



Emergency Medical Services Regulatory Board Performance Audit

November 2022

Financial Audit Division

OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

Financial Audit Division

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • Judy Randall, Legislative Auditor

November 29, 2022

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Dylan Ferguson, Executive Director
Emergency Medical Services Regulatory Board

This report presents the results of our performance audit of the Emergency Medical Services Regulatory Board for the period July 1, 2018, through April 30, 2021. The objectives of this audit were to determine if the board had adequate internal controls over selected financial activities and complied with significant finance-related legal requirements.

This audit was conducted by Scott Tjomsland, CPA (Audit Director); Valerie Bombach (former Audit Director); Gabrielle Johnson, CPA (Auditor-in-Charge); and auditors Scott Dunning, CPA; and Emily Wiant.

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

Sincerely,

Handwritten signature of Lori Leysen in black ink.

Lori Leysen, CPA
Deputy Legislative Auditor

Handwritten signature of Scott Tjomsland in black ink.

Scott Tjomsland, CPA
Audit Director



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Introduction

The Emergency Medical Services Regulatory Board is responsible for regulating and supporting the emergency medical services system in Minnesota. The board certifies emergency medical services personnel, licenses and inspects ambulance services, registers medical response units, approves and audits education programs, and investigates complaints and allegations of misconduct involving individuals and entities subject to the board's jurisdiction.

We conducted this audit to determine whether the board had adequate internal controls to ensure it safeguarded resources, complied with significant finance-related legal requirements, and resolved prior audit findings.¹ We audited grant expenditures, longevity award payments, payroll and nonpayroll expenditures, and licensing fee receipts. The period under examination was from July 1, 2018, through April 30, 2021.

Internal controls are the policies and procedures management establishes to govern how an organization conducts its work and fulfills its responsibilities. A well-managed organization has strong controls across all of its internal operations. If effectively designed and implemented, controls help ensure, for example, that inventory is secured, computer systems are protected, laws and rules are complied with, and authorized personnel properly document and process financial transactions.

Minnesota Law Mandates Internal Controls in State Agencies

State agencies must have internal controls that:

- Safeguard public funds and assets and minimize incidences of fraud, waste, and abuse.
- Ensure that agencies administer programs in compliance with applicable laws and rules.

The law also requires the commissioner of the Department of Management and Budget to review OLA audit reports and help agencies correct internal control problems noted in those reports.

— *Minnesota Statutes 2022, 16A.057*

Auditors focus on internal controls as a key indicator of whether an organization is well managed. In this audit, we focused on whether the board had controls to ensure that it safeguarded state resources, appropriately spent state funds, and accurately paid its vendors and employees in compliance with state laws and policies.

¹ Office of the Legislative Auditor, Financial Audit Division, *Emergency Medical Services Regulatory Board: Internal Control and Compliance Audit* (St. Paul, 2008).



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Report Summary

Conclusion

The Emergency Medical Services Regulatory Board generally did not comply with the significant finance-related legal requirements we tested and generally did not have adequate internal controls. We identified a significant number of instances of noncompliance and internal control deficiencies.

Findings

Finding 1. The Emergency Medical Services Regulatory Board approved budgets for Emergency Medical Services Relief Account grants that included unallowable uses. (p. 15)

Finding 2. The Emergency Medical Services Regulatory Board reimbursed emergency medical services regions for expenditures that were not included in the approved grant budgets, and did not always make grant payments from the correct grant. (p. 16)

Finding 3. The Emergency Medical Services Regulatory Board did not monitor its Emergency Medical Services Region grants as required by state policy. (p. 17)

Finding 4. The Emergency Medical Services Regulatory Board overpaid licensed ambulance services for ambulance attendant training reimbursements. (p. 20)

Finding 5. The Emergency Medical Services Regulatory Board did not validate the eligibility of volunteer ambulance attendants for reimbursements of education costs associated with the completion of an initial EMT education course. (p. 21)

Finding 6. The Emergency Medical Services Regulatory Board did not retain approval documentation for salary increases given to the former executive director. (p. 26)

Finding 7. The Emergency Medical Services Regulatory Board did not complete annual employee performance reviews. (p. 27)

Finding 8. The Emergency Medical Services Regulatory Board allowed one employee to approve his own timesheets. (p. 28)

Finding 9. The Emergency Medical Services Regulatory Board did not review payroll reports as required by state policy. (p. 29)

Finding 10. The Emergency Medical Services Regulatory Board did not document preapprovals of employee overtime hours, and did not document overtime eligibility for certain employees. (p. 30)

Finding 11. The Emergency Medical Services Regulatory Board incorrectly paid several employees for call-back pay and on-call pay. (p. 32)

Finding 12. The Emergency Medical Services Regulatory Board did not reduce the former executive director's vacation leave balance when he did not reduce it to the cap by the extended deadline. (p. 34)

Finding 13. The Emergency Medical Services Regulatory Board improperly reduced an employee's compensatory time balance. (p. 35)

Finding 14. The Emergency Medical Services Regulatory Board did not administer annual plan contracts in compliance with state policy. (p. 38)

Finding 15. The Emergency Medical Services Regulatory Board did not administer a professional/technical services contract in compliance with state policy. (p. 39)

Finding 16. The Emergency Medical Services Regulatory Board executed two annual plan contracts and a professional/technical services contract with a vendor with which the former executive director had a conflict of interest. (p. 41)

Finding 17. Prior Finding: The Emergency Medical Services Regulatory Board did not conduct physical inventories of its sensitive items as required by state policy. (p. 42)

Background

Emergency Medical Services Regulatory Board Overview and History

The 1995 Legislature created the Emergency Medical Services Regulatory Board, which began operating in Fiscal Year 1996.² State law requires the Governor to appoint 15 of the 19 board members, all of whom (except the public member) must work in Minnesota, as follows:³

- An emergency physician certified by the American Board of Emergency Physicians
- A representative of Minnesota hospitals
- A representative of fire chiefs
- A full-time firefighter who serves as an emergency medical responder on or within a nontransporting or nonregistered agency and who is a member of a professional firefighter's union
- A volunteer firefighter who serves as an emergency medical responder on or within a nontransporting or nonregistered agency
- An attendant currently practicing on a licensed ambulance service who is a paramedic or an emergency medical technician
- An ambulance director for a licensed ambulance service
- A representative of sheriffs
- A member of a community health board to represent community health services
- Two representatives of regional emergency medical services programs, one of whom must be from the metropolitan regional emergency medical services program
- A registered nurse currently practicing in a hospital emergency department
- A pediatrician, certified by the American Board of Pediatrics, with experience in emergency medical services
- A family practice physician who is currently involved in emergency medical services
- A public member who resides in Minnesota

² *Laws of Minnesota* 1995, chapter 207, art. 9, sec. 35. Prior to the creation of the board, the functions now performed by the board were performed by the Minnesota Department of Health.

³ *Minnesota Statutes* 2022, 144E.01, subd. 1.

The law also states that the other four members include the commissioners of the Department of Health and the Department of Public Safety, a state representative appointed by the Speaker of the House, and a state senator appointed by the Senate Committee on Rules and Administration.⁴

Board members hire an executive director to oversee and manage the daily operations of the board. The former executive director served from June 3, 2015, to June 25, 2021. Dylan Ferguson serves as the current executive director and has filled this role since February 7, 2022. He was not involved with or responsible for any of the activity we audited. As of May 2022, the board employed nine full-time staff members and one student worker. The board's mission is to "protect the public's health and safety through regulation and support of the EMS system."⁵

The board is primarily funded from General Fund appropriations. The board also receives appropriations equal to 90 percent of the money in the Emergency Medical Services Relief Account.⁶ In addition, the board receives transfers for interagency grants from the Department of Public Safety. Finally, the board collects various types of receipts, including emergency medical services fees, federal grants, and other miscellaneous receipts.

Beginning in February 2018, the board contracted with the Department of Administration's Small Agency Resource Team (SmART).⁷ SmART provides accounting, payroll, and human resources services to the board.⁸ However, the board retains decision-making authority and is responsible for compliance with legal requirements. The board executes two-year service-level agreements (commonly known as interagency agreements) with SmART. These agreements describe the scope of services and responsibilities of each party.

Audit Scope, Objectives, Methodology, and Criteria

We conducted this audit to determine whether the Emergency Medical Services Regulatory Board had adequate internal controls to ensure it safeguarded resources, complied with significant finance-related legal requirements, and resolved prior audit findings.⁹ We audited emergency medical services fees, grant expenditures, longevity awards, payroll expenditures, and other expenditures. The period under examination

⁴ *Minnesota Statutes 2022*, 144E.01, subs. 1 and 2.

⁵ Minnesota Emergency Medical Services Regulatory Board website, <https://mn.gov/emsrb/about/missionvalues/>, accessed June 16, 2022.

⁶ *Minnesota Statutes 2022*, 169.686, establishes state seat belt requirements and fines for violations of those requirements. The law requires the fines collected for those violations to be deposited into "a special account to be known as the emergency medical services relief account." The law also allocates 90 percent of the money in the account to the state's eight emergency medical services regions.

⁷ Prior to the board's contract with SmART, the Health Licensing Boards' Administrative Services Unit provided accounting, payroll, and human resources services to the board.

⁸ *Minnesota Statutes 2022*, 16B.371(a), authorizes the commissioner of the Department of Administration to provide administrative support services to small agencies.

⁹ Office of the Legislative Auditor, Financial Audit Division, *Emergency Medical Services Regulatory Board: Internal Control and Compliance Audit* (St. Paul, 2008).

was from July 1, 2018, through April 30, 2021. Exhibit 1 shows the board's appropriations and transfers, receipts, and expenditures during the scope of the audit.

Exhibit 1: Appropriations and Transfers, Receipts, and Expenditures, July 1, 2018, through April 30, 2021

Appropriations and Transfers	Amount
General Fund Appropriations ^a	\$11,152,000
Emergency Medical Services Relief Account Appropriations	1,342,078
Interagency Grants from the Department of Public Safety	<u>1,866,870</u>
Total	<u>\$14,360,948</u>
Receipts	Amount
Emergency Medical Services Fees	\$ 207,464
Federal Grants ^b	206,404
Data Requests, Copies, and Miscellaneous Receipts ^c	33,290
Interagency Agreement ^d	17,397
Interest Earnings ^e	<u>426</u>
Total	<u>\$ 464,981</u>
Expenditures	Amount
Grants	\$ 5,983,755
Longevity Awards	2,429,383
Payroll	1,837,725
Other Expenditures	<u>1,786,262</u>
Total	<u>\$12,037,125</u>

^a *Laws of Minnesota* 2017, First Special Session, chapter 6, art. 18, sec. 5, appropriated \$3,596,000 to the board for Fiscal Year 2019. The board did not spend \$1,369,654 from the appropriation, which canceled back to the General Fund. *Laws of Minnesota* 2019, First Special Session, chapter 9, art. 14, sec. 5, appropriated \$3,747,000 and \$3,809,000 to the board for fiscal years 2020 and 2021, respectively.

^b The board received federal grants from the Emergency Medical Services for Children Program. We did not audit these receipts.

^c The board collected receipts for the costs related to data requests from external organizations, copies provided to external organizations, and other miscellaneous receipts. We did not audit these receipts.

^d The board executed an interagency agreement with the Minnesota Department of Health to perform rural ambulance assessments. We did not audit these receipts.

^e The Department of Management and Budget posts the interest earnings on the board's cash held in the state treasury to the board's appropriation accounts in the state's accounting system. We did not audit these earnings.

SOURCE: Office of the Legislative Auditor, based on data in the state's accounting system.

Emergency Medical Services Fees

This part of the audit focused on the collection of the emergency medical services fees required by state law.¹⁰ We designed our work to address the following questions:

- Were the board's internal controls adequate to ensure that it accurately collected and accounted for emergency medical services fees, and safeguarded and deposited fees collected via check, in compliance with applicable legal provisions?
- Did the board accurately collect and account for emergency medical services fees, and safeguard and deposit fees collected via check, in compliance with applicable legal provisions?
- Did the board resolve the prior audit finding?

