Special Review

OFFICE OF THE STATE AUDITOR

Auditor's Review of Vermont CARES

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STATE AUDITOR'S REVIEW

of

VERMONT CARES

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Executive Summary

State Auditor's Review of Vermont CARES

Nearly 200 people in Vermont are estimated to be living with HIV - the virus that causes AIDS – according to Vermont's Health Department. The true number is unknown as the Centers for Disease Control and Prevention (CDC) estimates that one in three people with HIV do not know they are infected. Thousands more remain at risk. An additional 200 Vermonters are diagnosed as living with AIDS, and another 200 people are known to have died from AIDS since the first Vermont case was reported in 1982.

The Vermont Department of Health and several non-profit organizations work jointly to provide support services to all Vermonters living with HIV/AIDS and to provide the information people need to protect themselves from contracting the virus. The largest non-profit provider of these services is Vermont CARES (Committee for AIDS Resources Education & Services). Founded in 1986, Vermont CARES has a current annual budget of approximately $1.1 million with 13 full-time and 7 part-time employees. It also employs the use of roughly 270 volunteers. It annually provides support services to more than 150 people living with HIV and education, and information and prevention skills training to more than 11,000 people in 10 of the state's 14 counties.

Vermont CARES receives separate grants from the Vermont Department of Health for AIDS services and HIV prevention grants. At times, the grant relationship has been strained due to differences in opinion regarding whether Vermont CARES was in complete compliance with its grant agreements with the State and concerns about the way the State has managed and monitored its grants to different AIDS service providers. This escalated in 1999, when an internal review of Vermont CARES, the Reardon Report, was created without any involvement or review by Vermont CARES. The Reardon Report was authored by Jim Reardon, Chief Fiscal Officer for AHS, and was initiated after an anonymous e-mail to the DOH citing alleged financial improprieties at Vermont CARES. Although envisioned as an internal report, the Reardon Report was publicly distributed prior to its review by Vermont CARES.

In May 2001, the Auditor's Office was asked by Jane Kitchel, Secretary of the Vermont Agency of Human Services, to conduct a review of "the Vermont CARES program to determine whether that program is in compliance with current grant obligations within the context of how the Health Department administers State and Federal grants for AIDS services and HIV prevention," and to conduct a review of the Reardon Report.

Our Office tested internal controls at Vermont CARES; reviewed communications between Vermont CARES and the Department of Health including grant agreements, required reports and correspondence; interviewed current and past staff members and reviewed the Reardon Report and its compliance with generally accepted auditing standards.

Our Review found the following:

In regards to Vermont CARES:

1. Turnover of key staff positions has resulted in work flow interruptions.

2. Vermont CARES does have adequate internal controls related to overseeing the expenditure of grants, however some files were not as current as others due to staff turnover.

3. Vermont CARES was in compliance with all general HIV prevention grant requirements for FY 1999, FY 2000 and FY 2001. It was not in compliance with several specific requirements as a result of how the State administers the grant.

4. Vermont CARES was in compliance with all general AIDS services grant requirements for FY 2000 and FY 2001; it was not in full compliance for this grant in FY 1999.

In regards to Grant Management:

5. The Department of Health's use of vague language, narrow interpretation and lack of clear guidance in its communications made it difficult to make a firm determination regarding compliance.

6. The Department of Health does not have written grant-monitoring procedures.

7. The Department of Health does not appear to have adequate conflict resolution processes in place in regards to HIV/AIDS grants.

8. Grant requirements authored by the Department of Health for FY 2000 were not consistent among grant recipients for both the AIDS Services Grants and the HIV Prevention Grants.

Our Review found the Reardon Report was neither an audit nor a review and therefore not subject to generally accepted auditing standards or Government Auditing Standards issued by the Comptroller General of the United States. Nonetheless, the Report could have benefited by following the standards of fieldwork mandated for audits and reviews. If that had been done, the report would have been shared with the management of Vermont CARES prior to being finalized. Had it been shared with them, the results and recommendations included in the report might have been different. A statement to this effect should be added to any copy of the Report distributed in the future. We recognize that the Report is now almost three years old and does not reflect current situations either at the Department or at CARES.

A number of issues at the center of the conflict between Vermont CARES and the Department can be resolved with consistent, clear written policies being put in place to assure accountability of the grantor and grantee.

We recommend the following:

1. The Board of Vermont CARES should work to secure adequate resources to attract and retain qualified staff members and/or develop alternative procedures to provide for consistent grant monitoring during periods of staff transition.

2. The Department of Health should develop specific grant requirements that are clear, concise and objectively measurable.

3. The Department of Health should develop written procedures and protocols for consistent grant monitoring.

4. Clear guidelines for a conflict resolution process should be developed by the Department of Health and its grantees.

5. The Department of Health should include the same general grant requirements for all grant recipients.

6. Future written internal review reports should clearly state to the reader the limited usefulness of such a report.

State Auditor's Review of Vermont CARES

Purpose

The Office of the State Auditor has conducted a limited scope review of the Vermont Committee for AIDS Resources, Education & Services (CARES), a not-for-profit AIDS services organization located in Burlington, Vermont that is a recipient of both State and Federal funds. This limited scope review was initiated at the request of both the Secretary (the Secretary) of the Vermont Agency of Human Services (the Agency) and the management of CARES. The State Auditor was asked to:

- determine CARES' compliance with current grant obligations within the context of how the Vermont Department of Health (the Department) administers state and federal grants for AIDS services and HIV prevention.
- conduct a review of the "Reardon Report" (the Report) of CARES' activities during FY 1999 to see if it met generally accepted auditing standards in scope and content and to delineate whatever limitations should reasonably be placed on the usefulness of such an internal report made public.

