OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Minnesota Health Insurance Exchange: MNsure

Internal Controls and Compliance Audit

July 2011 through December 2013

October 28, 2014 **Report 14-21**

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OLA

OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

October 28, 2014

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This report presents the results of our federal compliance audit of federal grants awarded to Minnesota to establish its state-based health insurance exchange administered by the departments of Commerce, Management and Budget, and MNsure for the period July 1, 2011, through December 31, 2013. We conducted this audit as part of our audit of the state's compliance with federal program requirements. We emphasize that this has not been a comprehensive audit of MNsure and the departments of Commerce, Management and Budget, and Human Services.

We discussed the results of the audit with the department's staff at an exit conference on October 8, 2014. This audit was conducted by Brad White, CPA, CISA, CFE (Audit Manager), Tracy Gebhard, CPA (Auditor-in-Charge), and assisted by auditors Jordan Bjonfald, CPA, Kayla Borneman, CPA, CFE, Daphne Fabiano, CPA, Lori Leysen, and Kelsey Nistler, CPA.

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

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Conclusion on Internal Controls

The Financial Audit Division bases its conclusion about an organization's internal controls on the number and nature of the control weaknesses we found in the audit. The three possible conclusions are as follows:

Conclusion	Characteristics
Adequate	**The organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Generally Adequate	**With some exceptions, the organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Not Adequate	**The organization had significant weaknesses in the design and/or implementation of its internal controls and, as a result, the organization was unable to effectively manage the risks related to its financial operations.**

Report Summary

The federal government awarded grants to the State of Minnesota totaling $155 million to develop a Minnesota Health Insurance Exchange (Exchange). As of December 31, 2013, Minnesota had received and spent $60 million of those awards. The state spent an additional $34 million of state and other federal money to upgrade computer systems since the Department of Human Services would use the Exchange to enroll individuals in publicly-supported health insurance programs, such as Medical Assistance, Children's Health Insurance Program, and MinnesotaCare.

Audit Objectives and Scope

The Office of the Legislative Auditor (OLA) conducted this audit to determine whether the state agencies[1] involved in developing the Exchange had adequate internal controls and complied with applicable legal requirements in spending public money to develop the Exchange and related computer system upgrades. Because the money came primarily from federal grants, we were required by the U.S. Office of Management and Budget to conduct an audit. However, we expanded the scope to include state requirements.

We audited expenditures made from July 1, 2011, through December 31, 2013. These expenditures involved:

- Information Technology Contracts
- Software Support and License Agreements
- Professional and Consultant Services Contracts
- Personnel/Payroll and Travel
- Equipment
- Outreach Grants and In-Person Assister Services

In addition to examining controls over these expenditures, we also examined controls over collection of receipts, employee ability to update financial transactions in the state's accounting systems, and compliance with various state and federal finance-related requirements.

This audit did not assess the overall functionality of the MNsure system and, specifically, its ability to determine eligibility for public programs or premium tax credits. In addition, we did not review insurance plans, rates, or billings.

[1] The state agencies involved in the development of the Exchange consisted of the departments of Commerce, Health, Human Services, and Management and Budget, MNsure, and the Office of MN.IT Services.

Conclusion

State agencies involved in developing the Exchange had generally adequate internal controls and generally complied with most legal requirements applicable to spending public money in fiscal years 2012, 2013, and 2014 (through December 31, 2013). However, MNsure did not have adequate controls over marketing costs and the collection of receipts and did not comply with some of its board policies and Minnesota Statutes. In addition, MNsure and the departments of Commerce and Management and Budget had other internal control weaknesses and noncompliance with federal and state requirements as noted in the findings in this report.

Key Findings

- MNsure did not appropriately authorize $925,458 of additional marketing work or execute a contract amendment until after the contractor completed work. (Finding 1, page 11)

- MNsure did not design and implement adequate internal controls over collection of receipts from applicants. (Finding 2, page 13)

- MNsure did not monitor employee access to functions in the state's accounting system that require separation of duties between employees. (Finding 3, page 15)

- The Department of Commerce and MNsure did not maintain complete and accurate inventory records of equipment purchased for the Exchange. (Finding 4, page 16)

Minnesota Health Insurance Exchange: MNsure Overview

Creation of the Minnesota Health Insurance Exchange

On March 23, 2010, President Obama signed into law the *Patient Protection and Affordable Care Act*.[2] The law called for a federal health insurance exchange while giving states the option to create their own state-based health insurance exchanges. States that opted to create an exchange submitted applications to the federal government for grants to plan and establish state-based health insurance exchanges.

On October 31, 2011, Governor Mark Dayton signed an executive order authorizing the creation of a state health insurance exchange. During 2012, Minnesota submitted an application and letters of intent to build a state-based exchange to the federal government. On March 20, 2013, Governor Dayton signed legislation that officially established "MNsure" as Minnesota's health insurance exchange, to be governed by a seven-member board of directors.[3]

The authorizing state law allowed MNsure to enroll applicants in qualified commercial health plans sold through the Exchange or enroll in publicly-supported plans, Medical Assistance (Medicaid), Children's Health Insurance Program, and MinnesotaCare.[4]

State Agencies Involved in Developing the Health Insurance Exchange

Prior to the creation of MNsure, the state's efforts to obtain federal money to design, build, and manage an exchange was a collaboration among the departments of Commerce, Human Services, Health, and Management and Budget, and the Office of MN.IT Services.[5]

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[2] Public Law 111–148 as amended by Public Law 111–152.

[3] *Laws of Minnesota* 2013, Chapter 9, created the Minnesota Insurance Marketplace and *Laws of Minnesota* 2013, Chapter 108, Article 1, Section 67, changed the name to MNsure.

[4] MinnesotaCare is a state-created, subsidized health insurance program funded from a state tax on health care providers, federal matching funds, and enrollee premiums.

[5] The Office of MN.IT Services governs and oversees the development of all State of Minnesota information technology projects pursuant to *Minnesota Statutes* 2013, Chapter 16E. However, *Minnesota Statutes* 2013, 62V.03, subd. 2 (g), exempted MNsure from several typical information technology project requirements and approvals. Staff from MN.IT Services participated in the selection of external contractors to build the exchange, assisted in procurement of computer hardware and software, and provided technical services to MNsure.

In October 2011, the state granted authority to the Department of Commerce's commissioner to design and develop an exchange. A state health economist from the Department of Health, April Todd-Malmlov, was designated as the Exchange's executive director. The U.S Department of Health and Human Services' Center for Consumer Information and Insurance Oversight (CCIIO) awarded federal grants to the Department of Commerce, which managed the financial and personnel functions for the Exchange. Federal and state money were also provided to the Minnesota Department of Human Services to upgrade computer systems since the Exchange would also be used to enroll individuals in Medical Assistance, Children's Health Insurance Program, and MinnesotaCare.

On September 18, 2012, Governor Dayton shifted oversight in the development of the Exchange from the Department of Commerce to the Department of Management and Budget. The Governor made this change to avoid any conflicts with the Department of Commerce's role as the regulator of insurance plans sold in Minnesota, including those sold through the Exchange. The change transferred responsibility for all financial, human resource, contractual, and development activities related to the Exchange to the Department of Management and Budget. The financial processing functions, however, remained at the Department of Commerce under the authority of an interagency agreement until the Legislature created MNsure as a legal entity.

MNsure Board of Directors

As required by state law, MNsure is governed by a seven-member board that includes the commissioner of Human Services and six additional members appointed by the Governor. The MNsure Board first met in May 2013. During board meetings, MNsure staff provided board members with information regarding the development of the exchange, along with the budget, enrollment data, and any problems or concerns. In December 2013, MNsure's executive director, April Todd-Malmlov, resigned and the board appointed Scott Leitz as interim chief executive officer.[6]

Federal Grant Awards

Since Minnesota chose to build its own exchange, the U.S Department of Health and Human Services' CCIIO required the state to submit an application requesting federal grants to fund the planning and establishment of the Exchange. The application included a budget narrative and detailed how the state would spend grant funds; for example, on salaries and wages, consultants, information technology contracts, and equipment, etc. After review, CCIIO awarded planning and establishment grants totaling $155 million for the following purposes:

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[6] In April 2014, the board appointed Scott Leitz as chief executive officer, removing "interim" from the title.

- The Planning Grant funded activities such as background research, governance, and technical infrastructure.

- The Level One Establishment Grants funded the design and development of the state-based exchange, including technical infrastructure; broker, navigator, and consumer service programs; financial management; and annual maintenance costs.

- The Level Two Establishment Grant continued to build on the work completed under the Planning and Level One Grants and funded personnel costs to initially operate the exchange.

Table 1 shows each federal grant awarded to Minnesota by award type, date, and amount.

Table 1
Federal Grant Awards[1] to Minnesota for
Cooperative Agreement to Support Establishment of
State-Operated Health Insurance Exchange

Grant Award Type	Award Date	Award Amount
Planning	February 25, 2011	$ 1,000,000
1st Level 1	August 12, 2011	4,168,071
2nd Level 1	February 22, 2012	26,148,929
3rd Level 1	September 27, 2012	42,525,892
4th Level 1	January 17, 2013	39,326,115
Level 2	October 23, 2013	41,851,458
	Total	$155,020,465

Note: The federal grant awards listed above did not include other federal money provided to the State of Minnesota Department of Human Services for the modernization of computerized systems to determine eligibility in public programs (such as Medical Assistance, Children's Health Insurance Program, and MinnesotaCare).

[1] Federal Grant Award Numbers: HBEIE110058, HBEIE110068, HBEIE120107 replaced by HBEIE120176, HBEIE120135 replaced by HBEIE120177, HBEIE130149 replaced by HBEIE130163, and HBEIE140181.

Source: U.S Department of Health and Human Services (HHS) Notice of Awards.

Each federal award required Minnesota to use grant funds within a specified time period, with the latest grant available until December 31, 2014. However, during 2014, MNsure received federal approval to use any unspent grant awards through calendar year 2015.

Exchange Expenditures

As of December 31, 2013, the State of Minnesota had spent $60 million of the $155 million total federal grants awarded to develop and implement the Exchange. Table 2 shows the costs by type of expenditure and fiscal year from July 1, 2011, through December 31, 2013.