To gain an understanding of the board's internal controls and compliance requirements for emergency medical services fees, we interviewed board staff. We also analyzed all the fees collected electronically or via check to determine whether they were accurate and properly recorded. Finally, we tested a sample of the fees collected via check to determine if they were properly safeguarded and deposited.

Grants

This part of the audit focused on grant expenditures. We designed our work to address the following questions:

- Were the board's internal controls adequate to ensure that it administered its grants in compliance with applicable legal provisions?
- Did the board administer its grants in compliance with applicable legal provisions?

To gain an understanding of the board's internal controls and compliance requirements for grants, we interviewed board staff. We also reviewed all the grant contracts and any related monitoring procedures for the selected grant type, and tested samples of grant expenditures.

Longevity Awards

This part of the audit focused on longevity award payments. We designed our work to address the following questions:

- Were the board's internal controls adequate to ensure that it accurately paid longevity awards to eligible recipients?
- Did the board accurately pay longevity awards to eligible recipients?
- Did the board resolve the prior audit finding?

To gain an understanding of the board's internal controls and compliance requirements for longevity awards, we interviewed board staff and tested a sample of longevity awards.

¹⁰ *Minnesota Statutes 2022, 144E.29.*

Payroll Expenditures

This part of the audit focused on the accuracy of the compensation paid to employees. We designed our work to address the following questions:

- Were the board's internal controls adequate to ensure that it accurately compensated employees in compliance with applicable legal provisions?
- Did the board accurately compensate employees in compliance with applicable legal provisions?

To gain an understanding of the board's internal controls and compliance requirements for payroll expenditures, we interviewed board staff. We also analyzed holiday pay and conversions of leave to deferred compensation to determine compliance with the employment contracts. Additionally, we tested:

- The starting salaries for all employees hired during the scope of the audit, all the salary increases provided to the former executive director, all the step progression salary increases provided to other board staff, and all retroactive pay rate adjustment payments.
- A random sample of employee timesheets.
- All overtime pay.
- All call-back pay and on-call pay.
- All compensatory time and holiday payoffs.
- All employee leave balance adjustments.
- All separation payments, including compensatory time payoffs, vacation payoffs, and severance payments.

Other Expenditures

This part of the audit focused on expenditures other than grants, longevity awards, and payroll expenditures. We designed our work to address the following questions:

- Were the board's internal controls adequate to ensure it obtained and accurately paid for goods and services, accurately reimbursed employees, and safeguarded assets, in compliance with applicable legal provisions?
- Did the board obtain and accurately pay for goods and services, accurately reimburse employees, and safeguard assets, in compliance with applicable legal provisions?
- Did the board resolve prior audit findings?

To gain an understanding of the board's internal controls and compliance requirements for various types of other expenditures, we interviewed board staff. We also tested all the expenditures under annual plan and professional/technical contracts, and random samples of employee expense reimbursements and other expenditures. Finally, we reviewed the board's asset records.

We conducted this performance audit in accordance with generally accepted government auditing standards.¹¹ 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. When sampling was used, we used a sampling method that complies with generally accepted government auditing standards and that supports our findings and conclusions. That method does not, however, allow us to project the results we obtained to the populations from which the samples were selected.

We assessed internal controls against the most recent edition of the internal control standards, published by the U.S. Government Accountability Office.¹² To identify legal compliance criteria for the activity we reviewed, we examined state laws, state administrative rules, state contracts, and policies and procedures established by the departments of Management and Budget and Administration.

¹¹ Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards* (Washington, DC, July 2018).

¹² Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington, DC, September 2014). In September 2014, the State of Minnesota adopted these standards as its internal control framework for the executive branch.

Emergency Medical Services Fees

State law requires the board to collect the following fees:¹³

- \$150 for the initial application for or renewal of an ambulance service license
- \$96 for each ambulance operated by a licensee¹⁴
- \$100 for the initial application for or renewal of approval for an education program

Exhibit 2 shows the fees collected during the scope of the audit by type.

Exhibit 2: Fees, July 1, 2018, through April 30, 2021

Type	Amount
Ambulance Service Licenses	\$ 66,342
Ambulances Operated by a Licensee	116,622
Education Program Approvals	24,500
Total	\$207,464

SOURCE: Office of the Legislative Auditor, based on data in the state's accounting system.

The ambulance service licenses and approvals for an education program are effective for a two-year period.¹⁵ For the ambulance service licenses, the board established a different two-year period start date for each of the state's eight emergency medical services regions.¹⁶ For the education program approvals, the two-year period begins on the approval date.

The board does not retain the fees collected. Instead, the board deposits the fees "as nondedicated receipts in the general fund."¹⁷

Ambulance services may pay the fees electronically through the board's eLicense system or via check, which must be either mailed to or dropped off at the board's office. During the scope of the audit, the board collected \$176,900 of the fees electronically and \$30,564 via check; the board had 81 check deposit transactions.¹⁸ We tested a random sample of 19 of those check deposit transactions, and 2 additional transactions that we selected based on our analysis, to determine whether the board properly safeguarded and deposited the receipts. We found no issues.

We also analyzed all the fees collected to determine the accuracy of the amounts and whether they were properly recorded in both the eLicense system and the state's accounting system. We found no significant issues.

¹³ *Minnesota Statutes* 2022, 144E.29.

¹⁴ For each ambulance added to the ambulance service during the two-year licensing period, the fee is prorated at a rate of \$4 per month.

¹⁵ *Minnesota Statutes* 2022, 144E.29.

¹⁶ *Minnesota Rules*, 4690.7900, <https://www.revisor.mn.gov/rules/4690/>, accessed April 26, 2021.

¹⁷ *Minnesota Statutes* 2022, 144E.29.

¹⁸ The check deposit transactions also included the \$33,805 the board collected via check for data requests, copies, and miscellaneous receipts.



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Grants

During the scope of the audit, the board had \$5,983,755 in grant expenditures. Exhibit 3 shows the grant expenditures by type.

Exhibit 3: Grant Expenditures, July 1, 2018, through April 30, 2021

Type	Amount
Emergency Medical Services Region Grants	\$3,453,003
Ambulance Attendant Training Reimbursements	482,125
Medical Resource Communication Centers ^a	1,753,033
Emergency Medical Services for Children ^b	<u>295,594</u>
Total Grant Expenditures	\$5,983,755

^a *Laws of Minnesota 2017*, chapter 95, art. 1, sec. 11, subd. 8(b); and *Laws of Minnesota 2019*, First Special Session, chapter 5, art. 1, sec. 12, subd. 8(b), appropriated money to the Department of Public Safety from the 911 Services Fund for grants to the board “for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.” The board granted that money to Hennepin Healthcare System and Regions Hospital. We did not audit these grant expenditures.

^b The board received federal grants from the Emergency Medical Services for Children Program. The board subgranted that money to Children’s Minnesota health care system for the Minnesota Emergency Medical Services for Children Program. We did not audit these grant expenditures.

SOURCE: Office of the Legislative Auditor, based on data in the state’s accounting system.

Emergency Medical Services Region Grants

The state of Minnesota is divided into eight geographic emergency medical services regions, as shown in Exhibit 4. The board awards grants to the eight emergency medical services regions from three different funding sources, as follows:

- Emergency Medical Services System Fund (EMSSF):** The board receives annual General Fund appropriations for this fund. State law requires the board to distribute money in the fund evenly among the eight emergency medical services regions.¹⁹ The regions may use the grants for “personnel training, transportation coordination, public safety agency cooperation, communications systems maintenance and development, public involvement, health care facilities involvement, and system management.”²⁰ The regions may also use the grants “to reimburse eligible emergency medical services personnel for continuing education costs related to emergency care that are personally incurred and are not reimbursed from other sources.”²¹ However, the regions may not use the grants “to directly subsidize any ambulance service operations

¹⁹ *Minnesota Statutes 2022*, 144E.50.

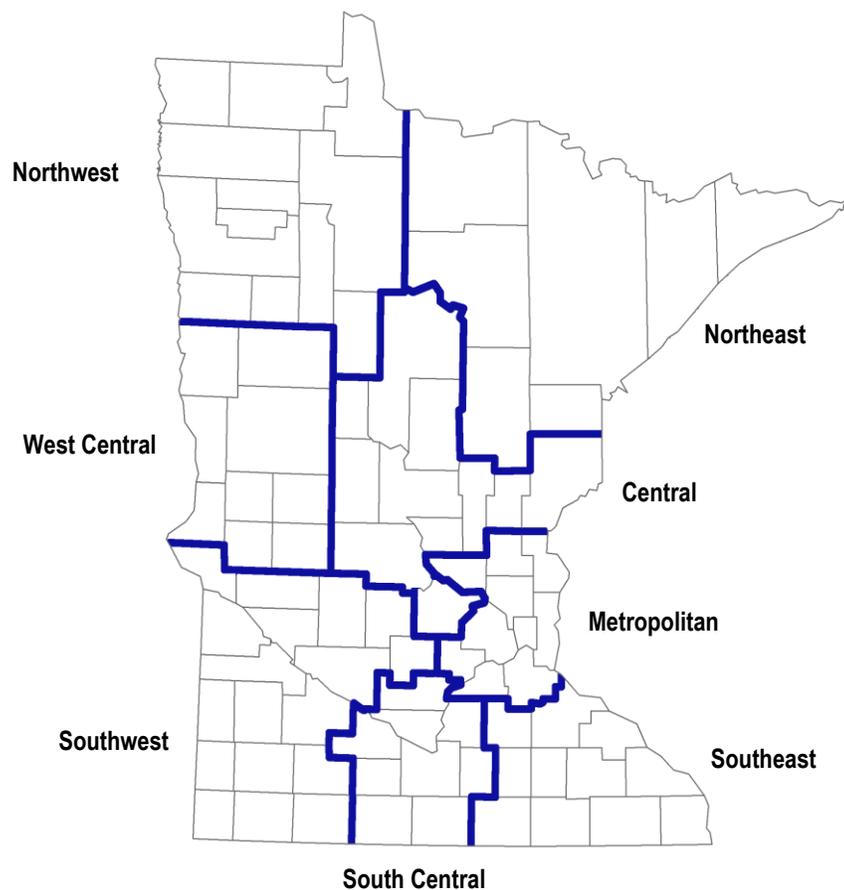
²⁰ *Ibid.*

²¹ *Minnesota Statutes 2022*, 144E.52. The statute states, “Eligible emergency medical services personnel include, but are not limited to, dispatchers, emergency room physicians, emergency room nurses, emergency medical responders, emergency medical technicians, and paramedics.”

or rescue service operations or to purchase any vehicles or parts of vehicles for an ambulance service or a rescue service.”²²

- **Emergency Medical Services Relief Account (EMSRA):** State law requires fines collected for violations of seat belt requirements to be deposited into the account, and allocates 90 percent of the money in the account to the regions “for personnel education and training, equipment and vehicle purchases, and operational expenses of emergency life support transportation services.”²³
- **Ambulance Training Grant Redistributions (ATGR):** The board receives annual General Fund appropriations to reimburse licensed ambulance services for education costs of volunteer ambulance attendants. According to state law, “any unspent portion of the appropriation for ambulance training grants shall not cancel but shall carry forward and be used in the following fiscal year” for the same purposes as the Emergency Medical Services System Fund.²⁴

Exhibit 4: Minnesota Emergency Medical Services Regions



SOURCE: Emergency Medical Services Regulatory Board, <https://mn.gov/emsrb/grantprojects/regional-programs/>, accessed September 26, 2022.

²² *Minnesota Statutes* 2022, 144E.50.

²³ *Minnesota Statutes* 2022, 169.686.

²⁴ *Laws of Minnesota* 2003, First Special Session, chapter 14, art. 13C, sec. 6.

Exhibit 5 shows the Emergency Medical Services Region grant expenditures during the scope of the audit to each region by funding source.