Authority

This review was conducted pursuant to the State Auditor's authority contained in 32 V.S.A. §§163 and 167, and was performed in accordance with the *Government Auditing Standards* issued by the Comptroller General of the United States as well as generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants.

Scope and Methodology

The scope of the review was limited to addressing the specific requests of the Secretary and the management of CARES. Included in our review was an evaluation of the operations and financial management of CARES and an evaluation of CARES compliance with grant agreements in light of the Department's current and historic administration of state and federal grants for AIDS services and HIV prevention. The period covered in our review was state fiscal years 1999 through 2001.

The methodology involved a review of relevant statutes, regulations, internal policies and procedures, as well as state and federal grant/contract requirements to determine compliance by CARES. Our test work included review of relevant documents including grant agreements and correspondence, on-site inspections at CARES and interviews with both the management and staff of CARES. In addition, we interviewed current and past staff members of both the Agency and the Department.

A review differs substantially from an audit conducted in accordance with applicable professional standards. The purpose of an audit is to express an opinion. The purpose of a review is to identify findings and observations and to make recommendations so that the reviewed agency can better accomplish its mission and more fully comply with laws, regulations, and grant requirements. This review relied upon representations of, and information provided by the staff of CARES as well as the Agency and the Department. If an audit had been performed, the findings and recommendations may or may not have differed.

Background

Vermont CARES provides direct support services to people living with HIV/AIDS, prevention education to people at risk of HIV/AIDS, and HIV/AIDS information, as well as resources and

community education across ten of the fourteen counties in Vermont.[1] The main office is located on Pearl Street in Burlington with satellite offices in Rutland, Montpelier and St. Johnsbury, Vermont. Vermont CARES also collaborated with the Burlington Community Land Trust to develop and manage the State's only supported housing for people living with HIV/AIDS at 600 Dalton Drive in Colchester, Vermont. CARES provides on-site services to these tenants and others living in scattered site housing developed for persons with HIV/AIDS.

CARES' clients are offered a variety of services and assistance in developing and maintaining a plan of care tailored to meet their individual needs. Direct services include client advocacy, psychosocial support, referral services and emergency assistance. Client confidentiality is assured.

CARES also provides community-based prevention education and outreach programs. Individuals living with, or at risk of, HIV provide peers with HIV prevention information through the Peer Outreach Program. The Community-Building Event program offers financial resources, prevention materials, planning assistance, and/or space to individuals or groups that want to host community-building social events. Other programs administered by CARES for prevention education include one-on-one education and support, low-cost Hepatitis A and B vaccinations, and support groups for transgendered individuals.

CARES offers education services to the wider community to teach people in Vermont and surrounding areas how to guard against HIV through education, speaker's presentations, discussion groups, and informational tables at community events.

While CARES is the largest not-for-profit provider of AIDS services in Vermont, it is a relatively small organization. CARES currently employs 13 full time and 7 part time staff, and enlists the help of 270 volunteers.

Funding for CARES comes from a variety of sources including the Vermont Department of Health, the Vermont Housing and Conservation Board, individuals, businesses and fundraising activities such as the AIDS Walk. Securing adequate resources is an ongoing challenge, which impacts CARES' ability to attract and retain qualified staff. Employees who stay with the organization for any length of time appear to be motivated by a deep commitment to CARES' mission.

Management and Structure of CARES

CARES' day-to-day management is overseen by an Executive Director, who reports to a Board of Directors (the Board). The Board is comprised of members from the community with various backgrounds and skills. Twenty-five percent of the Board's membership are individuals living with HIV/AIDS. Members are recruited by the Board and serve staggered two-year terms. Officers serve one-year terms. Terms can be, and often are, renewed.

The organization consists of various divisions handling different aspects of the work of the organization. A director heads each division. Each director is responsible for overseeing and developing their budgets, as well as coordinating the work of paid staff and volunteers.

We reviewed three divisions - Administration, AIDS Services, and HIV Prevention. Our test work began with an assessment of the level of internal controls in place at CARES.

Internal Controls

Internal control is "a process – effected by an entity's board of directors, management, and other personnel – designed to provide reasonable assurance regarding the achievement of objectives in the

[1] Vermont CARES Homepage at http://www.vtcares.org/

following categories: a) reliability of financial reporting, b) effectiveness and efficiency of operations, and c) compliance with applicable laws and regulations."[2]

An inadequate level of internal control increases the risk that an entity will fail to comply with all applicable grant and/or contract agreements. Many factors can influence the system of internal controls, including:

- Management's philosophy and ethics;
- The risks associated with certain internal and external events and circumstances that may adversely affect the entities' ability to record, process, summarize, and report financial data involving such things as rapid organizational growth or change and personnel turnover;
- The types and levels of control activities such as physical controls and the proper segregation of duties;
- Information systems and communication employed by the entity; and
- Monitoring by management to assess whether or not the system of internal controls is working as intended.[3]

Operations and Financial Management

Internal control components will vary depending on various factors such as the entity's size; organization and ownership; the nature of the business; the diversity and complexity of operations; methods of transmitting, processing, maintaining and accessing information; and applicable legal and regulatory requirements.[4]

Finding 1:

Turnover of key staff positions has resulted in workflow interruptions.

Discussion:

During our test work we noted a high turnover rate in a number of key staff positions. At the time of fieldwork, the Executive Director was in the process of terminating employment with the organization. The new Executive Director, a former Board member of CARES, began employment on June 5, 2001.

