—totaling \$575,545 and during calendar year 2008, the agency issued 73 of these forms—63 to landlords and 10 to other consultants—totaling \$549,676. Many of these payments were for smaller amounts (i.e. less than \$1,000). However, during calendar year 2008, the agency made payments of \$1,000 or more to 10 consultants totaling \$55,445, and during calendar year 2007, made payments of \$1,000 or more to six consultants totaling \$24,948. During our audit, we asked NSCAP officials to provide us with copies of any procurement records relative to these consultant services as well as copies of any contracts the agency entered into with these consultants. In response, agency officials were able to provide us with a copy of contracts that the agency had entered into with two of the consultants in question and according to the agency's IRS Form-1099s during calendar year 2008, these two consultants were paid a total of \$35,911. However, the agency could not provide us with any contracts that clearly delineated the responsibilities and liabilities of all parties for the other consultant services it procured during these two calendar years. Further, the agency could not provide us with documentation to substantiate that any of the consultant services that it utilized during this two-year period were procured using a competitive procurement process as required by OSD regulations.

During our audit, we brought this matter to the attention of the NSCAP officials, who informed us that NSCAP was in the process of drafting procurement policies and procedures. However, because NSCAP has not developed policies and procedures relative to the administration of

contracts it awards, its contracting practices lack the integrity necessary to ensure that the agency is procuring all of its goods and services in an open and fair manner or that it is getting the best services at the lowest possible cost.

Recommendation

NSCAP should immediately develop and implement formal written contract administration and procurement policies approved by its Board of Directors consistent with OSD requirements. The agency should also implement internal controls to monitor compliance with these procedures.

Auditee's Response

In response to this issue, NSCAP provided an explanation as to why each of the consultants discussed in this issue was hired and also provided other comments, which are excerpted below:

NSCAP updated its procurement policies... prior to accepting ARRA funds in 2009. Since the audit, NSCAP went out to bid for janitorial services, health care and construction vendors (sealed bids). The Finance Committee of the Board of Directors has been provided with the updated Procurement Policies of NSCAP. NSCAP administrators will explore the procurement opportunities available through the State and will utilize the power of State contracts if it will save the agency money. NSCAP administrators will inform all directors about procurement requirements and develop a succinct document that outlines procurement requirements by category of expenditure. The ongoing process of physically updating NSCAP's written procurement policies will include references to procurement policies available through OSD. Some include "How to Draft a Request for Response"; "Exceptions to Competitive Procurements"; "OSD Update 08-03", etc. The Finance Committee of the Board of Directors will be supplied with the updated written policies prior to a presentation to the Board.

Auditor's Reply

Based on its response, NSCAP is taking measures to address our concerns relative to the implementation of formal written contract administration and procurement policies and procedures to ensure compliance with OSD regulations and the terms and conditions of its state contracts. However, we again recommend that the agency also implement internal controls to monitor compliance with these procedures.

2. INADEQUATE DOCUMENTATION TO SUBSTANTIATE THAT \$82,875 IN PAYROLL EXPENSES AND \$3,890 IN OTHER EXPENSES WERE PROPERLY CHARGED TO ONE OF NSCAP'S STATE-FUNDED PROGRAMS

According to state regulations, contracted human service providers such as NSCAP are required to maintain adequate documentation to substantiate all billings against state contracts. Despite this requirement, we found that NSCAP had not developed a system of record detailing in which of NSCAP's programs its employees were working. As a result, during the period July 1, 2007 through June 30, 2008, NSCAP billed a total of \$82,875 for payroll expenses associated with four staff members, including the agency's Executive Director, against the contract that funded its Scattered Sites Family Emergency Shelter Program (SSFES). However, the documentation maintained by NSCAP indicated that the majority of these staff expenses were not incurred in this program. We also identified an additional \$3,890 in expenses charged to the SSFES contract in fiscal year 2008 for items such as travel, computers, and a projector that were not incurred through that program.

EOAF, OSC, and OSD have jointly issued Commonwealth Terms and Conditions for Human and Social Services (General Contract Conditions), with which all contracted human service providers such as NSCAP must comply. According to these General Contract Conditions, human services providers are required to maintain accurate and complete financial records, including payroll records, in order to receive reimbursement of these costs. Specifically, these General Contract Conditions state, in part:

The provider will maintain personnel records for each employee. These records shall include, but not be limited to . . . payroll records, and . . . attendance records or effort reports, documentation program and assignment and hours and days worked.

Further, 808 CMR 1.04(1), promulgated by OSD, states:

The Contractor and its Subcontractors shall keep on file all data necessary to satisfy applicable reporting requirements of the Commonwealth (including DPS [now OSD], the Division of Health Care Finance and Policy and Departments), and financial books, supporting documents, statistical records, and all other records which reflect revenues associated with and costs incurred in or allocated to any Program of services rendered under the Contract. The Contractor and its Subcontractors shall maintain records of all types of expenses and income or other funds pertaining to the Program paid to the Contractor by every source, including from each Client. Books and records shall be maintained in accordance with generally accepted accounting principles as set forth by the American Institute of Certified Public Accountants (AICPA)

Finally, OSD regulations (808 CMR) identify the following as non-reimbursable costs under state contracts:

1.05: (26) Undocumented Expenses. Costs which are not adequately documented in the light of the American Institute of Certified Public Accountants statements on auditing standards for evidential matters.

As noted in the Background section of this report, during our audit period NSCAP operated several state-funded programs including SSFES and the Housing Assistance Program (HAP). During our audit, we compared the expenses that NSCAP billed against the contract that funded its SSFES Program for the period July 2007 through June 2008 to the documentation maintained by the agency relative to these expenses, including payroll records. Based on our review, we found several discrepancies between the payroll expenses billed by NSCAP during this period and the agency's payroll records. Specifically, a total of \$82,875 in payroll expenses billed by NSCAP for four staff members working in the program were not supported by the time sheets submitted by these individuals for the period in question or by other agency records. The table below summarizes the discrepancies we identified during our review:

Title	Program/Area Worked	Program Billed	Total
Program Manger	HAP	SSFES	\$25,619
Case Manager	HAP	SSFES	19,143
Maintenance Coordinator	Maintenance	SSFES	32,794
Executive Director	Administration	SSFES	<u>5,319</u>
Total			<u>\$82,875</u>

It should be noted that NSCAP's Executive Director does not submit time sheets that document the hours worked in any agency program. However, as noted in the table above, NSCAP billed its SSFES contract \$5,319 in salary expenses for its Executive Director during March and June of 2008. Regarding this expense, NSCAP's Billing Coordinator told us that although there are no time sheets to document these expenses, NSCAP's Executive Director told the Billing Coordinator to bill these expenses against the SSFES contract. During our audit, we asked the Executive Director for documentation to substantiate the appropriateness of these billings to this contract. In response, the Executive Director provided us with her personal calendar, which contained information on the days worked by the Executive Director as well as other work-

related information such as scheduled meetings. However, this calendar did not adequately document the time, if any, the Executive Director spent directly working in the SSFES Program.

