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INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN
STATE AGENCIES' COMPLIANCE WITH THE
STATE OPERATIONAL SERVICES DIVISION'S
AUDIT RESOLUTION POLICY

OFFICIAL AUDIT
REPORT
AUGUST 20, 2002

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Human services providers doing business with state agencies are subject to audits/reviews by private accounting firms, the funding agencies, and the Office of the State Auditor (OSA). To ensure that any problems identified during these audits are expeditiously and effectively resolved, in June 1992 the state's Operational Services Division (OSD), the agency responsible for regulating and overseeing the activities of contracted human services providers, established a policy titled Audit Resolution Policy for Human and Social Services (Audit Resolution Policy). That policy includes standards, policies, and procedures to which state agencies as well as providers must adhere for the successful resolution of audit issues.

The scope of our audit was to determine the status of corrective actions by state agencies regarding deficiencies identified in 27 audit reports issued by the OSA between December 12, 1997 and March 20, 2001, involving the following 10 agencies: the departments of Social Services, Mental Health, Public Health, Mental Retardation, Education, Transitional Assistance, Veterans' Services, and Housing and Community Development; the Office of Child Care Services; and the Executive Office of Elder Affairs. Those 27 audit reports identified 144 deficiencies involving \$21,767,981 in state funds and recommended numerous corrective measures, including the recoupment of as much as \$3,838,453 in state funds. As a result of negotiated settlements with state purchasing agencies and federal and state law enforcement agencies, the potential recoupment amount identified in these 27 audits was reduced. For example, our audit of New England Residential Services, Inc., identified \$883,106 in inappropriate charges to the Commonwealth. However, as a result of court actions against the agency's president and Executive Director, the Commonwealth will only be reimbursed \$300,000.

Our audit objective was to assess each state agency's compliance with the OSD's Audit Resolution Policy and the effectiveness of the measures taken by state agencies to resolve problems identified during the selected audits.

Our audit found that because the 10 state agencies did not fully comply with the OSD's Audit Resolution Policy, numerous deficiencies were not corrected and at least \$420,161 in misused state funds was not recovered. However, to date, state agencies have recovered \$1,009,644, and are in the process of recovering an additional \$1,518,272, from the 27 human services providers. For the reasons detailed in our report, the state agencies have not recovered the remaining funds.

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We found that in many instances the controls established by state agencies to ensure compliance with the OSD's Audit Resolution Policy were inadequate. For example, only three of the 10 state agencies involved in our audit had established compliance policies and procedures, and officials at one of the state agencies stated that they had never heard of the OSD's policy. Accordingly, we found a number of problems with state agencies' compliance with this policy. For five of the 27 audits, 16 deficiencies had been identified and the recoupment of \$319,554 recommended; however, state agencies did not develop the Corrective Action Plans (CAPs) required by the policy. We also found that for 12 audits, in which 69 deficiencies had been identified and the recoupment of \$1,860,800 recommended, state agencies did develop CAPs but not within the six-month period required by the policy; instead, those CAPs were approved within 17 and 41 months after the audit reports were issued. In another instance, we found that contrary to the OSD's Audit Resolution Policy, a CAP approved by a state purchasing agency did not address all of the deficiencies identified in our audit report, including the recoupment of \$16,316. In addition, we found that in four instances state agencies agreed to receive a combined \$84,291 less than recommended in OSA audit reports. As a result of these deficiencies, there is inadequate assurance that all problems identified during audits of contracted human services providers are expeditiously and adequately resolved by state agencies.

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INTRODUCTION

Background

Human services providers doing business with state agencies are subject to audits/reviews by private accounting firms, the agencies funding those providers, and the Office of the State Auditor (OSA). To ensure that any problems identified during those audits are expeditiously and effectively resolved, in June 1992 the state's Operational Services Division¹ (OSD) issued a policy titled Audit Resolution Policy for Human and Social Services (Audit Resolution Policy). This policy was issued pursuant to 808 Code of Massachusetts Regulations (CMR) 1.04 (10), which requires the OSD to maintain an audit resolution policy for audits of human services providers as well as contractors operating educational programs for children with special needs.

The OSD's Audit Resolution Policy includes standards, policies, and procedures to which state agencies and contracted human services providers must adhere for the successful resolution of audit issues. For example, this policy requires state agencies to assign a high priority to establishing corrective measures and resolving any deficiencies identified during audits; it also establishes the following standards that state agencies must incorporate into their audit resolution and corrective action systems:

1. Manager: A senior level official of the purchasing Department must be appointed to manage the system established for audit resolution and corrective actions.
2. Management Decisions: Department management decisions must entail an evaluation of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.
3. Lead Agency: Resolution and corrective action on recommendations involving more than one purchasing Department must be resolved and coordinated by the principal purchasing agency (PPA) as designated by the applicable Secretariat.
4. Communication: Purchasing Departments or principal purchasing agencies, as applicable, must provide a copy of the administrative agreement containing the corrective action plan and management decisions to OSD and the appropriate Secretariat.

