

STATE OF CONNECTICUT

**AUDITORS' REPORT
OFFICE OF PROTECTION AND ADVOCACY
FOR PERSONS WITH DISABILITIES
FOR THE FISCAL YEARS ENDED JUNE 30, 2001, AND 2002**

**AUDITORS OF PUBLIC ACCOUNTS
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May 7, 2003

**AUDITORS' REPORT
OFFICE OF PROTECTION AND ADVOCACY
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FOR THE FISCAL YEARS ENDED JUNE 30, 2001, AND 2002**

We have made an examination of the records of the Office of Protection and Advocacy for Persons with Disabilities (Office of Protection and Advocacy, the Agency) for the fiscal years ended June 30, 2001 and 2002. This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification which follow.

This audit has been limited to assessing the Office of Protection and Advocacy's compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating the internal control structure policies and procedures established to ensure such compliance. Financial statement presentation and auditing are done on a Statewide Single Audit basis to include all State agencies, including the Office of Protection and Advocacy.

COMMENTS

FOREWORD:

The Office of Protection and Advocacy operates under the provisions of Title 46a, Chapter 813, Sections 46a-7 through 46a-13a of the General Statutes, to provide protection and advocacy for persons with disabilities. The Office of Protection and Advocacy is responsible for six Federally funded programs and several specific State statutory mandates.

The Office of Protection and Advocacy's primary mission is to advance the cause of equal rights for persons with disabilities and their families, and to protect people with disabilities who are at risk from abusive and neglectful conditions. In accordance with Federal law, protection and advocacy organizations must be independent of service providing agencies. Protection and advocacy organizations must have the authority and capacity to conduct investigations, provide information and referrals, pursue legal and administrative remedies and educate policy makers.

Auditors of Public Accounts

The Office of Protection and Advocacy, operating through three main operating divisions and an administrative unit, provides information and referral services, advocacy services and legal representation in selected matters.

Section 46a-10 of the General Statutes, provides that the Office of Protection and Advocacy shall be administered by an Executive Director appointed by the Governor. Mr. James D. McGaughey served as Executive Director throughout the audited period.

In accordance with Section 46a-9 of the General Statutes, there is established a Board of Protection and Advocacy for Persons with Disabilities (Advocacy Board), which serves in an advisory capacity to the Office of Protection and Advocacy. There are 15 members on the Advocacy Board, all appointed by the Governor. As of June 30, 2002, board members were as follows:

Peter Tyrrell, Esq., Chairperson	Heidi Mark	Walter Pelensky
Eileen Furey, Ph.D.	Carol Grabbe	Robert Wood
Kathryn Coffin	Phyllis Zlotnick	Sujeila Gomez
Nora Ellen Groce	Edward Mambruno	Catherine Cook

Darlene Foster, Fritzie Levine and Cynthia Stramandinoli also served on the board during the audited period. The Advocacy Board is awaiting the appointments of three new members.

Section 46a-9 of the General Statutes requires that ten of the fifteen members be either persons with disabilities or parents or guardians of people with disabilities and, further, that at least four of those ten have, or represent, persons with developmental disabilities.

RÉSUMÉ OF OPERATIONS:

General Fund receipts totaled \$924,671 and \$1,065,986 during the fiscal years ended June 30, 2001 and 2002, respectively. Such receipts were mainly Federal contributions from the U. S. Department of Health and Human Services and the U. S. Department of Education drawn against letter of credit arrangements totaling \$743,448 and \$932,123, respectively. Other sources of Federal contributions included Social Services Block Grant funds, which pass through the Connecticut Department of Social Services.

A summary of receipts for the audited fiscal years is presented below along with the prior year's information:

	<u>1999-2000</u>	<u>2000-2001</u>	<u>2001-2002</u>
Refunds of Prior Years' Expenditures	\$ 532	\$ 0	\$ 0
Refunds of Current Year Expenditures	1495	965	14
Restricted Contributions:			
Federal contributions	1,010,526	882,709	1,065,684
Other than Federal contributions	0	38,497	0
Refunds of restricted appropriations	<u>9,200</u>	<u>2,500</u>	<u>288</u>
Total Receipts	<u>\$1,021,753</u>	<u>\$ 924,671</u>	<u>\$1,065,986</u>

General Fund expenditures totaled \$3,439,830 and \$3,629,354 during the fiscal years ended June 30, 2001 and 2002, respectively. A comparison of total General Fund expenditures for the audited fiscal years along with the prior year's information is shown below:

	<u>1999-2000</u>	<u>2000-2001</u>	<u>2001-2002</u>
Personal services	\$2,086,385	\$2,109,768	\$2,178,900
Contractual Services	370,841	370,290	374,536
Commodities & Equipment	<u>58,317</u>	<u>23,432</u>	<u>25,671</u>
Total Budgeted Accounts	2,515,543	2,503,490	2,579,107
Restricted Appropriations	<u>953,421</u>	<u>936,340</u>	<u>1,050,247</u>
Totals	<u>\$3,468,964</u>	<u>\$3,439,830</u>	<u>\$3,629,354</u>

Budgeted expenditures decreased by \$12,053 during the fiscal year ended June 30, 2001 and increased by \$75,617 during the fiscal year ended June 30, 2002. Overall changes during the audited period mainly reflected changes in personal service costs. Personal service costs represented nearly 85 percent of total expenditures from budgeted appropriations. General wage increases and two additional full-time positions accounted for most of the increase in costs for the fiscal years ended June 30, 2001 and 2002. Fees for outside professional services accounted for the largest portion of total contractual service expenditures. These supplementary services were used to further the mission of the Agency to advocate for equal rights and protect disabled persons from abuse and neglectful conditions through educational programs, information referrals, and advocacy representation.

Full-time employees at the close of each fiscal year under review charged against budgeted appropriations totaled 36 and 38, respectively. In addition to the full-time positions paid from budgeted funds, there were nine and 11 full-time positions paid from Federal funds in the fiscal years ended June 30, 2001 and 2002, respectively.

Disbursements from Restricted Contributions accounts in the fiscal years ended June 30, 2001 and 2002 amounted to \$936,340 and \$1,050,247, respectively. These expenditures, charged to Federal accounts, consisted mainly of personal services and fringe benefit charges amounting to \$759,973 and \$873,804, respectively. Other disbursements from Federal appropriations consisted mainly of outside professional and consulting services, indirect cost recoveries and grants to nonprofit and municipal organizations.

Besides General Fund expenditures, expenditures from the Capital Equipment Purchase Fund (#1872) amounted to \$4,918 and \$28,712 in the fiscal years ended June 30, 2001 and 2002, respectively. Also, during the fiscal year ended June 30, 2001, the Agency transferred funds totaling \$26,497 from their Pending Receipts Fund (#7013) to account for funds bequeathed from an estate for the purpose of helping persons who are unable to walk.

PROGRAM EVALUATION:

In accordance with Section 2-90 of the General Statutes, audits conducted by the Auditors of Public Accounts may include an examination of performance in order to determine an Agency's effectiveness in achieving expressed legislative purposes. We have conducted such a review of the Office of Protection and Advocacy for Persons with Disabilities. Our objective was to determine whether the Agency was complying with its statutory responsibility to help determine whether requests for accessibility exemption waivers and automated lifts should be approved. We reviewed the Agency's program as it relates to its responsibilities under:

1. Section 29-269 of the General Statutes, which requires the Agency to review requests for exemptions from the accessibility provisions of the State Building Code.
2. Section 29-200 of the General Statutes, which requires the Agency to review requests for approval to install automated wheelchair lifts.
3. Section 9-168d of the General Statutes, which requires the Agency to review requests for exemptions from polling place accessibility requirements.

There are an estimated 125,000 to 150,000 physically disabled citizens in the State of Connecticut who may not always be able to gain entry to the appropriate facilities or services because of limited accessibility. The Office of Protection and Advocacy and the Office of the State Building Inspector are responsible to provide a joint decision on whether to approve or deny each request concerning the accessibility provisions of the State Building Code; likewise, the Office of the Secretary of the State provides a joint decision with the Office of Protection and Advocacy for exemptions from polling place accessibility requirements. This dual decision-making process allows for genuine awareness of the accessibility needs of disabled persons, careful consideration of each request and a sound basis for granting or denying the waiver request.

Applicants must submit the initial request form to either the Office of the State Building Inspector or the Office of the Secretary of the State, depending on the type of waiver requested. The application must include copies of floor plans, architectural drawings and any other information deemed necessary for the request to be considered. Representatives from the Office of the State Building Inspector and the Office of Protection and Advocacy meet biweekly to review the requests, while meetings with representatives from the Office of the Secretary of the State are held when needed.

During the years ended December 31, 2001 and 2002, there were 267 requests to waive building accessibility requirements, 124 requests to install automated lifts and six requests to waive polling place requirements. Of these total submissions, we reviewed 20 building accessibility waiver requests, 10 lift requests and six polling place requests. Our review included testing these files to

determine whether the application was complete with the appropriate information submitted, whether the criteria used by the Agency to make a decision were carefully considered, whether a joint decision was made and whether statutory time requirements were met in the approval process. We noted no audit exceptions in the 36 files we reviewed.