The Maintenance Coordinator provides maintenance services to the whole agency, including the SSFES Program. However, during the period in question, NSCAP charged 86% of his salary to the SSFES Program. The Maintenance Coordinator's time sheets did not indicate where he worked; however, all of his time sheets during this period were signed by members of NSCAP's central office administration staff and not by any administrator working in the SSFES Program.

The Program Manager's and Case Manager's timesheets stated that they worked all of their time during this period in HAP. However, as indicated in the table above, a portion of their time was charged to the SSFES Program.

During our audit, we brought this matter to the attention of NSCAP officials and NSCAP's Fiscal Director told us that she is currently reformatting the agency's timesheets so that staff can accurately record the time they work in each program including the SSFES Program.

In addition to the questionable allocation of staff salary expenses to the SSFES Program, we also noted the following expenses totaling \$3,890 were charged by NSCAP to this program during fiscal year 2008 but were not incurred in the program.

- \$243 for travel expenses for NSCAP's Deputy Executive Director, who does not directly work in this program.
- \$2,898 for two laptop computers used by two staff members who do not work in the SSFES Program.
- \$749 for a projector that we observed is being used in NSCAP's administration office.

Recommendation

NSCAP should take the measures necessary to ensure that all staff time and expenses are properly recorded and charged to the appropriate cost center. Internal controls should be implemented and periodically monitored to ensure that all staff time is documented in accordance with OSD requirements and that all expenses are properly classified, recorded, and reported by the agency.

Auditee's Response

In response to this issue, NSCAP provided comments, which are excerpted below:

The auditors used the title on the time sheets of the Director of Housing Programs, a Supervisor of HAP and Scattered Sites, the Maintenance coordinator and Executive Director in their finding. The fact that the actual time sheet did not support the services that these employees were providing to the Scattered Sites contract does not negate the fact that they were providing those services. The Fiscal Department worked with the Director of Housing and the employees noted, and a determination was made as to the % of time each was spending on the Scattered Sites contract. That % was used to charge the salaries accordingly. Re: Director of Housing: The % of time was charged to the Scattered Sites contract varied throughout the year, ranging from 35% to 80% (when the HAP contract ceased to exist in its previous form). The determination of the % was based on the Housing Director's actual work week and was determined by a discussion between the Fiscal Department and Housing Director. Re: Executive Director: worked directly with staff in the Scattered Sites program to develop curricula that was used with the Scattered Sites guests. Executive Director maintains a calendar in which she makes notes of time spent at meetings as well as work on special projects. At the beginning of the contract year, Executive Director estimated the time she thought she would be working on the project. That percentage of her hours was allocated to the contract. Towards the end of the contract, based on the times she had noted in her calendar and the time she knew she spent on the contract, an entry was made to transfer additional hours of Executive Director's salary directly to the Scattered Sites program. NSCAP developed time sheets that track employee time when they are charged to more than one department. The practice was initiated in 2009. Management will carefully scrutinize employee time and effort documentation when they are working in more than one contract area and develop time sheets specific to each employee so that they can track their hours directly to a specific department on a weekly basis.

Auditor's Reply

In its response, the agency states that the time charged by these individuals to its SSFES Program was based on estimates of the percentage of time these individuals worked in this program. However, during our audit the agency did not provide us with documentation as to how these estimates were calculated, denying us the opportunity to evaluate the reasonableness of these percentages. Moreover, even if the agency had determined reasonable estimates of percentages of the time these four individuals in question worked in the SSFES Program, it was still obligated to accurately document the time actually spent in SSFES in its records. Without such documentation, the expenses in question are clearly unallowable under SSFES's state contracts in accordance with 808 CMR 1.05 (26). Based on its response, NSCAP is taking measures to address our concerns relative to this matter.

3. QUESTIONABLE ALLOCATION OF AT LEAST \$627,092 IN INDIRECT COSTS

The state's Operational Services Division (OSD) has established guidelines that require all contracted human service providers such as NSCAP to allocate their indirect expenses to programs using one of four accepted cost allocation methods. The purpose of using one of these four approved methods is to ensure that all of an agency's indirect costs are allocated to its programs in an equitable and consistent manner so that the results of each program's activities are accurately reported in the financial statements filed with the Commonwealth. One of the methods that a provider can use is the Multiple Allocation Base method (MAB). Under this method, a provider's indirect costs are distributed to programs using multiple percentages. However, a provider must obtain prior approval from OSD and the provider's principal state purchasing agency to use a MAB method. During fiscal years 2007 and 2008, we determined that NSCAP used a MAB method to allocate \$627,092 of indirect costs to its programs. However, we found several problems with how NSCAP allocated these expenses. First, NSCAP did not have a formal written cost allocation plan as required by OSD regulations. Second, NSCAP never obtained prior approval from OSD or its principal state purchasing agency to use this allocation method. Third, NSCAP could not adequately substantiate the reasonableness of the multiple percentages it used to allocate these expenses. Finally, we found that contrary to OSD guidelines, NSCAP allocated its budgeted, rather than its actual, indirect expenses to its programs. As a result, there is inadequate assurance that the results of NSCAP's program activities as reported in the financial statements that it submitted to the Commonwealth during these two fiscal years are accurate.

