



# The Commonwealth of Massachusetts

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**INDEPENDENT STATE AUDITOR'S REPORT ON  
CERTAIN ACTIVITIES OF  
BETTER COMMUNITY LIVING, INC.  
JULY 1, 2000 THROUGH JUNE 30, 2003**

**OFFICIAL AUDIT  
REPORT  
DECEMBER 3, 2004**

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Better Community Living, Inc. (BCL) was incorporated on September 20, 1988 as a private, not-for-profit human services agency. BCL provides residential services, individual support, community support, and training services for developmentally disabled individuals who reside in the greater New Bedford area.

The scope of our audit included the various administrative and operational activities of BCL during the three-year period July 1, 2000 to June 30, 2003. Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits issued by the Comptroller General of the United States and included audit procedures and tests considered necessary to meet those standards.

Our audit objectives were to (1) determine whether BCL had implemented effective management controls, including processes for planning, organizing, directing, and controlling program operations; (2) review policies and procedures to ensure that resource use is consistent with laws and regulations and resources are safeguarded and efficiently used; and (3) assess BCL's business practices and compliance with applicable laws, rules, and regulations and the various fiscal and programmatic requirements of its state contracts.

Our audit identified \$1,182,752 in unallowable and nonreimbursable expenses, inadequate controls over many aspects of BCL's operations involving thousands of transactions, and a questionable contract amendment by the Department of Mental Retardation (DMR) totaling \$360,262.

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We found that contrary to Chapter 29, section 29B, of the Massachusetts General Laws the Department of Mental Retardation (DMR) used BCL to pay as much as \$235,497 in expenses that appeared unsupported or unrelated to BCL's operations. Of that amount, BCL did not have adequate documentation to substantiate \$51,107 in expenses, and the remaining \$184,390 appeared unrelated to BCL's program activities. For example, according to BCL officials, DMR instructed BCL to pay for \$39,524 in services rendered by other human services providers to non-BCL clients. Other examples of questionable, undocumented and inadequately supported expenses include \$3,198 for food and lodging primarily for DMR staff, \$1,075 to various artists, \$960 for framed artwork, and \$12,195 for training videos and other materials for another human services agency. By processing expenses in this manner, DMR failed to comply with state law and various regulations, inaccurately reported both its and BCL's total operating expenses to the Commonwealth for the period of our review, and did not ensure that adequate controls were in place to protect these funds from abuse or misuse.

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We found that between fiscal years 2001 and 2002 BCL charged \$33,450 against its state contracts for expenses consisting of payments of mortgage principal for properties that it uses in its Residential Services programs. According to state regulations, expenses consisting of principal payments on mortgages are unallowable and nonreimbursable under state contracts.

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We found that BCL does not always submit accurate payroll expense information to its state purchasing agencies. BCL's Business Manager stated that instead of charging personnel costs to the program in which they were incurred BCL routinely allocates payroll expenses to programs where there is available funding. We found at least \$41,923 in payroll expenses incurred by the agency in one program but charged to a program in which they were not incurred. Consequently, the Commonwealth cannot be assured that

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the millions in payroll expenses that BCL charged against its state contracts during fiscal years 2001 through 2003 were accurately billed and reported by the agency.

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We found that BCL has not established adequate controls over several aspects of its operations. Specifically, BCL does not record accurate full-time equivalent (FTE) personnel information in its financial records. BCL's Business Manager stated that FTEs are reported in the agency's UFRs, which it files with the Commonwealth, on the basis of budgeted rather than actual amounts. As a result, the Commonwealth cannot be assured that the level and type of program staffing being reported by BCL in its UFRs are accurate. We also found that contrary to state regulations BCL has no formal written cost allocation plan for its general and administrative expenses. BCL officials stated that in practice the agency allocates its indirect costs based on the total direct costs in each program. However, we found that in several instances the agency had not followed that methodology. As a result, the Commonwealth cannot be assured that the financial results of BCL's state-funded programs are being accurately reported.

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We found that during fiscal years 2001 and 2002 BCL used state funds to pay for at least \$23,540 in credit card expenses that were inadequately documented or appeared to be unrelated to the social services program activities of BCL. According to state regulations, such expenses are unallowable and nonreimbursable under state contracts.

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We found that DMR, contrary to state regulations, during fiscal year 2002 increased the maximum obligation of a contract that it awarded to BCL by \$360,262; moreover, it could not provide any documentation regarding the rationale for the increase or whether the services were re-bid to reflect the change in scope of services.

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## INTRODUCTION

### ***Background***

Better Community Living, Inc. (BCL) was incorporated on September 20, 1988 as a private, not-for-profit human services agency. BCL provides residential services, individual support, family support, and training services for developmentally disabled individuals who reside in the greater New Bedford area. (See the Appendix for a description of the programs that BCL operated during the audit period.) BCL receives funding primarily from its Commonwealth of Massachusetts contracts with the Department of Mental Retardation (DMR). During the audit period, BCL received the following funding:

#### **Summary of Revenue July 1, 2000 through June 30, 2003**

Revenue Source	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003
Department of Mental Retardation	\$5,029,364	\$5,447,637	\$5,395,963
Del's Soft Lemonade	84,479	100,273	110,517
Client Resources	265,809	293,220	292,863
Other	<u>35,879</u>	<u>20,770</u>	<u>25,870</u>
Total	<u>\$5,415,531</u>	<u>\$5,861,900</u>	<u>\$5,825,213</u>

In October 1997, BCL purchased the New Bedford franchise of Del's Soft Lemonade (Del's) for \$15,000 and began operating this franchise in May 1998. According to BCL officials, this acquisition was made with grants from the Catholic Charities Campaign for Human Development and the Polaroid Foundation. In 2002, BCL purchased another Del's franchise in Fall River and began operating it on June 27, 2002. According to BCL officials, these franchises were purchased with the intention of eventually providing employment and training opportunities for BCL clients.

### ***Audit Scope, Objectives, and Methodology***

The scope of our audit included the various administrative and operational activities of BCL during the period July 1, 2000 to June 30, 2003. Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits issued by the Comptroller General of the United States and included audit procedures and tests considered necessary to meet those standards.

Our audit objectives were to

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

To achieve our objectives, we first assessed the management controls established and implemented by BCL over its operations. The purpose of this assessment was to obtain an understanding of management's attitude, the control environment, and the flow of transactions through BCL's accounting system. We used this assessment in planning and performing our audit tests. We held discussions with BCL officials and reviewed (1) the agency's Board of Director's meeting minutes for the audit period, (2) organizational charts and internal policies and procedures, and (3) applicable laws, rules, and regulations. We also examined BCL's financial statements, budgets, cost reports, invoices, and other pertinent financial records to determine whether expenses incurred under its state contracts were reasonable, allowable, allocable, properly authorized and recorded, and complied with applicable laws, rules, and regulations.

Our audit was limited to a review of the activities of BCL. Our audit was not conducted for the purposes of forming an opinion on BCL's financial statements. We also did not assess the quality and appropriateness of all the program services provided by BCL under its state-funded contracts. Rather, our report is intended to report findings and conclusions on the extent of BCL's compliance with applicable laws, regulations, and contractual agreements and to identify services, processes, methods, and internal controls that could be made more efficient.

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## AUDIT RESULTS

### 1. UNDOCUMENTED OR NON-PROGRAM-RELATED DEPARTMENT OF MENTAL RETARDATION EXPENSES OF \$235,497 PAID BY BCL

We found that contrary to Chapter 29, Section 29B, of the Massachusetts General Laws the Department of Mental Retardation (DMR) used BCL to pay as much as \$235,497 in expenses that appeared unsupported or unrelated to BCL's operations. Of that amount, BCL did not have adequate documentation to substantiate \$51,107 in expenses, and the remaining \$184,390 appeared unrelated to BCL's program activities. For example, according to BCL officials, DMR instructed BCL to pay for \$39,524 in services rendered by other human services providers to non-BCL clients. Other examples of questionable expenses include \$3,198 for food and lodging primarily for DMR staff, \$1,075 to various artists, \$960 for framed artwork, and \$12,195 for training videos and other materials for another human services agency. By processing expenses in this manner, DMR failed to comply with state law and various regulations, inaccurately reported both its and BCL's total operating expenses to the Commonwealth for the period of our review, and did not ensure that adequate controls were in place to protect these funds from abuse or misuse.

During our audit, we reviewed the documentation that BCL was maintaining regarding various expenses that it billed against its DMR contracts. We found that the agency had paid for some expenses that were incurred by DMR or other human services providers and were not related to the operations of BCL. We brought this matter to the attention of BCL's Business Manager, who stated that DMR frequently refers its expenses to BCL for payment. BCL officials stated that on such occasions DMR would submit to BCL a bill (on DMR letterhead) for goods or services provided to non-BCL clients, and DMR would instruct BCL to pay for these goods and services; BCL would then pay these bills and charge them to accounts in what BCL's Business Manager termed BCL's "DMR Special File." Included in this file were two "Independent Care Givers Community Support" accounts, an "Intensive Flexible Family Supports" account, and "Children's Blanket" and "Wish List" accounts, and their expenses were charged against various DMR contracts. BCL officials stated that since DMR was BCL's principal state funding agency and the invoices submitted by DMR for payment appeared to be for DMR clients, BCL simply paid those invoices. Based on these assertions by BCL officials, we reviewed all of the expenses

that BCL charged to its “DMR Special File” accounts during the audit period and identified four sets of problems, which we discuss in the following sections.

**a. DMR Used BCL to Pay \$235,497 in DMR Expenses**

Chapter 29, Section 29B, of the General Laws prohibits state agencies from using contracts with human services providers as fiscal conduits; it states, in part:

*Such contracts [with human services providers] shall not be written or used by any department, office, agency, board, commission or institution of the Commonwealth to procure full or part-time personal services, or equipment to be used by such department, office, agency, board, commission or institution, or any goods or services not required in the direct provision by the contractor of social, rehabilitative, health, or special education services to populations being served by the contracting department, office, agency, board, commission, or institution.*

Furthermore, when the contracts at issue were initially awarded by DMR to BCL, 808 Code of Massachusetts Regulations (CMR) 2.03 (06), promulgated by the state’s Operational Services Division (OSD), the agency responsible for regulating and overseeing contracted human services providers such as BCL, was in effect and stated, in part:

*Fiscal Conduits Prohibited. No procuring Department shall award a Contract:*

- a. to acquire any goods for the Procuring Departments use;*
- b. to defray the expenses of services rendered by individuals hired or supervised in the daily performance of their work by personnel in the classified service of the Commonwealth; or*
- c. solely to acquire payroll of fiscal management for a Program of Client services operated by the Commonwealth or any third party.*

During our audit, we determined that \$235,497 in expenses were recorded by BCL in its “DMR Special File” and subsequently charged to DMR contracts for non-BCL expenses (see the subsequent sections, b through d). Because those expenditures were not direct service-program expenses incurred by BCL, they were misreported by BCL and DMR. Moreover, by using state funding in this manner, DMR failed to comply with the requirements of state law and regulations, inaccurately reported both its and BCL’s operating expenses to the Commonwealth for the audit period, and failed to properly safeguard those funds against abuse and misuse.