The Operations Director is also new to the organization having started employment at CARES on February 12, 2001. The Operations Director is responsible for administrative services including bookkeeping, billings, financial reporting, personnel, payroll, and budget development/monitoring. The Program Directors for HIV Prevention and for AIDS Services received new titles as part of a management reorganization in February 2001. Both began directing their programs in September 1999.

Recommendation 1:

The Board should work to secure adequate resources to attract and retain qualified staff members and/or develop adequate alternative procedures during transitions in key staff positions.

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[2] Codification of Statements on Auditing Standards (Including Statements on Standards for Attestation Engagements) Numbers 1 to 93 (SAS Code), American Institute of Certified Public Accountants, 2001, AU §319.06.

[3] SAS Code AU §319.06-.07

[4] SAS Code AU §319.15

Test of Controls

We tested the areas of cash receipts, receivables and payables to determine whether adequate controls are in place over the receipt of cash, timely billing, proper authorization of expenditures and the recording of the same.

Inquiries of management demonstrated the following:

Purchases: All purchases receive three levels of approval. A staff member requests an item with the associated dollar cost. The program director reviews the request and approves or disapproves the purchase. If approved, the request is forwarded to the Director of Operations for budget checking and approval. If funding is available, the request is forwarded to the Executive Director for final approval.

Invoices: All invoices receive three levels of approval. The program director reviews invoices received. Once approved, the invoice is forwarded to the operations director for approval. The Executive Director then gives final approval to the invoice for payment.

Payments: The Director of Operations prepares the checks for payment with all the required support documents. The packet is forwarded to the Executive Director for signature.

Cash: Most funds are received by mail. The administrative assistant picks up the mail at the post office, opens the mail, and photocopies the checks. Checks are given to the operations director who drafts the bank deposit slip, reconciles to donor documentation or grant information, and posts to the books. The administrative assistant brings the deposit to the bank. On occasion, the Executive Director picks up the mail unannounced to verify the process. Cash is collected from fundraising events twice a year. The Director of Operations counts the cash and the Executive Director performs a second count to verify the amount deposited. Credit card donations are processed through the Chittenden Bank.

Our test work demonstrated an adequate level of Internal Controls in the separation of duties. At the date of fieldwork in mid-June 2001, the bank reconciliation for April 2001 was completed and the month of May 2001 was not reconciled. While this timing is not optimum, it is well within a reasonable timeframe. CARES receives an annual audit at the request of the Board. CARES received unqualified opinions for all financial audits conducted during the review period.

Finding 2:

No significant exceptions were discovered during the test of controls in regards to CARES' operations and management. However, the filing system was weak, which appears to be the result of staff turnover, an office relocation and inadequate on-site storage space.

Discussion:

During the course of our test work, it was evident that records for periods prior to the current fiscal year were not readily available. Staff turnover, staff organizational skills, the office relocation to Pearl Street, and the lack of available file space resulted in the most recent three years worth of records not being readily accessible for auditing purposes.

Recommendation 2:

Financial records should be organized and stored so that supporting documentation is readily available for audit for the current year plus the prior two years.

Grant Compliance[5]

We reviewed CARES' grants for compliance with the grant terms in light of how the Vermont Department of Health currently administers state and federal funds for 1) AIDS services and 2) HIV prevention.

AIDS Services Grant[6]

The AIDS Services Grant consists of state funding from the General Fund and federal funding from the Health Resources and Services Administration (HRSA) awarded to the State of Vermont's Department of Health and passed through to the various AIDS services organizations around Vermont.

HRSA funds were authorized by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Public Law 101-381). This Act provides funding to states and other public or private nonprofit entities to develop, organize, coordinate and operate more effective and cost-efficient systems for the delivery of essential health care and support services to medically underserved individuals and families affected by HIV disease.[7] The CARE Act was reauthorized in 1996.[8]

Ryan White money can be used to fund:

- ✓ Ambulatory healthcare
- ✓ Home-based healthcare
- ✓ Insurance coverage
- ✓ Medications
- ✓ Outreach to HIV positive individuals who know their HIV status
- ✓ Early intervention, and
- ✓ HIV Consortia, which assesses needs and contracts for services.[9]

Finding 3:

CARES did not immediately inform the Department of its inability to meet grant activities or targets and goals satisfactorily, as required by the FY 1999 AIDS Services Grant.

In addition, CARES failed to consistently record all client referrals and related follow-up as required by the Quality Assurance Standards for HIV/AIDS Services.

For the FY 2000 and FY 2001 AIDS Services Grant, CARES was in substantial compliance with all grant requirements.

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[5] Note: Grant awards to CARES are called "grants" or "contracts." The terms appear to be used interchangeably by CARES.

[6] While reviewing AIDS Services Grant awards to CARES for FY 1999, FY 2000, and FY 2001, as well as comparing FY 2000 grant awards to other AIDS Services Grant recipients, we noted incomplete grant award documentation. Essential information that should have been included by the Department was missing on the face of the grant award such as CFDA number, Federal Agency, Award Name, and Award Number. In some cases the Award Name was not consistently used between grant recipients, which made it difficult to compare grant documents.

[7] HRSA website at ftp://ftp.hrsa.gov/hab/title2fact.pdf

[8] HRSA website at Http://hab.hrsa.gov/care.html

[9] HRSA website at ftp://ftp.hrsa.gov/hab/title2fact.pdf

Discussion:

The Department awarded Ryan White (CARE) funds to CARES for each of the years covered by this review. As a condition of receiving these funds, the Department required compliance with numerous reporting and client record-keeping conditions including the following:

> In FY 1999, CARES was required to "promptly notify the Department if grant activities or targets and goals cannot be performed satisfactorily" and to "adhere to the Department's Quality Assurance Standards for HIV/AIDS Services, (effective 7/1/98).[10]
>
> In FY 2000, the reporting requirement was modified so that CARES was required to "promptly notify State in the event that it appears that contractually-mandated activities or agreed targets and goals may not or will not be *fully performed.*"[11] (emphasis added.)
>
> In FY 2001, CARES was asked to submit HIV/AIDS Services Data Form (HIV/AIDS SDF) with the quarterly services report (Per Department letter dated 7/23/98).[12]

Our review of the grant conditions and the correspondence between CARES and the Department demonstrated that CARES failed to meet the requirement to promptly report their inability to satisfactorily meet grant activities or targets and goals.

