



Report of the Vermont State Auditor

February 22, 2006

DEPARTMENT OF PUBLIC SAFETY GRANTS MANAGEMENT

Review of Awards to Three Sub- Grantees

Randolph D. Brock
Vermont State Auditor
Rpt. No. 06-01

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RANDOLPH D. BROCK
STATE AUDITOR



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

Speaker of the House of Representatives Gaye Symington
President Pro-Tempore of the Senate Peter F. Welch
Governor James Douglas
Commissioner, Department of Public Safety, Kerry Sleeper

Dear Colleagues,

I am pleased to provide you with the following report, ***DEPARTMENT OF PUBLIC SAFETY GRANTS MANAGEMENT: Review of Awards to Three Sub-Grantees***. This report examines the State's policies, procedures and controls related to sub-awards of federal homeland security and emergency management grants to three local governmental entities.

Recipients of federal awards are required to have in place policies, procedures and controls to ensure that the use of those awards is in compliance with all applicable federal, state and local laws, regulations and grant requirements. To that end, the Department of Public Safety (DPS) has adopted a set of requirements specifying the compliance and accounting requirements for its sub-grants. In addition, DPS began a process to perform periodic compliance reviews to ensure sub-recipients complied with the terms and conditions of the grant awards. That process worked well here, and credit is due to DPS' internal audit function, which uncovered the instances of abuse and non-compliance described in this report.

In each of the three sub-grant agreements we reviewed, we noted matters of non-compliance with federal, state and grant terms and conditions. In two of the cases, there appeared to be intentional misrepresentation to facilitate improper awards. In fact, our work, and the work of the DPS internal auditor, identified instances in which DPS personnel issued specific instructions to sub-grantees designed to circumvent the terms and conditions of the grants.

The results of our work on these three sub-grants have implications far beyond the specific matters identified. In fact, results of this report will be included in the overall assessment of the state-wide Federal Single Audit.

I believe there are opportunities to improve the oversight of sub-recipients. The matters noted in this review, although serious and deserving of immediate corrective action, are not unique to the Department of Public Safety. I encourage the Department of Public Safety to work with the Commissioner of Finance & Management to develop the policies, procedures and controls required to effectively monitor sub-recipients and to resolve matters of non-compliance as soon as they are identified.

Sincerely,

A handwritten signature in black ink, appearing to read "Randolph D. Brock".

Randolph D. Brock
State Auditor

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Abbreviations

DPS	State of Vermont Department of Public Safety
FEMA	Federal Emergency Management Agency
GAO	Government Accountability Office
HSU	Homeland Security Unit, Department of Public Safety
RCCC	Rutland County Clerks Collaborative
SAO	State Auditor's Office
VEM	Vermont Emergency Management, Department of Public Safety
VGMA	Vermont Museum Gallery Alliance

Introduction

Since the terrorist attacks of September 11, 2001, the federal government has dispersed billions of dollars in homeland security grants. Nationwide, the volume of funds distributed to the states, along with the tight timeframes for their distribution or commitment to sub-grantees, has led to problems with the oversight of these funds. In particular, problems have surfaced with grantees complying with grant requirements and in monitoring sub-grantees, as required by the federal Office of Management and Budget's Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

In Vermont, the Department of Public Safety (DPS) has received over \$50 million in Homeland Security and Federal Emergency Management Agency (FEMA) funds. The majority of these funds have been passed through to local government entities (sub-grantees) to meet the requirements of the individual federal grants. In June of 2005 it was brought to our attention that internal DPS audits had found that portions of awards to three sub-recipients had circumvented federal grant requirements or DPS accounting policies. The three sub-grants involved a total of approximately \$220,000 in pass-through federal grants. In connection with the A-133 Audit of Federal Awards, we initiated an in-depth review of these three sub-grants. The objective of our review was to assess the validity of the internal audit findings related to the three sub-recipient grant awards and determine the extent to which DPS took action to address the identified non-compliance. We performed this review in accordance with generally accepted government auditing standards. Appendix I contains our scope and methodology.

Highlights: Report of the Vermont State Auditor

Department of Public Safety Grants Management: Review of Awards to Three Sub-Grantees

Objective and Recommendations

Objective:

To assess the validity of the internal audit findings related to the three sub-grantee awards and determine the extent to which DPS took action to address the identified non-compliance.

Recommendations:

We made recommendations to DPS regarding (1) seeking reimbursement of funds that were inappropriately provided to the three sub-grantees, (2) evaluating its policies, procedures and controls over sub-recipient monitoring, particularly as it relates to the use of matching contributions, and (3) establishing a mechanism to track and resolve audit findings.

Findings:

Our work substantiated the findings of the DPS internal auditor that the award of certain federal funds to three sub-recipients violated federal requirements and DPS policies.

- *Village of Johnson*. Johnson applied for a grant to replace equipment destroyed during a fire at its fire department building. However, Johnson was reimbursed for this equipment by its insurance company. Federal Homeland Security Grant Guidelines clearly state that funding is to be used to supplement existing funding, not supplant otherwise available funds. Johnson contends that DPS was aware the Village would be applying for insurance reimbursement and that DPS stated no opposition to this. When the DPS auditor identified this as non-compliant and brought the issue to the attention of DPS management, DPS sought reimbursement of the funding from the town. However, the resulting reimbursement agreement between DPS and the village was inaccurately computed and the state has not received full reimbursement of all questioned costs.
- *Town of Norwich*. Norwich applied for a grant to install a backup generator for its municipal building. As part of the sub-grant agreement, the town was responsible for half of the cost of the total project (known as “matching”) incurred during the period of performance of the sub-grant. However, Norwich included as part of the total cost of the project—and as the bulk of its matching contribution—the appraised value of a generator that was acquired several years prior to the period of performance. The former Town Manager responsible for the grant application either knew or should have known the generator did not meet the grant matching requirements. Accordingly, this was not a valid match on the part of the town. At the time of audit fieldwork, the SAO was not aware of any resolution in this matter.
- *Rutland County Clerks Collaborative (RCCC)*. The RCCC applied for a grant to hire a consultant to conduct risk assessments for its 14 member towns. As part of meeting the federal matching requirements for this grant, and at the suggestion of a DPS employee, the RCCC submitted the value of donated time by a paid contractor. This is specifically prohibited under DPS accounting policy. In order to circumvent the policy, the RCCC, at the suggestion of a DPS employee, knowingly submitted false documentation of a cash vendor payment, thus using an artifice to obtain a payment to which otherwise it was not entitled. In addition, other matching items submitted by the RCCC were also questionable. At the time of our review, the SAO was not aware of any resolution in this matter.