¹ This policy was issued by OSD under its former name, the Division of Purchased Services.

5. Referrals: The Department is responsible for referring audit findings not subject to Department oversight responsibility to appropriate oversight entities.

When the OSA issues an audit report, it sends copies to the auditee, the auditee's funding agencies, the OSD, and other interested parties. To resolve any problems identified in these reports, an auditee must prepare, in accordance with the requirements of the OSD's Audit Resolution Policy, a written Corrective Action Plan (CAP) approved by its board of directors, and it must submit this plan to the state agency that is its Principal Purchasing Agency (PPA)². According to the Audit Resolution Policy, the CAP must address all audit findings, deficiencies, and uncorrected findings of prior audits; must use reference numbers to identify the deficiencies; and must specify corrective actions that the provider will take to address the deficiencies and the dates by which they will implement those actions.

Within six months of receiving the audit report and CAP, the auditee's PPA must issue a management decision on the findings and recommendations of the audit report as well as on the auditee's proposed CAP. According to OSD officials, the CAP is not officially complete and cannot be accepted by the OSD until the PPA's management has evaluated and approved the auditee's proposed corrective actions for resolving the identified deficiencies. The original CAP and the written management decision are combined into a document titled the Administrative Agreement, which is signed by the authorized representatives of the human services provider and its PPA. A copy of this document is then forwarded to the OSD and the appropriate state secretariat. The Audit Resolution Policy states that the PPA must issue its management decisions as quickly as possible so that corrective action measures may take place within the six-month period.

Audit Scope, Objectives, and Methodology

The scope of our review was to determine the status of corrective actions by state agencies regarding deficiencies identified in 27 audit reports issued by the OSA between December 12, 1997 and March 20, 2001, involving the following 10 agencies: the departments of Social Services (DSS), Mental Health (DMH), Public Health (DPH), Mental Retardation (DMR), Education (DOE), Transitional Assistance (DTA), Veterans' Services (DVS), and Housing and

² A provider's PPA is typically the state agency that provides most of its state funding.

Community Development (DHCD); the Office of Child Care Services (OCCS); and the Executive Office of Elder Affairs (EOEA). Those 27 audit reports identified 144 deficiencies involving \$21,767,981 in state funds and recommended numerous corrective measures, including the recoupment of as much as \$3,838,453 in state funds. As a result of negotiated settlements with state purchasing agencies and federal and state law enforcement agencies, the potential recoupment amount identified in these 27 audits was reduced. For example, our audit of New England Residential Services, Inc., identified \$883,106 in inappropriate charges to the Commonwealth. However, as a result of court actions against the agency's president and Executive Director, the Commonwealth will only be reimbursed \$300,000.

Our review was conducted in accordance with applicable generally accepted government auditing standards for performance audits and included procedures we considered necessary to meet our review objectives.

Our audit assessed the following:

1. Each state agency's compliance with the OSD's Audit Resolution Policy for the selected OSA audits
2. The effectiveness of the measures taken by state agencies to resolve problems identified during the selected audits

To achieve our objectives, we first spoke with OSD officials and reviewed the OSD's Audit Resolution Policy. We then obtained from the 10 state agencies all documentation regarding the resolution of the problems identified in the 27 selected OSA reports. We reviewed that documentation and spoke with officials from all 10 state agencies to determine what measures those agencies had taken, and whether they were taking any follow-up actions, to ensure that CAPs are fully implemented. Our special-scope review was limited to an examination of the actions that the state agencies had taken to resolve the deficiencies identified in the selected OSA reports.

AUDIT RESULTS

STATE AGENCY NONCOMPLIANCE WITH THE OSD'S AUDIT RESOLUTION POLICY RESULTED IN NUMEROUS UNCORRECTED DEFICIENCIES AND AT LEAST \$420,161 IN STATE FUNDS NOT RECOVERED

We found that in many instances the controls established by state agencies to ensure compliance with the Operational Services Division's (OSD's) Audit Resolution Policy were inadequate. For example, only three of the 10 state agencies involved in our audit had established compliance policies and procedures, and officials at one agency said they had never heard of the OSD's policy. We found that as a result of inadequate controls, state agencies had problems complying with this policy. In five of the 27 audits, 16 deficiencies had been identified and the recoupment of \$319,554 recommended; however, state agencies did not develop the Corrective Action Plans (CAPs) required by the policy. We also found that in the case of 12 audits, in which 69 deficiencies had been identified and the recoupment of as much as \$1,860,800 in funds recommended, state agencies did develop CAPs but not within the six-month period required by the policy. Those CAPs were instead approved within 17 and 41 months after the audit reports were issued. In another instance, we found that contrary to the OSD's Audit Resolution Policy, a CAP approved by a state purchasing agency did not address all of the deficiencies identified in the audit report, including the recoupment of \$16,316. In addition, we found that in four instances state agencies agreed to receive a combined \$84,291 less than the amount recommended in OSA audit reports. In short, we found inadequate assurance that all problems identified during audits of contracted human service providers are expeditiously and adequately resolved by state agencies.