The Department's delay in negotiating, awarding, and executing the grant agreement may have contributed to CARES' inability to meet grant agreement activities or projected targets and goals for the first quarter. The Department executed the FY 1999 grant award in early July of 1998, almost two months later than the timeline outlined in the Request for Proposals (RFP).[13] Because first quarter grant payments could not be requested until the grant agreement has been signed, CARES could not comply with all performance and notice requirements in that quarter.

The grant agreement for FY 1999 required CARES to adhere to new Quality Assurance Standards for HIV/AIDS Services, effective 7/1/98. Under the section entitled, "Standards for Service Coordination," CARES was required to record all referrals and related follow-up in the client files. During their site visits, the Department noted inconsistencies in the progress and note documentation that led them to find CARES out of compliance.[14] In some cases, follow-ups were recorded without any recorded referral. In other cases, recorded referrals had no information about required follow-up meetings.

Recommendation 3:

For the 1999 AIDS Service Grant, CARES should have informed the Department of their difficulties in meeting the grant requirements and recorded all client referrals and follow-up. A management review of written policies and procedures could enhance CARES' ability to meet grant requirements.

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[10] Attachment A of Vermont Department of Health Grant #849DS.
[11] Attachment A of Vermont Department of Health Grant #1188DSS.
[12] Attachment A of Vermont Department of Health Grant #2217DSS.
[13] The RFP indicated that grants would be executed (signed) in May or early June 1998. The CARES grant was signed July 16, 1998.
[14] Letter from Tom Dalton, VDOH, Director of HIV Service Programs to Tim Palmer, Executive Director of CARES, December 04, 1998.

HIV Prevention Grant

The HIV Prevention Grant consists of federal funding from the United States Center for Disease Control (CDC) awarded to the State of Vermont and passed through to the various AIDS services organizations around Vermont. Regulations governing this program are published under 42 CFR Part 51.

As a part of its overall public health mission, the CDC helps to control the HIV epidemic by working with community, state, national, and international partners in surveillance, research, prevention, and evaluation activities. As of December 2000, there were 317 Vermonters living with HIV/AIDS that had been reported to the Vermont Department of Health. The CDC estimates that one in three people with HIV do not know they are infected.[15]

CDC employs a comprehensive strategy in its approach to preventing the further spread of HIV and AIDS, including monitoring the epidemic, researching the effectiveness of prevention methods, funding local prevention efforts for high-risk communities and fostering linkages with care and treatment programs.[16]

In fiscal year 1998, nearly 80 percent of CDC's HIV prevention funds were distributed through cooperative agreements, grants, and contracts - primarily to state and local agencies.

Finding 4:

For FY 1999, FY 2000, and FY 2001, CARES was in substantial compliance with the intent of all grant requirements for HIV Prevention Grants.

CARES was not in compliance with a number of *specific* grant requirements as interpreted by the Health Department for FY 1999, FY 2000, and FY 2001.

Discussion:

The Department awarded HIV Prevention funds to CARES for each of the years covered by this review. The grant awards detailed a variety of reporting and notice requirements for CARES as well as Department obligations related to the provision of materials and technical assistance. As a condition of receiving the funds, CARES had numerous specific requirements. These requirements were broken out by the type of prevention activity (e.g. workshop, peer mentoring, bar outreach) and target audience for each quarter of the fiscal year to which the grant applied.

There were cases where CARES clearly did not meet the program goal. For example, CARES did not maintain the bulletin board at 135 Pearl Street as spelled out in the grant agreement. Another example was the attempt to find people to volunteer and work in the area of outreach pertaining to the "public sex environment."

In some cases, the Department allowed program changes in order for CARES to achieve the required outcomes. For example, in FY 1999 the Department agreed to an amendment to allow a program substitution. Health Education Risk Reduction (HERR) information was distributed by CARES on note pads at 135 Pearl Street, rather than maintaining a bulletin board.

When reviewing the grant requirements as a whole, CARES appears to have been in *substantial* compliance with the Prevention Grant program. In some cases, CARES was not in strict compliance with the grant agreements, i.e. they did not complete all first quarter requirements in the first quarter. In other cases, CARES came into compliance with the grant requirements, but not within the expected

[15] CDC website at http://www.cdc.gov/hiv/pubs/facts/cdcprev.htm
[16] CDC website at http://www.cdc.gov/hiv/pubs/facts/cdcprev.htm

time frame. We would conclude that CARES was substantially in compliance with the grant objectives.

Given the nature of prevention work, new projects and new programs are usually best hoped-for scenarios that may not come to fruition simply because they are new. These attempts should be recognized along with the limitations they sometimes present. The Department, in past and present practices, shows it is sometimes willing to amend agreements based on results achieved during the course of a year. It appears this would be the best practice, given the nature of the work and the uncertainty of the targeted groups.

