



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

*Making government work better*

Official Audit Report-Issued February 15, 2013

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## Bristol County District Attorney's Office

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



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## **INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS**

The Bristol County District Attorney's Office (BCDA) was established under the provisions of Chapter 12, Sections 12 and 13, of the Massachusetts General Laws, which provides 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 (Claims and Indemnity Procedure for the Commonwealth, Its Municipalities, Counties and Districts and the Officers and Employees Thereof).

BCDA 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 into the local communities and schools, discussing topics such as bullying/harassment, Internet and cyber-safety programs, drug and alcohol use, identity theft, and domestic violence.

This audit, which covered the period July 1, 2010 through September 30, 2011, was initiated to review the internal controls established by BCDA over certain aspects of its operations. Specifically, we reviewed the internal controls established by BCDA in the following areas: revenue collection, expenditures, financial reporting, and inventory of assets. We also reviewed various aspects of BCDA's fiscal and programmatic activities, including activities in its programs for victim-witness services, juvenile justice, and asset forfeiture. Finally, we followed up on issues raised in our prior audit of BCDA (No. 2007-1264-11S).

### ***Highlight of Audit Findings***

- BCDA has begun to address the issues identified in our prior audit report with regard to necessary improvements to internal control procedures and accounting for seized funds. However, during the current audit period, BCDA did not have policies and procedures in place in certain areas, including reconciliation of seized funds, bank accounts, recognition of revenue, and forfeiture appropriation disbursements.
- Improvements are needed in (1) determining how to dispose of interest earned on escrow (seized) funds and (2) documenting the uses of the forfeited funds. As of September 30, 2011, BCDA had custody and control of a bank account titled The Bristol Alliance, Inc.

(BAI), with a balance of \$19,450. This amount consisted of \$10,403 in earned interest and \$11,575 in bad check fees, minus a \$2,528 withdrawal for an operating expense. The \$19,450 has not been deposited with the State Treasurer or recorded by BCDA on the Massachusetts Management Accounting and Reporting System (MMARS), the computerized electronic accounting system that has been established as the official record of the Commonwealth's accounting activities.

- BCDA deposited \$125,734 of state grant funds, received through cost reimbursement under the Senator Charles E. Shannon Jr. Community Safety Initiative Grant Program, in its forfeited fund revenue account, resulting in the overstatement of the forfeited fund revenue.
- BCDA did not fully comply with Office of the State Comptroller (OSC) guidance and its own internal control policies regarding the accounting and full reporting of non-Generally Accepted Accounting Principles (GAAP) fixed assets, equipment, and other inventory. Although BCDA maintains a listing of non-GAAP fixed assets, the listing is not complete and does not contain all the required information for BCDA to be in full compliance with OSC regulations.

#### ***Recommendations of the State Auditor***

- BCDA should develop and implement formal written internal control policies and procedures for the periodic reconciliation of all records relative to seized funds, including monthly comparisons to prevent seized funds being recorded in both safe deposit and bank records, bank accounts, recognition of revenue, and forfeiture receipts and disbursements, as part of its implementation of its internal control plan.
- BCDA should ensure that its Seized Fund Logbook (safe deposit box inventory) contains the dates on which funds are seized.
- BCDA should request assistance from OSC in determining the proper disposition of any interest earned on seized funds. In this regard, the Office of the State Auditor (OSA) has contacted the OSC, which will be working with District Attorneys, the Office of the Attorney General, and the OSA in developing policies on this issue.
- BCDA should establish formal written policies and procedures for the disbursements of its appropriated forfeited funds, including minimum requirements for proper supporting documentation for donations made to community-based programs.
- BCDA should obtain a ruling from the OSC Legal Unit on the propriety of its BAI account and on the disposition and collection of revenues received from its check collection activities. To address the \$10,403 in interest earnings deposited in the BAI account, BCDA should transfer the interest back to the Seized Fund bank account where the funds were originally maintained, and it should reimburse the BAI account for its payment of a \$2,528 operating expense.
- BCDA should seek guidance from OSC in establishing the necessary account(s) for BCDA within MMARS to provide separate accountability for the Shannon Grant funds.

