Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump
Making government work better

Official Audit Report – July 17, 2013

Montachusett Regional Transit Authority Administration of Limited Unit Rate Service Agreements

For the period July 1, 2008 through June 30, 2011

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INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS

On April 3, 2013, the Office of the State Auditor (OSA) issued an audit report (No. 2012-0234-3C) on the Department of Developmental Services' (DDS's) administration of its Limited Unit Rate Service Agreements (LUSAs). LUSAs are a form of a master contract agreement that can be used by DDS to purchase services from a preapproved contractor on an intermittent, limited-time basis for clients who are not already covered through an existing contract. Our overall audit of DDS's administration of LUSAs included a review of $16.6 million in LUSA funding provided to 15 human-service contractors during fiscal years 2009 through 2011. Those transactions were a subset of the approximately $62.2 million in total DDS LUSA expenditures for the three-fiscal-year period covered by our audit. The primary focus of our overall audit was to examine transactions processed during the accounts-payable period[1] at the end of each fiscal year, which disproportionately involved over half of all LUSA funding. As part of that audit, OSA engaged each of the 15 contractors, including Montachusett Regional Transit Authority (which uses the acronym MART rather than MRTA), for on-site testing. MART received approximately $476,783 of the above-stated $62.2 million in total DDS LUSA payments. Approximately $467,654 (98.1%) of the payments to MART was processed during the accounts-payable periods for fiscal years 2010 through 2011. (No payments to MART had been processed during the fiscal year 2009 portion of the audit period.) The overall audit of DDS was conducted as part of OSA's ongoing efforts to audit human-service contracting activity by state agencies and to promote accountability, transparency, and cost effectiveness in state contracting.

This supplemental report presents the results of our testing specific to MART's accounts-payable-period LUSA transactions and should be read in the context of our overall report on DDS's administration of LUSA agreements. That report presents our system-wide audit, which determined that, although LUSA funding is supposed to be used for intermittent unanticipated services to clients as needed, DDS is not properly administering these contracts. Instead DDS Regional and Area Office staff have used LUSA contracts to provide additional year-end funding to some DDS human-service contractors for various purposes, many of which are not consistent with the intended

[1] The Commonwealth's fiscal year is divided into 13 accounting periods: one for each calendar month of the fiscal year ending June 30, and a thirteenth period known as the accounts-payable period. During the accounts-payable period, payments are processed for services provided during the fiscal year but not submitted and approved for payment before the June 30 fiscal year-end date. Accounts-payable-period processing generally continues through the end of August each year.

use of these funds and resulted in unnecessary and excessive compensation to contractors. That report also documents other significant administrative problems, including improper retroactive service authorization; irregularities in pricing, encumbering, and accounting for LUSA funding; and documentation at numerous contractors that was often inaccurate, misleading, missing, or otherwise deficient. DDS's practice of improperly administering and using LUSAs has led to the problems with the administration and use of these funds at various DDS contractors, such as MART.

Highlight of Testing Results Specific to Montachusett Regional Transit Authority

We found transactions totaling at least $467,654 for which DDS had improperly made payment to MART using LUSA funds for supportive transportation services that were originally billed against other non-LUSA transportation service contracts but had been erroneously rejected. DDS should not have used LUSA funds for that purpose, since the authorized scope of LUSA use does not include making corrective payments for services properly chargeable to other contracts. In addition, DDS incorrectly recorded the LUSA payments in the state accounting system using accounting classification codes for human-service-program activity instead of the code designated by the Office of the State Comptroller (OSC) for supportive transportation services.[2]

Recommendations of the State Auditor

OSA's overall audit report on DDS's administration of LUSA contracts recommended that responsible oversight agencies, including the state's Operational Services Division and the Office of the State Comptroller, review the issues detailed in the report and take whatever actions they deem appropriate to address those issues, including strengthening their oversight over these DDS transactions. The payments to MART are covered by that recommendation. In accordance with the recommendations of the overall report and the testing results specific to MART, MART should implement appropriate control measures to ensure that all LUSA services are performed, documented, billed, and accounted for in compliance with applicable requirements.