It is to DPS’ credit that it established an internal audit function that discovered these problems. However, it would have been preferable for DPS to exercise due diligence in awarding and managing these sub-grants rather than relying on the audit function, which occurs subsequent to payment. In particular, although concerns were raised by the DPS accounting office prior to reimbursing Norwich and the RCCC, they were not pursued by DPS management. Moreover, in one case, DPS accounting policy appears to have been deliberately circumvented by the DPS grants staff. As a result, the department missed clear signals and made improper payments to the local entities. Further, DPS did not have a process for tracking audit findings to resolution to ensure that such improper payments are fully reimbursed.

Background

DPS, through its Homeland Security Unit (HSU) and Vermont Emergency Management (VEM) division, has been awarded over \$50 million in federal homeland security related grants since September 11, 2001. In accordance with DPS and Federal grant guidelines, most of these funds have been passed through to local entities.

In receiving the Homeland Security grants, Vermont, along with applicable sub-grantees, agree to abide by a series of federal requirements, including:

- OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, which requires recipients of federal funds to oversee financial accountability of sub-recipients.
- OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, which provides standards for allowable costs.
- Federal Homeland Security Grant Program Guidelines, which provide specific requirements regarding allowable and unallowable costs and activities.

In addition, sub-grantees must comply with DPS accounting policies and procedures.

Among federal and DPS grant requirements are those pertaining to “matching,” which is the sub-grantee’s contribution to the total cost of the grant project. Sub-grantees can provide either cash or non-cash contributions. Non-cash contributions (also called in-kind contributions) may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

DPS is responsible for ensuring that sub-grantees meet the requirements of the federal grants, which are outlined in the sub-grant agreements. They perform this activity through (1) grants managers who serve as liaisons with the sub-grantee and are responsible for reviewing and approving the grant application and overseeing its implementation, and (2) its accounting office, which reviews and processes payments.

DPS Internal Audit Found Improper Payments to Three Sub-grantees

In conducting an audit of three sub-grantees, a DPS internal auditor¹ found improper payments, which we substantiated. Specifically, the towns of Johnson and Norwich and the Rutland County Clerks Collaborative (RCCC)² used grants funds for unallowable purposes or submitted in-kind matches not allowed by DPS policy. Moreover, DPS managers for these grants did not adequately exercise their fiduciary duty in overseeing the grants. For example, a DPS grant manager instructed the RCCC representative on how to circumvent DPS accounting policy proscribing the use of donated time by paid contractors as an in-kind match. In addition, while DPS had clear indications that improper payments may have been made in these three cases, it did not follow up to prevent them from occurring. Furthermore, the department did not have a process to follow up on audit findings to ensure that reimbursement for the improper payments was received in a timely manner.

Village of Johnson: Reimbursed Twice for Same Fire Loss

On February 8, 2004, a Johnson Village Fire Department building was destroyed by fire. Shortly thereafter Johnson submitted a grant application to HSU for \$192,000, which was subsequently approved. A portion of the grant was to replace equipment that had been destroyed in the fire.

During a routine audit of sub-grantees, a DPS auditor discovered that some of the HSU grant funds were used by Johnson to purchase interior firefighting equipment that later would also be reimbursed by the town's insurance carrier.³ The DPS auditor concluded that this double-

¹The auditor no longer works at DPS, but will be referred to as the "DPS auditor" for purposes of this report. The auditor is now a member of the State Auditor's Office's (SAO's) staff, but was recused from participating in the SAO's work on this audit.

²The RCCC is a consortium of Town Clerks in Rutland County, Vermont.

³The coverage was provided by the Property and Casualty Inter-municipal Fund, which is administered by the Vermont League of Cities and Towns.

reimbursement for the destroyed equipment was not allowable since federal guidelines state “funding may not be used to supplant ongoing, routine public safety activities of state and local emergency responders.” We agree with the DPS auditor.

SAO notes that Duncan Hastings, Village of Johnson Municipal Administrator, has consistently asserted that DPS personnel were specifically told that several of the grant funded items would also be eligible for reimbursement by insurance and that Johnson had already received a \$50,000 advance check from their insurance provider. Mr. Hastings claims that DPS personnel stated that they were not concerned by the additional funding and that the goal of DPS was to provide assistance to the Village as quickly as possible.

After the DPS auditor brought this discrepancy to DPS management’s attention, on March 11, 2005, DPS requested that the Village of Johnson reimburse the state \$61,312. In this same letter, DPS also offered to treat this amount as a “cash advance” if certain conditions were met, such as purchasing approved equipment by September 30, 2005. Johnson Village disputed this amount, but agreed to a revised repayment amount (to be considered a “cash advance” to Johnson as DPS had previously offered) of \$53,803.65.

Although we commend DPS for seeking reimbursement from the Village of Johnson, we disagree that the amount should have been reduced. The rationale for the reduction was that some of the equipment was donated by a vendor and, therefore, its value should not be included in the computation of the duplicate payment. However, according to a letter from the vendor, the reduced price associated with the equipment was not a donation, but was rather a discounted package price (see appendix II).

Moreover, even if the items were donated to the Village, this fact is not relevant to the reimbursement that should be sought from the Village because it is not tied to the insurance proceeds the Village received. That is, the amount that the Village received in double-reimbursement (i.e., from both the grant and the insurance company) is what was improperly paid by DPS, not the cost of the items that were purchased.

