



Commonwealth of Massachusetts
Office of the State Auditor
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Worcester County District Attorney's Office (Middle District)

For the period July 1, 2010 through September 30, 2011



TABLE OF CONTENTS

INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS	1
OVERVIEW OF AUDITED AGENCY	4
AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY	5
AUDIT FINDINGS	7
1. PRIOR AUDIT FINDINGS PARTIALLY RESOLVED – IMPROVEMENTS MADE TO THE INTERNAL CONTROL PLAN ...	7
2. IMPROVEMENTS NEEDED IN INTERNAL CONTROL PROCEDURES OVER FUNDS FORFEITED TO THE STATE	8
a. Reconciliation of Confiscated and Forfeited Funds	9
b. Documentation of Uses of Forfeited Funds	11
c. Reporting on the Use of Forfeited Funds	14
3. EQUIPMENT INVENTORY ACCOUNTING AND REPORTING NEEDS IMPROVEMENT	16
4. IMPROVEMENTS NEEDED IN DOCUMENTING FRINGE BENEFITS	18

INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS

The Worcester County District Attorney's Office – Middle District¹ (WCDA) was established under the provisions of Chapter 12, Sections 12 and 13, of the Massachusetts General Laws, which provide for the administration of criminal law and the defense of civil actions brought against the Commonwealth in accordance with Chapter 258 of the General Laws.

WCDA is one of 11 District Attorney's Offices located throughout the Commonwealth. District Attorney's Offices represent the Commonwealth in most criminal proceedings brought by complaint in the District Courts, as well as indictment in the Superior Courts. District Attorney's Offices also represent the Commonwealth before grand juries and assist with the investigation of a variety of criminal activities as well as victim-witness assistance services. Further, District Attorney's Offices provide outreach services in local communities and schools, discussing topics such as bullying/harassment, internet and cyber-safety programs, drug and alcohol use, identity theft, and domestic violence.

The objective of this audit, which covered the period July 1, 2010 through September 30, 2011, was to review the internal controls established by WCDA over certain aspects of its operations. Specifically, we reviewed the internal controls established by WCDA in the following areas: revenue collection, expenditures, financial reporting, and the inventory of assets. We also reviewed various aspects of WCDA's fiscal and programmatic activities, including activities in its programs relative to victim-witness services, juvenile justice, and asset forfeiture. Finally, we followed up on issues raised in our prior audit of WCDA (No. 2008-1262-3S).

Highlight of Audit Findings

- Our prior audit of WCDA identified that improvements were needed in key areas and sections of its Internal Control Plan (ICP). Our current audit identified that WCDA had updated its ICP but that fiscal or programmatic policies used to support its ICP should be established or improved to provide a more detailed discussion of the procedures followed for each particular fiscal or programmatic area.
- We reviewed the internal controls WCDA established over the receipt, expenditure, and reporting of confiscated and forfeited funds and found that improvements were needed in (a) the reconciliation of confiscated and forfeited funds, (b) the documentation of the uses

¹ Chapter 12, Section 13, of the Massachusetts General Laws, which established the WCDA, refers to Worcester County, minus the Town of Athol, as the "Middle District."

of the forfeited funds, and (c) the reporting on the use of forfeited funds in compliance with policies established by the Office of the State Comptroller (OSC).

- Although WCDA maintained a listing of its non-Generally Accepted Accounting Principles (GAAP) fixed assets inventory, the listing did not contain all the information required, such as purchase price and date, for WCDA to fully comply with OSC regulations.
- WCDA does not have a written policy regarding the use of gasoline credit cards and its leased vehicles. We found that during our audit period, two WCDA employees purchased \$1,482 in gasoline for their vehicles that they used for both personal (commuting) and WCDA business purposes, but the cost of any gasoline used for personal purposes was not reported on the employees' Internal Revenue Service (IRS) W-2 forms as required by IRS guidelines. Also, the taxable fringe benefit of the leased vehicles used by the District Attorney and the Senior First Assistant District Attorney for personal purposes was not calculated correctly according to IRS regulations.

