



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

Making government work better

Official Audit Report – Issued March 14, 2012

Worcester Sheriff's Office



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INTRODUCTION

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The Worcester Sheriff's Office (WSO) was established as an independent state agency as of July 1, 1998 as a result of the abolishment of Worcester County government pursuant to Chapter 48 of the Acts of 1997. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which established that the Sheriff became an employee of the Commonwealth but remained an elected official. The Sheriff also retained administrative and operational control over the WSO, the jail, and the house of correction, which has an inmate capacity of 1,128 and had an average daily inmate census of 1,094 inmates during our audit period.

In accordance with Chapter 11, Section 12, of the General Laws and in consideration of the election of a new Sheriff, the Office of the State Auditor (OSA) conducted a transition audit of the status of financial activities, accounts, and functions and the related systems and control environment of the WSO as of the transition date of January 5, 2011, including reviews of fiscal year 2011 transactions prior and subsequent to the transition date. 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 that provides 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.

The purpose of our review was to inform the new Sheriff of the status of fiscal and administrative operations as of the date he assumed office, to enhance the transition from the prior administration to the new administration, and to identify systems and internal accounting and administrative controls needing corrective action and improvement. In addition, our audit focused on issues that were identified in our prior audit report (No. 2009-1432-3S).

As a result of our transition audit of the status of financial activities, accounts, and functions of the WSO as of January 5, 2011, we have identified certain operations of the prior administration that need improvement in the area of fiscal and administrative internal controls and have made recommendations to assist the new administration in implementing changes to its internal control structure and fiscal and administrative operations to ensure that WSO performs in an economical, effective, and efficient manner and in compliance with applicable laws, rules, and regulations.

AUDIT RESULTS

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1. PRIOR AUDIT RESULTS RESOLVED

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Our prior audit (No. 2009-1432-3S) of the WSO disclosed issues regarding (a) inventory controls, (b) the Sheriff's Inmate Reporting System (SIRS), and (c) procurement of services. Our follow-up review revealed that these prior issues had been adequately resolved, as discussed below.

a. Inventory Controls Improved**4**

Our prior audit report disclosed that the WSO discontinued the practice of conducting a monthly physical inventory and was conducting semi-annual physical inventories without any written policies and procedures. Our follow-up review disclosed that the WSO has implemented a new computer-based inventory system and has established written inventory policies and procedures.

b. New Inmate Accounting System Implemented**4**

Our prior audit of the WSO's inmate account disclosed a variance totaling \$195,780 between the bank balance and the WSO's inmate account records. Our follow-up review disclosed that the WSO has taken corrective action by implementing a new inmate accounting and reporting system to ensure that the WSO inmate account balance reconciles to the bank balance.

c. Improvements Made to Procurement of Services**5**

Our prior audit disclosed that the WSO did not competitively procure two consultant contracts. Also, the contracts did not have specific narrative descriptions of the scope of performance and services, amendments, and bonuses. Our follow-up review disclosed that the WSO has taken corrective action by updating its policies and procedures to include detailed descriptions of bidding procedures and adequately documenting payments to contractors.

2. PRIOR AUDIT RESULTS UNRESOLVED**5**

Our prior audit of the WSO disclosed issues regarding (a) the deposit of telephone commissions, (b) the civil processing function and the deposit of fees, (c) staff meals offered at no cost, (d) Generally Accepted Accounting Principles (GAAP) reporting, and (e) the internal control plan. Our follow-up review indicated that these issues had not been fully resolved, as discussed below.

a. Clarification Needed Regarding the Deposit of Telephone Commissions**5**

Our prior audit report noted that the WSO receives commissions on telephone services provided to inmates and deposits these commissions into its Commissary and Welfare Account. However, when the legal status of the WSO changed from county government to an agency of the Commonwealth, uncertainty existed as to where these funds should be deposited and which General Laws were applicable. Conflicting legislation (Chapter 29, Sections 1 through 2, and Chapter 127, Section 3, of the General Laws) identify how revenue is to be processed. Arguably, because telephone commissions may meet the revenue criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the WSO's Commissary and Welfare Account.

