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**INDEPENDENT STATE AUDITOR'S REPORT
ON THE
NANTUCKET SHERIFF'S OFFICE TRANSITION
TO THE COMMONWEALTH OF MASSACHUSETTS
ON JANUARY 1, 2010**

**OFFICIAL AUDIT
REPORT
APRIL 30, 2010**

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INTRODUCTION

Background

Chapter 61 of the Acts of 2009, An Act Transferring County Sheriffs to the Commonwealth, was enacted on August 6, 2009. This Act transfers to the Commonwealth the remaining seven County Sheriff's Offices and, except where specified, all of their functions, duties, and responsibilities including assets, liabilities, and debt as of January 1, 2010. Also, Chapter 102 of the Acts of 2009, An Act Relative to Sheriffs, was enacted on September 29, 2009 "to provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2010" and amended certain sections of Chapter 61 of the Acts of 2009.

Chapter 61, Section 25, of the Acts requires the Office of the State Auditor (OSA) to conduct an independent audit of the assets, liabilities, and potential litigation of each of the County Sheriff's Offices (Barnstable, Bristol, Norfolk, Plymouth, Suffolk, Nantucket, and Dukes) transferred to the Commonwealth. The audit shall include a review of any accounts, programs, activities, functions, and inventory of all property of the transferred Sheriff's Office. The OSA is required to file a report with the Secretary of Administration and Finance and Chairs of the House and Senate Committees for Ways and Means that includes a summary of audit results for the seven transferred Sheriff's Offices and the cost of each audit.

The island of Nantucket is a unique government entity, in that it is both a town and a county. Many of the same elected and appointed officials serve the two governments, at the same time fulfilling dual functions. For instance, the Board of Selectman and the County Commissioners are the same individuals, as are the town and county Manager, Finance Director, Treasurer, etc.

The Nantucket Sheriff's Office (NSO) does not operate a correctional facility and has only three full-time employees, including the Sheriff. The prisoners/inmates are transported to correctional institutions throughout the state. Prior to transport, they are held at the Nantucket Police Department. Approximately 200 prisoners/inmates are transported during the course of a year. Nantucket has an average year-round population of 11,000, but during the summer season the population increases to a population up to 60,000. Therefore, the number of prisoners/inmates is highly seasonal and changes dramatically depending upon the time of year.

The NSO is located at the town and county building on the second floor, 16 Broad Street, Nantucket. According to NSO officials they have committed approximately \$5 million dollars toward a new \$15 million police station, which is expected to be completed in 2010. The NSO is planning to continue using the old downtown police station. However, the details of an agreement on space and use have not been finalized as of the date of this report.

The NSO had approximately nine public safety and community relations programs that provide outreach, education, public safety, and support for the community, including the state and local police departments, marine department, boys and girls club, anti-drug program, dive rescue team, community watch, etc. Due to the transfer to the Commonwealth and budget cuts the future of these programs is currently undetermined.

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

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

The serving of the civil process, in accordance with Chapter 262 of the General Laws, includes such activities as serving summonses, warrants, subpoenas, and other procedures requiring legal notification.

The civil process function is part of the combined operation of the NSO located at the Town Building, Second Floor, 16 Broad Street, Nantucket, MA. They deliver legal notices and court papers from all Massachusetts courts, as well as from the various courts in other counties or states. They are legally capable to serve process in Nantucket. The cases vary from small claims matters to multi-million dollar real estate attachments and major Superior Court matters.

The Sheriff handles the NSO's Civil Process function, with the assistance of his staff. Its operations as controlled by Massachusetts General Laws are specialized. Attorneys or individual plaintiffs, under a statutory-fee structure, pay for the service. The NSO processes approximately 900 services per year.

Audit Scope, Objectives, and Methodology

As authorized by Chapter 11, Section 12, of the General Laws and as required by Chapter 61, Section 25, of the Acts of 2009, the Office of the State Auditor conducted an independent audit of the transfer of the NSO to the Commonwealth. Our audit was conducted in accordance with applicable generally accepted government auditing standards and accordingly included such audit procedures and tests as we considered necessary under the circumstances.