Town of Norwich: False
Match Representation

In June, 2003, the Town of Norwich applied to VEM for grant funding for the installation of a backup generator at a municipal building. In accordance with FEMA requirements, this grant required that Norwich match 50 percent of the total cost of the project. The total cost of the project was approximately \$40,000. To fulfill their 50 percent match requirement, the Town offered the appraised value of a generator (\$17,500) already in its possession as well as the in-kind contribution of Town Highway Department labor (\$3,000). Under the terms of this grant, and consistent with FEMA requirements, these are both allowable as match items, provided the costs are incurred within the grant period (October 1, 2002 to September 30, 2003).⁴

The acceptance of the generator as a match item was questionable. Norwich supplied an undated and unsigned handwritten note on the bottom of a letter appraising the value of the generator as its proof that the item was donated within the grant period (see appendix III). We learned that the note is unrelated to the appraisal on which it was written. A DPS accountant sent a memo to a VEM grant manager stating that this was insufficient documentation and requested additional information on the donation. The VEM grant manager did not seek additional documentation and stated that the accounting office should accept the evidence as is (see appendix IV). DPS' subsequent payment to Norwich for this grant reflected an acceptance of the generator as an approved match item of \$17,500.

During a routine audit of sub-grantees, a DPS auditor discovered that the generator offered as the majority of the Town's match was 14 years old, was donated by the Department of Defense, had been in the Town's possession for approximately 5 years and the handwritten note was drafted by the former Town Manager, not the appraiser. At the time of the grant application, the Town Manager (no longer employed by the Town of Norwich) knew or should have known the generator already in the Town's possession did not meet the terms of the grant agreement. Accordingly, the DPS auditor concluded that the generator was not an eligible match

⁴Article 2 of the VEM sub-grant agreement.

item since it was not received in fiscal year 2003, the period of the grant. The DPS auditor subsequently wrote to the town seeking \$8,650 in reimbursement. Upon review of the DPS auditor's files, we concur with the auditor's conclusion that an improper payment had been made. However, we believe that the improper match invalidates the entire grant, and therefore all payments (\$19,650) made to the Town of Norwich under this grant should be returned. Our position is based on the material nature of the inaccurate representations made about the generator by the former Town Manager, and the fact that this generator was the bulk of the match as well as the focus of the original grant agreement.

The State Auditor's Office conducted a phone interview with former Norwich Town Manager Dennis J. Pavlicek and received contradictory and unsatisfactory explanations as to why the October 2002 date was submitted as a donation date on the letter.

At the time of audit fieldwork, the SAO was not aware of any resolution in this matter.

Rutland County Clerks
Collaborative: False
Supporting Documentation

The RCCC, working with the Vermont Museum Gallery Alliance (VMGA) and the Vermont Historical Records Advisory Board, requested a VEM Emergency Management Preparedness Grant for fiscal year 2003 to conduct risk assessments for its 14 member towns. As part of the match required for this grant, the RCCC included \$7,665 in donated time on the part of the consultant being paid to perform the assessments. However, DPS policy does not allow donated time from a paid contractor to be used as a match. According to a DPS management executive, this policy was put in place to avoid the possible conflict of interest and questionable valuation of services when a paid contractor also provides donated time.

An RCCC request for payment submitted through the VEM grant manager was properly denied by a DPS accountant due to this policy. However, this policy restriction was successfully circumvented. Specifically, the VEM grant manager falsified the internal DPS payment request documents to indicate a cash match rather than a volunteer match. The grant manager then specifically instructed the Town of Poultney (which

was acting as the financial manager for this grant for the RCCC) to issue a check to the contractor, submit a copy of the check to DPS for payment, and then have the contractor sign the check back to the Town. According to the grant manager's email to Poultney, this was "a solution to getting you paid" (see Appendix V). Poultney subsequently took the actions suggested by the VEM grant manager and provided the manager with a copy of the uncashed check (see Appendix VI). The grant manager submitted the check and other documentation to the DPS accounting unit, which subsequently approved RCCC's request for payment. According to DPS accounting staff, they were unaware that the check submitted as documentation for an expense was a pretense.

A DPS audit of this grant agreement brought the above information to light. The DPS auditor concluded that the \$7,665 amount of donated time by the contractor was inappropriately used as a match by the RCCC and recommended that reimbursement for this amount be sought. We agree with the DPS auditor's assessment because the RCCC did not actually pay the contractor this amount since the check issued to her was a pretense and was not cashed.

The DPS auditor also noted another discrepancy with the RCCC grant. Namely, VGMA charged the RCCC a rate of \$60 an hour for an employee's time on the project even though she was compensated at \$15 an hour. Thus, VGMA was reimbursed for \$480 ($\60×8 hours), instead of the amount of the actual expense of \$120 ($\15×8 hours), an overpayment of \$360. Further, the DPS auditor noted that the RCCC had used \$1,500 in "donated time" by this employee as part of meeting its match requirement. As previously noted, DPS policy does not allow donated time from a paid contractor to be used as a match.

Thus, the RCCC, at the instruction of a DPS employee, submitted knowingly false documentation and materially misrepresented payment information in order to obtain grant payment that was not authorized under DPS policy.

In total, by our calculation, the RCCC should repay DPS \$3,818 (see appendix VII for this calculation). At the time of our audit fieldwork, the SAO was not aware of any resolution in this matter.

DPS Handling of Homeland Security Grants Could be Improved

Personnel should be sufficiently trained to perform their duties and internal controls must be adequate to reduce the risk of improper payments (i.e., through preventive controls). It is better to catch problems before grants are awarded and/or reimbursements are made, rather than seek to rectify a problem once the funds have been dispersed (i.e., through a detective control, such as an audit function). However, in the case of all three sub-grants that we reviewed, DPS staff missed clear signals and made improper payments to the local entities. Therefore, it appears that some basic grant requirements were not always known or understood by the applicable DPS personnel and sub-grantees. Since DPS personnel and the sub-grantees are an integral part of ensuring that federal and state rules are applied accurately and consistently, it is critical that they know and understand these rules.

Additionally, a key way to achieve positive program outcomes, minimize operational problems, and improve accountability is to establish a strong internal control structure. The U.S. Government Accountability Office (GAO) has identified monitoring as an internal control standard.⁵ According to GAO, internal controls monitoring should assess the quality of performance over time and ensure that the findings of audits and other reviews are promptly resolved. Monitoring of internal controls should include policies and procedures for ensuring that findings of audits and other reviews are promptly resolved. Managers are to (1) promptly evaluate findings from audits and other reviews, including those showing deficiencies and recommendations reported by auditors and others who evaluate agencies' operations, (2) determine proper actions in response to findings and recommendations from audits and reviews, and (3) complete, within established time frames, all actions that correct or otherwise resolve the matters brought to management's attention.

