OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial-Related Audit

Department of Administration

Governor-elect Transition Funding

JULY 10, 2003 03-39

Financial Audit Division

The Office of the Legislative Auditor (OLA) is a professional, nonpartisan office in the legislative branch of Minnesota State government. Its principal responsibility is to audit and evaluate the agencies and programs of state government (the State Auditor audits local governments).

OLA's Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division also investigates allegations that state resources have been used inappropriately.

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- Promote Accountability,
- Strengthen Legislative Oversight, and
- Support Good Financial Management.

Through its Program Evaluation Division, OLA conducts several evaluations each year and one best practices review.

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If you have comments about our work, or you want to suggest an audit, investigation, evaluation, or best practices review, please contact us at 651-296-4708 or by e-mail at auditor@state.mn.us

OFFICE OF THE LEGISLATIVE AUDITOR
State of Minnesota • James Nobles, Legislative Auditor

Representative Tim Wilkin, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. Brian Lamb, Commissioner
Department of Administration

In conjunction with our audit of the Office of the Governor, we examined the Governor-elect transition funding administered by the Department of Administration for Governor Tim Pawlenty, as further explained in Chapter 1. Our audit scope was limited to professional services. The audit objective and conclusions are highlighted in Chapter 2 of this report.

We conducted our audit in accordance with *Government Auditing Standards*, as issued by the Comptroller General of the United States. Those standards require that we obtain an understanding of management controls relevant to the audit. The standards require that we design the audit to provide reasonable assurance that the Department of Administration complied with provisions of laws, regulations, and contracts that are significant to the audit. The management of the Department of Administration is responsible for establishing and maintaining the internal control structure and complying with applicable laws, regulations, and contracts.

This report is intended for the information of the Legislative Audit Commission and the management of the Department of Administration. This restriction is not intended to limit the distribution of this report, which was released as a public document on July 10, 2003.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: March 31, 2003

Report Signed On: July 8, 2003

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Department of Administration
Governor-elect Transition Funding

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Audit Participation

The following members of the Office of the Legislative Auditor prepared this report:

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Brad White, CPA, CISA	Audit Manager
Michael Hassing, CPA	Auditor-in-Charge

Exit Conference

We discussed the results of the audit with the following staff of the Department of Administration at an exit conference on June 25, 2003:

Brian Lamb	Commissioner
Judy Plante	Director, Management Analysis Division

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Report Summary

In conjunction with our audit of the Office of the Governor, we examined the Governor-elect transition funding of $250,000 made available to Governor Tim Pawlenty by the Office of the Attorney General through an interagency agreement. The Department of Administration's Management Analysis Division provided administrative support for the transition office and recorded transactions in the state's accounting system. The division spent a total of $60,339 for the transition activities and returned the unspent balance of $189,661 to the Office of the Attorney General on April 2, 2003.

Key Findings

- The Management Analysis Division did not follow all of the legal requirements for contracting of professional and technical services for Governor-elect Tim Pawlenty's transition team. The timing of funding, and the lack of a defined financial structure for the transition office, caused contractors to complete a significant portion of the work prior to having fully executed contracts, and required that contracts be amended for unanticipated travel costs. In addition, the transition office obtained legal services totaling $9,200 without a formal contract, and one delayed contract was unnecessary. (Finding 1, page 6)

Financial-Related Audit Reports address internal control weaknesses and noncompliance issues noted during our audits of state departments and agencies. The scope of our audit work at the Department of Administration was limited to financial activities of the Governor-elect Transition Office. The department's response is included in the report.

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Chapter 1. Introduction

Tim Pawlenty won the November 2002 election for Governor and was sworn into office on January 6, 2003. In order to be fully operational by January, Governor-elect Pawlenty needed to use the interim time to assemble his administration. He had to hire staff and prepare for the upcoming legislative session. He also attended out-of-state meetings held for new governors. Typical of prior administrations, the Governor-elect formed a transition team. Because Governor-elect Pawlenty did not take office until January, he could not use his portion of the Governor's Office appropriation to fund transition activities. In order to finance transition costs, on November 15, 2002, the Office of the Attorney General transferred $250,000 to the Department of Administration pursuant to a joint powers agreement authorized under Minn. Stat. Section 471.59.

The transition office spent a total of $78,967, including $60,339 from the Department of Administration and $18,628 from the Department of Finance. Most of the expenditures were for contracted personnel and legal services, and travel. Table 1-1 summarizes the expenditures paid by the departments of Administration and Finance.