Our follow-up review found that for the period July 1, 2010 to January 31, 2011, the WSO deposited \$191,794 in telephone commissions into the Commissary and Welfare Accounts. The WSO maintains that there is a need for the Legislature to clarify this matter and that, until such clarification is received, the WSO intends to continue with this practice. The passage of Chapter 61 of the Acts of 2009 has further complicated the matter. Specifically, Section 12(a) of Chapter 61 of the Acts of 2009 expressly permits the seven recently transferred Sheriff's Offices to retain inmate telephone commissions.

Because all Sheriff's Offices are now state agencies, there should be a uniform method for depositing inmate telephone commissions. The OSA recommends that the Special Commission established to investigate and study the Commonwealth's Sheriff's Offices consider the inconsistencies in the various laws and address the lack of a uniform policy.

b. Clarification Needed Regarding the Organization of the Civil Processing Function and the Deposit of Fees

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In accordance with Chapter 37, Sections 3 and 11, of the General Laws, deputy sheriffs throughout the Commonwealth collect fees for the serving of legal papers and documents. Currently, the civil process fees retained by the Civil Process Division (CPD) are "off line" and not accounted for, reported, or recorded on the Massachusetts Management Accounting and Reporting System (MMARS). The WSO has 28 employees in the CPD who are paid from revenues collected in the service of civil processes and are not employees of the Commonwealth, and one administrative staff employee who is paid from the state payroll. Officer detail work is performed by trained WSO corrections officers, who are issued Internal Revenue Service 1099-MISC income information forms. When billing for private officer detail work, the WSO includes a 10% administrative fee for the work being performed. Because the civil processing function is within the WSO's legislatively defined duties and responsibilities, fees collected and retained since the transfer from county government to state government should be considered Commonwealth revenue in accordance with Chapter 29, Section 1, of the General Laws. Civil processing fees should be recorded in MMARS via a retained revenue account or some other appropriate accounting mechanism that complies with applicable laws, rules, and regulations.

c. Staff Meals Offered at No Cost

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When the WSO was part of county government, WSO staff members were offered meals at no cost. Our audit found that this practice, which is not permissible under the General Laws, continued after the county government was abolished and the WSO became an agency of the Commonwealth. Chapter 7, Section 3B, of the General Laws states that meals cannot be served to any employee of the Commonwealth by a state institution at less than the cost to the Commonwealth. Moreover, by offering staff meals at no cost, the WSO is incurring unnecessary costs that could otherwise be used for other institutional expenses.

d. Improvements Needed in GAAP Reporting

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Our prior two audit reports disclosed that the WSO's GAAP report submitted to the Office of the State Comptroller (OSC) still had not contained the required information regarding assets held in trust and accrued vacation balances. Our follow-up review disclosed that the WSO's fiscal year 2010 GAAP report still did not follow all GAAP and OSC requirements by failing to include any reference to assets under the CPD or accrued vacation time liabilities for CPD employees.

e. Internal Control Plan Needs Improvement

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Our prior audit disclosed that although the WSO developed an Internal Control Plan (ICP), it did not have a high-level summarization of internal controls that contains sufficient cross-referencing to support lower-level detail (i.e., departmental policies and procedures), and the WSO had not adequately updated the ICP as required by the OSC's

Internal Control Guide and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies. In addition, the WSO had not sufficiently developed and fully integrated a risk assessment throughout its ICP to determine how the WSO's greatest risks to its mission, goals, and objectives would be identified and mitigated. Our follow-up audit disclosed that improvements are still needed in internal controls for all WSO departments, programs, functions, and financial activities, and that the WSO needs to incorporate certain additional elements into its ICP as required by the OSC.

3. CHECKS OVER ONE YEAR OLD NOT TRANSFERRED TO THE OFFICE OF THE STATE TREASURER

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Contrary to Chapter 29, Section 32, of the General Laws, the WSO CPD was not transferring checks not presented for payment from its bank account to the Office of the State Treasurer's Unpaid Check Fund within one year from the date of issue. Our audit found 30 checks totaling \$1,360 had been outstanding for more than one year.