[2] In addition to the $467,654 identified through testing of payments processed during the state's post–June 30 accounts-payable period, an additional $9,129 in LUSA payments to MART were processed before the accounts-payable period during these years. Those payments were not fully tested as part of the audit but were similarly classified in the state accounting system and, according to MART managers, had also been issued by DDS managers for the same corrective payment purposes.

OVERVIEW OF AGENCY

The Montachusett Regional Transit Authority (MART) is a public, nonprofit organization established under Chapter 161B of the Massachusetts General Laws to provide public transportation to the Montachusett Region. MART is one of Massachusetts's 15 regional transit authorities and provides public transportation to 21 area cities and towns (the cities of Fitchburg, Gardner, and Leominster and the towns of Ashburnham, Ashby, Ayer, Bolton, Boxborough, Hardwick, Harvard, Hubbardston, Lancaster, Littleton, Lunenburg, Royalston, Shirley, Sterling, Stow, Templeton, Westminster, and Winchendon).

MART currently provides fixed-route bus services, shuttle services, and a paratransit service to the Montachusett Region and operates connections to other public transportation systems. Transportation services, including non-fixed-route services and subcontracted services, are provided to clients sponsored by state human-service agencies through contractual arrangements totaling approximately $80 million per year with the Executive Office of Health and Human Services' Human Service Transportation Office and other state agencies. Those services are provided throughout the Commonwealth, not just in the communities within the Montachusett Region. The majority of the $80 million is accounted for as Medicaid payments. The table below reflects only payments to MART that were processed through the Department of Developmental Services' (DDS's) Limited Unit Rate Service Agreement (LUSA) funding mechanism.

Fiscal Year 2009 through 2011 LUSA Funding

Fiscal Year	Total LUSA Payments for Fiscal Year	LUSA Payments Processed During Accounts-Payable Period	Accounts-Payable-Period Percent of Annual Total
2009	$ 0	$ 0	0
2010	394,994	394,994	100%
2011	81,789	72,660	88.8%
	$ 476,783	$ 467,654	98.1%

SCOPE, OBJECTIVES, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) conducted an audit of the Department of Developmental Services' (DDS's) administration of Limited Unit Rate Service Agreement (LUSA) contracts for the period July 1, 2008 through June 30, 2011 (No. 2012-0234-3C). The scope of that audit included an assessment of the process and related internal controls DDS has established over its administration of LUSA contracts and the use of LUSA funding at 15 selected DDS contractors, together accounting for approximately $16.6 million (26.7%) of the $62.2 million in LUSA payments for the three-fiscal-year period covered by our audit. Based on our analysis of data contained in the Massachusetts Management Accounting and Reporting System, we determined that during our audit period, 12% of all LUSA payments, which are supposed to be provided on an as-needed basis, had been processed during the last month of the fiscal year and that an additional 51% of all LUSA payments had been processed during the Commonwealth's accounts-payable period. This expenditure pattern for LUSA services was in marked contrast to the pattern for DDS's non-LUSA contractor payments, for which fewer than 4% were processed during the accounts-payable period and fewer than 5% were processed during the last month of the fiscal year. Based on this analysis and the results of prior audits that identified issues with LUSA transactions, we concluded that LUSA payments processed late in the year, particularly during the accounts-payable period, might pose disproportionately high risks of improper use or other irregularities. The Montachusett Regional Transit Authority (MART) was one of the 15 contractors selected for on-site testing as part of the overall DDS audit. MART accounted for approximately $476,783 in LUSA payments for the three-fiscal-year period. Approximately $467,654 of MART LUSA payments was processed during the Commonwealth's accounts-payable period.

The procedures completed at MART were performed as part of the overall DDS audit, which was conducted in accordance with generally accepted government auditing standards. Our overall objectives for the DDS audit were to:

- Obtain information required to assess the system of internal controls DDS has established over its administration of LUSA contract funding.
- Determine whether LUSA funding is being used as intended and in compliance with applicable laws, regulations, policies, and procedures by conducting audit testing of a

judgmental sample of DDS human-service contractors that received significant LUSA funding.