Although DPS has established an audit function as part of its monitoring process, it has not established a process to resolve audit findings. Such a

⁵U.S. Government Accountability Office, *Standards for Internal Controls in the Federal Government* (GAO/AIMD-00-21.3.1, November 1999). Although this internal control standard applies to the federal government, we believe that the broad concepts outlined in the standard are also applicable in state government situations.

process would make it less likely that issues would “fall between the cracks” and remain unresolved. In addition, if all findings were in a single place, DPS would be positioned to identify systemic problems and take action to address them on a broader scale than on just an individual sub-grantee basis.

Conclusion

Along with the millions of dollars in homeland security grants that Vermont is receiving comes a responsibility to ensure that these funds are managed in accordance with federal government and DPS policies. It is to the credit of DPS that it has established an internal audit capability to help provide this assurance. However, the internal audit function is only the final control piece, and can be viewed as a detective control. Preventive controls are equally important and often less expensive. Due diligence on the part of DPS personnel, including grant managers and the accounting office are also necessary to ensure that the grants are properly administered.

In the three cases of sub-grant recipient monitoring that we examined, this due diligence was lacking and the preventive controls failed. In particular, concerns raised by the accounting office prior to reimbursing Norwich and the RCCC were not pursued by the grant manager and, in one case, DPS accounting policy was deliberately circumvented. These concerns were later validated after the fact by the DPS auditor and our review. As a result of this breakdown in preventive controls, DPS made thousands of dollars in improper payments.

Since our scope only included the audits of three homeland security grants, we cannot opine on whether or not the inappropriate actions on the part of both sub-grantees and DPS grant management officials in these cases are systemic. However, it appeared that the federal and state rules associated with matching federal grant monies were not always known or understood by DPS grant managers and/or the sub-grantees. In addition, a feature of a strong internal control environment is a process to track audit findings to resolution to ensure that findings are appropriately resolved. As of the completion of our fieldwork, DPS did not appear to have such a process in place.

Recommendations

Based on our results and those of the DPS auditor, we recommend that DPS expeditiously seek the following reimbursements from the three local government entities:

- \$7,508 from the Village of Johnson
- \$19,650 from the Town of Norwich
- \$3,818 from the RCCC

DPS should evaluate its policies, procedures and controls over the monitoring of sub-recipients. Particular focus should be placed on the federal, state and DPS rules concerning the appropriate use of matching contributions. The guidance contained in state-wide Bulletin 5, *Single Audit Policy for Subgrants*, as well as DPS-specific policies and procedures, should be fully understood by DPS personnel involved in all phases of the grants management process from pre-award through closeout. Procedures should be in place to ensure that strict adherence to these policies is maintained.

To ensure that audit findings are resolved and to help identify possible systemic problems in administering homeland security grants, we recommend that DPS establish an audit tracking mechanism.

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In accordance with 32 V.S.A. §163 (5), we are also providing copies of this report to the Secretary of Administration, the Commissioner of Finance and Management, and the state library. In addition, the report will be made available at no charge on the State Auditor's web site, www.state.vt.us/sao.

Any questions or comments about this report can be directed to the State Auditor's Office at 828-2281 or via email at auditor@sao.state.vt.us. Kaj Samsom, CPA, Senior Auditor, was the primary auditor of this review, under the direction and supervision of Thomas G. Gorman, CPA, Deputy State Auditor.

Agency Comments and Our Evaluation

The Department of Public Safety (DPS) provided written comments, which are included in appendix VIII. In general, the Commissioner of the Department of Public Safety has acknowledged the issues noted by our review. As a means of providing context to the findings in our report, he has given background information including the volume of sub-grants and dollars awarded by the State under these federal grant programs, as well as the original intent of Congress in expediting the distribution of these funds. The Commissioner has made the following specific comments, which are summarized below along with our response, where necessary.

- The Department of Public Safety stated that in Fiscal Year 2004, the realization was made that they lacked sufficient staffing to sustain the vital responsibility of monitoring the Homeland Security Program. In fiscal year 2005, additional staff were hired and as of December 5, 2005 a monitoring program began.
- The Commissioner noted that given the recent enhancement of grant monitoring activities, it was not accurate for our report to state that sufficient controls are not in place. The Commissioner requests that we amend our conclusion to reflect the recent changes. The work conducted by the State Auditor's Office (SAO) formed an opinion on the issues and controls in place at the time of the events noted and/or completion of audit work. SAO has amended the Conclusion section to more clearly state that our opinion on these controls is valid as of the completion of fieldwork. We commend the Department of Public Safety for enhancing grant monitoring activities.
- The Commissioner stated that it would be inaccurate for SAO to state that DPS suffered from a breakdown in preventive controls when it was those precise controls that identified the deficient grants in question. SAO acknowledges that DPS's *detective* controls, not *preventive* controls, identified some of the issues noted in this report. However, the body and conclusion of our report distinguishes between "preventive controls" and "detective controls" and emphasizes the importance of preventive controls in identifying problems before they occur; detective controls only identify problems after they have occurred at which point seeking acceptable remedies

becomes increasingly difficult. We believe “preventive controls” clearly failed, as non-compliant payments were made to all three sub-recipients. The inefficiency of detective controls is evident in the difficulty in finding timely and mutually acceptable remedies to the issues identified in this report. As such, SAO’s conclusion seeks to emphasize the importance of strong preventive controls.