INTRODUCTION

Background

The Worcester Sheriff's Office (WSO) was established as an independent state agency as of July 1, 1998 as a result of the abolishment of Worcester County government pursuant to Chapter 48 of the Acts of 1997. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which established that the Sheriff became an employee of the Commonwealth but remained an elected official. The Sheriff also retained administrative and operational control over the WSO, the jail, and the house of correction.

The WSO ensures protection of the community by providing a safe and secure environment as well as correctional and educational services at its facilities. The WSO was appropriated \$40,341,283 for fiscal year 2011 for the operation of the jail, house of correction, and any other statutorily authorized facilities and functions. The WSO has approximately 646 employees. Its main facility, the Worcester Sheriff's Office Jail and House of Correction, has an inmate capacity of 1,128 and during our audit period had an average inmate census of 1,094. As presently structured, the WSO is responsible for running and overseeing all aspects of its facilities, which consist of the WSO, the jail, and the house of correction, located on 5 Paul X. Tivnan Drive in West Boylston. The WSO has an extensive inmate support network consisting of multiple programs, including various evening education classes, health education, job training and life skills management programs, parent education, special education, and other social and education programs.

In addition to its correctional programs, the WSO is responsible for the service of legal papers and notices through the Worcester County Civil Process Division (CPD), which is under full control of the Worcester Sheriff and employs 16 part-time deputies and 13 full-time staff. One full-time administrative staff employee is paid a bi-weekly salary from the WSO's state-appropriation budget. The deputies and the part-time administrative staff are paid from revenues collected in the service of civil process and are not employees of the Commonwealth.

Unaudited financial statements for the calendar year ended December 31, 2010 showed fees collected of \$1,244,120 and operating expenses of \$946,673, resulting in a surplus from operations of \$297,447. In past years, the CPD retained all revenues collected; however, Chapter 26, Section 639, of the Acts of 2003 required that, beginning in fiscal year 2004, the CPD must submit 50% of

the increase in its fees to the Commonwealth. Effective February 1, 2004, Chapter 26, Section 649, of the Acts of 2003 requires the WSO to submit a report to the House and Senate Committees on Ways and Means detailing the civil process fees charged by the CPD. The report submitted by the WSO showed that fees collected from July 1, 2010 to December 31, 2010 totaled \$951,870, including \$164,546 in fee increases remitted to the Commonwealth's General Fund.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, and in consideration of the election of a new Sheriff, the Office of the State Auditor conducted a transition audit of the status of financial activities, accounts, and functions and the related systems and control environment of the WSO as of the transition date of January 5, 2011, including reviews of fiscal year 2011 transactions prior and subsequent to the transition date. 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.

The purpose of our review was to inform the new Sheriff of the status of fiscal and administrative operations as of the date he assumed office, to enhance the transition from the prior administration to the new administration, and to identify systems and internal accounting and administrative controls needing corrective action and improvement. The recommendations in the report are intended to assist the new administration in implementing its internal control structure to ensure that it is adequate to minimize errors, losses, shortages, or illegal acts.

The objectives of our audit were to:

- Review and examine WSO fiscal operations to determine the status of accounts, activities, and records.
- Review and examine fiscal year 2011 spending from July 1, 2010 through the date of transition and perform a comparison of budget to actual expenditures to determine the sufficiency of funds to meet the WSO's obligations for the remainder of the fiscal year.
- Review the WSO's Internal Control Plan to determine whether it is up-to-date, suitably designed and implemented to safeguard Commonwealth assets, and in compliance with the Office of the State Comptroller's Internal Control Guide for Departments and Chapter 647 of the Acts of 1989.

- Review inventory controls over supplies and equipment and vehicle usage policies to determine their adequacy.
- Identify annual costs by services and activities that the WSO performs.
- Follow-up on the issues contained in our prior audit of the WSO (No. 2009-1432-3S).

To accomplish our objectives, we conducted interviews with management and staff and reviewed prior audit reports, spending plans, applicable laws and regulations, and fiscal monitoring reports. We also obtained and reviewed policies and procedures, accounting records, and supporting source documents and performed tests of these records and transactions, where necessary. At the conclusion of our audit, we met with the WSO Sheriff, Superintendent, and Chief Financial Officer to discuss the contents of the report.