The purpose of the audit was to:

- Determine whether all NSO duties, functions, and responsibilities were transferred in accordance with Chapter 61 of the Acts of 2009, including all applicable laws, regulations, and policies related to the transition to the Commonwealth;
- Determine whether all NSO assets, liabilities, and debt were transferred in accordance with Chapter 61 of the Acts of 2009; and
- Report the results of the audits to the Nantucket Sheriff, the Secretary of Administration and Finance, and the Chairs of the House and Senate Committees on Ways and Means.

Our audit consisted of, but was not limited to, the following procedures:

- Reviewed Chapter 61 of the Acts of 2009, Chapter 102 of the Acts of 2009, and other applicable laws, rules, regulations, and policies relating to the transfer of the NSO;
- Met with the Nantucket Sheriff, County Treasurer, County Commissioner, and other Sheriff's Office and county officials;
- Met with officials from the Executive Office for Administration and Finance, Office of the State Comptroller, Division of Capital Asset Management, Office of the State Treasurer, Public Employee Retirement Administration Commission, Group Insurance Commission, and other Commonwealth officials;
- Reviewed and tested payroll and personnel records transferred;
- Reviewed and verified terms and conditions of transferred employee benefits coverage for continuation and compliance as specified in Chapter 61 of the Acts of 2009;
- Obtained listings and reviewed applicable policies and procedures for the processing and authorization of expenses, accounts payable, liabilities, leases, contracts, and pending litigation;

- Obtained listing of all cash and investment accounts as of January 1, 2010 to determine the status of all accounts;
- Obtained listings of accounts receivable as of January 1, 2010 to determine their comprehensiveness and accuracy;
- Identified revenue streams and status of retained revenue accounts as of January 1, 2010;
- Obtained listing of property, equipment, and inventory as of January 1, 2010 to determine its comprehensiveness and accuracy;
- Reviewed and analyzed fiscal year 2010 spending plans and budget projections;
- Reviewed and analyzed fiscal year 2010 appropriation and other accounts established in the Massachusetts Management Accounting and Reporting System (MMARS) as of January 1, 2010;
- Determined the nature, extent, and status of civil processing functions and other programs and activities as of January 1, 2010;
- Determined the establishment and activity status of the mandated Deeds Excise Fund as of January 1, 2010;
- Reviewed functions and activities related to the transition of employees to the Group Insurance Commission and State Retirement System.

Our audit of the NSO should not be construed to be an audit within the strict standards and guidelines adhered to by the Office of the State Auditor and promulgated by the Comptroller General of the United States in Government Auditing Standards January 2007 Revision, which discusses under the heading “General Standards” (Section 3.10) certain scope impairments, as follows:

Audit organizations must be free from external impairments to independence. Factors external to the audit organization may restrict the work or interfere with auditors’ ability to form independent and objective opinions, findings, and conclusions. External impairments to independence occur when the auditors are deterred from acting objectively and exercising professional skepticism by pressures, actual or perceived, from management and employees of the audited entity or oversight organizations. For example, under the following conditions, auditors may not have complete freedom to make an independent and objective judgment, thereby adversely affecting the audit:...

c. unreasonable restrictions on the time allowed to complete an audit or issue the report;

Because of the NSO transition date of January 1, 2010 and the legislatively mandated OSA reporting deadline of April 30, 2010, it was not reasonable or feasible to conduct an extensive audit of the

County Sheriff's transfer. The NSO was conducting its regular business and transitioning to the Commonwealth at the same time that our audit was in progress, and the many changes and extensive activities required for this transition were still ongoing as the audit was being conducted. Because of the time constraints we did not have the timely availability of financial records and information. Prior to the January 1, 2010 transition, the County Treasurer processed NSO payrolls and bills. After the transition, the Sheriff's Office staff was responsible for processing financial data and paying bills through the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS) and using the Commonwealth's Human Resource/Compensation Management System (HR/CMS) to prepare its payroll. This transition required NSO staff to learn how to use two financial reporting and processing systems, populate the systems' databases, and continuously enter data to encumber funds and pay NSO obligations. The effect on our transition audit was that current financial data was not available in a timely manner because the financial data had not been entered into MMARS. The learning curve associated with utilizing two information systems is quite steep and requires additional time by all parties involved. As of mid-March 2010, a number of MMARS accounts were still being established and MMARS data fields were in the process of being populated. However, our review determined that the NSO's bi-weekly payroll was being accurately processed and that bills were in the process of being paid. Therefore, our audit approach was to determine the status of the NSO transition to the Commonwealth, identify and report any issues preventing compliance with Chapter 61 of the Acts of 2009 and all other applicable legislation related to the transition, and make recommendations for improvements or corrective action.