Exhibit 5: Emergency Medical Services Region Grant Expenditures, July 1, 2018, through April 30, 2021

Region	EMSSF	EMSRA	ATGR	Total
Central	\$ 202,265	\$ 142,146	\$ 29,716	\$ 374,127
Metropolitan	216,611	209,614	21,751	447,976
Northeast	205,808	187,383	43,049	436,240
Northwest	201,896	197,790	33,346	433,032
South Central	180,916	180,844	31,853	393,613
Southeast	218,939	173,323	25,782	418,044
Southwest	183,316	252,888	43,049	479,253
West Central	215,221	222,151	33,346	470,718
Total	\$1,624,972	\$1,566,139	\$261,892	\$3,453,003

NOTES: EMSSF is the Emergency Medical Services System Fund, EMSRA is the Emergency Medical Services Relief Account, and ATGR is the Ambulance Training Grant Redistributions.

SOURCE: Office of the Legislative Auditor, based on data in the state's accounting system.

The board executed separate grant contracts for grants from each funding source. During the scope of the audit, the board had Emergency Medical Services Region grant expenditures for 59 different grant contracts, including 16 for EMSSF grants, 24 for EMSRA grants, and 19 for ATGR grants. Those grant contracts included budgets approved by the board for the use of the grant money. We reviewed the budgets in all of those grant contracts and compared the approved uses to the uses allowed by state law.

FINDING 1

The Emergency Medical Services Regulatory Board approved budgets for Emergency Medical Services Relief Account grants that included unallowable uses.

The budgets approved by the board for EMSRA grants included both allowable and unallowable uses. Of the total approved budgets for the grants to the eight regions, more than half each year were for unallowable uses: 64 percent in Fiscal Year 2019, 58 percent in Fiscal Year 2020, and 58 percent in Fiscal Year 2021.

The board published a grant request for proposal for the regions that included both the EMSSF grants and the EMSRA grants. The request accurately identified the allowable uses specified in state law for each grant. However, the budget form attachment incorrectly indicated that certain uses allowable for EMSSF grants were also allowable for EMSRA grants. In addition, the grant contract for EMSRA grants referenced the statutes for both EMSRA and EMSSF grants. The regions submitted, and the board approved, budgets for EMSRA grants that included uses only allowable for EMSSF

grants. Most of the unallowable uses approved in the EMSRA grant budgets were for system management, defined by the board as, “Rent, salaries, supplies, utilities, miscellaneous expenses, operating costs, travel costs, etc.” As a result, the board allowed the regions to use EMSRA grants for unallowable purposes.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should work with the eight emergency medical services regions to recover Emergency Medical Services Relief Account grant funds used for unallowable purposes.**
 - **The Emergency Medical Services Regulatory Board should remove the reference to the statute for the Emergency Medical Services System Fund from its grant contracts for Emergency Medical Services Relief Account grants.**
 - **The Emergency Medical Services Regulatory Board should strengthen internal controls over Emergency Medical Services Relief Account grants to ensure approved budgets only include the allowable uses specified in state law.**
-

During the scope of the audit, the board made 561 grant payments totaling \$3,453,003 for reimbursement requests from the eight regions. We compared the expenditures in the reimbursement requests to the approved grant budgets for a random sample of 60 payments, and 1 additional payment selected based on our analysis. Those payments totaled \$428,564. We also analyzed all grant payments to determine whether they were paid from the correct grant.

FINDING 2

The Emergency Medical Services Regulatory Board reimbursed emergency medical services regions for expenditures that were not included in the approved grant budgets, and did not always make grant payments from the correct grant.

The board reimbursed regions for expenditures that were not included in the approved grant budgets for 11 of the payments we tested. Those payments were made to three different regions and included \$31,658 in expenditures that were not in the approved budgets. According to state policy, “Grantee requests for reimbursement must correspond to the line items in the approved grant budget.”²⁵ The policy also requires agencies to “review each request for reimbursement against the approved budget...”²⁶ The board’s procedures to review and approve reimbursement requests from the regions were not sufficient to identify discrepancies between the requests and approved grant budgets.

²⁵ Minnesota Department of Administration, Office of Grants Management, Operating Policy and Procedure 08-08, *Policy on Grant Payments*, revised April 12, 2021.

²⁶ *Ibid.*

The board also made grant payments to two regions from the wrong grant. For one region, the board made a \$1,609 payment from the EMSSF grant instead of the EMSRA grant. For the other region, the board made a \$7,444 payment from the ATGR grant instead of the EMSSF grant. In addition, the board made five overpayments to this region from both its EMSSF and EMSRA grants. The board withheld subsequent payments to the region to offset the overpayments, but did not consider the grants from which it made the overpayments when it determined the subsequent payments to withhold. As a result, the withheld amounts from each grant did not match the overpayment amounts from each grant, and the board incorrectly paid \$6,967 from the EMSSF grant instead of the EMSRA grant. Grant payments from the wrong grant could result in unallowable uses of grant money and in grantees receiving either more or less grant money than entitled for a particular grant.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should correct the payment errors identified.**
- **The Emergency Medical Services Regulatory Board should strengthen internal controls over grant payments to ensure reimbursed expenditures correspond to the approved grant budgets, and to ensure it makes payments from the correct grant.**

According to state law, “A granting agency shall diligently administer and monitor any grant it has entered into.”²⁷ To facilitate consistent grant monitoring activities among state agencies, the Department of Administration’s Office of Grants Management (OGM) has established policies and procedures that state law requires agencies to follow.²⁸

FINDING 3

The Emergency Medical Services Regulatory Board did not monitor its Emergency Medical Services Region grants as required by state policy.

The board could not provide any evidence that it performed the various grant monitoring procedures required by state policy, as follows:

- State agencies must “monitor progress on state grants by requiring grantees to submit written progress reports at least annually until all grant funds have been expended and all of the terms in the grant contract agreement have been met.”²⁹ In addition, “Grant payments shall not be made on grants with past due progress reports unless the state agency has given the grantee a written extension.”³⁰ The board’s grant request for proposal for the regions stated that semi-annual

²⁷ *Minnesota Statutes 2022*, 16B.98, subd. 6.

²⁸ *Minnesota Statutes 2022*, 16B.97, subd. 2.

²⁹ Minnesota Department of Administration, Office of Grants Management, Operating Policy and Procedure 08-09, *Policy on Grant Progress Reports*, issued December 8, 2008.

³⁰ *Ibid.*

progress reports were required within 45 days of June 30 and December 30. However, the board did not have any evidence that the regions submitted progress reports, and did not withhold any grant payments because progress reports were past due.

- State agencies must “conduct at least one monitoring visit before final payment is made on all state grants over \$50,000....”³¹ Per OGM policy, monitoring visits may be conducted on-site or by telephone. In addition, “State agencies must also conduct a financial reconciliation of grantees’ expenditures at least once on grants over \$50,000 before final payment is made.”³² The policy defines financial reconciliation as “reconciling a grantee’s request for payment for a given period with supporting documentation for that request, such as purchase orders, receipts and payroll records....”³³ These requirements applied to all 16 EMSSF grants and 17 of the 24 EMSRA grants with activity during the scope of the audit. The board’s grant request for proposal for the regions stated these requirements and indicated each would be performed once per fiscal year. However, the board did not conduct any monitoring visits or financial reconciliations for those grants.
- State agencies must “consider a grant applicant’s performance on prior grants from that agency before making a new grant award of over \$5,000. State agencies should create a process that best meets their needs for complying with this policy....”³⁴ The performance consideration should include the grant outcomes; monitoring visit and financial reconciliation results; any fraud, waste, or abuse concerns; and any other financial or audit concerns.³⁵ The board did not have any evidence that it considered the regions’ performance on completed grants.

In addition, state law requires each region to “be audited either annually or biennially by an independent auditor.... The audit shall cover all funds received by the regional board....”³⁶ The regions must file those audits with the board, the legislative auditor, and the state auditor. The law also states that if a region does not obtain or file an audit as required, the board shall reduce funding by up to 100 percent; and if the audit finds that EMSSF grants were not used for allowable purposes, the board shall reduce funding by the amount in question plus 10 percent.³⁷ Finally, the law states, “A funding reduction...is effective for the fiscal year in which the reduction is taken and the following fiscal year.”³⁸ Both the board’s grant request for proposal for the regions and the grant contracts included the audit requirement. However, the board only had one

³¹ Minnesota Department of Administration, Office of Grants Management, Operating Policy and Procedure 08-10, *Policy on Grant Monitoring*, revised December 2, 2016.

³² *Ibid.*

³³ *Ibid.*

³⁴ Minnesota Department of Administration, Office of Grants Management, Operating Policy and Procedure 08-13, *Policy on Grant Closeout Evaluation*, revised December 2, 2016.

³⁵ *Ibid.*

³⁶ *Minnesota Statutes 2022*, 144E.50, subd. 6.

³⁷ *Ibid.*

³⁸ *Ibid.*

audit for one region on file submitted during the scope of the audit. Without obtaining and reviewing the required audits, the board could not determine whether any regions used grants for unallowable purposes and should have had subsequent funding reduced.

One reason the board did not properly monitor its grants was that it did not establish internal policies and procedures for that monitoring. The board also told us that staff vacancies contributed to the lack of monitoring procedures. We validated that the board position dedicated to grants management was vacant for all but about two months during the scope of the audit.

These monitoring procedures are essential to provide the board with the ability to timely identify and address performance concerns, to ensure the regions use grant money for allowable purposes, and to prevent additional payments to regions with performance concerns or instances of noncompliance with state law.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should establish internal policies and procedures for monitoring grants to ensure compliance with state policies.**
- **The Emergency Medical Services Regulatory Board should obtain progress reports from each emergency medical services region as required, and document its review of those reports.**
- **The Emergency Medical Services Regulatory Board should conduct monitoring visits and perform financial reconciliations for each Emergency Medical Services Region grant as required, and document those visits and reconciliations.**
- **The Emergency Medical Services Regulatory Board should evaluate each emergency medical services region's performance at the completion of each grant, and document those evaluations.**
- **The Emergency Medical Services Regulatory Board should obtain copies of each emergency medical services region's audits as required, and document its review of those audits.**

Ambulance Attendant Training Reimbursements

The board receives annual General Fund appropriations for education cost reimbursements required by state law, which states, "A licensed ambulance service shall be reimbursed by the board for the necessary expense of the initial education of a volunteer ambulance attendant upon successful completion by the attendant of an EMT

education course, or a continuing education course for EMT care, or both....”³⁹ The law allows a reimbursement of up to \$600 for an initial education course, and up to \$275 for a continuing education course.⁴⁰ The law also states that the reimbursement will only be paid “when documentation is provided [to] the board that the individual has served for one year from the date of the final certification exam as an active member of a Minnesota licensed ambulance service.”⁴¹

During the scope of the audit, the board made 374 reimbursement payments totaling \$482,125, including 139 payments totaling \$147,225 for initial education courses and 235 payments totaling \$334,900 for continuing education courses. Each payment included reimbursements for either one or multiple volunteer ambulance attendants. The 139 payments for initial education courses included reimbursements for 247 volunteers, and the 235 payments for continuing education courses included reimbursements for 1,218 volunteers.

We tested a random sample of 40 payments and 1 additional payment selected based on our analysis. The sample included 16 payments for the initial education courses for 31 volunteers and 25 payments for the continuing education courses for 112 volunteers; we determined the accuracy of the reimbursements based on education expense documentation.

FINDING 4

The Emergency Medical Services Regulatory Board overpaid licensed ambulance services for ambulance attendant training reimbursements.

The board did not accurately reimburse licensed ambulance services for the continuing education expenses of 23 volunteer attendants that we tested, overpaying them by a total of \$2,410. Each reimbursement was for the maximum \$275, but the actual expense amounts based on documentation submitted to the board were lower amounts. For six other continuing education expense reimbursements we tested, each for \$275, the documentation submitted to the board was not sufficient to identify the actual expense amounts.