As a result of our transition audit of the status of financial activities, accounts, and functions of the WSO, we have identified certain operations of the prior administration that need improvements in the area of fiscal and administrative internal controls. We reviewed and examined fiscal year 2011 actual expenditures from July 1, 2010 through the date of transition and prepared comparisons of these expenditures to budgets and other available funds for all WSO programs. As a result of this examination, we have determined the status of these funds as of the transition date and projected the availability of funds for the remainder of the fiscal year. We have concluded that the WSO should have sufficient funds necessary to meet its fiscal obligations through the remainder of fiscal year 2011. The recommendations in our report are intended to assist the new administration in implementing its internal control structure and fiscal and administrative operations to ensure that they are adequate and that the WSO is run in an economical, effective, and efficient manner and in compliance with all applicable laws, rules, and regulations.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS RESOLVED

Our prior audit report (No. 2009-1432-3S) of the Worcester Sheriff's Office (WSO) disclosed issues regarding (a) inventory controls, (b) the Sheriff's Inmate Reporting System (SIRS), and (c) procurement of services. Our follow-up review revealed that these prior issues had been adequately resolved, as discussed below.

a. Inventory Controls Improved

Our prior audit disclosed that the WSO discontinued the practice of conducting a monthly physical inventory and was conducting semi-annual physical inventories without any written policies and procedures.

Our follow-up review disclosed that the WSO has implemented inventory systems and written policies and procedures. WSO conducts monthly physical inventories of food and supply items. A new inventory computer system, WASP Barcode Technologies, includes new inventory lists. Further, supervisory approvals are used for inventory counts and annual inventory counts are now performed for all inventory lists.

b. New Inmate Accounting System Implemented

Our prior audit of the WSO's inmate account disclosed a variance totaling \$195,780 between the bank balance and the inmate account, \$439,241, and the trial balance of the SIRS, \$243,461.

Our follow-up review disclosed that, as of February 2009, the WSO had changed its accounting and reporting software system for inmate personal accounts from SIRS to the Keefe Commissary Network (KCN) software system. We found that, since the implementation of the KCN system, the WSO had sufficiently resolved the variance issue. Specifically, our testing indicated that individual inmate deposits and withdrawals are accurately tracked for individual inmates, balances for individual inmates are added together and reconciled to the bank account holding all inmate deposits, the trial balance prepared for individual inmate transactions includes properly categorized individual inmate account listings, and property deposit and disciplinary fees accounts are no longer listed with negative balances.

c. Improvements Made to Procurement of Services

Our prior audit disclosed that during fiscal year 2008, the WSO entered into contracts with two consultants to provide “correction consulting services” and “accreditation consulting services”; however, the WSO did not competitively obtain these services as required by its own procurement policy. In addition, the contracts for these two consultants did not have specific narrative descriptions of the scope of performance and services to be provided, and contract amendments for expenses and bonuses were not documented.

Our follow-up review of consulting services procurement practices disclosed that the WSO has taken steps to follow its own recently updated written procurement policies and procedures. Since the conclusion of the prior audit, individual consulting service files contain detailed descriptions of bidding procedures to be performed and include offers and relative data for non-selected consultants. Also, individual consultants not under direct WSO supervision had proper contracts with the WSO, and payments to consultants were supported by adequate documentation.

2. PRIOR AUDIT RESULTS UNRESOLVED

Our prior audit of the WSO disclosed issues regarding (a) the deposit of telephone commissions, (b) the civil process function and deposit of fees, (c) staff meals offered at no cost, (d) improvements needed in Generally Accepted Accounting Principles (GAAP) reporting, and (e) the internal control plan. Our follow-up review indicated that these issues had not been fully resolved, as discussed below.

a. Clarification Needed Regarding the Deposit of Telephone Commissions

Our prior audit report noted that the WSO receives commissions on telephone services provided to inmates and deposits these commissions into its Commissary and Welfare Account. (This issue was also noted in our prior report, No. 2005-1432-11S.) However, when the legal status of the WSO changed from county government to an agency of the Commonwealth, uncertainty existed as to where these funds should be deposited and which Massachusetts General Laws were applicable. Specifically, Chapter 29, Section 2, of the General Laws states, in part:

All revenue payable to the Commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

Moreover, Chapter 29, Section 1, of the General Laws defines state revenue as follows:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earning on such income.