- The Commissioner stated that “the push from the federal office of Homeland Security to disperse grant funds in an expedient manner, with the understanding that it might be at the expense of the development of effective internal controls, forced DPS to disperse money before effective controls were fully in place”. SAO recognizes that the volume and time pressure associated with these federal grant programs subsequent to September 11, 2001 has resulted in similar issues nationwide. SAO notes that the specific time pressure on DPS was in the obligation of federal funds to sub-grantees (commitment of funds and effecting of grant agreements). We believe that even in this context, DPS had a responsibility to ensure that the resources, knowledge and financial controls were in place to handle the volume of funds and administrative requirements associated with these programs.
- The Commissioner requests that our findings of the three non-compliant grant payments identified in this report be placed within the context that DPS has handled over \$54 million of related Federal funds and worked with 1,388 sub-recipients. SAO notes that some context was given in the introduction to this report. More importantly, as noted in appendix I of our report, the scope of the work performed included only the three grants which were brought to the Auditor’s attention. It would be inaccurate for the Auditor’s Office to make any assertion that those three sub-grant awards and the associated improper payments were the only non-compliant events in the entire population. As such, we did not form an opinion on the presence or absence of similar issues of non-compliance on the remaining population of DPS grants. To attempt to place the dollar amounts in this context would thus be misleading. Furthermore, we believe the most significant findings relate not to the dollar amounts involved, but in the process and control weaknesses identified and how they may apply to the Department’s handling of all federal monies.

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- Regarding the findings of the Village of Johnson sub-grant, the Department of Public Safety states that the issue is resolved and that the “donation letter” was acceptable in justifying the reduced computation performed by the Village of Johnson and accepted by DPS. As stated in the report, the Auditor’s Office believes that whether equipment was donated or not is irrelevant, because ultimately that same equipment was billed to the insurance company and the grant, giving rise to a double payment, or “supplanting”. For further clarification, SAO has added the “donation letter” at appendix II, and notes that it clearly states “They [free cylinders] weren’t a donation, but rather part of the whole package you requested to buy and were invoiced as a package”. As such, unresolved supplanting in the amount of \$7,508 remains present in the Village of Johnson sub-grant.
 - Regarding the findings related to the Town of Norwich sub-grant, DPS disagrees with the findings and states that the original amount due of \$8,650 as calculated by the DPS Auditor was accurate. Additionally, this amount was recalculated by the Town due to additional eligible match documented by the Town in August of 2005. The final amount of reimbursement due and paid was \$2,353.39. DPS states that their personnel consulted with FEMA prior to finalizing the resolution of this matter and believes the findings as stated in this report to be resolved. The Auditor’s Office maintains that due to the appearance of an intent to deceive on the part of the former Town Manager of Norwich regarding the acquisition date of the generator, that the entire grant award should be disqualified and repaid.
 - Regarding the findings related to the RCCC sub-grant, the Department of Public Safety acknowledges that erroneous instruction was given to the sub-grantee and states that this has complicated the resolution process with the Town of Poultney. The Commissioner expresses concern that our report seems to imply that the Vermont Emergency Management Financial Manager intentionally engaged in conduct violating DPS policy. The State Auditor’s Office has reported on the facts and sequence of events in this matter and has highlighted the non-compliance involved. Given these facts and circumstances it is our conclusion that the actions taken by the VEM Financial Manager constituted an intentional circumvention of DPS accounting policy. We must again emphasize that regardless of intent, under no circumstances is it acceptable that a check be issued as documentation

for an expense requiring reimbursement when it is the clear intention for that payment to not take place. The actions in this case fit the definition of a “sham transaction” even without the establishment of intent to deceive.

Sub-recipient Comments and Our Evaluation

The State Auditor’s Office also provided copies of the relevant portions of this report to the sub-recipients in order to provide an opportunity for them to review and respond to the assertions and facts concerning their town or organization. We received comments from the Village of Johnson, the Town of Norwich and the Town of Poultney on behalf of the RCCC.

- The Village of Johnson submitted comments on the report. Duncan Hastings, Municipal Administrator, expresses concern that readers of this report will have the impression that the Village of Johnson violated the law. We have included additional facts in the report to address Mr. Hastings concerns. These additions relate to Mr. Hastings’ consistent assertion that DPS originally knew that much of the equipment being funded by the HSU grant was also eligible for insurance reimbursement. SAO notes that regardless of instruction or representations made by DPS, personnel in positions of financial responsibility must understand that it is rarely appropriate to receive duplicate funding for the same loss. Mr. Hastings also questions our ability to present a fair and accurate report when this correspondence represents our office’s only direct communication with the Village. Our review focused on the Department of Public Safety’s role in management of federal grant funds. In conducting our review we obtained all internal DPS documents related to the sub-grant in question. This documentation included numerous and presumably all correspondence between DPS and the Village of Johnson concerning this grant award. That fact and the presence of this portion of the report, through which the Village is given opportunity to respond to our comments, is in our belief sufficient to ensure that we have presented a fair and accurate report. The Village also requested that we clarify the sequence of the HSU reimbursement and insurance reimbursement. We have addressed this in the report.

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- The Town of Norwich submitted comments on the report. Stephen J. Soares, current Town Manager, acknowledges that former Town Manager Dennis Pavlicek made inaccurate representations. The Town response also points out that when completed the cost of the generator project exceeded \$45,000 due to several unexpected costs. Additionally, the Town recently discovered that the diesel engine needs to be replaced or rebuilt at a potential additional cost of \$11,500. Mr. Soares also points out that by providing documentation to the Department of Public Safety of the additional costs they were able to reduce their repayment to DPS to \$2,353 when DPS deemed these additional costs to be eligible matching funds to replace a portion of the ineligible generator value. With this in mind and with the fact that the original purpose of the grant has ultimately been met, Norwich requests that SAO reconsider our conclusion, which is that the entire amount of the grant should be refunded. Our position is based on the material nature of the inaccurate representations made about the generator by the former Town Manager, and the fact that this generator was the bulk of the match as well as the focus of the original grant agreement.
 - The Town of Poultney submitted written and verbal comments to our office. In a letter signed by Town Manager Jonas Rosenthal and Town Clerk/Treasurer Patricia McCoy, the Town of Poultney contends that SAO has included several facts, statements and assertions that are not accurate and misrepresent the RCCC. Their letter addressed three matters from our report. The first two matters related to assertions and conclusions made concerning the Department of Public Safety's role in handling this grant. These statements do not affect the Town of Poultney or the RCCC. The final matter of concern to the Town of Poultney was our assertion that "the RCCC, at the instruction of a DPS employee, submitted knowingly false documentation and materially misrepresented payment information in order to obtain grant payment that was not authorized under DPS policy". We believe our report is clear on the fact that all of RCCC's actions were consistent with the specific instruction and signed grant agreement with the Department of Public Safety. However, by generating a check with no intent that it ever be cashed, and with full knowledge that the check represented a transaction that never was to take place, RCCC knowingly submitted false documentation, albeit at the instruction of a DPS employee. Personnel in positions of financial responsibility must be aware that

there is never a legitimate purpose for a sham transaction and that regardless of who is issuing the instruction, these types of requests should be questioned.

