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**INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
DEPARTMENT OF EARLY EDUCATION AND
CARE
JULY 1, 2007 TO JUNE 30, 2008**

**OFFICIAL AUDIT
REPORT
APRIL 7, 2009**

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The Department of Early Education and Care (EEC), established by Chapter 15D of the Massachusetts General Laws, is responsible for the licensing of early education and care programs, and for providing financial assistance for child care services to low-income families, providing information and referral services, providing parenting support for families, and providing professional development opportunities for staff in the early education and care field. These services are administered through five regional offices. During fiscal year 2008, EEC administered approximately \$554 million, of which federal funds totaled approximately \$328 million.

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of EEC in conjunction with the Single Audit of the Commonwealth of Massachusetts for the fiscal year ended June 30, 2008.

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During fiscal year 2008, EEC implemented numerous improvements and controls to ensure compliance with federal subrecipient monitoring requirements. For example, EEC restructured its fiscal monitoring unit; hired an experienced audit professional as its Director of Audit Resolution; increased the number of fiscal monitoring staff from one to four; developed a comprehensive system of internal controls to ensure compliance with all monitoring and reporting requirements for the thirteen Child Care Resource and Referral Agencies (CCR&R) as well as for the approximately 240 contracted service providers. EEC also developed new procedures detailed in the EEC Fiscal Monitoring Guide for Purchased Services and Grants; developed and implemented a fiscal monitoring database that stores electronic files for each of the Department's contracted service providers and CCR&R's; developed a site visit schedule; conducted site visits, and finally, developed additional Uniform Financial Reporting (UFR) database queries to identify providers that are required to have A-133 audits, review results to identify any reportable issues disclosed in these audits, and access corrective action plans submitted to address reportable conditions. In response to the audit report, EEC indicated that with the federally mandated Improper Authorization for Payment initiative, it had another direct opportunity, along with all its other enhancements, to monitor its subrecipients' eligibility determinations.

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During our follow-up review, we determined that EEC developed and maintained a detailed accounts receivable tracking and reporting system, and updated its Internal Control Plan to include a detailed procedure for maturing, monitoring and reconciling accounts receivable. However, EEC needs to continue to work with the Office of the State Comptroller (OSC) and the Administration for Children and Families to establish procedures and/or mechanisms to either reallocate recouped funds back to EEC's

federal awards where appropriate, or to reimburse the federal government, where necessary. In response to the audit report, EEC indicated that it was currently working in conjunction with the OSC to resolve the matter to ensure that all disallowed subrecipient funds are either re-obligated or returned to the federal government.

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Our prior audit of EEC identified four instances in which competitive bids for child care services did not take place in a timely manner. According to records maintained by EEC, four Request for Responses (RFR) were originally issued during the period 1998 through 2001. Under state procurement regulations, EEC was required to perform a new procurement for the four federally funded child care programs once the contracts and extensions expired on June 30, 2005. Although EEC responded that a procurement management team had been formed to reprocur child care services and expected to bring the new RFR criteria to its board for a vote in early 2008 and release the RFR shortly thereafter, with awards expected in the summer of 2008, work on the procurement of income eligible child care services did not start in earnest until July 2008. In its response to the audit report, EEC stated that it has made significant progress in organizing a competitive bid for the Income Eligible Financial Assistance contract program which should be posted on the Commonwealth's website (COMM-PASS) within a short period of time. Upon completion of the procurement process for this contract, the Procurement Management Team (PMT) will follow a similar workplan to put the remaining contracts out to bid with final award being made in 2011.

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INTRODUCTION

Background

The Department of Early Education and Care (EEC), established by Chapter 15D, Section 2, of the Massachusetts General Laws, serves as the lead state education agency for the administration of public and private early education and care programs and services under federal laws. EEC's mission is to ensure that Massachusetts children and families are helped to reach their full potential by providing and coordinating a range of services and assistance to continuously improve the quality, affordability, and accessibility of early education and care. EEC is responsible for seeking, applying for, and encouraging the use of federal funds for early education and care services, and facilitates the coordination of federal, state, and local policies concerning early education and care. EEC is governed by a nine-member board, which sets policies and establishes regulations related to early education and care programs and services.