However, Chapter 127, Section 3, of the General Laws states, in part:

Any monies derived from interest earned upon the deposit of such money and revenue generated by the sale or purchase of goods or services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent.

Because telephone commissions may meet the criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the WSO's Commissary and Welfare Account. Therefore, our prior audit reports recommended that the WSO seek legal clarification as to which law applies.

Our follow-up review found that for the period July 1, 2010 to January 31, 2011, the WSO deposited \$191,794 in telephone commissions into the Commissary and Welfare Account. The WSO maintains that there is a need for the Legislature to clarify this matter and that, until such clarification is received, the WSO intends to continue with this practice.

Prior to our audit, Chapter 61 of the Acts of 2009 was approved by the Legislature on August 6, 2009, which transferred certain county Sheriffs' Offices (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) operations to the Commonwealth. The law states that inmate telephone funds shall remain with the Office of the Sheriff. Chapter 61, Section 12, of the Acts of 2009 states, in part:

- a. Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.*
- b. Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and*

senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state, and local governments and other such accounts and regarding which revenue shall remain with the sheriff's office.

- c. Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.*

Recommendation

Chapter 61, Section 22, of the Acts of 2009 establishes a special commission to investigate and study the Sheriff's Offices throughout the Commonwealth and make recommendations for the reorganization and consolidation of their operation, administration, regulation, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposition and uses of telephone commissions and recommend legislation for the consistent disposition thereof.

Auditee's Response

The [WSO] has been assisting, via the Massachusetts Sheriff's Association (MSA), the Special Commission established via Chapter 61, Section 22 of the Acts of 2009. We await the results of this Commission to establish a recommended or uniform reporting requirement for monies derived from the inmate phone system.

b. Clarification Needed Regarding the Organization of the Civil Processing Function and the Deposit of Fees

Deputy sheriffs throughout the Commonwealth collect fees for their service of civil process conducted in accordance with Chapter 37, Section 11, of the General Laws, which states:

Sheriffs and their deputies shall serve and execute, within their counties, all precepts lawfully issued to them and all other process required by law to be serviced by an officer. They may serve process in cases where in a county, city, town, parish, religious society or fire or other district is a party or interested, although they are inhabitants or members thereof.

The serving of civil process in accordance with Chapter 262, Section 8, of the General Laws includes the execution of summons, warrants, subpoenas, and other procedures requiring legal notification.

The WSO pays 28 employees (who are not employees of the Commonwealth of Massachusetts) in the Civil Process Division (CPD) with revenues collected in the service of civil process, and one administrative staff employee is paid from the state payroll. Officer detail work is performed

by trained WSO corrections officers, who are issued Internal Revenue Service 1099-MISC income information forms. When billing for private officer detail work, the WSO includes a 10% administrative fee for the work being performed.

Because the civil processing function is within the WSO's legislatively defined duties and responsibilities, fees collected and retained by the deputy sheriffs since the transfer from county government to state government should be considered Commonwealth revenue. Chapter 29, Section 1, of the General Laws defines "fees" as state revenue, as follows:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income.

In addition, Chapter 29, Section 2, of the General Laws requires that all Commonwealth revenue be paid into a Commonwealth fund, as follows:

All revenue payable to the commonwealth shall be paid into the General Fund, except revenue required by law to be paid into a fund other than the General Fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

All such revenue shall be deposited in and credited to the General Fund or other state funds during the fiscal year in which it is received. In the event that a question arises as to the correct year to credit the receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and the determination of the comptroller shall be conclusive.