Of the sample selected for review, denial of the request occurred in three instances for building accessibility exemptions, no instances of providing automated lifts and one request for a polling place exemption. Generally, any new construction did not qualify to receive accessibility waivers and existing structures were granted waivers when it was jointly determined that it would not be feasible or would unreasonable complicate the construction, alteration or repair in question. Application of this and other criteria appeared to be consistently applied throughout the decision-making process.

Our review of this program indicated that the Office of Protection and Advocacy was able to make independent decisions while maintaining amenable relationships with the other agencies involved in the decision-making process. The Agency appeared to serve its overall mission and continued to protect the interests of persons with physical disabilities by its appropriate administration of this accessibility program.

Based on our review of the effectiveness of the Office of Protection and Advocacy to process accessibility exemptions, we found that the Agency is meeting its legislative objectives and statutory responsibilities set forth in Sections 29-200, 29-269, and 9-168 of the General Statutes.

CONDITION OF RECORDS

Our review of the records of the Office of Protection and Advocacy revealed two areas requiring improvement or attention, as discussed in this section of the report.

Contract Management:

Criteria: In accordance with Section 4-98 of the General Statutes, State appropriations should not be obligated for the payment of services until a properly executed contract is in place.

Conditions: We noted that, of 25 expenditure transactions reviewed, three contracts for services related to advocating for equal rights and protecting disabled persons from neglectful conditions through informational programs and advocacy representation were not signed and fully executed until after the beginning of the contract period. Contractual services had a start date of May 31, 2001, June 1, 2001 and July 1, 2001, but the Executive Director of the Office of Protection and Advocacy did not sign the contracts until June 6, 2001, July 20, 2001 and September 5, 2001, respectively. The exact amount of services provided before the contracts were signed was difficult to determine, but was at least \$2,000.

Cause: Lack of administrative oversight may have contributed to this condition.

Effect: The appropriation encumbrance system does not operate as intended if fund commitments are made after obligations are incurred.

Recommendation: The Office of Protection and Advocacy for Persons with Disabilities should improve contract management procedures and comply with Section 4-98 of the General Statutes regarding the management of contracts.

Agency Response: “The Office of Protection and Advocacy concurs with the finding and recommendation. The Office will review and improve contract management procedures. Updated contract management procedures will be issued to appropriate staff. The Office will monitor the timeliness and execution of Personal Service Agreements to insure compliance with all statutory requirements.”

Monitoring of Employees’ Excessive Absenteeism and Longevity Records:

Criteria: In accordance with Section 5-247-3 of the State Personnel Regulations and union contracts, employees may be granted paid sick leave if they are incapacitated for duty. In certain circumstances, an employee must submit a medical certificate to substantiate their incapacitation. Section 5-247-11 requires medical certificates for a leave of more than five consecutive days, leave of any duration if absence from duty recurs frequently or habitually, and leave of any duration when evidence indicates reasonable cause for requiring such a certificate.

Complete and accurate posting of employees’ longevity records is essential for ensuring accuracy when calculating and disbursing longevity payments to employees.

Condition: The Office of Protection and Advocacy failed to adequately monitor sick leave for employees whose patterns of usage suggest excessive absenteeism. Our review considered the number of sick leave occasions and the timing of these occasions before or after weekends, holidays, and vacations. In our sample of 13 employees, six were found to have a pattern of frequent or habitual use of sick time that should have prompted closer scrutiny to ensure that abuse was not taking place.

Our review indicated that all six employees were found to be using a significant number of sick days on the last workdays preceding, or the first workdays following a weekend, holiday or vacation. One employee was also granted six days of consecutive sick leave in February 2002 without the appropriate medical documentation in place. (After our request, the employee obtained a medical certificate, dated January 2003.) We note that although excessive use of sick time may not necessarily indicate abuse, management should take appropriate action to ensure any potential abuse is detected.

During our review of longevity payments made by the Agency, we reviewed the service time calculations for 11 employees. The longevity payments are based on the total State service time accumulated by the employee. Of those tested, four had inaccurate service time recorded in their longevity records. The records did not reflect the appropriate leave of absences of three employees that totaled 4 months, 54 hours, and did not accurately accumulate the service time of another employee, shorting the employee nearly two years of service time. This employee appears to have been paid incorrectly in four different instances, with total errors accumulating to \$2,513. Because the employee had been underpaid and overpaid, the net effect was an overpayment of \$106. The Agency plans to recover this amount in the longevity payment processed in April 2003.