Table 2
Minnesota Health Insurance Exchange
Expenditures by Type
July 1, 2011, through December 31, 2013

Expenditure Type	FY 2012	FY 2013	FY 2014
Information Technology Contracts	$ 109,837	$13,778,446	$ 1,867,837
Software Support and Licenses	9,039	16,582,453	2,399,313
Other Purchased Services	657,440	1,314,914	4,231,260
Consultant Services	27,611	2,682,617	1,755,482
Payroll	924,219	1,925,163	2,890,340
Equipment	46,080	1.879.952	2,063,690
Grants and In-Person Assisters[1]	0	0	1,530,231
Travel	67,357	33,586	15,590
Other	273,020	2,255,108	609,642
Total Expenditures	$2,114,603	$40,452,239	$17,363,385

[1] Due to limited MNsure financial activity for Outreach Grants and In-Person Assisters through December 31, 2013, we expanded our scope to March 31, 2014.

Source: State of Minnesota's accounting system.

Table 3 shows costs allocated to the Department of Human Services to modernize computer systems for enrollment in public health care programs.

Table 3
Minnesota Health Insurance Exchange
Expenditures Funded from Public Programs[1]
Administered by the Department of Human Services
July 1, 2011, through December 31, 2013

Expenditure Type	FY 2012	FY 2013	FY 2014
Information Technology Contracts	$ 2,663	$16,218,285	$1,088,900
Software Support and Licenses	0	11,276,744	1,416,955
Equipment	783	1,083,063	706,470
Other	8,980	1,401,094	979,705
Total Expenditures	$ 12,426	$29,979,186	$4,192,030

[1] Public programs include Medical Assistance (Medicaid) Children's Health Insurance Program, and MinnesotaCare. The U.S Department of Health and Human Services' Centers for Medicare and Medicaid Services approved the cost-sharing portion of Exchange costs paid from Medicaid and the Children's Health Insurance Program using various federal financial participation rates. The remaining portion was funded from the state General Fund appropriations to the Department of Human Services.

Source: State of Minnesota's Accounting System.

Objective, Scope, Criteria, and Methodology

The objective of our audit was to determine whether state agencies involved in the development of the Exchange[7] had adequate internal controls and complied with federal finance-related legal requirements related to costs incurred for the *State Planning and Establishment Grants for the Affordable Care Act Exchanges* (CFDA 93.525). An audit of federal awards is required by the U.S. Office of Management and Budget.

The audit scope included expenditures for fiscal years 2012, 2013, and 2014 (through December 31, 2013), including:

- Information Technology Contracts
- Software Support and License Agreements
- Professional and Consultant Services Contracts
- Personnel/Payroll and Travel
- Equipment
- Outreach Grants and In-Person Assister Services

In addition to examining internal controls for these expenditures, we also examined MNsure's controls over collection of receipts, employee ability to update financial transactions in the state accounting systems, and whether state agencies involved in developing the Exchange complied with various state and federal finance-related legal requirements.

The audit used the following federal criteria to assess compliance:

- Patient Protection and Affordable Care Act of 2010 (Public Law 111-148 as amended by Public Law 111-152).

- Office of Management and Budget (OMB) Circular No. A-133 general compliance features applicable to federal programs, including:

    - Activities Allowed or Unallowed
    - Allowable Costs/Cost Principles (A-87)
    - Cash Management
    - Equipment and Real Property
    - Period of Availability of Federal Funds
    - Procurement and Suspension/Debarment
    - Reporting
    - Subrecipient Eligibility and Monitoring

[7] The state agencies involved in the development of the Exchange consisted of the departments of Commerce, Health, Human Services, and Management and Budget, MNsure, and the Office of MN.IT Services.

- Federal Compliance Supplement for the *State Planning and Establishment Grants for the Affordable Care Act's Exchanges* (CFDA 93.525).

- U.S Department of Health and Human Services - Notice of Award - General Terms and Special Terms and Conditions.

Since Minnesota spent the federal grants through state-established procurement processes, computerized financial systems, and contracts, we also tested for compliance with requirements contained in:

- *Minnesota Statutes* 2013, Chapters 16A, 16B, 16C, and 62V[8];
- *Minnesota Rule*s 2013, Chapter 7700;
- MNsure Board Policies;
- Department of Management and Budget Statewide Financial Policies and Procedures, and Department of Administration guidelines;
- Professional services contracts, employee bargaining unit contracts and state personnel plans, and the MNsure Compensation Plan.

To meet the audit objectives, we gained an understanding of MNsure and State of Minnesota financial policies and procedures. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements. We obtained and analyzed the accounting data to identify unusual trends or significant changes in financial operations. In addition, we selected financial transactions and reviewed supporting documentation to determine whether Exchange costs were accurate and allowable, including the costs allocated for public programs. We tested whether internal controls were effective and if the transactions complied with laws, policies, and contracts.

Appendix A provides a further overview of financial areas significant to the Exchange and our specific methodology in examining each area.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

We used the guidance contained in the *Internal Control-Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission, as our criteria to evaluate MNsure's internal controls.[9] We used

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[8] Upon passage of *Minnesota Statutes* 2013, 62V.03, subd. 2 (d) (2), the Legislature exempted MNsure from certain sections contained in *Minnesota Statutes* 16B and 16C.

[9] The Treadway Commission and its Committee of Sponsoring Organizations were established in 1985 by the major national associations of accountants. One of their primary tasks was to identify the components of internal control that organizations should have in place to prevent inappropriate financial activity. The resulting *Internal Control-Integrated Framework* is the accepted accounting and auditing standard for internal control design and assessment.

state statutes and contracts, as well as policies and procedures established by the departments of Management and Budget and Administration, and MNsure, as criteria to evaluate compliance.

Conclusion

State agencies involved in developing the Exchange[10] had generally adequate internal controls and generally complied with most legal requirements applicable to spending public money in fiscal years 2012, 2013, and 2014 (through December 31, 2013). However, MNsure did not have adequate controls over marketing costs and the collection of receipts and did not comply with some of its board policies and Minnesota Statutes. In addition, MNsure and the departments of Commerce and Management and Budget had other internal control weaknesses and noncompliance with federal and state requirements as noted in the findings in this report.

The following *Findings and Recommendations* section provides further explanation about the exceptions noted above.

[10] State agencies involved in the development of the Exchange consisted of the departments of Commerce, Health, Human Services, and Management and Budget, MNsure, and the Office of MN.IT Services.

Findings and Recommendations

Finding 1

MNsure did not appropriately authorize $925,458 of additional marketing work or execute a contract amendment until after the contractor completed work.

As allowed by the federal grant, Minnesota launched a statewide public education and awareness campaign aimed at reaching uninsured individuals and populations who are potential users of the Exchange. State exchange staff hired a contractor in April 2013 for the development and production elements of the campaign. Through a competitive process, they selected BBDO Proximity to perform this work.

We tested marketing expenditures to ensure that the State publicized the availability of the contract; that the contract appropriately defined the scope of work, contained the required elements, and was authorized by personnel with delegated authority; and that invoices were reviewed and authorized. We identified the following concerns:

Lack of Management Authorization. MNsure marketing staff did not obtain management approval for $925,458 of additional marketing work completed by BBDO Proximity. The original contract, totaling $666,590, was effective from April 8, 2013 to March 31, 2014; however, MNsure staff indicated that the former marketing director allowed the scope of work to increase beyond the original contract without management's written authorization. On May 16, 2014, the MNsure chief financial officer subsequently authorized a contract amendment to increase the amount to $1,592,048 for the services already performed even though the contract had expired six weeks earlier.

MNsure Policy #05, Delegation of Authority & Authority Limits, and official *Minnesota Delegation/Rescission of Authority* documents filed with the Secretary of State, provided the executive director and the chief financial officer with legal authority to make financial commitments and authorize contracts on behalf of MNsure. The policy indicates the following:

> "*All staff members are expected to be familiar with their authorization limits,… to operate within them, and to exercise care with respect to decisions made and commitments entered into on behalf of the organization. All delegations by the Executive Director to subordinate staff members must be made in writing and must include start and end dates. Documentation must be maintained for all delegations.*"

> "*Individuals executing contracts and approving transactions on behalf of MNsure must ensure that all approvals and reviews required by this Policy, and other MNsure policies and procedures, have been followed….*"

The MNsure executive director did not further delegate authority to the marketing director to execute contracts. As a result, the former marketing director did not have authority to allow the contractor to proceed with additional marketing work without management's authorization through an amended contract.

Allowing the contractor to begin additional work without an authorized contract did not comply with state law. *Minnesota Statutes* 2013 16C.08, subd. 2 (b) (5),[11] requires a certification that "*…the agency will not allow the contractor to begin work before the contract is fully executed*…" We noted that MNsure subsequently authorized the contract amendment after the contractor had already performed the additional marketing work.

Without executing a contract amendment before work starts, the extent and cost of the contractor work is subject to possible fraud and abuse. Also, the lack of prior management authorization could allow MNsure staff to inappropriately commit resources for services that may not be in MNsure's best interest.

Failure to Set Aside Money. MNsure also did not comply with *Minnesota Statutes* by failing to set aside $925,458 in the state's accounting system prior to permitting BBDO Proximity to perform the additional marketing work.

Minnesota Statutes 2013, Chapter 16A, provides the legal framework for incurring financial commitments and ensuring money is available to pay public obligations:

> *Minnesota Statutes* 2013, 16A.011, subd. 11, defines an encumbrance as *"…the commitment of a portion or all of an allotment in order to meet an obligation that is expected to be incurred to pay for goods or services received by the state…*"
>
> *Minnesota Statutes* 2013, 16A.15, subd. 3(a), states: "*…An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance or the accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet it…. An expenditure or obligation authorized or incurred in violation of this chapter is invalid and ineligible for payment until made valid. A payment made in violation of this chapter is illegal…*"

[11] *Minnesota Statutes* 2013, 62V.03, subd. 2 (d) (2), exempted MNsure from chapter 16C "with the exception of sections 16C.08, subdivision 2, paragraph (b), clauses (1) to (8)."

After recognizing there was no money set aside for marketing work already completed, the MNsure executive director prepared a *16A.15-16C.05 Form* (also known as a 16A letter) on May 19, 2014, to explain what occurred and the corrective action taken to prevent the problem from reoccurring.

Recommendation

- *MNsure should improve internal controls and compliance with its board policy and Minnesota Statutes by:*
  - *ensuring staff obtain authorization to incur obligations from personnel granted with delegated authority;*
  - *ensuring that contracts and amendments are written and executed prior to beginning work; and*
  - *requiring a set aside of funds in the accounting system prior to incurring obligations.*

Finding 2

MNsure did not design and implement adequate internal controls over collection of receipts from applicants.

MNsure lacked adequate controls over receipts, including a critical assurance that it deposited all incoming money. MNsure financial staff used the Exchange to track individuals and companies who submitted insurance payments, but it had no assurance that amounts collected were fully and timely deposited and accurately recorded in the state's accounting system.

