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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
WORCESTER SHERIFF'S OFFICE
JULY 1, 2007 TO SEPTEMBER 30, 2008

OFFICIAL AUDIT
REPORT
MARCH 2, 2010

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The Worcester Sheriff's Office (WSO) was established as an independent state agency as of July 1, 1998 as a result of the abolishment of Worcester County government pursuant to Chapter 48 of the Acts of 1997. Chapter 127 of the Acts of 1999 amended the Massachusetts General Laws by adding Chapter 34B, which stipulated that the Sheriff would become an employee of the Commonwealth but remain an elected official. The Sheriff retained administrative and operational control over the WSO, the jail, and the house of correction, which has an inmate capacity of 822 and averaged an inmate census of 1,384 inmates during our audit period.

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we audited certain activities at WSO for the period July 1, 2007 to September 30, 2008. Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such audit tests and procedures as we considered necessary. The objective of our audit was to review and examine internal controls over financial and program activities at WSO, including the civil processing division.

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Our follow-up audit disclosed that the Worcester Sheriff's Office (WSO) has taken corrective action regarding (a) the reporting of other income to the Internal Revenue Service, (b) monitoring its budget, (c) managing compensatory time, and (d) reporting unaccounted-for variances, losses, shortages, or thefts of funds or property as required by Chapter 647 of the Acts of 1989, as discussed below.

a. Reporting of Income to the Internal Revenue Service Not Required	5
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Our prior audits (Nos. 2001-1432-3 & 2005-1432-11S) disclosed that the former Sheriff of Worcester County lived in a house on the correctional facility's grounds at no cost. The WSO stated that the fair-market rent value did not have to be reported to the Internal Revenue Service (IRS) and the Massachusetts Department of Revenue (DOR) as income, because it had received a ruling from the IRS stating that this income was exempt from taxes.

Our follow-up audit disclosed that the house has not been used as a residence since the prior sheriff moved out. The building is now used to house former inmates in a reentry program, The Almost Home Program, which opened in January 2006. The facility provides a structured treatment program to Worcester County inmates eligible for parole or post-incarceration placement.

b. Budget Monitored Closely	5
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During our prior transition audit (No. 2005-1432-11S), we reviewed the budgetary activities for fiscal year 2005 to determine the sufficiency of funds to meet the WSO's obligations for the remainder of the fiscal year. The administration analyzed the budget

and determined, based on the rate of spending at the time, that the WSO was anticipating a year-end deficit of approximately \$1 million.

Our follow-up audit disclosed that the WSO continues to monitor its budget closely. The First Assistant Deputy of Personnel and Administration meets with the Deputy Superintendent, at a minimum, on a monthly basis, as documented in the WSO policy, to review budgetary estimates and ongoing requirements of the WSO.

c. Improvements Made in Managing Compensatory Time**6**

During our prior audit we found that the WSO did not have a written policy to regulate the accumulation and usage of compensatory time, which was allowed to accrue indefinitely.

During our follow-up review, we determined that the WSO has taken corrective action by adopting a policy using the Fair Labor Standards Act of State and Local Governments as a basis to periodically monitor compensatory time to ensure compliance with the standards.

d. Thefts of Inmate Funds Reported As Required by Chapter 647 of the Acts of 1989.**6**

Our prior audit disclosed that the WSO incurred thefts totaling \$9,731 from its inmate funds account on two separate occasions and did not report these losses to the Office of the State Auditor (OSA) as required by Chapter 647 of the Acts of 1989.

Our follow up audit disclosed that the WSO has been reporting unaccounted-for variances, losses, shortages, or thefts of funds or property as required by Chapter 647 of the Acts of 1989. We reviewed a summary of the Chapter 647 reports, which included five incidents that had been filed with the OSA since the prior audit.

2. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED**7**

During our follow-up audit, we determined that the WSO had not fully resolved the prior audit issues regarding (a) the collection and disposition of telephone commissions, (b) the civil processing function and the deposit of fees, (c) staff meals, (d) warehouse inventory control, and (e) Generally Accepted Accounting Principles (GAAP) reporting.

a. Clarification Needed Regarding the Deposit of Telephone Commissions**7**

Our prior audits disclosed that the WSO deposited the commissions it received on telephone services for inmates into its Commissary and Welfare Account, also known as the canteen account. When the WSO was transferred as a result of the change in legal status from county government to an independent agency of the Commonwealth, uncertainty existed regarding where these funds should be deposited, and which Massachusetts General Laws were applicable. Conflicting legislation, Chapter 29, Section 1, and Chapter 127, Section 3, of the General Laws, identify how state revenue is to be processed. Because telephone commissions may meet the revenue criteria of both laws, it is unclear whether they should be paid into the Commonwealth's General Fund or the WSO's canteen account. The WSO provided us with a ruling from its administrative counsel stating the reasons why the WSO should deposit these revenues in its canteen account. However, the ruling does not address the fact that Chapter 127, Section 3 only allows the interest earned from this revenue to be expended for the general welfare of

the inmates. Therefore, clarification is still needed regarding depositing these funds in the Commonwealth's General Fund or the WSO retaining and expending these funds. Our prior audit reports recommended that the WSO seek legal clarification as to which law applies.

Our follow-up audit disclosed that corrective action had not been taken regarding telephone commissions. The WSO is still depositing telephone commission funds into its canteen account, and there has been no clarification as to which General Law applies. The WSO maintains that there is a need for the Legislature to clarify this matter, and until such time as clarification is received, the WSO intends to continue with its current practice. Subsequent to the completion of our audit, Chapter 61 of the Acts of 2009 transferred the remaining county sheriffs' offices to the Commonwealth and allowed the newly transferred sheriffs' offices to retain the telephone commissions. Chapter 61, Section 22 also establishes a special commission (see Introduction Section - Subsequent Events) to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of their operations, administration, regulation, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposit and use of the telephone commissions and propose legislation for the deposit and use of the telephone commissions consistently amongst sheriffs' offices.