The creation of EEC has unified the early education and care funding streams that were formerly administered by its two predecessor agencies, the Office of Child Care Services (OCCS) and the Early Learning Services Division (ELS). As a result, EEC is now responsible for administering Child Care and Development Fund (CCDF) funds, Temporary Assistance for Needy Families (TANF) transfer funds, and state funding and administrative responsibility for Head Start, which were formerly administered by OCCS, as well as state funds for services for families with preschool-aged children and federal special education funds, which were formerly administered by ELS. EEC's responsibility for all of these funding streams allows for greater coordination with and more efficient use of CCDF funding.

EEC is responsible for the licensing of early education and care services, and issues licenses through its five regional offices (Quincy, Salem, Worcester, Taunton, and Springfield) to providers throughout the Commonwealth. In addition, EEC provides financial information and referral services, parenting support to families, and professional development opportunities for employees in the early education and child care field of work.

In fiscal year 2008, EEC administered approximately \$554 million, of which approximately \$328 million represented federal funds. During state fiscal year 2008, the Department received more than \$194 million of Child Care Development Fund grant funds. The EEC, acting as the pass-through

entity disbursed a majority of these federal funds to contracted child care providers and Child Care Resource and Referral Agencies (CCR&R) (subrecipients) for early education and child care services. We noted that the Department had contracts with approximately 240 child care providers and 13 CCR&R's. In addition, the Department received approximately \$234 million in a suballocation from the Department of Transitional Assistance, \$136 million to be used by the CCR&R's to provide daycare services to eligible families in the Temporary Assistance for Needy Families (TANF) program.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of EEC for the period July 1, 2007 to June 30, 2008. We conducted our audit in conjunction with the Single Audit of the Commonwealth of Massachusetts for the fiscal year ended June 30, 2008. The Commonwealth's Fiscal Year 2008 Single Audit Report consists of the following volumes:

- Statutory Basis Financial Report
- Comprehensive Annual Financial Report
- [Office of Budget and Management] OMB Circular A-133 Report

The audit results contained in this report are also reported in the Fiscal Year 2008 Single Audit of the Commonwealth of Massachusetts, OMB Circular A-133 report as mentioned above. Our review was conducted in accordance with applicable generally accepted government auditing standards and standards set forth in OMB Circular A-133 and the American Institute of Certified Public Accountants' (AICPA) Audit and Accounting Guide, Audits of State and Local Governments. Additionally, our audit evaluated EEC's compliance with Office of the State Comptroller (OSC) policies and procedures; Massachusetts General Laws; and other applicable laws, rules, and regulations.

In performing our audit of EEC's activities, we referred to OMB Circular A-133, and the March 2008 Compliance Supplement to determine the compliance requirements that must be considered in an audit conducted under OMB Circular A-133. Based upon our audit, we determined requirements applicable to the Child Care Mandatory and Matching Funds of Child Care Development Funds and

Child Care Development Block Grant (Discretionary) programs, and designed appropriate tests to determine EEC's compliance with these requirements.

Specifically, our objectives were to:

- Assess the internal controls in place at EEC during the review period.
- Assess and evaluate the program for compliance with the requirements of the Compliance Supplement, the Federal Department of Health and Human Services, and the OSC.
- Determine the status of prior audit results.

The criteria for our audit were drawn from OMB Circular A-133 and the March 2008 Compliance Supplement, the Code of Federal Regulations, and the OSC's Internal Control Guide. Those criteria dealt with EEC administration and operation of the programs tested above for compliance with laws and regulations governing:

Activities Allowed or Unallowed
Allowable Costs/Cost Principles
Cash Management
Davis-Bacon Act
Eligibility
Equipment and Real Property Management
Matching, Level of Effort, Earmarking
Period of Availability of Federal Funds
Procurement, Suspension and Debarment
Program Income
Reporting
Real Property Acquisition and Relocation Assistance
Subrecipient Monitoring
Special Tests and Provisions

We examined, on a test basis, evidence about EEC's compliance with the applicable requirements and performed other procedures as we considered necessary. Based on these tests, we have concluded that, except as reported in the Audit Results section of this report, EEC had adequate internal controls in place and complied with the requirements of the Federal Department of Health and Human Services, the OMB Circular A-133 and the Compliance Supplement, and other applicable laws, rules, and regulations for the areas tested.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS RESOLVED – MONITORING OF SUBRECIPIENTS

Our prior audit report disclosed that the Department of Early Education and Care (EEC) needed to improve its monitoring of subrecipients to ensure that federal funds are spent in accordance with contract requirements.

All Child Care Resource and Referral agencies (CCR&Rs) and contracted service providers assist families in determining their income eligibility for early education and care financial assistance. To maintain uniformity when determining income eligibility, CCR&Rs and contracted service providers are required to use statewide eligibility criteria established by EEC. To ensure that Child Care Development Fund (CCDF) funds are disbursed only for eligible early education and care services, consistent with program requirements, it is essential that the initial eligibility determinations and required periodic redeterminations be conducted according to the established EEC criteria. Although EEC makes no income eligibility determinations for CCDF funded early education and child care services, as the pass-through entity, they maintain direct accountability for the appropriate use of the funds. It is therefore necessary that EEC maintain appropriate oversight of its subrecipients to ensure, among other things, that eligibility determinations and redeterminations are properly conducted.

Office of Management and Budget (OMB) Circular A-133, Subpart D, states in part, that the pass-through entity shall perform the following for the federal awards it makes:

Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

Additionally, 31 USC Chapter 75 - Requirements for Single Audits, states, in part:

(2) Each pass-through entity shall -

(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as

defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

Our audit identified a number of issues relating to EEC's subrecipient monitoring process. Specifically, EEC:

- a. Suspended on-site monitoring of providers and CCR&Rs during state fiscal year 2007.
- b. Did not follow-up on certain provider findings involving potential ineligible costs.
- c. Did not conduct financial reviews or follow-up on A-133 audit findings. Pass-through entities must ensure that subrecipients take appropriate and timely corrective action to address A-133 audit findings.

a. On-Site Monitoring Program

In January 2007 EEC's Associate Commissioner for Purchased Services suspended all scheduled on-site monitoring activity. The on-site monitoring was conducted by contract monitoring coordinators (CMC's) within the EEC Purchased Service Department (PSD). Further, no on-site visits were conducted at any of the 13 CCR&Rs during state fiscal year 2007. The postponement of on-site monitoring of EEC subrecipients is of consequence because EEC on-site (contracted care provider) visits, in the past, have been very effective at identifying questionable costs.

Our follow-up review disclosed that the EEC has implemented numerous improvements and controls to ensure compliance with federal subrecipient monitoring requirements. For example, as of October 2007, EEC restructured its fiscal monitoring unit and hired an experienced audit professional as EEC's Director of Audit Resolution (DAR). In addition, since the audit, EEC has increased the number of CMC's, now known as Fiscal Monitoring Staff (FMS), from one to four.

The DAR and his staff have developed a comprehensive system of internal controls to ensure compliance with all mandated monitoring and reporting requirements for the 13 CCR&R's as well as for the approximately 240 contracted service providers. The EEC has developed new procedures detailed in the EEC *Fiscal Monitoring Guide for Purchased Services and Grants*, which

specifically address prior audit concerns regarding timeframes for on-site monitoring and follow-up, eligibility, financial review and recoupment. The EEC has also developed and implemented a Fiscal Monitoring database that stores electronic files for each of the Department's contracted service providers and CCR&R's. Each electronic file stores all Departmental communications, annual risk assessments, site visits, site visit reports, corrective action plans, etc., specific to that provider.

The *Fiscal Monitoring Guide for Purchased Services and Grants* became operational in April of 2008 and site visits resumed in May of 2008. The EEC determined that the highest priority for on-site reviews would be the 13 CCR&R's due to funding levels. CCR&R's account for \$265,070,988 of EEC's total budget of \$540,522,420, or 49%. The two largest CCR&R's were visited first, because they process approximately \$110,799,811 or 43% of the total annual voucher funding for the EEC, and their voucher management contract billings totaling \$4,257,215 represents 35% of the voucher management contract funding. These site visits were completed prior to June 30, 2008.

A site visit schedule was developed to complete all CCR&R site visits by mid-November 2008. According to the DAR, the primary focus on these on-site visits is to perform testing of client files to verify that the clients were eligible to receive the services as billed, and that the eligibility was determined in compliance with both state and federal laws, regulations, and contractual agreements. Additional transaction testing was performed at the CCR&R's for the expenses billed under the voucher management contract to ensure that the expenditure of funds was documented, reasonable, allowable, and allocable under the terms of these cost reimbursement contracts.

In addition to the two CCR&R visits conducted during the audit period, one provider site visit was also performed due to identified compliance issues concerning licensing. This site visit was completed prior to June 30, 2008.

Additional site visits (four CCR&R's totaling \$32,231,650 in voucher funding and one contract provider, payments totaling approximately \$430,000) were completed between July 1, 2008 and September 30, 2008. The provider site visit was performed as a result of potential billing

irregularities identified in a new database application developed within the EEC's electronic billing systems.

b. Follow-Up on Findings Identified

Our prior audit review of on-site visits identified five instances with no record of EEC follow-up for provider findings. This occurred due to one or more of the following: 1) untimely follow-up on the part of the responsible CMC; 2) submitted provider corrective action plans and other correspondence may have been misplaced after the responsible CMC resigned from the EEC in May 2007; or 3) records may have been misplaced during the subsequent relocation of the regional office that the CMC was assigned to.

As result of not following up on these five provider reviews, the EEC had no way of knowing whether the provider initiated corrective actions on noted deficiencies or noncompliance issues, and whether ineligible costs existed and reimbursement was due.

Our follow-up found that the DAR and FMS conducted follow-up reviews of these providers. These reviews identified that Corrective Action Plans (CAP's) were submitted and all issues regarding potential ineligible costs were resolved.

Additionally, the prior audit identified a provider with potential ineligible costs totaling \$19,796 in fiscal year 2007 due to clients that were determined to be ineligible to receive services, but services were never terminated. EEC senior administrative and program staff met with the management of this provider to address financial and managerial issues. As a result, this provider has addressed EEC's concerns by developing an implementing an approved CAP. Finally, the provider is currently on a repayment plan, its payments are current and include the \$19,796 identified during the prior audit.

c. Financial Reviews or Follow-up Reviews on the Office of Management and Budget (OMB) Circular A-133 Audit Findings

In addition to assessing an entity's financial strength, another objective of the financial review is to verify that the entity has submitted an OMB Circular A-133 Single Audit (A-133 audit) Report to the Operational Services Division (OSD). The A-133 audit reports are required to be filed with OSD. The A-133 audit is an audit of an entities financial statements, internal controls, and compliance to applicable federal laws, regulations, and the provisions of contracts or grant

agreements. If an entity spends more than \$500,000 in federal funds in a fiscal year, it is required to have an A-133 audit conducted by an independent auditor for that fiscal year. If required, A-133 audit reports are submitted, and available for EEC review, on the OSD website.

OMB Circular A-133, Part 3, Section M – Subrecipient Monitoring Compliance Requirements, states:

A pass-through entity is responsible for -

Subrecipient Audits – (1) Ensuring that subrecipients expending \$500,000 or more in Federal awards during the subrecipient's fiscal year for fiscal years ending after December 31, 2003 (or \$300,000 prior to that date) as provided in OMB Circular A-133 have met the audit requirements of OMB Circular A-133... and that the required audits are completed within 9 months of the end of the subrecipient's audit period; (2) issuing a management decision on audit findings within 6 months after receipt of the subrecipient's audit report; and (3) ensuring that the subrecipient takes timely and appropriate corrective action on all audit findings. In cases of continued inability or unwillingness of a subrecipient to have the required audits, the pass-through entity shall take appropriate action using sanctions.

Our follow-up review disclosed that the EEC has developed a Fiscal Monitoring Guide for Purchased Services and Grants that includes detailed procedures for conducting financial reviews and follow-up on A-133 audit findings. The Fiscal Monitoring Guide for Purchased Services and Grants, and the EEC Internal Control Plan, Section 19, define procedures for FMS to conduct Provider Risk Assessment and Analysis Reviews (PRAAR).

The PRAAR is a desk review of risk analysis that has many components which include but is not limited to; an analysis of financial information derived from data extracted from the OSD database, the EEC Child Care Information Systems (CCIMS and eCCIMS), Independent Public Accountant audit reports, A-133 audit reports and associated audit results (if applicable), notes to the financial statements, and known issues from other EEC units (i.e., Licensing, Accounting, and Legal). Per the EEC Fiscal Monitoring Guide for Purchased Services and Grants, the PRAAR is conducted once a year based on the Contract Providers/Grantees fiscal year.

To facilitate the financial review process, EEC engaged the OSD and was granted permanent “live-connection” access to the OSD Uniform Financial Report (UFR) database. EEC’s contracted social service providers and CCR&R’s receiving over \$100,000 in state funding are required to annually submit a UFR prepared by an independent public accountant detailing their financial activity for the prior fiscal year. In fiscal year 2008, the EEC developed and

implemented a financial reporting system and to extract provider financial data from the OSD UFR database. The financial reporting system allows the EEC to review the current financial condition of contracted providers and CCR&Rs in a standardized format, and perform vendor comparative analysis for the most current 5-year reporting period to determine provider stability. This analysis is used in performing annual contract service provider risk assessments.

The EEC has developed additional UFR database queries designed to identify providers that are required to have A-133 audits, review results to identify any reportable issues disclosed in these audits, and access CAP's submitted to address reportable conditions. OSD forwards, via e-mail all CAP's to the EEC Fiscal Monitoring Unit where they are entered into the fiscal monitoring database. FMS will then follow-up on A-133 CAP's to ensure that the appropriate corrective actions were developed and implemented to address areas of noncompliance. All provider CAP's submitted for fiscal year 2007 have been identified, reviewed, entered into the fiscal monitoring database and prioritized for risk assessment and review.

Recommendation

EEC should continue its sub-recipient monitoring responsibilities to ensure that federal and state funds are used only for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements.

Auditee's Response

We are ... pleased to report that EEC has another direct opportunity to monitor eligibility determinations performed by sub-recipients through the federally mandated Improper Authorization for Payment initiative. On September 5, 2007, the Administration for Children and Families (ACF), the agency that oversees the Child Care Bureau (CCB), issued a final rule to revise the Child Care Development Fund (CCDF) regulations to require states to measure and report on error rates in their expenditure of CCDF funding. The new regulations focus on the measurement and reporting of errors made in eligibility determinations and payment authorizations because ACF believes that improper authorizations are the source for many improper payments. Given that eligibility and authorization are the first steps in the child care subsidy process, errors made in these two steps are likely to affect the administration of the entire subsidy program. As such, the methodology for measuring improper payments outlined in the new regulations focuses on eligibility determinations and requires states to review a sample of their child care subsidy case records for the preceding federal fiscal year (October 1st to September 30th) in order to determine whether these subsidies were properly authorized.

The regulations establish a three-year rotational cycle for the reporting of improper payments, with the first group of states required to complete their case reviews and submit their reports to ACF by June 30, 2008. States in the first reporting group will

examine errors during federal fiscal year 2007. Massachusetts is included in the second reporting cycle and, therefore, will be reviewing errors during federal fiscal year 2008 (October 1, 2007 – September 30, 2008). Although Massachusetts has until June 30, 2009 to complete its case reviews and submit its error rate report to ACF, we have already completed many phases of the reporting process and have submitted certain deliverables to ACF since October 2008.

2. PRIOR AUDIT RESULT PARTIALLY RESOLVED – INTERNAL CONTROL OVER ACCOUNTS RECEIVABLE

Our prior audit report disclosed that the Department of Early Education and Care (EEC), contrary of the Office of the State Comptroller (OSC) requirements, did not utilize the Commonwealth's Billing Accounts Receivable Subsystem (BARS) for its detailed accounts receivable system or have an acceptable independent accounts receivable system. Maintenance of a detailed or approved independent accounts receivable system provides a department with assurance that accounts receivable are accounted for, recorded, reported, monitored, and efficiently and effectively collected, and in compliance with applicable laws, rules, and regulations. Additionally, our review noted that provider recoupments were deposited into the Commonwealth's General Fund with no consideration given that some portion of the recouped funds were likely federal funds. Finally, EEC's Internal Control Plan (ICP) did not reference OSC's basic requirements of an accounts receivable system (such as aging), or the process for making diligent efforts to collect accounts receivable.

The prior audit report recommended that EEC should 1) develop and maintain a detailed accounts receivable tracking and reporting system, 2) update its ICP to include a detailed procedure for maturing, monitoring, and reconciling accounts receivable, and 3) review and document its process for crediting contractor recoupments to ensure the applicable federal or state source is credited.

Our follow up review disclosed that to address its needs for a detailed accounts receivable system, the EEC, with the assistance of the OSC, implemented BARS in June 2008. EEC's Audit Resolution Unit reviewed its on-site monitoring reports, for those audits conducted, and adjusted, where necessary, balances owed to be entered into BARS as accounts receivable. As of June 30, 2008 EEC's accounts receivable balance was \$58,191.

Subsequent to the implementation of BARS, EEC updated its ICP, Section 17, Recoupment of Contractor Funds, to include detailed procedures for maintaining, monitoring and reconciling accounts receivable.

Our review of the EEC's Accounts Receivable System disclosed that due to limitations with BARS, the EEC continues to credit all recoupments to the Commonwealth's General Fund without the ability to re-obligate funds back to EEC's federal awards where appropriate.

Child Care Development Fund (CCDF) regulations allow grantees to re-obligate certain unliquidated or recouped funds within the year the award was made, or within the succeeding fiscal years.

The EEC's Senior Management is currently working with the OSC and the Regional Director of Administration for Children and Families (ACF) U.S. Department of Health and Human Services to ensure that EEC is in full compliance with Federal regulations governing the recording and reporting of CCDF. Specifically, that disallowed sub-recipient amounts can be accurately tracked and recorded as either due back to EEC for re-obligation or due back to the federal government and accordingly credited.

Title of the Code of Federal Regulations (2 CFR), Subtitle A, Chapter II, part 225 – Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87), Appendix A – General Principles for Determining Allowable Costs, states in part:

C. Basic Guidelines. (4) Applicable credits

- a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to federal awards as direct or indirect costs... To the extent that such credits accruing to or received by the government unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.*

Recommendation

EEC should continue to work with the OSC and the ACF to establish procedures and/or mechanisms to either reallocate recouped funds back to EEC's federal awards where appropriate, or to reimburse the federal government, where necessary.

Auditee's Response

EEC had made significant process in addressing this audit finding from Fiscal Year 2007. We developed and maintain a detailed accounts receivable tracking and reporting system (BARS) and have revised our Internal Control Plan to include detailed procedures for maturing, monitoring, and reconciling accounts receivable.

Subsequent to implementation of BARS in June 2008, as detailed in your report, it was determined that limitations inherent in this system preclude EEC from properly crediting disallowed sub-recipient funding to be accurately tracked and recorded as either due back to EEC for re-obligation or due back to the federal government and accordingly credited. EEC is currently working in conjunction with the Office of the State Comptroller (OSC) to resolve this matter to ensure that all disallowed sub-recipient funds are either re-obligated or returned to the federal government.

3. PRIOR AUDIT RESULT UNRESOLVED - NONCOMPLIANCE WITH REQUIRED COMPETITIVE CONTRACT PROCUREMENT

Our prior audit of the Department of Early Education and Care (EEC) identified four instances in which competitive bids for child care services did not take place in a timely manner. According to records maintained by EEC, four Request for Responses (RFR) were originally issued during the period 1998 through 2001. Under state procurement regulations, EEC was required to perform a new procurement for the four federally funded child care programs once the contracts and extensions expired on June 30, 2005. These RFR's, issued by EEC predecessor agency, the Office of Child Care Services (OCCS), were as follows:

<u>Request for Response File Number</u>	<u>Total Anticipated Contract Duration</u>	<u>Type of Service</u>	<u>Estimated Annual Contract Value</u>
1998OCCS13	09/01/98 to 06/30/03	Income Eligible Child Care	\$200,000,000
1998OCCS14	10/01/98 to 06/30/03	Child Care Resource and Referral Services	\$24,000,000
2000OCCS04	01/01/00 to 06/30/04	Supportive Child Care	\$47,204,544
2001OCCS23	06/01/01 to 06/30/04	Non-Traditional Hours Child Care	\$624,000

Each of these RFR's, per the initial terms of the contract, were extended through June 30, 2003 or June 30, 2004. Subsequently, these contracts were extended by the Operational Services Division (OSD) to June 30, 2005, with instructions that all child care contracts will be bid with a contract start date no later than July 1, 2005. Whereas OCCS was only granted authorization by OSD to extend the four RFR's through June 30, 2005, EEC, as the new agency assuming child care responsibilities, should have procured a competitive bid process for the four RFR's.

Without procuring the new RFR's, EEC could not be assured that it had obtained quality child care services at the best value of the state.

Our prior audit report recommended that EEC establish a procurement management team to review, analyze, and identify the best procurement approach for child care services. After identifying the best procurement approach, EEC must competitively bid RFR's in accordance with the requirements of 801 CMR 21.00 for these child care services.

EEC responded that in May 2007, it formed a Procurement Management Team (PMT) to re-procure child care services for income eligible children and that it would bring the RFR criteria to its Board for a vote in early 2008, and anticipated releasing the RFR shortly thereafter, with awards expected in the summer of 2008. Once this procurement was completed, EEC would work on the procurement of the remaining contracts.

Our follow up review disclosed that during the current period, little activity has taken place concerning the re-procurement of services for the four Request for Responses identified in the prior report. Specifically, according to EEC, although a PMT was established in May 2007 to begin the process of re-procuring child care services, with the non-contract renewal of the PMT's project manager in June 2007, the resignation of EEC's Commissioner in March 2008, and the subsequent appointment of six new members to the 11 member Board of Early Education and Care, the PMT became nonfunctional, and work on the procurement of child care services came to a stand still. EEC further stated that a new PMT was established and that a survey of family child care systems was completed in May 2008, but work on the procurement of income eligible child care services did not start in earnest until July 2008.

The implementation of child care contracts, including income eligible, supportive, non-traditional and Child Care Referral and Resource agencies, is once again an issue for EEC. The contractual procurement of these services did not take place in accordance with the requirements of 801 CMR 21:00: Procurement of Commodities or Services, Including Human and Social Services.

801 CMR 21.06: Competitive Procurement Standards requires:

(2) *Duration.* The duration of any Contract procured or executed under 801 CMR 21.00 shall include the initial duration of a Contract, either less than one fiscal year, a

single fiscal year or multiple fiscal years, and any options to renew beyond the initial duration of the Contract. The duration established for a Contract shall be for a period determined by the Procuring Department to be reasonably necessary to obtain the required Commodities or Services, or both, at the Best Value for the Procuring Department and the State...

Additionally, 801 CMR 21.05: Competitive Procurement Exceptions states:

(5) *Interim Contracts. An interim Contract may be used to prevent a lapse of Contract performance in the following circumstances:*

(b) *Delayed Competitive Procurement. ...An Interim Contract may be used to extend the current Contract(s), under the same terms and conditions, only for a period necessary to complete the competitive Procurement, including the execution of new Contracts.*

Furthermore, 815 CMR 2.00 Grants and Subsidies addresses EEC's responsibility to have an open and competitive process for federal grants 815 CMR 2.04 (7) states:

Grants of discretionary funds shall be disbursed through an open and public competitive process, as determined appropriate by the department, and in accordance with the department's...federal grant.

Finally, 45 Code of Federal Regulations (CFR) Subtitle A – Department of Health and Human Services, Part 92, Uniform administrative requirements for grants and cooperative agreements to States, local and tribal governments, states:

Section 92.36 - Procurement.

(a) *States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every ... contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.*

Without procuring the new RFRs, EEC cannot be assumed that it has obtained quality child care services and the best value of these services for the state.

Recommendation

With its responsibility to provide child care services at 'best value', it is important that EEC ensures the continuation of the process to review, analyze, and identify the best procurement approach for child care services, and to competitively bid RFRs in accordance with the requirements of 801 CMR 21.00 for these child care services.

Auditee's Response

The FY2008 single state audit includes a finding related to EEC's non-compliance with the Commonwealth's competitive procurement requirements under 801 CMR 21:00. While the Department is still in the process of coming into full compliance with these requirements, the Procurement Management Team (PMT) has made very significant progress in organizing a competitive bid for the Income Eligible Financial Assistance contract program, the Department's largest contract, which will be posted on the Commonwealth's procurement website (Comm-Pass) within the next six weeks.

Upon completion of the procurement process for this contract, the PMT will follow the same work plan to plan to put the remaining contracts out to bid according to the schedule shown in the table below.

<i>Contract</i>	<i>Fiscal Year</i>
<i>Voucher Management</i>	<i>Research & Plan 2009 and award in 2010</i>
<i>Supportive</i>	<i>Research & Plan 2009/2010 and award in 2011</i>
<i>Other Contracts</i>	<i>Research & Plan 2009/2010 and award in 2011</i>

The PMT did experience a delay in moving forward with the Income Eligible contract bid during the early part of the calendar year 2008, due to significant changes in leadership at the Department and Board level. However, in June of 2008, the PMT engaged a new project manager and adopted a detailed project plan, making steady and constructive progress throughout the remainder of the year. The Board of Early Education and Care approved the criteria and guidelines for the Request for Response (RFR) recommended by the PMT on January 13, 2009 after discussing the procurement at four Board meetings since September, 2008. The PMT expects to continue this steady progress culminating with the award of bids in June of 2009.