Chapter 61, Section 22, of the Acts of 2009 establishes a Special Commission to investigate and study all Sheriff's Offices throughout the Commonwealth and make recommendations for possible reorganization or consolidation of operations, administration, regulation, governance, and finances, including recommending legislation. Section 22 delineates the composition of the special commission and its mission as follows:

Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members: 1 of whom shall be a member of the Massachusetts Sheriffs Association; 2 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the minority leader of the house of representatives; 2 of whom shall be appointed by the president of the senate; 1 of whom shall be appointed by the minority leader of the senate, and 2 of whom shall be appointed by the governor for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend

legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation operation, administration, regulation, governance and finances of sheriffs' offices...

The commission, as part of its review, analysis and study and in making such recommendations regarding the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices, shall focus on and consider the following issues, proposals and impacts:

- (1) the possible consolidation, elimination or realignment of certain sheriffs' offices and the potential costs savings and other efficiencies that may be achieved by eliminating, consolidating and realigning certain sheriffs offices to achieve pay parity;*
- (2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;*
- (3) the reallocation of duties and responsibilities of sheriffs' office as a consequence of any such consolidation or reorganization;*
- (4) the best management practices including, but not limited to, administrative procedures, payroll systems, software updates, sheriff's ability to negotiate cost effective contracts and the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;*
- (5) the consideration of any other issues, studies, proposals or impacts that, in the judgment of the commission, may be relevant, pertinent or material to the study, analysis and review of the commission; and*
- (6) The need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement services, family connection services and re-entry opportunities; provided however, the review shall consider the need and present adequacy of placement of female prisoners and detainees in each country and provided further, that all departments, divisions, commissions, public bodies, authorities, boards, bureaus or agencies of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the responsibilities of the commission subject to considerations of privilege or the public records law.*

The commission shall submit a copy of its final report of its findings resulting from its study, review, analysis and consideration, including legislative recommendations, if any, to the governor, president of the senate, speaker of the house of representatives, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on state administration and regulatory oversight and the clerks of the senate and house of representatives not later than December 31, 2010.

The OSA has conducted numerous audits of the seven Sheriff's Offices previously transferred to the Commonwealth prior to the enactment of Chapter 61. Our audits have disclosed instances of inconsistencies amongst the Sheriff's Offices regarding their financial operations and the application of various conflicting laws, rules, and regulations and have made recommendations to address these

issues. Our recommendations in this audit, where appropriate, will also be directed to the Secretary for Administration and Finance and Chairs of the House and Senate Committees on Ways and Means, the Legislature and the Special Commission for its consideration and use during its study and investigation for the reorganization and consolidation of Sheriff's Offices throughout the Commonwealth in the future.

The Audit Results section of this report outlines the status of the transition of the NSO.

AUDIT RESULTS

1. TRANSITION STATUS OF SHERIFF, PERSONNEL, AND PAYROLL

Sheriff Compensation

The elected Nantucket Sheriff's annual salary is set in compliance with Chapter 61 of the Acts of 2009, Section 1, An Act Transferring County Sheriffs to the Commonwealth, which states, in part:

The sheriff of the county of Nantucket shall receive a salary of \$71,332.

Prior to the transfer, the Sheriff received salary payments from July 1, 2009 through December 19, 2009 of \$48,635 and was allowed additional compensation in accordance with Chapter 37, Section 17, of the General Laws, which states, in part:

In addition to his salary, retain all fees collected and received by him for service of process.