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

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In accordance with Chapter 37, Sections 3 and 11, of the General Laws, deputy sheriffs throughout the Commonwealth collect fees for the service of civil process. The Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO), also known as the civil processing division, was established as a self-sustaining adjunct to the WSO. Its employees were not considered to be county employees, but rather worked under the direct operational control of the sheriff to process transactions and handle all actions related to serving civil process in Worcester County. However, this organizational structure is in conflict with a ruling that was received from the Department of Employment and Training (DET) in 1994 that determined that the staff members of the civil processing division were employees of Worcester County. Our prior audit (No. 2005-1432-11S) noted that the SWCDSO employed 27 employees, including two full-time employees that are state employees whose salaries were paid through the WSO's state appropriation. The remaining employees were not considered state employees, and were paid from civil processing fees. The WSO needed to determine the status of these employees as to whether they should be considered state employees, contract employees, or some other status that complies with applicable Commonwealth laws, rules, and regulations. Our follow-up review disclosed that this issue on the status of SWCDSO employees remains unresolved. We found that, with the exception of the two sheriff's deputies, the 28 current employees of the civil processing division are still paid from revenues collected in the service of civil process and are not employees of the Commonwealth of Massachusetts. Also, our prior audit disclosed that civil processing fees retained by the civil processing division were "off line" and not deposited in the general fund or some other fund, such as a retained revenue account, nor were they accounted for, reported, and recorded on the Massachusetts Management Accounting

and Reporting System (MMARS). Our audit disclosed that this condition still has not been clarified and fees are still being maintained off-line from MMARS.

In addition, Chapter 61, Section 22 establishes a special commission (see Introduction Section - Subsequent Events) to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of its operations, administration, regulation, governance, and finances, including recommending legislation. The special commission should review the sheriffs' offices' civil processing functions and the deposit and use of fees and propose legislation to make the operation of the civil processing functions and deposit of fees consistent for all sheriffs' offices.

c. Staff Meals Offered at No Cost**14**

Our prior audit (No. 2005-1432-11S) disclosed that the WSO staff was offered meals at no cost, contrary to Chapter 7, Section 3B, of the General Laws. This had been the practice of the prior administration, and it continued under the current administration. Our follow-up audit disclosed that the WSO continues to offer all staff free meals at an approximate cost of \$181,326, which accounts for 12.6% of the \$1,441,281 food cost. WSO officials stated that if the free meals were eliminated, collective bargaining agreements would have to be amended to compensate for this benefit, creating additional costs.

d. Inventory Control Improvements Needed**15**

Our prior audit (No. 2005-1432-11S) disclosed that although the WSO had instituted a perpetual inventory process and was conducting monthly physical inventories to control food and supply items stored in its warehouse, further improvements were needed.

Our follow-up audit found that the WSO has discontinued the practice of conducting a monthly physical inventory and that the written policies and procedures previously in effect were no longer being adhered to. Warehouse staff are following undocumented semi-annual physical inventory procedures developed by the former Deputy Superintendent of Administration (DSA), and continued with the current DSA. The semi-annual inventory that we observed totaled \$265,307 and had variances of \$47,913. In response to the audit report, the WSO indicated that it has purchased updated inventory control software and is now utilizing that software. Also, the WSO indicated that the Director of Finance will oversee the physical inventory count and all changes to the inventory process will be reflected in its policies.

e. Improvements Needed in GAAP Reporting**18**

Our prior audit (No. 2005-1432-11S) noted that the WSO's Generally Accepted Accounting Principles (GAAP) Report submitted to the Office of the State Comptroller (OSC) had not contained the required information regarding assets held in trust and accrued vacation balances. Specifically, we found that the WSO did not report the assets in the canteen account or the civil processing division, as well as the liability amount for the accrued vacation balances that the WSO continues to maintain on an internal payroll system (KRONOS).

WSO officials stated that they were unaware that the cumulative cash balance of assets held in trusts should be considered in meeting the threshold for inclusion in the GAAP report. Therefore, since each balance was less than \$500,000, the WSO did not include the balances in its FY 2008 GAAP report.

We also found that the fiscal year 2008 GAAP report submitted by the WSO did not include a liability of approximately \$452,717 for the accrued vacation time of 193 employees that is maintained on the WSO's KRONOS system.

The WSO should ensure that all future GAAP reports contain all necessary information related to assets held in trust as required by the OSC's GAAP instructions. Also, the WSO should ensure that future GAAP information properly reflects all vacation credits in accordance with GAAP and OSC requirements. In response to the audit report, the WSO indicated that it has recently and will continue to report all balances for the department's inmate, commissary, and work release accounts on all GAAP reports.

3. IMPROVEMENTS NEEDED IN SHERIFF'S INMATE REPORTING SYSTEM (SIRS) 20

Our review of the inmate account at the WSO found that as of June 30, 2008, a variance totaling \$195,780 existed between the bank balance of the inmate account, which was \$439,241, and the trial balance of the Sheriff's Inmate Reporting System (SIRS), at \$243,461. SIRS is the system used by the WSO to track and account for balances of each inmate held at the Worcester County House of Correction and Jail. According to WSO officials, this variance is a combination of disciplinary fees and property deposits that were recorded in the SIRS system as negative balances during the conversion.

The WSO identified this problem and began working with the Commonwealth's Information Technology Division (ITD) to resolve this issue. However, due to budgetary reductions in ITD staff, they were unable to resolve the software problems. Subsequent to our audit, the Criminal History System Board (CHSB) has taken over as administrator of SIRS and has been working with the WSO to rectify problems and make improvements to the system.

Although the WSO is able to reconcile this amount using records from the prior system, SIRS is the primary inmate management system and should be able to produce an accurate trial balance. The WSO should continue to work with the CHSB to improve the function of the financial component of SIRS. In response to the audit report, the WSO indicated that it is currently "migrating" the financial information contained in SIRS to a separate and more efficient accounting system.

4. IMPROVEMENTS AND ENHANCEMENTS NEEDED IN INTERNAL CONTROL PLAN 21

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

Specifically, within the ICP, the WSO needs to better define its control environment and include statements of the requirements on integrity and ethical values expected of all staff, including top management; update and expand its risk assessment to include all identified risks associated with its various financial, accounting, programmatic, and administrative activities; identify corresponding control activities that are in place to mitigate all identified risks; identify information and communication systems in place; and identify related compliance monitoring activities in place. In response to the audit report, the WSO stated that it will be drafting a new internal control plan to address the issues noted.

5. IMPROVEMENTS NEEDED IN PROCUREMENT OF SERVICES**24**

During our audit, we reviewed the WSO's use of consulting services. During fiscal year 2008, the WSO entered into contracts with two consultants to provide "correction consulting services" and "accreditation consulting services" and paid them \$74,033; however, the WSO did not competitively obtain these services as required by its own procurement policy. Also, the contracts for these two consultants did not have a specific narrative description of the scope of performance. In response to the audit report, the WSO stated that it did not go out to bid for the position because it believed that the contract would not exceed the procurement threshold. Also, the WSO indicated that it will provide a detailed narrative description of services for all contracts in the future.