No Recommendation

Grant Management

In order to determine the level of compliance by CARES with grant requirements for the AIDS Services and HIV Prevention Grants, we needed to understand how the Department actually administers the programs. The following findings were the result of our review of CARES' records, limited inquiry of the Department, and work papers on file from a review of the Department that was requested by the Vermont General Assembly's House Appropriations Committee in 2000. This limited contact provided us with enough material to offer the following suggestions to improve the manner in which the grants are currently administered. This is not intended to be a thorough review of the Department's grant management process.

Finding 5:

The Department's use of vague language, narrow interpretation and lack of clear guidance in its communications made it difficult to make a firm determination regarding compliance.

Discussion:

Many of the requirements appear to use inexact language, which made it difficult to determine whether CARES was in compliance. Words such as "offer," "support," and "make available" are vague and subjective by nature, which may cause differences of opinion when determining compliance. For example, a requirement that management is "available" to meet with Department staff at least once a month provides enough latitude for CARES to comply with the grant agreement terms. "Being available" is harder to measure than requiring actual meetings. The answer to "Was the meeting held?" is objective and measurable. Vague requirements leave room for disagreements between the Department and CARES regarding the true level of compliance.

In another case, CARES was required to conduct four bar events for the target audience of men who have sex with men. The Department rejected two events because they believed the events were not "fun and of high profile ways designed to increase visibility of safer sex messages..."[17] Subjective determinations of "fun" or "high profile" can create differences of opinion and disagreement regarding the level of compliance, especially without established criteria for what constitutes a "fun" or "high profile" activity.

The Department's responses to the quarterly reports reveal that they frequently employed a strict interpretation of the grant requirements to judge compliance. For example, if the grant required CARES to serve four people living with HIV and AIDS at an Health Education Risk Reduction workshop in each of the three satellite offices (St. Johnsbury, Rutland, and Montpelier) and

[17] Response to the CARES 3rd Quarter Report from Tom Dalton, Director of HIV Services Programs, Vermont Department of Health to Tim Palmer, Executive Director, Vermont CARES, dated 05/26/99.

only three people attended in St. Johnsbury and more than four attended the other two workshops, the Department found CARES to be out of compliance with the grant requirement.[18]

In several instances, we noted discrepancies from the report submitted by CARES, who claimed compliance, and the response from the Department indicating non-compliance. CARES followed up with additional correspondence in an attempt to correct the record. We found no reply from the Department to these follow-up letters.

Recommendation 5:

The Department should develop specific grant requirements that are clear, concise, and objectively measurable.

Finding 6:

The Department does not have written procedures or protocols for monitoring grant compliance.

There does not appear to be an adequate conflict resolution process in place to mediate disagreements between the Department and the grant recipients in regards to grant compliance and grants management.

The Department changed grant monitoring procedures and funding allocation mechanisms after the execution of a valid grant agreement.

Discussion:

Neither a clearly delineated monitoring protocol nor an adequate conflict resolution process exist at the Department. This is evidenced by a change in monitoring procedures in FY 1999 that resulted in substantial conflict between the Department and CARES. The conflict was due primarily to the fact that the change in monitoring procedures had a direct impact on CARES' expected funding receipts *after* a valid grant agreement had been properly executed.

According to the Department, the monitoring "process followed by staff is reflected in the grant documents received and signed off on by the grantee and is further explained in consultation."[19] The grant document clearly delineates what is expected of the grantee and the Department. It specifies that quarterly reports and written feedback by the Department to the grant recipient are required.[20] Furthermore, as discussed in the next finding, the CARES grants have a greater degree of specificity in regards to these requirements. While the grant documents do outline the requirements, they do NOT encompass a system-wide process by which the Department oversees all of its grantees. There is also no written protocol to be followed in cases of noncompliance.

In the fall of 1998, the Department unexpectedly changed the monitoring procedures of client files from reviewing a sample of client files to reviewing every client file. In order for the Department to review all records, clients need to sign a waiver from CARES' confidentiality policies. Several clients, citing a variety of reasons, refused to sign a waiver. The Department was therefore unable to review the client files. Although the Department offered to have the files reviewed by a Department nurse, this was not acceptable to some of the clients. As a result of this change, the Department did

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[18] Response to the CARES 3rd Quarter Report from Tom Dalton, Director of HIV Services Programs, Vermont Department of Health to Tim Palmer, Executive Director, Vermont CARES, dated 05/26/99.
[19] August 9, 2001 letter to Paul Rousseau CMA, CPA, Director of Statewide Audits, from John Howland Jr., Special Assistant to the Commissioner, Vermont Department of Health.
[20] Grant award for AIDS Services between CARES and the Department.

not "count" clients who refused to sign a waiver in its review. This reduction in the number of clients judged by the Department to be actively served by CARES resulted in CARES receiving reduced funding initially for its FY 2000 grant.[21]

The Department does not indicate why the monitoring process and the calculation of eligible clients changed from looking at the number of clients served by CARES during the course of the fiscal year to a "point in time" policy that looked only at clients currently active in the files. In prior years, CARES estimated not only the number of clients on active status at the time of the review, but also those who would reasonably be expected to be in active status, i.e. new contacts, going forward.

Quality Assurance Standards define "active status" as clients for whom "no more than six months have elapsed since the most recent service coordination face to face encounter between the service coordinator and the client."[22] CARES readily admits they could call those people requiring less contact just to keep them "active" for funding purposes, but stated they do not. This approach is based on respect for the client's privacy and the belief of a client's right to self determine the level of services they want to receive during a fiscal year.[23]

In reviewing the HIV Prevention Grants, we noted additional disagreements that might have been resolved if there had been an adequate conflict resolution process in place. The Department is required to provide written feedback to CARES within 15 days of the receipt of CARES' quarterly report on their successes and challenges/barriers for the period.[24] There appear to be no policies or procedures for dealing with issues of disagreement regarding the grant recipient's level of compliance. With CARES, we noted that written follow-up challenging decisions by the Department and offering additional information went unanswered by the Department. This lack of response leaves grantees without a final resolution of the issue.[25]

Recommendation 6:

The Department should develop written policies and procedures to insure a consistent protocol for monitoring all grants.

