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State Auditor



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Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

Via Email and U.S. Mail

September 9, 2016

John Block III
Executive Director
Developmental Disabilities Planning Council
625 Silver Avenue SW, Suite 100
Albuquerque, NM 87102

Re: Risk Review – Developmental Disabilities Planning Council

Dear Mr. Block:

Earlier this year, the Office of the State Auditor (“OSA”) was notified by the New Mexico Developmental Disabilities Planning Council (“DDPC”) of possible fraud and embezzlement by an employee. The OSA commenced fact-finding procedures to evaluate this matter as part of a Risk Review. The OSA has completed its review of the matter and identified \$18,225 of public money that was diverted into the personal bank accounts of the former Center for Self-Advocacy Program Director, which may constitute felony embezzlement.

Executive Summary

The DDPC notified OSA of possible fraud and embezzlement after this issue was brought to the agency’s attention by an outside source who reported that the amount stated on an IRS Form 1099-Misc sent by the DDPC was incorrect. It was alleged that the Center for Self-Advocacy (“CSA”) Program Director created false DDPC advocate invoices for classes not attended by the advocates. The resulting payments were not distributed to DDPC advocates. Rather, the CSA Program Director endorsed the warrants with his own signature, deposited the warrants, and kept the money obtained from the warrants for his own personal use. Due to the limited resources of the DDPC, the agency requested assistance from the OSA to assess the allegations.

The OSA reviewed 468 warrants issued to advocates between October 2013 and March 2016. The OSA noted that of these warrants 208, totaling \$18,225, were deposited into the CSA Program Director’s personal bank accounts. We were unable to verify the accuracy of the monthly class sign-in sheets and corresponding monthly invoices. Specifically, we could not definitively determine whether or not these warrants were for classes actually attended by the advocates and diverted for personal use or whether these warrants were for entirely fictitious classes never attended by the advocates. However, it is clear that public funds were diverted into the CSA Program Director’s personal bank accounts, in likely violation of Section 30-16-8, NMSA 1978 (Embezzlement).

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Background

According to their website the New Mexico Developmental Disabilities Planning Council promotes advocacy, capacity building, and systemic change to improve the quality of life for individuals with developmental disabilities and their families. The mission of the DDPC is accomplished through four programs, (1) Federal Program, (2) Guardianship Program, (3) the Center for Self-Advocacy, and (4) activities consistent with the purpose of the Developmental Disabilities Act. The New Mexico Center for Self-Advocacy is a place where people with intellectual and developmental disabilities go to meet, organize, work and train others on how to improve their quality of life.

The CSA Program Director is responsible for establishing the fall and spring curriculum, overseeing the recruitment of advocates to attend classes, organizing presenters, and facilitating stipend payments to advocates. The CSA program director was hired on September 23, 2013 and this position reports directly to the agency's Deputy Director.

In order to enroll in the classes offered by the DDPC, the individual must have a disability and apply to participate in the CSA program. After acceptance into the program, there is no limit on the number of classes an advocate may attend. Classes are held once a week on Mondays in the Albuquerque office. There are two semesters of classes a year, spring and fall. Advocates who attend classes are paid a \$25 stipend per class they attend. The advocate stipends are paid from federal grant funds. The award to the DDPC was by the U.S. Department of Health and Human Services (CFDA 93.630 - State DD Councils). The award amount each year was under the threshold requirement for a single audit.

An advocate is required to sign-in for each class attended, however if their writing is not legible, staff are permitted to print the name to the side of the signature. At the end of the month the CSA Program Director tallies up all sign-in sheets for the month, calculates the total amount owed to each advocate, and submits an invoice for each advocate to the agency's finance department. The finance department then creates the voucher packet and submits it to DFA for payment. Upon receiving the warrants from Department of Finance and Administration ("DFA"), the finance department returns the warrants to the CSA Program Director to distribute to advocates at their next weekly class.

Scope and Methodology

The OSA conducted fact-finding procedures pursuant to the Audit Act and the Audit Rule, specifically 2.2.2.15(A)(1) NMAC. Among our procedures, the OSA:

- Interviewed DDPC personnel;
- Requested and evaluated advocate warrants dated between October 2013 and March 2016 (the timeframe in which the CSA Program Director was actively involved in the responsibilities of that position);
- Compared the signature endorsement on the warrant images with known signatures of the advocates and known signatures of the CSA Program Director;
- Confirmed via subpoena the bank accounts in which advocate warrants were deposited;
- Offered the CSA Program Director an opportunity to explain his actions.

Conclusion

As detailed in Attachment 1, the CSA Program Director deposited \$18,225 of warrants issued in the names of advocates into his personal bank accounts. Based on the OSA's finding of likely criminal violations, including Section 30-16-8, NMSA 1978 (Embezzlement), we are providing this information to the Second Judicial District Attorney's Office for possible prosecution.