As of March 31, 2014, the state's accounting system showed that MNsure collected and deposited \$8.4 million of insurance premiums. It received approximately 70 percent (\$5.9 million) by electronic payments. The Department of Human Services Receipts Center collected \$2.4 million in checks, and the department's Walk-in Center also collected \$44,656, while MNsure received checks and cash totaling \$106,519.

Minnesota Statutes 2013, 16A.275, subd. 1, requires "… *an agency shall deposit receipts totaling \$1,000 or more in the state treasury daily.*"

State policy[12] indicates:

> "*Agencies policies and procedures should address, at a minimum, the following internal controls:*
>
> - *Agencies should maintain a receipt log or similar documentation that includes sufficient information to ensure all receipts received are deposited....*

[12] Department of Management and Budget Policy 0602-01, *Recording and Depositing Receipts.*

- *An employee separated from the receipting, depositing, and receipts entry should reconcile the deposits to SWIFT on a minimum of a monthly basis to ensure receipts have been deposited completely and accurately in SWIFT….*

Agencies are responsible for accurately recording ….information in SWIFT which includes, but is not limited to, the following:

- *Complete and reconcile both the bank deposit to the SWIFT deposit. The reconciliation process should include the following:*
  - *The daily receipt log to actual receipts.*
  - *The bank deposit slip to actual receipts.*
  - *The bank deposit slip to the SWIFT deposit.*

- *Receipts should also be reviewed and reconciled to the bank on a minimum of a monthly basis.*"

We reviewed the receipt collection process for promptness of deposits and reconciliation assurances that MNsure deposited all receipts it collected in a timely manner. Our review identified the following control weaknesses.

Delayed Deposits. MNsure did not promptly deposit insurance receipts. MNsure did not comply with the prompt deposit requirement in six of twenty-two deposits tested. MNsure made the six deposits, which totaled $21,731, between 2 and 21 days after it received the money.

Reconciliations not completed. MNsure did not compare its receipts log to bank deposits and the state's accounting system for $106,519 of receipts collected at MNsure offices. The receipts log creates a record of incoming cash and checks, and an independent comparison to subsequent deposits is essential to ensure all receipts are deposited into the bank. The lack of an independent comparison of the receipts log to amount deposited would not detect if an employee removed a receipt before delivery to the Department of Human Services Receipts Center for deposit.

In addition, MNsure did not compare bank deposits to revenues recorded in the accounting system for:

- Electronic payments collected from enrolled applicants between October 1, 2013, and December 9, 2013;

- Checks received at the Department of Human Services Receipts Center from enrolled applicants between October 1, 2013, and December 9, 2013; and

- Checks received at the Department of Human Services Receipts Center from October 1, 2013, through March 31, 2014, for small businesses' employee coverage.

Reconciling incoming receipts to bank deposits and accounting system transactions are essential internal controls necessary to protect receipts from loss or theft and ensures the accuracy of the accounting records.

Recommendation

- *MNsure should improve internal controls over receipts by:*
    - *Depositing receipts that accumulate to $1,000 or more on a daily basis, as required by statute; and*
    - *Reconciling the receipts log to bank deposits and comparing bank transactions and deposits to accounting system transactions, as required by state policy.*

Finding 3

MNsure did not monitor employee access to functions in the state's accounting system that require separation of duties between employees.

As of June 2014, MNsure had not reduced the risk created by having eight employees with access to functions in the state's accounting system[13] that required separation of duties between employees. For example, one employee had the ability to enter purchases and post receipt of goods or services. The Department of Management and Budget provided a matrix to state agencies defining which accounting system functions require separation between employees and required monitoring if certain functional duties were assigned to the same employee. Without adequate monitoring, employees assigned to conflicting functions could purchase goods for personal use or inappropriately adjust a purchase order.

The federal government requires internal controls to ensure compliance with federal awards, including an expectation of appropriate separation of duties.[14] The Department of Management and Budget identified certain accounting system duties needing separation between employees and required monitoring when assigning conflicting duties to an individual employee. State policy[15] requires agencies to "*Segregate incompatible job duties and responsibilities. In cases where incompatible functions cannot be segregated, the agency must implement and maintain compensating controls*."

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[13] The state's accounting system is known as Statewide Integrated Financial Tools.

[14] Title 2 Code of Federal Regulations 200.303.

[15] Department of Management and Budget Policy 1101-07, *Security and Access.*

We examined accounting system access that MNsure provided to its employees to enter and approve purchases, receive goods and services, and make payments. In February 2014, MNsure management certified to the Department of Management and Budget its awareness of employee access to conflicting functions in the state's accounting system; however, MNsure did not confirm that it had developed or implemented monitoring controls. On March 6, 2014, MNsure did eliminate access for some employees, but it did not develop a strategy to monitor eight employees who continued to have access to conflicting functions. The functions allowed each employee too much influence over a financial transaction and should be separated between employees or independently monitored.

Recommendation

- *MNsure should separate employees' access to accounting system roles or develop controls to monitor transactions.*

Finding 4

The Department of Commerce and MNsure did not maintain complete and accurate inventory records of equipment purchased for the Exchange.

From July 1, 2011, through December 31, 2013, the Department of Commerce and MNsure purchased over $5 million of equipment, including computer hardware, with federal funds to build the exchange. Upon payment, the state's accounting system automatically created an equipment item in the department's or MNsure's inventory records. However, we found that the Department of Commerce and MNsure did not sufficiently maintain the records (with the assistance of the Office of MN.IT Services) with adequate detail to identify and safeguard the equipment.

Federal regulations[16] require that "*A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures*." The State of Minnesota Property Management Policy and User Guide defines "equipment" as having a useful life of two or more years with an acquisition cost of $5,000 or more. The guide indicates the Asset Management Module in the state's accounting system is the official record for all capital assets. The guide requires agencies to assign asset identification numbers and identify location information for physical inventory at least every two years. MNsure Board Policy #7 further requires a "… *written inventory of all physical assets and supplies, and updates the same periodically through a physical inventory*."

We tested equipment purchases to ensure items were competitively purchased or acquired using an existing state contract; vendor invoices were accurately paid for equipment received; equipment costs were appropriately allocated between the

[16] Title 2 Code of Federal Regulations 200.313 (b).

federal establishment grant and funding provided by the Department of Human Services; and detailed inventory records were maintained. We noted the following concerns:

- **Lack of equipment identification**. MNsure and the Department of Commerce did not update inventory records with specific equipment identification (assigned asset number and manufacturer serial number), as well as custodian and location information for equipment purchased. The Office of MN.IT Services did not adequately assist MNsure and the Department of Commerce in fulfilling their responsibility to identify information about computer equipment. Equipment identification and location information is critical to conduct an effective and efficient physical inventory in order to safeguard equipment.

- **Inventory records not transferred**. The Department of Commerce and MNsure did not coordinate the transfer of equipment inventory records to MNsure. As of June 2014, Exchange equipment purchased through June 2013 remained in the Department of Commerce's equipment inventory, rather than being transferred to MNsure when the Legislature legally created the board. Without a complete and accurate record, MNsure cannot fulfill its fiduciary responsibility to control Exchange equipment.

- **Unrecorded equipment**. The Department of Commerce did not include $240,000 of computer hardware, purchased for the Exchange in February 2013, on equipment inventory records. As of July 2014, that computer equipment is currently in use by MNsure as part of the Exchange.

Without a complete and accurate record, MNsure could not adequately control equipment under its responsibility and increased the risk that assets could be lost or stolen without detection.

Recommendations

- *MNsure should work with the Department of Commerce and the Office of MN.IT Services to transfer inventory records to MNsure for all equipment purchased for the Exchange.*

- *MNsure should improve inventory records necessary to safeguard equipment by updating specific equipment identification, custodian, and location information needed to conduct a physical inventory. MNsure should also add equipment purchases that were not recorded on equipment inventory.*

Finding 5

MNsure did not comply with state requirements to ensure the accuracy and approval of employee payroll time reporting.

MNsure weakened the integrity of employee time reporting by allowing supervisors to frequently update subordinate employees' time worked, and by continuing to allow backup supervisors to approve employee time rather than their direct supervisors. It also allowed three employees to authorize their own hours worked and leave taken. MNsure employees enter hours worked and leave taken into the state's self-service time entry system.[17] Once supervisors review and approve employee time, the hours are uploaded into the state's payroll system. State agencies involved in developing the Exchange spent about $6 million on employee payroll costs.

State policy[18] has several requirements to ensure the integrity of payroll hours reported through the self-service time entry system, including the following:

> "*The best control over the integrity of employees' payroll information is achieved when employees prepare their own timesheets and supervisors, who have direct knowledge of employees' work, review and approve timesheets.*
>
> *Employees are responsible for completing and modifying their timesheets. Employees are responsible for preparing their timesheets prior to a planned absence that includes the pay period end date.*
>
> *Supervisors/managers are responsible for reviewing and approving employee timesheets. The supervisor or manager who is designated as the primary approver should be the most knowledgeable about the work schedule of the employee. Primary approvers are responsible for approving employee timesheets. If errors are found on a timesheet, the employee (not the supervisor/manager) should make the necessary changes.*
>
> *Use of backup approvers and payroll staff to modify or approve employee timesheets is permitted, but should be strictly limited. When backup approvers and payroll staff modify or approve timesheets, they should document the reason for the modification or approval on the Comments page and notify the primary supervisor/manager to ensure that the timesheet modification or approval was appropriate.*
>
> *Employees should not approve their own timesheets.*"

In order to monitor compliance with these requirements, the policy requires a review of the self-service time entry audit report each pay period and states: "*If a comprehensive review is not possible, review a representative sample each pay*

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[17] MNsure nonexempt employees are only required to enter leave hours into the payroll system.

[18] Department of Management and Budget Policy PAY0017.

period. A comprehensive review must be completed on a quarterly basis. Audited sections or samples from the report must be kept with documented explanations."

For employees that did not enter their own time and approvals made by backup supervisors, the policy further states: "*Although permitted, this activity should be minimal and non-repetitive regarding a particular employee or primary approver. Agency management should be notified of on-going problems or patterns of difficulty and take steps to minimize occurrences*."

Concerns with Employee Time Reporting and Approval

MNsure did not produce and review the self-service time entry audit report when it began processing its own payroll. When noticing numerous instances that MNsure supervisors strayed from the designed controls, we analyzed reports for nine pay periods from September to December 2013 and noted the following concerns:

- Approximately 28 percent (272 of 958) of employee timesheets were not completed by the employees' themselves; instead, reports showed the supervisor updated and finalized the time. Supervisors posted comments for about half (138 of 272) of these exceptions; however, the comments did not usually provide a sufficient explanation. The prevalence of supervisors entering employee time undermines the fundamental integrity of the self-service time entry system since employees are best able to identify the hours they worked each day.