OSD has promulgated regulations and contract conditions that require all human service providers doing business with the state to maintain accounting records in accordance with generally accepted accounting principles. In order to facilitate compliance with this requirement, OSD has also developed the Uniform Financial Statements and Independent Auditor's Report (UFR) Audit & Preparation Manual, which provides guidance to contracted human service providers and their auditors on how to classify and document agency costs and how to report various information in the UFRs that most contracted human service providers are required to file annually with OSD. The manual points out that organizations typically incur both direct costs, which can be attributed to a specific program or activity, and indirect costs, which need to be accounted for in a specific manner, as follows:

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

In providing program services, agencies such as NSCAP incur both direct costs and indirect costs, which are more general in nature and cannot be associated with one specific program or activity. Because indirect costs cannot be attributable to a specific program or activity, they need to be allocated to each of an agency's activities using a cost allocation plan.

OSD has also established regulations for the allocation of indirect expenses against state contracts. According to 808 CMR 1.02, contracted human service providers are required to maintain a written cost allocation plan for indirect administrative expenses, as follows:

Administration and Support Costs (management and general) include expenditures for the overall direction of the organization, general record keeping, business management, budgeting, general board activities, general legal expenses and related purposes. "Overall direction" includes the salaries and expenses of the chief officer of the organization and the chief officer's staff. If such staff spends a portion of its time directly supervising fundraising or Program service activities, such salaries and expenses are considered indirect fundraising or Program costs and should be prorated (allocated) among those functions by position title or type of expense. Allocation of program support expenses...must be made using a written cost allocation plan in accordance with GAAP as described in the sections covering Administrative Costs and Costs Which pertain To Certain Functions Allocation of Administrative expenses that pertain to the "Overall Direction" of the organization to programs...must also be made by utilizing a written costs allocation plan using the same principles as noted above or as described in the Direct Method for allocating indirect costs to federal programs of OMB [Office of Management and Budget] Circular A-122.

OSD has also issued guidance in its UFR Audit & Preparation Manual to all contracted human service providers. In terms of allocating indirect administrative costs, the manual states, in part:

Allocation of Administration (only costs related to overall direction of the organization) to programs shall be accomplished using one of the four following methods, only after direct and joint costs have been distributed to programs and supporting services:

- **Simplified Allocation Method:** This method allocates indirect administration costs utilizing a distribution percentage derived simply from the total employee compensation and related expenses.

- **Modified Direct Method:** Indirect administration costs are distributed using a distribution percentage derived from direct and joint costs that have been distributed to programs and supporting fundraising services.
- **Multiple Allocation Base Method:** Indirect administration costs are distributed to programs using multiple methods. Use of this method requires prior approval from OSD and the provider's principal purchasing agency.
- **Approved Federal Indirect Cost Rate:** Contractors receiving federal assistance which have an approved federal indirect cost rate may utilize the federal approved method of cost allocation that was used to establish the approved federal indirect cost rate.

According to the UFRs filed with OSD during fiscal years 2007 and 2008, NSCAP incurred \$627,092 in indirect administrative expenses. However, we found that NSCAP had not established a cost allocation plan as required by OSD regulations. Further, rather than allocating these expenses using one of OSD's four approved allocation methods, NSCAP established a number of different specific allocation percentages that it used to allocate its indirect costs to each program. Consequently, although, NSCAP's Fiscal Director told us that the agency used a Modified Direct Method to allocate its indirect costs, because the agency used multiple percentages to allocate these costs to programs, the agency was in effect using a Multiple Allocation Base Method to allocate these expenses. Our review of the documentation NSCAP was maintaining relative to the allocation of its indirect expenses during these two fiscal years noted several problems. First, during our audit, NSCAP's Fiscal Director provided us with a spreadsheet that showed the percentages that the agency used to allocate its indirect costs. We asked the Fiscal Director how percentages were calculated; in response, she stated that each percentage was based on the actual full-time equivalent (FTE) staff members that worked in each program. However, when we asked the Fiscal Director to show us how the percentages were calculated and the FTE information that was used in these calculations, she could not provide us with this information. In order to substantiate whether or not these percentages were reasonable, we reviewed the documentation maintained by the agency for \$20,883 (two months) out of the \$124,880 of indirect expenses that NSCAP charged to its SSFES Program during fiscal year 2008. Based on our review of this information, we determined that none of these expenses were directly related to the SSFES Program and therefore should have been allocated across all of the agency programs using an acceptable cost allocation methodology rather than being directly expensed to this program.

Second, the agency could not provide us with any documentation to substantiate that it obtained the required prior approval for the use of this MAB method from OSD or its principal state purchasing agency as required by OSD guidelines. Finally, contrary to OSD guidelines, NSCAP allocated the budgeted rather than actual indirect costs it incurred.

It should be noted that on March 23, 2010, OSD notified NSCAP that it could not accept its UFR filing for fiscal year 2009 because the filing contained a number of reporting deficiencies, including an unacceptable allocation of the agency's indirect administrative expenses.

Recommendation

NSCAP should resubmit its fiscal years 2007 and 2008 UFRs using an acceptable cost allocation method. Further, NSCAP should develop a formal cost allocation plan for its indirect costs as required by OSD regulations. In the future, NSCAP should take measure to ensure that all of its expenses are properly classified as either direct or indirect expenses and all indirect expenses are allocated across all of its programs/cost centers using an acceptable cost allocation plan.

Auditee's Response

In response to this issue, NSCAP provided comments, which are excerpted below:

Management realizes that because of the manner in which we reported our services on the UFR, that we created a fractured view of our major functional areas. NSCAP reported each contract as though it was a standalone "program" instead of grouping our contracts into the major functional areas at NSCAP of Housing and Homelessness, Education and Training, Economic Stabilization, Senior Care and Fundraising. NSCAP has grouped our contracts into the major functional areas of Housing and Homelessness, Education and Training, Economic Stabilization and Senior Care - keeping the Fundraising function separate. NSCAP will utilize "A Guide for Indirect Cost Rate Determination" which is based on the Cost Principles and Procedures Required by OMB Circular A-122 to develop an indirect cost plan. We will submit it to OSD for approval. Once approved, NSCAP will examine the entries made year to date and redistribute the indirect costs if necessary. NSCAP will charge all indirect costs to programs based on its indirect cost plan, and not according to the % allowed by any given contract.