During this time period the Sheriff received no other forms of compensation, including any longevity pay, sick, vacation, or other leave accruals maintained or transferred for the Sheriff. It should be noted that the Sheriff did receive longevity pay, as part of a written county policy, in fiscal year 2009. Moreover, the Sheriff received a decrease in compensation on January 1, 2010 that adjusted his annual salary from \$93,683 to \$71,332, in compliance with Chapter 61.

In addition, Chapter 61 eliminated the third paragraph from Chapter 37, Section 17, of the General Laws, which enables the NSO Sheriff to retain all fees collected for service of process. In this regard, the NSO opened a separate banking account as required by the Commonwealth to maintain civil process funds. However, the personal bank account of the Sheriff used for civil process before the transfer was still being utilized as of February 2010. We brought this to the attention of NSO officials, who stated that this account would remain open until all outstanding prior liabilities have been cleared.

Personnel and Payroll

There were a total of five employees (the Sheriff, two full-time employees, and two on-call employees) at the NSO for the initial six months of fiscal year 2010. All of these employees were paid a total of \$201,591 through the county payroll system in from July 1, 2009 to

December 19, 2009. As of December 20, 2009, all five NSO employees were paid through the Commonwealth of Massachusetts Human Resource/Compensation Management System (HR/CMS).

We reviewed all NSO employees' payroll information and leave balances transferred from the NSO County payroll for the period ended December 19, 2009 for comparison to the Commonwealth of Massachusetts HR/CMS payroll for the period ended January 2, 2010.

We reviewed and analyzed the listing of all employees by title, full-time or part-time status, pay rate, longevity, education incentive, employee portion of Medicare, court-ordered deductions, retirement deductions, union dues deductions, collective bargaining agreements, and non-union and other payroll-related information to determine whether all of the payroll information was transferred properly from the county to the HR/CMS. The only discrepancy was that Medicare withholdings were incorrectly deducted from the Sheriff's pay after the transfer which he was not required to pay because he was a government employee prior to July 1, 1986. We brought this to the NSO's attention, which took immediate corrective action.

We reviewed the transferred employees benefit accruals to verify their accuracy in the transition from County to the Commonwealth. The County payroll system did not record individual leave history for NSO employees prior to the transfer. According to documentation received from the County Treasurer, the County and the Commonwealth's Human Resources Division made a review, reconstruction, and determination of the amount of accruals allowed to be transferred to the HR/CMS system. We reviewed the documentation provided to the Commonwealth's Human Resource Division and it corresponds to the amounts now being recorded in HR/CMS.

We reviewed the state contribution for Group Insurance Commission (GIC) benefits and calculated percentages of health insurance costs that employees would pay depending on their bargaining unit or non-union status. All employees at the NSO are non-union and do not have collective bargaining agreements. Therefore, they are all paying the state health insurance rate of 20% of 25%, dependant on hire date.

The payroll and personnel records for the NSO are currently maintained on site at the NSO's administrative offices.

Recommendation

Policies, procedures, and internal controls regarding the Sheriff's salary and personnel and payroll functions should be instituted and developed in compliance with Massachusetts's laws and regulations. Moreover, these policies and procedures should be referenced in the NSO's Internal Control Plan (ICP) for the protection and accountability of the NSO's personnel and payroll functions against the threat of loss waste, fraud, and misuse. (See Audit Result No. 6.)

2. TRANSITION STATUS OF ASSETS TRANSFERRED

We determine the status of assets such as cash, accounts receivable, property and equipment, and inventory at the NSO that were being transferred to the Commonwealth in accordance with Chapter 61 of the Acts of 2009, as follows:

Cash

The NSO controlled minimal funds at the time of the transfer. According to NSO officials, the only account with a cash balance was the Sheriff's civil process account that had a reconciled balance of \$1,471 at the time of transfer. Moreover, according to the County Treasurer's Office, all funds previously maintained by the NSO have been transferred to the Commonwealth.

Accounts Receivable

There were no accounts receivable on the accounts of record at the NSO as of January 1, 2010. This is because the County Treasurer maintained all financial records of the NSO before the transfer. According to the records maintained by the County Treasurer, there was \$1,580 in NSO Third-Party Detail funds outstanding as of January 1, 2010 that dated back to June 13, 2003.