- BCDA should update its inventory records to include the purchase price and date of each item if that information is available. If cost information is not available, BCDA should assess a fair market value to the inventory item. In addition, BCDA should update the locations and tags of inventory items. These updates should be made during the next scheduled annual physical inventory.

## **OVERVIEW OF AUDITED AGENCY**

The Bristol County District Attorney's Office (BCDA) was established under the provisions of Chapter 12, Sections 12 and 13, of the Massachusetts General Laws, which provides 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 (Claims and Indemnity Procedure for the Commonwealth, Its Municipalities, Counties and Districts and the Officers and Employees Thereof). BCDA serves four cities and 16 towns in Southeastern Massachusetts, representing the Commonwealth in criminal and civil proceedings. BCDA maintains administrative offices in New Bedford and has satellite offices in Fall River, Attleboro, and Taunton.

For the fiscal year ended June 30, 2011 and for the period July 1, 2011 through September 30, 2011, BCDA received state maintenance appropriations to fund its administrative operations totaling \$7,048,574 and \$1,564,495, respectively. In addition, during these two periods, BCDA received state appropriations and funding from other sources to support various programs such as seized funds and witness protection totaling \$927,612 and \$187,500, respectively.

## 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 Bristol County District Attorney's Office (BCDA) for the period July 1, 2010 through September 30, 2011. The objectives of our audit were to (1) review BCDA's Internal Control Plan (ICP) and the internal controls established by BCDA over various financial and program activities, including revenue collection, procurement, expenditures, financial reporting, and inventory of assets; (2) determine whether BCDA'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 BCDA's community-based juvenile justice programs to determine whether they are 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 BCDA's progress in addressing the issues noted in our prior audit report (No. 2007-1264-11S).

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 BCDA officials and reviewed the following:

- Applicable Massachusetts General Laws; Office of the State Comptroller (OSC) Internal Control Guides; and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies.
- Documentation relevant to BCDA's budgetary process and spending plan.
- BCDA's ICP, risk assessment, and internal control structure, along with existing verbal and written administrative and accounting policies and procedures.
- BCDA's financial records, including judgmental and statistical sampling of BCDA revenue, expenditures, inventory, and payroll transactions. We did not project the results of our

statistical sample to the total population of inventory items, given that there are multiple locations with different agency employees responsible for their respective inventory items.

- The internal controls BCDA had established over its inventory of fixed assets.
- Funds expended under the Witness Protection Board to ensure compliance with 501 Code of Massachusetts Regulations 10.
- BCDA's community-based juvenile justice programs to determine whether they are reporting on the efforts of the criminal justice system in addressing juvenile justice and whether this information is being annually reported to the House and Senate Committees on Ways and Means in accordance with Chapter 12, Section 32, of the General Laws.
- The measures that BCDA took in addressing the issues raised in our prior BCDA audit (No. 2007-1264-11S).

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

Except for the issues addressed in the Audit Findings section of this report, for the period July 1, 2010 through September 30, 2011, BCDA maintained adequate internal controls over its financial operations and program activities for the areas tested.

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## AUDIT FINDINGS

### 1. PRIOR AUDIT FINDINGS PARTIALLY RESOLVED

During our follow-up audit, we determined that the Bristol County District Attorney's Office (BCDA) has begun to address the issues identified in our prior audit report regarding (a) updating and improving its internal control plan (ICP) and developing specific policies and procedures to support its ICP and (b) accounting for seized funds. However, BCDA needs to continue its efforts to fully resolve these issues, as discussed below.

#### a. Internal Control Plan Updating and Improvements Still Needed

Our prior audit report (No. 2007-1264-11S), a transition audit that examined financial and management controls over certain operations of BCDA for the period July 1, 2006 through March 31, 2007, noted that BCDA needed to update its ICP to comply with the Office of the State Comptroller's (OSC) guidelines and Chapter 647 of the Acts of 1989. Accordingly, our prior audit recommended that BCDA improve its ICP by including statements on expectations of the staff on integrity and requirements of high ethical standards; definitive language to indicate how BCDA's control environment, operating structure, policies, and procedures act to control general risks (control activities); written internal controls where necessary to mitigate any new identified risks; the identification of its Internal Control Officer; and the distribution of the ICP to management and staff.