Table 1-1
Governor-elect Pawlenty Transition Funding
Summary of Expenditures by Type
As of May 12, 2003

Expenditure Type	Department of Administration (Attorney General Funds)	Department of Finance	Total
Professional Contract Services	$29,081	$ 0	$29,081
Legal Services	9,200	0	9,200
Rent	0	1,183	1,183
Printing	0	1,279	1,279
Computer Services	992	0	992
Communications	593	8,772	9,365
Travel	12,623	932	13,555
Supplies and Equipment	452	2,682	3,134
Other Operating Costs	7,398	3,780	11,178
Total Expenditures	$60,339	$18,628	$78,967

Source: Statewide Accounting System - IA Warehouse expenditures and encumbrances as of May 12, 2003.

The Department of Administration returned the unspent balance of $189,661 ($250,000 less $60,339) to the Office of the Attorney General on April 2, 2003.

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Chapter 2. Governor-elect Transition Funding

Chapter Conclusions

The Management Analysis Division accurately paid vendors and recorded transition office expenditures in the accounting system. However, due to the timing of funding and the lack of a defined financial structure for the transition office, the division did not follow all of the contract requirements for professional and technical services obtained on behalf of the Governor-elect's transition office.

On November 15, 2002, the Office of the Attorney General transferred $250,000 to the Department of Administration to fund the Governor-elect transition costs pursuant to a joint powers agreement authorized under Minn. Stat. Section 471.59. The Department of Administration's Management Analysis Division provided administrative support for the transition team and was responsible for ensuring funds were spent in accordance with state guidelines. The division also recorded the transactions on the state's accounting system (MAPS).

Audit Objective and Methodology

We focused on the following objective during our review of transition office professional services expenditures for the Governor-elect:

- Did the Management Analysis Division properly contract for services, accurately pay vendors, and properly record transition office expenditures in the accounting system?

To meet this objective, we interviewed staff from the division to gain an understanding of the disbursement process for the transition office. We analyzed transactions and performed tests on selected transition financial activity. We reviewed documentation supporting the accounting transactions and determined the validity of summary information.

Conclusions

The Management Analysis Division accurately paid vendors and recorded transition office expenditures in the accounting system. However, due to the timing of funding and the lack of a defined financial structure for the transition office, the division did not follow all of the contract requirements for professional and technical services obtained on behalf of the Governor-elect's transition office.

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Governor-elect Transition Funding

1. The Management Analysis Division did not follow all of the state requirements for contract services obtained on behalf of the Governor-elect's transition office.

The Management Analysis Division faced challenges in administering the transition office due to a lack of funding and an undefined financial structure. The Office of the Attorney General provided an unexpected source of funding nine days after the election, which necessitated quick planning for use of those funds. The division entered into professional service contracts pursuant to Minn. Stat. Chapter 16C. It developed contracts for personnel services on behalf of the Governor-elect's transition office by amending the department's Professional-Technical Services Annual Plan. However, we noted the following concerns with the execution of the contracts.

- Contractors started work for the Governor-elect's transition team prior to having fully executed contracts on file. The division prepared "16A" violation letters for three of four transition office contracts. Through this procedure, the division acknowledged that it incurred obligations prior to having executed contracts and encumbrance of funds in the accounting system. Minn. Stat. Section 16C.05, Subd. 2 states that a contract is not valid until it is fully executed and Section 16A.15 prohibits incurring obligations unless sufficient funds have been encumbered or an unencumbered balance exists in the accounting system. Many of the transition office contracts were executed two to three weeks after the start of work and accompanied by "16A" letters, which explain reasons and justification for the contract delay. Furthermore, amended letters were prepared when travel reimbursements caused anticipated contract levels to be exceeded. These amended letters were not filed until late in January 2003 or early February 2003, well after the costs were incurred.

- The division negotiated one transition office contract for $4,000 that overlapped days when the person was being paid for leave and holidays as a legislative employee. The contract was effective from January 1, 2003, to January 31, 2003, and the employee was on paid leave from January 1, 2003, to January 13, 2003. This allowed the employee to receive one additional month of insurance coverage. Typically, contracts should not be entered into with employees who are still on the state payroll.

- The division obtained legal services totaling $9,200 for the transition office without a formal contract. Without a negotiated contract, the office could not ensure it paid invoices at negotiated terms and rates authorized by management. In addition, key legal criteria were not documented in writing, such as requirements for data practices, civil rights, and audit access to contractor records.