The civil process fees collected by the WSO are defined in Chapter 262, Section 8, of the General Laws. These fees are usually used to subsidize the operations of the WSO as reviewed and authorized by the Sheriff. However, there is no legislation or uniform guidelines in place to stipulate how any surpluses generated from operations of the civil process function at the WSO and other Sheriff's Offices should be used. Civil processing fees retained by the WSO are "off line"; are not deposited in the General Fund or some other fund, such as a retained revenue account; and are not accounted for, reported, and recorded in the Massachusetts Management Accounting and Reporting System (MMARS), the state's accounting management system that is designed to support the financial functions of the Commonwealth, including all revenue and expenditure activity.

In fiscal year 2010, the WSO used funds from the CPD to supplement its appropriation. As of January 31, 2011, the CPD operating account had a balance of \$247,852.

The OSA has reported on numerous occasions the need for state officials, including the State Comptroller and the Secretary of the Executive Office for Administration and Finance, to review the statewide performance and fragmented processes in place for managing the civil process function of Sheriff's Offices that have been transferred to the Commonwealth. Subsequent legislation has been filed each year since 2001 to change the methods and management of civil process fees. Annually, legislation has been filed to establish a retained revenue account within MMARS for reporting and recording receipts, fees, and revenues collected by the CPDs of Sheriff's Offices. All such funds should be remitted to the Office of the State Treasurer (OST). The CPD could expend funds from this account for all expenses associated with its operation. Expenses from the account would conform to existing expenditure regulations and generally accepted accounting principles and comply with all relevant provisions of Chapter 29 of the General Laws (the State Finance Law).

Recommendation

The WSO and the special commission should review the accounting, reporting, processing, and management of civil processing fees; consult with the Office of the State Comptroller (OSC); and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate accounting mechanism that complies with applicable laws, rules, and regulations. Consideration should be given to depositing civil process fees into a retained revenue account or an authorized OST bank account, or depositing civil process fees in the Commonwealth's General Fund. Additionally, the WSO and the special commission should consider filing legislation or establishing uniform guidelines to stipulate how any surpluses generated from the civil process function at the WSO and other Sheriff's Offices should be used.

Auditee's Response

The [WSO] awaits guidance from the same Commission (via Section 22) [of Chapter 61 of the Acts of 2009] on operational reporting requirements as well as policies and procedures for our Civil Process Division.

c. Staff Meals Offered at No Cost

When the WSO was part of county government, WSO staff was offered meals at no cost. Our audit found that this practice, which is not permissible under the General Laws, continued after the county government was abolished and the WSO was transferred to the Commonwealth. Chapter 7, Section 3B, of the General Laws states that no meal shall be served to any Commonwealth employee at less than the cost to the Commonwealth, as follows:

No service shall be performed for the sole benefit of any person at less than cost . . . by any personnel or agency of the commonwealth . . . nor shall any meal be served to any employee of the commonwealth by an institution thereof at less than the cost to the commonwealth.

The secretary of administration shall, on or before January first, nineteen hundred and seventy-six and from time to time thereafter, after notice and a hearing in the manner provided by chapter thirty A, determine the cost hereinbefore mentioned and shall inform each department, agency and institution of the commonwealth furnishing such services or meals or having control of such property or equipment of the cost so determined. Thereafter the cost determined by the secretary shall be collected by such department, agency or institution unless a greater charge has been fixed by the general court. . . .

Notwithstanding any other general or special law to the contrary, for the period beginning March first, nineteen hundred and ninety-one, the secretary of administration . . . (3) shall determine the charge to be made by the commonwealth for all meals served in state institutions or facilities to employees thereof.

By offering staff meals at no cost, the WSO is incurring unnecessary costs that could otherwise be used for other institutional expenses. In response to this issue, WSO officials stated that WSO employees continue to enjoy this benefit because the county takeover legislation, Chapter 34B, Section 15, of the General Laws, expressly provides that county employees were not to suffer any loss of benefits:

Section 15. All officers and employees of an abolished county or of Hampshire county or of the Suffolk and Berkshire counties' registries of deeds transferred to the service of the commonwealth or a regional retirement system shall be transferred without impairment of seniority, retirement or other statutory rights of employees, without reduction in compensation or salary grade and without change in union representation, except as otherwise provided in this chapter. Any collective bargaining agreement in effect for such transferred employees immediately before the transfer date shall continue as if the employees had not been so transferred, until the expiration date of such collective bargaining agreement. Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of said transfer, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to such date.