Auditor's Reply

In its response, NSCAP acknowledges the fact that it did not correctly report the indirect costs in question and as a result provided the Commonwealth with a "fractured view" of its major functional areas. In our opinion, NSCAP's deficiencies in reporting these expenses not only provided an incorrect presentation of the results of its operations but also provided inadequate assurance that the results of NSCAP's program activities as reported in the financial statements

that it submitted to the Commonwealth during these two fiscal years are accurate. Based on its response, NSCAP is taking measures to address our concerns relative to the need to develop a formal cost allocation plan for its indirect costs as required by OSD regulations, as well as ensuring that all expenses are properly classified as either direct or indirect expenses and that all indirect expenses are allocated across all its programs using an OSD-approved cost allocation plan. However, we again recommend that NSCAP resubmit its fiscal years 2007 and 2008 UFRs using an acceptable cost allocation method. Further, NSCAP should develop a formal cost allocation plan for its indirect costs as required by OSD regulations. In the future, NSCAP should take measures to ensure that all of its expenses are properly classified as either direct or indirect expenses and all indirect expenses are allocated across all of its programs/cost centers using an acceptable cost allocation plan.

4. NSCAP MAY BE IMPROPERLY USING THOUSANDS OF DOLLARS IN STATE FUNDS TO PROVIDE SERVICES TO A RELATED PARTY

We found that NSCAP is providing administrative services to a related party, River House, Inc. of Beverly (RH). Specifically, under a Memorandum of Understanding (MOU) between NSCAP and RH, which appeared to have originated as far back as calendar year 2004, the two organizations are partnering in the development, reconstruction, and operation of an emergency shelter for homeless men called River House. Under this MOU, NSCAP was designated as the “fiscal agent, property manager and shelter operator” and was required to “provide oversight of fiscal requirements, daily operations and property management.” In addition, the MOU states that NSCAP will act as the employer of River House staff; provide orientation, training, supervision, and other supports as needed; oversee the selection of tenants and collect rents; and provide full financial and accounting services that will include, but not be limited to, accounts payable, payroll, accounts receivable, federal and state tax compliance, report filings and bank reconciliations, and provide monthly reports on all its activities to River House, Inc. In return for these services, RH agreed to pay NSCAP a management fee which, according to NSCAP officials, was arbitrarily set at 7% of RH’s operating budget. NSCAP uses its own staff, primarily funded by its state contracts, to perform these services. However, based on our audit work, we determined that NSCAP may be using thousands of dollars of state funding through staff and other resources over and above any management fees it may be collecting from RH to

provide these services. According to state regulations, expenses such as these that are not directly related to the social services purposes of NSCAP's operations are unallowable.

According to the Contract Conditions that apply to all human service contracts, "the Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract."

Additionally, 808 CMR 1.05 indicates that contract funds can only be used for reasonable costs as defined by OMB Circular A-122, as follows:

Funds received from Departments may only be used for Reimbursable Operating Costs as defined in 808 CMR 1.02. In addition, funds may not be used for costs specifically identified in 808 CMR 1.05 as non-reimbursable.

808 CMR 1.02 defines a reimbursable operating cost as follows:

Those costs reasonably incurred in providing the services described in the contract. Operating costs shall be considered "reasonably incurred" only if they are reasonable and allocable using the standards contained in Federal Office of Management and Budget Circular A-122 or A-21, or successors thereto.

OMB Circular A-122 defines reasonable costs, in part, as follows:

. . . . In determining the reasonableness of a given cost, consideration shall be given to:

Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award...

Finally, 808 CMR 1.05 (20) specifically identifies the following as non-reimbursable costs against state contracts:

(1.05(20) Non-Program Expenses. Expenses of the contractor, which are not directly related to the social service program purposes of the contractor.

During our review of NSCAP's accounting records, we found that as of June 30, 2009, NSCAP had a receivable totaling \$66,087¹ due from River House. According to NSCAP's financial statements, RH is a related party to NSCAP because NSCAP's Executive Director is also a member of the Board of Directors of RH.

¹ This amount includes amounts due from River House, Inc. for expenses paid by NSCAP on behalf of this agency as well as accrued management fees due from River House, Inc.

We asked NSCAP officials about this receivable and in response they provided us with a Memorandum of Understanding (MOU) between NSCAP and River House, Inc., which appeared to have originated as far back as calendar year 2004. According to the MOU, NSCAP and RH are partnering in the development, reconstruction, and operation of River House, an emergency shelter with five single occupancy units. In return for these services, RH agreed to pay NSCAP a management fee for these services which, according to NSCAP officials, was 7% of River House, Inc.'s operating budget.

During our audit, we attempted to determine the reasonableness of the amounts NSCAP was charging RH for these services. However, none of NSCAP's staff document the time they spend working on RH-related activities. Consequently, it is not possible to accurately document whether or not the management fees that RH is paying NSCAP for these services are reasonable. During our audit, we interviewed a number of NSCAP staff members, who told us that they work part-time on RH-related activities. Based on this information, we determined that during fiscal year 2008 alone, NSCAP used at least \$2,528 in state-funded resources in providing these services to RH, as indicated in the table below:

Title	%Time Spent On RH Activities Hours per year	Hourly Cost (including Fringe)*	Annual Cost 2008
Accounts Payable	45	\$26.84	\$1,208
Billing Coordinator	180	\$25.78	4,640
Contract coordinator	240	\$25.37	6,089
Housing Director	260	\$32.86	8,544
Payroll Coordinator	45	\$21.52	<u>968</u>
Total			21,449
Less 2008 Management fee assessed but not collected from RH			<u>(18, 921)</u>
Non-reimbursable salary costs			<u>\$2,528</u>

*Fringe rates as reported on NSCAP's financial statements are 20.3% for the administrative staff and 18.7% for the Housing Director

It should be noted that the \$2,528 non-reimbursable expense is for salary expenses alone and does not include any materials used in providing these services or any allocation of NSCAP's indirect costs to this activity.

NSCAP's Executive Director told us that Beverly doesn't have a shelter, and to address its problem with homelessness, the agency decided to enter into this agreement with RH to address this problem. The Executive Director added that she believed that this project is consistent with NSCAP's mission and therefore any expenses associated with it are appropriate.