**b. BCL Paid \$39,524 for Services Provided by Other Agencies to Non-BCL Clients**

The Executive Office for Administration and Finance has promulgated 801 CMR 21.08 (1), with which all state agencies must comply. This regulation states, in part:

*[T]he Contractor shall only be compensated for performance delivered to and accepted by the Department in accordance with the specific terms and conditions of a properly executed Contract.*

We reviewed the documentation that BCL was maintaining regarding its DMR Special File during the audit period. We noted several expenses, totaling \$39,524, which DMR instructed BCL to charge against its contracts; however, those expenses were for services provided by other human services providers to non-BCL clients.

Specifically, in March 2000, BCL received a payment of \$18,912 for expenses that it billed DMR for services that BCL purportedly provided to a client under its Supported Employment contract with DMR. However, our review of the documentation maintained by BCL regarding these expenses revealed that these services were actually delivered to a non-BCL client by the Eagleton School, Inc. (Eagleton), a residential psycho-educational school in Great Barrington, Massachusetts, serving learning-disabled males ages 9 to 22. Those expenses consisted of the client's tuition charges. Eagleton submitted eight Service Delivery Reports (SDRs) and payment vouchers (PVs) for the period July 1, 1999 to February 29, 2000 to DMR, documenting the number of days that the client was present at Eagleton and the cost of the services provided. However, according to BCL officials, DMR's New Bedford Area Director redirected Eagleton's PVs to BCL and allegedly authorized BCL to disburse a check for \$18,912 to the Eagleton and charge the expense to DMR's Supported Employment contract.

Similarly, in June 2000, BCL charged \$10,640 against its Limited Unit Rate Service Agreement contract with DMR for intermittent, limited-time support services it purportedly provided to a client between March 11, 2000 and June 30, 2000 at a rate of \$95 per day. However, our review of the documentation maintained by BCL regarding those expenses determined that The Evergreen Center, Inc. (Evergreen) of Milford, Massachusetts, a residential school serving children and adolescents, ages 6 to 22, with severe developmental disabilities, had actually provided the services to a non-BCL client for 31 days, throughout

March 2000, at a rate of \$353.73 per day. Evergreen originally submitted an SDR and a PV to DMR for these services in March 2000. However, according to BCL officials, DMR's New Bedford Area Director redirected Evergreen's PV to BCL and authorized it to falsify a PV and submit it to DMR for reimbursement. After BCL received the \$10,640 payment from DMR, on September 1, 2000 it issued a check to Evergreen for \$10,606.

Also, in June 2001, BCL submitted a PV to DMR totaling \$9,972 for services it purportedly provided to a BCL client under its Community Support contract with DMR. However, we found that the services were actually provided by the New England Village, Inc. (NEV), a private residential community in Pembroke, Massachusetts, for adults with mental retardation. NEV provided residential services to a non-BCL client from April 15, 2001 to June 30, 2001. On July 10, 2001, NEV submitted to DMR a PV and three SDRs identifying the days that the client was present in NEV's residential program. However, according to BCL officials, DMR's New Bedford Area Director redirected NEV's PV to BCL and authorized it to disburse a check for \$9,972 to NEV and charge the expense to BCL's Community Support contract with DMR. On July 25, 2001, BCL issued a check for \$9,972 to NEV and subsequently charged this expense to the aforementioned DMR contract.

**c. Inadequately Documented Expenses Totaling \$51,107**

The Office of the State Comptroller (OSC) has promulgated regulations with which all state agencies such as DMR must comply; according to those regulations, state agencies are required to maintain adequate documentation for all expenses paid with state funds. Specifically, 815 CMR 10.00 states, in part:

*Departments shall maintain the Record Copy of the following documents in accordance with 815 CMR 10.00 and any policies and procedures issued by the Office of the Comptroller:*

- a. all Bills and Vouchers on which money has been paid or will be paid from the Treasury upon the certificate of the Comptroller or warrant of the Governor; and*
- b. all Contracts under which money may be payable from the Treasury....*

*Departments shall maintain Record Copies of the documents identified under 815 CMR 10.03 (1) at:*

- a. a central Department location, or*

- b. if the Department maintains Record Copies at multiple locations, the Department shall maintain a centralized list of the repository location of all Record Copies.*

Similarly, 808 CMR 1.05, promulgated by OSD, requires all contracted human services providers, such as BCL, to maintain adequate supporting documentation for all expenses; it also defines undocumented expenses as nonreimbursable under state contracts:

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

We found that during fiscal year 2002 BCL charged 52 expenditures, totaling \$25,688, from its “Children’s Blanket” General Ledger account against its Individual Supports contract with DMR. We tested all 52 expenditures and found that 29 (or 56%), totaling \$15,945, had no invoice to substantiate that the expenses were actually incurred. Moreover, none of the clients whom we could identify as having been provided the services in question appeared to be clients of BCL. During fiscal year 2003 (through April 2003), BCL charged \$3,945 worth of expenses in its Children’s Blanket Account against its Individual Supports contract with DMR. We reviewed the documentation that BCL was maintaining regarding these expenses and determined that none adequately substantiated that the expenses were actually incurred and none of the clients names listed on the DMR referrals for these services appeared to be BCL clients.

We also identified that during fiscal year 2000 BCL charged \$25,419 in expenses from its Wish List accounts against its DMR contracts for gift certificates for over 150 clients. However, there was no documentation to substantiate that the gift certificates were actually purchased. Moreover, we received from BCL officials the list of persons who purportedly received these gift certificates; our review of the list found that none of the individuals appeared to be BCL clients.

**d. BCL Billed for Non-Program Expenses Totaling \$144,866 against Its DMR Contracts**

The 808 CMR 1.05 (12), promulgated by OSD, identifies the following costs as nonreimbursable under state contracts:

*Non-Program Expenses. Expenses of the Contractor, which are not directly related to the social service Program purposes of the Contractor.*

In addition to the shortcomings already noted, we found that \$144,866 of the \$235,497 in questionable expenses also did not appear to benefit BCL programs because of inadequate justification or documentation. Further, although some of these expenses may have benefited BCL along with other non-BCL clients and the community, charging their total cost to BCL programs is improper. BCL incorrectly reported these expenses, in its Uniform Financial Statements and Independent Auditor's Reports (UFR) that it filed with the Commonwealth, as Direct Care Consultants for programs. However, these expenses included items such as vacations, moving expenses, auto insurance, plumbing, various house repairs, and home alarm systems for individuals who were purportedly DMR clients, but not BCL clients. The following are examples of other types of non-program expenses:

- Payments during fiscal years 2001 and 2002 totaling \$4,378 to the Coordinator of Bridges to Faith Inc., a religious organization located at the North Baptist Church, at 750 County St., New Bedford. BCL also paid for Bridges to Faith Inc.'s Internet Web site bills for 21 months, from September 2001 to May 2003, totaling \$418.95. BCL did not have documentation to substantiate that these expenses benefited its state-funded programs.
- Three payments, totaling \$9,195, during fiscal years 2000 and 2001 for media services and video production of training materials for another vendor, the New Bedford Training Council<sup>1</sup> (NBTC).
- Payments totaling \$1,100 in March 2000 for 22 gift certificates, apparently provided to members of NBTC.
- Payments totaling \$3,000 in fiscal year 2000 to a consultant to provide training to 40 people at NBTC.
- A December 9, 1999 contribution of \$150 by DMR to the Hispanic Heritage Committee.
- A \$2,844 payment on March 28, 2000 to American Express for charges at the Seaport Inn, Fairhaven, Massachusetts. BCL did not have any documentation to substantiate that these expenses benefited its state-funded programs.
- A \$354 payment on April 10, 2001 to the Holiday Inn, Fairhaven, for food, gratuity, and tax, with no documentation as to how this expense related to BCL's activities.
- Seven payments during fiscal year 2001, totaling \$1,075, to various artists and one payment of \$960 in fiscal year 2000 for 20 framed pictures.

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<sup>1</sup> NBTC is a private nonprofit corporation in New Bedford that provides training to businesses to improve safety and health in the workplace, home, and community.

- A \$2,406 payment for a computer purchase, software, and computer repairs for a non-BCL client during fiscal years 2000 and 2001.
- During fiscal year 2000, an \$11,290 payment for the construction of a bathroom and wheelchair ramp for a non-BCL client.
- Payment of \$3,662 in funeral expenses, in October 1999, of a non-BCL client.

Regarding these matters, BCL officials stated that the agency paid all of the expenses in question at the direction of DMR. However, by processing expenses in this manner, DMR clearly failed to comply with state law and various regulations. As a result, both its and BCL's reporting of total operating expenses to the Commonwealth for the period of our review were inaccurate, and DMR could not ensure that adequate controls were in place to protect these funds from abuse or misuse.

### **Recommendation**

To address our concerns regarding this matter, DMR should discontinue the practice of using BCL as a fiscal conduit. DMR should no longer process any of its expenses in this unallowable manner and should take measures to ensure that it complies with state law and state procurement regulations when purchasing goods and services. Furthermore, the Executive Office of Health and Human Services and OSD should (1) review the expenses that DMR paid for through funding that it provided to BCL and (2) require DMR to take any corrective action they deem necessary to address these issues.