Recommendations of the State Auditor

- WCDA should establish or improve written policies and procedures detailing processes used for its existing programs and fiscal activities.
- WCDA's fiscal unit should establish a documented reconciliation process for the confiscated and forfeited funds to ensure all case information is correct, it receives all the judges' forfeiture orders, and local police departments properly account for funds in their possession.
- WCDA should improve its policies and procedures related to expenditures, including uses of forfeited funds and methods for allocating those funds. Specifically, the expenditure policies and procedures should require that all supporting documentation include the nature of the expenditure, what program it relates to, and documentation that all items or services were received. Also, WCDA should comply with the OSC's advance management policy and report the expenditure of forfeited funds at least monthly. WCDA should ensure that any vendor that is not an incorporated business and is paid over \$600 during a calendar year receives an IRS Form 1099-MISC in accordance with IRS guidelines.
- WCDA should contact the OSC and request its assistance in determining whether it can retain and spend the interest earned on confiscated funds. In this regard, the OSA has contacted the OSC who is going to be working with District Attorneys, the Attorney General and the Office of the State Auditor in developing policies around this issue.
- WCDA should use the OSC's Internal Control Guide and Fixed Asset Acquisition Policy as a reference to update its documented inventory policies. WCDA should also update its inventory lists of non-GAAP fixed assets to include historical cost and purchase dates for each item if the purchase information is available. If the information is not available, then WCDA should assign a fair market value to the inventory item using the internet or some other reference as a valuation source.

- WCDA should establish a written policy for all fringe benefits, including the use of gasoline credit cards and leased vehicles. The policy should require that all employees document personal and business miles. WCDA should review the IRS Publication 15-B related to fringe benefits to determine the correct method for assigning value to the leased vehicles. Employees' W-2 forms should correctly document the value of all fringe benefits.

OVERVIEW OF AUDITED AGENCY

The Worcester County District Attorney's Office – Middle District (WCDA) was established under the provisions of Chapter 12, Sections 12 and 13, of the Massachusetts General Laws, which provide for the administration of criminal law and the defense of civil actions brought against the Commonwealth in accordance with Chapter 258 of the General Laws. WCDA encompasses four cities and 56 towns in central Massachusetts, representing approximately 798,000 citizens. The Middle District has 11 district courts and six jury trial sessions. WCDA represents the Commonwealth at bail hearings, commitment proceedings related to criminal matters, rendition proceedings, and during the presentation of evidence in all inquests, and it assists in the investigation of a variety of criminal activities. Other activities involving WCDA include child abuse investigations, educational programs, and victim-witness assistance services.

For the fiscal years ending June 30, 2011 and June 30, 2012, WCDA received state maintenance appropriations to fund its administrative operations totaling \$8,466,451 and \$8,889,774², respectively. In addition, during these two periods, WCDA received state appropriations and funding from other sources to support various programs, including overtime for state police investigations, drug analysis at the University of Massachusetts lab, witness protection expenses and other programs totaling \$2,328,628 and \$1,098,170¹ respectively.

² The appropriation amounts reported for fiscal year 2012 represent the balances as of the end of our audit period, September 30, 2011.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we have conducted an audit of certain activities of the Worcester County District Attorney's Office – Middle District (WCDA) for the period July 1, 2010 through September 30, 2011. The objectives of our audit were to: (1) review WCDA's Internal Control Plan (ICP) and the internal controls established by WCDA over various financial and programmatic activities, including revenue collection, expenditures, financial reporting, and the inventory of assets; (2) determine whether WCDA's financial records are accurate and are being maintained in accordance with established criteria; (3) determine whether certain agency expenditures, including payroll, program, and administrative costs, are appropriate and reasonable; (4) determine whether advanced expenses are processed properly with supporting documentation; (5) review the operation of WCDA's community-based juvenile justice program to determine whether it is being operated in accordance with Chapter 12, Section 32, of the General Laws; and (6) review controls over funds expended from the Witness Protection Board to determine whether they are being expended for their intended purposes. We also conducted a follow-up review of WCDA's progress in addressing the issue reported in our prior audit report of WCDA (No. 2008-1262-3S).

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.

To achieve our audit objectives, we conducted interviews with WCDA officials and reviewed the following:

- Applicable General Laws; the Office of the State Comptroller's Internal Control Guide; and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies.
- Relevant documentation to WCDA's budgetary process and the spending plan.
- WCDA's ICP, risk assessment, and internal control structure, along with existing verbal and written administrative and accounting policies and procedures.