Appendix I

Scope and Methodology

To assess the validity of the DPS internal audit findings related to the three sub recipient grant awards and determine the extent to which DPS took action to address the identified problems, we reviewed applicable federal government and DPS regulations and policies. We also obtained and reviewed the complete audit workpapers for the three grant awards and independently assessed the validity of the DPS auditor's findings. In addition, we performed a high level review of the procedures and controls in place to prevent and detect non-compliance with grants by both the grantee and sub-grantee. Lastly, we interviewed applicable personnel from DPS, including officials from the DPS accounting office and VEM and HSU grants management offices.

We performed our work from May to August 2005 in accordance with generally accepted government auditing standards.

Appendix II

Letter From Vendor to the Johnson Fire Department Regarding Free Cylinders



PROTECTING THOSE WHO PROTECT

47 Bridge Street
So. Barrre, VT 05670
800-639-2901
802-479-0101
802-479-0135 (fax)

May 11, 2005

Mr. Daryl West
Johnson Fire Department
Route 100
Main Street
Johnson, Vermont 05656

Dear Daryl:

You have asked for clarification regarding the pricing and invoicing of your SCBA, face pieces and spare cylinders purchased in February 2004.

Your fire department provided a list of what needed to be replaced due to the loss of equipment in your fire. This included the 14 SCBAs, 14 spare cylinders, and 14 face pieces.

Safety Plus wrote a price exception request to MSA stating "They are an MSA department. Their fire department just burned to the ground. They lost everything and need help badly." We asked them to give deeper discounts on the pricing than they usually offer.

MSA responded with pricing in a package that included free cylinders. They weren't a donation, but rather part of the whole package you requested to buy and were invoiced as a package.

Please let me know if you have further information or questions regarding this.

Sincerely,

Roy C. Somaini
Division Manager

SUPPLIERS TO THE FIRE AND RESCUE MARKETS



Appendix III

Letter Appraising the Value of the Norwich Generator



TILDEN ELECTRIC, PC
260 CROSS STREET
FAIRLEE, VT 05045
802-333-4678

October 1, 2003

Dennis Pavlicek
Town Manager
Town of Norwich
PO Box 376
Norwich, VT 05055

RE: Generator Installation

Dear Dennis:

I estimate the value of the 100 kilowatt caterpillar diesel generator model #MEP0075 to be \$17,500.

Sincerely,

Benjamin Tilden

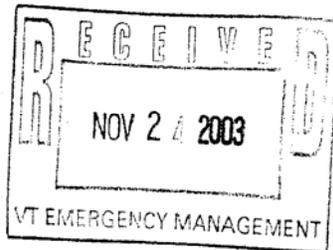
The Generator was donated
to the Town of Norwich in
October of 2002

Appendix IV

DPS Memorandum Regarding the Documentation of the Donation of the Norwich Generator

DEPARTMENT OF PUBLIC SAFETY

Memo



To: Nancy Scribner
From: Nancy Webster, Financial Systems Supervisor
Date: 11/21/03
Subject: Town of Norwich Reimbursement Request

Town of Norwich Request in the amount of \$ 19,650.00 is being returned to you for the following:

1. The letter from Tilden Electric needs to be dated prior to the end of the grant, 9/30/03 and the letter, not written in at the bottom, needs to state that the equipment was donated and when. *Does not. Town received this donation in Oct 2002. It was created only to satisfy factory needs. I will not ask them to redact it.*
2. On Paulick's time, there is no year for the 10/15 charge. The grant ended on 9/30/03.

If you have any questions, please feel free to ask. *Reduced by 5-10.*

Thank you

CC: Patty LaRose



Accounting Needs to accept as is



Appendix V

Emails Between DPS Grants Manager and Poultney Regarding the Issuance of a Check to Give the Appearance that Volunteer Work on the RCCC Project was Paid and Therefore was a "Cash" Match

Town of Poultney

From: washi [washi@kingcon.com]
Sent: Tuesday, May 18, 2004 7:04 PM
To: Nancy Scribner
Cc: Town of Poultney
Subject: Re: Rutland Grant]

Dear Pattie and Nancy: Attached are the letter for the scope of work revisions and a new invoice for Barbara. Let me know if these work. Obviously, ignore my previous email. Nancy: I believe you will want Pattie to print the letter on letter head and fax it over to you.

MJ

----- Original Message -----

From: Nancy Scribner
To: washi ; YCCP
Sent: Monday, May 17, 2004 2:37 PM
Subject: [Fwd: Rutland Grant]

MJ:

How are your doing on getting a copy of the check to Barb? If I don't get this check copy for the \$9,650.00 made out to Barb by the end of the week I will have to put your grant through for payment of 1/2 of the requested \$9,650 amount. Let me know what you wish me to do.

Nancy

----- Original Message -----

Subject: Rutland Grant
Date: Fri, 14 May 2004 12:39:37 -0400
From: Nancy Scribner <nscribne@dps.state.vt.us>
To: washi <washi@kingcon.com>

MJ:

Have come up with a solution on getting you paid. I will need for Patti to make a check, out to Barb, for payment of her volunteer time. I need a copy of this check faxed to me. I will revise your internal payment request documents to state a cash match vs a volunteer match. Accounting will pay with this documentation and you should have your check within 2 weeks from the time I get the faxed copy of Barb's check. Barb can sign the check back over to the Patti but the transactions need to be in place for the sub grant to be paid and for the town records. Can this be done asap?

Nancy

Appendix VI

Uncashed Check Submitted as "Cash" Match by RCCC

ENDORSE HERE

Pay to the order of
Town of Poultney
Barbara Moore

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

Security features on this document include: Chemically Sensitive Paper, Padlock Icon, Colored Pantograph, "Original Document" Screen and Microprint Borders.
Padlock design is a certification mark of the Check Payment Systems Association.