In practice, the board paid the maximum amount for all continuing education course reimbursements, regardless of the actual expense amounts documented by the ambulance services. All but 1 of the 1,218 reimbursements during the scope of the audit were for \$275, with that one for \$225. The board’s application form for the reimbursements only included an option for ambulance services to select reimbursement amounts of \$275 for continuing education courses or \$600 for initial education courses, rather than instructing applicants to record the actual education expense amount up to the maximum amount allowed.

³⁹ *Minnesota Statutes* 2022, 144E.35. The law states that necessary expenses “may include tuition, transportation, food, lodging, hourly payment for the time spent in the education course, and other necessary expenditures.”

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should correct the ambulance attendant training reimbursement overpayments identified.**
 - **The Emergency Medical Services Regulatory Board should revise its ambulance attendant training reimbursement application form to instruct applicants to record the actual expense amount up to the maximum allowed, and should strengthen internal controls over ambulance attendant training reimbursements to ensure the accuracy of the reimbursements.**
-

We tested a random sample of reimbursements for initial education courses for 44 volunteers, and determined whether the volunteers met the length-of-service requirement to be eligible for reimbursement.

FINDING 5

The Emergency Medical Services Regulatory Board did not validate the eligibility of volunteer ambulance attendants for reimbursements of education costs associated with the completion of an initial EMT education course.

For five of the reimbursements we tested, the board did not validate that the volunteer ambulance attendants served as an active member of the licensed ambulance service for one year from the final certification exam date. Each reimbursement was for the maximum \$600, and each application was signed and submitted by the licensed ambulance service less than a year after the volunteer's final certification exam date. Instead of denying the reimbursement application and instructing the ambulance service to resubmit after the eligibility requirement was met, the board held the applications and paid the reimbursements once a year had elapsed. The board did not have any documentation demonstrating that it verified the volunteers were still active members of the ambulance service as of the one-year date.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should verify that the identified ambulance attendant training reimbursements were eligible for reimbursement, and correct any overpayments.**
 - **The Emergency Medical Services Regulatory Board should strengthen internal controls over ambulance attendant training reimbursements to ensure it sufficiently validates eligibility for the reimbursements.**
-



OLA

Longevity Awards

State law established the Cooper/Sams Volunteer Ambulance Program to recognize and reward volunteer ambulance service personnel.⁴² The intention of the program is to provide an incentive for volunteers to enter the emergency medical services field. The program provides resources for the board to pay qualified ambulance service personnel a one-time longevity award. The law divides the administration of the program between the board and ambulance services:

The administrative responsibilities of the board for the program relate solely to the record keeping, award application, and award payment functions.... The applicable ambulance service is responsible for determining...who is a qualified ambulance service person, what constitutes a year of credited ambulance service, what constitutes sufficient documentation of a year of prior service, and for submission of all necessary data to the board.... Determinations of an ambulance service are final.⁴³

The law further clarifies the limit of the board's administrative responsibilities:

For purposes of administering the award and incentive program, the board cannot hear appeals, direct ambulance services to take any specific actions, investigate or take action on individual complaints, or otherwise act on information beyond that submitted by the licensed ambulance services.⁴⁴

Ambulance services annually certify service credits earned by their volunteer ambulance service personnel to the board. To be eligible for a longevity award, individuals must no longer be an active volunteer with an ambulance service, must be at least 50 years old, and must have at least five years of credited ambulance service.⁴⁵ The board issues longevity award payments annually based on applications due by October 1 each year. Longevity award amounts equal \$447.19 for each year of credited ambulance service.⁴⁶

During the scope of the audit, the board paid \$2,429,383 in longevity awards to 361 individuals. We tested a random sample of 60 awards and 6 additional awards that we selected based on our analysis, and found no significant issues.

⁴² *Minnesota Statutes* 2022, 144E.40.

⁴³ *Ibid.*

⁴⁴ *Minnesota Statutes* 2022, 144E.48.

⁴⁵ *Minnesota Statutes* 2022, 144E.46.

⁴⁶ *Minnesota Statutes* 2022, 144E.45, subd. 2(d).



OLA

Payroll Expenditures

During the scope of the audit, the board had \$1,837,725 in payroll expenditures. Exhibit 6 shows the payroll expenditures by type.

Exhibit 6: Payroll Expenditures, July 1, 2018, through April 30, 2021

Type	Gross Pay	Employer Expenses ^a	Total
Hours Worked and Leave Taken ^b	\$1,263,092	\$442,711	\$1,705,803
Separation Pay	46,308	378	46,686
Overtime Pay	20,837	2,840	23,677
Call-Back Pay and On-Call Pay	15,497	2,075	17,572
Retroactive Pay Rate Adjustments	5,798	1,575	7,373
Compensatory Time and Holiday Payoffs	5,344	1,338	6,682
Leave Conversions to Deferred Compensation	5,520	953	6,473
Other ^c	35	23,424	23,459
Totals	\$1,362,431	\$475,294	\$1,837,725

^a Includes the employer shares of FICA, retirement, and insurance.

^b Gross pay for hours worked and leave taken includes \$134,782 for paid time off.

^c Employer expenses includes \$264 for the employer shares of FICA, retirement, and insurance, and \$23,160 paid to the Department of Administration for workers' compensation. We did not audit these other payroll expenditures.

SOURCE: Office of the Legislative Auditor, based on data in the state's accounting system.

Employee Pay Rates

State employment agreements establish salary ranges for employee positions throughout state government. Under *Minnesota Rules*, individual departments have the authority to set the starting salaries for new employees within the range for a position up to certain limits.⁴⁷ To exceed those limits, departments must obtain approval from the Department of Management and Budget. During the scope of the audit, the board hired or rehired five employees, including four with starting salaries that required the department's approval. We reviewed the approvals for the starting salaries for those four employees and found no issues.

⁴⁷ *Minnesota Rules*, 3900.2100, <https://www.revisor.mn.gov/rules/3900.2100/>, accessed June 2022.

Pay Rate Increases

Employees receive periodic pay rate increases based on provisions in applicable employment agreements. Under the Managerial Plan, managers may receive both a general salary increase and a performance-based salary increase each year.⁴⁸ To receive either type of increase, the appointing authority must certify that the manager's job performance was satisfactory.

Under the employment contracts with the Minnesota Association of Professional Employees (MAPE) and the American Federation of State, County, and Municipal Employees (AFSCME), all employees receive an annual general salary increase, and eligible employees also receive a semiannual or annual step progression salary increase.⁴⁹ Employees are eligible for the step progression increases if they are not at the top of the salary range assigned to their job; the increases may be withheld by the appointing authority because of unsatisfactory job performance.

During the scope of the audit, the former executive director received four salary increases under the Managerial Plan. In addition, nine employees covered by other employment contracts received a total of 13 general salary increases, and five of them also received a total of 7 step progression salary increases. We tested all of the salary increases granted to the former executive director and all of the step progression salary increases.

FINDING 6

The Emergency Medical Services Regulatory Board did not retain approval documentation for salary increases given to the former executive director.

The board did not retain documentation of its approvals for the salary increases given to the former executive director during the scope of the audit, including three general increases and one performance-based increase. The board chair told us he recalled signing evaluation forms approving those increases and stated the forms would have been submitted to SmART, which processed the increases in the state's payroll system. However, the board chair did not retain copies of the forms, and board staff could not locate any copies of the forms in files located at the board office. SmART staff told us the only documentation it could locate for those increases was an e-mail from the board chair approving the last of the four increases. That e-mail did not include an attached evaluation form and stated, "We have two board members working on the evaluation format."

The board did not develop procedures to ensure it retained the signed evaluation forms approving salary increases in the executive director's personnel file. The interagency agreement between the board and SmART stated that SmART would maintain the

⁴⁸ Managerial Plan, 2017-2019 and 2019-2021, Chapter 14, allowed for general salary increases of 2.25 percent effective July 1, 2018, and July 1, 2019, and 2.5 percent effective July 1, 2020; and for one performance-based salary increase each year up to 3.5 percent.

⁴⁹ Minnesota Association of Professional Employees Agreements, 2017-2019 and 2019-2021, art. 24, secs. 3-5; and American Federation of State, County, and Municipal Employees Agreements, 2017-2019 and 2019-2021, art. 18, secs. 3-5. The agreements provided for general salary increases of 2.25 percent effective July 1, 2018, and July 1, 2019, and 2.5 percent effective July 1, 2020.

personnel files for board employees upon the board's request, but the board had not made such a request. Although each salary increase was within the limits established in the Managerial Plan, we could not validate the former executive director's eligibility for those increases or determine whether the actual amount of the performance-based increase matched the approved amount due to the lack of documentation.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should consider transferring the maintenance of its personnel files to SmART.**
- **The Emergency Medical Services Regulatory Board should develop procedures to ensure it properly retains approval documentation for executive director salary increases.**

State law and state policy require a minimum of one performance review each year for all executive branch employees.⁵⁰

FINDING 7

The Emergency Medical Services Regulatory Board did not complete annual employee performance reviews.

Board staff did not complete annual performance reviews for any of the six employees that should have received reviews during the scope of the audit. The board did not develop procedures to ensure employee performance reviews were completed as required. Annual performance reviews are necessary to determine whether employees are performing at a satisfactory level, and whether step progression salary increases should be withheld because of unsatisfactory performance.

RECOMMENDATION

The Emergency Medical Services Regulatory Board should develop procedures to ensure it completes annual employee performance reviews for all employees.

Pay rate increases are recorded in the state's payroll system with an effective date. If that effective date is within the current or a future pay period, the payroll system will calculate pay at the new rate starting on the effective date. If that effective date is in a prior pay period, a retroactive pay rate adjustment is paid to the employee. During the scope of the audit, the board paid retroactive pay rate adjustments totaling \$5,797 to seven employees. We tested all of these payments and found no errors.

⁵⁰ *Minnesota Statutes 2022*, 43A.20; and Department of Management and Budget, Administrative Procedure 20, *Job Clarification/Performance Appraisal*, effective December 23, 1982.

Payroll Processing

State employees are paid biweekly. Board employees complete timesheets in the state's payroll system, and designated staff assigned by board management review and approve that employee's timesheet. During the scope of the audit, board employees completed 472 biweekly timesheets, and we tested a random sample of 40 timesheets.

FINDING 8

The Emergency Medical Services Regulatory Board allowed one employee to approve his own timesheets.

The former executive director approved his own timesheet for 73 of the 74 pay periods during the scope of the audit.⁵¹ State policy states that "Employees should not approve their own timesheets."⁵² The one timesheet approved by someone other than the former executive director was for the first pay period during the scope of the audit. The employee that approved that timesheet retired at the end of that pay period, and the former executive director assumed the responsibility for approving his own timesheets rather than assigning someone else the responsibility. The board did not develop an internal policy that addressed the approval of the executive director's timesheets. Allowing employees to approve their own timesheets increases the risk of error or fraud. Specifically, if the timesheets do not accurately reflect actual leave hours taken, those employees could be compensated for more paid time off than earned.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should ensure the executive director's access rights to the state's payroll system do not allow self-approval of timesheets.**
 - **The Emergency Medical Services Regulatory Board should develop an internal policy that addresses the approval of the executive director's timesheets and prohibits self-approval.**
-

The state's payroll system allows users to generate various reports to ensure the accuracy of payroll expenditures. State policy requires agencies to review the Payroll Register, the Payroll Posting Audit Trail, and the Self Service Time Entry Audit Report each pay period.⁵³

⁵¹ Our random sample of 40 timesheets included 6 of the former executive director's timesheets. We expanded testing to review the approvals for all of the remaining timesheets completed by the former executive director.

⁵² Department of Management and Budget, Statewide Operating Policy and Procedure PAY0017, *Self Service Time Entry*, issued February 2011.

⁵³ Department of Management and Budget, Statewide Operating Policy and Procedure PAY0028, *Agency Verification of Payroll and Human Resources Transactions*, issued August 2011; and Statewide Operating Policy and Procedure PAY0017, *Self Service Time Entry*, issued February 2011.

FINDING 9

The Emergency Medical Services Regulatory Board did not review payroll reports as required by state policy.