- WCDA's financial records, including judgmental sampling of WCDA's revenue, expenditures, and inventory.
- WCDA's financial records to determine if they were accurate and up to date.
- Selected revenue (forfeited funds), expenditure, advance, and payroll transactions to verify that these transactions were appropriately accounted for, recorded, and safeguarded in accordance with established criteria.
- WCDA's inventory control system for furnishings and equipment.
- WCDA's community-based juvenile justice program to determine whether it is being operated in compliance with Chapter 12, Section 32, of the General Laws.
- The measures taken by WCDA in addressing the issues identified in our prior audit.

We obtained appropriations, grant awards, and expenditure information from information systems maintained by the Commonwealth, as well as forfeited fund case activity from systems maintained by the Massachusetts District Attorneys Association. We compared this information with other source documents and interviewed knowledgeable WCDA officials about the data. We determined that the data were sufficiently reliable for the purposes of this report.

Based on our audit, we have concluded that except for the issues detailed in the Audit Findings section of this report, for the period July 1, 2010 through September 30, 2011, WCDA maintained adequate internal controls, properly maintained its financial records, and properly administered its expenses and program activities in compliance with all applicable laws, rules, and regulations for the areas tested.

AUDIT FINDINGS

1. PRIOR AUDIT FINDINGS PARTIALLY RESOLVED – IMPROVEMENTS MADE TO THE INTERNAL CONTROL PLAN

Our prior audit (No. 2008-1262-3S) disclosed that the Worcester County District Attorney's Office – Middle District (WCDA) had prepared and developed an Internal Control Plan (ICP) in compliance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies, and with Office of the State Comptroller (OSC) requirements. However, improvements were needed in key areas and sections of the ICP. At that time we recommended that WCDA update its ICP as follows: more accurately define its internal control environment by including statements of its philosophy on integrity and ethical values expected of all staff, including top management; update and expand its risk assessment to include identifying control activities in place to mitigate all identified fiscal and, more importantly, programmatic risks; identify information and communication systems in place within the operation; include identification of monitoring roles and responsibilities in the ICP; and ensure compliance with all provisions of Chapter 647 of the Acts of 1989 and the OSC's 2007 Internal Control Guide.

During our current audit, we found that WCDA had updated its ICP. However, fiscal or programmatic policies used to support its ICP should be established or improved to provide a more detailed discussion of the procedures followed for each particular fiscal or programmatic area. Policies and procedures establish a framework of priorities and underlying methods that assist management and employees in accomplishing their daily responsibilities. They support the ICP and provide a method to reduce the identified risks to the agency's mission and measure the effectiveness of the agency's internal controls. The OSC's Internal Control Guide states, in part:

A policy establishes what should be done and serves as the basis for the procedures. Procedures describe specifically how the policy is to be implemented. It is important that an organization establish policies and procedures so that staff knows what is to be done and compliance can be properly evaluated.

Our current audit found that there were no specific written policies and procedures in the following fiscal and programmatic areas: the diversion, witness protection, and juvenile justice programs; the processing of intergovernmental service agreements, including State Police Overtime, University of Massachusetts Medical School, and the Sexual Abuse Intervention Network (SAIN); the insurance fraud grant; and the information technology inventory.

Additionally, we found that WCDA needed to improve documentation relative to the reconciliation process for confiscated and forfeited funds and its expenditure, inventory, gas card, and vehicle usage processes.

Recommendation

WCDA should establish formal written policies and procedures relative to the diversion, witness protection, and juvenile justice programs; the processing of intergovernmental service agreements, including State Police Overtime, University of Massachusetts Medical School, and SAIN; the insurance fraud grant; and the information technology inventory. In addition, WCDA should enhance its formal written policies and procedures relative to the reconciliation process for confiscated and forfeited funds and its expenditure, inventory, gas card, and vehicle usage processes.

Auditee's Response

WCDA is in the process of establishing written policies and procedures for the diversion program, the witness protection program, the juvenile justice programs, state police overtime and the Insurance Fraud Agreement. The aforementioned programs are now administered on the basic policy and procedures described in our office manual, which speaks to our values and mission. The written policies will supplement our existing policies and procedures.