APPENDIX**27**

Chapter 647, Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies**27**

INTRODUCTION

Background

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

The WSO ensures protection of the community by providing a safe and secure environment, as well as correctional and educational services at its facilities. The WSO received \$48,400,177 and \$48,459,691 in funding for fiscal years 2008 and 2009, respectively, for the operation of the jail, house of correction, and any other statutorily authorized facilities and functions. The WSO has approximately 720 employees. Its main facility, the Worcester County Sheriff's Office Jail and House of Correction, has an inmate capacity of 822, and during our audit period had an average inmate census of 1,384 inmates. The WSO has an extensive inmate support network consisting of multiple programs, including various adult basic education classes, health education, job training and life skills management programs, parent education, special education, and other social and education programs.

In addition to the jail and house of correction, the WSO is responsible for the civil process service of legal papers and notices through the Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO). The SWCDSO is under full control of the WSO and has 30 employees. The Assistant Deputy Superintendent and the Deputy Sheriff/Office Manager of the SWCDSO are paid through the WSO's state appropriations. All other employees are paid from revenue collections in the service of civil process and are not employees of the Commonwealth of Massachusetts.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we audited certain activities at WSO for the period July 1, 2007 to September 30, 2008. Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such audit tests and procedures as we considered necessary. The objective of our audit was

to review and examine internal controls over financial and program activities at WSO, including the civil process division. Our main objectives were to determine whether: 1) financial records are accurate, up-to-date, and maintained in accordance with established criteria; 2) costs and expenditures, including payroll and administrative costs, are appropriate and reasonable; 3) controls over revenue and fees are proper and adequate; 4) inventory control systems are adequate to safeguard supplies and equipment; and 5) the internal control structure is suitably designed and implemented to safeguard Commonwealth assets and complies with the Office of the State Comptroller's Internal Control Guide and Chapter 647 of the Acts of 1989.

In addition, we followed up on our prior audit reports on certain activities of the Worcester County Sheriff's Office (Nos. 2005-1432-11S and 2001-1432-3).

Our audit methodology included interviewing WSO personnel, observing transaction processing, examining and tracing documentation through WSO's systems, conducting physical inspections and reviews of WSO's fixed assets and inventory, assembling various agency documentation, and performing other audit procedures deemed necessary.

As a result of our audit, except as noted in the Audit Results section of this report, we have determined that, for the period July 1, 2007 to September 30, 2008, WSO has maintained adequate internal controls over its financial and program operations for the areas tested in accordance with prescribed requirements and has complied with applicable laws, rules, and regulations.

Subsequent Events

Subsequent to the completion of our audit, Chapter 61 of the Acts of 2009, An Act Transferring County Sheriffs to the Commonwealth, was approved by the Legislature on August 6, 2009, effective January 1, 2010. This law transfers Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk County Sheriffs to the Commonwealth. Section 22 of the Act establishes a special commission to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendations for reorganization and consolidation of their 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 sheriffs' offices that have been transferred to the Commonwealth prior to the passage of Chapter 61. Our audits have disclosed inconsistencies amongst the sheriffs' 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 be directed to the Legislature and the special commission for its consideration and use during its study and investigation for the reorganization and consolidation of sheriffs' offices throughout the Commonwealth.

AUDIT RESULTS

1. PRIOR AUDIT RESULTS RESOLVED

Our follow-up audit disclosed that the Worcester Sheriff's Office (WSO) has taken corrective action regarding (a) the reporting of other income to the Internal Revenue Service, (b) monitoring its budget, (c) managing compensatory time, and (d) reporting unaccounted-for variances, losses, shortages, or thefts of funds or property as required by Chapter 647 of the Acts of 1989, as discussed below.

a. Reporting of Income to the Internal Revenue Service Not Required

Our prior audits (Nos. 2001-1432-3 & 2005-1432-11S) disclosed that the former Sheriff of Worcester County lived in a house on the correctional facility's grounds at no cost. The WSO stated that the fair-market rent value did not have to be reported to the Internal Revenue Service (IRS) and the Massachusetts Department of Revenue (DOR) as income, because it had received a ruling from the IRS stating that this income was exempt from taxes.

Our follow-up review disclosed that the house has not been used as a residence since the prior sheriff moved out. It is currently used to house former inmates in a reentry program, The Almost Home Program, which opened in January 2006. The facility provides a structured treatment program to Worcester County inmates eligible for parole or post-incarceration placement.

b. Budget Monitored Closely

During our prior transition audit (No. 2005-1432-11S), we reviewed budgetary activities for fiscal year 2005 to determine the sufficiency of funds to meet WSO obligations for the remainder of the fiscal year. The administration analyzed the budget and determined, based on the rate of spending at the time, that the WSO was anticipating a year-end deficit of approximately \$1 million.

We recommended that the administration continue to review its expenditures and institute cost-saving measures to ensure that there were adequate funds to cover the operations of the WSO.

Our follow-up audit disclosed that the WSO continues to monitor its budget closely. The First Assistant Deputy of Personnel and Administration meets with the Deputy Superintendent, at a

minimum, on a monthly basis, as documented in the WSO policy, to review budgetary estimates and ongoing requirements of the WSO.

c. Improvements Made in Managing Compensatory Time

Our prior audit (No. 2005-1432-11S) disclosed that the WSO did not have a written policy to regulate the accumulation and usage of compensatory time, which was allowed to accrue indefinitely. Also, compensatory time should be used within a reasonable amount of time and accumulation of hours should be kept at a minimum, in order to establish control within the WSO's annual budget structure.

During our follow-up review, we determined that the WSO has taken corrective action by adopting a policy using the Fair Labor Standards Act of State and Local Governments as a basis. Specifically, 29 Code of Federal Regulations (CFR) 553.21, Section 7(o)(3)(A), states:

If the work of an employee for which compensatory time may be provided included work in a public safety activity, an emergency response activity, or a seasonal activity, the employee engaged in such work may accrue not more than 480 hours of compensatory time for hours worked after April 15, 1986. If such work was any other work, the employee engaged in such work may accrue not more than 240 hours of compensatory time for hours worked after April 15, 1986...

As of January 15, 2009, the WSO had 350 employees with compensatory time totaling approximately 2,298 days with an estimated value of \$425,726. The human resource department periodically monitors the compensatory time to ensure that no employee is over the allowed 480 hours, or 240 hours for non-public safety employees.

d. Thefts of Inmate Funds Reported As Required by Chapter 647 of the Acts of 1989

Our prior audit (No. 2005-1432-11S) disclosed that the WSO incurred thefts totaling \$9,731 from its inmate funds account on two separate occasions, and did not report these losses to the Office of the State Auditor (OSA), contrary to the requirements of Chapter 647 of the Acts of 1989, An Act Relative to Improving Internal Controls within State Agencies.