During our current audit, we found that BCDA had updated its ICP. However, BCDA needs to improve certain fiscal and programmatic policies and procedures to support its ICP. OSC's Internal Control Guide states, in part:

*A policy establishes what should be done and serves as a 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.*

Although BCDA has policies and procedures in many fiscal and programmatic areas, improvements are needed in the areas of reconciliation of seized funds, recognition of revenue, and forfeiture appropriation disbursements.

**Recommendation**

BCDA should develop and implement formal written policies and procedures for reconciliation of seized funds, recognition of revenue, and forfeiture appropriation disbursements.

**Auditee's Response**

BCDA stated, in part:

*The last audit of this office began in March of 2007 and it was a transition audit at my request. During that audit we were given generalized comments about the then existing internal control plan. Those findings, to the extent that they provided us specific recommendations, were incorporated into our internal control plan. We are now in receipt of your new suggestions to further improve our internal control plan and we intend to adopt those suggestions.*

**b. Improvements Needed in BCDA's Accounting for Seized Funds**

Our prior audit noted that BCDA had not been conducting periodic reconciliations of its Seized Fund Logbook (the Logbook, a safe deposit box inventory) to the actual seized funds it was maintaining in its bank safe deposit boxes. During our prior audit, at the request of BCDA, we performed a reconciliation of the Logbook to the actual funds maintained in BCDA's safe deposit boxes as of July 20, 2007. The reconciliation identified a \$692,835 variance between the Logbook total (\$2,871,537) and the actual funds in the custody of the bank (\$2,178,702). The earlier report recommended that BCDA conduct reconciliations of the Logbook to actual funds maintained in the safe deposit boxes. By conducting periodic reconciliations, BCDA could ensure that the Logbook was accurate, complete, up to date, and in compliance with Chapter 647 of the Acts of 1989, which states that a "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 report further recommended that BCDA continue to research the remaining variances identified in our July 20, 2007 reconciliation and report any unaccounted-for variances to the Office of the State Auditor (OSA) in accordance with Chapter 647 of the Acts of 1989.

Our current audit determined that BCDA was able to resolve \$686,552 of the variance noted in our prior report. BCDA identified \$6,283 as a remaining unresolved variance. BCDA properly filed two Chapter 647 notifications with the OSA identifying the \$6,240 in June 2007 and \$43 in November 2012 as unaccounted-for variances.

Our current audit indicated that further improvements are needed in the controls over and accounting for BCDA's seized funds. As of September 30, 2011, BCDA had approximately \$2,523,472 of seized funds in its custody. BCDA's seized-fund records indicated that \$2,130,313 was in the safe deposit boxes and \$393,159 was in the non-interest-bearing Escrow/Pendency (Seized Fund) account. We tested the BCDA controls over accounting for seized funds as of September 30, 2011, which included the receipt and transfer of seized funds, the Seized Fund bank account, and the Logbook. Our testing revealed that BCDA had not established formal written policies and procedures that require the periodic reconciliation of seized funds. The following deficiencies were noted:

- A total of \$41,100 was recorded both in the Logbook (i.e., safe deposit box inventory) and in BCDA's bank account. During our audit, we pointed this error out to BCDA's co-Chief Financial Officer (co-CFO), who immediately corrected it and told us that monthly comparisons will be performed to prevent seized funds from being entered in both records.
- The Logbook did not include the dates of seizure for 59 cases. During our audit, we informed BCDA's co-CFO, who concurred and stated that the necessary adjustments will be made to the Logbook to include the dates of seizures.

### ***Recommendation***

BCDA should:

- Develop formal written internal control policies and procedures for the periodic reconciliation of all records relative to seized funds, including monthly comparisons to prevent seized funds being recorded in both safe deposit and bank records.
- Ensure that the Logbook contains the dates on which funds are seized.