Recommendation

NSCAP should take measures to ensure that it accurately documents and accounts, in a separate cost center, for all expenses it incurs in providing these services. NSCAP should also ensure that it complies with OSD regulations and not charge any of these expenses to the contracts that fund its state-funded activities. It should also consider charging RH a management fee that is at least equal to the expenses it is incurring to provide these services.

Auditee's Response

In response to this issue, NSCAP provided the following:

From October 2009 forward, the Housing Director's salary and benefits have been directly charged to River House. NSCAP bills River House for those expenses, thus reducing the "load" that the administrative fee needs to cover. NSCAP will continue to monitor the budget to ensure that the management fee of 7% covers the salaries, benefits and other expenses related to NSCAP's function as fiscal agent for River House.

Auditor's Reply

We again emphasize that it is essential for NSCAP staff to document the time they spend working on RH-related activities. Further, as stated above, NSCAP should take measures to ensure that it accurately documents and accounts, in a separate cost center, for all expenses it incurs in providing these services. It should not charge any of these expenses to the contracts that fund its state-funded activities. Finally, NSCAP should make an effort to collect all amounts due from RH in a timely manner.

5. UNALLOWABLE FRINGE BENEFITS TOTALING \$5,200 PROVIDED TO ONE EMPLOYEE THAT WAS NOT REPORTED TO THE APPROPRIATE STATE AND FEDERAL TAXING AGENCIES

During fiscal years 2008 and 2009, NSCAP paid the agency's Maintenance Coordinator what it referred to as a stipend for the use of his personal truck for work he did at NSCAP. During these fiscal years, these stipend payments totaled \$5,200. However, NSCAP did not have any formal written policies or procedures that authorized the provision of this fringe benefit to this

individual. According to state regulations, fringe benefits such as these that are not part of an established policy of NSCAP are not reimbursable under state contracts. In addition, during fiscal year 2008, NSCAP reimbursed its Maintenance Coordinator \$750 for tools purchased to perform certain maintenance projects at NSCAP. However, since NSCAP indirectly purchased the tools in question, they now belong to NSCAP and, therefore, need to be properly accounted for and safeguarded. Moreover, we found that contrary to IRS requirements and regulations promulgated by the state's Department of Revenue, NSCAP did not report the stipend compensation as a taxable fringe benefit on the Form W-2 that it issued to this individual.

808 CMR 1.05 (9), promulgated by OSD, identifies the following as being non-reimbursable expenses under state contracts:

Certain Fringe Benefits. Fringe benefits determined to be excessive in light of salary levels and benefits of other comparable Contractors and fringe benefits to the extent that they are not available to all employees under an established policy of the Contractor

In addition, IRS and Massachusetts Department of Revenue (DOR) regulations require employers to furnish employees, the IRS, and DOR with accurate wage and earnings amounts. Specifically, Section 713 of the U.S. Master Tax Guide states, in part:

All compensation for personal services, no matter what the form of payment, must be included in gross income. Wages, salaries, commissions, bonuses, fringe benefits, which do not qualify for statutory exclusionsare income in the year received.

During our audit, we identified that between April 2008 and January 2009, NSCAP provided its Maintenance Coordinator with what it referred to as a stipend of \$520 per month for the use of his own truck for NSCAP-related activities. During this 10-month period, the Maintenance Coordinator would submit what he referred to as a truck log to NSCAP's Fiscal Director that indicated specific instances where he used his personal truck for NSCAP business. Although the truck log did not indicate the amount of time he spent on each NSCAP-related activity, the Maintenance Coordinator would consistently request reimbursement for \$520 by indicating he had used his truck for 20 hours at a rate of \$26 dollars per hour. Since NSCAP did not have a formal written personnel policy that allowed the provision of this fringe benefit, we asked NSCAP officials why this benefit is provided. In response, these officials told us that NSCAP's prior Fiscal Director thought it was appropriate to reimburse the Maintenance Coordinator not only for his travel but also for any personal use of his truck. However, these officials added that

when the agency's current Fiscal Director became aware of this situation, she stopped providing this benefit to this individual.

In addition to receiving the aforementioned stipend for the business use of his truck, during fiscal year 2008, NSCAP also reimbursed its Maintenance Coordinator \$750 which, according to a June 25, 2008 memorandum from the agency's Fiscal Director, was reimbursing the Maintenance Coordinator for tools he personally purchased that were needed to perform certain maintenance projects at NSCAP. However, since NSCAP reimbursed the Maintenance Coordinator for tools he purchased, the tools belong to the agency and, as such, are NSCAP assets that need to be properly accounted for and safeguarded.

Recommendation

NSCAP should reimburse the Commonwealth for the \$5,200 in non-reimbursable fringe benefits it provided to its Maintenance Coordinator. In the future, NSCAP should take measures to ensure that it does not charge any such unallowable fringe benefits against its state contracts. Furthermore, given that NSCAP compensated its Maintenance Coordinator for tools he purchased, the tools belong to and become assets of NSCAP that it must account for and properly safeguard.

Auditee's Response

In response to this issue, NSCAP agreed to reimburse the Commonwealth for the \$5,200 in non-reimbursable fringe benefits in question we identified during our audit. In addition, NSCAP provided other comments which are excerpted below:

The current fiscal director (hired in January 2009) does not agree with this practice and she stopped the practice immediately upon coming to work for NSCAP. The situation was brought to the attention of management. This was a judgment call made by a prior fiscal director and not a policy endorsed anywhere in NSCAP's Personnel or Fiscal manuals. NSCAP routinely reimburses employees for expenses they incur by purchasing goods or services for the agency. The tools in question do belong to NSCAP and are in the workroom at Central Street. The tools were purchased for use by NSCAP using the purchase order system. All of the tools are appropriately tagged. Management does not feel that there is anything to correct. The tools belong to NSCAP, the Maintenance Director has been told that they belong to NSCAP, and they are in the workshop at Central Street.

Auditor's Reply

We believe that the actions taken by NSCAP regarding the tools in question and its decision to discontinue paying a stipend to the agency's Maintenance Coordinator for the use of his personal truck for work were necessary and appropriate. However, in accordance with state regulations, since these payments represent non-reimbursable costs against NSCAP's state contracts, we agree with NSCAP that the agency should reimburse the Commonwealth for the \$5,200 in non-reimbursable fringe benefits it provided to its Maintenance Coordinator.