Our follow-up review found that the WSO has been reporting unaccounted-for variances, losses, shortages or thefts of funds or property as required by Chapter 647 of the Acts of 1989. We reviewed a summary of the Chapter 647 reports, which included five incidents that had been filed with the OSA since the prior audit.

2. PRIOR AUDIT RESULTS UNRESOLVED OR PARTIALLY RESOLVED

During our follow-up audit, we determined that the WSO had not fully resolved the prior audit issues regarding (a) the collection and disposition of telephone commissions, (b) the civil processing function and the deposit of fees, (c) staff meals, (d) warehouse inventory control, and (e) Generally Accepted Accounting Principles (GAAP) reporting.

a. Clarification Needed Regarding the Deposit of Telephone Commissions

Our prior audits (Nos. 2001-1432-3 & 2005-1432-11S) reported that the WSO deposited the commissions it received on telephone services for inmates into its Commissary and Welfare Account, also known as the canteen account. When the WSO was transferred to the Commonwealth, uncertainty existed regarding where these funds should be deposited and which General Laws were applicable. Specifically, Chapter 29, Section 2, of the General Laws states, in part:

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

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

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

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

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

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

Our prior audit disclosed that, due to the advice of its legal counsel, the WSO was still depositing the telephone revenues into its Commissary and Welfare Account. The WSO

provided us with a copy of a letter dated August 22, 2001 from its administrative counsel that stated, in part:

The revenues generated by the inmate payphone service should be deposited in the Worcester Jail Commissary and Welfare Account pursuant to M.G.L. c. 127, 3. G.L. c.29, 2 which states, in pertinent part, "All revenue payable to the commonwealth shall be paid into the General Fund, except revenue required by law to be paid into a fund other than the General Fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund." The exception, then, to the requirement of revenue being payable to the commonwealth and being deposited in the General Fund is a legislative provision establishing an agency fund which shall be maintained and revenue applied in accordance with law or the purposes of the fund. G.L. c. 127 establishes such a fund. The statute states, in pertinent part, "Any monies derived from interest earned upon the deposit of such money and revenue generated by the sale or purchase of goods or services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent." The payphone service at the Worcester County Jail and House of Correction is such a service provided to inmates in the facility, which generates revenue. Under the plain language of the statute, said revenue may be applied to the Commissary and Welfare Account to be expended for a particular purpose, viz., the general welfare of all prisoners.

However, the letter does not address the fact that Chapter 127, Section 3 only allows the interest earned from this revenue to be expended for the general welfare of the inmates. Therefore, clarification is still needed regarding depositing these funds in the Commonwealth's General Fund or the WSO retaining and expending these funds.

Our follow-up audit disclosed that corrective action had not been taken regarding telephone commissions. The WSO is still depositing telephone commission funds into its Commissary and Welfare Account, and there has been no clarification as to which General Law applies. The WSO maintains that there is a need for the Legislature to clarify this matter, and until such time as clarification is received, the WSO intends to continue with its current practice. During our audit period the WSO collected \$434,314 in telephone commissions and \$70,000 in administrative fees.

Subsequent to the completion of our audit, Chapter 61 of the Acts of 2009 was approved by the Legislature on August 6, 2009 to transfer certain county sheriffs' offices' operations (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) to the Commonwealth. This law allowed the newly transferred sheriffs' offices to retain inmate telephone funds. Chapter 61 of the Acts of 2009, Section 12(a)(b)(c), states, in part:

(a) *Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.*

(b) *Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state and local governments and other such accounts and regarding which revenues shall remain with the sheriff's office.*

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

This law further complicates the matter due to the existence of previously enacted laws that are inconsistent with the law cited above with respect to the deposit of telephone commissions.

Recommendation

Chapter 61, Section 22 establishes a special commission (See Introduction Section – Subsequent Events) to investigate and study the sheriffs' offices throughout the Commonwealth and make recommendation for the reorganization and consolidation of their operations, administration, regulations, governance, and finances, including recommending legislation. The special commission should take into consideration the inconsistencies in the various laws regarding the deposit and use of telephone commissions and recommend legislation for the consistent handling and use of telephone commissions. Also, the term “services” should be defined as it is applied in Chapter 127, Section 3, of the General Laws.

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

In accordance with Chapter 37, Sections 3 and 11, of the General Laws, deputy sheriffs throughout the Commonwealth collect fees for the service of civil process. The serving of civil process in accordance with Chapter 262 of the General Laws includes serving summons, warrants, subpoenas, and other legal notifications. The Sheriff of Worcester County Deputy Sheriff's Office (SWCDSO), also known as the civil processing division, was established as a self-sustaining adjunct to the WSO. Its employees were not considered to be county employees, but rather worked under the direct operational control of the sheriff to process transactions and handle all actions related to serving civil process in Worcester County. However, this

organizational structure is in conflict with a ruling that was received from the Department of Employment and Training (DET) in 1994 that determined that the staff members of the civil processing division were employees of Worcester County.

Specifically, in 1992, DET held a hearing to determine the employer/employee status of the civil process division of Sheriff of Worcester County. The DET Commissioner's representative determined that the employees of the civil process division of the WSO are employees of Worcester County within the meaning of Chapter 151A, Section 1(i) of the General Laws. Counsel for the Commonwealth of Massachusetts, County of Worcester, Office of the Sheriff, appealed the Commissioner's decision to the DET Board. In 1994, the DET Board found that the "Office of the Sheriff is created by the Massachusetts Constitution . . . the County of Worcester is a political subdivision of the Commonwealth of Massachusetts, and is an employer subject to the Massachusetts Employment and Training Law." The DET Board upheld the original Commissioner's decision, stating:

The issue in the case is which entity, the Process Division or Worcester County, is the employer of the workers in the Sheriff's Process Division for the purposes of G.L. C. 151A. The Sheriff of Worcester County asserts that the Process Division itself is an instrumentality or political subdivision of the Commonwealth as defined in Section 1 (i) of the Law cited above, and hence, is the appropriate employing unit. The Commissioner determined that the deputies who serve in the Sheriff's Process Division are employees of the County of Worcester. The Board has concluded that the determination was correct and affirms the decision of the Commissioner's representative for the following reasons.