Our audit testing at DDS and selected contractors, such as MART, produced evidence that certain data involving the classification of DDS LUSA expenditures did not reliably represent the actual agreement between DDS and contractors regarding the true purpose and use of the state funding. We provide a complete description of our data reliability and methodology in our overall DDS audit report, No. 2012-0234-3C.

We selected MART for on-site testing, focusing on accounts-payable-period transactions; conducted interviews with management and staff; reviewed prior audit reports where available; and reviewed applicable laws and regulations. We also obtained and reviewed policies, procedures, accounting records, and supporting source documents and performed tests of these records and transactions, where necessary. We performed testing on all identified accounts-payable-period LUSA transactions, so our findings do not involve the use of projections based on samples. At the conclusion of field work, we met with MART managers to discuss testing results pertaining to MART. We also solicited MART information and input regarding DDS system-wide LUSA issues for use in the overall LUSA audit project.

TESTING RESULTS

1. DDS INAPPROPRIATELY USED AT LEAST $467,654 IN LUSA FUNDS TO PAY FOR TRANSPORTATION SERVICES AND IMPROPERLY CLASSIFIED THE TRANSACTIONS IN THE STATE ACCOUNTING SYSTEM

We found transactions totaling at least $467,654 for which the Department of Developmental Services (DDS) improperly made payment to the Montachusett Regional Transit Authority (MART), using Limited Unit Rate Service Agreement (LUSA) funds, for supportive transportation services that were originally billed against other non-LUSA transportation service contracts but had been erroneously rejected. DDS should not have used LUSA funds for that purpose, since the authorized scope of LUSA use does not include making corrective payments for services properly chargeable to other contracts. In addition, DDS incorrectly recorded the LUSA payments in the state accounting system using accounting classification codes for human-service-program activity instead of the code (M04) designated by the Office of the State Comptroller (OSC) for supportive transportation services.[3]

Payments to MART were different from payments to other contractors tested as part of the overall audit project in that there was no evidence that the MART payments were issued as part of a pattern involving distribution of available surplus funds in a manner that might result in excessive or duplicative reimbursement to the contractor. Nor was there an issue regarding inadequate documentation that services had actually been rendered. Instead, testing indicated that MART appeared to be entitled to the payments, which involved billing adjustments for its regular, non-LUSA, transportation service agreements covering DDS clients. Documentation indicated that these billing adjustments were being made for reasons such as correction of previously processed erroneous rejections of billings against the non-LUSA contractual agreements. However, MART submitted invoices, as instructed by DDS, and DDS charged those invoices against unused year-end LUSA funds instead of processing the payments through the appropriate, non-LUSA, payment mechanisms.

Like all state agencies and their contractors, DDS and its contractors must adhere to requirements established by various statutes and rules and regulations promulgated by the Executive Office of

[3] In addition to the $467,654 identified through testing of payments processed during the state's post–June 30 accounts-payable period, an additional $9,129 in LUSA payments to MART was processed before the accounts-payable period during the testing period. Those payments were not fully tested as part of this project but were similarly classified in the state accounting system and, according to MART managers, had also been issued by DDS managers for the same corrective payment purposes.

Administration and Finance (EOAF) and related oversight entities, including OSC and the Operational Services Division (OSD). OSC, OSD, and the EOAF Budget Bureau have issued extensive guidance to state agencies and contractors regarding these requirements, and OSC regularly reminds all state agencies that state fiscal activity is based on a series of reliances and control systems. That guidance includes the following statement:

> *The Comptroller relies on Department Heads to ensure that all payments and other documents sent to the Comptroller for certification through MMARS have been approved by the Department Head as being legal, appropriate and properly submitted in accordance with applicable law, policies and procedures.*

Under the terms and conditions of their state contracts, providers of transportation services are required to maintain sufficient, accurate, and complete documentation to support all of their billings, including those for LUSA services. Specifically, Section 7 of the Commonwealth Terms and Conditions (for Standard Contracts) states, in part:

> *The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract.*

Ordinarily, DDS and other state human-service contracting agencies purchase client services through regularly established contracts that fund specific contractor programs or services. These contracting arrangements and payment obligations are typically in place at the start of each fiscal year, but can be amended during the year where program capacity, costs, or other circumstances change. However, in certain situations it is not practical to use these regular contracts for a particular client with intermittent or short-term service needs. LUSA contractual agreements are designed to be relatively flexible to address client service needs. DDS's Purchase of Service Manual states that LUSA contracts are "for purchasing intermittent, as-needed services for developmentally disabled individuals needing limited time placements." The LUSA's purpose is to provide a contract that can be accessed at any time during its multiyear term to pay for unexpected services for clients authorized by DDS where, because of special circumstances, services have not been included within the scope of an existing state-funded contract. DDS has established separate categories for LUSA agreements (residential, day, work, and support service), and LUSA services may only be provided within the scope of the categories for which a contractor has been approved.

Costs associated with client transportation are typically funded by one of two means: either transportation costs are built into the budgets of the regular contracts awarded to human-service contractors where client transportation is an integral component of the program, or state agencies purchase transportation services on separate freestanding transportation service contracts. LUSA funding may be used to indirectly reimburse transportation costs where they are included as part of program services being purchased through a LUSA contract for a client whose services have not been included within the scope of an existing state-funded contract. LUSA funding may also be used to directly purchase freestanding transportation services for a client whose services have not been included within the scope of an existing state-funded contract. In the latter situation, the LUSA-funded freestanding transportation services must also be properly expensed in the state accounting system using funds classified under a special accounting object code, M04. However, we found that during our testing period, LUSA payments processed during the accounts-payable period were used to improperly reimburse MART a total of $467,654 for transportation services; that those payments were not for services rendered outside the scope of regular, non-LUSA, contracts; and that DDS had used LUSA funds specified in the state accounting system to be for human-service-program use rather than freestanding M04 transportation service use. MART is a transportation support service contractor for the Executive Office of Health and Human Services but does not provide regular human-service-program services. DDS had made the LUSA payments to MART as a matter of administrative convenience to issue payment for transportation service claims made by MART under its regular transportation service contracts, which had been erroneously rejected. By improperly using the LUSA payment mechanism to process the transportation payment adjustments, DDS violated restrictions on the use of LUSA funding and generated erroneous information in the state accounting system regarding the nature of the expenditures. Payments for the services provided by MART should have properly been coded under accounting object code M04 as is correctly done for over $16 million per year of other transportation service payments made to MART by DDS and other state agencies besides MassHealth/Medicaid.[4] Aside from contravening state rules and regulations applicable to these transactions, the incorrect information generated by DDS in the state accounting system for these improper transactions resulted in MART being selected for inclusion in the overall audit project. As a result, significant MART administrative resources and Office of the State Auditor (OSA) resources were required to examine these transactions and determine why the LUSA payments were issued to MART.

[4] Medicaid payments are coded separately using a special accounting object code.

In addition, although OSA was eventually able to verify that MART had executed a LUSA agreement several years earlier with DDS that remained in legal effect during the testing period, at the time of our work MART was not able to produce a copy of the LUSA agreement and current MART managers indicated that they had been unaware of the existence of the agreement or the fact that DDS had used LUSA funding to issue the payments they had received.

Recommendations

OSA's overall audit report on DDS's administration of LUSA contracts recommended that responsible oversight agencies, including OSD and OSC, review the issues detailed in the report and take whatever actions they deem appropriate to address those issues, including strengthening their oversight over these DDS transactions. The payments to MART are covered by that recommendation. In accordance with the recommendations of the overall report and the testing results specific to MART, MART should implement appropriate control measures to ensure that all LUSA services are performed, documented, billed, and accounted for in compliance with applicable requirements.

MART's Response

In response to the issues presented in this report, MART provided the following comments:

> *As recommended in the report, the Montachusett Regional Transit Authority [will] ensure that all future LUSA services will be performed, document[ed], billed and accounted for in a manner that is consistent and in compliance with all applicable requirements governing LUSA agreements.*