6. THE COMPOSITION OF NSCAP'S BOARD OF DIRECTORS IS NOT CONSISTENT WITH THE REQUIREMENTS OF ITS CORPORATE BY-LAWS AND THE AGENCY'S BOARD IS NOT MEETING ALL OF ITS OVERSIGHT RESPONSIBILITIES

We found that during the period covered by our audit, NSCAP never had the required 18 persons who represented the poor and public and private business sectors serving on its Board of Directors, as called for in its corporate by-laws. By not maintaining its Board membership in accordance with its corporate by-laws, NSCAP is not ensuring that all of the groups it was established to serve are receiving adequate representation on NSCAP's Board. We also found that NSCAP's Board was not meeting all of its oversight responsibilities. For example, the terms and conditions of NSCAP's state contracts require the agency's Board to annually review the performance of its Executive Director and based on this review, set the Executive Director's compensation by formal vote. Despite this requirement, NSCAP's Board never formally evaluated her performance and therefore there was no documentation to substantiate the reasonableness of approximately \$14,000 in salary increases made during the audit period. In addition, NSCAP's by-laws provide for its Board to dismiss any member absent from three consecutive meetings or five meetings within a 12-month period. However, we found that between July 2007 and March 2009, nine of the agency's Board members missed at least five and as many as 12 meetings (eight missed three consecutive meetings) but no disciplinary actions were taken by the Board against these individuals. Because NSCAP's Board is not meeting all of its oversight responsibilities, it cannot be assured that the agency is meeting all of its objectives in the most economical and efficient manner.

The Board of Directors of a human service provider is the primary organizational body that ensures that an agency meets its operational objectives in the most effective and efficient manner. Board members perform a variety of key functions, including overseeing the overall

operation of the agency, setting policies and procedures to ensure that agency objectives are met, and hiring the agency's top executive. Section 6A of Chapter 180 of the Massachusetts General Laws, commonly referred to as the Public Charities Law, empowers a not-for-profit organization such as NSCAP to make, amend, and repeal by-laws that prescribe the number, term, powers, and responsibilities of its Board of Directors, officers, and Executive Director. In addition, the state's Executive Office for Administration and Finance and the Operational Services Division/Division of Purchased Services has promulgated terms and conditions for Human and Social Service Contracts (General Contract Conditions). Regarding an agency's Board of Directors, Condition 11 of the Contract Conditions states:

If a non-profit organization, the Provider will comply with the principles contained in the Massachusetts Attorney General's "Guide for Board Members of Charitable Organizations" and with the standards for boards contained in the AICPA's statements on auditing standards, as may be amended from time to time. Further, the Provider specifically agrees to the following:

- *the Provider's board of directors will, on an annual basis, review its Executive Director's or other most senior manager's performance and set the person's compensation by a formal vote.*

Furthermore, NSCAP's corporate by-laws, Article IV, Board of Directors, states, in part:

Section 4.2 Composition: *The Board of Directors...shall consist of eighteen (18) persons divided among the following categories (Rev. 3/04)*

- *one-third (1/3) or more representatives of the poor as provided in Section 4.3*
- *one-third (1/3) representative public officials representing the NSCAP area or their designates as provided in Section 4.4*
- *the remainder shall be representatives of the private groups and interests as provided in Section 4.5*

Section 4.13 Attendance At Meetings: *Any director who shall be absent from three (3) successive meetings of the Board of Directors or absent from five (5) meetings within a twelve (12) month period shall be notified to appear at the next Board meeting to apprise the Board for the reasons of the absences. At the meeting the member shall have the opportunity to be represented. The Board may vote to excuse the delinquent member's absences or remove the director from the Board.*

Despite these specific requirements, during our audit we found the following problems relative to the Board of Directors' composition and oversight of NSCAP:

- Specifically, as noted above, NSCAP's corporate by-laws require that its Board of Directors membership be comprised of 18 persons with 1/3 or more representing the economically

disadvantaged, 1/3 representing public officials in NSCAP's designated area, and the remaining 1/3 representing private groups and interests. However, our review of the minutes of the meetings NSCAP's Board of Directors conducted during our audit period disclosed that seated members ranged from a low of twelve to a high of only 14 and did not exhibit the representation requirements stated above.

- We determined that NSCAP's Executive Director received an increase in salary of roughly \$14,000 over a three-year period without any evidence of a board-assessed performance review. Guidelines issued by the Office of the Attorney General on non-profit Boards of Directors state that "after the CEO is hired, the board should periodically review and assess the chief executive's performance." These guidelines further state that the "process for setting CEO compensation, the amount of such compensation, and the terms of such compensation should all be well documented and approved by the full board. Although we were provided with a copy of the Executive Director's May 2009 performance review, the review was an unsigned self-evaluation and took place nearly two months after the Executive Director received a pay increase for 2009. The absence of annual performance reviews calls to question the reasonableness of the Executive Director's compensation and the process in determining this compensation.
- As previously noted, NSCAP's by-laws require that its Board of Directors notify a director—when a director is determined to be absent from three consecutive meetings or five meetings within a twelve-month period—to appear at the next meeting to explain the reasons of the absences. The Board in turn may vote to excuse the member's absences or remove the director from the Board. However, regardless of the absences noted above, we found no mention within the minutes of meetings of NSCAP's Board of Directors notifying absent members to appear at the next meeting or any membership vote to excuse or remove delinquent members. Regarding this matter, NSCAP's Executive Director told us that its Governance Committee² handled these issues. However, although requested, NSCAP could not provide any evidence to substantiate that its Governance Committee reviewed this matter.

Recommendation

NSCAP should take the measures necessary to ensure that the composition and activities of its Board of Directors complies with the requirements of its corporate by-laws, terms, and conditions for Human and Social Service Contracts (Contract Conditions), state regulations, and the guidelines issued by the Office of the Attorney General.

Auditee's Response

In response to this issue, NSCAP provided comments which are excerpted below:

² NSCAP corporate by-laws, Article VI, Section 6.2, states, in part: The Governance Committee shall be responsible to the Board of Directors for seeing that Board membership is maintained in accordance with provisions of these by-laws.