- One transition office contract for services had not been executed as of March 31, 2003, and actually did not compensate for services rendered. Its only purpose was to reimburse the contractor for $3,001 of supplies and travel costs incurred for interviews in January 2003 with candidates for commissioner of Children, Families & Learning and the assistant commissioner for the Department of Trade and Economic Development. The division could have directly paid these travel claims without a contract.

We acknowledge that the state received services as a result of these contracts. However, the Management Analysis Division should comply with the applicable statutes and guidelines established for professional and technical contracts.

Recommendation

- *The Department of Administration should work with the legislature to create an appropriate financial structure for the Governor-elect's transition office.*

- *The Management Analysis Division should ensure that it follows all of the requirements for professional and technical service contracts by:*
  - *ensuring paid contractors do not begin work prior to the execution of written contracts and anticipating all costs to avoid the need for amendments to original contracts;*
  - *requiring that state employees terminate employment prior to entering into a contract for services;*
  - *entering into written agreements with all contractors that provide professional services for the transition office; and*
  - *avoiding unnecessary contracting by directly paying for transition office travel when possible.*

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Department of Administration

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July 1, 2003

James R. Nobles, Legislative Auditor
First Floor South, Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Re: Audit of the Governor-Elect Transition Funding

The Department of Administration (Admin) would like to thank you for the recent opportunities to discuss with your staff the audit results pertaining to the Governor-elect transition funding that Admin administered for Governor Pawlenty. We appreciate your staff's efforts to bring areas needing improvement to our attention and especially, their interest in understanding our views of the underlying reasons for the audit issues.

As reflected in the audit report, the establishment, operation and phase out of the transition office presents interesting challenges with each iteration. Every four years, Admin's Management Analysis Division (MAD) coordinates the planning and, if needed, the execution of the governor-elect's transition office which:

- does not exist in legislation;
- must be capable of responding to the needs of each major candidate for Governor;
- will be staffed by an unknown mixture of volunteers, loaned public sector staff, and paid staff (if funds are available); and
- must be ready to operate on the day after election and respond to all possible contingencies within the 8.5-week period prior to inauguration.

This past year, an additional challenge was added when the appropriation for this activity was deleted in early budget cuts, leaving MAD to plan for the office with borrowed and loaned supplies, staff, and minimal funding to support basic functions such as phones and computer lines. The offer of funds from the Attorney General, which occurred after the election, meant it was possible to do more, but also meant MAD was put in the position of catching up after the fact. It is within this context that the issues identified in the audit report arose.

We concur with the findings contained in the audit report. We also are committed to implementing the recommendations you have suggested. Summarized below are our plans to take necessary corrective actions to resolve the audit issues.

Recommendation #1:

The Department of Administration should work with the legislature to create an appropriate financial structure for the Governor-elect's transition office.

We will actively pursue legislative language to create an appropriate structure for the Governor-elect's transition office, perhaps using the federal Presidential transition office as a model.

Person responsible: Judy Plante
Targeted implementation date: June 30, 2004

Recommendation #2:

Management Analysis Division should ensure that it follows all of the requirements for professional and technical contracts by:

- ***ensuring paid contractors do not begin work prior to the execution of written contracts and anticipating all costs to avoid the need for amendments to original contracts;***
- ***requiring that state employees terminate employment prior to entering into a contract for services;***
- ***entering into written agreements with all contractors that provide professional services for the transition office; and***
- ***avoiding unnecessary contracting by directly paying for transition office travel when possible.***

We will explore further with the Campaign Finance and Public Disclosure Board which costs may or may not be incurred by an elected official and financed with campaign funds. This will enable us to more accurately predict the categories of expenses that will require contracts at the beginning of the transition office period.

Additional consideration will be given to enhancing materials provided to all political parties prior to the next gubernatorial election to orientate them to MAD's administrative role and hiring, contracting, and other state business practices.

Person responsible: Judy Plante
Targeted implementation date: November 1, 2007

Again, we appreciate the opportunity to respond.

Sincerely,

/s/ Brian J. Lamb

Brian J. Lamb
Commissioner

c: Claudia Gudvangen, CPA, Deputy Legislative Auditor
Larry Freund, Financial Management Director, Admin
Judy Plante, Management Analysis Division Director, Admin
Deborah Tomczyk, Human Resources Director, Admin
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