Policies and procedures will be written for state and federal grants received such as the Sexual Abuse Intervention Network Grant (SAIN). This will supplement the intergovernmental service agreements associated with these grants that are already in place.

Effective July 1, 2012, the University of Massachusetts Medical School Drug Lab appropriation no longer falls under WCDA. Therefore there is no need for a written policy.

Policies and procedures will be improved for the Information Technology inventory.

2. IMPROVEMENTS NEEDED IN INTERNAL CONTROL PROCEDURES OVER FUNDS FORFEITED TO THE STATE

Chapter 94C, Section 47, of the General Laws identifies property subject to forfeiture to the Commonwealth and the procedure used by the District Attorney to obtain this property. All funds used to purchase, or all proceeds from the illegal sale of, a controlled substance, are subject to seizure, as detailed in Section 47(a)(5):

All moneys, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in

violation of this chapter, all proceeds traceable to such an exchange, including real estate and any other thing of value, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of any provision of section thirty-two, thirty-two-A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F, thirty-two G, thirty-two I, thirty-two J, or forty.

When funds are seized from a defendant, WCDA or the local police department holds the funds in escrow. Seized funds deposited with WCDA are placed in a separate interest-bearing bank account until the civil forfeiture process is completed. Chapter 94C, Section 47(d) also requires that any court-ordered forfeiture of the seized funds be distributed equally between the District Attorney and the law enforcement agency responsible for the seizure. The Office of the State Treasurer is required to establish a separate law enforcement trust fund for each District Attorney for all forfeited funds, to be used as follows:

All such monies and proceeds received by any prosecuting district attorney or attorney general shall be deposited in such a trust fund and shall then be expended without further appropriation to defray the costs of protracted investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants, or such other law enforcement purposes as the district attorney or attorney general deems appropriate. The district attorney or attorney general may expend up to ten percent of the monies and proceeds for drug rehabilitation, drug education and other anti-drug or neighborhood crime watch programs which further law enforcement purposes.

During our audit, we reviewed the internal controls WCDA had established over the receipt, expenditure, and reporting of the forfeited funds and found that improvements were needed in several areas, as discussed in sections (a) through (c), below.

a. Reconciliation of Confiscated and Forfeited Funds

When WCDA seizes funds as part of an investigation, the funds are deemed confiscated and held in escrow either by WCDA or the local or state police departments. WCDA deposits confiscated funds in an interest-bearing trust account, pending a hearing, to determine whether the funds are to be deemed forfeited. According to WCDA records, since 1988 approximately \$90,000 in interest has accumulated in the confiscated funds account. WCDA has left the interest in the confiscated funds account because it is unclear from Chapter 94C of the General Laws whether WCDA can subsequently spend the earned interest.

WCDA's fiscal unit enters information into a database that lists the amount of funds confiscated, the date seized, the police department, and the defendant's name. The fiscal unit

is responsible for tracking the forfeited fund money received and due from outside police departments. The fiscal unit database includes all cases in which confiscated and forfeited funds were received by WCDA. However, it does not record cases in which confiscated funds are held by outside police departments. The fiscal unit maintains a separate manual file of court orders for cases in which police departments are holding the confiscated funds that have been deemed forfeited. Each month the fiscal unit reconciles the balance in the confiscated funds bank account with its database. We reviewed the reconciliations for the 15 months of our audit period and found an average confiscated funds bank account balance of \$1,927,884 and monthly variances ranging from \$8,968 to \$346,448. According to the fiscal unit, the variances represent cases in the database in which funds were deemed forfeited and moved to the forfeited funds bank account. However, the database was not updated accordingly. To allow for reconciliation and ensure accuracy, the fiscal unit must maintain the database and update case information.

WCDA's drug unit has a similar case management database that tracks all criminal cases in which there may be potential forfeited funds, regardless of whether the funds are held in escrow by WCDA or the local police departments. WCDA drug unit is responsible for tracking the case activity, not the forfeited fund money. The drug unit's database tracks case information, including the amount of seized funds held in escrow by WCDA or local police departments, the date the funds were seized, the defendant's name, and the disposition of the case (if the seized funds were forfeited or returned to the defendant). The Assistant District Attorney, who manages the drug unit's database, also tracks all criminal cases where forfeiture is requested. For funds deemed forfeited, the Assistant District Attorney sends the fiscal unit a copy of the judge's order of forfeiture. The fiscal unit can then move the money from escrow in the confiscated trust fund to the forfeited funds account. For funds held by an outside police department, the Assistant District Attorney sends to both the outside police department and the fiscal unit a copy of the forfeiture notice with a request that the outside police department remit WCDA's share of the funds.