- About 19 percent (183 of 958) of employee timesheets were approved by backup approvers rather than primary supervisors. Backup approvers posted comments for 48 percent (87 of 183) of timesheets they approved; however, the comments did not always explain why they substituted for the primary approver. MNsure payroll staff did not have a practice to notify the primary supervisor to ensure the timesheet approval was appropriate. The frequency of reliance on backup approvers indicated that MNsure has an on-going problem that undermines the importance of having primary supervisors, with direct knowledge of employees' hours worked and leave taken, approve the timesheets.

- Six employees could authorize their own timesheets in the self-service time entry system. Our testing indicated that three of these employees did authorize their own timesheet on five occasions, including one pay period in which an employee authorized 11.5 hours of overtime. MNsure established these employees as backup approvers for the division they worked in, which also allowed them with the ability to authorize their own time.

Recommendations

- *MNsure should strengthen the integrity of payroll time reporting by reducing the volume of (1) timesheets not completed by employees, and (2) timesheets approved by backup approvers.*

- *MNsure should not allow employees the ability to approve their own timesheets, or document subsequent supervisory review to approve their time.*

Finding 6

MNsure did not obtain appropriate authorization for some purchases of equipment and services, and agencies involved in developing the Exchange did not always set aside money in the accounting system prior to incurring obligations.

As allowed by the federal grant, MNsure and the departments of Commerce and Management and Budget purchased a variety of goods and services for the Exchange, including $2 million for advertisements, $5 million of equipment, and $32 million in software licenses and information technology services. Our testing found that some purchases did not have documented authorization from appropriate personnel, and money was not always set aside in the accounting system prior to incurring financial obligations.

Inappropriate Purchase Authorization

The MNsure board chair formally delegated the executive director and chief financial officer with authority to execute contracts and approve purchases. MNsure Policy #5 requires "*All staff members … to be familiar with their authorization limits, as well as those of their direct reports, to operate within them, and to exercise care with respect to decisions made and commitments entered into on behalf of the organization*." The policy further states that "*Individuals … approving transactions on behalf of MNsure … are responsible for obtaining and maintaining appropriate documentation of such approvals*."

We examined authorization of purchases and noted the following concerns:

- **Equipment**. For 5 of the 10 equipment purchases tested, MNsure did not have evidence of approval from appropriate personnel with delegated authority. These five equipment purchases totaled approximately $2 million. MNsure staff told us that its chief financial officer had approved the purchases but was not able to provide that documentation.

- **Advertising and Media Services**. MNsure did not document approval by the executive director or chief financial officer of purchase orders for placement of media advertisements totaling $2 million. MNsure staff indicated that the former marketing director worked with a contractor to coordinate the purchase of television, radio, outdoor, and print advertisements, but that employee did not have delegated authority.

- **Software Licenses and Information Technology Services**. MNsure did not document appropriate authorization for 3 of 50 software license and information technology purchases tested. The three purchases totaled about $456,000. For some of the purchases, an employee of the Office of MN.IT Services provided approval; however, that employee was not delegated purchasing authority in writing.

Without appropriate approval, MNsure increased the risk of purchasing goods or services that are not necessary for its operations.

<u>Failure to Set Aside Money</u>

MNsure and the departments of Commerce and Management and Budget obligated federal funds for advertising, consultant services, software licenses, and computer services before setting aside money for those obligations in the accounting system. In addition to setting aside the money and ensuring that resources are available for all obligations, an encumbrance in the accounting system creates a payment limit that prevents the vendor from being mistakenly paid more than the amount set aside.

Minnesota Statutes 2013, 16A.011, subd. 11, defines an encumbrance as "… *the commitment of a portion or all of an allotment in order to meet an obligation that is expected to be incurred to pay for goods or services received by the state…*"

Minnesota Statutes 2013, 16A.15, subd. 3(a), further states "… *An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance or the accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet it.*"

We noted several instances in which MNsure or the departments of Commerce and Management and Budget did not comply with state law:

- **Advertising and Media Services**. MNsure incurred costs of $1.5 million for 25 of the 35 purchases for placement of media advertisements, including the Paul Bunyan and Babe ads, from August 2013 to October 2013 before it set aside the money. MNsure set aside money for the majority of these advertisements in November 2013 when paying the vendor.

- **Consultant Services**. For 17 of the 34 purchases of consulting services we tested, MNsure and the departments of Commerce and Management and Budget did not set aside funds prior to starting services totaling $745,000. MNsure and the departments of Commerce and Management and Budget started the consultant services between 12 and 86 business days before setting aside funds.

- **Software License and Information Technology Services**. MNsure and the departments did not set aside funds for 9 of the 29 purchases we tested, totaling $3.4 million, prior to the start date of the software license or beginning the services. They began to incur obligations for these licenses or services between 1 and 57 business days before they set aside money in the accounting system.

By allowing staff to incur obligations before setting aside money in the accounting system, MNsure could not accurately measure its uncommitted budget and could mistakenly overpay a vendor since there was no spending limit in the accounting system.

Recommendations

- *MNsure should ensure that it obtains and documents appropriate authorization to purchase equipment and services from those individuals delegated with authority.*
- *MNsure should comply with statutory requirements to set aside money in the accounting system prior to incurring financial obligations for services.*

Finding 7

MNsure did not correctly record over $3.9 million of grants in the state's accounting system and did not comply with certain federal monitoring and reporting requirements.

MNsure awarded pass-through grants[19] to 41 entities, funded by the *State Planning and Establishment Grants for the Affordable Care Act Exchanges* (CFDA #93.525), to provide outreach and education to individuals and small businesses on behalf of MNsure.

We reviewed MNsure's solicitation and selection of eligible grant recipients, tested grant agreements and payments for appropriate authorization and limits, and assessed MNsure's monitoring of the entities' use of grant funds. We identified the following concerns:

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[19] Pass-through grants are federal assistance provided to another organization to serve the purpose required by the federal program. Pass-through entities and the recipient organizations are both responsible for compliance with federal requirements; however, the pass-through entity has a responsibility to monitor the grant spending by the other organization.

- **Misrecorded transactions**. MNsure staff incorrectly recorded over $3.9 million it paid to 29 entities as purchased services rather than grant expenditures in the state's accounting system. Miscoded transactions incorrectly identify the type of spending and could contribute to those transactions not being subject to appropriate internal controls.

- **Information not obtained**. MNsure did not obtain the required Data Universal Numbering System (DUNS) numbers from any of the entities it granted funds. The federal government requires the state to obtain DUNS numbers before it passes federal money through to those organizations. Specifically, federal regulations[20] indicate:

  "*If you are authorized to make subawards under this award, you:*
  1. *Must notify potential subrecipients that no entity …. may receive a subaward from you unless the entity has provided its DUNS number to you.*
  2. *May not make a subaward to an entity unless the entity has provided its DUNS number to you.*"

- **Failure to Report Pass-through Grant Awards**. MNsure did not comply with reporting requirements of the Federal Funding Accountability and Transparency Act.[21] Federal reporting requirements[22] state that an entity "*… must report each action that obligates $25,000 or more in federal funds … for a subaward to an entity … no later than the end of the month following the month in which the obligation was made*." MNsure did not report 37 entities paid over $25,000 in pass-through grants.[23]

Recommendation

- *MNsure should improve grant accounting and compliance by:*
  - *properly recording grant expenditures in the state's accounting system;*
  - *obtaining required DUNS numbers from all entities that receive pass-through grants; and*

[20] Title 2, Code of Federal Regulations, Part 25, Appendix A.

[21] The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) requires the federal Office of Management and Budget to maintain a single, searchable website (http://www.usaspending.gov/) that contains information on all federal recipient spending awards.

[22] Title 2, Part 170 of the Code of Federal Regulations.

[23] Office of Management and Budget guidance specifies that a prime awardee must report information about and location of the subaward recipient, the date of the subaward, the subawardee's 9-digit DUNS number, the amount of federal funds awarded, including modifications, authorized date of the subaward agreement, date the information was submitted, and an assigned subaward identification number.

- *reporting grant awards for entities paid more than $25,000 as required by the Federal Funding Accountability and Transparency Act.*

Finding 8

The Department of Commerce did not accurately report expenditures for developing the Exchange in the State of Minnesota's fiscal year 2013 report to the federal government.

The State of Minnesota submitted its annual *Financial and Compliance Report on Federally Assisted Programs* to the federal government identifying expenditures for each federal program. The Department of Management and Budget instructed agencies to report expenditures in relation to amounts used to prepare the state's financial statements. For fiscal year 2013, prior to the creation of MNsure, the Department of Commerce omitted $3.3 million of financial obligations to a contractor for work completed on the Exchange.[24] As a result, the State incorrectly reported $40.4 million of expenditures, rather than $43.7 million, for the *State Planning and Establishment Grants for the Affordable Care Act's Exchanges* program (CFDA #93.525) for the fiscal year ending June 30, 2013.

The Department of Management and Budget provided the Department of Commerce with accounting system reports that included $3.3 million of obligations for unpaid contract work. However, the Department of Commerce inappropriately reduced the amount to reflect actual expenditures that excluded those obligations.

Federal requirements[25] state that the schedule of expenditures of federal awards must "*Provide total Federal awards expended for each individual Federal program and the CFDA number….*" MNsure will be responsible for preparing the 2014 Schedule of Federal Awards and any future schedules.

Recommendation

- *MNsure should include unpaid obligations when measuring annual accrued expenditures for the State Planning and Establishment Grants for the Affordable Care Act Exchanges (CFDA 93.525) in the State of Minnesota's Financial and Compliance Report on Federally Assisted Programs.*

[24] The state contract with Maximus included a retainage provision that a portion of the amount due may not be paid until the final product has been reviewed and accepted by the agency head.
[25] Office of Management and Budget Circular A-133, Section .310(b)(3).

Appendix A: Overview of Significant Financial Areas

The following sections provide an overview of financial areas significant to the Exchange and our specific methodology in examining each area.

Information Technology Expenditures

The Department of Commerce followed requirements contained in *Minnesota Statutes* Chapter 16C, and guidelines established by the Department of Administration, to purchase and contract for information technology services to establish the Exchange. The special terms and conditions of the federal awards required states to follow their own procurement procedures.

The Legislature exempted MNsure from certain sections of State procurement law (*Minnesota Statutes* 2013, Chapter 16C) upon passage of *Minnesota Statutes* 2013, 62V.03, subd. 2 (d), which required MNsure to "… *implement policies and procedures to establish an open and competitive procurement process for MNsure that, to the extent practicable, conforms to the principles and procedures contained in chapters 16B and 16C*." On August 21, 2013, the MNsure Board approved its own procurement policy.