During the scope of the audit, the board did not review the Payroll Register, the Payroll Posting Audit Trail, or the Self Service Time Entry Audit Report. No board employees had the necessary access to the state's payroll system to generate those reports. Instead, the board relied on SmART to generate and provide them. The interagency agreement between the board and SmART stated that the board was responsible to "Review and verify payroll reports and report any discrepancies to [SmART]." The agreement specified how the review of the Payroll Posting Audit Trail should be documented, but did not name the other two reports.

The board received the Payroll Posting Audit Trail from SmART each pay period, but had no documentation showing that it reviewed those reports. The board did not receive the Payroll Register or the Self Service Time Entry Audit Report from SmART during the scope of the audit. Evidence suggests the board was not aware of the requirement to review those reports each pay period, and thus, did not request them from SmART. We discussed those reports with SmART in May 2022, and SmART staff told us that it recently determined that it would review the Payroll Register for its agency clients.

The review of the Payroll Register is necessary "to verify that Time [*sic*] and amounts were paid at the correct rate, and Any [*sic*] necessary adjustments were processed."⁵⁴ The review of the Payroll Posting Audit Trail is necessary "to verify that payroll expenditures were posted to the correct account."⁵⁵ The Self Service Time Entry Audit Report identifies timesheets completed by someone other than the employee or approved by someone other than the assigned primary approver, which are more likely to contain errors than properly completed and approved timesheets. Reviewing the report allows agencies to identify and ensure the accuracy of those timesheets.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should revise the terms of its interagency agreement with SmART to specify each agency's responsibilities for the required reviews of the Payroll Register, Payroll Posting Audit Trail, and Self Service Time Entry Audit Report.**
 - **The Emergency Medical Services Regulatory Board should review the Payroll Posting Audit Trail and Self Service Time Entry Audit Report, and retain documentation of its review, as required by state policy.**
-

⁵⁴ Department of Management and Budget, Statewide Operating Policy and Procedure PAY0028, *Agency Verification of Payroll and Human Resources Transactions*, issued August 2011.

⁵⁵ *Ibid.*

Overtime Pay

The employment contracts for most board employees include provisions that allow the employees to earn overtime. Overtime can be compensated in the form of cash added to employee paychecks or compensatory time that can be used as paid time off in future pay periods. For the employment contract with MAPE, exempt employees earn overtime at straight-time and non-exempt employees earn overtime at time and one-half.⁵⁶ Exempt employees are not entitled to overtime pay under the Fair Labor Standards Act. However, the employment contract with MAPE provides for overtime to exempt employees “when assigned to a special work assignment which is in addition to their normal job duties and upon having received advanced approval....”⁵⁷ For the employment contract with AFSCME, employees earn overtime at time and one-half.

During the scope of the audit, the board paid \$20,837 of overtime in cash and \$10,991 of overtime as compensatory time to nine employees. We tested all of the overtime compensation to those employees.

FINDING 10

The Emergency Medical Services Regulatory Board did not document preapprovals of employee overtime hours, and did not document overtime eligibility for certain employees.

The board did not retain any documentation of preapprovals for overtime worked by employees, as required by state policy. The policy states that “no state employee may be compensated for overtime hours worked unless such overtime has been approved in advance....”⁵⁸ Several board employees told us the former executive director provided verbal preapprovals for overtime. Two of those employees told us overtime request forms were also completed and signed, but the board could not locate any signed forms. Two other employees told us no forms were used.

The procedure included in the state policy addresses the retention of overtime preapproval documentation. The procedure states that agencies should “Retain the request for overtime for the current fiscal year and the three preceding fiscal years.”⁵⁹

The board also did not retain any documentation of overtime eligibility for exempt MAPE employees. The board paid \$14,739 of overtime in cash and \$7,948 of overtime as compensatory time to five exempt employees. Without documentation of the preapprovals for the overtime and an explanation of the special work assignment that required overtime, we could not definitively determine whether the employees were eligible for the overtime. For all 52 of the overtime payments to those employees, the employee timesheets included the overtime hours and were approved by the former

⁵⁶ Straight-time means an employee’s regular hourly pay rate. Time and one-half means an employee’s regular hourly pay rate times 1.5.

⁵⁷ Minnesota Association of Professional Employees Agreements, 2017-2019 and 2019-2021, art. 27, sec. 3.

⁵⁸ Department of Management and Budget, Statewide Operating Policy PAY0012, *Requesting and Reporting Overtime*, issued September 2009.

⁵⁹ *Ibid.*

executive director. In addition, 27 of the 52 timesheets included employee comments explaining the overtime hours. We considered those explanations, and found that only eight reasonably indicated a special work assignment.

The board did not have procedures to consistently document preapprovals for overtime for all employees, or the nature of special work assignments for employees only eligible for overtime for such assignments.

RECOMMENDATION

The Emergency Medical Services Regulatory Board should develop procedures to document and retain overtime preapprovals and the nature of special work assignments for employees otherwise not eligible for overtime.

Call-Back Pay and On-Call Pay

The employment contracts for most board employees include provisions that allow the employees to earn call-back pay and on-call pay. Call-back pay and on-call pay may be in the form of cash added to employee paychecks or compensatory time that can be used as paid time off in future pay periods.

Employees earn call-back pay when required to report to work outside of, and not immediately preceding or following, their regularly scheduled shift. For the employment contract with MAPE, employees earn call-back pay at the appropriate overtime rate and are paid a minimum of two hours for each occurrence.

Employees earn on-call pay when required to remain available for work during off-duty periods. The board had one employee on-call for all off-duty periods, including weekends. On-call assignments were in one-week increments, and during the scope of the audit, the board gave those assignments to eight different employees. Under the employment contract with the Middle Management Association (MMA), employees receive \$50 for each day, or portion of a day, of on-call duty.⁶⁰ For the employment contract with MAPE, the board executed a memorandum of understanding (MOU) with the association in January 2003 that established a compensation rate of \$120 in cash or four hours of compensatory time for each week of on-call duty.

During the scope of the audit, the board paid \$15,497 of call-back pay and on-call pay in cash and \$19 of call-back pay as compensatory time to eight employees. We tested all of the call-back pay and on-call pay to those employees.

⁶⁰ Middle Management Association Agreement, 2017-2019, art. 11, sec. 5.

FINDING 11**The Emergency Medical Services Regulatory Board incorrectly paid several employees for call-back pay and on-call pay.**

The board overpaid three employees and underpaid three employees for call-back pay and on-call pay, as follows:

- The board overpaid one employee by \$1,848 for on-call pay. The employee received on-call pay for two full weeks and a portion of a third week of on-call duty, but was paid at the rate specified in the MAPE employment contract instead of the lower rate established in the MOU with the association.⁶¹ After the board transitioned to SmART for payroll processing, payments for on-call pay were not processed for several pay periods because the board did not instruct SmART to make the payments. When the board subsequently instructed SmART to begin processing payments for on-call pay, the first three payments, made to two different employees, were calculated using the rate in the contract because the board could not locate a copy of the MOU. After the board located the MOU, SmART processed on-call payments to four employees for 13 prior pay periods and also corrected the on-call pay amount to one of the employees initially paid at the higher rate. However, SmART did not correct the on-call payment amount to the other employee, due to staff oversight. The employee's separation from state service before the on-call payment correction for the other employee may have contributed to that oversight.
- The board underpaid one employee by \$1,150 for on-call pay. The employee was covered by the MMA employment contract, but received on-call pay at the MOU rate instead of the MMA rate for five weeks of on-call duty. These payments were a portion of the payments for prior pay periods discussed in the preceding paragraph. In the board's authorization for on-call pay submitted to SmART, the amount to pay the employee was not specified, but the employee was noted as being covered by MMA. All other employees that received on-call pay were covered by the MAPE employment contract, and SmART paid the MMA employee at the same rate as the MAPE employees, due to staff oversight.
- The board overpaid one employee by \$120 for on-call pay. The employee included one week of on-call duty on his timesheet but was not on the on-call duty schedule for that week. A different employee was on the schedule for that week and included one week of on-call duty on her timesheet. SmART processed on-call pay to both employees based on the timesheets, which were each approved by the former executive director, instead of the on-call duty schedule.
- The board underpaid one employee by \$64 and overpaid two other employees by \$8 and \$4, respectively, for on-call pay. For each payment, the employees recorded on-call duty hours for one week on their timesheets instead of the

⁶¹ Minnesota Association of Professional Employees Agreement, 2017-2019, art. 25, sec. 3, provided for on-call pay equal to 15 minutes at straight time for each 1 hour of on-call duty, up to a maximum of 4 hours of on-call pay per day.

\$120 on-call pay amount. SmART processed on-call pay amounts equal to the hours on those timesheets instead of \$120, due to staff oversight.

In addition, the employee overpaid by \$8 was also underpaid by \$7 for on-call pay for a week when the on-call duty was split with another employee. The board did not accurately calculate the portion of the \$120 of on-call pay for the week to allocate to the employee. Finally, the board undercompensated that same employee by 1.5 hours of compensatory time, valued at \$57, for call-back pay. The employee recorded 0.5 call-back hours on her timesheet, and SmART processed 0.5 hours of compensatory time to the employee without recognizing that the MAPE employment contract required a minimum of 2 hours of compensation for each call-back occurrence.⁶²

The board did not establish procedures to review and validate the accuracy of the call-back pay and on-call pay amounts processed by SmART.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should correct the call-back pay and on-call pay errors identified.**
 - **The Emergency Medical Services Regulatory Board should develop procedures to review and validate the accuracy of call-back pay and on-call pay amounts.**
-

Compensatory Time and Holiday Payoffs

Under the employment contract with the Minnesota Association of Professional Employees, unused compensatory time is paid in cash to employees annually on a date determined by the agency.⁶³ During the scope of the audit, the board made three cash payments totaling \$2,601 to two employees for unused compensatory time. We tested all three of those payments and found no issues.

Some employment contracts allow employees to receive additional cash payments for hours worked on a holiday.⁶⁴ Under the employment contract with the American Federation of State, County, and Municipal Employees, employees may be paid in cash for the floating holiday if not used by the end of each fiscal year.⁶⁵ During the scope of the audit, the board made eight cash payments totaling \$2,316 to four employees for work on a holiday, and two cash payments totaling \$427 to one employee for unused floating holidays. We tested all of those payments and found no issues.

⁶² Minnesota Association of Professional Employees Agreement, 2019-2021, art. 25, sec. 2.

⁶³ Minnesota Association of Professional Employees Agreement, 2019-2021, art. 27, sec. 1F.

⁶⁴ Minnesota Association of Professional Employees Agreement, 2019-2021, art. 11, sec. 5; and Managerial Plan, 2019-2021, Chapter 3.

⁶⁵ American Federation of State, County, and Municipal Employees, 2019- 2021, art. 7, sec. 2B.

Leave Balance Adjustments

The calculation of employee leave balances in the state's payroll system is mostly automated, but some users have the ability to manually adjust those balances. During the scope of the audit, SmART processed two leave balance adjustments for two board employees.

The first adjustment restored 222.5 hours to the former executive director's vacation leave balance that was forfeited at the end of Fiscal Year 2020, as required by the Managerial Plan.⁶⁶ In May 2020, the Department of Management and Budget announced that certain employees could receive an extension of the deadline from June 30, 2020, to December 31, 2020, to reduce their vacation leave balance below the required cap. In December 2020, the department announced an additional extension up to June 30, 2021. The board submitted a vacation cap waiver request to the department to extend the deadline for the former executive director to April 30, 2021.

FINDING 12

The Emergency Medical Services Regulatory Board did not reduce the former executive director's vacation leave balance when he did not reduce it to the cap by the extended deadline.

The former executive director's vacation leave balance increased to 620.5 hours by the end of April 2021 and had not been reduced to the 275 hour cap at any point between July 1, 2019, and April 30, 2021. At that time, the board should have reduced the vacation leave balance to 275 hours, but did not due to staff oversight. At the time of his separation from state service in July 2021, the unreduced balance was 595.5 hours, and the board paid him a separation payment for the maximum of 275 hours for unused vacation.⁶⁷ However, if the board had properly reduced the balance at the end of April 2021, the balance at the time of separation would have been 250 hours. As a result, the separation payment was overpaid by \$1,446.