The Department should develop, in conjunction with grantees, clear guidelines outlining a conflict resolution process between grant recipients and the Department. This process should be included as part of the RFP process, if applicable, so that applicants for grant funds understand the process prior to executing a grant award.

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[21] The FY 2000 grant was subsequently amended to restore the number of clients served by CARES and the associated funding. It should be noted that the process for awarding the Ryan White funds changed after FY 1999. For FY 2000, the Department did not issue a Request For Proposal (RFP) for the grant funds, which invited all interested parties in applying for the AIDS Services funds. The Department imposed contracts and contract requirements on the AIDS Services Organizations.

[22] *Quality Assurance Standards for HIV/AIDS Services*, Vermont Department of Health AIDS Program, effective July 1, 1998, p. 9.

[23] Interview with Tim Palmer, Executive Director of Vermont CARES, by Paul Rousseau CMA CPA, Director of Statewide Audits, June 19, 2001.

[24] Attachment A , Grant #2244 HV (FY 2001), section 3, page 9. Attachment A, Grant #1114 HV (FY 2000), section 3, page 7.

[25] For the FY 2000 grant, we looked at the second quarter report for the Men's Health Project by CARES, the Department's response, and CARES reply. In this case, CARES was required to organize and implement two community-building events. CARES reported having met this objective. The Department rejected two events because they stated CARES could not charge an admission fee and the Department felt the events did not provide the opportunity for the MSM group the ability to come together away from the general population. CARES responded challenging the call by the Department. According to CARES, this was the last resolution by the Department leaving CARES wondering if the issue was ever resolved to their satisfaction especially since the Department did not issue a response after the 3rd quarter, FY 2000 and provided no responses for all of FY 2001.

Any changes in grant monitoring procedures or fund allocations after a grant agreement has been validly executed should be done in conjunction with the grantees through a contract amendment process outlining the new procedures.

Finding 7:

Grant requirements were not consistent among grant recipients for both the AIDS Services Grants and the HIV Prevention Grants.

Discussion:

As part of our test work, we reviewed the grant requirements for the FY 2000 grants awarded to all of the recipients of AIDS services (Ryan White) funds and a random sampling of FY 2000 and FY 2001 HIV Prevention grants. General grant requirements were not consistent among all recipients. The Department placed additional requirements upon CARES and itself in CARES' FY 2000 and FY 2001 AIDS Services and HIV Prevention Grant awards. CARES requested these requirements "to structure accountability on both parties to the agreement and to protect the privacy and confidentiality of program participants..."[26] While we would expect to see differences in the *specific* grant requirements based on the target populations and geographical location of the various AIDS Services and HIV Prevention organizations, general requirements and expectations should be similar for all program grantees.

For example, in the FY 2000 AIDS Services grant, CARES is required to "adhere to all contractual requirements. Funding is dependent upon adherence to all contractual requirements." No other grant award had this explicit statement linking funding to complete adherence to the grant agreement. In the grant agreements with CARES, the State is required to respond to the quarterly reports of the grantees within 15 days. In cases where a grievance has been filed the CARES grant specifies that the State will "take appropriate action" if there is no resolution within 60 days. Other grant agreements do not have this degree of specificity.

In the CARES HIV Prevention Grant, the State outlines its confidentiality policy. In addition, a separate paragraph is added regarding access to records by the State without written approval from individuals receiving services. That paragraph affirmed the State would sign the grantee's confidentiality policy. CARES is the only grant recipient to have this requirement and only in its FY 1999 grant agreement. This paragraph was removed from the CARES HIV Prevention Grant agreement in FY 2000 and FY 2001. Placing additional burdens on one provider of services and not on the others raises questions about the fairness of the granting process, and its uniform application among all grantees.

Recommendation 7:

General grant requirements should be consistent and applicable to all grant recipients for any given grant cycle unless there is documented legitimate cause for concern based on past performance.

The "Reardon Report"

As requested by the Secretary, the Office also conducted a review of the "Reardon Report" (the Report) to see if it met generally accepted auditing standards in scope and content, and to delineate

[26] Letter to Elizabeth Ready, State Auditor, from David Hooks, Executive Director of Vermont CARES, Nov. 21, 2001.

whatever limitations should reasonably be placed on the usefulness of such an internal report made public.[27]

Background

The Agency conducted an internal review of CARES in March of 1998 based on allegations from an anonymous e-mail to the Department citing alleged financial improprieties at CARES. The Chief Fiscal Officer of the Agency, Jim Reardon CPA, conducted this internal review at the request of then Secretary of the Agency of Human Services Cornelius Hogan.[28] The Agency decided an internal review was warranted as CARES receives both state and federal funds. Mr. Reardon was asked to perform this review because of his role as the Agency's Chief Fiscal Officer.

Mr. Reardon performed an evaluation of the available evidence provided to him by the Department. This evidence consisted of interviews with the Department's AIDS program staff, a review of the contracts with CARES, and a review of correspondence between the Department and CARES as provided to him by the Department. No one from CARES was interviewed nor were they asked to comment on the allegations. The findings and recommendations which had not been seen by CARES were issued in a memo/report dated April 20, 1999 to the Commissioner of Health, Dr. Jan Carney (the Commissioner), through the Secretary of the Agency.