The duties and responsibilities of the Office of the Sheriff are established by statute. Neither the Sheriff nor the deputies are financially independent of the county. The Sheriff's salary is paid by the county and he must account for and pay over all fees and money received by virtue of his office to the county. G.L. c. 37, s. 22. The Sheriff's appointed deputies are answerable to the Sheriff but must make a financial accounting to the county for all fees collected. G.L. c. 262, s. 8A.

Moreover, there is no evidence that the Sheriff is vested with the authority by statute to establish the Process Division as a separate instrumentality or political subdivision of the Commonwealth of Massachusetts, notwithstanding the fact that the workers in the division perform functions established by law.

Therefore, in accordance with Section 1(i) cited above, the employer of all of the employees working for the WSO, including the civil processing division, is the County of Worcester. On July 1, 1998, with the abolition of county government, the WSO's functions, duties, and activities were transferred to the Commonwealth. Chapter 34B, Section 4, of the General Laws states:

. . . all functions, duties and responsibilities of an abolished county pursuant to this chapter including, but not limited to, the operation and management of the county jail and house of correction...are hereby transferred from said county to the commonwealth

Within the WSO is the function of civil processing. Chapter 34B, Section 12, of the General Laws states the following:

. . . the Sheriff of an abolished county... in office immediately before the transferred date... shall become an employee of the commonwealth with salary to be paid by the commonwealth...Such sheriff shall retain administrative and operational control over the office of the sheriff, the jail and the house of correction as of the transfer date . . .

Since the status of these employees was defined in the above-referenced DET ruling, they should have been treated as county employees at the time of the ruling. Chapter 34B, Section 13, of the General Laws directs that:

An employee of a sheriff of an abolished county... shall be an "employee" or "public employee" as defined in Section 1 of chapter 150E and the sheriff of such county shall be an "employer" or "public employer" as defined in said section 1 of said chapter 150E.

Moreover, Chapter 150E, Section 1, of the General Laws defines employees as:

. . . any person in the executive or judicial branch of a government unit employed by a public employer

However, our prior audit noted that the WSO employed 27 employees, including two full-time employees that are state employees whose salary was paid through the WSO's state appropriation. The remaining employees were not considered state employees, and were paid from civil processing fees.

We recommended that the WSO review the status of all employees within the civil processing division with respect to the DET ruling and the existing legislation that govern the civil process function to ensure compliance with all applicable Commonwealth laws, rules, and regulations regarding state finance.

Our follow-up audit disclosed that, with the exception of the two Sheriff's Deputies, the 28 employees of the civil processing division are still paid from revenues collected in the service of civil process and are not employees of the Commonwealth of Massachusetts.

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

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

Chapter 26, Section 639, of the Acts of 2003 requires that, starting in fiscal year 2004, the WSO submit 50% of the increase in its fees to the Commonwealth. Records of the civil processing division showed that \$400,000 was remitted to the Commonwealth's General Fund, for the audit period July 1, 2007 to September 30, 2008.

On July 1, 1998, the sheriffs' functions, duties, and responsibilities were transferred to the Commonwealth. Since the civil processing function is within the sheriff's legislatively defined duties and responsibilities, fees collected and retained by the deputy sheriffs since the transfer should be considered Commonwealth revenue. Chapter 29, Section 1, of the General Laws defines "fees" as state revenue, as follows:

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

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

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

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

Our prior audit disclosed that civil processing fees retained by the civil processing division were "off line" and not deposited in the general fund or some other fund, such as a retained revenue account, nor were they accounted for, reported, and recorded on the Massachusetts

Management Accounting and Reporting System (MMARS). MMARS is the state's accounting management system that is designed to support the financial functions of the Commonwealth, which include all revenue and expenditure activity. As a state agency, WSO's financial activities should be managed through MMARS.

We recommended that the WSO review the accounting, reporting, processing, and management of civil processing fees and consult with the Office of the State Comptroller (OSC) and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate Commonwealth accounting mechanism that is in compliance with applicable laws, rules, and regulations.

In our follow-up audit we found that, although legislation has been filed to change the methods and management of civil processing fees, no legislation has been passed in regards to the accounting, reporting, processing, and management of civil processing fees, or the recording civil processing fees in MMARS.

House Bill No. 3769, An Act Relative to Civil Process Reform, has been filed to revamp the entire state civil process (currently in the Joint Committee on the Judiciary). Also, subsequent to our audit, Chapter 61 of the Acts of 2009 was approved by the Legislature on August 6, 2009 to transfer certain county sheriffs' offices' operations (Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk) to the Commonwealth. This law also allows the newly transferred sheriffs to retain civil process revenues. Chapter 61, Sections 12(a)-(c) state, in part:

- (a) *Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.*
- (b) *Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state and local governments and other such accounts and regarding which revenues shall remain with the sheriff's office.*
- (c) *Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.*

The proposed civil process reform legislation and transition of all other sheriffs' offices to state government presents the Commonwealth with the opportunity to clarify inconsistencies in various laws. This would ensure the civil processing divisions are consistently established with uniform civil processing division standards within each sheriff's office.

Recommendation

The WSO should review the status of all employees within the civil processing division with respect to the existing legislation that governs the civil process function to ensure compliance with all applicable Commonwealth laws, rules, and regulations regarding state finance. Also, the WSO should review the accounting, reporting, processing, and management of civil processing fees; consult with the OSC; and file legislation to ensure that civil processing fees are recorded in MMARS via a retained revenue account or some other appropriate Commonwealth accounting mechanism that is in compliance with applicable laws, rules, and regulations.

In addition, Chapter 61 of the Acts of 2009 establishes a special commission as follows:

For the purpose of making and investigating and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations ... relating to the reorganization, consolidation, operations, administration, regulation, governance and finances of sheriffs' offices. The special commission should review the sheriffs' offices' civil processing functions and the deposit of fees and propose legislation to make these operations consistent amongst all sheriffs' offices.

c. Staff Meals Offered at No Cost

Our prior audit disclosed that the WSO staff was offered meals at no cost. This had been the practice of the prior administration, and it continued under the current administration. Chapter 7, Section 3B, of the General Laws states, in part:

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

By offering staff meals at no cost, the WSO is incurring unnecessary costs, which could have otherwise been used for other institutional expenses. Also, consideration should be given to charging a nominal amount for meals due to budget concerns.

In our follow-up audit, we found that the WSO continues to offer all staff free meals at an approximate cost of \$181,326, which accounts for 12.5% of the \$1,441,281 food cost.

WSO officials stated that if the free meals were eliminated, collective bargaining agreements would have to be amended to compensate for this benefit, creating additional costs. Documentation from the collective bargaining agreements was provided to support WSO's assertion.