Property and Equipment

Under Chapter 61, Section 7(a), of the Acts of 2009, any NSO property or equipment is to be transferred to the Commonwealth, as follows:

Notwithstanding any general or special law to the contrary, all rights, title and interest in real and personal property, including those real properties improved upon through construction overseen by the division of capital asset management and maintenance and paid with commonwealth funds and which are controlled by the office of a transferred sheriff on the effective date of this act including, without limitation, all correctional facilities and other buildings and improvements, the land on which they are situated and any fixtures, wind turbines, antennae, communication towers and associated structures

and other communication devices located thereon or appurtenant thereto shall be transferred to the commonwealth, except as otherwise provided in this act. This transfer of all buildings, lands, facilities, fixtures and improvements shall be subject to chapter 7 of the General Laws and the jurisdiction of the commissioner of capital asset management and maintenance as provided therein, except as otherwise provided in this act. The commonwealth shall take all necessary steps to ensure continued access, availability and service to any assets transferred to the commonwealth under this subsection to a local or regional organization that currently uses such assets.

NSO's office is located on the second floor of 16 Broad Street, Nantucket and is leased from the town and county government. The NSO does not own any buildings; therefore, no property or related equipment was transferred to the Commonwealth under Chapter 61.

Inventory

Chapter 61, Section 23, of the Acts of 2009 states the following:

Not less than 90 days after the effective date of this act, a sheriff transferred under this act shall provide to the secretary of administration and finance a detailed inventory of all property in the sheriff's possession which shall include, but not be limited to, vehicles, weapons, office supplies and other equipment.

We reviewed the NSO's compliance with this regulation and found that it maintained a detailed inventory listing. We reviewed all inventory items, which included 10 office equipment items and six public safety vehicles, to determine if the items could be located, were tagged for identification, and referenced to the database. Our review of inventory disclosed that none of the items reviewed were tagged for identification. Additionally, the inventory listing only provided cost values for the vehicles. However, we were able to locate all items listed in the inventory.

We discussed the status of the inventory with NSO officials, who are in the process of updating the inventory to comply with all applicable state regulations.

Recommendation

The NSO needs to develop and institute policies, procedures, and internal controls to safeguard the transferred assets and inventory in compliance with Massachusetts laws, rules, and regulations. These policies, procedures, and internal controls should include provisions for processing and monitoring cash control activities; establishing accounts receivable practices, including oversight activities; processing and monitoring inventories of property and equipment, including taking periodic physical inventories; and developing equipment replacement planning

steps for the custody, protection, and accountability of these assets against the threat of loss, waste, fraud, and misuse. These policies and procedures should be referenced in the NSO's ICP. (See Audit Result No. 6.)

3. TRANSITION STATUS OF LIABILITIES AND LITIGATION

As part of our review, we reviewed the status of accounts payable, potential litigation, and contracts and leases that were being transferred to the Commonwealth as required by Chapter 61 of the Acts of 2009.

Accounts Payable

Prior to the transfer, all invoices were sent to the County Treasurer for payment and the County Treasurer recorded all financial transactions. The NSO did not maintain any accounts payable records and relied on the County Treasurer to maintain and process all payables. Moreover, our review of the County Treasurer financial records indicated that as of December 31, 2010, there were outstanding accounts payables relating to legal fees in the amount of \$3,321 and computer-related expenses in the amount of \$567.

Potential Litigation

According to NSO officials, there is only one outstanding legal case. The Sheriff brought this case against the County of Nantucket for his outstanding vacation pay for the past 10 years. This action is still pending in Nantucket Superior Court.

Contracts and Leases

The NSO pays an annual rental rate of \$5,400 to the town and county government, but there is no formal rental agreement. There are two written lease agreements for storage space on Sun Island Road total \$3,197 annually, with one-year options for renewals.

According to NSO officials, it has only one contract with Barnstable Sheriff's Department to house NSO inmates. The yearly contract obligation for NSO is \$200,000 and, effective the date of transfer, they entered into an Interdepartmental Service Agreement (ISA) for the time period of January 1, 2010 to June 30, 2010 for the amount of \$100,000.