Exchange Contract with Maximus

In June 2011, the Department of Commerce issued a request for proposals to develop the technical infrastructure for the Exchange. The department requested responses for the development of seven separate modules:

Module #1 - individual eligibility and exemption,
Module #2 - individual enrollment,
Module #3 - small employer eligibility and enrollment,
Module #4 - health plan display and navigator/broker certification,
Module #5 - provider display,
Module #6 - fund aggregation and payment, and
Module #7 - account administration.

The request for proposals called for a two-stage "proof of concept" approach. During the first stage, respondents submitted a proposed prototype, along with cost and timeline estimates for implementing specific modules or a fully functioning exchange. Stage two involved the preparation of actual prototypes and the development of detailed costs, work plan, and timeline proposals to implement the Exchange.

Between August and November 2011, a committee of state employees evaluated the responses against the criteria published in the request for proposals. Using money from the $1 million federal planning grant issued in February 2011, the Department of Commerce awarded successful respondents a $10,000 stipend to develop prototypes for each module. The department awarded a total of $230,000 in stipends to five contractors who presented their prototypes to the committee in December 2011.

The committee evaluated responses and subsequently selected Maximus to develop the Exchange. The State executed a contract in July 2012. The initial contract named Maximus as lead contractor and identified three subcontractors: Engagepoint, IBM Curam, and Connecture. The initial contract cost $41.2 million; however, it was amended multiple times and total cost increased to $46.4 million. Table 4 identifies the responsibilities and cost for Maximus and each subcontractor to build the Exchange.

Table 4
Minnesota Health Insurance Exchange
Maximus Contract Cost and Responsibilities by Subcontractor
Fiscal Years 2013 and 2014

Contractor	Cost	Responsibilities
Maximus	$ 8,947,816	Project oversight, business requirements analysis/documentation, integrated testing, and exchange reporting.
Subcontractors:		
IBM Curam	15,028,382	Module #1
Connecture	6,666,670	Modules #2, #3, #4, and #5
Engagepoint	15,735,788	System integration, Modules #6 and #7
Total	$46,378,656	

Source: Maximus contract and amendments to build the Minnesota Health Insurance Exchange.

The contract with Maximus outlined deliverables and included a payment schedule. Contract terms required Maximus to provide an itemized invoice for payment when it met contract deliverables. The contract called for retainage of 10 percent of the amount invoiced until Exchange staff reviewed the final product, and another 5 percent pending timely completion of the project. Upon receiving payment, Maximus was responsible to pay subcontractors.

Effective February 2013, the Department of Management and Budget amended the contract to shift lead responsibilities from Maximus to the State and one subcontractor, Engagepoint. The department amended the contract due to accelerated federal deadlines. The contract change designated the State as responsible for program management, methodology, and responsibility for developing the exchange, and required Maximus to assist the State. At that time, the State named Engagepoint as the prime technical lead on the project. When the State took over project management, they began preparing progress reports in order to communicate concerns or system defects with Maximus and the subcontractors.

The State paid Maximus' invoices, and retained a portion of the invoiced amounts. However, in early 2014, due to earlier problems encountered with the Exchange, MNsure disputed or denied payment on amounts invoiced pending an assessment of the system functionality and contract deliverables. Table 5 shows amounts paid to Maximus, including subcontractor amounts, retainage withheld, and amounts disputed and denied as of March 2014.

Table 5
Minnesota Health Insurance Exchange
Contractor and Subcontractor Amounts
Paid, Retained, and Withheld
Fiscal Years 2012, 2013, and 2014[1]

Contractor	Payments	Retainage	Disputed	Denied
Maximus	$ 5,482,525	$ 934,085	$2,380,444	$150,761
Subcontractor:				
Engagepoint	9,626,494	1,107,263	4,662,628	339,399
IBM Curam	11,562,172	1,064,787	2,178,541	222,881
Connecture	3,794,610	669,637	2,156,890	45,535
Total	$30,465,801	$3,775,772	$11,378,503	$758,576

[1] Our audit included fiscal year 2014 through December 2013; however, we expanded information shown in this table to March 2014.

Source: MNsure financial records.

Due to problems encountered during the Exchange roll-out, MNsure issued a request for proposal in February 2014 for additional work on the Exchange. The additional work included an assessment of: (1) Exchange functionality and deliverables under the original contract, governance structure, decision-making processes, project management controls and oversight, and (2) technical short-term and long-term recommendations to enhance the system. MNsure entered into a contract with Deloitte on April 29, 2014, to perform this work.

Other Information Technology Purchases:

The state agencies that developed the Exchange[26] also purchased several software licenses and support, identity access management, and other information technology related services. Outside of the contract with Maximus, the State directly paid the three subcontractors for software licenses and support fees. Table 6 shows the payments to selected vendors by type of purchase.

[26] The state agencies involved in purchasing software for the development of the Exchange included the departments of Commerce, Human Services, and Management and Budget, MNsure, and the Office of MN.IT Services.

Table 6
Minnesota Health Insurance Exchange
Other Information Technology Purchases
Fiscal Years 2012 through 2014[1]

Purchase Type and Vendor	Payment Amount
Software Licenses and Support:	
Engagepoint	$ 4,592,055
IBM Curam	1,200,000
Connecture	2,179,421
Other Software Licenses and Technology Purchases:	
Collier	12,623,778
IBM	7,811,818
Software House International	1,137,254
Identity Access Management:	
PricewaterhouseCoopers	2,512,658
Total	$32,056,984

[1] Our audit of fiscal year 2014 was limited to financial activity through December 2013.

Source: MNsure financial records.

System Development Life Cycle Review

In each Notice of Federal Award, the U.S. Department of Health and Human Services restricted the use of federal money for information technology contracts until the State met certain conditions. The State was required to provide specific information about the contracts, such as the name of the contractor, method of selection, budget, and scope of work. In addition, the federal government required the State to undergo four System Development Life Cycle reviews (formerly called IT gate reviews). The State provided details of the deliverables completed during each stage to the U.S. Department of Health and Human Services, which conducted the reviews. Table 7 shows the dates that the federal government conducted the reviews.

Table 7
Minnesota Health Insurance Exchange
System Development Life Cycle Reviews and Dates
Fiscal Years 2011 through 2014

Review Type	Federal Review Date
Architecture Review	May 2011
Project Baseline Review	November 2011
Detailed Design Review	May 2012 and April 2013
Operational Readiness Review[1]	September 2013

[1] The Operational Readiness Review completed by the U.S. Department of Health and Human Services identified concerns, such as the need for manual workarounds and inability to process applications for larger households, and required Minnesota to document and submit its contingency plans.

Source: Minnesota Health Exchange and MNsure records.

Once the U.S. Department of Health and Human Services determined the State successfully met the requirements, the federal money associated with that specific review became available to pay contractors. The State submitted a request to the federal government to release the funds, and the federal government provided a new notice of award to release funds. As of June 2014, the federal government has not released $1.9 million of federal awards related to information technology contracts.

Independent Verification and Validation

Effective March 1, 2013, the Minnesota Department of Human Services entered into a $1.4 million contract with Software Engineering Services Corporation to provide independent verification and validation services. The contractor provided assessment reports to the state and federal governments that indicated whether the computer application met the needs of users and was developed to perform according to specifications and requirements. On September 12, 2013, the contractor issued a critical notice to MNsure raising certain concerns about the functionality of the system and the lack of adequate testing and contingencies.

Audit Methodology

For the information technology services we performed the following tests:

- We reviewed the solicitation process to ensure (1) the request for proposal contained the necessary information, (2) the State publicized the availability of the proposal, (3) the evaluation of responses used criteria listed in the proposal, and (4) the evaluations supported the contractor selected. For certain contracts and other purchases, we noted the State purchased services using a statewide contract procured and authorized by the Department of Administration or Office of MN.IT Services.

- We reviewed the contract process to determine whether (1) the contract contained the necessary provisions, (2) the contract, and any amendments, were approved by the appropriate State personnel with delegated authority, and (3) the contract was executed before work began. We also obtained correspondence the State received from the U.S. Department of Health and Human Services indicating their review and approval of information technology contracts and amendments.

- We tested all payments made to Maximus from July 1, 2011, through December 31, 2013, to verify that (1) payments were supported by invoices and complied with the terms of the contract, (2) applicable contract retainage was appropriately withheld, and (3) payment was approved by appropriate State personnel. In addition, we obtained accounting records from Maximus to verify that Maximus issued payments to its subcontractors in accordance with the contract.

- We obtained Maximus invoices sent to MNsure after January 1, 2014, and inquired whether MNsure planned to dispute or deny payment for unmet, or partially met, contract deliverables.

- We determined whether the U.S. Department of Health and Human Services completed the system development life cycle review and released the restricted funds awarded for information technology contracts.

Equipment

The State of Minnesota purchased over $5 million of equipment for the Exchange. Prior to July 1, 2013, the Department of Commerce was responsible for purchasing equipment for the exchange. At that time, most equipment purchases were information technology-related purchases, such as servers and computer equipment. After July 1, 2013, MNsure had responsibility to purchase its own equipment, which consisted of computer- and office-related equipment.

Exchange and MN.IT staff would submit a purchase request, and management would review and approve the request. Staff would obtain bids and often purchased equipment from a vendor with an existing state contract. Vendors delivered most information technology-related purchases to the Department of Human Services, while other purchases were shipped to the Department of Commerce or MNsure offices.

Audit Methodology

- We tested equipment purchases by reviewing Department of Commerce or MNsure supporting documents and authorization, verifying that funds were set aside before incurring the obligation, and determining whether vendor invoices were accurately paid.

- We tested compliance with federal, state, and MNsure board policies requiring safeguarding of equipment by maintaining inventory records, including equipment identification, location, custodian, and other details. These records are necessary to conduct an effective and efficient physical inventory every two years.

- For computer desktops and laptops purchased with federal funds, we obtained a schedule from the Office of MN.IT Services used to identify each computer device and the assigned user.

Personnel/Payroll and Travel Expenditures

The Department of Commerce initially processed personnel and payroll transactions for a core group of state employees assigned to the Exchange. During fiscal year 2013, it transferred personnel and payroll functions to the Department of Management and Budget until October 2013 when the MNsure Board began processing its own payroll. In July 2013, the Legislature approved the MNsure Compensation Plan governing compensation to MNsure executive management. Starting in January 2014, MNsure transferred its personnel and payroll functions to the Department of Human Services because of limited staff. MNsure entered into an interagency agreement with the department for personnel services in March 2014, but was still negotiating the cost of a separate agreement for handling MNsure's payroll processing as of June 2014.