Recommendation

In the course of renegotiating the bargaining agreements, the WSO should review the current policy, consider the cost of meals due to the budget concerns, and determine whether it may want to consider charging a nominal amount for the meals to defray the cost. The WSO should also consider discontinuing this practice for all its nonunion employees.

d. Inventory Control Improvements Needed

Our prior audit disclosed that although the WSO had instituted a perpetual inventory process and was conducting monthly physical inventories to control food and supply items stored in its warehouse, further improvements were needed. After observing a monthly inventory and reviewing the final variance report, we found that adjustments were being made by the warehouse staff to items with variances. These adjustments were made to either the perpetual inventory list or the actual observed physical count when reconciling the two to produce the variance report. We also noted that in this report the variance was reported as a net variance rather than reporting the actual overages or shortages.

Our follow-up audit found that the WSO has discontinued the practice of conducting a monthly physical inventory and that the written policies and procedures previously in effect were no longer being adhered to. Warehouse staff are following undocumented procedures developed by the former Deputy Superintendent of Administration (DSA) and continued with the current DSA, including conducting a semi-annual physical inventory and requiring DSA approval of all departmental requisitions.

Since the physical inventory is conducted semi-annually, we reviewed the variance report from the last inventory that had been taken, June 2008, which showed a small net variance.

We compared the initial variance report to the final variance report and noted numerous adjustments made to the initial quantity on hand based upon variances with the actual quantity and made plans to observe inventory procedures conducted in February 2009.

Immediately prior to the physical inventory count taken by the warehouse staff, we were given a copy of the inventory listing of items on hand, which we were told represented an accurate listing with all current requisitions and invoices entered.

Over a two-day period, we observed the initial count of inventory items by the warehouse staff. We also observed recounts of items that had variances when compared to the perpetual inventory list. During the period of our observation, we found numerous items, such as food, cleaning supplies, and office supplies, that had variances when compared to the inventory listing. After the completion of the inventory count, the warehouse storekeeper stated that she would review her records to determine whether any adjustments were needed due to data entry errors in receiving, requisitions, or deletions for items no longer in use. After making adjustments to the inventory list, the warehouse storekeeper provided us with a report that indicated net variances totaling \$22,389.

While the warehouse storekeeper was reviewing and reconciling the inventory records, we reconciled the perpetual inventory records totaling \$265,307 to the physical count that we observed. We determined from our analysis that there was an overall inventory variance totaling \$47,913.

According to the warehouse storekeeper, there are many reasons why variances may occur, including data entry errors, quantities recorded incorrectly (i.e. items recorded individually rather than by the case), inventory software that is dated and not user-friendly, and the value of some items are not actual costs, but an average of historical costs for the item.

The WSO did not report these variances to the Office of the State Auditor (OSA) in accordance with Chapter 647 of the Acts of 1989, An Act Relative to Improving Internal Controls within State Agencies. State agencies are required to immediately report all unaccounted-for variances, losses, shortages, or thefts of funds or property to the OSA, in accordance with Chapter 647 of the Acts of 1989, which states, in part:

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 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.

Recommendation

Warehouse inventories should continue to be taken semi-annually; however, a member of the finance department or another independent staff member should be assigned to oversee the physical inventory to ensure the integrity of the count. Members of the warehouse staff should not be responsible for verifying and adjusting their own perpetual inventory records. Policies and procedures regarding the operations of the warehouse and the inventory should be documented and included in the overall policies and procedures of the WSO. All adjustments made to the inventory should be reviewed and approved by the DSA. Variance report totals should not be reported as a net variance, but rather as a total variance. Reporting the net variance can be misleading to the user of the report. Monthly spot inventories should be conducted on a limited number of items or items that are at a high risk of loss or theft. If possible, the WSO should purchase updated inventory control software that is user-friendly and more accurately reflects costs and quantities on hand. The WSO has been reporting unaccounted-for variances, losses, shortages, or thefts of funds or property (see Audit Result 1d); however, it should also report physical inventory variances as they are identified.

Auditee's Response

The WSO provided the following response:

1. *The WSO recently purchased updated inventory control software and begun utilizing such software to improve our overall inventory.*
2. *We will continue to perform a physical inventory twice per calendar year.*
3. *The Director of Finance will oversee the physical inventory process to ensure the integrity of the count.*
4. *The Assistant Superintendent of Administration will ensure that all new changes to the inventory process are followed and WSO policies updated to reflect such changes.*

e. Improvements Needed in GAAP Reporting

Our prior audit disclosed that the WSO's Generally Accepted Accounting Principles (GAAP) Report submitted to the Office of the State Comptroller (OSC) had not contained the required information regarding assets held in trust and accrued vacation balances. Specifically, we found that WSO did not report the assets in the canteen account or the civil processing division, as well as the liability amount for the accrued vacation balances that the WSO continues to maintain on an internal payroll system (KRONOS). In March 2000, the WSO converted its payroll system from KRONOS to the Commonwealth's Human Resources Compensation Management System (HR/CMS). At the time of this conversion, the WSO did not transfer all existing vacation time balances for 443 employees on to the HR/CMS; only a small portion of accrued vacation time was transferred to the HR/CMS. All current vacation time was maintained on the HR/CMS. However, the unreported accrued vacation balances are carried on KRONOS and have never been integrated into the HR/CMS system.

Our follow-up audit disclosed that the Fiscal Year 2008 GAAP Report did not include the cash balances, as follows:

FY 2008	
Civil Process Escrow	\$445,642
Inmate Accounts	379,181
Commissary and Welfare Account	176,694
Work Release Account	<u>55,847</u>
Total	<u>\$1,057,364</u>

The OSC's Fiscal Year (FY) 2008 GAAP Instructions for Assets Held in Trust, state, in part:

"Assets held in trust" are the cash and other assets which the Commonwealth holds in a trustee capacity for third parties. Examples include patient or inmate canteen and gift funds, property and bank accounts. Special GAAP reporting is needed only for those assets that are held at the department or facility, or at a local bank, and not accounted for through MMARS.

In accordance with GAAP, the Commonwealth reports both the assets and the corresponding third-party liabilities. It also reports additions to, and deletions from, assets held during the fiscal year, in order to adequately disclose changes in its custodial responsibilities.

*Departments with assets held in trust balances of **less than \$500,000** do not need to provide any GAAP detail. Please write "**N/A**" on the Transmittal Form **and** the Assets Held In Trust form.*

WSO officials stated that they were unaware that the cumulative cash balance of assets held in trusts should be considered in meeting the threshold for inclusion in the GAAP report. Therefore, since each balance was less than \$500,000, the WSO did not include the balances in its FY 2008 GAAP report.