### **Auditee's Response**

In response to this audit result, BCL provided the following comments:

*Better Community Living (BCL) has worked in partnership with a number of other groups and agencies to meet the needs of Department of Mental Retardation (DMR) clients in community based settings. These various partnerships were flexible in order to meet the needs of clients and families when other funding options were either not available or non-responsive. These subcontracted services and goods were legitimate services provided to DMR clients. It is not true that DMR has used BCL as a "fiscal conduit." BCL was asked to pay for services provided by another human service agency. For instance, BCL paid for clients who received 30 days of 24-hour residential supports by Evergreen Center. Another example is the residential services provided to a client who received services from New England Villages. All expenses and services were paid and vouchered for and BCL maintained documentation.*

*The \$3,198 mentioned for "food and lodging for DMR staff" was for a training day for staff that worked in DMR provider agencies in the Greater New Bedford area.*

*The "\$12,195 for training videos" was for the production and purchase of two videos. One video was for the "Bridges to Faith" program which assisted BCL clients and other DMR clients with their faith communities. A fee of \$10 is charged for each video requested. The second video was for the "Supported Employment" video used to train staff of BCL clients and staff of other DMR provider agencies in New Bedford and to encourage employment opportunities.*

*However, there were oversights in the contract amendment process such as not amending each client's name in the contract for every one-time good or service purchased. The BCL has halted this practice. BCL is currently working with the DMR to review the appropriated manner for documenting these subcontracted goods and services.*

In response to this audit result, DMR officials provided comments, which are excerpted below:

*Three disabled DMR clients, J.R., M.B. and C.S. received residential services from three different residential out-of-school providers, Eagleton School, Evergreen Center and New England Village, prior to turning 22 years old. When they turned 22 and lost their educational entitlement, the individuals in question were "assigned" to the Department through the Executive Office of Health and Human Services Bureau of Transitional Planning. The clinical challenges presented by the placement of these severely disabled individuals were considerable. One of the individuals, for example, was, at the time that DMR was assigned the responsibility of providing services to him, subject to physical restraint on a "papoose board" in his out-of-school placement. Due to the clinical challenges that these individuals posed, staffing adjustment were required for their placement; as a result, the individuals remained in their educational placements after they "turned 22" in order to allow DMR time to make staffing adjustments.*

*Under more ordinary conditions, these individuals would have been provided residential services through a contract with a DMR residential provider, and the contract amended to cover their costs. Because these individuals stayed in their school-based residential programs longer than anticipated due to staffing challenges, it was necessary for DMR to pay providers with whom it had no contract. In an effort to cover these costs, the Area Office ("AO"), paid for these services using funds in the BCL contracts by requesting that the providers bill BCL, and then have BCL pay for these services through its contract with DMR. There is no dispute that these individuals received the services listed....*

*While payment for these services to DMR clients should have been made through a contract with providers, the SAO Report's assertions that the payments were not for DMR clients and therefore were not "legitimate expense" is quite clearly incorrect....*

*Each of the expenditures described below was entirely legitimate and benefited BCL clients who were also DMR clients in the manner described.... BCL's individual support contract with DMR provides for flexible funding for a variety of needs an individual may have, therefore the fifty-two expenditures from the Children's Blanket account were properly charged against this contract.*

*The flexibility of individual support contracts is seen in the range of needs the contracts are intended to address. Examples of these needs include transportation, housekeeping, finances, community access and spirituality supports. With regard to the expenditures in question, these were one time supports to DMR clients living independently or with families and who were considered most needy. Examples of the kinds of purchases made with this funding include YMCA memberships, medical equipment and assistance in*

*outfitting a van to include a wheelchair ramp for a non-ambulatory individual. Although receipts were universally requested, total compliance was not achieved.... Additionally, each recipient of this one-time individual support was a documented DMR client. By virtue of referral to BCL, those clients became BCL clients.*

*Because the expenditures in question were properly made against BCL's individual support contract for the benefit of BCL client, those expenditures were proper and allowable....*

*The 150 expenditures in question here were made from the Wish List Account (a holiday account) and were the result of a specific amount of money allocated within the individual support contract between BCL and DMR to address the needs of DMR eligible clients and families identified by their service coordinators as the most needy of assistance over the holiday season. The individuals for whom these legitimate individual support expenditures were made were DMR clients properly referred to BCL, thus making them BCL clients. As discussed above, the nature of independent support contracts makes these kinds of expenditures possible and appropriate....*

*The SAO Report is incorrect when it concludes that BCL clients did not benefit from payments made on behalf of Bridges to Faith. Bridges to Faith is a component of BCL's community support/individual support program. It is a collaborative, interfaith effort whose mission is to provide opportunities for persons with developmental disabilities to worship in the faith communities of their choice and to provide support to the faith communities who welcome them. The collaboration's membership includes organizations such as DMR, Interchurch Council of Greater New Bedford (forty-three member congregations), Catholic Social Services' Apostolate for Persons with Disabilities Office, human service professionals from the New Bedford area, social service provider agencies (including BCL), partner congregations and individuals.*

*The collaboration between BCL and Bridges to Faith involved the production of a video created to assist BCL clients in accessing faith-based opportunities in their community. It is a fundamental expectation of DMR vendors that they will assist individuals in accessing community resources, including faith-based activities. This requirement is set out in DMR regulations, specifically 115 CMR 7.00 (Standards for All Services and Supports) requiring providers to assure the "[p]rotection and enhancement of the rights of individuals, including but not limited to a focus on respect of the individual, support of an individual's culture and religion[.]"*

*This video, which is offered to other organizations for a payment of \$10 to help defray costs, is an integral part of the BCL-Bridges to Faith collaboration. This initiative has been referenced in articles of the AAMR and the Institute for Community Inclusion. Because the video and collaboration with Bridges to Faith are both important components of BCL's program assuring their clients are able to effectively access their choice of faith-based services within their community, the money expended on the production of the video or in connection with Bridges to Faith, were legitimate program-based expenses.*

*Because the expenditure of the amount in question was spend to assist BCL clients in their attempts to access faith-based opportunities in the community and because BCL clients were directly benefited by this collaboration, the expenditure was appropriate and allowable....*

*Like the collaboration with Bridges to Faith, BCL's collaboration with the New Bedford Training Council directly benefited BCL clients. The New Bedford Training Council ("NBTC") is a consortium of DMR and other New Bedford area provider agency training staff whose purpose is to encourage and facilitate supported employment opportunities for individuals with mental retardation, including BCL clients. The video created in conjunction with the NBTC highlighted efforts within the supported employment area and has been utilized by local Chamber of Commerce. It is imperative to the success of a supported employment program that local employers and providers be brought together to develop potential employment opportunities for persons with disabilities. Creating a video for presentation to that employment community supports the mission of BCL and benefits BCL clients. Recognition at events such as these is an important part of fostering the over-all success of BCL's supported employment program.*

*Because BCL's collaboration with the NBTC and the expenditure in question here directly benefited BCL clients in their supported employment endeavors, the expenditure was appropriate and allowable pursuant to BCL's supported employment contracts....*

*Contrary to the statement in the SAO Report, the gift certificates in question were not provided to members of the NBTC. Instead, these gift certificates were given out to twenty-two direct care staff, as a sign of appreciation during the March 2000 Mental Retardation Month "Celebrate the Honor of Our Profession" recognition event. No member of the NBTC was provided with any of these gift certificates....*

*The SAO Report was incorrect in its statement that BCL paid for consultants to provide training for forty members of the NBTC, including BCL. The expenditure in question covered the cost of a CPR trainers' certification course for staff of New Bedford area providers, including BCL, held at the Kennedy Donovan Center. Payment for this necessary training was made with training money included in this contract. As well-trained staff directly impacts BCL clients favorably, this expenditure ultimately benefited those clients....*

*This expenditure [12/9/1999 \$150 contribution], was a contribution to a fundraiser for locally based Hispanic community organizations and DMR's effort to support such organizations....*

*The expenditure in question [3/28/2000 payment for \$2844] here represented expenses related to speakers and a luncheon held at the Seaport Inn in recognition of the Mental Retardation Month "DMR Celebrates the honor of Our Profession." This event honored the contribution of direct care workers within the field of mental retardation service provision. In addition to the recognition component of the event, the program also included workshops for staff members dealing with issues such as direct care employee work satisfaction, and issues of sexuality and spirituality for people with disabilities. The expenses were paid in part through a regional training grant through Nemasker Group. Additionally, a fee was collected from participants to help defray the cost of the luncheon....*

*The expenditure of \$2,035 related to various artists and framing expenses was made in support of several DMR/BCL client-artists. These clients had their work initially displayed in an Area Office show. A select number were then framed and went on to be shown at the Fuller Art Museum, a local museum that specializes in exhibiting arts and crafts. These same works then went on to be displayed at the Massachusetts Statehouse before again being shown at an Artworks! community art show in New Bedford. Works of seven of these clients were purchased, the proceeds going directly to the client-artist.*



*Because the money expended on this project, including framing costs, supported DMR/BCL clients' efforts in community access and integration, the expenditure was properly made against BCL's contract with DMR....*

*The expenditure in question here, \$11,290 to renovate a bathroom and construct a wheelchair ramp for a client's anticipated placement, was properly made against BCL's contract with DMR. C.V., a DMR client referred to BCL for support services, was expected to move into the home after leaving a local nursing facility. Unfortunately, and unexpectedly, C.V. passed away prior to being able to move into her new residence.*

*Although C.V. was ultimately unable to take advantage of the renovations to her anticipated placement, the expenditures were properly made at a time it was assumed C.V. would be able to leave the nursing facility. Therefore, although C.V. was not able to utilize the renovations made to the residence, the expenditure made in anticipation of her being placed there was proper and necessary. The ramp work was completed with funding from the FY '00 community support contract while the bathroom work was completed with funding from the FY '01 individual support contract....*

*D.G. was a DMR client who passed away in October 1999. Medicaid funds were insufficient to cover funeral costs. As there was no other means by which to cover this expense, a decision was made to assist with the burial expenses.*

#### **Auditor's Reply**

In response to BCL's comments, we do not argue that BCL's payments for services to non-BCL clients were not for legitimate services. Rather, our concerns are that those services were not for clients of BCL; accordingly, the agency should not have charged these expenses against its state contracts. Whether BCL has worked with DMR and other agencies in a "partnership" to meet the needs of DMR clients is irrelevant here. The fact is that state regulations and General Contract conditions require that certain procedures be followed in the procurement of client services. Those regulations and conditions were established to ensure that state funding is adequately safeguarded against abuse and misuse and contract funds are expended for their intended purposes. Clearly, in the situations detailed in our report, neither BCL nor DMR adhered to these regulations and General Contract conditions.

Contrary to BCL's assertion, DMR used BCL as a fiscal conduit to pay for non-BCL program services. As stated in our report, 808 CMR 2.03 (06), in effect at the time, in part stated:

*Fiscal Conduits Prohibited. No procuring Department shall award a Contract:*

- a. to acquire any goods for the Procuring Department's use;*
- b. to defray the expenses of services rendered by individuals hired or supervised in the daily performance of their work by personnel in the classified service of the Commonwealth; or*

*c. solely to acquire payroll of fiscal management for a Program of Client services operated by the Commonwealth or any third party.*

In the situation detailed in our report, BCL admitted that it was merely providing fiscal management services for services provided by a third party, and was therefore acting as a fiscal conduit for DMR.

As stated in our report, during our audit BCL officials stated that they were instructed by DMR officials to pay for services provided by other human services providers for non-BCL clients and submit invoices to recover the cost of those payments. The fact remains that BCL officials, during the course of the audit, stated that they submitted purchase vouchers and related services-delivery reports to the State Comptroller for payment although they had not provided the services being claimed. Moreover, we question whether such payments could have been processed without the knowledge and consent of DMR officials.

The \$3,198 mentioned in BCL's response was for two events, not one. The first expense, \$2,844, was for an event in March 2000 and was documented only with an American Express bill, with no detailed documentary support. The second expense, \$354, was for an event held in April 2001, again with no documentation explaining the programmatic nature of the event. As stated in our report, these expenses were in one of BCL's "Special files"; they were poorly documented and were reported in the UFR as "Direct Care Consulting Expense" in the Individual Support Program. No documentation was made available to us indicating that fees were collected and deposited in a BCL bank account or that these revenues were used for program offsets.

Regarding DMR's comments, again we do not dispute that some of the expenses detailed in our report may have been for legitimate DMR-client expenses. Rather, our concerns are that DMR used BCL to pay for those services (rather than employing the required contracting procedures) and apparently knowingly processed invoices to reimburse BCL for those services. Regardless of the reasons for doing so, the fact remains that those payments were improper and not in compliance with state laws and regulations.