Table 8 shows payroll costs for state agencies that developed the Exchange for fiscal years 2012, 2013, and 2014 (through December 31, 2013).

Table 8
Minnesota Health Insurance Exchange
Employee Payroll by Earnings Type
Fiscal Years 2012, 2013, and 2014[1]

Payroll Earnings by Type	2012	2013	2014[2]
Regular	$804,548	$1,681,874	$2,782,798
Holiday and Leave	109,623	184,819	248,296
Overtime	65	3,727	164,065
Performance Incentives and Awards	0	6,271	32,191
Vacation Conversion and Payoff	9,316	13,364	14,666
Other[3]	667	35,108	31,785
Total Payroll Expenditures	$924,219	$1,925,163	$3,273,801

[1] Our audit of fiscal year 2014 was limited to financial activity through December 2013.
[2] Fiscal year 2014 amounts include payroll activity for pay period ending December 31, 2013, that subsequently posted to payroll expense in the accounting system in January 2014.
[3] Other earnings mainly consisted of retroactive pay adjustments for cost of living and other pay rate increases authorized by employee bargaining unit contracts or compensation plans.

Source: State of Minnesota's Accounting System.

Board of Directors Compensation

Members of the MNsure Board of Directors are authorized to receive a salary to serve on the board. *Minnesota Statutes* 2013, 62V.04, subd. 12, required that "*…board members shall be paid a salary not to exceed the salary limits established under section 15A.0815, subdivision 4* [25 percent of the salary of the governor]." This provision is effective through December 31, 2015, after which MNsure will pay its board members a per diem, plus expenses, for each day spent on board activities. MNsure paid its board members monthly; however, one board member elected not to receive compensation. In addition, the Commissioner of Human Services was not eligible to receive compensation. Total payroll expense for all five paid board members from May through December 2013 was $100,254.

Audit Methodology

- We reviewed employee compensation paid from the federal planning and establishment grant awards. Through discussions with those employees, we inquired whether they posted hours worked for time spent on developing the Exchange. We tested employees' overtime eligibility based on the applicable bargaining unit contract, payment at the appropriate overtime rate, and whether supervisors approved the overtime worked.

- We determined whether the agencies involved in developing the Exchange[27] reviewed payroll system control reports in a timely manner. In addition, we analyzed self-service audit reports to determine if employees completed their own timesheets and the primary supervisor approved the employees' time worked and leave taken.

- We tested employee salaries, pay rate increases, performance incentives, and achievement awards to determine whether there was appropriate authorization and compliance with applicable contracts and plans. We reviewed all MNsure manager salaries to determine compliance with the MNsure Compensation Plan. For performance incentives paid to MNsure managers, we determined whether performance goals were established, evaluated, and authorized by the Exchange Director.

- We tested vacation payoffs at termination and analyzed deferred compensation conversions to determine the accuracy of calculations based on leave balances up to limits established in the respective bargaining unit contract or compensation plan.

- We verified that MNsure Board of Director's compensation complied with limits established in *Minnesota Statutes* 2013, 62V.04, subd. 12.

- We tested travel expenditures to determine whether there was appropriate authorization, adequate supporting documentation, and compliance with reimbursement rates established in bargaining unit contracts or compensation plans.

Consultant Services Expenditures

MNsure and the departments of Commerce and Management and Budget used several consultants under master contracts developed by the Management Analysis and Development Division[28] within the Department of Management and Budget. The division had master contracts with local and national consulting firms. It developed request for proposals detailing the consultant skills needed in broad categories, such as integration of business processes. Division staff evaluated proposals and entered into master contracts with selected consulting firms.

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[27] The state agencies involved in the development of the Exchange that used consulting services consisted of the departments of Commerce, Health, Human Services, and Management and Budget, MNsure, and the Office of MN.IT Services.

[28] The division has its own staff who are employees of the state. If those staff members do not have the knowledge or skills necessary to perform the services requested, the division will utilize external consultants it has under master contracts to perform the services requested. The division has been utilizing outside consultants since 2004.

The Exchange staff reviewed proposals and interviewed potential consultants with the expertise needed. Once the Exchange staff selected the consultants, the division executed work orders with consulting firms under its master contract. Based on the terms of the work orders, the Exchange staff entered into interagency agreements with the division.

Approval of Invoices for Payment

The consulting firms submitted detailed invoices to the division, which added a project management fee to the amounts invoiced.[29] Before July 1, 2013, the division added a fee of 15 percent to each invoice; however, beginning July 1, 2013, it reduced its fee to 10 percent. In November 2013, after determining that fees paid by the Exchange sufficiently covered administrative costs for consultant work orders, the division stopped adding the fee.

The division invoiced the state agencies that developed the Exchange who then verified consultant hours billed and approved the invoices for payment. Once the division received payment, it further paid the consulting firm and retained its project management fee. Table 9 identifies the amount paid to each consulting firm and the total project management fees.

Table 9
Minnesota Health Insurance Exchange
Expenditures for Consultant Services
Fiscal Years 2012, 2013, and 2014[1]

Consulting Firm	Expenditures[2]
Advanced Strategies Inc.	$ 13,731
Aeritae Consulting Group	18,796
North Highland Company	995,921
Project Consulting Group Inc.	1,074,409
Trissential	1,957,979
Total Consulting Firm Expenditures	$4,060,836
Management Analysis and Development Division-Administrative Project Management Fees	595,305
Total Interagency Agreement Expenditures	$4,656,141

[1] Our audit of fiscal year 2014 was limited to financial activity through December 2013.
[2] Expenditures include about $190,000 funded from public program resources administered by the Department of Human Services.

Source: State of Minnesota's accounting system.

[29] The division is required to be self-supporting; therefore, it charges an administrative fee for services it provides. The fee is determined through an annual business plan and approved by the Budget Services Division of the Department of Management and Budget. However, the division cannot have more than two months of operating capital on hand, which requires the division to constantly monitor its operating capital and reduce its administrative fee accordingly.

Audit Methodology

To test the consultant expenditures we performed the following:

- We reviewed the Management Analysis and Development Division's process for solicitation and selection of consulting firms. We verified that the division publicized a request for proposal, including a description of the skills needed and instructions to submit and evaluate bids. We also verified that the division's evaluation process used specific criteria and that it selected the vendors with the best scores.

- In addition, we analyzed the Management Analysis and Development Division's annual business plan for fiscal years 2012 to 2014 (through December 31, 2013) to assess its project management fee.

- For consulting firms used to develop the Exchange, we reviewed the master contracts, work orders, and interagency agreements to determine whether the documents (1) included the necessary terms and conditions, (2) were authorized by appropriate personnel with delegated authority, and (3) were executed before work began.

- We tested consultant expenditures to determine whether payments were (1) supported by invoices based on the terms of the master contract and related work order, (2) approved by the appropriate personnel with direct knowledge of the consultant's hours and work, and (3) included the appropriate project management fee.

Grants and In-Person Assister Expenditures

To ensure all Minnesotans were aware and could successfully enroll to obtain health care coverage, MNsure developed a number of outreach and enrollment strategies. This included grants to fund outreach and infrastructure and provide payments for in-person assisters. MNsure made pass-through grants of federal money to entities that promoted application and enrollment in health insurance coverage through the Exchange. The in-person assister program provided federal funds to trained and certified individuals for each successful applicant they enrolled.

Outreach and Infrastructure Grants

In May 2013, MNsure published a request for proposal asking eligible organizations to submit an application along with a proposal, amount requested, and budget summary. It awarded two rounds of grant awards in August and December of 2013 totaling $4.7 million to 41 grant recipients. MNsure plans to perform site visits and review certain financial activity for each of the 41 grant recipients; however, this had not yet occurred as of March 2014.

In-Person Assisters

MNsure used federal grant awards to pay in-person assisters $70 for each successful enrollment into a qualified health plan.[30] Prior to and during open enrollment, MNsure required organizations to complete an application if they wanted to receive compensation for assisting enrollment in a qualified health plan. If the organization was eligible, each of the organization's in-person assisters were required to complete a required background check and training.[31]

When assisting with enrollment, MNsure required each in-person assister to include their unique identification number and organization name on the electronic or paper application. Staff generated a system report with an identification number, organization name, number of successful enrollees, and type of health plan individuals enrolled in, to issue payment. In February 2014, MNsure paid a total of $209,230 for in-person assistance services from October 1, 2013, through December 31, 2013.

Audit Methodology

- We reviewed MNsure's grant process for solicitation, evaluation, and selection of grant recipients to determine whether it utilized a competitive process. We verified that MNsure publicized the eligibility requirements and provided application instructions. We also reviewed MNsure's evaluation process to determine whether it used specific criteria required by the federal government.

- We tested grants for compliance with federal and state requirements such as if (1) the recipient was eligible and was not suspended or debarred from receiving state or federal funds, (2) the recipient provided MNsure with its Data Universal Numbering System (DUNS) number, and (3) that recipients complied with MNsure reporting requirements on how funds were spent. We also determined whether the grant agreements included necessary requirements, such as identification of the federal program and requirements for an OMB A-133 audit of federal assistance.

- In addition, we reviewed grant agreements and payment documents to determine appropriate authorization and compliance with funding limits.

- We reviewed applications to determine completeness and eligibility of the organization providing in-person assistance services, and determined whether the contract (1) included the necessary terms and conditions,

[30] We did not review navigators paid by the Department of Human Services for assisting enrollment into public health care programs.
[31] The eligibility requirements are described in Title 45, Code of Federal Regulations, Part 155.210.

(2) was authorized by the appropriate personnel, and (3) was executed before services were provided.

- We tested in-person assister expenditures charged to the federal grant through March 31, 2014. For each organization tested, we verified that background checks and required training were completed before the in-person assister provided services. We recalculated the total payment amount based on the number of successful enrollments in qualified health plans as recorded in the MNsure system.

Collection of Receipts

We conducted a review of the MNsure receipts collection process due to concerns raised by several citizens. The focus was specifically on the MNsure process to collect and deposit insurance premium receipts for enrollment in a qualified health plan.[32]

The Exchange allowed Minnesotans to enroll in qualified health plans and public programs. The enrollment period, during which Minnesotans and small businesses could enroll in a qualified health plan, opened on October 1, 2013, and ended on March 31, 2014 but was extended to April 22, 2014 for applicants who had initiated but had not completed their application by March 31, 2014. Minnesotans are able to enroll into a public health plan at any time, not just during open enrollment. If enrolled in a qualified health plan, the enrollee must pay an insurance premium. Applicants were allowed to submit a first payment to MNsure upon enrollment or send payments directly to the applicable insurance carrier.

MNsure accepted electronic payments, checks, or cash to pay insurance premiums. It instructed enrollees paying by check or cash to send payment to the Department of Human Services Receipts Center or drop off payment at the department's Walk-In Center. However, MNsure also accepted payments sent to its administrative office location.[33] Although MNsure accepted payment in cash, it rarely received any cash.

1.5 Percent Insurance Premium Fee

The federal government allowed state exchanges to collect a percentage of total insurance premiums to fund operations. *Minnesota Statutes* 2013, 62V.05, subd. 2(a), provides that "*Prior to January 1, 2015, MNsure shall retain or collect up to 1.5 percent of total premiums for individual and small group market health*

[32] We did not review eligibility determinations; insurance plans, rates, and billings; and whether MNsure submitted premiums to insurance carriers. In addition, we did not review eligibility and enrollment into public health plans.

[33] MNsure did not intend to collect any insurance premium receipts; however, if received, MNsure processed and deposited those receipts.

plans and dental plans sold through MNsure to fund the cash reserves of MNsure…." However, the statute does not specify when MNsure must retain or collect the fee. Currently, MNsure has not collected 1.5 percent of the total insurance premiums and staff indicated that it planned to collect the fee, in the near future, once it has completed all receipt reconciliations.

Audit Methodology

To test the insurance premium receipts we performed the following:

- We reviewed the process used by MNsure and the Department of Human Services to collect receipts, prepare bank deposits, and post deposits to the state's accounting system. In addition, we gained an understanding of MNsure's anticipated process to work with insurance carriers to collect the 1.5 percent of the total insurance premiums.

- We tested insurance premium receipts collected at each of the three collection sites and electronic payments. We verified that MNsure recorded the receipt in the daily receipt log (for checks and cash), deposited all receipts in the bank, and recorded transactions in the state's accounting system. In addition, when receipts accumulated to over $1,000, we assessed that deposits were made within one business day as required by *Minnesota Statutes* 2013, 16A.275.

- We reviewed MNsure's reconciliation process to determine whether it completed all reconciliations in a timely manner.

October 23, 2014

James Nobles
Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, Minnesota 55101

Dear Mr. Nobles:

Thank you for the opportunity to review and respond to the findings and recommendations included in the federal compliance report of the Minnesota Health Insurance Exchange ("MNsure"). As your report indicates, the creation of MNsure has been and continues to be a multi-agency effort. We are pleased with your overall conclusion that the state agencies involved in developing MNsure had generally adequate internal controls and generally complied with most legal requirements applicable to spending public money in fiscal years 2012, 2013, and 2014, through December 2013.

MNsure's response to specific findings and recommendations in your report is attached.

Sincerely,

[redacted]

Scott Leitz, Chief Executive Officer
MNsure

[redacted]

Lucinda Jesson, Commissioner
Department of Human Services

[redacted]

James Schowalter, Commissioner
Department of Management and Budget

Enclosures

October 23, 2014

James Nobles
Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, Minnesota 55101

Dear Mr. Nobles:

Thank you for reviewing the internal controls of MNsure. We appreciate the professionalism of you and your staff throughout this process. We take this report and its findings seriously. We welcome your review, as it will help us continue to improve. MNsure's response to the specific findings is attached.

I'm pleased this report found MNsure has generally adequate internal controls and complies with legal requirements and that the report found no fraud or abuse at MNsure.

We take our responsibility to be an accountable and transparent organization extremely seriously. We have been working as an organization since last December to identify and make improvements to the internal controls of MNsure. We took immediate action as issues were discovered, and I am pleased to report that we have resolved or are in the process of resolving all of the findings in your review as a result of these proactive efforts.

This and other audits are important tools for us to improve. We will continue to make necessary adjustments to the organization in the interest of transparency and accountability. We welcome the independent review of the Legislative Auditor as an opportunity for us to improve. We will continue to work proactively to identify areas of improvement, as these improvements will help MNsure continue to grow and mature.

Again, thank you for the work that you and your staff have done on this review.

Sincerely,

[redacted]

Scott Leitz
Chief Executive Officer

Attachments

81 East 7th Street, Suite 300 • St. Paul, MN 55101-2211 • mnsure.org

MNSURE'S RESPONSES

OLA Finding 1

MNsure did not appropriately authorize $925,458 of additional marketing work or execute a contract amendment until after the contractor completed work.

OLA Recommendations

- MNsure should improve internal controls and compliance with its board policy and Minnesota Statutes by:
  - Ensuring staff obtain authorization to incur obligations from personnel granted with delegated authority;
  - Ensuring that contracts and amendments are written and executed prior to beginning work; and
  - Requiring a set-aside of funds in the accounting system prior to incurring obligations.

MNsure's Response to OLA Finding 1

Several important factors require emphasis regarding this finding. First, at all times, MNsure had the funds to pay for these services. All funds expended on the BBDO Proximity contract were within the budget submitted to the federal government and consistent with MNsure's plans for creating consumer awareness for its first open enrollment.

Second, in April 2014, MNsure staff brought this issue to the attention of the audit team and by that time had taken corrective measures, including a review of the services and billings provided by BBDO Proximity and a reorganization of the marketing and communications function.

Finally, the services provided by BBDO Proximity had been requested, received, and utilized by MNsure. These services (for which detailed invoices and other supporting documents were readily available at the time of the audit) are detailed in the BBDO Proximity contract and amendment documents that can be found on the MNsure website at https://www.mnsure.org/about-us/rfp-contract/index.jsp.

Upon discovering this situation in late 2013, MNsure's new CEO ordered an immediate review of the services provided by BBDO Proximity and of MNsure marketing activities. This resulted in personnel changes and a new marketing team to direct and manage MNsure marketing, including leadership with strong legal and management experience.

It was only after MNsure had confirmed that BBDO Proximity had provided all requested services that a payment of $1.25 million was authorized to settle outstanding invoices.

We have addressed the control weaknesses in this business area by bringing marketing and communications under the direct supervision of the Deputy Director for External Affairs, reorganizing the contracting and procurement functions to report to the General Counsel, and planning to train staff on the procurement process.

MNsure is actively addressing the issues raised in this finding and has taken the following actions:

a) MNsure conducted a detailed review of BBDO Proximity's services and billings to confirm that the services were indeed delivered. The receipt of these services was confirmed before the final payment of $1.25 million was made in April 2014. **Status: Complete.**
b) MNsure prepared and submitted to the Department of Administration Minnesota Statutes 16A.15 and 16C.05 violation forms that are required of any state agency that obligates the state for services before a contract is executed or an appropriately authorized purchase order is issued. **Status: Complete.**
c) In early 2014, a new marketing and communications team was assembled by MNsure's CEO under the direct supervision of the Deputy Director of External Affairs. **Status: Complete.**
d) MNsure has reorganized its contracting and procurement unit such that it is now within the Legal/Compliance unit, reporting to the General Counsel. This shift will allow for greater alignment with other ongoing compliance activities including identification and implementation of controls and internal controls training. **Status: Complete.**
e) MNsure has entered into an interagency agreement with DHS to use DHS' procurement unit to purchase commodities. **Status: In process. Estimated completion date is December 31, 2014.**
f) MNsure is designing training on the procurement process for all staff to ensure staff understand the process. **Status: In process. Estimated completion date is June 30, 2015.**

Responsible Persons: Allison O'Toole, Deputy Director-External Affairs
Mike Turpin, General Counsel

OLA Finding 2

MNsure did not design and implement adequate internal controls over collection of receipts from applicants.

OLA Recommendation

- MNsure should improve internal controls over receipts by:
    - Depositing receipts that accumulate to $1,000 or more on a daily basis, as required by statute; and
    - Reconciling the receipts log to bank deposits and comparing bank transactions and deposits to accounting system transactions, as required by state policy.

MNsure's Response to OLA Finding 2

MNsure is actively developing procedures to improve internal controls over receipts. First, at the time of the audit, MNsure had received and securely banked $8.4 million in initial consumer premiums. Of this amount, $106,519 or approximately 1.3% was received at the MNsure office and deposited by staff. The delay in depositing a small fraction of these checks arose from the need to manually match the checks to enrollment records before depositing them.

In preparation for MNsure's initial open enrollment period and as a consumer service convenience, MNsure implemented a policy that allowed consumers the option of paying their first insurance premium either directly to insurance carriers or to MNsure for transmission to insurance carriers. In April 2014, MNsure made a decision that, with the exception of SHOP, consumers would send all payments directly to insurance carriers outside of the open enrollment period. In addition, MNsure has decided not to collect first premiums during the 2015 open enrollment. Finally, MNsure is using the DHS Receipting Center to process and deposit any checks received at the MNsure offices.

To realize additional efficiencies and leverage existing controls at DHS, in July 2014, MNsure entered into an interagency agreement with DHS that includes standardized reconciling of the receipts log to bank deposits and comparing bank transactions and deposits to accounting system transactions. We anticipate that these measures address and remedy the issues around banking of receipts and reconciliation of bank accounts.

Status: In process. Estimated completion date is December 31, 2014.

Responsible Person: Marty Cammack, Interim Chief Financial Officer

OLA Finding 3

MNsure did not monitor employee access to functions in the state's accounting system that require separation of duties between employees.

OLA Recommendation

MNsure should separate employees' access to accounting system roles or develop controls to monitor transactions.

MNsure's Response to OLA Finding 3

For several months, MNsure has been actively separating employees' access to accounting system roles and developing controls to monitor transactions. For much of the period covered by this audit, the MNsure finance department was comprised of three staff members including the Chief Financial Officer. Having a small number of staff inherently and significantly increased the number of incompatible role conflicts within the SWIFT system. Between late 2013 and early 2014, MNsure hired additional finance staff and through periodic reviews of the role access conflict reports, has significantly reduced the conflicts. As is typical of small agencies across the state, the relatively small size of the finance department (which now has six employees including the Interim Chief Financial Officer), will continue to result in a higher than ideal incidence of SWIFT access role conflicts. To address this, MNsure is taking the following mitigating actions:

a) MNsure entered into an interagency agreement with DHS to provide certain finance and procurement-related services. This significantly reduced the need for MNsure finance and procurement staff to have incompatible roles in SWIFT. These roles will be removed when it is confirmed that doing so will not disrupt the employees' ability to perform their jobs. **Status: In process. Estimated completion date is March 31, 2015.**
b) Under the same interagency agreement, MNsure will use the DHS Internal Audits unit to conduct periodic reviews of procurement and payment transactions to ensure validity. **Status: In process. Estimated completion date is December 31, 2014.**
c) Finally, MNsure will continue to work with DHS finance staff to assist in developing and implementing additional mitigating controls to address SWIFT access role conflicts. **Status: In process. Estimated completion date is June 30, 2015.**

Responsible Persons: Marty Cammack, Interim Chief Financial Officer
Mike Turpin, General Counsel

OLA Finding 4

The Department of Commerce and MNsure did not maintain complete and accurate inventory records of equipment purchased for the Exchange.