A written report was provided to the Secretary and the Commissioner. Copies of the Report subsequently were given to the press and appeared at Burlington businesses that provide charitable support for CARES. CARES alleges that the Reardon Report resulted in a reduction in private financial support in addition to the funding cuts imposed by the Department.[29]

This report was not intended for release to the general public, noted Mr. Reardon. This report was intended for internal use only, though public record laws make such documents public unless specifically exempted. [30]

In his report, Mr. Reardon stated that the "general objective of this review was to determine if any of the allegations merit further followup (sic)."[31] The conclusion of the Report stated, "there is a substantial amount of discrepancy due to lack of documentation provided by Vermont CARES to substantiate or warrant further investigation of these allegations."[32] Insufficient information available to Mr. Reardon allowed for findings and recommendations on only three of the five noted allegations. Mr. Reardon concluded that both programmatic and financial audits of the CARES programs be requested.[33]

Finding 8:

The "Reardon Report" is a review[34] not an audit subject to generally accepted auditing standards or *Government Auditing Standards* (GAS) issued by the Comptroller General of the

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[27] Letter to Elizabeth Ready, State Auditor, from Jane Kitchel, Secretary of AHS, May 31, 2001.
[28] According to Mr. Reardon, then Secretary of the Agency of Human Services asked then State Auditor, Edward Flanagan, to conduct this review. The Auditor declined this request.
[29] Interview with Tim Palmer, former Executive Director of Vermont CARES, by Paul Rousseau CMA CPA, Director of Statewide Audits, June 13, 2001.
[30] 1 VSA §317.
[31] Memo to Dr. Jan Carney, Commissioner of Health, through Con Hogan, AHS Secretary from Jim Reardon CPA, AHS Chief Fiscal Officer, dated April 20, 1999, page 1. (The Report)
[32] The Report, Page 6.
[33] The Report, Page 6.
[34] It is important to understand the distinction in terminology when referring to a *Review* and when referring to an *Audit*. In the hierarchy of financial reporting, the basic level is a *Compilation Report* whereby financial information is compiled in the form of financial statements and reported on by the accountant. Beyond a basic understanding of the organization, its accounting records, its basis of accounting and the reading of the

United States. The lack of sufficient, competent, evidential matter places severe restrictions on the usefulness of the Report now made public.

Discussion:

The very first paragraph of the Report describes the work as a "review." Throughout the Report, the word "audit" only appears in the conclusion when recommending further programmatic and financial analysis of CARES. This report was intended as an internal review based on the allegations made against CARES.[35] The work was never intended to be either a financial or performance-related "audit."

If the review had been a formal audit, it would have violated the standards related to independence and obtaining sufficient evidence. Mr. Reardon's role as Chief Fiscal Officer for the Agency, which administers the grant programs from which CARES benefits, means he is not organizationally independent. According to GAS, this would preclude his ability to conduct an audit as an independent auditor. There is also the danger that Mr. Reardon's use of the CPA designation in his title may lead the uninformed reader to assume the work is independent of the Agency, even if unintentional.

Fieldwork standards related to audits emphasize the need to collect sufficient evidence to "afford a reasonable basis for the auditors' findings and conclusion."[36] GAS describes a hierarchy of evidence that aids in judging the competency of evidence. Evidence that comes from one who is not biased and knows all the facts is better than evidence from those who are biased or have only partial knowledge.[37] Mr. Reardon acknowledges that his review process included conversations with Department's AIDS program staff and the sharing of his report with the Department staff for "comment and factual accuracy."[38] Missing from this process was the provision of a draft copy of the findings and recommendations to the management of CARES for comment, which could have resulted in other supporting or contrary evidence being provided to the reviewer.[39]

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compiled financial statements considering whether they appear appropriate in form and free of obvious material errors, the accountant provides no assurances about the statements. The second level of reporting is a *Review*, which goes one step further than a compilation requiring the reviewer to make inquiries of the organization's personnel and perform analytical procedures applied to the financial data. A review is significantly less in scope than an Audit. The reviewer does not perform any substantive testing and does not opine on the statements. There are basic standards established by the AICPA for conducting reviews. These can be found in the *Statement on Standards for Accounting and Review Services* (SSARS). An *Audit* is a formal process requiring the auditor to follow established generally accepted auditing standards and *Government Auditing Standards* in the case of governments required to follow GAS. Formal procedures are followed based on these standards focused on providing the auditor with a sufficient basis to opine on the financial statements.

The terms "Review" and "Audit" are also used when conducting programmatic or performance reviews or audits. As with financial audits, GAS provides standards for conducting performance audits. Generally accepted auditing standards are applied, if applicable. Unlike a financial review, there are no set standards for conducting a programmatic or performance audit-type review. The reviewer employs personal judgment when performing the review. SSARS standards for financial reviews could serve as a helpful guide when conducting programmatic or performance audit-type reviews. Auditing standards also serve as a helpful guide when conducting reviews even though not required.

[35] Interview with Jim Reardon CPA by Paul Rousseau CMA CPA, Director of Statewide Audits, August 2, 2001.

[36] GAS, §6.46

[37] GAS, §6.54(f)

[38] Conversation with Jim Reardon CPA, Chief Fiscal Officer and Paul Rousseau CMA, CPA, Director of Statewide Audits, August 2, 2001.

[39] Conversation with Jim Reardon CPA, Chief Fiscal Officer and Paul Rousseau CMA, CPA, Director of Statewide Audits, August 2, 2001.

Recommendation 8:

Future written internal review reports should clearly state to the reader that the work was not an audit subject to generally accepted auditing standards or GAS warning the reader of the limited usefulness of such a report. Though generally accepted auditing standards do not strictly apply, they can serve as a guide when conducting a performance audit-type review.