The fiscal unit and the drug unit are unable to reconcile their databases because the drug unit's database includes all cases, regardless of whether WCDA is holding confiscated funds, whereas the fiscal unit database only has cases in which WCDA is holding confiscated or

forfeited funds. Additionally, the drug unit's database is unable to generate a report of all cases in which confiscated or forfeited funds are held by outside police departments. We traced 51 cases involving a total of \$74,918 of forfeited funds from the drug unit's database to the fiscal unit's database and found 11 instances totaling \$12,947 in forfeited funds in which the outside police departments did not remit the funds to WCDA until 127 to 565 days after the drug unit closed the case. Of these 51 cases, we also found six instances in which the fiscal unit was not notified it was owed forfeited funds (totaling \$5,007 for all six instances) from an outside police department because it did not receive the judge's order of forfeiture. In those cases, the fiscal unit would only learn of these funds if the outside police department remitted them. Our review of the fiscal unit's manual file of forfeiture orders for cases in which funds are held by outside police departments found 81 instances totaling \$33,898 where the outside police departments have not remitted funds to WCDA dating back to 1988. Without a reconciliation process between the drug and fiscal units, outside police departments may indefinitely hold forfeited funds that should be remitted to WCDA.

b. Documentation of Uses of Forfeited Funds

When funds are deemed forfeited, the District Attorney may spend those funds in accordance with the previously cited Chapter 94C, Section 47(d). WCDA's financial records show that during our 15-month audit period, it received \$799,490 and expended \$902,592 from its forfeited funds account. WCDA uses forfeited funds to supplement its operating budget to fund investigations and renditions, state police overtime, expert witness fees, conference expenses, outside attorney and office expenses, reference materials, and vehicle and telephone expenses. We also noted expenditures for organizations and community activities sponsored by WCDA totaling \$205,164 for the audit period, as detailed in the following table:

Description of Organization and Community Activity Expenses	Total
Youth sports programs and scholarships	\$ 68,323
Donations to churches, parks, schools, and organizations	67,710
Supplies and equipment	26,701
Uniforms, trophies, and sporting goods	16,287
Tree services	15,200
Educational programs	7,500
Food	<u>3,443</u>
Total	<u>\$205,164</u>

We determined that a large portion of the community activity expenditures relate to youth sports programs; scholarships; and donations to churches, parks, schools, and other organizations. These expenditures were initiated by letters from different organizations soliciting donations, including one that resulted in WCDA providing \$22,020 to the Main South Community Development Corporation. That donation funded repairs to various basketball courts for a summer basketball league for at-risk youth sponsored by the Worcester Police Community Program. Funds were also used for WCDA's diversion program, which was established for first-time offenders ages 17 to 22, who must have committed minor offenses, completed eight hours of community service, and have paid court costs. Many of the community service programs are at local schools and parks.

Currently, WCDA does not have a written policy or procedure governing the expenditure and allocation of forfeited funds. Entities simply request donations from WCDA via letters that are approved by WCDA prior to the issuance of any checks. In comparison, we reviewed the websites of two other District Attorney's Offices and found that they also allocated forfeited funds to local communities and non-profit agencies. However, these other District Attorney's Offices have a more formalized process for supporting local initiatives. Specifically, the Suffolk and Middlesex District Attorney's Offices have a grant application process for awarding these funds. Those offices annually award grants and donations to organizations in their county that support the crime prevention goals of the District Attorney.