This report also highlights the importance of internal controls and financial oversight in protecting public money. Based on the procedures we performed, we noted the following internal control issues:

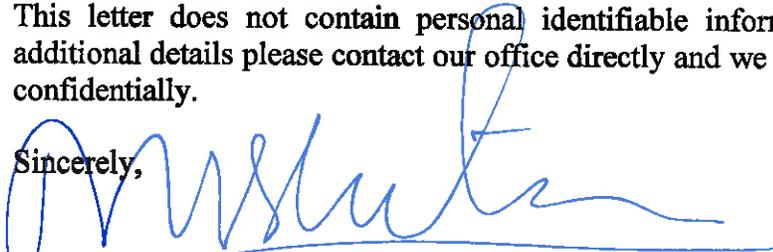
- The CSA Program Director is authorized to sign for an advocate whose handwriting is illegible. The CSA Program Director also collects the sign-in sheet, tallies up all sign-in sheets for that month for each advocate, submits an invoice on the advocate's behalf (\$25 stipend per class attended), receives the warrants issued by the DFA, and distributes these warrants to advocates at the next class. This lack of segregation of duties created an environment susceptible to the theft of funds.
- The agency's finance department did not verify monthly invoices with class sign-in sheets and did not receive a copy of the semester schedule to know whether or not the dates for classes attended were in fact the dates the classes were scheduled. As a result, the agency did not adequately ensure the advocate payments were for classes actually attended.

During the CSA Program Director's employment at DDPC there was a general lack of oversight due to staff turnover and personal leave at DDPC. The OSA recommends the DDPC take prompt corrective action to implement appropriate internal controls, including, but not limited to:

- Require an employee independent of the CSA program to collect the sign-in sheets and verify class attendance.
- Ensure class schedules are provided to the finance department prior to the start of each semester.
- Consider distributing warrants issued to advocates either through direct mail from the finance department or require someone independent of the CSA program to distribute the warrants in person.

This letter does not contain personal identifiable information, however, if you would like additional details please contact our office directly and we can provide you with this information confidentially.

Sincerely,



Sanjay Bhakta, CPA, CGFM, CFE, CGMA
Deputy State Auditor

cc: Michael Fricke, Deputy District Attorney, Second Judicial District Attorney's Office
Sandra Skaar, DDPC, Chair / Kathy Coates, DDPC, CFO
Ron Spilman, State Controller, Department of Finance and Administration
Chris Garner, Axiom CPA and Business Advisors, LLC
Gary Cantrell, Deputy Inspector General for Investigations, Office of Inspector General,
U.S. Department of Health & Human Services

**DDPC Warrants Deposited by the CSA
Program Director into His Personal Bank
Accounts from 2014-2016
(Organized by Month/Year)**

Warrant Month	# of Warrants	Amount
April 2014	1	\$ 100.00
May 2014	1	\$ 25.00
June 2014	1	\$ 25.00
September 2014	3	\$ 100.00
October 2014	5	\$ 250.00
November 2014	4	\$ 325.00
December 2014	6	\$ 425.00
2014 Total		\$ 1,250.00
January 2015	1	\$ 100.00
February 2015	15	\$ 1,375.00
March 2015	5	\$ 400.00
April 2015	11	\$ 1,100.00
May 2015	16	\$ 1,125.00
June 2015	27	\$ 2,150.00
July 2015	23	\$ 2,225.00
September 2015	15	\$ 1,075.00
October 2015	13	\$ 1,100.00
November 2015	20	\$ 1,825.00
December 2015	23	\$ 3,625.00
2015 Total		\$ 16,100.00
February 2016	18	\$ 875.00
Total	208	\$ 18,225.00

**DDPC Warrants Deposited by the CSA
Program Director into His Personal Bank
Accounts from 2014-2016
(Organized by Advocate)**

Name of Advocate on Warrant	# of Warrants	Amount
Advocate #1	4	\$ 400.00
Advocate #2	8	\$ 700.00
Advocate #3	1	\$ 50.00
Advocate #4	8	\$ 725.00
Advocate #5	2	\$ 225.00
Advocate #6	11	\$ 1,000.00
Advocate #7	1	\$ 175.00
Advocate #8	6	\$ 525.00
Advocate #9	12	\$ 900.00
Advocate #10	12	\$ 1,075.00
Advocate #11	3	\$ 250.00
Advocate #12	3	\$ 150.00
Advocate #13	1	\$ 25.00
Advocate #14	5	\$ 450.00
Advocate #15	6	\$ 550.00
Advocate #16	6	\$ 425.00
Advocate #17	10	\$ 775.00
Advocate #18	6	\$ 500.00
Advocate #19	5	\$ 275.00
Advocate #20	9	\$ 825.00
Advocate #21	8	\$ 700.00
Advocate #22	4	\$ 400.00
Advocate #23	1	\$ 100.00
Advocate #24	1	\$ 100.00
Advocate #25	8	\$ 725.00
Advocate #26	10	\$ 950.00
Advocate #27	11	\$ 1,050.00
Advocate #28	10	\$ 925.00
Advocate #29	9	\$ 775.00
Advocate #30	1	\$ 100.00
Advocate #31	2	\$ 175.00
Advocate #32	6	\$ 525.00
Advocate #33	2	\$ 225.00
Advocate #34	10	\$ 900.00
Advocate #35	6	\$ 575.00
Total	208	\$ 18,225.00