### ***Auditee's Response***

Although BCDA did not specifically respond to this issue, it did state in its response to Audit Finding No. 1a that it intends to improve its internal control plan in several areas, including the reconciliation of seized funds.

## **2. IMPROVEMENTS NEEDED IN INTERNAL CONTROL PROCEDURES OVER SEIZED AND FORFEITED FUNDS**

Chapter 94C, Section 47, of the Massachusetts General Laws (the Controlled Substances Act) identifies property that is subject to forfeiture to the Commonwealth and the procedures that are

used by District Attorneys to obtain this property. All funds used to purchase, and all proceeds from the illegal sale of, a controlled substance are seized as detailed in Section 47(a) (5) below:

*(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, BCDA keeps the funds in bank safe deposit boxes or a non-interest-bearing bank account until legal proceedings are completed. Chapter 94C, Section 47(d) also requires that any court-ordered forfeiture 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 seized funds, which is 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 BCDA had established over the receipt and expenditure of forfeited funds to ensure its compliance with Chapter 94C, Section 47, of the General Laws and found that improvements were needed in some areas, as discussed below.

**a. Disposition of Interest Earned on Escrow (Seized) Funds**

When a District Attorney takes funds as part of an investigation, the funds are deemed seized and are held in escrow. Currently, seized funds held by BCDA are placed in safe deposit boxes or a separate non-interest-bearing bank account pending legal proceedings. According to BCDA records, from August 2007 to April 2010 BCDA had accumulated \$10,403 in interest<sup>1</sup> in its seized account while it was an interest-bearing account. Although Chapter 94C details how this seized money is to be maintained, the statute is silent on the

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<sup>1</sup> The \$10,403 in interest was transferred to The Bristol Alliance, Inc. account on February 14, 2011. See Audit Finding No. 3.

disposition of any interest that may be earned from it. BCDA officials told us that this interest has remained with BCDA because it is unclear in Chapter 94C whether BCDA can retain it and subsequently spend it.

**b. Documentation of the Uses of Forfeited Funds**

When funds are forfeited, the District Attorney may spend them in accordance with Chapter 94C, Section 47(d), quoted above. During the period July 1, 2010 through June 30, 2011, BCDA disbursed \$922,026 in forfeited funds. We reviewed those expenditures and judgmentally selected \$67,408 that represented payments or reimbursements to vendors who were not performing services as part of any confidential or protracted investigations. From our review of those payments, we identified \$2,050 in payments made to certain nonprofit entities without sufficient documentation on the usage of the funds to determine whether they were used in accordance with Chapter 94C, Section 47(d).

The entities receiving the \$2,050 in payments are indicated below:

<u>Recipient</u>	<u>Amount</u>
St. Vincent's Children's Home	\$1,000
St. Anthony's Band Club	400
Our Lady of Light Band Club	400
Greater New Bedford Children's Club	<u>250</u>
Total	<u>\$2,050</u>

Currently, there is no written policy or procedure governing the expenditure and allocation (awarding) of forfeited funds to community-based programs as those listed above. Our audit testing of these expenditures indicated that BCDA did not have adequate documentation indicating how the funds were requested, awarded, or how these expenditures were used to support law enforcement purposes as required under the provisions of Chapter 94C, Section 47(d). For comparison, during our audit, we reviewed the Suffolk and Middlesex County District Attorney's websites and found that they also support community programs using their forfeited funds. However, unlike BCDA, they have a formal grant application process to identify and allocate forfeited funds to community-based programs.

Without a strong system of internal controls over the use of forfeited funds as they relate to community-based programs, there is inadequate assurance that these funds were used for law enforcement purposes and were distributed fairly and equitably. BCDA officials did not agree and indicated that the canceled checks alone were sufficient documentation to support these donations.

### **Recommendation**

BCDA should:

- Request assistance from OSC in determining the proper disposition of any interest earned on seized funds. In this regard, the OSA has contacted the OSC, which will be working with District Attorneys, the Office of the Attorney General, and the OSA in developing policies on this issue.
- Establish formal written policies and procedures for the expenditures of its appropriated forfeited funds, including minimum requirements for proper supporting documentation for donations made to community-based programs. Supporting documentation should clearly indicate how the use and nature of expenditures comply with the provisions of Chapter 94C, Section 47(d), of the General Laws.

### **Auditee's Response**

BCDA stated, in part:

*Regarding the recommendations concerning the internal control over state seized and forfeited funds, you should know that the state forfeiture law is unique in that it provides the District Attorney with unilateral authority concerning the use of money ordered forfeit pursuant to M.G.L. ch. 94C, sec. 47. See Marchand v. Hechenbleikner, 3 Mass. L. Rep. 400 (1995); 1986 Mass. AG LEXIS 1. Consequently, the finding in the report that "the BCDA did not have adequate documentation of how these funds were independently requested by these recipients..." is clearly erroneous. No such documentation is required. Further, the use, by the Middlesex and Suffolk District Attorneys of a grant application process is inapplicable to the BCDA or any other District Attorney because there is no requirement that such a process be used. The report suggests that this is required practice without any consideration to the differences in offices and resources or District Attorney's discretion. The draft report, as currently written, appears to summarize the BCDA position as being in disagreement with the auditor's opinion, but the draft report does not adequately state the basis or reasoning of the BCDA.*

### **Auditor's Reply**

Our report correctly points out that BCDA does not have any written policies and procedures relative to the administration of its forfeited funds. BCDA acknowledged this point and agreed to improve its internal control plan as it relates to the areas of reconciliation of seized funds,

recognition of revenue, and forfeiture appropriation disbursements. Further, our report details the deficiency in BCDA's internal control plan related to forfeiture appropriation disbursements, and should provide additional guidance to BCDA as it updates its internal control plan.

We do not agree with BCDA that our conclusion relative to its not having adequate documentation to support how its forfeited funds were requested, awarded, or used is erroneous. We acknowledge that Chapter 94C allows District Attorneys to use forfeited funds in any manner they deem appropriate in accordance with this statute. However, this does not mitigate a District Attorney's responsibility to properly account for these funds by establishing adequate internal controls over this process to ensure its integrity and transparency.

As noted in our report, we reviewed the websites of two other District Attorneys and found that unlike BCDA, they both had established a formal grant application process. We do not suggest that such a process is required but rather that it represents a best practice for administering these funds. Consequently, we recommend that BCDA consider instituting a grant application process for community-service-based programs, which would increase transparency and enable BCDA to adequately document that it is in full compliance with the statutory requirements relative to the expenditure of these funds.

### **3. BCDA HAS CUSTODY AND CONTROL OF A BANK ACCOUNT OUTSIDE THE STATE ACCOUNTING SYSTEM**

As of September 30, 2011, BCDA had custody and control of a bank account, established over 20 years ago, titled The Bristol Alliance, Inc. (BAI), with a balance of \$19,450 (consisting of \$10,403 in seized fund interest and \$11,575 in bad check fees, minus \$2,528 withdrawn to pay an operating expense). BCDA explained that the BAI account was opened in 1991 to deposit collection fees when the recipient of a bad check referred the case to BCDA. When this occurred, BCDA would collaborate with a vendor to perform the collection by referring the check to the vendor to initiate collection procedures. BCDA would then collect a referral fee from the vendor and deposit it in the BAI account. During the audit period (July 1, 2010 through September 30, 2011), BCDA transferred \$10,403 in earned interest from its seized fund bank account to the BAI bank account. BCDA also used the BAI account during the audit period to pay a \$2,528 operating expense.

Our review of this account and correspondence with BCDA officials revealed that the revenues earned (\$10,403 interest and \$11,575 in bad check fees, minus the \$2,528 withdrawn, totaling \$19,450) have not been deposited with the State Treasurer or recorded by BCDA on the Massachusetts Management Accounting and Reporting System (MMARS), the computerized electronic accounting system that has been established as the official record of the Commonwealth's accounting activities. Chapter 30, Section 27, of the General Laws states:

*Except as otherwise expressly provided, all fees or other money received on account of the commonwealth shall be paid daily into the treasury thereof.*

On page 12 of its State Finance Law and General Contract Requirements policy, OSC states:

*[T]his means that the total revenues collected by a Department must be deposited and accounted for in the state accounting system (MMARS).*

The same policy states:

*[A] Department can receive funds from any source (gift, grant or bequest) but must have specific legislative authority (language) to expend the funds.*

### **Recommendation**

BCDA should:

- Transfer the interest earned on seized funds, amounting to \$10,403, back to the seized fund bank account where the funds were originally maintained.
- Reimburse the BAI account for its payment of a \$2,528 operating expense.
- Obtain a ruling from the OSC Legal Unit on the propriety of the BAI account.
- Seek guidance from OSC on the disposition and collection of revenues received from check collection activities. BCDA and OSC need to determine whether these revenues are subject to the provisions of Chapter 30, Section 27, of the General Laws.

### **Auditee's Response**

BCDA stated, in part:

*As we detailed to your field staff, we inherited a legacy account, Bristol Alliance (BAI) which was in existence at the time of the transition audit. The amount of \$2,528 was withdrawn from this legacy account, because it was the only source of funds available to provide for emergency costs. The expense was reimbursed to this account from forfeiture funds which BCDA would have liked to use to pay the emergency cost, but which were not available in the form of funds required in the circumstances.*

***Auditor's Reply***

We commend BCDA for taking corrective action in reimbursing the BAI account and recommend that BCDA address the remaining three recommendations.

**4. BCDA DEPOSITED GRANT FUNDS WITH BCDA FORFEITED FUNDS**

BCDA deposited \$125,734 of state grant funds received through cost reimbursement under the Senator Charles E. Shannon Jr. Community Safety Initiative Grant Program in its forfeited fund revenue account, resulting in the overstatement of the forfeited fund revenue. BCDA appropriately provided and accounted for the services of a prosecutor by paying the prosecutor out of its maintenance fund and then requesting reimbursement from the Cities of New Bedford and Fall River (grantees) under the terms of the Shannon Program. In response, the grantees sent BCDA \$125,734, which BCDA deposited in its seized fund account instead of establishing a separate account for the Shannon Program. BCDA informed us that it had made repeated requests to the Executive Office for Administration and Finance (EOAF) for guidance and was advised to account for the funds in its forfeited fund revenue account.

As directed by EOAF, BCDA deposited the \$125,734 received from the grantees in its forfeited revenue account, whose funds are collected periodically by the State Treasurer. As a result, the State Treasurer's records overstated the forfeited revenue account's balance by \$125,734, the amount of the grant deposit. BCDA has not established separate accounts in MMARS for its Shannon Program and regular funds.

When BCDA receives funds pursuant to a cost reimbursement grant for payroll services, it should account for them separately from forfeited funds.

As a result of the transaction deposit, classification, and reporting of grant funds, reimbursed payroll expenditures initially paid through the maintenance appropriation were deposited and classified as forfeited fund revenue. The financial reporting required of BCDA under Chapter 30, Section 27, of the General Laws did not accurately reflect the financial activity of forfeited revenues for the fiscal year.

**Recommendation**

BCDA should seek guidance from OSC in establishing the necessary account(s) for BCDA within MMARS to provide separate accountability of the funds.

**Auditee's Response**

BCDA stated, in part:

*The BCDA has not merely made repeated requests for guidance about the proper account into which the deposit of these funds was to be made. The BCDA requested, in writing, that Administration and Finance establish an account for the purpose of depositing these funds. The BCDA has no ability to open such an account on its own accord. The BCDA request was denied and, again in writing, the BCDA was directed to make the deposits to the forfeited funds account.*

**Auditor's Reply**

The finding acknowledges that BCDA made repeated requests to EOAF for guidance in the handling of Shannon Grant funds. We recommend that BCDA contact OSC as the proper oversight authority for the accounting of these funds.