Moreover, the Massachusetts Labor Relations Commission (MLRC) has ruled that the conditions pertaining to employee meals are a mandatory subject of bargaining that the employer is not free to unilaterally change (City of Boston [Deer Island House of Correction], 15 MLRC 1209 [1988] affirmed on appeal 16 MLRC 1086 [1989]).

Recommendation

The WSO should review its current policy, state laws, and costs associated with furnishing meals to WSO employees and consider charging a nominal amount, but not less than the Commonwealth's cost for the meals, to defray the cost. This consideration should be given in conjunction with any collective bargaining sessions scheduled or to be scheduled. In addition, because this practice conflicts with Chapter 7, Section 3B, of the General Laws, the WSO should further discuss this issue with the special commission reviewing Sheriff's Offices. The special commission should take into consideration this matter as an example of the inconsistencies in the various laws that have occurred when the Sheriff's Offices transitioned into state government and recommend legislation for the consistent handling of employee meals at all Sheriff's Offices.

Auditee's Response

Staff meals were provided free of charge to employees when the [WSO] transitioned to a state agency in 1998. As stated in your report, there is conflicting state law that prohibits elimination of this employee benefit. [WSO] will attempt to resolve this practice upon the expiration of our current collective bargaining agreements, as well as recommendations from the Section 22 [of Chapter 61 of the Acts of 2009] Commission.

d. Improvements Needed in GAAP Reporting

Our prior two audit reports disclosed that the WSO's Generally Accepted Accounting Principles (GAAP) report submitted to the OSC did not contain the required information regarding assets held in trust and accrued vacation balances. Specifically, we found that WSO did not report the assets in the canteen account or the CPD, as well as the liability amount for the accrued vacation balances that the WSO continues to maintain on an internal payroll system (Kronos).

Our follow-up review of the WSO disclosed that its fiscal year 2010 GAAP report properly reported its canteen account and improved upon reporting and reconciliation of its internal

payroll records with the Human Resources/Compensation Management System (HR/CMS). HR/CMS interfaces with annual GAAP reporting of accrued leave time liabilities in accordance with GAAP and OSC requirements. However, we noted that the fiscal year 2010 GAAP report still did not follow all GAAP and OSC requirements because the WSO did not include any reference to assets under the CPD or to accrued vacation time liabilities for civil processing employees.

Recommendation

WSO should develop and implement policies and procedures to ensure that all future GAAP reports contain the necessary information as required by the OSC's GAAP Instructions for all locally held assets and disclose liabilities, including all data relative to its civil processing functions. In addition, WSO should utilize all available assistance in complying with OSC requirements through the use of the OSC's website, training, and helpline.

Auditee's Response

The requirements to provide bank account balances, via the Commonwealth's GAAP process, for Civil Process monies generated will be another item resolved with the Commission's [Chapter 61, Section 22 of the Acts of 2009] findings/recommendations.

e. Internal Control Plan Needs Improvement

Our prior audit disclosed that the WSO had not adequately updated its Internal Control Plan (ICP) as required by the OSC's Internal Control Guide and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies. Specifically, our prior audit disclosed that, although the WSO had developed an ICP, it did not have a high-level summarization of internal controls that contained sufficient cross-referencing to support lower-level detail (i.e., departmental policies and procedures) and that the WSO had not adequately updated the ICP in accordance with these requirements. In addition, the WSO had not sufficiently developed and fully integrated a risk assessment throughout its ICP to determine how the WSO's greatest risks to its mission, goals, and objectives would be identified and mitigated.

During our transition audit we found that, although the WSO's ICP has been updated and improved since our prior audit, it still requires additional enhancement in that it does not

describe internal controls for all WSO departments, programs, functions, and financial activities. Also, although the ICP has incorporated a risk assessment that describes actions taken to mitigate identified risks, the specific policies and procedures used to guard against the identified risks are not referenced within the ICP. Additionally, the ICP does not incorporate all eight components of Enterprise Risk Management (Internal Environment, Objective Setting, Event Identification, Risk Assessment, Risk Response, Control Activities, Information & Communication, and Monitoring) as identified in the Committee of Sponsoring Organizations of the Treadway Commission's (COSO) Internal Control-Integrated Framework of September 2004. Further, the CPD is not included in the ICP.

