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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
HAMPDEN COUNTY DISTRICT ATTORNEY'S OFFICE
JULY 1, 2007 TO SEPTEMBER 30, 2008

OFFICIAL AUDIT
REPORT
AUGUST 7, 2009

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The Hampden County District Attorney's Office (Office) was established under the provisions of Chapter 12, Section 13, of the Massachusetts General Laws, which provides for the administration of criminal law and defense of civil actions brought against the Commonwealth, pursuant to Chapter 258 of the General Laws (claims and indemnity procedures for the Commonwealth, its municipalities, counties, districts, officers, and employees). As of September 30, 2008, the Office had 135 employees, including prosecutors/assistant district attorneys and administrative and program staff, who represent approximately 461,228 citizens of the Commonwealth in criminal and civil proceedings within a jurisdiction of 23 cities and towns in the geographic area of Hampden County. The Office is located in Springfield, with satellite offices in Chicopee, Holyoke, Westfield, and Palmer.

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor has conducted an audit of the Office for the period July 1, 2007 to September 30, 2008. The purpose of the audit was to review and examine internal controls over financial and program activities to determine whether financial records are accurate, up-to-date, and maintained in accordance with established criteria; costs and expenditures, including payroll and administrative costs, are appropriate and reasonable; controls over revenues, including forfeited funds, are proper and adequate; and the internal control structure is suitably designed and implemented to safeguard Commonwealth assets in compliance with Office of the State Comptroller (OSC) guidelines and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies.

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1. PRIOR AUDIT RESULTS RESOLVED

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a. Accounting and Reporting of Fixed Assets

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Our prior audit (2004-1259-3S) disclosed that the Office was not in compliance with OSC regulations regarding the accounting and reporting of Non-GAAP (Generally Accepted Accounting Principles) fixed assets. Specifically, the Office had not updated its internal control procedures or structure for managing Non-GAAP fixed assets, equipment, and other inventory. Our follow-up audit found that the Office has updated its internal control policies and procedures for managing Non-GAAP fixed assets, equipment, and other inventory to include the management of both fixed and non-fixed assets

b. Internal Controls for Tracking Forfeited Funds

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Our prior audit disclosed that improvements were needed over the initial receipt and recording of forfeited funds. Our follow-up audit disclosed that the Office has substantially improved its internal control procedures over the intake and accounting of forfeiture funds under court-ordered judgments. Specifically, we identified that, for all

forfeitures tested, funds submitted to the Office by all law enforcement agencies were in agreement with the Order of Forfeited issued by the court.

2. PRIOR AUDIT RESULT PARTIALLY RESOLVED – INTERNAL CONTROL PLAN NEEDS IMPROVEMENT AND UPDATING **4**

Our prior audit disclosed that the Office had not updated its Internal Control Plan (ICP), including written administrative and accounting policies and procedures for its operations, in accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies, and the Internal Control Guides issued by the OSC. Our follow-up audit disclosed that although the Office has updated and made many improvements to its ICP that is generally in compliance with Chapter 647 of the Acts of 1989 and the OSC requirements, the Office still needs to update its plan to the latest OSC guidelines and to cross-reference its ICP to its departmental policies and procedures for most of its organizational areas to ensure that the Office meets its mission and sustains long-term viability. Our follow-up audit also found that the Office did not document its monitoring procedures over the control activities of its fiscal and programmatic areas. Also, the ICP does not reference accountability either by responsibility or employee monitoring roles within various departments. In response to this issue, the Office stated that it would begin implementing steps to improve its ICP as recommended.

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INTRODUCTION

Background

The Hampden County District Attorney's Office (Office) was established under the provisions of Chapter 12, Section 13, of the Massachusetts General Laws, which provides for the administration of criminal law and defense of civil actions brought against the Commonwealth, pursuant to Chapter 258 of the General Laws (claims and indemnity procedures for the Commonwealth, its municipalities, counties, districts, officers, and employees). As of September 30, 2008, the Office had 135 employees, including prosecutors/assistant district attorneys and administrative and program staff, who represent approximately 461,228 citizens of the Commonwealth in criminal and civil proceedings within a jurisdiction of 23 cities and towns in the geographic area of Hampden County. The Office is located in Springfield, with satellite offices in Chicopee, Holyoke, Westfield, and Palmer.

For fiscal years 2008 and 2009, the Office received state maintenance appropriations of \$8,165,666 and \$8,111,662, respectively, to fund its administrative operations. In addition, the Office received \$557,056 in 2008 in special state appropriations to support various programs, including state police overtime for investigations, a sexual abuse intervention network, and child support enforcement. Additionally, the Office received a total of \$280,247 in fiscal year 2008 from the Executive Office of Public Safety to assist in funding staff positions for victim witness assistance, witness protection, narcotics prosecutions, safety-first protection, and adult diversion.

Pursuant to the Office's mission of prosecuting criminal cases in Hampden County, the Office deposited \$511,282 as of September 30, 2008 in court-awarded forfeited funds with the Office of the State Treasurer. Each case must be fully adjudicated before the assets are considered forfeited, after which the funds may be used for the many purposes set forth in Chapter 94C, Section 47, of the General Laws, including defraying the costs of protracted investigations, providing the Office with technical equipment or expertise, providing matching funds to obtain federal grants, or such other law enforcement purposes as the District Attorney deems appropriate. The District Attorney may also expend up to 10% of the funds and proceeds for drug rehabilitation, drug education, and other anti-drug or neighborhood crime watch programs that further law enforcement purposes.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor has conducted an audit of the Office for the period July 1, 2007 to September 30, 2008. Our audit was conducted in accordance with applicable generally accepted government auditing standards. The purpose of the audit was to review and examine internal controls over financial and program activities to determine whether financial records are accurate, up-to-date, and maintained in accordance with established criteria; costs and expenditures, including payroll and administrative costs, are appropriate and reasonable; controls over revenues, including forfeited funds, are proper and adequate; and the internal control structure is suitably designed and implemented to safeguard Commonwealth assets in compliance with Office of the State Comptroller (OSC) guidelines and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies.

To accomplish our objectives, we:

- Reviewed applicable laws, OSC Internal Control guides, and Chapter 647 of the Acts of 1989.
- Reviewed the budgetary process and the spending plan.
- Reviewed the Office's Internal Control Plan, risk assessment, and internal control structure along with existing verbal and written administrative and accounting policies and procedures.
- Interviewed various officials.
- Reviewed selected revenue (forfeited funds), expenditure, advance, and payroll transactions to verify that these transactions are properly accounted for, recorded, and safeguarded in accordance with established criteria.
- Examined the inventory control system for the furnishings and equipment that was in place during our audit period.

Except as noted in the Audit Results section of this report, we have determined that, for the areas tested, the Office's financial records are accurate, up-to-date, and maintained in accordance with established criteria; costs and expenditures are appropriate and reasonable; controls over revenue are proper and adequate; and the internal control structure is suitably designed to safeguard the Commonwealth's assets in compliance with the OSC Internal Control Guides and Chapter 647 of the Acts of 1989.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS RESOLVED

a. Accounting and Reporting of Fixed Assets

Our prior audit (2004-1259-3S) disclosed that the Hampden County District Attorney's Office (Office) was not in compliance with Office of the State Comptroller (OSC) regulations regarding the accounting and reporting of Non-GAAP (Generally Accepted Accounting Principles) fixed assets. Specifically, the Office had not updated its internal control procedures or structure for managing Non-GAAP fixed assets, equipment and other inventory. Non-GAAP fixed assets include all vehicles, equipment, furniture, computer software, and electrical and computer components with a useful life in excess of one year and with an original cost of between \$1,000 and \$49,999. In addition, all buildings, roads, and other infrastructure with an original cost less than \$99,999 are Non-GAAP fixed assets. Departments are required under OSC regulations and Chapter 7A, Section 8 of the Massachusetts General Laws to maintain adequate accounting and reporting including internal controls over its Non-GAAP fixed assets.

Our follow-up audit disclosed the Office has updated its internal control policies and procedures for managing Non-GAAP fixed assets, equipment and other inventory to include the management of both fixed and non-fixed assets. According to these policies, a \$500 minimum amount has been established to document inventory or equipment. In addition, these policies require the Director of Fiscal Affairs or his designee to perform physical inventory counts and the Financial Assistant to maintain the office inventory records. These inventory records are to include the description, cost, acquisition date, and location of each item. In addition, all capitalized assets acquired through a lease purchase will be recorded.

b. Internal Controls for Tracking Forfeited Funds

Our prior audit disclosed that the Office needed to improve its internal controls for tracking forfeited funds. Specifically, our audit noted that improvements were needed with the initial receipt of funds prior to bank deposit and the recording of funds.

Our follow-up audit disclosed that the Office has improved its internal control procedures over the intake and accounting of forfeiture funds under court-ordered judgments. Specifically, we

noted that the Office has adopted the following policies and procedures regarding the receipt of forfeited funds:

- The Office no longer accepts cash, and all forfeiture proceeds shall be brought to the Office in the form of a check.
- The Forfeiture Administrator and the Police Department must explain any discrepancies, including, but not limited to, an overage or shortage between the amounts ordered to be forfeitable to the Commonwealth, reflected on the Forfeiture Administrator's "Finished Forfeiture Cases," and the actual amount of the deposit.
- A lead sheet is prepared that includes police department, defendant name, date of offense, corresponding docking/indictment number, and the amount to be forfeited.
- A receipt is included for the check received from the police department.
- A copy of the judicial Order of Forfeiture is prepared for each defendant listed on the lead sheet.
- A copy of the bank deposit slip is included listing each check collected and deposited.

2. PRIOR AUDIT RESULT PARTIALLY RESOLVED – INTERNAL CONTROL PLAN NEEDS IMPROVEMENT AND UPDATING

Our prior audit disclosed that the Office had not updated its Internal Control Plan (ICP), including written administrative and accounting policies and procedures for its operations, in accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies, and the Internal Control Guides issued by the OSC. Chapter 647 requires that internal control systems be clearly documented and readily available for examination, including all operating cycles. In addition, our prior audit report noted that the Office had not integrated its risk assessment throughout its ICP to determine how risks would be identified and mitigated. Risk assessments are an integral part of an internal control plan because they identify and analyze risks and assist management in prioritizing those activities where controls are most needed.

Our follow-up audit of the ICP disclosed that the Office has completed a department-wide risk assessment and implemented written internal controls to mitigate identified risks and assist management in determining which factors and risk events might prevent the Office from

attaining its stated mission and providing the organizational services required. The ICP has also identified the Director of Fiscal Affairs as the individual responsible for developing and maintaining the ICP as well as reporting to the Office of the State Auditor any unaccounted-for variances, losses, shortages, or thefts of funds or property. Our follow-up audit disclosed that the Office reviews and evaluates the plan at least annually so that controls are in place to address identified new risks and design internal controls associated with any new OSC regulations and guidelines. Moreover, we found that the Office has consulted with the OSC regarding the design and update of its ICP, and we identified that the most current version of the ICP was dated September 1, 2008. Additionally, the Office has made available through its Office Intranet all department policies, procedures, and forms to its employees.

However, our audit indicated that the Office still needs to update its ICP to be in compliance with the eight components of Enterprise Risk Management (ERM). We also found that the Office still needs to cross-reference its ICP to its departmental policies and procedures for most of its organizational areas to help ensure that the Office meets its mission and sustains long-term viability. For the ICP to be considered an effective high-level summarization all eight components of the ERM must be present. These components are described in the OSC Internal Control Guide as follows: internal environment, objective setting, event identification, risk assessment, risk response, control activities, information and communication, and monitoring. Specifically, we noted that the Hampden County District Attorney's Office needs to address updates in the following areas:

Objective Setting

The mission statement clearly identifies the purpose of the Office; however, it does not identify specific objectives needed to attain its goals and sustain long-term viability. Chapter 1, page 8, of the OSC's Internal Control Guide identifies the importance of addressing an entity's mission and objectives within its ICP, as follows:

MISSION STATEMENT – A mission statement clearly identifies an organization's purpose and how it is accomplished. It should be a brief paragraph that is easily understood by the reader, including those outside the organization or field. . . .

OBJECTIVES – An objective is the action required to achieve the long-range goal. In contrast to a goal, an objective is narrowly focused and easily validated. It should, therefore, be an action that can be accomplished in an identified period of time, such as a

fiscal year. An objective is SMART [Specific, Measurable, Attainable, Result-Focused and Timely]

To assist management, the OSC recommends that agencies establish objectives, which should be specific, measurable, attainable, timely, and results-focused.

Monitoring

Our review of the ICP found that the Office did not document its monitoring procedures. The OSC's Internal Control Guide, Chapter 1, page 14, defines the purpose of monitoring as:

The review of an organization's activities and transactions to assess the quality of performance over time and to determine whether internal controls are effective.

According to the OSC Internal Control Guide, management should focus monitoring efforts on achievement of the organization's mission, goals, and objectives. For example, management must consider whether internal controls are operating as intended and are appropriately modified when conditions change. The purpose of monitoring is to determine whether internal control is adequately designed, properly executed, and effective. For monitoring to be most effective, all employees need to understand the organization's mission, goals, and objectives; risk levels; and their own responsibilities. The position a person holds in the organization helps to determine the focus and extent of these responsibilities. Therefore, the monitoring performed by managers, supervisors, and staff will not have the same focus. For example:

- Executive management should focus their monitoring activities on major divisions within the organization. With this broad focus, they emphasize the organization's mission and goals.
- Managers should assess how well internal controls function in multiple units within an organization.
- Supervisors should monitor all activities within their respective units to ensure staff are performing their assigned responsibilities, internal control activities are functioning properly, and the unit is accomplishing its goals and objectives.
- Staff should monitor their own work to ensure that it is being done properly. They should be trained by supervisors and management regarding internal controls and be encouraged to report any irregularities.
- Access to systems and sensitive data should be reviewed quarterly to ensure employees have needed access, but not more than what is needed to complete their responsibilities.

Although the Office identified the person responsible for monitoring internal controls, it did not document its monitoring procedures over the internal control activities of its fiscal and programmatic areas. Also, we noted that the ICP does not reference accountability either by responsibility or employee monitoring roles within its various departments.

Once these changes are addressed by the Office, they can be added to areas in need of cross-referencing to the Office's other departmental policies, procedures, and forms used to document its overall internal control within the organization. This process only enhances the significant work completed by the Office in updating its ICP.

Recommendation

We recommend that the Hampden County District Attorney's Office improve its ICP, as follows:

- Update its high-level summarization of internal controls to readily identify and concisely describe the ERM components of internal control within the plan in conformance with the latest OSC guidelines.
- Include measures to review strategic goals and objectives at least annually or more often as needed given the changing economic conditions of the Commonwealth and include these within the plan.
- Identify which events, internally and externally, may have an influence over its goals and objectives and strategies used by the Office in achieving its objectives.
- Document its monitoring activities and responsibilities, which will ensure that internal controls are implemented to mitigate fiscal and programmatic risks and are effective and function as needed. Wherever monitoring is documented within the departmental policies and procedures, the Office should cross-reference its ICP to these procedures.
- Cross-reference the ICP to existing departmental policies and procedures utilized by the Office to control its operation.

Auditee's Response

We will be implementing your audit recommendations by beginning the on-going process of improving our ICP, by identifying and describing the ERM components of the ICP, defining our stated measured goals and objectives, identifying events that might trigger or influence both internally and externally our stated strategies, documenting these activities and lastly, cross-referencing the ICP to our existing department policies and procedures.

APPENDIX

Chapter 647 of the Acts of 1989

An Act Relative to Improving the Internal
Controls within State Agencies

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Chapter 647

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

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

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

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

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

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

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

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

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

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

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

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

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

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

House of Representatives, December 21, 1989.

Passed to be enacted,

George Furrman, Speaker.

In Senate, December 22, 1989.

Passed to be enacted,

William W. Biggs, President.

January 3, 1990.

Approved,

Richard H. Kiah, Governor.