As noted in our report, we found that \$144,865 of the \$235,497 in questionable expenses did not appear to benefit BCL programs. In its UFRs, BCL incorrectly reported these as program expenses for "Direct Care Consulting." However, those expenses included items such as

vacations, moving expenses, auto insurance, plumbing, various house repairs, and home alarm systems for individuals who were apparently DMR clients, but not BCL clients. BCL clearly should not be using funding received for its own clients to pay for non-program expenses such as these, and it should not have misreported the expenses in its UFRs.

In its response, DMR provides details regarding why certain expenditures questioned in our report are legitimate expenses. However, despite those assertions and the documents that DMR provided, over the course of our audit BCL was unable to provide documentation to substantiate how these expenditures benefited BCL's state-funded clients, therefore rendering them allowable expenses under its state contracts. In fact, in its response DMR confirms that many expenses in question were non-BCL program expenses (e.g., the March 28, 2000 payment of \$2,844 for a DMR-sponsored activity). Consequently, we question why DMR allowed BCL to charge these as program-related expenses against BCL's state contracts.

The following are specific replies to some of DMR's comments regarding the expenses in question.

As stated in our report, during fiscal year 2000 BCL charged \$25,419 in expenses from its Wish List accounts against its DMR contracts for gift certificates for over 150 clients. However, there was no documentation to substantiate that the gift certificates were actually purchased. Moreover, we received from BCL officials the list of persons who purportedly received these gift certificates and found that none of the individuals appeared to be BCL clients. Consequently, even if this expense was incurred, it was not a legitimate expense for BCL and should not have been charged by BCL against its state contracts.

In its response, DMR contends that the production of the Bridges to Faith Video (not specifically detailed in our report) was legitimate in that it benefited BCL clients. However, we were not provided with any documentation to substantiate how transactions involving Bridges to Faith benefited any BCL clients. Of particular concern is that in its response DMR acknowledges that this video was used by the NBTC and other agencies. Since by DMR's admission this was not a direct program cost of BCL, we question why DMR used BCL as a fiscal conduit to purchase this item.

DMR contends that the \$3,000 expense in fiscal year 2002 for training services that BCL charged against its state contracts is legitimate because some BCL staff members attended this training. However, as stated in our report, BCL did not have any documentation to substantiate that any of its staff attended this training. Moreover, since by DMR's own admission the majority of attendees were not BCL staff, we question why DMR allowed BCL to charge the entire cost of this training against its state contracts since the majority of the expense was not BCL-program related.

Regarding the \$1,100 that BCL charged against its state contracts for gift certificates, according to the documentation that BCL provided these gift certificates were provided to the NBTC. It may be that the certificates were ultimately provided to Direct Care staff as DMR contends, but that is not what BCL's documentation substantiated.

## **2. INAPPROPRIATE AND UNDOCUMENTED EXPENSES OF \$673,428 CHARGED TO STATE CONTRACTS FOR PROGRAM SERVICES**

We found that during fiscal years 2001 and 2002, in its billings to DMR, BCL misrepresented services that it provided to DMR clients. Specifically, in numerous instances BCL billed for units of service that according to its program attendance records were not provided. BCL also billed for services that according to agency records were different from the type of services that were actually provided; for example, it billed for Supervised Living Services at a rate of \$257 per day although according to agency records the client was actually provided Supported Employment Services, which should have been billed at a rate of \$103 per day. As a result of such inappropriate and undocumented billings, BCL received \$673,428 from its state contracts during the period of our review for services that it cannot document.

Contracted human services providers that want to receive automatic payments from their state purchasing agencies on a regular, scheduled basis may elect to participate in the state's Ready Payment System. Regulations have been promulgated by the Office of the State Comptroller (OSC) regarding the documentation that must be submitted by contracted human services providers, such as BCL, that utilize the state's Ready Payment System; specifically, 815 CMR states, in part:

*(4) Invoice Submission and Reconciliation of Ready Payments. (a) Contractor Submission*  
*1. The Contractor is required to submit monthly invoices and supporting documentation to the Department in accordance with the terms and conditions of the contract. The*

*invoices and supporting documentation must be accurate, complete and sufficiently detailed to substantiate any claim for payment...*

Similarly, DMR has established Ready Payment procedures for its contracted human services providers in its Purchase of Service Manual (Manual). The Manual requires contracted human services providers to submit a PV or invoice, along with an SDR indicating the dates and types of service provided and who received the service, in order to receive reimbursement from the Department:

*At the end of each month the provider is obligated to submit a payment voucher (PV) along with a Service Delivery Report (SDR) to the designated DMR office...*

During fiscal year 2001 and 2002, DMR awarded contracts to BCL to provide Residential Services to its clients. The contract maximum obligations were \$3,708,554 in 2001 and \$3,848,917 in 2002. Under the terms and conditions of these contracts, BCL was to operate residential facilities for eligible consumers for 24 hours per day, seven days per week. In return, BCL was authorized to bill DMR a daily rate for each day that a client resided in the program; for fiscal years 2001 and 2002, the daily rates were \$248 and \$257, respectively.

During fiscal year 2001 and 2002, DMR also awarded contracts to BCL to provide Supported Employment services to DMR clients. The maximum obligation of these contracts totaled \$542,720 in 2001 and \$590,395 in 2002. Under the terms and conditions of these contracts, eligible consumers received support to pursue competitive employment in the local work force. In return for these services, BCL was allowed to bill at rates of \$95 and \$103 per client, per day, during fiscal years 2001 and 2002, respectively.

According to the aforementioned DMR procedures and OSC regulations, contracted service providers are required to maintain accurate program attendance and other service delivery records to document the services they bill against their state contracts. During our audit, we reviewed the documentation procedures that BCL had established. We noted that BCL provides each of its programs with a monthly Information Checklist, on which the consumers' names are arranged in a row and the days of the month are listed in a column. The checklist's instructions describe how to indicate whether a consumer was present or absent and the reason for absence. These forms are forwarded by program staff to BCL's Business Manager on a monthly basis and

are used to prepare the SDRs and PVs that the agency submits to DMR for reimbursement of program services.

During our audit, we compared the program attendance information being maintained by BCL to the billings that it submitted to DMR for reimbursement during fiscal years 2001 and 2002. We found numerous discrepancies indicating that the agency may have inappropriately received excess reimbursements from DMR totaling \$1,107,048 during those fiscal years. Included are numerous billings, totaling \$433,630 for Supported Employment services that according to the agency's attendance records were not provided. In other instances, we found that BCL billed for services that according to agency records were different from the type of services that were actually provided to clients. For example, during fiscal years 2001 and 2002, BCL billed DMR for six clients who according to BCL's PVs and SDRs were provided Supervised Living services. DMR's Residential Support program definitions (updated March 27, 2001) describe the Supervised Living program as follows:

*The individual lives alone or with 1 or more others who collectively receive an average of 15 or more hours/week of DMR funded support from a residential supports agency. The agency (BCL) owns or leases the home and controls the activities in it. The agency selects the individuals who share the home. The selection of care providers is largely in the control of the residential support agency. Care providers are employees of the residential support agency. The DMR office of Quality Enhancement or other state agency certifies the agency for residential supports.*

The DMR reimbursement rate for clients in a Supervised Living program was \$248 and \$257 during fiscal years 2001 and 2002, respectively. However, we reviewed the Information Checklists being maintained by BCL and noted that during this entire period the six clients were not in attendance in BCL's Supervised Living program. BCL officials confirmed that these individuals were in fact not residing in residences owned or leased by BCL as required by DMR's definition of Supervised Living Condition; rather, they were living with what BCL referred to as "Independent Care Givers" and were receiving services in BCL's Supported Employment program. Because BCL submitted PVs for these six clients at the higher, Supervised Living rate rather than the lower rate of the Individual Supports program (\$95 to \$103 per day) where they were actually receiving services, BCL was misrepresenting its billings to DMR. As a result, for these six individuals alone BCL received excessive reimbursements totaling \$673,428 during fiscal years 2001 and 2002. The following is a summary of all questionable reimbursements that we identified during our audit for fiscal years 2001 and 2001:

Program Type/Fiscal Year	Contracted Day Rate	Days in Program	For Six Clients	Amount Billed to DMR	Amount That Should Have Been Billed	Overbilling
Supervised Living, 2001	\$248	304	6	\$452,352	\$0	\$452,352
Supervised Living, 2001	\$251	61	6	\$91,866	\$0	\$91,866
Supervised Living, 2002	\$257	365	6	\$562,830	\$0	\$562,830
Supported Employment, 2001	\$95	365	6	\$0.00	\$208,050	(\$208,050)
Supported Employment, 2002	\$103	<u>365</u>	6	<u>\$0.00</u>	<u>\$225,570</u>	<u>(\$225,570)</u>
Total Overbilling				<u>\$1,107,048</u>	<u>\$433,620</u>	<u>\$673,428</u>

### ***Recommendation***

To address our concerns regarding this matter, DMR should recover from BCL the \$673,428 in unallowable billings that it charged against its DMR contracts during fiscal years 2001 and 2002. Moreover, in conjunction with OSD, DMR should review BCL's billings to DMR for program services for the periods prior and subsequent to that covered by our audit period. Based on that review, DMR should recover whatever additional funds deemed appropriate. Furthermore, BCL should take measures to ensure that henceforth it submits accurate billings for program services.