It is an ongoing challenge to fulfill the difficult requirements of tri-partite board membership. NSCAP's Board of Directors is well aware of the requirements of its Corporate By-Laws and the Board meets and discusses membership at many of its meetings. The board is an entirely volunteer board. The Board is aware of the meeting requirements. However, in a climate where it is difficult to bring new members to the Board, the decision has been made to allow Board members to maintain their seats until new members are found to take their places. We value and appreciate the input from Board members even when they are not able to attend all the meetings due to conflicts with their full-time jobs and family commitments. The Governance Committee of the Board of Directors met and discussed the possibility of amending the by-laws to reflect a 14 seat Board in compliance with CSBG regulations. The decision was made to maintain an 18 member board and continue with a recruitment process.

The Board of Directors is aware of their responsibility to evaluate the Executive Director and will continue to go through the process. The Board voted to give the Executive Director a raise after they completed their evaluation. (... May 4, 2009). ... The 7/1/2009 Executive Session minutes show the vote to approve the Executive Director's raise. In March 2009 the Executive Director was given an agency-wide raise as voted on by the Board of Directors. This raise was taken into consideration when the final raise was voted on 7/1/2009.

The Board has been made aware of this observation and we are working on improving attendance by Board members. The Governance Committee of the Board of Directors met and made the decision to revise the by-laws in respect to members who have missed more than 3 consecutive meetings or more than 5 meetings in a year. The Governance Committee will follow the by-laws in proposing changes to this policy. The Board has been made aware of this observation and our Board of Directors is aware of its responsibility to evaluate the Executive Director and will continue to go through the process. NSCAP's Board members will continue their effort to recruit members to the Board.

Auditor's Reply

While we acknowledge that assembling and sustaining a tri-partite Board membership of 18 members is challenging, by not maintaining its Board membership in accordance with its own corporate by-laws and state regulations, NSCAP cannot ensure that the interests of all of its designated target populations are receiving the necessary representation. It should be noted, that NSCAP's inadequate Board composition has been a long-standing concern. For example, the Commonwealth's Department of Housing and Community Development (DHCD), who funds NSCAP's Community Service Block Grant, also commented on NSCAP's Board composition during its 2005 and 2008 assessments.

During our audit, we requested that NSCAP provide us with all the documentation it was maintaining relative to its Board membership recruitment activities. In response to our request, NSCAP only provided us with a copy of a press release dated September 2008, a copy of a local newspaper advertisement dated September 2008, and a copy of a public service announcement it

said it submitted to a local cable network. Based on these records, which seem to indicate a less than aggressive effort to recruit new Board members, and the fact that the agency has been perpetually unable to maintain its Board in accordance with its corporate by-laws, we believe that NSCAP needs to do a better job of outreach to attract new Board members.

As noted in our report, even though we were provided with the Executive Director's May 2009 performance review, this performance review was an unsigned self-evaluation and took place nearly two months after the Executive Director received a pay increase for 2009 and there was no evidence that the agency's Board had ever conducted any other evaluation of the Executive Director's performance as required by the Office of the Attorney General guidelines. While we do not question the Executive Director's ability to function in her capacity at the head of this agency, it is clearly essential that the agency's Board review and evaluate the performance of its Executive Director at least annually.

We again recommend that NSCAP continue to take the measures necessary to ensure that the composition and activities of its Board of Directors complies with the requirements of its corporate by-laws, the terms and conditions of its state contracts, and the guidelines issued by the Office of the Attorney General.

7. INADEQUATE ADMINISTRATIVE AND INTERNAL CONTROLS OVER CERTAIN AGENCY OPERATIONS

During our audit, we found that NSCAP had not developed and implemented an adequate system of internal control over certain aspects of its operations. Specifically, we found that the agency does not have a policy that prohibits the charging of bad debt expenses against its state contracts and in a few cases did not ensure that it performed all of the necessary Criminal Offender Record Information (CORI) checks on staff members. According to Generally Accepted Accounting Principles (GAAP), entities such as NSCAP should establish and implement an adequate internal control system within the organization to ensure that goals and objectives are met; resources are used in compliance with laws, regulations, and policies; assets are safeguarded against waste, loss, and misuse; and financial data is maintained, reported, and fairly disclosed in reports.

In order to comply with GAAP, NSCAP is required to have a documented comprehensive plan of internal controls describing its goals and the means by which these goals and objectives can

be achieved. An effective internal control system would establish clear lines of authorization and approval for its various business functions, such as purchasing, contracting, asset management, payroll, and personnel. In addition, an entity's internal control system should be backed up with a set of detailed subsidiary policies and procedures that would communicate responsibilities and business operations such as accounting, billings, cash receipts, accounts payable, human resources, and payroll. NSCAP does have a personnel policy manual and is in the process of updating and creating fiscal policies. We found that NSCAP had not established adequate internal controls over payroll, procurement, credit cards, reimbursements, and UFR filings. The following is a summary of the additional internal control issues we identified during our audit.

a. NSCAP Improperly Claimed \$4,042 of RH's Bad Debt

808 CMR 1.05(6) identifies the following as a non-reimbursable cost under state contracts:

Bad Debts. Those amounts (whether estimated or actual) which represent the portion of an account or note receivable that proves to be entirely uncollectible despite collection efforts including legal action, and any related legal costs.

During our audit, we found that the agency does not have a policy that prohibits the charging of bad debt expenses against its state contracts. Further, despite this requirement, we found that during fiscal year 2008, the agency improperly claimed \$4,042 in bad debt held by its related party, RH, as its own expense under the category of professional fees and other administrative expenses.

b. NSCAP Did Not Conduct all Required CORI Checks for Staff

Regarding Criminal Offender Record Information (CORI) checks, 106 CMR 150.170 promulgated by the state's Department of Transitional Assistance (DTA), one of NSCAP's state funding agencies, states, in part:

(B) The hiring authority shall require, as a condition of an offer of a position, the completion of the CORI investigation. The hiring authority shall confirm an offer of a position only after the hiring authority receives written confirmation that the criminal record investigation has resulted in a finding of "no record" or until the hiring authority has complied with the requirements of 106 CMR 150.180, 150.190, 150.200, and 150.210.