For our audit we selected 27 audit reports issued by the OSA between December 12, 1997 and March 20, 2001. Those reports, issued to 10 state agencies, identified 144 deficiencies involving \$21,767,981 in state funds and recommended numerous corrective measures, including the recoupment of as much as \$3,838,453 in state funds. The following table summarizes the results of the audits in our sample:

Summary of Results in Selected OSA Audit Reports

Number of Deficiencies Identified	Type of Deficiency	Recoupment Amounts*
37	Unallowable/unnecessary/unreasonable/nonreimbursable costs	\$1,458,966
19	Undocumented/inadequately documented expenditures/payments or compensation	973,071
15	Questionable costs/expenditures or purchases	698,048
7	Overbillings/excessive charges to contracts	218,709
7	Unnecessary/excessive consultant costs or inadequate administrative controls over consultant costs	199,933
3	Unallowable/undocumented/inappropriate loans	186,803
16	Inadequate internal controls over various aspects of operations	51,706
4	Unallowable/excessive fringe benefits	47,237
1	Reimbursement for services not provided	2,623
1	Third-party billings not used as offsets to reduce costs	1,357
8	Inadequate management practices, ineffective operations, or miscellaneous administrative deficiencies	-
5	Inadequate oversight/activities/composition of board of directors	-
4	Undisclosed and questionable related-party transactions	-
3	Noncompliance with procurement requirements and state regulations	-
3	Questionable business activities with other states	-
2	Failure to file Form-1099s with IRS/misreporting of Information to IRS	-
2	Various safety hazards/health concerns at residential locations	-
1	Default on loan by a provider	-
1	Failure to maintain client records in accordance with state and federal regulations	-
1	Misused client funds	-
1	Misused surplus revenues	-
1	Overstated expenses in the budgeting process resulting in the receipt of excess revenue	-
1	Program billings not in compliance with specified guidelines	-
<u>1</u>	Unallowable losses from affiliates	<u>-</u>
<u>144</u>	Total	<u>\$3,838,453</u>

* On certain audits, the OSA conducted limited testing and recommended that the provider's PPA conduct additional testing to determine the appropriate amount of funds to be recouped.

We interviewed officials from the 10 state agencies that provided funding to the 27 human services providers that were the subject of our audits. The intent of the interviews was to

determine what controls the agencies had implemented to ensure their compliance with the OSD's Audit Resolution Policy. Officials at one agency, the Department of Housing and Community Development (DHCD), stated that they were not aware of the Audit Resolution Policy. Although officials at the other nine state agencies indicated that they were aware of the Audit Resolution Policy, only three—the Office of Child Care Services (OCCS), the Department of Transitional Assistance (DTA), and the Department of Social Services (DSS)—provided written policies and procedures that they had implemented to ensure compliance. The other six agencies stated that they had no policies or procedures of their own but followed the OSD's guidelines. Although the OSD's Audit Resolution Policy does not specifically require state agencies to develop such policies and procedures, it is clear that doing so results in more reasonable assurance that state agencies will comply with the Audit Resolution Policy.

In addition to assessing the controls over the audit resolution process, we obtained from the 10 state agencies all documentation regarding any actions that they had taken to resolve the 144 deficiencies identified in the 27 audits.

a. For Three audits (11%), State Agencies Correctly Implemented CAPs, and for Six Others (22%) the OSD or the Auditee's PPA Took Measures That Did Not Require a CAP

We determined that for three of the audits (11%), in which \$154,806 was recommended for recovery, state agencies implemented CAPs in accordance with the OSD's Audit Resolution Policy. For six of the audits (22%), in which \$1,485,620 was recommended for recovery, either the OSD or the auditee's Principal Purchasing Agency (PPA), or both, took measures that did not require the PPA to enter into a CAP with the provider:

- Three of those audits, in which the OSA recommended the recovery of \$957,024 in state funds, were referred to either the Office of the Attorney General or a local District Attorney's Office and are still pending resolution:

Audit Number	Name of Human Services Provider
97-2020-2	Behavioral Health Network, Inc.
2000-4413-3	Professional Family Child Care Services, Inc.
97-4368-3	Integra, Inc.

- The audit of Boston Community Services, Inc. (No. 1997-4371-3), recommended the recovery of \$218,012 in state funds and questioned other costs totaling \$280,319. The provider's PPA filed a civil suit in Suffolk Superior Court (Civil Action No. 1998-4600-C). On December 2, 1999, the court issued a final judgment and ordered Boston Community Services, Inc., to pay the Commonwealth \$218,012.
- The audit of New England Residential Services (No. 1995-6002-3) identified \$883,106 in inappropriate charges to the Commonwealth and additional inappropriate charges to Rhode Island and Connecticut totaling \$446,646 and \$284,068, respectively. As a result, the principals of the provider were convicted and sentenced to jail terms. Specifically, on August 7, 1998, the vice-president was charged in U.S. District Court with two counts of mail fraud, and his spouse was charged with filing a false tax return. The mail fraud counts carry a maximum penalty of five years in prison, a \$250,000 fine, three years supervised release, and restitution. Each of the tax counts carries a maximum penalty of three years incarceration, a \$250,000 fine, and one year of supervised release. In addition, the president entered into a civil restitution settlement with the Department of Mental Retardation (DMR), is barred from contracting with the state, and agreed to pay \$100,000 to the DMR. On November 30, 1998, the executive director was sentenced to serve 18 months imprisonment in a federal penitentiary. Following his release, he was to have been placed on probation for two years and begin repaying \$200,000 to DMR. On January 26, 1999, the secretary of the board of directors was sentenced to two months' house arrest and was to have been placed on probation for one year.
- The audit of Center for Health and Human Services, Inc. (No. 1997-4338-3), recommended recovery of \$310,584 in unallowable or undocumented costs, questioned thousands of dollars in other expenses, and noted the misreporting of \$744,572 in program revenues. The provider pled guilty in federal court on February 21, 2001, and agreed to pay \$500,000 to settle claims by the United States Department of Justice/US Attorney's Office and the Commonwealth of Massachusetts; it was ordered to pay \$250,000 to each claimant.

b. Five Audits (19%) Did Not Have Negotiated CAPs between the Contractor and PPA; as a Result, up to \$319,554 Was Not Repaid to the Commonwealth and Numerous Other Noncompliance and Internal-Control Deficiencies Were Not Corrected

The OSD's Audit Resolution Policy requires that, after contracted human services providers receive a final audit report from the OSA, they prepare a written CAP, which is to be submitted to the PPA. Specifically, this policy states, in part:

Written corrective action plans must be prepared and submitted by the Contractor after it receives a final audit report issued by the Office of the State Auditor (OSA) or by Department contracted auditor.

The PPA is ultimately responsible for the resolution of audits and must, therefore, ensure that providers submit written CAPs promptly so that the necessary corrective action begins as early as possible.

We found that, despite these requirements, for five of the audits (19%) state agencies did not develop the CAPs required by the OSD's Audit Resolution Policy. At these five providers, the OSA audits had identified 16 deficiencies, including overbilling on state contracts, unallowable or undocumented costs, and weaknesses in internal controls; the audits had also recommended the recoupment of \$319,554 in state funds.

The following is a summary of the compliance-related problems we found with those five audits:

- The Department of Education (DOE), the PPA of Hampshire Community Action Commission, Inc., did not respond to our request for the CAP. The audit report had identified two findings: overcharges because of inaccurate reporting of expenditures, resulting in \$3,538 due the Commonwealth; and a contractual administrative deficiency.
- The Executive Office of Elder Affairs (EOEA), the PPA of Southwest Boston Senior Services, Inc., could not adequately explain why the CAP was not prepared. An official at EOEA stated that the contractor did not submit a CAP and that EOEA did not follow up on this matter to ensure that a CAP was implemented. The audit report had identified one finding: unallowable expenditures, resulting in \$30,716 due the Commonwealth.
- An official at the Department of Veterans' Services (DVS), the PPA of the New England Shelter for Homeless Veterans, contended that despite numerous DVS requests for a CAP, the contractor had not submitted one³ even though the audit report had been issued in January 1998. The audit report had identified three issues:
 1. Questionable expenses of \$18,580 relating to travel

³ On March 12, 2002, after the conclusion of our audit fieldwork, DVS provided the audit team with documentation indicating that DVS had finally entered into a CAP with the provider.