TOWN OF POULTNEY
ACCOUNTS PAYABLE
9 MAIN STREET, SUITE 2
POULTNEY, VERMONT 05764
(802) 287-5761

CHARTER ONE
28-7003/2213

5424

CHECK NO.

*** Seven thousand six hundred sixty-five & 00/100 Dollars

DATE
05/19/04

AMOUNT
*****7,665.00

PAY
TO THE
ORDER
OF

BARBARA POUGH MOORE
2 LACOMA LANE
PITTSFORD NY 14534

Patricia A. McLay
AUTHORIZED SIGNATURE

⑆005424⑆ ⑆221370030⑆ ⑆1010001435⑆

Appendix VII

Calculation of RCCC Improper Payment

	Total Project expenses	Funds awarded by DPS	Match Offered
Original Grant breakdown	\$20,881	9,496	11,385
Less disallowed match offered by RCCC	(9,165)	-	(9,165)
Less disallowed grant reimbursement received by RCCC	(360)	(360)	-
Grant status prior to settlement	11,356	9,136	2,220
Reimbursement needed to bring sub- grantee into compliance with 50% match requirement	-	(3,458)	3,458
Revised grant breakdown	<u>\$ 11,356</u>	<u>\$ 5,678</u>	<u>\$ 5,678</u>

Amount due from RCCC is equal to \$3,818 (\$3,458 above to meet the match requirement, plus a direct reimbursement of the \$360 in disallowed expense paid by DPS.)

Source: "VEM Verification - EMPG subrecipient request" dated 11/24/03

Appendix VIII

Comments from the Department of Public Safety

COMMISSIONER
TEL. NO. 802-244-8718
FAX NO. 802-241-5377

DIRECTOR
VERMONT STATE POLICE
TEL. NO. 802-244-7345
FAX NO. 802-241-5551

DIRECTOR
CRIMINAL JUSTICE SERVICES
TEL. NO. 802-244-8786
FAX NO. 802-241-5557

DIRECTOR
VERMONT EMERGENCY MANAGEMENT
TEL. NO. 802-244-8721
FAX NO. 802-241-5556



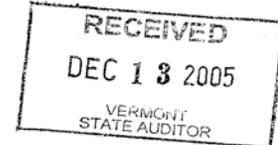
STATE OF VERMONT
DEPARTMENT OF PUBLIC SAFETY
103 SOUTH MAIN STREET
WATERBURY, VERMONT 05671-2101
www.dps.state.vt.us

ADMINISTRATIVE SERVICES
TEL. NO. 802-244-8763
FAX NO. 802-241-5553

INTERNAL AFFAIRS
TEL. NO. 802-244-5194
FAX NO. 802-241-5377

LEGAL COUNSEL
TEL. NO. 802-244-6941
FAX NO. 802-241-5377

December 08, 2005



Thomas Gorman
Deputy State Auditor
132 State Street, Drawer 33
Montpelier, Vermont 05633-5101

Dear Deputy Auditor Gorman:

For the purpose of background, post September 11, 2001 the Department of Public Safety (DPS) inherited the responsibility of managing Department of Homeland Security (DHS) programs for the State of Vermont, to include administering associated grants. These federal grant funds were distributed through the Office for Domestic Preparedness, within DHS. The bulk of Vermont's funding came in the form of two programs: the State Homeland Security program (SHSP) and the Law Enforcement Terrorism Prevention Program (LETPP).

To date the Department of Public Safety has administered over 54 million dollars in Federal Homeland Security Grant funds. As per the DHS grant guidelines 80% of these funds were to be passed through to local Vermont communities and 20% of funds were retained by the state. To date the total number of subgrantees receiving funds under this program is 1,388.

DHS grant application instructions to the states has appropriately required that the State of Vermont develop a comprehensive strategy to prioritize funding requests. In order to accomplish effective strategy development a broad representation of interested parties participated in both a state and a regional grants advisory process under the direction of the Department of Public Safety. The state Grants Advisory Committee is comprised of state-wide leaders in health, emergency medical services, utilities, fire service, law enforcement, public safety, emergency management, legislative office, executive office and local officials. The state grant development committee provides guidance to the regional committees that actually screen the incoming grants. The regional committees are comprised of state and local officials who review their peer's requests for Homeland Security funds.

Appendix VIII

Comments from the Department of Public Safety

Thomas Gorman
Deputy State Auditor
132 State Street, Drawer 33
Montpelier, Vermont 05633-5101

December 08, 2005
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Vermont's State Homeland Security Strategy (SHSS) to date has focused on enhancing the capacity of our first responder community. This strategy is premised on the belief that in order to respond to any significant event, whether man made or natural that could result in mass casualties, our fire, police and emergency medical services must be adequately trained and equipped. The majority of the grant funding to date has been provided to fire, police and EMS organizations to purchase equipment for personal protection, detection and mitigation of hazards and radios and related material to ensure communication interoperability. Planning, exercising, and training have also been a funding priority of the state strategy. These funding priorities have been supported at the local, regional and state level involving dozens of facilitators.

It was the clear intent of Congress to distribute HS funding as quickly as possible. Congress was concerned about the potential of an imminent attack on the homeland. Based upon this concern, Congress wanted our first responders to be prepared to respond to the attack, however it manifested itself. DPS recognized that the DHS Homeland Security grants process was placing the expedient distribution of funds ahead of long term planning and to some extent, fiscal accountability. The 2004 Homeland Security grant application package from DHS notes, "To expedite the application and award process, no budget information or program narrative is required to apply for this grant". Despite this pressure to distribute funds at the expense of financial accountability, DPS recognized that sufficient program and fiscal controls needed to be established for the state program.

Over the course of the last 18 months DPS has self-initiated a combination of program and financial accountability measures designed specifically to ensure the integrity of the Homeland Security grants program and all other grant programs. Because DHS pushed grant funding out to the states, it also allowed the states time to build grant management capacity. DHS recognized that grant management is an acquired proficiency can only be achieved and developed over a period of time. In fact it has taken DHS four years to develop its own Office of Grants Operation which is responsible for the administration of DHS grants.