During our review of WCDA's community program expenditures, we found that 30 approved expenditures totaling \$56,196 lacked adequate supporting documentation (e.g., the nature of the expense, who received the item or service, the law enforcement purpose). For example, we found that WCDA purchased a small 50-gallon ice resurfacing machine (Zamboni) costing \$985. There was an invoice for the purchase, which was for WCDA's diversion program, but we could not determine where this machine is located or the law-enforcement purpose it serves. We discussed this item with the District Attorney, who stated that the resurfacing machine was purchased for use at the city of Worcester's skating rinks, and members of the diversion program were assigned to work at the skating rinks. We also found \$368 in rental fees for chain saws and lawn equipment with no supporting documentation that identified the law-enforcement use of these items and \$1,428 in food donations to two nonprofit organizations with no documentation to substantiate the reason for these donations. The District Attorney explained that a local Boys and Girls Club received a grant for a summer program but the grant did not cover food items. Additionally, a vendor was paid for tree-trimming services totaling \$15,200. The documentation supporting the provision of these services consisted of estimates that appeared to identify work planned for local schools or at a non-profit community center. However, there were no invoices indicating that the work was completed. The District Attorney stated that the tree-trimming expenditure was necessary to repair trees damaged in an ice storm. Also, regarding this expenditure, the Chief Financial Officer (CFO) stated that she did not believe that WCDA provided an Internal Revenue Service (IRS) Form 1099-MISC to the tree-trimming vendor at the close of the calendar year. Any vendor that is not an incorporated business and is paid over \$600 during a calendar year should receive an IRS Form 1099-MISC that details the name of the contractor, federal reporting number, and amount paid.

We also found that WCDA paid \$23,733 to refurbish a private non-profit community center's tennis and basketball courts. In its request for assistance, the non-profit agency stated that the tennis and basketball courts would be used to support summer programs for local youth. However, although the community center provides services to many children and adults in the local community, the request did not detail how many at-risk children would benefit from the renovations. Although this expenditure had adequate documentation and proper authorization, the law-enforcement purpose for this expense was unclear. The

District Attorney stated that this expenditure exemplified a public/private partnership that supported a summer youth program for children.

c. Reporting on the Use of Forfeited Funds

WCDA deposits funds that have been deemed forfeited in an account which is automatically electronically transferred to the Office of the State Treasurer. The funds are then processed through the Massachusetts Management Accounting and Reporting System (MMARS) and become part of WCDA's appropriation, available for expenditure. Chapter 29, Section 23, of the General Laws authorizes departmental advances, primarily used for emergency payroll accounts and other emergency needs, subject to rules and regulations determined by the OSC. WCDA draws advances from its appropriation that are then deposited into a local bank account, which allows WCDA to write checks to fund its expenditures rather than process the payments through MMARS. Under the OSC's Advance Management Policy issued on July 1, 2004 and revised on November 1, 2006, expenditures of advances must be reported in MMARS at least monthly. Our audit found that the CFO only reported expenditure of advances during three months of our audit period. By not reporting monthly, the appropriation information on MMARS does not accurately or timely report all forfeited fund expenditures during the fiscal year, WCDA's advance funds expenditure process lacks transparency, and there is no assurance that these funds are expended for their intended purposes.

Recommendation

WCDA should strengthen its internal control systems relating to the reconciliation, documentation, and reporting of forfeited funds, as follows:

Reconciliation of Forfeited Funds:

- WCDA should contact the OSC and request its assistance in determining whether it can retain and spend the interest earned on confiscated funds. In this regard, the OSA has contacted the OSC who is going to be working with District Attorneys, the Attorney General and the OSA in developing policies around this issue.
- WCDA should establish a documented reconciliation process for the confiscated and forfeited funds database. The fiscal unit should review the database to determine that all case information is correct and that all cases in which the funds have been deemed forfeited by a judge are accurately reflected within the database.

- WCDA should establish a reconciliation process that will assure that the fiscal unit is receiving all of the judge's forfeiture orders. Also, it should update the current process for tracking all forfeited funds owed to WCDA that are being held by the local police departments.

Documentation of Uses of Forfeited Funds:

- WCDA should establish and/or update its policies and procedures related to expenditures, including uses of forfeited funds and methods for allocating those funds. Specifically, the expenditure policies and procedures should require that all supporting documentation include the nature of the expenditure, what program it relates to, and documentation that all items or services were received.

Reporting on the Use of Forfeited Funds:

- WCDA should comply with the OSC's advance management policy and report the expenditure of forfeited funds at least monthly. In addition, WCDA should ensure that any vendor that is not an incorporated business and is paid over \$600 during a calendar year receives an IRS Form 1099-MISC in accordance with IRS guidelines.