Recommendation

The NSO needs to develop and institute policies, procedures, and internal controls to properly process the accounts payable and pending litigation in compliance with Massachusetts laws and regulations. These policies, procedures, and internal controls should be developed so that exposure to the Commonwealth against any undue financial loss is minimized and to ensure that there is transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to guarantee that the NSO is in compliance with the closing instructions of the Office of the State Comptroller (OSC) for proper Commonwealth financial recording and reporting purposes at year-end. These policies and procedures should be referenced in the NSO's ICP. (See Audit Result No. 6.)

4. TRANSITION STATUS OF ACCOUNTS, PROGRAMS, OR OTHER ACTIVITIES***Status of NSO reporting in the Massachusetts Management Accounting and Reporting System (MMARS)***

As of April 8, 2010, the NSO had encountered difficulties in establishing and processing transactions into MMARS for its General Maintenance Appropriation, Retained Revenue Appropriation, Fixed Assets, and Trust accounts. However, the NSO has been able to begin entering expenditure transactions into MMARS. As of April 16, 2010, a total of 10 expenditure transactions, excluding HR/CMS payroll expenditures, in the amount of \$14,973 were entered into and processed through MMARS. Moreover, NSO officials stated that as of April 8, 2010, they still had a backlog of invoices to enter into MMARS, but should be up to date in the near future. As of April 16, 2010, there were seven invoices in the amount of \$1,087 that needed processing in MMARS.

Budgetary Status and Spending Plans

According to NSO officials, they did not submit a formal spending plan to the Executive Office for Administration and Finance (EOAF). However, NSO did submit a letter to EOAF dated July 7, 2009 regarding its budgets and spending plan. The letter referenced the Governor's supplemental budget of \$586,945 and fixed costs of \$671,553, which would result in a shortfall of at least \$84,608. More specifically, the letter stated, in part:

These are by no means the only expenses, but they are basic expenses. They are what are needed to open the doors of the Sheriff's Office here. There is a shortfall of \$84,608.31 that does not include vehicle maintenance, travel, supplies, etc.

According to NSO officials, this was the only correspondence with EOAF for fiscal year 2010. Moreover, as of April 15, 2010, NSO had submitted a spending plan for fiscal year 2011 but officials are concerned that the projected budget will be inadequate to fund NSO operations going forward.

Sheriff's Office Locally Held Funds

The NSO controls and maintains civil process funds that are by statute not being transferred to the Commonwealth and into MMARS but are to remain with the NSO. The Assistant Deputy Superintendent is currently responsible for reconciling the civil process account on a monthly basis. Prior to the transfer, authorization for the civil process account was the sole responsibility of the Sheriff and funds were maintained in his personal bank account. However, this account is in the process of being closed. A new civil process account has been opened on January 7, 2010 and the majority of civil process funds now are processed through this new account. The Assistant Deputy Superintendent and the Special Sheriff reconcile the civil process funds and authorizations on a monthly basis. According to the NSO, the Sheriff's personal account will be closed once all outstanding prior liabilities have been cleared.

Recommendation

Policies, procedures, and internal controls for these MMARS activities, budgetary processes, and locally controlled assets should be instituted and developed in compliance with Massachusetts laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of the maintenance appropriation, retained revenue, grants, and trusts established and set up in MMARS to prevent loss, waste, fraud, and misuse. These policies and procedures should be developed to ensure that exposure to the Commonwealth against any financial loss is minimized and that there is transparency in the processing of transactions. This process should function daily and at fiscal year-end in order to ensure that the NSO is in compliance with the OSC's closing instructions for the relevant items and for proper financial reporting on the Commonwealth's books at year-end. These policies and procedures should be referenced in the NSO's ICP. (See Audit Result No. 6.)