RECOMMENDATION

The Emergency Medical Services Regulatory Board should collect the overpaid separation payment from the former executive director.

⁶⁶ Managerial Plan, 2019-2021, Chapter 4, states that "once during each fiscal year, the manager's [vacation] balance must be reduced to two hundred seventy-five (275) hours or less. If this is not accomplished on or before the last day of the fiscal year, the manager's balance shall automatically be reduced to two hundred seventy-five (275) hours at the end of the fiscal year."

⁶⁷ Managerial Plan, 2019-2021, Chapter 4.

The second adjustment reduced an employee's compensatory time balance by 5.37 hours.

FINDING 13

The Emergency Medical Services Regulatory Board improperly reduced an employee's compensatory time balance.

The board improperly reduced an employee's compensatory time balance by 5.37 hours, valued at \$174. The intention of the adjustment was to remove 5.37 hours of compensatory time credited to the employee in error for on-call duty. Instead of receiving compensatory time, the employee should have received on-call pay. In a subsequent pay period after the initial error occurred, the board authorized and SmART processed a prior pay period adjustment to pay the employee on-call pay for several pay periods that should have been paid, including the pay period in which the employee received compensatory time. That prior pay period adjustment also reversed the 5.37 hours incorrectly credited to the compensatory time balance. However, SmART staff also recorded a leave balance adjustment to reduce the compensatory time balance by 5.37 hours because they did not recognize that the prior pay period adjustment reversed those hours. As a result, the employee's compensatory time balance was reduced by 5.37 hours twice.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should correct the compensatory time balance adjustment error identified.**
 - **The Emergency Medical Services Regulatory Board should develop procedures to review and validate the accuracy of payroll and leave balance adjustments processed by SmART.**
-

Leave Conversions to Deferred Compensation

Under the Managerial Plan, employees may convert up to 50 hours of vacation leave to a deferred compensation plan each fiscal year.⁶⁸ During the scope of the audit, one employee converted a total of 100 vacation leave hours, valued at \$5,520, to a deferred compensation plan. We reviewed those leave conversions and found no issues.

Separation Pay

Upon separation from state service, employees may be eligible to receive various types of separation payments. All employees receive payments for unused vacation leave and compensatory time, up to limits established in the applicable employment agreement. Employees that meet certain eligibility requirements related to age and years of service also receive severance payments for a percentage of unused sick leave.

During the scope of the audit, the department made \$46,308 in separation payments to five former employees. We tested the accuracy of and eligibility for all separation payments, and found no significant issues.

⁶⁸ Managerial Plan, 2019-2021, Chapter 4.



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Other Expenditures

In addition to grants, longevity awards, and payroll, the board had \$1,786,262 in other expenditures during the scope of the audit. Exhibit 7 shows the other expenditures by type.

Exhibit 7: Other Expenditures, July 1, 2018, through April 30, 2021

Type	Amount
Annual Plan and Professional/Technical Services Contracts	\$ 55,256
Employee Expense Reimbursements	4,652
Supplies, Equipment, Purchased Services, Fees, and Taxes	439,769
Payments to Other State Agencies ^a	1,042,940
Rent ^b	214,577
Board Member Per Diems and Expense Reimbursements ^b	11,626
Purchases with State Purchasing Cards ^b	11,202
Other Expenditures ^b	<u>6,240</u>
Total	\$1,786,262

^a These payments were to nine different state agencies, and included \$528,764 for information technology services; \$290,000 for the service agreements with SmART; \$100,724 for vehicle leases and related expenses; \$56,947 for legal services; \$53,022 for professional/technical services; \$9,806 for other services; \$3,091 for other operating costs; and \$586 for supplies. We did not audit these expenditures.

^b We did not audit these expenditures.

SOURCE: Office of the Legislative Auditor, based on data in the state's accounting system.

Annual Plan and Professional/Technical Services Contracts

State policy allows agencies to establish an annual plan for “routine, cookie-cutter, repetitive needs for certain kinds of professional/technical services, with total expenditure limits.”⁶⁹ The plan must list the types of services and dollar amount for each service category, and state policy limits the total amount that may be paid to a single contractor under the plan to \$5,000.⁷⁰ The Department of Administration’s Office of State Procurement must review and approve the plan, and agencies may “order services under an approved annual plan” by executing an annual plan contract with a vendor.⁷¹ The main difference between annual plan contracts and professional/technical services contracts is that the Department of Administration does not review and sign each annual plan contract. In contrast, the Department of Administration must review and sign each professional/technical services contract.

⁶⁹ Minnesota Department of Administration, Professional/Technical Services Contract Manual, Section 11, *Annual Plan and Annual Plan Agreements*, modified June 2016.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

During the scope of the audit, the board executed 17 annual plan contracts with six different vendors, with payments totaling \$37,781. We reviewed all of these contracts and expenditures.

FINDING 14

The Emergency Medical Services Regulatory Board did not administer annual plan contracts in compliance with state policy.

We identified several instances where the board did not comply with state policy for annual plans, as follows:

- The board executed annual plan contracts for grant management services that exceeded the amount authorized by the Department of Administration in its annual plan. The approved annual plan for Fiscal Year 2019 included \$5,000 for grant management services. However, the board executed annual plan contracts with three separate vendors totaling \$14,880 for grant management services, with payments totaling \$14,745. The board initially selected one vendor for the services, but selected two additional vendors upon a recommendation from the first vendor to use a panel of three individuals to evaluate grant proposals.
- The board executed eight annual plan contracts that included some services not in the annual plan approved by the Department of Administration. Seven of those contracts were with the same vendor to provide professional examiner services in Fiscal Year 2019 for a total of \$4,825; however, those services were not approved in the annual plan. The other contract was for both grant management services and assistance with board operations in Fiscal Year 2019; however, only grant management services were approved in the annual plan. Of the \$4,950 paid under the contract, \$2,250 was for grant management services, \$1,650 was for assistance with board operations, and \$1,050 was for a combination of both.
- The board paid \$4,845 in Fiscal Year 2019 to one vendor under an annual plan contract for services not specified in the contract. The contract was for grant management services; however, the vendor invoices included both grant management services and activities related to reviewing and evaluating candidates for employment with the board. In addition, only grant management services were included in the approved annual plan. Since the invoices did not itemize the amounts charged by type of service, we could not determine the amounts paid for each type of service.

In each instance, the board identified additional needs beyond what the Department of Administration authorized in the annual plan but did not recognize that it needed the department's approval to obtain those additional services. For the instance described in the third bullet, the board also did not recognize the need to amend the annual plan contract for the additional services ordered. The contract terms stated, "Any amendments or modifications...must be in writing and will not be effective until executed by the parties to this Agreement...."

RECOMMENDATION

The Emergency Medical Services Regulatory Board should strengthen internal controls over annual plan contracts to ensure compliance with state policy.

The board executed one professional/technical services contract during the scope of the audit for \$25,000 in services, and made five payments to the vendor totaling \$17,475. We reviewed the contract and all of those payments.

FINDING 15

The Emergency Medical Services Regulatory Board did not administer a professional/technical services contract in compliance with state policy.

We identified several instances where the board did not comply with state policy for professional/technical services contracts, as follows:

- The board did not use a competitive process to select the vendor. State policy states, "Professional Services valued in excess of \$5,000 must be procured via a competitive process unless a statutory exemption exists."⁷² The policy states that one exemption is the Equity Select method, which "allows you to award directly to a TG/ED/VO business a contract up to \$25,000."⁷³ Another exemption established in state law states, "The solicitation process...is not required when there is clearly and legitimately only a single source for the goods and services...."⁷⁴ The policy requires that the competitive process include "a simple solicitation document that is prepared by the agency and sent out to a minimum of three vendors...."⁷⁵ The vendor was not a TG/ED/VO business or a single source for the contracted services.

⁷² Minnesota Department of Administration, Professional/Technical Services Contract Manual, Section 14, *Procedures for P/T Services Contracts Valued Between \$5,001 and \$25,000*, modified July 2014.

⁷³ *Ibid.* TG (Targeted Group) is a small business at least 51 percent owned by a woman, racial minority, or person with a substantial physical disability. ED (Economically Disadvantaged) is a small business located in an economically disadvantaged area in Minnesota. VO (Veteran-Owned) is a small business at least 51 percent owned and operated by a veteran.

⁷⁴ *Minnesota Statutes* 2022, 16C.10, subd. 1.

⁷⁵ Minnesota Department of Administration, Professional/Technical Services Contract Manual, Section 14, *Procedures for P/T Services Contracts Valued Between \$5,001 and \$25,000*, modified July 2014.

The contracted services were for four separate projects specified in the contract, including activities related to the remodel of the board’s office space; grant management; establishing internal policies and procedures; and operational planning activities. Prior to executing the contract, the board paid the same vendor \$4,950 under an annual plan contract for grant management services and assistance with operational issues. Once the annual plan contract was exhausted, the board executed the professional/technical services contract to allow the vendor to continue providing the same services. The last vendor invoice for the annual plan contract included services provided through September 23, 2019, while the first vendor invoice for the professional/technical services contract included services beginning September 24, 2019. The board could have requested an exception to the annual plan policy limiting the amount paid to a single contractor to \$5,000, but chose not to do so. The Department of Administration would only approve an exception request if provided “a detailed justification for the increase....”⁷⁶

- The board allowed the vendor to begin performing contracted services before the contract was fully executed, which violates state law.⁷⁷ The vendor began providing services on September 24, 2019, and the contract was not fully executed until October 11, 2019. The board completed a document acknowledging the violation, stating the reason was for “continuity of project management....”
- The board did not ensure that contract payments complied with the contract terms. The contract included separate \$6,000 budgets for each of the four projects, based on a \$75 hourly rate, and a \$1,000 budget for travel and subsistence expenses. The vendor invoices summarized the hours worked by date, but did not itemize the hours by project for each date. Without that detail, the board could not validate that the hours for each project complied with the project budgets in the contract. Based on our analysis, the vendor invoices included \$3,788 for project 1, \$2,475 for project 2, and \$7,800 for projects 1 and 2 combined. The remaining \$3,412 paid included combined hours for projects 1 and 2 and other services not sufficiently described to be able to determine the project. Therefore, the amounts paid for projects 1 or 2, or both, exceeded the agreed-upon amounts in the contract.

RECOMMENDATION

The Emergency Medical Services Regulatory Board should strengthen internal controls over professional/technical services contracts to ensure it uses a competitive process to select vendors when required by state policy, fully executes contracts before vendors provide services, and pays vendors for services in compliance with contract terms.

⁷⁶ Minnesota Department of Administration, Professional/Technical Services Contract Manual, Section 11, *Annual Plan and Annual Plan Agreements*, modified June 2016.

⁷⁷ *Minnesota Statutes 2022*, 16C.08, subd. 2(4).

According to state policy, “State employees must avoid any action which might result in a conflict of interest.... When anyone in a state agency becomes aware of a potential conflict of interest, they must act immediately to remove the conflict, and if necessary, separate the employee from the acquisition.”⁷⁸

FINDING 16

The Emergency Medical Services Regulatory Board executed two annual plan contracts and a professional/technical services contract with a vendor with which the former executive director had a conflict of interest.

The vendor the board contracted with for two annual plan contracts, including one of the contracts discussed in the first and second bullets of Finding 15, and for the professional/technical services contract discussed in Finding 16, was the brother-in-law of the former executive director. State law states, “The following actions by an employee in the executive branch shall be deemed a conflict of interest... (1) use or attempted use of the employee’s official position to secure benefits, privileges, exemptions or advantages for the employee or the employee’s immediate family....”⁷⁹ State policy defines immediate family as “the employee’s spouse, children, children-in-law, parents, parents-in-law, siblings, and siblings-in-law.”⁸⁰ It also states that an actual conflict of interest occurs “when an employee participates in the selection, award, or administration of a contract when the employee, any member of their immediate family,...has a financial or other interest in or a tangible personal benefit from an entity considered for a contract.”⁸¹ Finally, it states, “A conflict of interest situation can exist directly (when you gain personally) or indirectly (when a friend, relative or acquaintance does). Some clear-cut examples of conflicts of interest and violations of law include buying from your brother, sister, or spouse with state funds....”⁸² The former executive director selected the vendor and did not consider hiring his brother-in-law to be a conflict of interest because he had no personal financial gain.