Auditee's Response

WCDA will attempt to strengthen its internal control systems relating to the reconciliation of forfeited funds held by outside police departments and those funds held by the District Attorney's Office.

WCDA will contact the Office of the State Comptroller and request its assistance in determining whether it can retain and spend the interest earned on confiscated funds.

WCDA who had been reporting required information regarding the use of monies on the trust fund to the Massachusetts District Attorney's Association (MDAA), will now also report that information annually to the House and Senate Committees on Ways and Means.

WCDA has implemented its reconciliation process for the confiscated funds database. The fiscal unit will continue to review the database to determine that all case information is correct and that all cases in which the funds have been deemed forfeited by a judge are accurately reflected within the database.

WCDA has established a process that will assure that the fiscal unit is receiving all of the court forfeiture orders. It has established a process for tracking all forfeited funds owed to WCDA that are being held by the local police departments.

WCDA has established a process that utilizes a committee to review requests for forfeited funds by community groups seeking crime prevention grants. This committee, after review of an application for funds and supporting documentation, forwards approved applications for the District Attorney's approval/denial. Documentation for all items and services received will be required.

WCDA is aware of the reporting of advances in a timely fashion. The fiscal unit monitors if the check has cleared and that it has received documentation of the expenditure.

3. EQUIPMENT INVENTORY ACCOUNTING AND REPORTING NEEDS IMPROVEMENT

Our audit found that WCDA was not fully compliant with OSC regulations regarding the accounting and full reporting of non-Generally Accepted Accounting Principles (GAAP) fixed assets, equipment, and other inventory. Our audit disclosed that although WCDA maintained a listing of its non-GAAP fixed assets inventory, the listing did not contain all the required information for WCDA to fully comply with OSC regulations. Specifically, WCDA did not record the purchase dates or prices of inventory items before moving them to new offices.

Non-GAAP fixed assets are defined as singular assets and include such items as vehicles, equipment, furniture, electronic devices, computer software, and all electrical computer components with a useful life in excess of one year, and with an original cost of between \$1,000 and \$49,999.

The OSC Fixed Asset Acquisition Policy issued July 1, 2004 and revised November 1, 2006 states that:

Non-GAAP Fixed Assets must be recorded in a Department's inventory and reconciled at least annually. This inventory can be either electronic or on paper, as long as it records the date of purchase, amount, description, location, and disposition of an item.

WCDA's inventory policy does state that the fiscal unit and information technology (IT) department will maintain an inventory list. However, it does not indicate what information should be included to describe each item. Additionally, the policy does not state a minimum purchase price for items to be included on the inventory list. Our audit disclosed that WCDA maintains two separate listings of non-GAAP fixed asset inventory. One list maintained by the fiscal unit contains furnishings and equipment such as desks, chairs, file cabinets, and book cases. The other list contains IT items such as computers, printers, fax machines, and photocopy machines.

Our review of these two inventory lists revealed that the furnishings and equipment list is maintained electronically in Microsoft Word and includes inventory control numbers, item descriptions, and locations for all items listed. However, only some of the items listed include amounts and purchase dates. We found that, of the 1,078 items on the fiscal unit's inventory list,

769 items (71%) did not have a purchase price, and 759 items (70%) did not have a purchase date. The IT department maintained the IT inventory list electronically in Microsoft Access and included addresses, locations, cube/room numbers, users, serial numbers, inventory identification tag numbers, and equipment descriptions. However, of the 821 items on the IT inventory list, none included a corresponding purchase price or date. Therefore, neither of these inventory listings adequately provides management with a sound and reliable mechanism to control and monitor non-GAAP fixed assets. Further, these inventory listings do not provide a basis for valuation of the total inventory for replacement and disposal purposes as equipment becomes obsolete and unusable. As a result of these conditions, WCDA did not effectively control its assets in compliance with OSC regulations.

We contacted the OSC to ask its recommendation to resolve this problem, since many of the items appear to have been purchased many years ago and the purchase information may no longer be available. A representative of the OSC suggested that if WCDA cannot identify earlier purchase prices and dates, then a possible approach would be to assess a fair market value of the inventory, valued at \$1,000 or more, through the Internet.