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

In response to this audit result, BCL provided the following comments:

*BCL did not misrepresent services provided nor did the agency over-bill for any provided services. BCL never received money in excess of the maximum obligation stated in any contract with the state. At the end of each fiscal year, vouchers are reconciled to reflect actual services delivered.*

*DMR clients and the services provided to them were redefined and placed in different contracts according to the latest contract language and definitions within each of the years of the audit. All clients were reviewed with DMR in each contract year and mutually agreed upon contracts were established. Some of these contracts used blended unit rates which changed from year to year, depending on the composition of the clients' services in a particular year. BCL provided services and vouchered the appropriate amount that had been established in the contract for each year.*

*The rates that the audit report reflects are correct as outlined below:*

<u>Program</u>	<u>Contract</u>	<u>FY01 Rate</u>	<u>FY02 Rate</u>
<i>Supervised Living Program</i>	<i>Residential Contract</i>	<i>\$248</i>	<i>\$257</i>
<i>Supported Employment</i>	<i>Employment Contract</i>	<i>\$ 95</i>	<i>\$103</i>

*BCL clients who lived in Supervised Living Program were divided into two groups. The first group was BCL clients living in 24-hour staffed apartments. The second group (the six mentioned in this report) lived in the home of another person who provided supervision for these clients within the home. BCL maintained a third contract which was a cost reimbursement contract that has no unit rate.*

*From FY01 to FY02, the six clients were removed from the Supervised Living Program and placed in the Cost Reimbursement contract. Funding for these clients was removed from the Supervised Living Program and moved to the Cost Reimbursement contract to reflect this change.*

*The six clients mentioned in this report were in the Supervised Living Program, the Support Employment Program and associated contracts. Each of the six was billed to the contracts for which they received services. In FY01 several of these clients were billed to the Supervised Living Program and the Supported Employment Program, as the contracts dictated, for a total of  $\$248 + \$95 = \$343$  per day.*

*BCL has improved and strengthened agency attendance record-keeping in the two areas around which this issue revolves; namely the difference between "Individual Supports" and "Residential Services," and the difference between "Work Site Based Day Services" and "Home Based Day Services." BCL continues to be available to review with DMR past vouchering issues and clarify the contracts for any clients involved with Individual Supports or Residential Services.*

Regarding this matter, DMR officials provided comments, which are excerpted below:

*All \$1.7 million billed by BCL was for residential services, individual supports, and supported employment services, and was legitimately incurred.... The SAO Report's finding to the contrary is based on a misunderstanding of DMR contracting practices, specifically the use of blended rate contracting.*

*DMR utilized a blended rate in some of its contracts with BCL. DMR and the vendor to "agree that a single unit rate for a program should be developed even when the mix of services to consumers in that program could lead to a number of unique programs with unique rates." As described in the DMR POS Manual, this blending of the unit rates into one rate for one program could occur in any one of several situations, e.g., consumers in a single location with costs varying according to their individual service needs could lead to a blended rate for the program as a whole; multiple locations of a single program with individual cost factors for each location could also lead to one blended rate." Therefore, when blended rate contracts are utilized, they were done so pursuant to prevailing DMR policies and practices.*



*During the time period covered by the audit, DMR maintained contracts that combined individuals under service categories. During the audit period and continuing to the present, DMR reviewed these contracts and separated out individuals and their services from these contracts; the individual's services were placed in different contracts according to the current contract language and definitions within each of the years of the audit. This process involved BCL and DMR negotiating the various contract rates. Some of these contracts used blended unit rates that changed from year to year, depending on the composition of the clients' services in a particular year. BCL then provided the services and vouchered the appropriate amount that had been established in the contract for that year.*

*When the Department and BCL undertook a review of BCL clients receiving residential supports, the individuals who were at the time in supervised living programs were divided into two groups. The first group consisted of BCL clients who were maintained in 24-hour staffed apartments. The second group (the six individuals mentioned in the SAO Report) were placed in a shared living placement, similar to "adult foster-care" type living arrangement with non-related home providers. These service providers, who were considered independent contractors, were responsible for a variety of services. These services included, but were not limited to community integration; money skills, medication administration and other health related skills, as well as personal communication skills.*

*For FY '01 and FY '02, the six clients referenced in the SAO Report were removed from the supervised living program and placed in the shared living type placement. These moves were the result of a determination that each individual would be able to manage well in a less restrictive residential placement (shared living versus group home). Funding for these individuals was amended out of the supervised living program and moved into the cost reimbursement contract to reflect this change. During the time period in question, these six individuals were in a variety of contracts including residential and supported employment contracts. Documents verifying their attendance at these various programs are attached. Each of the six was billed to the contracts for which they received services. In FY '01, for example, several of these clients were billed to the supervised living program and the supported employment program, as the contracts dictated, for a total of \$343 per day (\$248 + \$95 = \$343).*

*Since the time of the audit, BCL has improved and strengthened agency attendance record-keeping in the two areas around which this issue revolves; namely the difference between "individual supports" and "residential services" and the difference between "work site based day services" and "home based day services...."*

### **Auditor's Reply**

Contrary to BCL's assertion in its response, our audit found that BCL may have billed and received payments from DMR for services that it did not provide. As stated in our report, we compared the program attendance information maintained by BCL to the billings that it submitted to DMR for reimbursement during fiscal years 2001 and 2002. We found numerous discrepancies indicating that the agency may have inappropriately received excess reimbursements from DMR totaling \$1,107,048 during those fiscal years. Included are numerous billings, totaling \$433,630 for Supported Employment services, that according to the

agency's own attendance records were not provided. In other instances, we found that BCL billed for services that according to agency records were different from the type of services that were actually provided to clients. For example, we reviewed the Information Checklists being maintained by BCL and noted that during this entire period the six clients in question were not in attendance in BCL's Supervised Living program. BCL officials confirmed that these individuals were in fact not residing in residences owned or leased by BCL as required by DMR's definition of Supervised Living Condition. Rather, they were living with what BCL referred to as "Independent Care Givers" and were receiving services in BCL's Supported Employment program. Because BCL submitted PVs for these six clients at the higher, Supervised Living rate rather than the lower rate of the Individual Supports program (\$95 to \$103 per day) where they were actually receiving services, BCL was misrepresenting its billings to DMR. As a result, for these six individuals alone BCL received excessive reimbursements totaling \$673,428 during fiscal years 2001 and 2002. We do not claim that BCL exceeded the maximum obligations on its state contracts during the period covered by our audit. Rather, our concern is that the records maintained by BCL indicated that it billed and received payments from DMR for services that it did not provide.

Contrary to DMR's assertion in its response, the questionable billings we identified regarding this issue were not the result of misunderstanding how DMR uses blended rates in some of its contracts. Rather, our conclusions were based on BCL documentation for the services it provided. Regardless of what rates DMR pays for services, contracted human services providers such as BCL are required to maintain adequate documentation to substantiate that all of the services, including the extent of those services, for which they bill were actually provided.

**3. CONTRARY TO STATE REGULATIONS, COMMONWEALTH FUNDS TOTALING \$97,396 USED TO PURCHASE AND RENOVATE AN INDIVIDUAL'S RESIDENCE**

We found that BCL used \$43,700 in state funds to purchase a property for one of its clients and used an additional \$53,696 to renovate that property. Moreover, BCL officials stated that although they used state funds to purchase and renovate this property, BCL intends to turn over ownership of this property to the client in the future. According to state regulations, expenses that are not related to the specific terms and conditions of a properly executed contract are unallowable and nonreimbursable under state contracts.

The Executive Office for Administration and Finance has promulgated 801 CMR 21.08 (1), with which all state agencies, including DMR, must comply. Regarding the paying of expenses of contracted services, including human services such as those provided by BCL, this regulation states, in part:

*[T]he Contractor shall only be compensated for performance delivered to and accepted by the Department in accordance with the specific terms and conditions of a properly executed Contract.*

During our review of BCL's fiscal year 2001 UFR, we noted that the agency listed a note payable to Citizen's Mortgage Corporation (Citizens) that as of June 30, 2001 was \$69,417. This note payable was for the purchase of a property located at 71 Fairhaven Road, Mattapoisett, Massachusetts. However, according to agency records, this property was not one of the residences that BCL identified as being part of its Residential Services program. We asked BCL officials about this property, and they stated that a 47-year-old individual lived at 71 Fairhaven Road with his mother until her death in 1991. The officials added that in 1992, with the help of an unknown third party, the individual in question obtained a mortgage on the property and in 1996 refinanced the mortgage for \$50,050. The property was subsequently foreclosed on July 22, 1997, and the individual faced eviction from his home. In July 1997, a local hospital referred this individual to DMR following treatment for a crisis situation. DMR conducted an investigation and determined that the individual was living alone and was facing eviction following a foreclosure. DMR determined that the individual could not provide himself with the basic requirements of life nor comprehend that if he could not pay the mortgage bill he would lose his home. DMR then obtained Social Security Disability Insurance for this individual and placed him in a supervised BCL home. In July 1997, an attorney representing the individual asked DMR to arrange a psychological evaluation of his client. Based on such an evaluation, it was determined that this individual had mild mental retardation.

According to information maintained by BCL and DMR regarding this matter, DMR filed a request for stay of the foreclosure with the court. According to BCL officials, DMR and BCL held discussions concerning this client, and DMR then created what it called a partnership with BCL agreeing to ensure that the individual would be able to return to his family home. Through a series of negotiations between DMR, BCL, and the mortgage company, BCL agreed to purchase the property for \$43,700.

In a letter dated February 18, 1998, an attorney representing this individual informed the law firm representing the mortgage company that BCL planned to help this client assume the mortgage in the future, following renovation of the property. In December 1998, BCL purchased this property with state funds from BCL's General Fund. Also, according to BCL's records, between March 1999 and 2000 a total of \$53,696 was charged to BCL's DMR contracts for expenses related to the rehabilitation of the property. On December 3, 1997, the property had been appraised at \$43,000. Following the renovations, on April 5, 2000 the property was appraised at \$108,000.

On May 26, 2000, BCL re-mortgaged the property for \$70,000 with Citizens with a 30-year, 8% mortgage payable at \$514 per month. As a contingency to the mortgage agreement, BCL was required to provide Citizens with documentation to show where the agency would obtain the revenue to make the mortgage payments. In response, on March 22, 2000 BCL provided Citizens a copy of the program budget in its Community Support contract with DMR. The budget indicated that a total of \$12,000 per year was available to support this program, as follows:

Depreciation and Interest	\$7,000
Insurance (BCL Policy)	\$ 300
Utility (\$300 per month)	\$3,600
Repair and Maintenance	\$1,100

However, our subsequent audit testing identified that in fact this \$12,000 in annual funding was used not only to pay for the budget operating expenses associated with this house but also to make principal payments totaling \$1,212 during our audit period on the mortgage BCL had on this facility which was not disclosed to DMR (see Audit Result No. 6).

The \$97,396 in state funds that BCL used to purchase and renovate this property were not in any budgets of its DMR contracts; therefore, they are unallowable costs to those contracts.

***Recommendation***

DMR should recover from BCL the \$97,396 it improperly charged against its state contracts. Furthermore, it should immediately discontinue charging unallowable costs associated with the operation of this property against its state contracts.