Under the first annual plan contract, executed on May 16, 2019, the board paid the vendor \$4,950 for services performed through June 28, 2019. Under the second annual plan contract, executed on August 6, 2019, the board paid the vendor \$4,950 for services performed through September 23, 2019. The board executed the professional/technical services contract for \$25,000 on October 11, 2019, and paid the vendor \$17,475 for services performed between September 24, 2019, and December 18, 2019. Once the former executive director disclosed the conflict of interest to the board’s executive committee on December 19, 2019, and the full board on January 16, 2020, the professional/technical contract was terminated.

⁷⁸ Minnesota Department of Administration, Professional/Technical Contract Policy 21-02, *Procurement Code of Ethics Policy*, issued December 29, 1998, revised June 14, 2021.

⁷⁹ *Minnesota Statutes 2022*, 43A.38, subd. 5.

⁸⁰ Minnesota Department of Administration, Professional/Technical Contract Policy 21-02, *Procurement Code of Ethics Policy*, issued December 29, 1998, revised June 14, 2021.

⁸¹ *Ibid.*

⁸² *Ibid.*

RECOMMENDATION

The Emergency Medical Services Regulatory Board should strengthen internal controls over procurement to ensure it identifies potential conflicts of interest and takes appropriate steps to ensure individuals with conflicts of interest are not involved in procurement decisions.

Employee Expense Reimbursements

The board reimburses employees for expenses incurred for legitimate state business. During the scope of the audit, the board reimbursed employees for \$4,652 in business expenses submitted on 58 separate expense reports. We tested a random sample of 11 of those expense reports, and 14 additional expense reports selected based on our analysis, and found no significant issues.

Supplies, Equipment, Purchased Services, Fees, and Taxes

During the scope of the audit, the board made 365 payments for supplies, equipment, purchased services, fees, and taxes totaling \$440,180.⁸³ We tested a random sample of 40 payments and 5 additional payments selected based on our analysis, and found no significant issues.

Inventory of Assets

The board maintains sensitive items needed for its operational activities. Sensitive items are items “that could be easily sold and are most often subject to pilferage or misuse.”⁸⁴ State policy states, “A complete physical inventory (e.g., a wall-to-wall inventory count) for sensitive items must be conducted, at a minimum, biennially.”⁸⁵ As of May 2021, the board had 239 sensitive items with a total cost of \$218,975 recorded in the state’s accounting system.

FINDING 17 – PRIOR FINDING

The Emergency Medical Services Regulatory Board did not conduct physical inventories of its sensitive items as required by state policy.

The board did not conduct any physical inventories of its sensitive items during the scope of the audit. The board did not develop internal policies and procedures for

⁸³ The board subsequently received two refunds totaling \$411 related to those expenditures.

⁸⁴ Minnesota Department of Administration, *Property Management Reporting and Accountability Policy*, issued May 1, 2014. Sensitive items include firearms and other weapons, computers, portable printers, scanners, projectors, cellular phones, software with an acquisition cost between \$5,000 and \$30,000, and video equipment with an acquisition cost between \$500 and \$5,000.

⁸⁵ *Ibid.*

conducting physical inventories, and did not conduct a physical inventory due to staff oversight.

Inaccurate asset inventory records increase the risk of assets being misappropriated without detection. Conducting periodic physical inventories of assets, documenting the results of those inventories, and updating asset inventory records based on those documented results is necessary to ensure the accuracy of asset inventory records.

RECOMMENDATIONS

- **The Emergency Medical Services Regulatory Board should conduct complete physical inventories of its sensitive items at least biennially.**
 - **The Emergency Medical Services Regulatory Board should develop internal policies and procedures to ensure it conducts physical inventories of its sensitive items as required by state policy.**
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List of Recommendations

- The Emergency Medical Services Regulatory Board should work with the eight emergency medical services regions to recover Emergency Medical Services Relief Account grant funds used for unallowable purposes. (p. 16)
- The Emergency Medical Services Regulatory Board should remove the reference to the statute for the Emergency Medical Services System Fund from its grant contracts for Emergency Medical Services Relief Account grants. (p. 16)
- The Emergency Medical Services Regulatory Board should strengthen internal controls over Emergency Medical Services Relief Account grants to ensure approved budgets only include the allowable uses specified in state law. (p. 16)
- The Emergency Medical Services Regulatory Board should correct the payment errors identified. (p. 17)
- The Emergency Medical Services Regulatory Board should strengthen internal controls over grant payments to ensure reimbursed expenditures correspond to the approved grant budgets, and to ensure it makes payments from the correct grant. (p. 17)
- The Emergency Medical Services Regulatory Board should establish internal policies and procedures for monitoring grants to ensure compliance with state policies. (p. 19)
- The Emergency Medical Services Regulatory Board should obtain progress reports from each emergency medical services region as required, and document its review of those reports. (p. 19)
- The Emergency Medical Services Regulatory Board should conduct monitoring visits and perform financial reconciliations for each Emergency Medical Services Region grant as required, and document those visits and reconciliations. (p. 19)
- The Emergency Medical Services Regulatory Board should evaluate each emergency medical services region's performance at the completion of each grant, and document those evaluations. (p. 19)
- The Emergency Medical Services Regulatory Board should obtain copies of each emergency medical services region's audits as required, and document its review of those audits. (p. 19)
- The Emergency Medical Services Regulatory Board should correct the ambulance attendant training reimbursement overpayments identified. (p. 21)
- The Emergency Medical Services Regulatory Board should revise its ambulance attendant training reimbursement application form to instruct applicants to record the actual expense amount up to the maximum allowed, and should strengthen internal controls over ambulance attendant training reimbursements to ensure the accuracy of the reimbursements. (p. 21)

- The Emergency Medical Services Regulatory Board should verify that the identified ambulance attendant training reimbursements were eligible for reimbursement, and correct any overpayments. (p. 21)
- The Emergency Medical Services Regulatory Board should strengthen internal controls over ambulance attendant training reimbursements to ensure it sufficiently validates eligibility for the reimbursements. (p. 21)
- The Emergency Medical Services Regulatory Board should consider transferring the maintenance of its personnel files to SmART. (p. 27)
- The Emergency Medical Services Regulatory Board should develop procedures to ensure it properly retains approval documentation for executive director salary increases. (p. 27)
- The Emergency Medical Services Regulatory Board should develop procedures to ensure it completes annual employee performance reviews for all employees. (p. 27)
- The Emergency Medical Services Regulatory Board should ensure the executive director's access rights to the state's payroll system do not allow self-approval of timesheets. (p. 28)
- The Emergency Medical Services Regulatory Board should develop an internal policy that addresses the approval of the executive director's timesheets, and prohibits self-approval. (p. 28)
- The Emergency Medical Services Regulatory Board should revise the terms of its interagency agreement with SmART to specify each agency's responsibilities for the required reviews of the Payroll Register, Payroll Posting Audit Trail, and Self Service Time Entry Audit Report. (p. 29)
- The Emergency Medical Services Regulatory Board should review the Payroll Posting Audit Trail and Self Service Time Entry Audit Report, and retain documentation of its review, as required by state policy. (p. 29)
- The Emergency Medical Services Regulatory Board should develop procedures to document and retain overtime preapprovals and the nature of special work assignments for employees otherwise not eligible for overtime. (p. 31)
- The Emergency Medical Services Regulatory Board should correct the call-back pay and on-call pay errors identified. (p. 33)
- The Emergency Medical Services Regulatory Board should develop procedures to review and validate the accuracy of call-back pay and on-call pay amounts. (p. 33)
- The Emergency Medical Services Regulatory Board should collect the overpaid separation payment from the former executive director. (p. 34)
- The Emergency Medical Services Regulatory Board should correct the compensatory time balance adjustment error identified. (p. 35)
- The Emergency Medical Services Regulatory Board should develop procedures to review and validate the accuracy of payroll and leave balance adjustments processed by SmART. (p. 35)

- The Emergency Medical Services Regulatory Board should strengthen internal controls over annual plan contracts to ensure compliance with state policy. (p. 39)
- The Emergency Medical Services Regulatory Board should strengthen internal controls over professional/technical services contracts to ensure it uses a competitive process to select vendors when required by state policy, fully executes contracts before vendors provide services, and pays vendors for services in compliance with contract terms. (p. 40)
- The Emergency Medical Services Regulatory Board should strengthen internal controls over procurement to ensure it identifies potential conflicts of interest and takes appropriate steps to ensure individuals with conflicts of interest are not involved in procurement decisions. (p. 42)
- The Emergency Medical Services Regulatory Board should conduct complete physical inventories of its sensitive items at least biennially. (p. 43)
- The Emergency Medical Services Regulatory Board should develop internal policies and procedures to ensure it conducts physical inventories of its sensitive items as required by state policy. (p. 43)



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November 21, 2022

Judy Randall
Legislative Auditor
Minnesota Office of the Legislative Auditor
658 Cedar Street
Room 140 Centennial Building
St. Paul, MN 55155-1603

Dear Auditor Randall:

Thank you for the opportunity to review the Office of the Legislative Auditor's Performance Audit of the Emergency Medical Services Regulatory Board.

Your thorough evaluation raises several serious and important issues, and we are thankful for the diligent work of your team. We understand that due to the evaluation timeline, certain findings and recommendations reflect the state of the EMSRB as it existed in April 2021. We are pleased to report that we began making urgently needed progress on many of the issues as they were discovered during your team's evaluation. As of the date of this letter, the EMSRB has fully resolved eight (8) of the findings contained in this report, and another six (6) findings have been significantly resolved with plans in place to fully resolve them. This work was made possible due to the Board taking swift and decisive action upon being made aware of certain concerns, not only from your office through the course of this audit, but also from the Department of Administration as early as January of 2021. Through diligent work of the Board, the EMSRB has made significant and lasting structural change in response to being made aware of certain issues. The EMSRB thanks your team for their transparency during this process, which contributed to the Board making immediate and lasting change. A summary table of your findings along with actions taken, and the findings current status is included on the following page of this response.

Table 1: Current Status of Report Findings as of 11/21/2022

Finding	Action	Status
#1	Will update acceptable uses for EMS Relief Fund to be consistent with this finding	To complete by 06/30/2023
#2	Increased staff and improved control environment. Will work to establish additional oversight	Partially Resolved
#3	Establishment of grant monitoring visits and financial reconciliation desk reviews of reimbursements made	Partially Resolved (50%)
#4	Will update the ambulance training reimbursement form as recommended	To complete by 02/01/2023
#5	Implementation of electronic validation process to determine and document eligibility of ambulance training reimbursement forms	Partially Resolved (85%)
#6	Formalized evaluation process for executive director, including salary increase determination	Fully Resolved
#7	Annual performance reviews have been completed for all employees in the agency	Fully Resolved
#8	Working with SmART to establish timesheet approval policy for agency head	To complete as possible, timeline outside EMSRB control
#9	Currently reviewing two out of the three reports each pay period; will work with SmART to start receiving and determining roles for self-service audit report	Partially Resolved (85%)
#10	Improved PTO and OT approval documentation. Improved prompts for self-service time entry system for supervisors	Fully Resolved
#11	Additional training and tracking of on-call policies and practices	Partially Resolved (95%)
#12	Worked with SmART to validate vacation leave balance procedures. Will continue to monitor performance of existing automated controls	Fully Resolved
#13	Additional training on policies with SmART, and practices updated to minimize compensatory time balance discrepancies	Partially Resolved (Monitoring)
#14	Increased staff and improved control environment. No issues administering annual plan contracts since implementation	Fully Resolved
#15	Increased staff and improved control environment. No issues administering professional/technical services contracts since implementation	Fully Resolved
#16	Increased staff and improved control environment. No one individual can control all aspects of the procurement process. No issues since implementation	Fully Resolved
#17	Sensitive item inventory policy written, and inventory completed	Fully Resolved

In reviewing the recommendations, the EMSRB acknowledges a few themes that contributed to the findings contained within this report. The first is that there was an inadequate control environment. With the limited staffing of the EMSRB, there were multiple instances of one or a small group of individuals, without adequate training or background in state procurement policy, controlling all aspects of a financial or procurement transaction. To remedy this, the EMSRB hired a Grants and Financial Manager in October of 2021. This individual has significant experience in state government financial and procurement procedures. This change significantly improved the control environment within the EMSRB. Additionally, the newly hired Executive Director brings a wealth of experience of general state government operations. With the policies and procedures now in place, it is not possible for one individual to unilaterally direct the procurement practices of the agency.