Recommendation

To properly control and maintain its non-GAAP fixed asset inventory and ensure compliance with OSC regulations, WCDA should:

- Use the OSC's Internal Control Guide and Fixed Asset Acquisition Policy as a reference to update its policies.
- Update its inventory policy to establish a minimum purchase price for items to be included on the inventory list.
- Update the master listing to include the historical cost and purchase date of each item if the purchase information is available. If the information is not available, WCDA should assess a fair market value to the item using the Internet or some valuation source.

Auditee's Response

In conjunction with the Office of the State Comptroller's Internal Control Guide and Fixed Asset Acquisition Policy as a reference, WCDA will establish a minimum purchase price for items that will be included on the inventory list. The inventory list will continue to contain historical cost and purchase date.

4. IMPROVEMENTS NEEDED IN DOCUMENTING FRINGE BENEFITS

We reviewed WCDA's gasoline credit card purchases and found that it had provided gasoline credit cards to two employees to pay for both their personal (commuting) and business travel. The District Attorney stated that the employees were given gasoline credit cards because they are required to travel to various courthouses as part of their job responsibilities. However, WCDA does not have a policy that requires its employees to document their business and personal mileage when using an agency gasoline credit card. Consequently, we could not determine how much of the gasoline purchased by these two individuals was used for business or personal mileage. During our audit period, these employees purchased \$1,482 in gasoline for their personal vehicles. According to IRS guidance any personal travel such as commuting mileage paid for by WCDA constitutes a taxable fringe benefit. Further, IRS Publication 15-B, the Employer's Tax Guide to Fringe Benefits, states in part:

Any fringe benefit you [the employer] provide is taxable and must be included in the recipient's pay unless the law specifically excludes it.

However, during our audit period, WCDA did not include this fringe benefit on the employees' IRS W-2 forms.

We also found that the District Attorney and the Senior First Assistant District Attorney are provided leased vehicles to drive in conjunction with their duties. Employees who are provided a vehicle as a fringe benefit must claim any personal use of the vehicle as a taxable benefit on their IRS W-2 forms. The Commonwealth's Office of Vehicle Management (OVM) provided instructions on how to calculate the taxable benefit or the value of the leased vehicle: determine the number of daily commutes to and from work and multiply by \$1.50. The CFO reported the value of the commuting trips on the employees' IRS W-2 Forms. However, we reviewed the method used to calculate this benefit and found that the method recommended by OVM was not appropriate for the District Attorney. Based on the "commuting rule," the CFO calculated the District Attorney's taxable income of the fringe benefit as \$675, which was included in his W-2 form for 2010 and 2011. However, in accordance with 26 Code of Federal Regulations Section 1.61-21 (f)(6)(i), because the District Attorney is an elected official, the "commuting rule" cannot be used to calculate the value of the benefit. Accordingly, WCDA should use an alternate IRS method such as the "lease value rule" to calculate the taxable portion of the District Attorney's fringe benefit.

The CFO also reported the Senior First Assistant District Attorney's vehicle fringe benefit using the "commuting rule." However, that rule requires that WCDA have a written policy prohibiting the use of the vehicle for personal purposes other than for commuting or de minimis use. Since it does not have a written policy prohibiting the personal use of a vehicle, WCDA should have calculated the Senior First Assistant District Attorney's taxable fringe benefit using an alternative IRS method.

Recommendation

WCDA should establish a written policy for all fringe benefits including the use of gasoline credit cards and leased vehicles. The policy should require that all employees document personal and business miles. WCDA should review IRS regulations to determine the correct method to value the leased vehicles. Employee W-2 forms should correctly document the value of all fringe benefits.

Auditee's Response

WCDA will establish a written policy for all fringe benefits including the use of gasoline credit cards and leased vehicles pursuant to IRS Publication 15-B. They are currently utilized by the District Attorney and the Senior First Assistant District Attorney. WCDA has reviewed IRS Publication 15-B with its accountant, and has determined that the lease value rule applies to the District Attorney and the commuting rule still applies to the Senior First Assistant District Attorney.

Auditor's Reply

As noted in our report, the "commuting rule" cannot apply to the Senior First Assistant District Attorney until WCDA has established a written policy prohibiting the personal use of its leased vehicles.