5. TRANSITION STATUS OF REVENUES TRANSFERRED

Deeds Excise Fund

Chapter 61, Section 2, of the Acts of 2009, which amends Chapter 64D, Section 11 to 13 of the General Laws states the following in regard to the Deeds Excise Fund:

Section 11. There shall be established upon the books of each county of a transferred sheriff... a fund, maintained separate and apart from all other funds and accounts of each county, to be known as the Deeds Excise Fund... On the first day of each month, 10.625 per cent of the taxes collected in the county of a transferred sheriff under this chapter shall be transmitted to the Deeds Excise Fund for each county; provided, however, that in any county in which its minimum obligation, established by the secretary of administration and finance in 2009, is insufficient in any given fiscal year to satisfy the unfunded county pension liabilities and other benefit liabilities of retired employees of the sheriff's office as determined by the secretary of administration and finance in consultation with appropriate county officials and county treasurers, beginning in fiscal year 2011, the county shall retain 13.625 per cent of the taxes collected in such county and transferred to the Deeds Excise Fund to satisfy the unfunded county pension liabilities

...that an additional 30.552 per cent of said taxes collected in Nantucket county shall be transmitted to the Deeds Excise Fund on the first day of each month for the said county through June 1, 2029; and provided further that if in a fiscal year the dollar amount that equals 30.552 percent of said taxes collected in Nantucket county exceeds \$250,000, the amount in excess shall be transmitted to the General Fund.

We verified with the Nantucket County Register of Deeds that the correct percentage of deeds excise was remitted to the Commonwealth and to the Deeds Excise Fund after the transfer. We found that in January 2010, the Deeds Excise Fund was sent 41.18% (includes standard 10.625% and supplemental 30.552%) of deeds excise collected, and the remainder was remitted to the Commonwealth in accordance with Chapter 61. The total deeds excise recorded for January , 2010 was \$54,921 with \$22,615 sent to the County Deeds Excise Fund. This amount reconciled with the amounts recorded by the County Treasurer.

Grant Income

NSO has no grant income.

Civil Process Revenue

For July 1, 2009 to December 31, 2009, the civil process collected approximately \$18,855 in revenues, had expenses of \$18,128, and a net surplus of \$727. However, as noted in Audit Result No. 1, the NSO had a unique arrangement regarding civil process revenue before the

transfer, in that the revenue was considered part of the Sheriff's compensation. Therefore, when reviewing the civil process revenue and the account in which it was maintained, we noted that numerous charges and expenses were personal in nature to the Sheriff. This was allowable under the prior legislation before the transfer under Chapter 61.

Federal Revenue

The NSO did not have any federal revenue.

Recommendation

Policies, procedures, and internal controls for these transferred revenues should be instituted and developed in compliance with Massachusetts's laws and regulations. These policies and procedures should be developed for the custody, protection, and accountability of all revenues, including Commonwealth revenue, retained revenue, grant revenue, and trust revenue, against the threat of loss, waste, fraud, and misuse. These policies and procedures should be developed so that exposure to the Commonwealth against any financial loss is minimized and to ensure that there is transparency in the processing of accountability for revenue transactions. These policies and procedures should be referenced in the NSO's ICP. (See Audit Result No. 6.)

6. Transition Status of Other Matters

Employee Benefits

Chapter 61, Section 14, of the Acts of 2009 states the following in regard to employee benefits:

The rights of all employees of each office of a transferred sheriff shall continue to be governed by the terms of collective bargaining agreements, as applicable.

NSO is a non-union Sheriff's Department. Non-union NSO employees were transitioned over to the Commonwealth at the established Commonwealth Health Insurance share of 80% (75% if hired after June 30, 2003), consistent with other state employees.

An Internal Control Plan Needs to be Developed as Required by Chapter 647 of the Acts of 1989

Because of the short timeframe and work involved in the transition of the NSO's operations from the county to the Commonwealth, the NSO did not have time to create an ICP accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls

within State Agencies. Chapter 647 states in part, “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.” The OSC’s Internal Control Guide, Chapter 1, Internal Control Plan Framework, outlines the importance of internal controls for all Commonwealth entities, as follows:

An organization is a living entity, which changes over time. As a result, the organization’s mission, goals and objectives must be regularly evaluated and periodically revised. Thus, internal control is an ongoing process known as the Internal Control Cycle. After an organization analyzes its goals and objectives to determine its risks, management must analyze these risks and evaluate the policies and procedures in the identified high-risk areas. Part of the management process includes monitoring the progress made toward meeting goals and objectives. Monitoring also helps to ensure the effectiveness of the organization’s internal controls and the effectiveness of the policies and procedures. Periodically, policies and procedures should be revised to mitigate risk and eliminate redundancy. They must also be communicated internally and externally, as necessary.