Conclusion

As of the conclusion of fieldwork, it is evident that the Report has limited usefulness, both in the past and going forward for the following reasons.

- ✓ The Report is now almost three years old and does not reflect current situations either at the Department or at CARES.
- ✓ Staff turnover at both the Department and CARES has lead to improved working relations between the Department and CARES.
- ✓ The Report only reflected Departmental information and must be viewed in light of this significant limitation.
- ✓ The Report was not the product of audit subject to generally accepted auditing procedures. The Report could have benefited by following the standards of fieldwork mandated for audits though the product of a review.
- ✓ The Reardon Report should have been shared with the management of Vermont Cares prior to being finalized. Had it been shared with them, the results and recommendations included in the report might have been different. A statement to this effect should be added to any copy of the Report distributed in the future.

Appendix A

Vermont CARES' Response to Draft Review

Vermont CARES

VERMONT STATE AUDITOR RECEIVED JAN 7 2002

Vermont Committee for AIDS Resources, Education & Services

P.O. Box 5248
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802-864-7730 fax
vermontcares@vtcares.org
www.vtcares.org

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39 Barre Street
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05602
802-229-4560

P.O. Box 503
St. Johnsbury, VT
05819
802-748-9061

600 Dalton Drive
Colchester, VT
05446
802-655-8328

January 3, 2002

Elizabeth M. Ready, Vermont State Auditor
Office of the State Auditor
133 State Street
Montpelier, VT 05633-5101

Dear Ms. Ready,

I am writing to follow up on the redraft of the State Auditor's Review of Vermont CARES. We appreciate the opportunity to provide our feedback to your report and your willingness to incorporate our comments. Taking into account the most recent draft, Vermont CARES is in agreement with and supports your audit of Vermont CARES.

Vermont CARES would like to request that a copy of this audit serve as an attachment to the "Reardon Report" whenever it is distributed. Thank you again for your commitment to bring to light a factual audit for Vermont CARES.

Sincerely,

Kendall Farrell
Interim Executive Director

Kendall Farrell
Interim Executive Director

Board of Directors
Joseph A. Boisse
Beth A. Danon
Glen Elder
Sherman Paig
David Rath
Elizabeth Shayne
Arthur Tremblay
David L. Williams

Vermont CARES' mission is to improve the quality of life, create compassionate communities, and prevent the spread of HIV by working with people affected by HIV/AIDS as catalysts for social and individual change.

Appendix B

Vermont Department of Health's Response to Draft Review

Vermont Department of Health
Office of the Commissioner

Agency of Human Services

VERMONT STATE AUDITOR
RECEIVED
NOV 21 2001

November 20, 2001

Elizabeth M. Ready, Vermont State Auditor
Office of the State Auditor
133 State Street
Montpelier, VT

Dear Ms. Ready:

I appreciate being given the opportunity to comment on your draft State Auditor's Review of Vermont Cares. My assessment of your report leads me to concur with your findings and recommendations pertaining to Vermont Cares and your findings and recommendations pertaining to the Department of Health's grants management practices. I also concur that the "Reardon Report" was intended to be a review of Vermont Cares performed by someone outside of our HIV/AIDS program. It was not intended to be an audit as it has sometimes been incorrectly characterized. You recommended that the Department of Health:

(1) develop specific grant requirements that are clear, concise, and objectively measurable;
(2) develop written procedures and protocols for grant monitoring;
(3) develop clear guidelines for conflict resolution;
(4) include grantees in any changes in grant monitoring procedures; and
(5) be consistent with our grant requirements across grantees.

In addition, although not included as a specific recommendation, you identified that the Department of Health did not have a consistent, documented record of written communication with its grantees.

These recommendations are very consistent with my goals to improve grants management practices within the HIV/AIDS Program. They will serve as a useful reference as management goals and objectives for the HIV/AIDS program are established for Rod Copeland, the newly appointed Director of the HIV/Aids program.

Your findings and recommendations on Vermont Cares were also useful and will assist us as well as them as we strive together to deliver the best quality services to Vermonters living with HIV/AIDS and those at risk of contracting the disease.

Again, thank you for the opportunity to comment on your report.

Sincerely,

Jan K. Carney, M.D., M.P.H.
Commissioner

108 Cherry Street • PO Box 70 • Burlington, VT 05402-0070 **TEL** 802-863-7280 **FAX** 802-865-7754

Appendix C

Agency of Human Services' Response to Draft Review

State of Vermont

AGENCY OF HUMAN SERVICES

OFFICE OF THE SECRETARY
103 South Main Street
Waterbury, Vermont 05671-0204

Telephone: (802) 241-2220
Fax: (802) 241-2979

NOV 29 2001

MEMORANDUM

TO: **Elizabeth Ready, Auditor's Office**

FROM: **Jim Reardon, CPA, Agency Financial Operations Officer**

DATE: **November 27, 2001**

SUBJ: **The Vermont Care Review**

As we discussed, I believe that this report is accurate and fairly depicts the situation and events during the period under review. I would conclude that the recommendations regarding the Health Department are helpful and should be considered for implementation in the grant management process, including the execution of contracts with AIDS service organizations. Also, it is my understanding the Health Department is currently working on the issues cited in this report.

I further agree that the Reardon Report was certainly not an audit and recommend that language needs to be added in this section that states, "the Reardon Report should have been shared with management of Vermont Cares prior to being finalized, and had it been shared with them, the results and recommendations included in that report may have been different."

I want to thank you and your staff for taking the time to conduct this review.

JR:m
VTCare review

cc: Jane Kitchel
Dave Yacovone
Jan Carney