Cause: The Agency did not have an established procedure to determine when an employees' excessive absenteeism should be considered for possible administrative or disciplinary action. Lack of internal controls over the posting of longevity records caused the service records to be inaccurate.

Effect: Failure to adequately monitor employees' use of sick time could lead to abuse of such time going undetected. Failure to accumulate service time appropriately could result in erroneous payments to employees.

Recommendation: The Office of Protection and Advocacy for Persons with Disabilities should develop procedures to monitor employees' use of sick time, review all employees' attendance records, take appropriate administrative or disciplinary action when excessive absenteeism is considered the result of abuse of sick leave and ensure that service time for longevity purposes is appropriately recorded for all employees.

- Agency Response:* “The Office of Protection and Advocacy concurs with the finding and has taken the following actions in order to institute the recommendation:
- Specific findings noted in the audit report are being addressed and corrected.
 - Longevity records for all employees are in the process of being reviewed.
 - The Office has already completed a preliminary review of all employee attendance records to identify potentially excessive sick leave usage. In instances where it appears that sick leave usage may be excessive, the Agency’s Personnel Officer will meet with the responsible supervisor and review records to identify any patterns or concerns related to attendance and leave usage. Where appropriate, supervisors will counsel employees.
 - The Office is developing attendance policies that will be issued to all employees and will be included in the employee procedure manual. The policies will cover the use and monitoring of sick time, excessive absenteeism, and appropriate disciplinary actions. The policies will be issued by March 15, 2003.
- The Office will continue efforts to improve the effectiveness of personnel procedures and record keeping systems including those to monitor absenteeism and sick time usage.”

RECOMMENDATIONS

Our previous audit examination of the Office of Protection and Advocacy contained two recommendations. A summary of those recommendations and the action taken follows:

Status of Prior Audit Recommendations:

- The Agency should develop procedures to ensure that Federal indirect cost recoveries are processed on a yearly basis. During our current review we noted that the appropriate indirect cost recoveries were processed. This recommendation is not being repeated.
- The Agency should comply with the meeting notification provisions of Section 1-225 of the General Statutes and notify the Secretary of the State of all regular and special meetings of the Advocacy Board and encourage the Advocacy Board to hold meetings on a regular basis. During our current audit, we found the Agency was reporting appropriately to the Secretary of the State and the Board was meeting on a regular basis. This recommendation is not being repeated.

Two recommendations resulting from our current examination are presented below.

Current Audit Recommendations:

- 1. The Office of Protection and Advocacy for Persons with Disabilities should improve contract management procedures and comply with Section 4-98 of the General Statutes regarding the management of contracts.**

Comments:

We noted that three contracts for services were not signed and fully executed until after the beginning of the contract period. The appropriation encumbrance system does not operate as intended if fund commitments are made after obligations are incurred.

- 2. The Office of Protection and Advocacy for Persons with Disabilities should develop procedures to monitor employees' use of sick time, review all employees' attendance records, take appropriate administrative or disciplinary action when excessive absenteeism is considered the result of abuse of sick leave and ensure that service time for longevity purposes is appropriately recorded for all employees.**

Comments:

We noted that nearly half our sample showed evidence of potential abuse of sick leave time that was not monitored by the Agency. Longevity records were also not maintained appropriately. This resulted in four employees' longevity records to be inaccurate and one employee being overpaid \$106.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Office of Protection and Advocacy for Persons with Disabilities (Office of Protection and Advocacy) for the fiscal years ended June 30, 2001 and 2002. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grants, and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Office of Protection and Advocacy for the fiscal years ended June 30, 2001 and 2002, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial-related audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Office of Protection and Advocacy complied in all material or significant respects with the provisions of the certain laws, regulations, contracts and grants and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations, contracts and grants applicable to the Office of Protection and Advocacy is the responsibility of the Office of Protection and Advocacy's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts, and grants, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 2001 and 2002, we performed tests of its compliance with certain provisions of the laws, regulations, contracts, and grants. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

The management of the Office of Protection and Advocacy is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts and grants applicable to the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Office of Protection and Advocacy's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grants, and not to provide assurance on the internal control over those control objectives.

However, we noted certain matters involving the internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grants. We believe the following findings represent reportable conditions: The Agency failed to properly manage contracts to ensure they were fully executed before contractual work began, and failed to monitor employees' excessive usage of leave time and maintain longevity records appropriately.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, contracts, and grants or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we believe that neither of the reportable conditions described above is a material or significant weakness.

This report is intended for the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the courtesies extended to our representatives by the personnel of the Office of Protection and Advocacy for Persons with Disabilities during the course of our examination.

Maura F. Pardo
Associate Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts