OLA **OFFICE OF THE LEGISLATIVE AUDITOR**
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Office of the Governor and Lieutenant Governor

Internal Controls and Compliance Audit

July 2013 through March 2015

October 16, 2015 **Report 15-13**

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Conclusion on Internal Controls

The Financial Audit Division bases its conclusion about an organization's internal controls on the number and nature of the control weaknesses we found in the audit. The three possible conclusions are as follows:

Conclusion	Characteristics
Adequate	**The organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Generally Adequate	**With some exceptions, the organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Not Adequate	**The organization had significant weaknesses in the design and/or implementation of its internal controls and, as a result, the organization was unable to effectively manage the risks related to its financial operations.**

October 16, 2015

Representative Sondra Erickson, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Mark Dayton, Governor
Office of the Governor and Lieutenant Governor

The Honorable Tina Smith, Lieutenant Governor
Office of the Governor and Lieutenant Governor

This report presents the results of our internal controls and compliance audit of the Office of the Governor and Lieutenant Governor for the period from July 1, 2013, through March 31, 2015. The objectives of this audit were to determine if the office had adequate internal controls for its financial operations and complied with finance-related legal requirements.

We discussed the results of the audit with the office's staff at an exit conference on October 5, 2015. This audit was conducted by Scott Tjomsland, CPA, CISA (Audit Director) and auditors Daphne Fabiano, CPA (Auditor-in-Charge) and Heather Rodriguez.

We received the full cooperation of the office's staff while performing this audit.

James R. Nobles
Legislative Auditor

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

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Report Summary

This audit examined receipts and expenditures of the Office of the Governor and Lieutenant Governor during the period from July 2013 through March 2015. The audit focused on whether the office had adequate internal controls to ensure that it used money from its General Fund appropriation and from executive branch agencies in compliance with finance-related legal requirements.

The office received an annual appropriation of $3,353,000 in fiscal years 2014 and 2015 from the General Fund. In addition, eighteen state agencies and three other units of government provided money to the office to support its activities related to legislative and cabinet affairs, federal affairs, and constituent services.[1] Those revenues totaled $895,000 and $1,185,000 in fiscal years 2014 and 2015, respectively.

Conclusion

The Office of the Governor and Lieutenant Governor's internal controls were generally adequate to ensure that the office safeguarded its financial resources, appropriately paid employees and vendors, and complied with finance-related requirements. For the items we tested, the office generally complied with significant finance-related legal requirements. The office also resolved the prior audit findings.[2] However, the office failed to obtain reimbursements for use of a state airplane for travel to two events that appeared to be political and over collected money from state agencies for services performed by the office.

Audit Findings

- The Office of the Governor and Lieutenant Governor did not obtain reimbursement for state airplane costs incurred for the Governor to travel to two events that appeared to be political. (Finding 1, page 7)

- The Office of the Governor and Lieutenant Governor collected more money from interagency agreements with state agencies than it needed to support the services it performed for those agencies, and the office has allowed the year-end balances from these revenues to grow significantly. (Finding 2, page 9)

[1] Executive branch state agencies included the departments of Administration, Agriculture, Commerce, Corrections, Education, Employment and Economic Development, Health, Human Services, Labor and Industry, Management and Budget, Military Affairs, Natural Resources, Public Safety, Revenue, Transportation, Veterans Affairs, and Office of MN.IT Services and Pollution Control Agency. Other units of government included the Metropolitan Council, Minnesota Housing Finance Agency, and Office of Higher Education.

[2] Office of the Legislative Auditor, Financial Audit Division Report 14-01, *Office of the Governor*, issued January 16, 2014. The report covered the period from January 2011 through June 2013.

Office of the Governor and Lieutenant Governor Overview

The Office of the Governor and Lieutenant Governor is a constitutional office in the executive branch of state government.[3] The Governor's major duties include appointing state department heads, members of state boards and commissions, and judges; signing or vetoing legislation passed by the Legislature; calling special sessions of the Legislature when needed; and consulting with state legislators during annual legislative sessions. In addition, the Governor is the Commander-in-Chief of the Minnesota National Guard and oversees emergency responses. The Governor also chairs numerous governing boards, such as the State Executive Council, the State Board of Investment, the Land Exchange Board, and the Board of Pardons.

The Lieutenant Governor's chief duties are to assist the Governor in carrying out the functions of the executive branch and to act in the place of the Governor in the event of the Governor's absence or disability. The Lieutenant Governor's duties also include chairing the Capital Area Architectural Planning Board and serving as a member of the State Executive Council.

The Governor and Lieutenant Governor are jointly elected to a four-year term in a statewide general election. Mark Dayton and Yvonne Prettner Solon were elected as Governor and Lieutenant Governor, respectively, in November 2010. Governor Dayton was re-elected in November 2014, and Tina Smith was elected Lieutenant Governor.

The office receives an annual General Fund appropriation to finance the majority of its operations, including the operation of the Governor's residence. The General Fund appropriation for fiscal years 2014 and 2015 was $3,353,000 each year.

In addition to its General Fund appropriation, eighteen state agencies and three other units of government provided money to the office to support its activities related to legislative and cabinet affairs, federal affairs, and constituent services.[4] State law required an annual report to certain legislators and legislative

[3] *Minnesota Constitution*, Article V.

[4] Executive branch state agencies included the departments of Administration, Agriculture, Commerce, Corrections, Education, Employment and Economic Development, Health, Human Services, Labor and Industry, Management and Budget, Military Affairs, Natural Resources, Public Safety, Revenue, Transportation, Veterans Affairs, and Office of MN.IT Services and Pollution Control Agency. Other units of government included the Metropolitan Council, Minnesota Housing Finance Agency, and Office of Higher Education.

committees detailing the money provided.[5] That money totaled $895,000 and $1,185,000 in fiscal years 2014 and 2015, respectively.

During fiscal years 2014 and 2015, the office collected approximately $38,000 from Governor Dayton, private parties, and other state agencies to offset the costs related to their use of the Governor's residence for events and meetings or for other reimbursements.

Table 1 summarizes the office's expenditures for fiscal years 2014 and 2015.

Table 1
Expenditures
Fiscal Years 2014 and 2015[1]

Expenditures[2]	2014	2015
Payroll	$3,507,359	$3,887,882
Employee Expense Reimbursements	22,238	30,782
Rent	263,961	305,227
Professional/Technical Services	82,547	37,920
Travel	12,042	29,591
Supplies/Equipment	98,277	112,792
Other Expenditures	269,877	287,390
Total Expenditures	$4,256,301	$4,691,584

[1] The scope of our audit included fiscal year 2015 activity from July 1, 2014, through March 31, 2015.

[2] The office recorded certain receipts for the use of the Governor's residence and other reimbursements as expenditure reductions in the accounting system. Those receipts totaled $13,624 in 2014 and $24,621 in 2015.

Source: State of Minnesota's accounting system.

Audit Objective, Scope, and Methodology

The objective of our audit of the Office of the Governor and Lieutenant Governor for the period July 1, 2013, through March 31, 2015, was to answer the following questions:

- Did the Office of the Governor and Lieutenant Governor have adequate internal controls to ensure that the office safeguarded its financial resources, appropriately paid employees and vendors, and complied with finance-related legal requirements?

- Did the Office of the Governor and Lieutenant Governor comply with significant finance-related legal requirements?

[5] *Laws of Minnesota* 2013, chapter 142, art. 1, sec. 3. The reports are available from the Legislative Reference Library at the following website: http://www.leg.state.mn.us/edocs/edocs.aspx?oclcnumber=45612816

- Did the Office of the Governor and Lieutenant Governor resolve prior audit findings?[6]

To answer these questions, we gained an understanding of the office's financial policies and procedures. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements. We obtained and analyzed the office's accounting data to identify unusual trends or significant changes in financial operations. We examined samples of financial transactions and reviewed supporting documentation to determine whether the office's controls were effective, and if the transactions complied with laws, regulations, policies, and contract provisions.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective.

We used various criteria to evaluate internal controls and compliance. We used, as our criteria to evaluate internal controls, the guidance contained in the *Standards of Internal Control in the Federal Government*, published by the Government Accountability Office.[7] We used state laws, regulations, and contracts, as well as policies and procedures established by the office as evaluation criteria over compliance.

Conclusion

The Office of the Governor and Lieutenant Governor's internal controls were generally adequate to ensure that the office safeguarded its financial resources, appropriately paid employees and vendors, and complied with finance-related requirements. For items tested, the office generally complied with significant finance-related legal requirements. The office also resolved the prior audit findings. However, the office failed to obtain reimbursements for use of a state airplane for travel to two events that appeared to be political and over collected money from state agencies for services performed by the office.

The following *Findings and Recommendations* provide further explanation about the exceptions noted above.

[6] Office of the Legislative Auditor, Financial Audit Division Report 14-01, *Office of the Governor*, issued January 16, 2014. The report covered the period from January 2011 through June 2013.

[7] The state has adopted these standards as its internal control framework for the executive branch.

Findings and Recommendations

Finding 1

The Office of the Governor and Lieutenant Governor did not obtain reimbursement for state airplane costs incurred for the Governor to travel to two events that appeared to be political.

The office did not obtain reimbursement of $1,688 from the Dayton campaign committee for state airplane costs incurred for the Governor to travel to two events that appeared to be political. While the trips involved official Governor functions, each trip also included a stop to attend an American Federation of State, County, and Municipal Employees (AFSCME) council convention. A trip on October 5, 2013, included a stop in Duluth for the AFSCME Council 5 convention before continuing to Brainerd for an official function. The stop in Duluth added $484 to the cost of the trip. A trip on October 11, 2013, included a stop in Grand Rapids for the AFSCME Council 65 convention before continuing to Mankato for an official function. The stop in Grand Rapids added $1,204 to the cost of the trip.

In January 2014, we issued an audit report on the Governor's office, which concluded the following:

> The state has not established a consistent standard for determining whether it is lawful for the Governor to use a state airplane to travel to political events. Generally, in state government, public money and other public resources may only be used for official government purposes. However, it has been accepted that the state may provide the Governor with security protection even when the Governor is participating in private activities, including political events. In addition, by law, the state provides the Governor with a motor vehicle (driven by a state trooper), which may be used for all travel, including travel to political events. If it is allowable for the Governor to use a state airplane to travel to political events, that use should also be authorized in law, and the law should expressly require reimbursement from the appropriate political organization.

In responding to our 2014 report, the Governor's office said that to meet security concerns and achieve efficient management of the Governor's schedule, the office preferred to use a state airplane rather than a private charter airplane for all of the Governor's air travel needs. However, the office agreed—despite the legal uncertainty—that public money should not be used to pay for air travel to political events.[8] Specifically, the office responded:

> This Office, therefore, established a policy to reimburse the State entirely for any additional costs incurred when the Governor's air travel included both official and non-official business. We modeled our policy after the practice of federal administrations, which use government-owned and -operated airplanes for all air travel by the Chief Executive and other senior executives, and then reimburse the government for the costs attributable to any political events. Our policy thus called for the Governor's political committee to fully reimburse the state for any air travel costs incurred by adding political activities to travel for state business. In no circumstance do taxpayers bear any costs for a state plane used for the Governor's political travel.[9]

When we raised concerns in this audit about public money being used to pay the Governor's air travel to attend the AFSCME conventions, the Governor's staff told us they did not believe the conventions were political events. However, documents we reviewed indicated that AFSCME invited the Governor to each convention to address several key campaign issues, such as raising taxes on the rich and increasing the minimum wage. In addition, at each convention, the AFSCME council announced its endorsement of the Governor for re-election in 2014. In a press release announcing its endorsement of the Governor's re-election, AFSCME Council 5 described itself as "One of the state's largest and most politically active unions."

In our opinion, the costs related to the Governor's appearances at the AFSCME council conventions should be paid for by the Governor's campaign committee, not by the state with public money.

Recommendation

- *The Office of the Governor and Lieutenant Governor should obtain $1,688 from the Dayton campaign committee as reimbursement for state airplane costs incurred for the Governor to travel to political events.*

[8] The legal uncertainty remains. Since we issued our report in January 2014, the Legislature has not clarified in law whether it is appropriate for the Governor to use the state airplane for political trips, nor whether reimbursement is required when a state airplane is used.

[9] Office of the Legislative Auditor, Financial Audit Division Report 14-01, *Office of the Governor*, issued January 16, 2014, page 16.

The Office of the Governor and Lieutenant Governor collected more money from interagency agreements with state agencies than it needed to support the services it performed for those agencies, and the office has allowed the year-end balances from these revenues to grow significantly.

Finding 2

The office executed annual interagency agreements with eighteen executive branch state agencies and three other units of government to collect money to support its activities related to legislative and cabinet affairs, federal affairs, and constituent services, but collected more than was needed. Instead of returning unspent money to the agencies at the end of each fiscal year, the office put the money in a special revenue account and carried it forward to the next fiscal year.

Governors in the past have also used interagency agreements to obtain revenue from executive agencies and carried forward money that was unspent. Between fiscal years 2004 and 2010, the amounts carried forward from one fiscal year to the next ranged from $3,499 to $75,994.

Table 2 shows the amounts collected, spent, and carried forward for fiscal years 2011 to 2015.

Table 2
Office of the Governor and Lieutenant Governor
Special Revenue Account Activity
Fiscal Years 2011 to 2015

	2011	2012	2013	2014	2015
Carried forward from prior fiscal year	$ 7,054	$461,630	$420,497	$ 540,567	$ 372,704
Collected from other agencies	670,000	720,000	720,000	895,000	1,185,000
Expended	215,424	761,133	599,930	1,062,863	1,177,613
Carried forward to next fiscal year	$461,630	$420,497	$540,567	$ 372,704	$ 380,091
Percent of collections carried forward to next fiscal year	68.90%	58.40%	75.08%	41.64%	32.08%

Source: State of Minnesota's accounting system.

Before the start of each fiscal year, the office calculated an estimate of the total costs it would incur to support the agencies and allocated those costs between the agencies. The percent allocated to each agency has been consistent for several years. The interagency agreements for the allocated amounts stated, "Cabinet agencies will contribute funds to be used for salaries, fringe benefits, and operating expenses to help support work related to federal affairs, legislative and cabinet affairs staff, communications, constituent-services, and legal staff." The terms of the interagency agreements were effective for a single fiscal year. The office collected the entire amount due under each agreement around July 15, near the beginning of the fiscal year.

State law does not address what the Governor's office is required to do with excess revenue from its interagency agreements. The agreements themselves suggest that the money paid by agencies to the Governor's office is for specific services provided during the one-year timeframe of each agreement and not a mechanism to fund the office's general operations.

Office staff told us that they consider any unspent balance carried forward from the prior fiscal year in its calculation of the total amount to collect from the agencies. However, the office could not provide us with any documentation showing how it calculated those amounts. Moreover, whatever method it used did not resolve the issue of growing balances in the account.

Recommendations

- *The Office of the Governor and Lieutenant Governor should limit the amount it collects from state agencies each year to the amount needed and document its method and assumptions.*

- *If the Office of the Governor and Lieutenant Governor believes it is a necessary budgetary practice to carry forward money collected from annual interagency agreements, it should seek more expected authorization in state law.*

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October 13, 2015

Mr. James Nobles
Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building, Suite 140
658 Cedar Street
Saint Paul, Minnesota 55155

Dear Mr. Nobles:

Thank you for the opportunity to respond to the findings and recommendations in the audit of the Governor's Office for the period of July 1, 2013 through March 31, 2015. We deeply understand the responsibility of the Governor's Office to establish and maintain policies and procedures that ensure internal controls of our fiscal activities. We believe that this Office has maintained and implemented strong fiscal controls to guarantee good financial management and proper operations.

With regard to the report's findings, we provide the following responses.

Finding
The Office of the Governor and Lieutenant Governor did not obtain reimbursement for the state airplane costs incurred for the Governor to travel to two events that appeared to be political.

Recommendation
The Office of the Governor and Lieutenant Governor should obtain $1,688 from the Dayton campaign committee as reimbursement for state airplane costs incurred for the Governor to travel to two political events.

Response
This Office carefully delineates political vs. official travel. We have protocols in place to ensure that the State does not incur costs for political travel, and we reimburse the State for all additional travel costs incurred as a result of political travel. In these two instances, the Governor attended the annual conferences of two public employee organizations, as he had in every previous year as governor. In our judgment, the fact that last year was an election year did not change the nature of the events, the invitations for the Governor to appear, or our decision to accept them.

While we do not deem the trips identified in this finding to be political in nature, we recognize that the Office of the Legislative Auditor believes otherwise. To resolve any question of inappropriate use, his campaign committee, Mark Dayton for a Better Minnesota, will reimburse the State for the costs identified in the finding.

Finding

The Office of the Governor and Lieutenant Governor collected more money from interagency agreements with state agencies than it needed to support the services it performed for those agencies, and the office has allowed the year-end balances from these revenues to grow significantly.

Recommendations:

The Office of the Governor and Lieutenant Governor should limit the amount it collects from state agencies each year to the amount needed and document its method and assumptions.

If the Office of the Governor and Lieutenant Governor believes it is a necessary budgetary practice to carry forward money collected from annual interagency agreements, it should seek more expected authorization in state law.

Response

As identified in the report by the Office of the Legislative Auditor, State law does not require that excess revenue from interagency agreements be returned to agencies, and history shows that this Office has carried forward unused special revenue funds since 2005. To our knowledge, the practice of carrying forward unused special revenue funds by previous administrations has never before been questioned in an audit by your Office.

We work diligently each year to develop a budget that meets the needs, goals and desired outcomes of the Governor, the Lieutenant Governor, and the agencies, which comprise our administration. We believe that we are operating well within our authority to carry forward unexpended funds, based upon the precedent established by governors preceding us.

Sincerely,

Jaime Tincher

Jaime Tincher
Chief of Staff