In FY 04, The Department of Public Safety also began the process of building capabilities to monitor the Homeland Security program. During FY 04 Grant Managers began to conduct desk audits, focusing specifically on program issues. We soon realized that we lacked the staff to sustain this vital responsibility. It was during FY 05 that we were able to hire two additional staff to conduct program audits in the field. It takes time

Appendix VIII

Comments from the Department of Public Safety

Thomas Gorman
Deputy State Auditor
132 State Street, Drawer 33
Montpelier, Vermont 05633-5101

December 08, 2005
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to hire and train staff, to establish policies and procedures and to implement a program. We are pleased to inform you that the monitoring program began on December 5, 2005. Program Monitors will work with the DPS, financial auditor staff. Together these two programs will enhance our ability to ensure the integrity of the program and provide assistance and education to our subrecipients. It should be noted that while we were conducting research to build this monitoring program we discovered that very few states were conducting programmatic audits.

Based on the extensive processes identified in the above paragraph, I am requesting that you change your conclusion to acknowledge the internal controls that are in place, both within the Homeland Security program and within the DPS administrative section. The statement that "DPS does not appear to have internal control in place" is not accurate.

It was DPS's own internal audit process that identified the three subrecipients in question. DPS then sought the advice of the Auditors Office as an independent source of consultation. It would be inaccurate for your office to conclude that there was a "breakdown in preventative controls" when it was those precise controls that identified the deficient grants in question. The push from the federal office of Homeland Security to disperse grant funds in an expedient manner, with the understanding that it might be at the expense of the development of effective internal controls, forced DPS to disperse money before effective controls were fully in place and while DPS was in the process of developing those controls. Under the circumstances and in the context of all the grants awarded and fund committed (over \$54 million), the amount of money that has been identified as impermissible under the Homeland Security Grant (Town of Johnson) by the audits performed by DPS and your office represents a tiny fraction of the total grant monies dispersed and less than one tenth of the sub-grantees (one sub-grantee out of 1,388). DPS requests that the Auditor report place its findings and the impact of these findings in context.

I need to make an important distinction regarding the title of your report; two of the three grants in the audit have no connection with our Homeland Security program. The Norwich and Rutland grants are Emergency Management Performance Grants (EMPG) administered by the Federal Emergency Management Agency (FEMA). EMPG grants have been in existence for many years and continue to be managed by Vermont Emergency Management. EMPG grants are not under the auspice of Vermont's Homeland Security Unit nor should they be considered a Homeland Security initiative.

Appendix VIII

Comments from the Department of Public Safety

Thomas Gorman
Deputy State Auditor
132 State Street, Drawer 33
Montpelier, Vermont 05633-5101

December 08, 2005
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I'll address the three grants in question in the order they appear in the report:

Village of Johnson - As you are aware the Town of Johnson Fire Department suffered a devastating fire at the fire department. Much of their equipment was lost and an entire and vital emergency response resource was incapacitated.

The Village of Johnson received State Homeland Security Program funding to replace equipment which was destroyed in that fire. During your review of our audit, it was noted that the Johnson Fire Department received a HS grant to purchase equipment that was necessary in order to provide the Town with some type of fire fighting and swift water rescue capability. The DPS auditor and your auditor found that some equipment purchased with HS grants was also reimbursed by insurance claims. This led both auditors to conclude that the Town of Johnson had supplanted federal funds.

The resolution of the Johnson grant involved careful consideration and consultation with the Federal grant Program Manager at the Office of Domestic Preparedness, representatives of the DPS Homeland Security Unit, DPS Accounting Division, the DPS auditor who noted the findings, representatives of the Village of Johnson, as well as representatives of the legislative and executive branch of state government. It was noted by all parties at this meeting that the donation letter now in question was acceptable. The participants present at the meeting believed then, and as we at DPS do now, that the letter constitutes a donation by the vendor. The participants present at the meeting also believed then, and as we at DPS do now, that the fact that the vendor offered the Fire Department discounts to an organization that suffered a catastrophic loss may be considered a donation.

In short, we believe we acted in good faith in a collaborative and transparent process which resulted in all questionable costs being fully reimbursed to the state.

Town of Norwich

Repayment by the Town of Norwich in the amount of \$8,650 as identified in a letter dated May 6th, 2005, by auditor Denise Sullivan, had been recalculated in subsequent letter from the Town of Norwich dated August 3, 2005. Due to additional eligible match that was documented by the Town, the final amount to be reimbursed to the State was reduced to \$2,353.39. Correspondence to the Town of Norwich confirming this amount

Appendix VIII

Comments from the Department of Public Safety

Thomas Gorman
Deputy State Auditor
132 State Street, Drawer 33
Montpelier, Vermont 05633-5101

December 08, 2005
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Was sent on September 28, 2005 by Vermont Emergency Management, Deputy Director, Duncan Higgins. A check in the amount of \$2,353.39 from Norwich was dated October 3, 2005 and received by Vermont Emergency Management shortly thereafter. DPS consulted with FEMA program managers prior to finalizing a resolution of this grant. As of the receipt of this check, the audit findings should be considered resolved.

Rutland County Clerks Collaborative (RCCC)

This subgrant from Vermont Emergency Management to the RCCC is not considered resolved at this time. There were a number of communication issues surrounding the scope and eligible match for the project. Specifically, the communication issues were between the Town of Poultney, the RCCC, the contractor, FEMA and the Department of Public Safety (DPS). According to audit findings conducted by Denise Sullivan, a check in the amount of \$7,665 was not processed in an acceptable manner. Written correspondence to the auditor from the Town of Poultney was received by DPS on May 13, 2005. In that letter, the town claimed that they did as they were instructed by the Vermont Emergency Management Financial Manager (EMFM). DPS does not dispute that its EMFM gave the town erroneous advice. However, the report seems to imply that the EMFM intentionally engaged in conduct she knew violated DPS grant administration requirements

At this time a discussion between DPS, the Town and the RCCC should resume to arrive at an acceptable resolution for repayment of funds to the State. It should be noted that prior to complete resolution I will need access to the interviews of DPS employees conducted by your office.

I believe this responds to the issues raised during the review conducted by your office regarding homeland security audit matters.

Sincerely,


Kerry L. Sleeper
Commissioner