(C) The hiring authority shall not permit any candidate to commence employment or volunteer service until after the candidate is cleared as a result of the CORI investigation, in accordance with these regulations.

Despite this requirement, our audit identified three³ NSCAP employees that did not have the requisite CORI check performed and documented in their personnel files even though the scope of their services may possibly entail unsupervised contact with the client population served. The three NSCAP employees with service and support charges allocated to the Department of Transitional Assistance-funded SSFES Program included the Executive Director, who provided direct supervision over the SSFES Program; the Maintenance Coordinator, who was responsible for the upkeep and repair of SSFES housing units; and the agency's Receptionist, who would greet SSFES clients.

Recommendation

NSCAP should take measures to ensure that it establishes effective internal controls over all aspects of its operations, including the maintenance of its records; the proper documentation, classification, and recording of its expenses; and performing CORI checks on all staff.

Auditee's Response

In response to this issue, NSCAP provided comments which are excerpted below:

NSCAP is a complex agency that must report to many funding sources that have multiple reporting requirements and formats that must be followed in order to be reimbursed.

NSCAP carefully follows the hierarchy of the Commonwealth of Massachusetts - Standard Contract Form - and we understand now, and always have, we must follow the rules of the Standard Contract Form. We understand the order of precedence of the documents that make up a Commonwealth Contract, and it is and always has been the intent of management to carefully follow the rules.

NSCAP management agrees that bad debt is not an allowable expense. This does not show a lack of internal control.

NSCAP employs approximately 150 people. There were three CORIs that were not completed. These were the result of thoughtful judgment and not happenstance. Although we do not agree with the auditor's interpretation of the CORI requirements, NSCAP has performed CORI checks on the three employees previously not CORI'd. We do a CORI check on all new employees and have since mandated the CORI requirement for defined workers.

NSCAP management will work on an indirect cost plan that once in place will address the issue of reporting our revenue and expenses in accordance with GAAP.

³ Our payroll examination included 14 NSCAP employees; 11 from the SSFES Program and three from the partnership with RH.

In order to track non-reimbursable expenses, NSCAP created a new GL #5980 - to which we book non-reimbursable expenses.

Auditor's Reply

Our report correctly states that NSCAP has not established adequate internal controls over certain aspects of its operations. As indicated in our report, we found a number of instances where NSCAP did not in fact establish adequate controls over various aspects of its operations. Further, in order to comply with GAAP, NSCAP is required to have a documented comprehensive plan of internal controls describing its goals and the means by which these goals and objectives can be achieved.

We do not agree with NSCAP that the fact that it charged bad debt expenses incurred by its related party against its state contracts is not an internal control issue. To the contrary, as noted in our report, we found that the agency does not have an adequate policy prohibiting the charging of bad debt expenses against its state contracts. Based on its response, the agency is taking measures to address our concerns relative to these matters.

APPENDIX⁴

Homelessness Prevention and Assistance Programs Administered by North Shore Community Action Program, Inc.

Housing Assistance Program: Homeless and potentially homeless families receive housing search assistance, case management supports, and stabilization services.

Housing Opportunities for People with AIDS Program: Homeless and potentially homeless individuals (and their families) who are HIV+ or have AIDS are provided with housing search, case management, and stabilization services.

Housing Law Project: NSCAP's housing law attorney works with low-income clients who have received notices to quit or eviction notices, or who are experiencing housing-related difficulties. The Housing Law Attorney also works with clients who are at risk of experiencing foreclosure, bankruptcy, or related financial difficulties.

Tenant/Landlord Advocacy: Housing law specialists work in tandem with the housing law attorney to provide advocacy services to tenants experiencing difficulty accessing subsidized housing or at risk of losing their subsidy. Advocates provide information on tenants' and landlords' rights and responsibilities and clinics on housing-related issues.

Adult Basic Education, English for Speakers of Other Languages (ESOL), Workplace Education: ESOL classes are designed to help immigrants improve their English speaking, listening, reading, and writing ability so they can move toward English proficiency and career advancement. Classes include a computer literacy component. Custom designed workplace education programs are available to employers through NSCAP's Workplace Education component. The program includes language assessment, ESOL, pre-GED preparation, and U.S. citizenship classes.

⁴ Source: North Shore Community Action Programs, Inc., Website: www.nscap.org/

Homecare & Elder Personal and Companion Services: Provides homemaking, personal care, and companion services to low-income and disabled elderly clients. NSCAP Home Care Program's mission is to help the elderly live independently and remain in the community.

Fuel Assistance: NSCAP operates the area's Fuel Assistance Program. Assistance with electric, natural, and propane gas are also provided based on income eligibility.

Energy Conservation: Designed to help clients save on their heating, cooling, and electric bills by replacing old appliances and weatherizing homes based on income eligibility.

Advocacy: Advocates conduct an in depth one-on-one intake interview with individuals and/or families to determine their short- and long-term needs. Advocates administer charitable funds to resolve crises related to rent and utility arrearages to prevent homelessness. This program provides housing advocacy and assistance with social security and a full array of public benefit applications. Advocates also provide immigration and naturalization processing assistance.

Salem Cyberspace Computer Center: A community computer and technology center that focuses on bringing technology and training to low-income and unemployed persons that live north of Boston. It also offers after-school programming for disadvantaged youths, conducts computer training, and offers website design and other services for local businesses and non-profit organizations.

Transition to Work: Assists homeless families in their transition from homelessness to employment. Transition to Work helps clients overcome barriers to employment by assisting them in assessing vocational interests, setting career goals, entering job training programs, enrolling in education and computer courses, and attending job and personal finance workshops.

Scattered Sites Family Emergency Shelter: Provides homeless families with temporary shelter in local apartments until they find permanent housing. Families are given assistance in conducting housing searches and receive a variety of supports through case management.

Emergency Shelter for Homeless Men in Partnership with River House, Inc.: Provides emergency shelter to homeless men and offers five single rental units to formerly chronically homeless men.

Asset Development: NSCAP is a certified IRS VITA (Volunteer Income Tax Assistance) Site. It also offers financial literacy classes and an Individual Development Savings Account program as part of its Asset Development Initiative.