We contacted an OSC official to clarify the GAAP instruction and were informed that if the cumulative value of the separate accounts is greater than the threshold amount of \$500,000, they should be reported in the GAAP report.

We also found that the Fiscal Year 2008 GAAP report submitted by the WSO did not include a liability of approximately \$452,717 for the accrued vacation time of 193 employees that is maintained on the WSO's KRONOS system.

As the official record of time and compensation for the Commonwealth's employees, all time and attendance information must be maintained on HR/CMS. Annually, information from HR/CMS is provided to the OSC that is used in preparing the Commonwealth's financial statements. In part, the 2008 GAAP Instructions state:

All departments are on the HR/CMS System. The Comptroller's Office will use this report to calculate compensated absence accruals; no action is needed by departments. The departments are responsible for accuracy of the personnel data. Departments must verify that all accrued vacation and sick leave buyback balances are recorded on HR/CMS.

In the GAAP Instructions, OSC assumes all vacation balances are being maintained on HR/CMS and it states that no further action is needed. Since the WSO maintains vacation balances on the KRONOS system, outside of HR/CMS, those balances are not part of OSC's calculation of compensated absences that is reported on the state's financial statements. Proper submission of the GAAP Reporting information is required of all departments so that the Commonwealth's financial statements may meet the highest standards for financial accounting and reporting. By not initially entering all vacation credits on HR/CMS, employee vacation time is understated and therefore the potential liability is also understated on the Commonwealth's financial statements.

Recommendation

The WSO should ensure that all future GAAP reports contain all necessary information related to assets held in trust as required by the OSC's GAAP Instructions. Also, the WSO should ensure that future GAAP information properly reflects all vacation credits in accordance with GAAP and OSC requirements. If the vacation balances are not put on HR/CMS, then the WSO should work with the OSC to ensure that the correct information is filed annually.

Auditee's Response

The WSO provided the following response:

The WSO has recently and will continue to report all balances for the department's inmate, commissary as well as the work release accounts on all GAAP reports. As noted, it was our understanding that such balances did not have to be noted, via the GAAP report, if balances for each individual account were less than the \$500,000 threshold.

3. IMPROVEMENTS NEEDED IN SHERIFF'S INMATE REPORTING SYSTEM (SIRS)

Our review of the inmate account at the WSO found that as of June 30, 2008, a variance totaling \$195,780 existed between the bank balance of the inmate account, which was \$439,241, and the trial balance of the Sheriff's Inmate Reporting System (SIRS), at \$243,461. SIRS is the system used by the WSO to track and account for balances of each inmate held at the Worcester County House of Correction and Jail. According to WSO officials, this variance is a combination of disciplinary fees and property deposits that were recorded in the SIRS system as negative balances during the conversion.

In March of 2005, the WSO converted from a DOS-based inmate-tracking system to SIRS, which was developed by the Commonwealth's Information Technology Division (ITD) for the Sheriffs' Departments. SIRS was developed as a specialized version of the Department of Correction's Inmate Management System (IMS) to handle the unique nature of the pretrial and short-term-type inmates housed at the county jail and the house of correction. There are five sheriffs' offices currently using the SIRS system, although Worcester County is the only office that uses the financial component of the software.

In the prior inmate system, property deposits and disciplinary fees were recorded in the inmates' accounts similar to an escrow balance so that funds could not be accessed until the fulfillment of certain conditions were met by the inmate. However, during the conversion to the SIRS system,

these amounts, rather than being accounted for and reported as escrow amounts, were charged to the inmates' accounts, creating a negative balance within the accounts. As a result of the accounting and reporting treatment of property deposits and disciplinary fees at the time of the conversion, there were approximately 455 inmates with negative balances in their accounts within the SIRS system, which was one contributing factor to the variance between SIRS and the bank balance.

The WSO identified this problem and began working with ITD to resolve this issue. However, due to budgetary reductions in ITD staff, they were unable to resolve the software problems. Subsequent to our audit, the Criminal History System Board (CHSB) had taken over as administrator of SIRS and had been working with the WSO to rectify problems with and make improvements to the system.

As of June 30, 2008, the variance between the current inmate populations' SIRS totals and that of the inmate account bank balance was \$195,780. Although the WSO is able to reconcile this amount using records from the prior system, SIRS is the primary inmate management system and should be able to produce an accurate trial balance.

Recommendation

The WSO should continue to work with the CHSB to improve the function of the financial component of SIRS and rectify the \$195,780 variance.

Auditee's Response

The WSO provided the following response:

The WSO is currently "migrating" the financials contained in SIRS to a separate and more efficient accounting system. We are presently working with Keefe Company, which services our inmate canteen system, to move all of the inmate financials to their system. In short, SIRS was designed primarily as a jail management system and is better suited to address the correctional needs of the facility, as they relate to information technology, and less suited as an accounting/financial system.

4. IMPROVEMENTS AND ENHANCEMENTS NEEDED IN INTERNAL CONTROL PLAN

Our audit disclosed that although the WSO developed an Internal Control Plan (ICP), it did not have a high-level summarization of internal controls which contain sufficient cross-referencing to support lower-level detail (i.e., departmental policies and procedures) and WSO had not

adequately updated the plan as required by the Office of the State Comptroller's (OSC) Internal Control Guide and Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls within State Agencies. In addition, the WSO had not sufficiently developed and fully integrated a risk assessment throughout its ICP to determine how the WSO's greatest risks to its mission, goals, and objectives would be identified and mitigated.

For the ICP to be considered an effective high-level summarization, the eight components of Enterprise Risk Management (ERM) must be present (as described in the OSC Internal Control Guide). Specifically, we found that WSO did not have or adequately identify within its ICP all eight components of ERM, which are Internal Environment, Objective Setting, Event Identification, Risk Assessment, Risk Response, Control Activities, Information, and Communication and Monitoring. Also, the ICP did not adequately develop and cross-reference its supporting lower-level detail (i.e. departmental policies and procedures) for most of its organizational areas to ensure a reliable ICP for the daily operation of the entire facility.

The WSO ICP consists of an outline of the five components relative to the Committee of Sponsoring Organizations of the Treadway Commission's (COSO) internal control integrated framework. Those five components; control environment, risk assessment, control activities, information and communication, and monitoring, are briefly summarized to incorporate the operations of the WSO.