**Auditee's Response**

In response to this audit result, BCL provided the following comments:

*BCL did not use state funds to pay for the purchase of this property, but rather used the General Funds of the agency. The BCL purchased property at 71 Fairhaven Road, Mattapoisett, MA has not been improperly charged against the agency's state contracts. Repairs and renovations to the property were paid for from the agency's General Fund and all work was subjected to a competitive bid process. When renovations were completed, a mortgage for the property was obtained. This was a special not-for-profit mortgage obtained from Citizens Bank in which the house was used for the collateral. No down payment was required to obtain this mortgage. Only interest and depreciation costs for the property were billed to the DMR contract. Legitimate billable expenses such as minor repairs, depreciation and closing costs associated with the house were charged to the DMR contract between March 1999 and 2000.*

*The annualized cost of a residential program is over \$75,000 per client. The clients in shared living programs accrue costs of over \$25,000. Since this client's annualized costs are \$12,000, it is one of the most cost-effective programs within the agency. Further, this most closely follows the BCL mission, which is to provide quality, individualized supports to clients.*

In response to this audit result, DMR officials provided the following comments:

*Contrary to the SAO Report findings, no DMR funding was used to purchase or renovate an individual's home. Moreover, the purchase and renovation of the home in question was proper, as was the determination to place this individual in his family home.*

*The history of the purchase and renovation of this residence clearly indicates that BCL did not misuse funds for this purpose. During late 1997, the local DMR office became aware of a DMR client who was facing eviction from his family home after an allegedly unscrupulous "friend" convinced the consumer to place a second mortgage on the home, and then absconded with the proceeds. The mortgage holder, Aames Capital, had foreclosed on the house and was in the process of evicting the individual. The individual was represented by the New Center for Legal Advocacy and was a DMR client. Despite legal representation, the individual seemed likely to be evicted by the mortgage holder, losing his family home and only residence. It should be noted that the market value of the home at that time was estimated to be approximately \$40,000.*

*In an effort to prevent this individual's homelessness, DMR contacted BCL and advised BCL that the house was currently under litigation and subject to foreclosure. DMR believed that BCL might be a willing purchaser and with some renovations, would create a viable and secure home for the consumer, who would benefit from being able to remain in his family home.*

*On December 8, 1997, the request was presented at the BCL Board of Directors meeting. The BCL Board approved the purchase. Between December 8, 1997 and December 31, 1998, legal proceedings and negotiations continued between the New Center for Legal Advocacy lawyers, the lawyers for Aames Capital, the individual's second lawyer representing his interests and attorney [individual's name] representing BCL. At the*

*conclusion of these proceedings, it was agreed to by all that the mortgage holder would sell the Fairhaven Road house to BCL.*

*According to BCL documents, on December 31, 1998, a wire transfer for the purchase was made from the cash on hand at BCL from the Fleet Bank for the purchase of the house. This amount, \$34,741.02, was charged to "prepaid expenses."*

*Also, according to BCL documents, between December 31, 1998 and May 24, 2000, the house in question was renovated and renovation costs were paid for from BCL cash on hand and charged to prepaid expenses. On May 24, 2000, a mortgage for the house was obtained from Citizens Bank. Funds from refinancing were deposited into BCL on June 2, 2000 to cash on hand. A notes payable account was set up for this mortgage. This mortgage financed the home.*

*With regard to what was charged to the DMR contract, BCL documents suggest as follows:*

- the "Fac. Oper. & Maint." account #5520-07-01 shows what was charged to the DMR contract and an adjustment of \$12,947.91. This \$12,947.91 accounting adjustment was made to deduct renovation costs out of "Fac. Oper. & Maint." account #5520-07-01 and add them into "Building Improve. 71 Fairhaven Rd." account #1429-00-00.*
- The principle charge for the Fairhaven house was charged to account #2289-00-00 "Notes Payable." The interest and escrow charges for the residence were in the account #5530-07-01 "Community Support Rent." These interest escrow costs were charged to the DMR contract.*
- The depreciation charges were in account #5530-07-01 "Community Support Rent for FY '00." FY '00 charges are \$780 and \$1,176.*
- The FY '01 and FY '02 charges were in the "Fac. Oper. & Maint." account #5520-07-01. The FY '01 depreciation charges were \$780 and \$2,352.*
- The FY '02 depreciation charges were \$780, \$2,352 and \$780. The second \$780 depreciation charge is an error that needs to be corrected. The "55\*\*-\*\*-\*\*" accounts are charged to the DMR contract. The "22\*\*-\*\*-\*\*" accounts are not charged to the DMR contract.*
- The interest for the house was charged to the DMR contract starting after the mortgage was in place on May 24, 2000. Interest charges to the DMR contract were started in July 10, 2000 (totaling \$512.92).*

*In August 2000, support services were started by BCL for this tenant. Respite services had been provided through a DMR contract with the Kennedy Donovan Center. BCL staff had been providing community support services to this individual during this period.*

*BCL collects a monthly room and board charge of \$200 from this individual, which is used to offset housing costs. BCL pays for the housing costs by charging interest, depreciation, utility and insurance costs to the contract. Principle charges are not charged to the DMR contract and are charged to an asset account (cash on hand) and a liability account (notes payable) at BCL. The \$12,947.91 items are identified and circled on the FY '00 B sheet. The remaining amount (\$14,743.30 - \$12,947.91 = \$1,795.39)*

*was for minor repair and maintenance items. The escrow for the septic work of \$5,000 paid to the New Center for Legal Advocacy was charged to prepaid expenses. Other expenses were charged to the DMR contract: settlement fees of \$2000.64, filing fees of \$25.35, legal fees of \$29.35, water charges totaling \$131.68 and taxes totaling \$3,651.06.*

*Because the limited costs BCL charged against a DMR related to this residence were proper, any statement included in the SAO Report indicating that BCL improperly charged its DMR contract for the purchase or renovation expenses related to this residence is incorrect and should be removed from the Report.*

### **Auditor's Reply**

As stated in our report, during our audit testing we traced the principal payments, as well as the repairs and other expenses for this home, to BCL's General Ledger, and we identified that these payments, including those recorded by the agency as "prepaid expenses," were in fact charged either directly or indirectly to BCL's state contracts. BCL's "cash on hand" account is funded by state contracts and is therefore subject to the same restrictions as if it were charged directly to state contracts. Worth noting is that BCL does not have sufficient revenues from non-state sources to pay for these unallowable expenses, and it therefore used state monies for them.

We do not dispute that BCL, in conjunction with DMR, should have taken measures to ensure that the client was provided with appropriate housing and program services. However, we were provided with no documentation to substantiate that these expenses were authorized in the specific terms and conditions of BCL's contract with DMR.

#### **4. QUESTIONABLE CONTRACT ADMINISTRATION ACTIVITIES RESULTING IN \$74,188 IN EXCESSIVE CHARGES TO STATE CONTRACTS**

We found that during the audit period BCL did not identify \$74,188 in non-state contract revenues that it received from its Residential Services program as being available to offset the state's costs of operating this program. As a result, BCL owes \$74,188 to the Commonwealth.

When negotiating contracts with state agencies, human services providers such as BCL are required to accurately identify any other sources of revenue that are going to be available to the state-funded program. Providers are required to use these additional revenues to offset the costs that the state will pay to operate the program. For example, if a program is budgeted to cost \$100,000 to operate and the provider anticipates collecting \$10,000 in client fees for the program, the provider can request only \$90,000 (\$100,000 less \$10,000) from the state agency as funding for the program.

OSD describes offsetting revenue in 808 CMR 1.02, which states, in part:

*Off-Setting Revenue. The sum of the following revenues and support items. These revenues and support items must be received during the price year and must be dedicated for use in the same Program that also receives Commonwealth funds.....*

*[A]ny revenues and support (including but not limited to Supplemental Social Security Income, Food Stamps, Emergency Aid to the Elderly, Disabled and Children (EAEDC), reimbursements from third-party payers, Client sliding fee scale payments) received by or available to the Contractor on account of Clients....*

Furthermore, OSD identifies the following as being nonreimbursable costs under state contracts 808 CMR 1.03(5):

*Any client resources or third party payments made on behalf of a client (covered by the contract), that are not expressly recognized or anticipated in the computation of the price, shall reduce the amount of the department's obligation for services provided to that client. Therefore, contractors and departments should make every effort to anticipate and incorporate into the authorized price any alternative resources such as client fees and third party reimbursements.*

During fiscal years 2001 and 2002, BCL entered into a contract with DMR with an annual average maximum obligation of \$3,778,493 to operate its Residential Services programs.

In addition to the revenues that BCL received under its state contracts for its Residential Services programs, it also received revenues from clients in that program. We found, however, that BCL did not accurately disclose all of this client income as being available to offset the state's cost of operating the program. A summary of the client revenue that BCL received and should have identified as offsetting revenue, but did not, follows:

<b>BCL Residential Services Contract Summary of Offsets</b>			
Fiscal Year	Budgeted Offsets	Actual Offsets	Difference
2001	\$223,750	\$265,809	\$42,059
2002	\$221,144	\$253,273	<u>\$32,129</u>
Total			<u>\$74,188</u>

Because BCL did not initially identify or amend its contracts to include the actual program offsets it received in its Residential Services programs in accordance with state regulations, the \$74,188 that it failed to disclose constitute unallowable billings against its state contracts.



***Recommendation***

DMR should recover from BCL the \$74,188 in unallowable billings the agency charged against its Residential Programs contracts with DMR during the audit period. BCL should henceforth properly and accurately identify all program offsets in its state contracts.

***Auditee's Response***

In response to this audit result, BCL provided the following comments:

*BCL does properly and as accurately as possible identify all program offsets in its state contracts. The agency estimated the room and board income in our DMR budgets. BCL uses 85% occupancy as the estimated room and board income level to account for unforeseen vacancies. Corrections to these estimates are made during contract amendments so that they are as accurate as possible. The differences stated in the "Summary of Offsets" are correct. The difference between the budget and actual is held in the restricted "Reuse and Recovery Fund" within the agency. This information is available in the UFR.*

***Auditor's Reply***

As stated in our report, we found that during fiscal years 2001 and 2002 BCL failed to disclose that \$74,188 in client income was available to offset the state's costs of operating the agency's Residential Services programs. As a result, BCL overcharged the Commonwealth \$74,188. Regardless of whether these surplus revenues are in the agency's Reuse and Recovery Fund, if BCL had properly amended its contracts and identified these additional program revenues DMR would not have been charged that \$74,188, which would have been available to DMR to fund other necessary programs. Therefore, we again recommend that DMR recover from BCL that \$74,188 in unallowable billings.

**5. UNALLOWABLE MORTGAGE PRINCIPAL PAYMENTS TOTALING \$33,450 CHARGED TO STATE CONTRACTS**

We found that between fiscal years 2001 and 2002 BCL charged \$33,450 against its state contracts for expenses consisting of payments of mortgage principal for properties that it uses in its Residential Services programs. According to state regulations, expenses consisting of principal payments on mortgages are unallowable and nonreimbursable under state contracts; specifically, 808 CMR 1.05 (25), promulgated by OSD, states:

*Mortgage principal costs are non-reimbursable costs on an amortized or other basis: no department shall reimburse a Contractor for the principal portion of any note secured by a mortgage or property owned directly or indirectly by the contractor.*

We found that despite this requirement, during fiscal years 2001 and 2002 BCL charged mortgage principal payments totaling \$33,450 against its state contracts, as follows:

**BCL**  
**Summary of Mortgage Principal Payments**  
**Fiscal years 2001 and 2002**

Property Location	Fiscal Year 2001	Fiscal Year 2002	Total
Arnold Street, Dartmouth, Massachusetts	\$1,415.36	\$1,792.22	3,207.58
Rockdale Avenue, New Bedford, Massachusetts	1,456.72	1,734.93	3,191.65
Castle Avenue, Fairhaven, Massachusetts	6,852.36	8,362.54	15,214.90
Bradford Street, New Bedford, Massachusetts	4,410.31	6,213.03	10,623.34
Fairhaven Road, Mattapoisett, Massachusetts	<u>583.37</u>	<u>629.03</u>	<u>1,212.40</u>
Total	<u>\$14,718.12</u>	<u>\$18,731.75</u>	<u>\$33,449.87</u>

BCL officials did not explain why the agency was charging these unallowable costs against its state contracts.

***Recommendation***

DMR should recover from BCL the \$33,450 in unallowable mortgage principal costs that it billed against its state contracts during the audit period. BCL should henceforth not bill such expenses against its state contracts.

***Auditee's Response***

In response to this audit result, BCL provided the following comments:

*BCL did not and does not charge principal payments of mortgages for properties used in the agency's Residential Programs. Only depreciation and interest were charged to the DMR contracts while principal costs were taken from the BCL General Fund. The General Fund consists of fundraising, donations, interest and other miscellaneous funds.*

*BCL has supplied copies of checks and the ledger accounts that demonstrate that the principle charges to the mortgage holders were from BCL's General Fund. BCL will continue to explore other accounting options that will clearly distinguish between the "DMR Reuse and Recovery Fund" and the "General Fund".*

***Auditor's Reply***

Despite BCL's assertion, according to records that it provided to us the payments of mortgage principal for these five properties were charged to five different general ledger accounts that were funded by BCL's state contracts. (Worth noting, again, is that BCL does not have

sufficient non-state revenue in its General Fund to make these unallowable payments.) We again recommend that the \$33,450 in reimbursements received for these unallowable expenses be returned to the Commonwealth.

**6. INADEQUATE CONTROLS OVER PAYROLL RESULTING IN AT LEAST \$41,923 IN IMPROPERLY EXPENSED PAYROLL EXPENSES**

We found that BCL does not always submit accurate payroll expense information to its state purchasing agencies. BCL's Business Manager stated that instead of charging personnel costs to the program in which they were incurred BCL routinely allocates payroll expenses to programs where there is available funding. We found at least \$41,923 in payroll expenses incurred by the agency in one program but charged to a program in which they were not incurred. Consequently, the Commonwealth cannot be assured that payroll expenses that BCL charged against its state contracts during fiscal years 2001 through 2003 were accurately billed and reported by the agency.

Chapter 151, Section 15, "Employer Records; statement furnished to commissioner," of the General Laws states, in part:

*Every employer shall keep a true and accurate record of the name, address and occupation of each employee, of the amount paid each pay period to each employee, of the hours worked each day and each week by each employee, and such other information as the commissioner or the attorney general in their discretion shall deem material and necessary.... Every employer shall furnish to the commissioner, or the attorney general, or their authorized representative, on demand, a sworn statement of such record, and, if the commissioner or the attorney general shall so require upon forms prescribed or approved by him.*

Furthermore, the Commonwealth of Massachusetts Procurement Policies and Procedures Handbook, issued by OSD, states, in part:

*Personnel records must be sufficient to meet all state and federal employment, wage and labor standards, GAAP internal control needs and industry reporting requirements. The personnel and payroll records maintained by the contractor and subcontractor must also adequately and clearly document all staff time directly charged or allocated to state or federally funded contracts.*

We found that despite these requirements BCL does not always submit accurate payroll expense information to its state purchasing agencies. To verify the Business Manager's assertion that payroll expenses are allocated to programs that have surplus funding, we examined the timesheets of a sample of 15 individuals who purportedly worked in BCL's Supported

Employment program during fiscal year 2001. We found that 4,624 hours worked by these 15 individuals, for which they were compensated a total of \$41,923, were incorrectly charged to Supported Employment even though their signed timesheets indicated that they actually worked in the Residential Services program during the 4,624 hours in question.

Regarding these matters, BCL officials stated that these “cost shifts” were done to expense labor hours/costs where funding was available and shifting didn’t matter that much because the pay scale for employees didn’t vary much from one contract to the other. However, by not accurately recording and reporting personnel costs in the program in which they were incurred, BCL is misrepresenting its actual program activities to the Commonwealth and other users of its UFRs.

***Recommendation***

To address our concerns regarding this matter, BCL should immediately establish internal controls that ensure the accurate recording and reporting of payroll costs in each program.

***Auditee’s Response***

In response to this audit result, BCL provided the following comments:

*This issue occurred when a client received Supported Employment Program services and Residential Services. The Supported Employment Services were based out of the client’s home. Timesheets indicated the home address instead of the specific service provided (i.e. “Supported Employment Service” or “Residential Service”). In some weeks, three or four staff persons worked in both the Supported Employment Program and Residential Program at the site. When this occurred, one staff person’s hours and position were charged to the Supported Employment Program and the other staff was charged to the Residential Program. No extra hours of services were charged to these contracts. This client is no longer served by BCL. BCL did not charge personnel costs to contracts based on available funding.*

*BCL has discontinued the charging practice of using one staff position and timesheet when a staff person worked in two programs at one location. BCL has strengthened the documentation on timesheets and the payroll procedures so that the actual hours worked by each staff person are charged to the correct program for which the charges occurred.*

*BCL has outsourced its payroll process as of January 2003 and upgraded its financial computer system in July 2003 to enhance and strengthen internal controls over payroll costs.*

***Auditor's Reply***

As stated in our report, during our audit BCL officials expressly stated that these “cost shifts” were done to expense labor hours/costs where funding was available and that the shifting didn’t matter much because the pay scale for employees didn’t vary much from one contract to another. However, by not accurately recording and reporting personnel costs in the program in which they were incurred, BCL misrepresented its actual program activities to the Commonwealth and other users of its UFRs. According to its response, BCL is taking measures to address our concerns regarding this matter. We believe that such measures are necessary and would serve to better ensure that the agency’s payroll expenses are properly recorded and reported.

**7. INCORRECT REPORTING OF \$137,251 IN PROGRAM EXPENSES AND INADEQUATE DOCUMENTATION OF EXPENSES TOTALING \$3,330**

We found that contrary to state regulations and guidelines BCL incorrectly reported at least \$137,251 in program expenses during fiscal years 2001 through 2003. We also found that the agency did not have adequate documentation to substantiate \$3,330 that it purportedly paid to a caregiver of one of its clients.

The 808 CMR 1.04 (2), promulgated by OSD, states, in part:

*(2) Annual Audit. Each contractor and Subcontractor shall, on or before the 15th day of the fifth month after the end of its fiscal year, submit electronically to [OSD] a UFR or a certification of exemption, in accordance with the standards and instructions contained in the UFR. The UFR and related materials submitted by a contractor to DPS shall be certified under pains and penalties of perjury as true, correct and accurate by a Massachusetts independent certified public accountant engaged by the Contractor or by an authorized signatory for the Board of Director or officers of the corporation, the Executive Director, or Chief Financial Officer of the Contractor.*

According to BCL’s fiscal year 2001 and 2002 UFRs, BCL had \$150,500 and \$450,587, respectively, in Direct Care Consultant expenses during these two fiscal years. We requested supporting documentation for these expenses; in response, BCL officials stated that the agency had incorrectly reported these costs as Direct Care Program Consultants in its UFRs and that they should have been reported as Provider Reimbursement/Stipends Account. During our audit, we reviewed the documentation BCL was maintaining regarding this \$601,087 in expenses and found various shortcomings.

In fiscal year 2001, BCL's UFR identified charges for Direct Care Consultants in its Individual Supports contract totaling \$150,500. Our analysis showed that the Individual Supports contract was incorrectly charged \$31,788 for services that were not provided in this program. Rather, \$27,274 of that amount should have been charged as Independent Care Givers against BCL's Residential Services Contract with DMR; \$1,184 should have been charged to Supported Employment; and the remaining \$3,330 was paid to Independent Care Giver, with no client named on the invoice as having received care.

During fiscal year 2002, BCL reported Direct Care Consultants expenses of \$450,587 in its Individual/Family Supports program. Our analysis showed that the Individual Supports contract was charged \$108,793 incorrectly for clients who were not in the Individual/Family Supports program: \$91,051 should have been charged to the contract that funded BCL's Residential Services program, and the remaining \$17,741 should have been charged to its Supported Employment contract.

We attempted to conduct further testing to verify some of BCL's reported account activities. However, the condition of BCL's accounting records limited our ability to conduct testing in this area. Specifically, no original accounting documents are cross-referenced to an account charged. There are no notations of any sort for referencing these transactions to the general ledger accounts charged, and BCL's UFRs are not cross-referenced to the agency's General Ledger prior to its issuance.

### ***Recommendation***

To address our concerns, BCL should establish adequate controls over the recording and reporting of agency expenses. It should ensure that all expenses are accurately recorded and reported in its financial statements.

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

In response to this audit result, BCL provided the following comments:

*Following the Auditor's recommendation, BCL has upgraded its financial computer system to increase reporting capabilities and accurate recording of financial information. BCL has improved our business office practices to include detailed information recorded on original bills to improve tracking of expenses and cross-referencing to general ledger accounts charged.*

## 8. INADEQUATE CONTROLS OVER VARIOUS ASPECTS OF OPERATIONS

We found that BCL has not established adequate controls over several aspects of its operations. Specifically, BCL does not record accurate full-time equivalent (FTE) personnel information in its financial records. BCL's Business Manager stated that FTEs are reported in the agency's UFRs, which it files with the Commonwealth, on the basis of budgeted rather than actual amounts. As a result, the Commonwealth cannot be assured that the level and type of program staffing being reported by BCL in its UFRs are accurate. We also found that contrary to state regulations BCL has no formal written cost allocation plan for its general and administrative expenses. BCL officials stated that in practice the agency allocates its indirect costs based on the total direct costs in each program. However, we found that in several instances the agency had not followed that methodology. As a result, the Commonwealth cannot be assured that the financial results of BCL's state-funded programs are being accurately reported.

### a. Questionable Accounting of FTE Positions

The 808 CMR 1.04 (1), promulgated by OSD, states, in part:

*Contractor organizations must maintain a system of documenting each full and part time employee's attendance, hours worked, program assignments and payroll expenses to enable the organization to prepare an accurate schedule of full-time equivalent [FTE] employees and associated payroll expenses by job category and program.*

It is important for contract service providers to properly record and report FTEs in each program so that state purchasing agencies can assess whether the type and level of program staffing that were agreed upon and are being funded through state contracts are actually being provided.

We found that despite this requirement BCL does not record accurate FTE information in its financial records. Rather, according to BCL's Business Manager, FTEs are reported in the agency's UFRs on the basis of budgeted amounts.

Based on the Business Manager's assertion, during our audit we selected a sample of seven employees whose expenses were billed by BCL against the DMR contract that funded its Community Support Program. We then compared the actual FTEs provided by these seven individuals to what the agency reported in its UFRs and noted several discrepancies. We found that a Case Manager position reported on BCL's 2001 UFR as 2.00 FTEs and \$34,751

was actually .94 FTEs and \$34,751; a Direct Care position budgeted for 1.00 FTE and \$68,026 was actually 3.12 FTEs and \$68,026; and a Direct Care position that was reported as 1.30 FTEs and \$52,020 was actually 1.72 FTEs and \$52,020.