**5. INCOMPLETE LISTING OF FIXED ASSETS**

During the audit period, BCDA was not fully compliant with OSC guidance and its own internal control policies regarding the accounting and full reporting of non–Generally Accepted Accounting Principles (GAAP) fixed assets, equipment, and other inventory.

OSC defines non-GAAP fixed assets as singular assets, including 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 between \$1,000 and \$49,999. OSC's Internal Control Guide for Commonwealth Departments, Volume II, Chapter 3, requires that fixed assets be properly accounted for and safeguarded to ensure that they are being used as intended and are available for use. Specifically, OSC's Fixed Assets – Acquisition Policy that was in effect during our audit period states:

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

BCDA's internal control policies and procedures state:

*All equipment and furniture items are inventoried and tagged as soon as possible after receipt. The item description, inventory number and location number is noted on the office's internal control system. Any items that seem to be damaged, destroyed, broken or otherwise unusable are to be reported to the Department of Procurement and General Services and removed from the inventory. This system is updated on a regular basis.*

During the audit period, although BCDA maintained a list of its non-GAAP fixed assets, equipment, and other inventory as of September 30, 2011, this list was not complete and did not contain all the information required for BCDA to comply fully with OSC guidance. Specifically, the inventory item data, including the purchase date and amount, were not complete. In addition, the inventory list did not provide a basis for valuation of the total inventory for replacement and disposal purposes as equipment becomes obsolete and unusable. Because data was not entered or was not complete in all fields, many items on the list cannot be readily valued, identified as non-GAAP, or cross-referenced with detail records of purchase invoices or source-funding accounts to verify when, from whom, and at what cost the items were purchased.

We noted the following deficiencies in the information in BCDA's list of its non-GAAP fixed assets, equipment, and other inventory:

- Out of 2,400 furniture and equipment listings, 1,705 (71%) did not contain a purchase date.
- Of the 2,400 furniture and equipment listings, 1,935 (81%) did not contain historical cost information (purchase price).

We also conducted a test of a statistical sample of 60 items, from a total population of 2,400 items, with a 95% confidence level, a maximum tolerable error rate of 5%, and the assumption that the sample contained no occurrences of noncompliance. However, because there are multiple locations with different agency employees responsible for their respective inventory items, we did not project the result of our test to the total population. Our testing in this area was intended to verify, by inspection, the inventory tag number, purchase price, and location of the furniture and equipment items in our sample. We found that nine of the 60 items were missing, did not have a purchase price, were improperly tagged, and/or were relocated from the recorded location on BCDA inventory records, as indicated below:

- Four items (a filing cabinet, a wooden desk, a chair, and a computer jump drive) were missing and did not have a listed purchase price.
- Two items (a movie projector and an audiovisual presenter) were tagged with the same inventory tag number and did not have a purchase price.
- Three items (two filing cabinets and a computer) were relocated from the area on their listings and did not have a purchase price.

With the problems we detailed above, BCDA cannot ensure that it is adequately protecting its inventory, including its non-GAAP fixed assets, from theft or misuse. Further, the inventory list does not provide a basis for valuation of the total inventory for replacement and disposal purposes as equipment becomes obsolete and unusable.

BCDA officials stated that the four missing items will be purged from the system, and subsequent to our fieldwork completion a report was filed with OSA in accordance with Chapter 647 of the Acts of 1989 for the four missing inventory items. BCDA officials also stated that many of the items were purchased and acquired years ago under previous administrations and that the records have been carried forward without the purchase date and cost.

### ***Recommendation***

To properly control and maintain its non-GAAP fixed asset inventory and ensure compliance with OSC regulations, BCDA should update its inventory records to include the purchase price and date of each item if that information is available. If cost information is not available, BCDA should assess a fair market value to the inventory items. BCDA should update the locations and tags of the inventory items. These updates should be made during the next scheduled annual physical inventory.

### ***Auditee's Response***

BCDA did not specifically respond to this issue.