Chapter 647 of the Act of 1989, An Act Relative to Improving the Internal Controls within State Agencies, states, in part:

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.

Moreover, the OSC's Internal Control Guide, dated September 13, 2007, states, in part:

An internal control plan is a description of how a department expects to meet its various goals and objectives by using policies and procedures to minimize risk. The Commonwealth has defined the internal control plan to be a high-level summary supported by lower level policy and procedures. Each department's internal control plan will be unique; however, it should be based on the same framework – the organization's mission statement, goals and objectives, and components of internal control recommended by COSO. The plan should be reviewed and updated as conditions warrant, but at least annually.

The Office of the Comptroller defines an internal control plan as a high level department-wide summarization of the department's risks and the controls used to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures. . . .

In September 2004, COSO issued its framework for enterprise-wide risk management, Enterprise Risk Management – Integrated Framework also known as COSO II. Enterprise Risk Management (ERM) is a broader framework that incorporates key concepts set out in COSO's earlier Internal Control – Integrated Framework. . . . It expands and elaborates on the risk assessment and internal environment components of the Internal Control – Integrated Framework. For example, it breaks out internal environment into two components (internal environment and objective setting) and risk assessment into three components (event identification, risk assessment and risk response). . . .

Because the WSO's ICP does not provide adequate support and guidance for all WSO departments, programs, and functions, it may not provide adequate safeguards to protect WSO assets against waste, loss, theft, or misuse.

Recommendation

In order to adequately safeguard assets and promote operational efficiency, the WSO should update its ICP in accordance with Chapter 647 of the Acts of 1989 and OSC guidelines. Furthermore, once the ICP is updated, the WSO should ensure that its internal control system is reviewed and evaluated and that any necessary changes are implemented when conditions warrant, but at least annually. All WSO departments, programs, and functions, including financial activities and the CPD, should be included in the ICP. Internal controls for all functions should be summarized, and the supporting procedures documented elsewhere should be referenced within the plan. Additionally, the ICP's risk response should be properly supported by lower-level policies and procedures, and the updated ICP should incorporate all eight components of Enterprise Risk Management.

Auditee's Response

The [WSO] will begin improving our Internal Control Plan. We have recently hired a new CFO who, in conjunction with the Special Sheriff, will address this matter.

3. CHECKS OVER ONE YEAR OLD NOT TRANSFERRED TO THE OFFICE OF THE STATE TREASURER

Our audit disclosed that the WSO needs to improve its internal controls over cash management and make improvements in the monitoring and investment policies and procedures for locally held funds. Specifically, we found that the WSO is not remitting outstanding checks not presented for payment from its bank accounts within one year from their date of issue to the OST's Unpaid Check Fund in a timely manner. Our review of the CPD checking account disclosed 30 checks totaling \$1,360 that had been outstanding for more than a year.

Chapter 29, Section 32, of the General Laws requires that checks outstanding over one year be transferred to the Unpaid Check Fund, as follows:

Any check issued by the State Treasurer or by any agent or agency of the Commonwealth, other than checks issued in payment of obligations of the State Board of

Retirement and the Teachers' Retirement Board, which is not presented for payment within one year from its date shall be payable only at the Office of the State Treasurer. On the thirtieth day of June in each year the Comptroller shall transfer to the abandoned property fund all funds which are identified by the State Treasurer as funds of the Commonwealth which have remained in the unclaimed check fund for at least one year.

The WSO Chief Financial Officer stated that there were several leadership changes within the CPD since the transition date of January 5, 2011. The newly appointed Chief Deputy of the CPD stated that he plans to comply with the OST guidelines as soon as possible.

Recommendation

The WSO should establish policies and procedures to ensure that outstanding checks are timely identified and that any outstanding unclaimed checks over one year old from the date of issuance are promptly remitted to the OST, as required.

Auditee's Response

The Civil Process Division will begin returning unclaimed checks within the past fiscal year to the Office of the State Treasurer.