The second theme that is readily apparent is that some aspects of EMS statute, state policy, and collective bargaining agreements are inconsistent or ambiguous or both, particularly as it relates to acceptable uses of specific funding. The EMSRB has reviewed the findings and recommendations of this report and will continue work to update agency interpretations to be consistent with those of the OLA.

Thirdly, a systems approach is crucial to any type of control environment. There are any number of imperfect systems that exist within state government that create limitations for state agencies. For example, limitations with individuals who can be entered into the state payroll system provides significant barriers to small boards and commissions who lack strong management structures in approving payroll for agency heads. Improvements to those systems should always be paramount, and I am happy to report that has happened here. There have been updates to the self-service time entry system that now require comments from supervisors to document special circumstances. The EMSRB realizes that as these systems improve so does the overall control environment and as a result, the efficiency of state government.

Finally, there are seven separate findings that are related to financial services, including payroll, that the EMSRB received from the Small Agency Resource Team (SmART) during the scope of the audit. While the EMSRB accepts that it is ultimately responsible for all agency activities, it is apparent from this audit that the EMSRB needs to provide additional oversight to SmART to ensure that financial, payroll, and personnel transactions are handled appropriately, particularly types that occur with limited frequency. We will work with SmART to gain access to the needed resources and reports to ensure this additional oversight occurs.

Responses to Findings by the Office of the Legislative Auditor

Finding 1: The Emergency Medical Services Regulatory Board approved budgets for Emergency Medical Services Relief Account grants that included unallowable uses.

EMSRB Response: The EMSRB will review all future procurement instruments for the EMS Relief Account and ensure that only uses authorized under M.S. 169.686 Subdivision 3 are permitted. The EMSRB feels that the language of the statute including “operational expenses of emergency life support transportation services” is ambiguous and likely contributed to the approval of certain expenses. However, we cannot be certain as individuals responsible for those approvals are no longer employed by the agency.

Finding 2: The Emergency Medical Services Regulatory Board reimbursed emergency medical services regions for expenditures that were not included in the approved grant budgets, and did not always make grant payments from the correct grant

EMSRB Response: The addition of a Grants and Financial Manager in October of 2021 has led to increased accountability and bandwidth to be able to appropriately track a grants approved budget vs actual expenses incurred. Additionally, there are now processes that are in place to follow up on payments to ensure that they have been debited against the correct grant or contract within the agency. We will continue to work with SmART to ensure that financial transactions are entered against the appropriate line item. The EMSRB considers this finding to be partially resolved.

Finding 3: The Emergency Medical Services Regulatory Board did not monitor its Emergency Medical Services Region grants as required by state policy.

EMSRB Response: The EMSRB agrees with this finding. Work began in November of 2021 to begin implementing the state's grant monitoring policy OGM 08-10. To date, four (4) of the eight (8) EMS regions have had on site monitoring visits conducted. The other four (4) regions are scheduled for monitoring visits. All regions will have a monitoring visit and report of that visit completed by June 30, 2023. Additionally, a process for submission of yearly progress reports is currently under development. Finally, the EMSRB will establish policies and procedures to collect, review, and document review of financial audits of the EMS regions. We will complete this work no later than June 30th, 2023. As a result, the EMSRB considers this finding to be partially resolved pending completion of monitoring visits.

Finding 4: The Emergency Medical Services Regulatory Board overpaid licensed ambulance services for ambulance attendant training reimbursements.

EMSRB Response: The cost of EMS education has increased significantly over the course of the last 7-10 years. The cost of education largely outpaces what is eligible to be reimbursed. However, this audit has uncovered that there are limited circumstances where additional documentation may be required. The EMSRB will make changes to the reimbursement form as recommended.

Finding 5: The Emergency Medical Services Regulatory Board did not validate the eligibility of volunteer ambulance attendants for reimbursements of education costs associated with the completion of an initial EMT education course.

EMSRB Response: For education reimbursement applications that were received by the agency beginning in Fiscal Year 2023, the EMSRB has begun to use an electronic validation process that reviews key information from the EMSRB's personnel licensure system. If the reimbursement application does not pass automated validation, it is manually reviewed. Documentation of this validation is retained by the EMSRB. An additional change that will be made in the future is that applications that are not yet eligible for repayment due to the one year of service requirement will no longer be retained by the agency for future payment, as was a previous customer service measure. Instead, those application will be rejected, and ambulance services instructed to resubmit at a later time to ensure that the EMSRB can address this finding in full. Until that change is implemented the EMSRB considers this finding partially resolved.

Finding 6: The Emergency Medical Services Regulatory Board did not retain approval documentation for salary increases given to the former executive director.

EMSRB Response: This finding has been fully resolved. As part of the previous OLA program audit report, there were recommendations for the Board to ensure that the Executive Director receives performance evaluations from the Board. The new Executive Director has received a 3-month and 6-month evaluation as of the date of this letter. The new evaluation instrument contains a checkbox of whether or not the Executive Director is eligible for a performance increase and will meet the requirements for retention of approval.

Finding 7: The Emergency Medical Services Regulatory Board did not complete annual employee performance reviews.

EMSRB Response: This finding has been fully resolved. All EMSRB employees received a performance evaluation in November of 2021. These were performed by the Board Chair, who was serving as the Acting Executive Director. The New Executive Director is in the process of finishing performance evaluations for 2022.

Finding 8: The Emergency Medical Services Regulatory Board allowed one employee to approve his own timesheets.

EMSRB Response: The EMSRB has been and is currently working with SmART on the best way to address this issue moving forward. There are limitations with the states payroll system on who can and cannot be added as approvers and is a matter that is outside the control of the EMSRB. We will continue to seek SmART's guidance on how to best resolve this issue in the immediate future.

Finding 9: The Emergency Medical Services Regulatory Board did not review payroll reports as required by state policy.

EMSRB Response: This finding has been partially resolved. Every pay period the EMSRB receives the payroll register and the payroll posting audit trail reports from a representative of SmART. The Grants and Financial Manager for the EMSRB reviews these reports and completes an audit tracking log that documents the review. As of the date of this letter the review of the self-service audit trail report remains unresolved. We will clarify with SmART the roles and responsibilities of which agency is responsible for the review of that particular report as highlighted in your recommendations.

Finding 10: The Emergency Medical Services Regulatory Board did not document preapprovals of employee overtime hours and did not document overtime eligibility for certain employees.

EMSRB Response: This finding has been fully resolved. In April of 2022, the EMSRB updated its process for requesting overtime authorization and for requesting time off. These forms are sent to the Executive Director ahead of time and the appropriate leave or payroll code is documented and approved. Furthermore, the self-service system now requires comments for certain types of situations and pay codes. For MAPE employees who are granted overtime hours comment documentation is provided in self-service to document the special project to which they were assigned.

Finding 11: The Emergency Medical Services Regulatory Board incorrectly paid several employees for call-back pay and on-call pay.

EMSRB Response: This finding has been mostly resolved. The few errors that occurred related to this finding were during a transition of financial services from the Administrative Services Unit (ASU) to SmART. The EMSRB is working with SmART to identify procedures of how to review changes that may be made by SmART staff, and to ensure that all information is entered correctly. Finally, the call back and on-call procedure in the Middle Management Association (MMA) agreement were different than those in the Minnesota Association of Professional Employees (MAPE) agreement. Currently the EMSRB does not have any MMA covered employees participating in on-call or call back programs or duties.

Finding 12: The Emergency Medical Services Regulatory Board did not reduce the former executive director's vacation leave balance when he did not reduce it to the cap by the extended deadline.

EMSRB Response: The extended COVID deadlines for vacation time reduction created some confusion related to procedures for leave balance adjustments. The EMSRB now receives reports to review which employees need to reduce their leave balances. We will continue to work with SmART to identify procedures to validate their entries related to leave balances. With the expiration of all leave balance extensions and the other discussed controls, the EMSRB considers this finding to be resolved.

Finding 13: The Emergency Medical Services Regulatory Board improperly reduced an employee's compensatory time balance.

EMSRB Response: The EMSRB has updated and added clarity to its on-call policies, and we continue to educate and work with SmART to ensure that on-call duty is compensated appropriately, and to minimize the number of manual adjustments that are required.

Finding 14: The Emergency Medical Services Regulatory Board did not administer annual plan contracts in compliance with state policy

EMSRB Response: The EMSRB agrees with this finding. This finding is the result of an inadequate internal control environment in which the EMSRB did not have a sufficient number of staff knowledgeable in the state's procurement process, specific to contracts. The EMSRB has remedied this fact by hiring a Grants and Financial Manager with experience in the state procurement and contracting processes. Additionally, the EMSRB has spent a great deal of time in preparation of subsequent annual plans to ensure that all potential work that the EMSRB might require would be covered by the approved annual plan. With these changes and overall increase in controls, the EMSRB considers this finding to be resolved.

Finding 15: The Emergency Medical Services Regulatory Board did not administer a professional/technical services contract in compliance with state policy.

EMSRB Response: The EMSRB concurs with this finding, in addition to hiring the Grants and Financial Manager position, we have made significant updates to our internal control environment and the agency is now better positioned to adhere to state procurement policy and procedures. There have been multiple P/T contracts that have been administered since the scope of this audit and the EMSRB has ensured that either the competitive process was utilized, or there was a statutory exemption including an approved sole source justification. Additionally, there have been no further instances of contracted work being initiated prior to the execution of a contract. Finally, the EMSRB has continued to work to minimize article 16 A/C violations. In the rare instances

where an article 16 A/C violation occurs, the agency ensures that all required reporting procedures are followed. The EMSRB considers this finding to be resolved.

Finding 16: The Emergency Medical Services Regulatory Board executed two annual plan contracts and a professional/technical services contract with a vendor with which the former executive director had a conflict of interest.

EMSRB Response: The EMSRB concurs with this finding. This finding was the result of an inadequate internal control environment due to an insufficient number of trained individuals in state procurement policy. The EMSRB has made an investment in internal controls with the hiring of a Grants and Financial Manager. With this change, no one individual within the agency can control all aspects of a procurement transaction regardless of its type. Additionally, the EMSRB is continuously evaluating its control environment with the completion of annual internal control assessments in accordance with MMB policy. Finally, the individual with the identified conflict is no longer affiliated with the agency. The EMSRB considers this finding fully resolved.

Finding 17: The Emergency Medical Services Regulatory Board did not conduct physical inventories of its sensitive items as required by state policy.

EMSRB Response: This finding has been fully resolved. In May of 2022, the EMSRB created agency specific policies and procedures related to sensitive item inventories and appointed an agency inventory coordinator. These policies and procedures were drafted to be consistent with state policy. A full sensitive inventory was conducted in June of 2022.

With the eight fully resolved findings and the six partially resolved findings, the EMSRB is pleased with the early progress and the fundamental changes to internal controls that are well underway. We also recognize that work remains to be done. The EMSRB remains fully committed to ensuring efficient operations and fiduciary responsibility in accordance with all Minnesota laws and administrative policies. Again, we thank you for the thorough evaluation and clear recommendations you have provided.

Sincerely,



Dylan J Ferguson
Executive Director



J.B. Guiton
Board Chair



OLA

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