... a great deal of work has been done outside of the review period covered by the audit (June 2008 through December 2008). Much of the work conducted during the period of observation was related to the project's research and planning activities. This research also included a comprehensive assessment of early education resources for each of the 351 cities and towns in the Commonwealth, a survey of the services provided through contracts with Family Child Care Systems and research into the child care procurement practices in other states.

Additionally, the PMT issued a Request for Information (RFI) in October of 2008 to collect program quality data from interested providers and to test the feasibility of potential policy changes. The Department received a very strong response to the RFI, with more than 300 licensed center-based providers, 57 family child care systems and 100 school districts responding.

APPENDIX

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Chapter 647

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

AN ACT RELATIVE TO IMPROVING THE INTERNAL CONTROLS WITHIN STATE AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Notwithstanding any general or special law to the contrary, the following internal control standards shall define the minimum level of quality acceptable for internal control systems in operation throughout the various state agencies and departments and shall constitute the criteria against which such internal control systems will be evaluated. Internal control systems for the various state agencies and departments of the commonwealth shall be developed in accordance with internal control guidelines established by the office of the comptroller.

(A) Internal control systems of the agency are to be clearly documented and readily available for examination. Objectives for each of these standards are to be identified or developed for each agency activity and are to be logical, applicable and complete. Documentation of the agency's internal control systems should include (1) internal control procedures, (2) internal control accountability systems and (3), identification of the operating cycles. Documentation of the agency's internal control systems should appear in management directives, administrative policy, and accounting policies, procedures and manuals.

(B) All transactions and other significant events are to be promptly recorded, clearly documented and properly classified. Documentation of a transaction or event should include the entire process or life cycle of the transaction or event, including (1) the initiation or authorization of the transaction or event, (2) all aspects of the transaction while in process and (3), the final classification in summary records.

(C) Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority. Authorizations should be clearly communicated to managers and employees and should

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Include the specific conditions and terms under which authorizations are to be made.

(D) Key duties and responsibilities including (1) authorizing, approving, and recording transactions, (2) issuing and receiving assets, (3) making payments and (4), reviewing or auditing transactions, should be assigned systematically to a number of individuals to ensure that effective checks and balances exist.

(E) Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved. The duties of the supervisor in carrying out this responsibility shall include (1) clearly communicating the duties, responsibilities and accountabilities assigned to each staff member, (2) systematically reviewing each member's work to the extent necessary and (3), approving work at critical points to ensure that work flows as intended.

(F) Access to resources and records is to be limited to authorized individuals as determined by the agency head. Restrictions on access to resources will depend upon the vulnerability of the resource and the perceived risk of loss, both of which shall be periodically assessed. The agency head shall be responsible for maintaining accountability for the custody and use of resources and shall assign qualified individuals for that purpose. Periodic comparison shall be made between the resources and the recorded accountability of the resources to reduce the risk of unauthorized use or loss and protect against waste and wrongful acts. The vulnerability and value of the agency resources shall determine the frequency of this comparison.

Within each agency there shall be an official, equivalent in title or rank to an assistant or deputy to the department head, whose responsibility, in addition to his regularly assigned duties, shall be to ensure that the agency has written documentation of its internal accounting and administrative control system on file. Said official shall, annually, or more often as conditions warrant, evaluate the effectiveness of the agency's internal control system and establish and implement changes necessary to ensure the continued integrity of the system. Said official shall in the performance of his duties ensure that: (1) the documentation of all internal control systems is readily available for examination by the comptroller, the secretary of administration and finance and the state auditor, (2) the results of audits and recommendations to improve departmental internal controls are promptly evaluated by the agency management, (3) timely and appropriate corrective actions are effected

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by the agency management in response to an audit and (4), all actions determined by the agency management as necessary to correct or otherwise resolve matters will be addressed by the agency in their budgetary request to the general court.

All unaccounted for variances, losses, shortages or thefts of funds or property shall be immediately reported to the state auditor's office, who shall review the matter to determine the amount involved which shall be reported to appropriate management and law enforcement officials. Said auditor shall also determine the internal control weaknesses that contributed to or caused the condition. Said auditor shall then make recommendations to the agency official overseeing the internal control system and other appropriate management officials. The recommendations of said auditor shall address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The agency oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified.

House of Representatives, December 21, 1989.

Passed to be enacted,

George Luvaan, Speaker.

In Senate, December 22, 1989.

Passed to be enacted,

William W. Budge, President.

January 3, 1990.

Approved,

Richard H. Kiah, Governor.