**b. BCL Has Not Designed and Adopted a Cost Allocation Plan, Resulting in Unallowable Costs Totaling \$5,538**

Contracted human services providers, such as BCL, are required by OSD regulation to maintain and use a written cost allocation plan as part of their documentation efforts. Specifically, 808 CMR 1.00 (4), promulgated by OSD, states, in part:

*The contractor...is required by 808 CMR 1.04(1) to maintain and utilize a written cost allocation plan as part of its documentation efforts for demonstrating that costs applying to more than one functional purpose are directly attributable or allocable to the functional purpose.*

We found that despite this requirement BCL has no formal written cost allocation plan for its general and administrative expenses. BCL officials stated that in practice the agency allocates its indirect costs based on the total direct costs in each program. However, we found that in many instances the agency did not follow that methodology.

For example, we noted the following discrepancies during fiscal year 2002 between what should have been allocated to various BCL programs using its stated indirect cost allocation methodology and what was actually allocated to those programs:

Program Name	Allocation Based on BCL's Methodology	Actual Allocation	Difference
Individual Support	\$2,077	\$0	\$2,077
Residential	\$375,272	\$416,183	(\$40,911)
Employment Support	\$53,523	\$63,943	(\$10,420)
Individual Support	\$77,185	\$33,469	\$43,716
Del's Lemonade	\$11,202	\$5,664	\$5,538

Because BCL receives the majority of its funding from contracts with the Commonwealth, the incorrect actual allocation did not result in overcharges to the state, other than those identified in Audit Result No. 4.



***Recommendation***

To address our concerns, BCL should develop and implement a formal indirect cost allocation plan in accordance with OSD regulations. Furthermore, OSD should consider requiring BCL to correct the allocation amounts and resubmit the fiscal year 2002 UFRs that it filed with OSD.

***Auditee's Response***

In response to this audit result, BCL provided the following comments:

*In keeping with the Auditor's recommendation, BCL has improved the accuracy of FTE reporting on the FY03 UFR. In FY03, the Board of Directors reviewed the written formal indirect cost allocation plan and it has been implemented.*

**9. UNALLOWABLE CREDIT CARD PAYMENTS TOTALING \$23,540 CHARGED TO STATE CONTRACTS**

We found that during fiscal years 2001 and 2002 BCL used state funds to pay for at least \$23,540 in credit card expenses that were inadequately documented or apparently unrelated to the social services program activities of BCL. According to state regulations, such expenses are unallowable and nonreimbursable under state contracts.

Specifically, 808 CMR 1.05 (a), promulgated by OSD, identifies the following as nonreimbursable costs under state contracts:

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

*Non-Program Expenses. Expenses of the Contractor which are not directly related to the social service Program purposes of the Contractor.*

During our audit, we reviewed the controls that BCL had established over the use of corporate credit cards. We determined that the agency does not have formal written policies and procedures over the use of corporate credit cards. Consequently, we reviewed the documentation that BCL was maintaining for two judgmental samples: (1) 18 credit card expenditures totaling \$24,427, out of the \$49,045 total for fiscal year 2001 credit card expenses; and (2) 11 credit card expenditures totaling \$5,691, out of the \$29,504 total for fiscal year 2002.

Based on our review of this documentation, we found that during these two fiscal years BCL charged at least \$23,540 in credit card expenses against its state contracts that were inadequately

documented or apparently unrelated to the social service program purposes of BCL's state-funded programs. An example of a non-program-related expense was a \$1,000 contribution, made on April 26, 2002, to Buttonwood Park in New Bedford. Regarding this matter, BCL officials stated that these expenses were made at DMR's direction or were for client-related services.

***Recommendation***

DMR should recover from BCL the \$23,540 in inadequately documented and non-program credit card expenses that BCL charged against its state contracts during the period reviewed. BCL should hereafter implement controls over its corporate credit cards to ensure that only properly documented and allowable program expenses are billed against its state contracts.

***Auditee's Response***

In response to this audit result, BCL provided the following comments:

*In accordance with the Auditor's recommendation, BCL is working with DMR and is in the process of establishing controls to ensure the adequate documenting all corporate credit card expenses to ensure that allowable program expenses are properly documented when billed against its state contracts. All credit card expenses are being reviewed with DMR.*

***Auditor's Reply***

According to its response, BCL is taking measure to address our concerns in this regard. However, we again recommend that DMR recover from BCL the \$23,540 in inadequately documented and non-program credit card expenses that BCL charged against its state contracts during the period reviewed.

**10. QUESTIONABLE CONTRACT AMENDMENT TOTALING \$360,262**

We found that DMR, contrary to state regulations, during fiscal year 2002 increased the maximum obligation of a contract that it awarded to BCL by \$360,262; moreover, it could not provide any documentation regarding the rationale for the increase or whether the services were re-bid to reflect the change in scope of services.

The 801 CMR 21.07 (1) (a) promulgated by OSD, states in part:

*Contract and Contract Amendment Negotiation. The language of the RFR [request for response] shall determine what elements of Contract performance or cost, within the scope of the original RFR and a Bidder's or Contractor's Response, may be negotiated. If the RFR is silent as to what can be negotiated, the Procuring Department and a Selected Bidder or Contractor may negotiate only the details of performance identified within the scope of the original RFR and the Bidder's or Contractor's Response, and may not increase or change the scope or performance or costs.*

During fiscal year 2001, BCL had a one-year DMR contract, ending June 30, 2001, that had two components. One component provided for annual funding totaling \$480,535 to BCL to provide its Community Supports services. Community supports refers to the provision of resources to a client to access workplaces, businesses, places of worship, social groups, health care facilities or professionals, and other facilities or supports generally available to the population-at-large. A second component provided BCL with funding to provide its Individual Supports, at a cost of \$72 per day, per consumer. Individual supports are services to eligible individuals requiring less than fifteen hours per week. Individual supports are provided to individuals who need limited forms of temporary or ongoing assistance, in several specific areas, that enables them to live as independently as possible.

During fiscal year 2001, in the greater New Bedford area, DMR issued an RFR for Individual Supports that it was providing. The RFR, however, did not indicate whether DMR was purchasing community supports services. On May 1, 2001, BCL submitted a response for these services and was subsequently awarded a one-year contract by DMR, with a maximum annual obligation of \$156,657, to provide its Individual Supports services in the greater New Bedford area.

However, after the awarding of this contract to BCL, DMR changed the scope of the original RFR by adding a community support component totaling \$360,262. During our audit, we asked DMR and BCL officials to provide documentation to substantiate why the scope of services, as stated in the original RFP for this contract as well as the contract funding, was changed in violation of 808 CMR 21.07. However, neither DMR nor BCL officials provided any of the requested documentation.

**Recommendation**

DMR and BCL should take measures to ensure that hereafter they fully comply with state regulations regarding the awarding and amending of state contracts.

**Auditee's Response**

In response to this audit result, BCL provided the following comments:

*BCL and DMR have taken steps to ensure that detailed documentation is provided during the awarding and amending of state contracts in compliance with state regulations. Particular attention will be given to the inclusion of all client names in each contract. This practice was informal in the past and will now be formally completed in the contracting and amendment process.*

In response to this audit result, DMR officials provided the following comments:

*The contract amendment to which the SAO Report refers, RFR 02NB-323, reference number 2560222560323, was conducted properly pursuant to the Procurement Policies and Procedures Handbook of the Commonwealth of Massachusetts. Specifically, the Handbook refers to the issue of anticipation of expansion needs. That section provides the following:*

*During the life of a contract, additional funding may become available either through increased federal or state appropriation, private foundation grant or the re-distribution of existing resources. Where a department determines that sufficient expansion capacity, expertise and quality performance are available through existing contracts, it may elect to increase some or all-existing contracts rather than conduct a new procurement. Language must be included in the RFR, which permits discretionary increases within the terms of existing contracts to accommodate additional funding should a department choose to exercise this option.*

*Prior to the posting of the RFR in question, meetings were held at the New Bedford Area Office to identify a group of consumers and their funding to construct the basis for the bid. These individuals were people receiving services from BCL in an existing contract. The bid was developed from a statewide DMR directive to change the service code designation for consumers receiving "individual support" services from those receiving more "comprehensive residential services." Standard criteria were developed for defining "individual supports" to distinguish them from the more comprehensive service package. These criteria are attached. In March 2001, once the clients who were receiving individual supports were identified using these criteria, dates were established to publish the RFR on Comm-Pass. This put into motion all the standard procurement timelines for POS contracting.*

*In May 2001, at the completion of the RFR review process, the review team made a recommendation to the Regional Director. The Regional Director made an award to BCL according to 801 CMR 21.07(1). The award was made in the amount based on the RFR figure of \$156,657.46. Following execution of the final contract, additional individuals who met the criteria for individual supports, as opposed to residential supports, were identified from within the original BCL residential contract, and further review of their programmatic needs indicated that they would be best served by the individual support*

*contract award rather than remaining in the existing, more comprehensive, residential contract. This resulted in an increase of the initial award from \$156,657.46 to \$516,920.09. The increase was the final result of an ongoing review process that began earlier in the year, but not quite completed to coincide with the RFR time frame. This continuing review was necessary to accurately align individuals and their service needs with the appropriate DMR service code, thus increasing the capacity and maximum obligation of the initial award.*

*Because the determination was made that sufficient expansion capacity, expertise and quality performance were available through the existing contract, and because such an amendment was possible pursuant to OSD regulations and the language of the RFR, the decision made to amend BCL's contract was proper....*

**Auditor's Reply**

As stated in our report, after the awarding of this contract to BCL, DMR changed the scope of the original RFR by adding a community support component totaling \$360,262. During our audit, we asked DMR and BCL officials to provide documentation to substantiate why the scope of services, as stated in the original RFP for this contract, as well as the contract funding were changed in violation of 808 CMR 21.07. However, neither DMR nor BCL provided any of the requested documentation.

In its response, DMR cites a criterion that allows a state agency to expand the capacity of an existing contract without rebidding, provided that the RFR for the services specifically states so. However, as noted in our report, the additional funding provided to BCL under this contract was for a different scope of services: i.e., adding a community support component (versus the individual support component). Accordingly, the criterion cited by DMR would not apply.

## APPENDIX

### BCL Program Descriptions

**Residential Services:** This program allows individual clients to be integrated into the community. Group homes, or “supervised living” options, allow consumers to maximize their independence and residential choices. The “shared living” program matches people with willing families or individuals in the community to create personalized living arrangements.

**Individual Supports:** This program provides consumers who are living in independent or semi-independent situations with intermittent or ongoing supports that are not part of a comprehensive set of residential and work day services but which assist consumers to achieve their rights and dignity, individual control, community membership, relationships, personal growth and accomplishments, and personal wellbeing.

**Family Supports:** These supports and services are provided at home, on an intermittent or ongoing basis, to enable families to stay together and be welcomed and contributing members of their communities.

**Supported Employment:** This program provides for the evaluation of disabled individuals’ rehabilitation potential or the development of, and placement in, intensive on-the-job training follow-up services as well as regular observation and supervision at the training site and other services needed to support the individuals in employment.