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2. Inadequate controls over petty cash, resulting in an amount up to \$35,128 due the Commonwealth
 3. Improper composition of the agency's board of directors
- Berkshire Community Action Council, Inc., received funding from three state agencies, and no officials at these agencies knew which agency was responsible for resolving the audit issues. The audit report had identified four issues:
 1. Undocumented payroll costs charged to state contracts and federal grants, resulting in \$56,329 due the Commonwealth
 2. Undisclosed and questionable related-party transactions
 3. \$10,541 in unallowable and undocumented loans to the agency's former executive director
 4. Inadequate management practices, including shortcomings in the execution of leases, the lack of a written cost-allocation plan for indirect costs, and a lack of control over employee benefits
 - DSS, the PPA of Justice Resource Institute, Inc., did not require the provider to develop a CAP because, according to DSS officials, the provider agreed to take immediate measures to correct the identified deficiencies. According to OSD officials, this contractor resubmitted its fiscal year 1996 and 1997 Uniform Financial Reports (UFRs) and reimbursed the overbillings noted in our audit. However, the PPA did not provide any documentation to substantiate the corrective actions or the amount remitted to the Commonwealth. This audit had reported the following six findings:
 1. Nonreimbursable salary expenses, resulting in \$84,050 due the Commonwealth
 2. Overbillings against state contracts, resulting in \$60,649 due the Commonwealth
 3. A sum of \$178,802 in unallowable accrual of fringe benefits
 4. At least \$41,592 in unallowable costs, resulting in \$2,125 due the Commonwealth
 5. A sum of \$27,582 in unallowable consultant contracts, resulting in \$4,369 due the Commonwealth
 6. Undocumented and unallowable credit card expenses, resulting in \$42,650 due the Commonwealth
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If state agencies do not require service providers to develop the CAPs required by the OSD's Audit Resolution Policy, they will have no assurance that problems identified during audits are being appropriately and expeditiously resolved or that recommended amounts from misappropriated funds are being recovered.

c. Twelve Audits (44%), with CAPs Involving as Much as \$1,860,800 in Unallowable Expenses Charged to State Contracts, Were Not Processed within Timeframes Prescribed in the OSD's Audit Resolution Policy

The OSD's Audit Resolution Policy requires that, within a six-month period after an audit has been issued, the state purchasing agency resolve any deficiencies identified during that audit. This policy states, in part:

Initiation of audit resolution. The Department must require prompt resolution and corrective action on audit recommendations. The Department must issue a management decision on audit findings within six months after receipt of the Contractor's audit report and corrective action plan, and ensure that the Contractor takes appropriate and timely corrective action. Corrective action should proceed as rapidly as possible.

Department process. The purchasing Department must provide a means to ensure timely responses to the independent auditor's reports if Contractor responses have not been incorporated into the independent auditor's reports. The process must provide sufficient time to permit resolution to take place within the six-month period.

We found that, despite these requirements, six state agencies failed to approve CAPs for 12 of the auditees (44%) in the manner prescribed by this policy. The following are details regarding those audits:

- In the case of seven audits (26%), the CAPs were processed but management did not issue a decision to approve the CAP within the six-month deadline period prescribed in the Audit Resolution Policy. In these seven audits we had identified 32 deficiencies and recommended the recoupment of \$342,528. The audit reports were issued between December 12, 1997 and June 21, 2000; however, the CAP approval dates ranged from May 14, 1999 to November 29, 2001. We found that these seven CAPs were approved 17 to 41 months after the reports were issued: Two of them were approved over three years after the report was issued; two took over two years to approve; and three were approved one-and-a-half years years after the report was issued. Worth noting is that five of these seven CAPs were not approved by the PPAs until after the OSA's initial request for the CAP.

- In the case of five audits (19%), state agency officials said the CAPs remain in the negotiation stage and management has not issued a decision even though the relevant audit reports were issued more than six months ago⁴. In these five audits, we had identified 37 deficiencies and recommended the recoupment of \$1,518,272. The report issue dates ranged from October 28, 1998 to March 20, 2001. Two of the PPAs provided documentation evidencing recent negotiations regarding two of these CAPs.

Some state agency officials with whom we spoke about these 12 audits stated that some of the audit deficiencies identified within the OSA reports were complex and resulted in lengthy negotiations. In the case of one audit, state agency officials stated that they were unaware of the OSD's Audit Resolution Policy. Regarding another, state agency officials told us that there was a misunderstanding among state agencies about which agency was responsible for negotiating the CAP.

d. One of the CAPs (5%) Did Not Properly Address All of the OSA Issues Requiring Resolution, Including Repayment of \$16,316 to the Commonwealth

The OSD's Audit Resolution Policy requires that all deficiencies reported in OSA audit reports, including material or nonmaterial noncompliance and weaknesses in internal controls, be identified and addressed in the CAP. The policy states, in part:

Corrective action plans shall identify the findings, deficiencies, uncorrected prior audit findings and reference numbers utilized by the independent auditor to identify the findings. Corrective actions to be taken, along with specified action dates, must be identified in the corrective action plan and approved by the Contractor's board of directors.

We found that, despite this requirement, one of the CAPs we reviewed did not address all of the deficiencies identified by the OSA during its audit. Specifically, the OSA audit of the Cape Cod Alcoholism Intervention and Rehabilitation Unit, Inc. (No. 99-4316-3), reported four findings and recommended \$17,673 for reimbursement. However, we found that two of the deficiencies identified in the report were not addressed, and the other two were addressed in correspondence between the provider and its PPA, the Department of Public

⁴ After the conclusion of our audit fieldwork, the DSS informed the OSA on April 11, 2002 that two of these CAPs have been submitted and are awaiting final signatures.

Health (DPH), but not under a formal CAP. One of the two issues addressed included the repayment of \$1,357. The following deficiencies were not addressed:

- A component of one of the findings was that the provider failed to document Massachusetts residency for clients. The OSA had recommended that \$16,316 be returned to the state. The PPA recently informed the OSA that this issue is now being renegotiated between the vendor and the PPA's legal counsel.
- Another finding was that billing procedures for substance abuse services were not in compliance with state requirements and the contractor's own policies and procedures. The PPA could not explain why this finding was not addressed.

e. State Agencies Did Not Recover at Least \$84,291 in Funds Recommended for Recoupment

We also found four instances of agencies agreeing to receive less than the sums the OSA audit report had recommended for recoupment. Although the PPAs had entered into CAPs within the prescribed timelines and had addressed all of the deficiencies, they did not recover the full amounts, as shown in the following table:

Audit Number	Name of Vendor	Recommended Amount	Recovered Amount	Difference
97-4370-3	The Cooperative for Human Services, Inc.	\$ 2,623	\$ 0	\$ 2,623
98-4380-3	Massachusetts Half-Way Houses, Inc.	18,513	0	18,513
98-4383-3	Riverside Community Mental Health and Retardation Center, Inc.	16,045	4,960	11,085
96-4050-3	Vinfen Corporation	<u>52,070</u>	<u>0</u>	<u>52,070</u>
Total		<u>\$89,251</u>	<u>\$4,960</u>	<u>\$84,291</u>

In two cases (The Cooperative for Human Services and Massachusetts Half-Way Houses), the PPA's legal counsel instructed the PPA not to recover the funds, in part because the legal counsel believed that the legal costs involved would be more than the amount recommended for recovery. In the case of Riverside Community Mental Health and Retardation Center, the PPA gave no explanation for having reduced the amount of reimbursement. In the case of the fourth audit, the provider (Vinfen) did remit the amount recommended, but the PPA returned the funds because, according to officials at the PPA, Vinfen provided what the PPA considered sufficient evidence to support the questioned

costs. For such cases, the OSD's Audit Resolution Policy states:

Department management decisions and corrective actions must be consistent with law, regulations, contract terms and conditions and policies established by the Department, Secretariat, OSD, the federal government and other oversight entities as applicable. Written justification supported by sufficient, competent and relevant evidence must account for the legal basis for any decisions not agreeing with the independent auditor's findings and recommendations. Evidence that was not available for review by the independent auditor during the field work stage of the audit and which the auditor indicated may be relevant to the audit findings, may be reviewed and utilized for making management decisions. However, evidence that was available but not furnished to the auditor as requested by the auditor during the field work stage of the audit may not be reviewed or considered in making management decisions.

Vinfen's PPA did not provide written justification for the decision to return these funds to the provider. Consequently, it could not be determined whether the PPA complied with the OSD's Audit Resolution Policy.

Recommendation

To address our concerns, state agencies should take the measures necessary to ensure that they adhere to the OSD's standards for the establishment of an adequate audit-resolution system. At a minimum, such measures should include the development and implementation of formal written procedures for the audit resolution process. Further, the OSD should consider providing additional information or training on this policy to all state agencies involved in the procurement of human services.

Auditees' Responses

At the conclusion of our audit, a copy of our draft audit report was provided to OSD, which in turn provided copies to the 10 state agencies for review and comment. The OSD and six of the 10 state agencies provided comments (see below), whereas four state agencies—DOE, DHCD, DTA, and DPH—chose not to provide comments. DPH had, in the past, provided documentation to OSD indicating that the issues raised in our audit of the Cape Cod Alcoholism Intervention and Rehabilitation Unit, Inc. (No. 99-4316-3), for which DPH was the PPA, had been resolved.

The following are the comments we received:

a. OSD

The Operational Services Division (OSD) will be scheduling audit resolution training for all Departments subject to the OSD Audit Resolution Policy as it has in the past and as recommended by the Office of the State Auditor. Special emphasis will be placed on ensuring that those agencies not previously aware of the existence of the OSD Audit Resolution Policy attend the session and become very familiar with its provisions.

b. Office of Child Care Services

OCCS is committed to ensuring that any problems identified through audits are expeditiously and effectively resolved. Towards that end, OCCS will continue to develop corrective action plans and conduct follow-up activities, including on-site visits, to ensure that contractors identified in an OSA audit report adequately correct all identified deficiencies. To date, OCCS staff has conducted follow-up site visits to three providers with OSA findings. The providers are PACE, Hampshire Community Action, and Springfield Partners Community Action, Inc. (formally Springfield Action Commission). Based on the documentation obtained and reviewed by OCCS during the on-site visits, it appears that these contractors implemented all corrective measures identified in their Corrective Action Plans submitted to OCCS and did so in an appropriate manner. Furthermore, where appropriate, OCCS staff provided additional recommendations to these providers in an effort to help further strengthen their internal controls. The reports on these follow-up site visits are in the process of being written and will be available for OSA's review.

c. Department of Social Services

In its response, DSS stated that it had received CAPs from two providers, Concord-Assabet Family and Adolescent Services, Inc., and Brandon Residential Treatment Center, Inc. DSS also stated that it had received \$12,873.75 of the \$381,054 these two providers have agreed to reimburse and had established payment schedules for the remainder. For the third provider, Justice Resource Institute, Inc., DSS stated the following:

There was confusion over whether this was to be dealt with by DMH [Department of Mental Health] or DSS due to the fact that at the time of the audit report release in 4/23/99, DMH was the PPA and in the subsequent years DSS became the PPA. The review by DSS found that DMH had been able to complete work on the majority of the findings. JRI refiled UFRs and had redone its accounting by using unrestricted funds to cover some of the amounts improperly charged to state programs. In addition, JRI remitted to the state \$40,568 related to the \$60,649 in cost-reimbursement contract overbilling. This is confirmed through documentation submitted by JRI and the CAP from 1998 by DMH. It was not until OSD brought to DSS's attention the outstanding Audit that DSS conducted this review and found two issues that still need to be completed. Under finding #2, there is a \$20,081 difference that was outstanding. Under finding #6 there was a balance of \$34,557. In...phone conversations with the provider they have agreed to re-state again the

1996 and 1997 charges to assign the costs under non-reimbursable. DSS will be sending JRI a letter next week with the agreed upon measures to be included in a CAP. The CAP will also be sent to OSD.

d. Department of Mental Retardation

With regard to the recommendations on audit compliance policies, DMR's internal procedure has been a highly centralized one where the central contract or legal office will meet directly with provider to work out an appropriate resolution of each audit finding in conformance with the state's Audit Resolution Policy. Other units or divisions within DMR or other state agencies are included as needed based on the specifics of each finding. As the draft audit notes...[the] Audit Resolution Policy does not require agencies to develop formal policies. We thank the SAO for identifying that other agencies have adopted formal policies and procedures and are currently reviewing their policies. DMR will be adopting formal policies in the near future. With respect to...the 1995 audit of New England Residential Services, the Department, in conjunction with US Attorney's Office, did begin receiving restitution...as called for in the Settlement.

e. Department of Veterans' Services

In its response, DVS stated that it had recently taken measures to comply with OSD's Audit Resolution Policy and entered into a CAP with its contracted service provider, the New England Shelter for Homeless Veterans, to resolve the issues identified in our report.

f. Executive Office of Elder Affairs

I am writing regarding the status of a finding in OSA Audit No. 99-4393-3, of Southwest Boston Senior Serves, Inc. This audit contained a finding concerning the provider's expensing of the acquisition costs of capital equipment and recommended recovery of \$30,716.

Before the release of OSA report, this issue had been identified in the provider's UFR by the contractor's independent auditor for FY 1998. In June, 1999, we wrote to the provider requiring that they correct the UFR finding. Around this time...our Audit Director met with you to discuss this issue, and it was agreed that a prior-year adjustment in the provider's subsequent UFR would recognize the capitalization of the asset in question and be the proper resolution to the UFR finding....

When the OSA report was issued, we judged that the resolution of the UFR finding also addressed the finding in the OSA report. Because Elder Affairs had approved the inclusion of capital budget items in the contract budget but had not utilized a capital budget, we did not think recovery of the identified amount from the provider was appropriate.

g. Department of Mental Health

As you are fully aware, the Department of Mental Health takes the State Auditor's reports very seriously and we do make every effort to ensure that any material

findings noted are incorporated into a Corrective Action Plan, reviewed by both parties and forwarded to the appropriate agencies within the time limits established under 808 CMR.

There are two instances noted [in the audit report]...whereas, DMH either reduced or eliminated the original liability noted in the audit report...

[DMH describes the circumstances under which it reduced or eliminated liabilities.]

Of the two and a third million dollars of revenue we have billed providers over the past five years...the two noted above are the only two we have ever negotiated downward. It is our policy not to refute any State Auditor report findings or any Operational Services audit exceptions unless the provider can clearly demonstrate that evidence relevant to the charge somehow got overlooked by either the provider or the state auditors. Additionally, in both cases noted above, the entities demonstrated that they had more than enough uncommitted revenues available from non-Commonwealth sources to defray the non-reimbursable costs in question.

Auditor's Reply

According to the responses we received and information that OSD provided, six of the 10 state agencies have taken some measures to address our concerns regarding their compliance with OSD's Audit Resolution Policy.

In some instances, state agencies (e.g., EOEAA) explained why they did not develop a CAP. However, OSD's policy requires that whenever deficiencies have been identified, a CAP must be prepared and submitted to OSD. When this process is not consistently followed, there is inadequate assurance that the deficiencies identified will be equitably and expeditiously resolved. Consequently, we again recommend that state agencies take the measures necessary to ensure that they adhere to the OSD's standards for the establishment of an adequate audit-resolution system. At a minimum, those measures should include the development and implementation of formal written procedures for the audit-resolution process.

APPENDIX

Listing of Selected Audit Reports

Audit Number	Audited Provider	Audit Period	Principal Purchasing Agency	Report Issue Date
97-2020-2	Behavioral Health Network, Inc.	7/1/93 - 5/31/96	DMH	3/31/98
99-4390-3	Berkshire Community Action Council, Inc.	10/1/96 - 9/30/98	DHCD	4/27/00
97-4371-3	Boston Community Services, Inc.	7/1/94 - 6/30/96	DMH	2/10/98
2000-4419-3	Brandon Residential Treatment Center, Inc.	7/1/97 - 6/30/99	DSS	7/21/00
99-4316-3	Cape Cod Alcoholism Intervention and Rehabilitation Unit, Inc.	7/1/97 - 9/30/98	DPH	5/2/00
97-4338-3	Center for Health and Human Services, Inc.	7/1/94 - 12/31/97	DPH	6/22/99
96-6002-9	Comprehensive Mental Health Systems, Inc.	7/1/93 - 6/30/95	DMR	8/28/98
99-4392-3	Concord-Assabet Family and Adolescent Services, Inc.	7/1/96 - 12/31/99	DSS	6/19/00
97-4370-3	The Cooperative for Human Services, Inc.	7/1/94 - 12/31/96	DMR	6/30/98
99-4394-3	Delta Projects, Inc.	7/1/97 - 6/30/98	DMR	6/21/00
98-4010-3	Hampshire Community Action Commission, Inc.	10/1/96 - 9/30/97	DOE	10/13/98
97-4377-3	Herbert Lipton Community Mental Health Center, Inc., D/B/A The Lipton Center	7/1/95 - 12/31/96	DMH	2/16/99
97-4368-3	Integra, Inc.	7/1/91 - 6/30/95	DMR	10/13/98
98-4305-3	Justice Resource Institute, Inc.	7/1/95 - 6/30/97	DSS	4/23/99
98-4380-3	Massachusetts Half-Way Houses, Inc.	7/1/95 - 12/31/97	DMR	8/31/99
95-6002-3	New England Residential Services, Inc.	7/1/89 - 6/30/96	DMR	2/25/99
97-4375-3	Open Pantry Community Services, Inc.	1/1/95 - 12/31/96	DTA	12/12/97
98-4384-3	People Acting in Community Endeavors, Inc.	10/1/96 - 2/28/98	OCCS	8/16/99
97-4374-3	Plymouth Area Coalition for the Homeless Inc.	7/1/95 - 12/31/96	DTA	10/28/98
2000-4413-3	Professional Family Child Care Services, Inc.	1/1/97 - 12/31/99	OCCS	11/20/00
2000-4417-3	Project Cope, Inc.	7/1/98 - 12/31/99	DPH	3/20/01
98-4383-3	Riverside Community Mental Health and Retardation Center, Inc.	7/1/96 - 6/30/98	DMH	9/30/99
99-4393-3	Southwest Boston Senior Services, Inc., D/B/A Ethos	7/1/97 - 6/30/98	EOEA	9/29/99
98-4385-3	Springfield Action Commission, Inc.	7/1/95 - 6/30/98	OCCS	5/27/99
98-4278-3	Tapestry Health Systems, Inc.	7/1/94 - 1/31/98	DPH	7/2/99
97-4365-7	The Vietnam Veterans Workshop, Inc., D/B/A The New England Shelter for Homeless Veterans	7/1/95 - 6/30/96	DVS	1/30/98
96-4050-3	Vinfen Corporation	7/1/94 - 6/30/95	DMH	2/10/98