To better address risk management, the Office of the State Comptroller (OSC) adopted the Enterprise Risk Management (ERM) framework for internal control in its Internal Control Guide, dated September 13, 2007, which encompasses the five components of COSO, while adding an additional three; objective setting, event identification, and risk response. We found that the WSO has not yet expanded its ICP to include these three additional components and has not fully expanded on the five components that are identified in the ICP. In addition, although WSO identifies goals, objectives, and mission in separate documents, it does not incorporate them in its ICP as required by OSC.

Specific improvements and enhancements to the ICP are necessary to provide better assurance that the agency will successfully achieve its fundamental mission, goals, and objectives through the guidance of meaningful and comprehensive internal controls. Specifically, within the ICP,

the WSO needs to better define its control environment and include statements of the requirements on integrity and ethical values expected of all staff, including top management; update and expand its risk assessment to include all identified risks associated with its various financial, accounting, programmatic, and administrative activities; identify corresponding control activities that are in place to mitigate all identified risks; identify information and communication systems in place; and identify related compliance monitoring activities in place.

Among the minimum criteria for evaluating a department's internal control system are various internal control components outlined in Chapter 647 and OSC guidelines, which are inherent to establishment of and reporting within an ICP.

Preparing an ICP is important for the WSO to ensure the integrity and effectiveness of its internal control structure and to enhance its ability to respond to changes while maintaining the system's effectiveness. Annual updating and monitoring will ensure that the WSO continues to achieve its objectives efficiently, effectively, and in compliance with applicable state laws and regulations and that its assets are properly safeguarded against loss, theft, or misuse. In addition, with an adequate internal control plan in place, it is more likely that the WSO will respond appropriately and rapidly to major changes in events affecting its overall internal environment, including the implementation of new systems or a major change of key personnel, including the transition that is necessary in changes of administration or necessary re-organization due to fiscal crisis or similar emergencies.

Recommendation

We recommend that the WSO improve its ICP as follows:

- Prepare an updated and improved high-level summarization of internal controls, which includes a written mission statement and readily identifies and concisely describes the components of internal control in conformance with the latest OSC guidelines.
- Update and enhance its internal environment by including statements of philosophy on integrity and ethical values expected of all staff, including top management. Include direct statements by top management on the expectations of staff concerning integrity, requirements of high ethical standards and accountability, and other definitive statements that set the tone for the importance of internal controls within the WSO's operations.
- Identify its risks in areas that address the WSO's mission, goals, and objectives.

- Review goals and objectives to determine if these priorities are still realistic and attainable given the changing economic conditions of the Commonwealth and to determine whether the priorities are still attainable given the reduction in resources the WSO is facing. Once reviewed and updated, if necessary, these goals and objectives should be appropriately, prominently identified and integrated throughout the ICP.
- Identify which events, internally and externally, may have an influence over its goals, objectives, and strategies used by the WSO in carrying out its mission and achieving its objectives.
- Assess the risks to achieving goals and objectives with a comprehensive risk assessment. Determine the greatest risks to the mission, goals, and objectives over all the fiscal and programmatic areas that are not identified in the risk assessment section. Develop steps on how to mitigate and respond to those risks. If these risks are identified in department policies and procedures they should be cross-referenced to those policies.
- Document monitoring activities and responsibilities that 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 WSO should cross-reference its ICP to these procedures.

Auditee's Response

The WSO provided the following response:

The Assistant Superintendent for Administration will be drafting a new internal control plan to address the issues noted above.

5. IMPROVEMENTS NEEDED IN PROCUREMENT OF SERVICES

We reviewed the WSO's use of consulting services. During fiscal year 2008, the WSO entered into contracts with two consultants to provide "correctional consulting services" and "accreditation consulting services" and paid them \$74,033; however, the WSO did not competitively obtain these services as required by its own procurement policy. In addition, there was not an adequate description of the contract performance in the Commonwealth Standard Contract Form.

The WSO adopted a policy for procuring commodities and/or services in January 2002, which states that "all acquisitions of commodities and/or services must be competitively procured unless the acquisition qualifies as one of the exemptions listed under Section .05, Competitive Procurement Exceptions, of this policy." Our review of the contract documents disclosed that these consulting services do not qualify as an exception and therefore these services should have

been competitively procured through the invitation for response (IFR) process. The policy requires that the WSO properly advertise or solicit quotes or bids from three qualified bidders.

Our review disclosed that the WSO did not conduct a competitive search for the individuals retained under these contracts, nor was any formal process completed that justified the selection of these contractors. According to WSO officials, these contracts covered a specialized area of services that were necessary in order for the WSO to achieve accreditation. The contractors that were hired came highly recommended by industry leaders.

The WSO contracted with one individual to provide “correctional consulting services” during fiscal year 2008, paying him \$35 hourly for a total amount of \$6,528. The hourly rate contract for services does not specify what services were to be provided by the consultant. Also, the WSO was in the process of getting its accreditation from the American Correctional Association and it hired the second consultant to furnish accreditation consulting services. The WSO’s consultant was paid on an hourly basis; however, the contract was amended during the year, increasing the hourly wage. Additionally, the consultant was paid \$335 as a travel reimbursement related to an out-of-state conference and a one-time bonus payment of \$20,000 after the WSO received its accreditation. Neither of these payments was specified in the contract. This consultant was paid \$67,505 during fiscal year 2008. While these consultants may have provided necessary services, the WSO should have followed its own procurement policy which “encourages competition” to ensure that the WSO receives the “best value” through competitively solicited services.

Also, the Commonwealth Standard Contract Form requires a narrative description that specifically identifies the contract performance. The contracts for these two consultants did not include such a description.

Recommendation

The WSO should follow its own procurement policy and solicit through the IFR process for all consulting services. Also, the consulting contracts should clearly define the services to be provided, the duties and responsibilities of the parties, and any reimbursable costs associated with the contract.

Auditee's Response

The WSO provided the following response:

The WSO did not bid for the correctional consultant for accreditation position, because at the time of the initial contract this position was not going to exceed the procurement threshold of \$50,000.00. There was a misunderstanding on the part of the WSO contact manager in not realizing that a \$20,000.00 "bonus" would later become part of the original contact and also the reimbursement of monies associated with travel to the accreditation conference by the same consultant. The awarding of the bonus to the consultant was contingent upon the WSO receiving full accreditation.

Lastly, while the standard contract form does require a description of services, the contract manager was not aware that a lengthy, detailed narrative was required. We will provide such information on all such future documentation.

APPENDIX

Chapter 647, 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 27, 1989.

Passed to be enacted,

George L. Nisan, Speaker.

In Senate, December 22, 1989.

Passed to be enacted,

William D. Berger, President.

January 3, 1990.

Approved,

Richard J. Riordan Governor.