Everyone in an organization has responsibility for internal control.

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

Because the department’s policies and procedures provide the detail for the internal control plan, it is important that they be reviewed in conjunction with the plan. It is not uncommon for the detailed policies and procedures to be modified due to changes in personnel, audit or quality assurance recommendations, etc. As these modifications occur, the department’s documentation should be updated to reflect them.

As stated in Chapter 647 of the Acts of 1989, the department’s Internal Control Officer is responsible for its internal control plan. The designated Internal Control Officer should be a senior manager, equivalent in title or rank to an assistant or deputy to the department head. It should be noted, however, that internal controls are the responsibility of every employee.

Moreover, Chapter 3 of the OSC Guide states, in part:

All operating departments in Massachusetts state government are required to develop and document departmental internal controls, which must be prioritized and summarized into a departmental internal control plan based on a risk assessment. Responsibility for the department internal control plan resides with the department’s Internal Control Officer (ICO). The role of the ICO, as stated in Chapter 647 of the Acts of 1989, is described as follows: “...an official, equivalent in title or rank to an assistant or deputy to the department head, whose responsibility...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."

The Office of the Comptroller defines a department-wide risk assessment as the identification and analysis of the risks that could prevent the department from attaining its goals and objectives. This identification and analysis form the basis for determining the risk management strategy. A precondition to risk assessment is the establishment of the organization's mission and goals. A risk assessment is an integral part of an internal control plan.

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

The NSO needs to create an ICP to be in compliance Chapter 647 and OSC guidelines. The NSO should identify within its ICP the eight components of enterprise risk management (ERM). For an ICP to be considered to have an effective high-level summarization of its internal controls, all eight components of the ERM must be present as described in the OSC Internal Control Guide. 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.

The NSO needs to develop and fully integrate a risk assessment throughout the entire NSO to determine how the NSO's greatest risks to its mission, goals, and objectives would be identified and mitigated. Once risks are identified the ICP should be adequately developed and cross-referenced to supporting lower-level detail (i.e. departmental policies and procedures) for most of its organizational areas to ensure that a reliable ICP is in place for the daily operation of the entire NSO. Updating its ICP is important for the NSO to ensure the integrity and effectiveness of its internal control system and enhance its ability to respond to changes while maintaining the system's effectiveness.

The following links provide guidance to the newly transferred Sheriff's Offices regarding the development and implementation of their respective ICPs. The first link displays the OSC's most recent revision of its Internal Control Guide, incorporating the principles of Enterprise Risk Management. The second link provides additional guidance on internal controls for departments in transition.

http://www.mass.gov/Aosc/docs/business_functions/bf_int_cntrls/Internal_Control_Guide_Volume_I.doc

http://www.mass.gov/Aosc/docs/policies_procedures/internal_controls/po_ic_add_guide_de_pt.doc

Recommendation

In order to adequately safeguard assets, promote operational efficiency, and comply with Chapter 647 of the Acts of 1989, the NSO should initiate plans to work with the OSC and with other Sheriff's Offices already transferred to the Commonwealth to develop an ICP in accordance with Chapter 647 and OSC guidelines. Development of the ICP is important in order for NSO to achieve its mission and objectives efficiently, effectively, and in compliance with applicable state laws, rules, and regulations. The ICP will also provide support and guidance in the event of employee turnover and safeguard its assets against loss, waste, theft, or misuse. Furthermore, once the ICP is implemented the NSO should ensure that its internal control system is reviewed and evaluated, and that any necessary changes are implemented at least annually or when conditions warrant.

Auditee's Response

The Nantucket Sheriff provided the following response to the Audit Results disclosed in our report:

I have reviewed the report from the Office of the State Auditor in reference to the Nantucket Office of the Sheriff and its transfer to the Commonwealth. In regards to your recommendations, we are in the process of developing and implementing internal policies and procedures that comply with all Commonwealth regulations and statutes.