OLA Recommendations

- MNsure should work with the Department of Commerce and the Office of MN.IT Services to transfer inventory records to MNsure for all equipment purchased for the Exchange.
- MNsure should improve inventory records necessary to safeguard equipment by updating specific equipment identification, custodian and location information needed to conduct a physical inventory. MNsure should also add equipment purchases that were not recorded on equipment inventory.

MNsure's Response to OLA Finding 4

MNsure will continue to work with the Department of Commerce, Office of MN.IT Services and MMB to establish complete and accurate inventory records of equipment purchased for the Exchange.
Status: In process. Estimated completion date is June 30, 2015.

Responsible Person: Marty Cammack, Interim Chief Financial Officer

OLA Finding 5

MNsure did not comply with state requirements to ensure the accuracy and approval of employee payroll time reporting.

OLA Recommendations

- MNsure should strengthen the integrity of payroll time reporting by reducing the volume of (1) timesheets not completed by employees, and (2) timesheets approved by backup approvers.
- MNsure should not allow employees the ability to approve their own timesheets, or document subsequent supervisory review to approve their time.

MNsure's Response to OLA Finding 5

This finding highlights the rapid increase in MNsure staff in the run up to and during our first open enrollment period. MNsure's head count increased from approximately 30 employees in July 2013 to a peak of almost 180 employees in February 2014. Close to half of all new employees were hired between October 1, 2013, and March 31, 2014. To address the issues raised in this finding, MNsure has taken the following steps:

a) MNsure entered into an interagency agreement with DHS that includes the bi-weekly review of the self-service time entry audit report and payroll register (the latter is based on a statistical sample). MNsure will remain responsible for resolving issues noted from the review of the report. **Status: In process. Estimated completion date is December 31, 2014.**
b) MNsure is training supervisory staff on timesheet completion, approval, commenting when back-up approvers approve timesheets, and the need to minimize and document instances where supervisors complete and approve employee timesheets. **Status: In process. Estimated completion date is March 31, 2015.**

Responsible Persons: Marty Cammack, Interim Chief Financial Officer
Katie Burns, Chief Operating Officer

OLA Finding 6

MNsure did not obtain appropriate authorization for some purchases of equipment and services, and agencies involved in developing the Exchange did not always set aside money in the accounting system prior to incurring obligations.

OLA Recommendations

- MNsure should ensure that it obtains and documents appropriate authorization to purchase equipment and services from those individuals delegated with authority.
- MNsure should comply with statutory requirements to set aside money in the accounting system prior to incurring financial obligations for services.

MNsure's Response to OLA Finding 6

Two important factors require emphasis regarding this finding. First, at all times, MNsure had the funds to pay for the services and equipment referenced in this finding. All funds expended on these purchases were within the budget submitted to the federal government. Second, these purchases had been requested, received, and utilized by MNsure.

As detailed by the audit report, as MNsure and its sister agencies strove to meet federally imposed deadlines, significant purchases were made in a very compressed timeframe. The vast majority of these purchases were made in compliance with state procurement policies. This finding highlights gaps that MNsure is addressing as follows:

a) Authorization of purchases: The MNsure Board is in the process of updating its delegation of authority to MNsure staff. The delegation policy will soon be voted on and, upon approval, it will be published to all staff to make it clear who has the ability to authorize purchases. **Status: In process. Estimated completion date is June 30, 2015.**
b) Approval of invoices for payment: MNsure now requires business functional leads to verify the accuracy of and approve invoices prior to payment. **Status: Complete.**
c) MNsure reorganized its contracting and procurement unit to be within the Legal/Compliance unit, reporting to the General Counsel. This shift allows for greater alignment with other ongoing compliance activities. **Status: Complete.**
d) MNsure entered into an interagency agreement with DHS to leverage the existing DHS procurement process for commodities. **Status: In process. Estimated completion date is December 31, 2014.**
e) MNsure is developing training for staff on the procurement process. **Status: In process. Estimated completion date is June 30, 2015.**

Responsible Person: Mike Turpin, General Counsel

OLA Finding 7

MNsure did not correctly record over $3.9 million of grants in the state's accounting system and did not comply with certain federal monitoring and reporting requirements.

OLA Recommendation

MNsure should improve grant accounting and compliance by:

- Properly recording grant expenditures in the state's accounting system;
- Obtaining required DUNS numbers from all entities that receive pass-through grants; and
- Reporting grant awards for entities paid more than $25,000 as required by the Federal Finding Accountability and Transparency Act.

MNsure's Response to OLA Finding 7

The coding of these grants has been corrected. The $3.9 million in grants were "recorded" and tracked in SWIFT. However, the grant contracts for the Navigator outreach program were mistakenly coded as "professional and technical services" instead of being recorded as "grants." While all these grants in question are contracts for the purchase of services and are therefore professional and technical contracts, state policy requires them to be coded as grants in SWIFT. Finally, procedures are being developed to obtain DUNS numbers from the grantees, and for compliance with the reporting requirements of the Federal Funding Accountability and Transparency Act. **Status: In process. Estimated completion date is June 30, 2015.**

Responsible Persons: Marty Cammack, Interim Chief Financial Officer
Mike Turpin, General Counsel

OLA Finding 8

The Department of Commerce did not accurately report expenditures for developing the Exchange in the State of Minnesota's fiscal year 2013 report to the federal government.

OLA Recommendation

MNsure should include unpaid obligations when measuring annual accrued expenditures for the State Planning and Establishment Grants for the Affordable Care Act Exchanges (CFDA 93.525) in the State of Minnesota Financial and Compliance Report on Federally Assisted Programs.

MNsure's Response to OLA Finding 8

MNsure is working closely with MMB to ensure expenditures are reported accurately in the State of Minnesota's fiscal year 2014 report to the federal government. **Status: In process. Estimated completion date is December 31, 2014.**

Responsible Person: Marty Cammack, Interim Chief Financial Officer

MINNESOTA DEPARTMENT OF COMMERCE

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AN EQUAL OPPORTUNITY EMPLOYER

October 23, 2014

The Honorable James R. Nobles
Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles:

I would like to thank you and your audit team for their work reviewing the development of the Minnesota Health Insurance Exchange (Exchange). Your team provided a professional review of our compliance with applicable laws and internal controls. As the Commissioner of the Department of Commerce, I am committed to effective internal controls, and I welcome the opportunity to strengthen our control environment.

Specific responses to the audit findings follow. Responses are included in this letter only if Commerce was specifically or indirectly identified in the finding or recommendation.

Finding #4
The Department of Commerce and MNsure did not maintain complete and accurate inventory records of equipment purchased for the Exchange.

Recommendations:

- *MNsure should work with the Department of Commerce and the Office of MN.IT Services to transfer inventory records to MNsure for all equipment purchased for the Exchange.*
- *MNsure should improve the inventory records necessary to safeguard equipment by updating specific equipment identification, custodian, and location information needed to conduct a physical inventory. MNsure should also add equipment purchases that were not recorded on equipment inventory.*

Response:
During the development of the Exchange, equipment was purchased and delivered directly to the data center at the DHS building. It was the understanding of Commerce personnel that MN.IT @ DHS staff would be receiving and tracking these equipment purchases for inventory purposes. Commerce personnel had no access to this equipment. Commerce will work with MNsure and MN.IT staff to help MNsure improve its inventory records as identified in the recommendations.

Staff responsible for implementation: Amy Trumper
Expected date of completion: June 30, 2015

Finding #6
MNsure did not obtain appropriate authorization for some purchases of equipment and services, and agencies involved in developing the Exchange did not always set aside money in the accounting system prior to incurring obligations.

The Honorable James R. Nobles
October 23, 2014
Page Two

Recommendations:

- *MNsure should ensure that it obtains and documents appropriate authorization to purchase equipment and services from those individuals delegated with authority.*
- *MNsure should comply with statutory requirements to set aside money in the accounting system prior to incurring financial obligations for services.*

Response:
Commerce takes very seriously the duty to set aside funds prior to incurring financial obligations. It is our policy and practice to set aside funds in advance of all purchases. Commerce is no longer processing any purchase orders or contracts for MNsure.

Staff responsible for implementation: Amy Trumper
Expected date of completion: Complete

Finding #8
The Department of Commerce did not accurately report expenditures for developing the Exchange in the State of Minnesota's fiscal year 2013 report to the federal government.

Recommendation:

- *MNsure should include unpaid obligations when measuring annual accrued expenditures for the State Planning and Establishment Grants for the Affordable Care Act Exchanges (CFDA 93.525) in the State of Minnesota's Financial and Compliance Report on Federally Assisted Programs.*

Response:
The fiscal year 2013 report was corrected, and Commerce no longer reports annual accrued expenditures for the State Planning and Establishment Grant.

Staff responsible for implementation: Amy Trumper
Expected date of completion: Complete

I greatly appreciate the work of you and your staff to identify areas within the Department of Commerce needing improvement. We are committed to taking appropriate action to further strengthen our programs.

Sincerely,

[redacted]

Mike Rothman
Commerce Commissioner

OLA
OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA • James Nobles, Legislative Auditor

NOTICE

MNsure's former marketing director disputes the claim made by MNsure management that she expanded the scope of work for a marketing vendor without approval. She was responding to statements made by MNsure officials in an OLA Financial Audit Division report issued on October 28, 2014, *Minnesota Health Insurance Exchange: MNsure* (see pp. 11-12 and 42) and repeated in media reports. OLA agreed to include a letter from the former marketing director's attorney dated January 13, 2015, in the online version of the report and in any paper copies distributed in the future. The letter states the former marketing director's position. Her position does not contradict OLA Finding 1 that the additional work and expenses were not appropriately authorized.

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January 13, 2015

VIA EMAIL AND U.S. MAIL
James Nobles – [redacted]
Legislative Auditor
Minnesota Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Re: MNsure and Mary Sienko

Dear Mr. Nobles:

This responds to your December 29, 2014 letter to me regarding my client Mary Sienko. Please consider this letter to constitute Ms. Sienko's position in response to the finding contained in the audit report entitled *Internal Controls and Compliance Audit Report on MNsure* issued by the Office of Legislative Auditor on October 28, 2014 ("OLA Report"). The finding in question concerned marketing expenditures in connection with the BBDO contract, which Ms. Sienko administered for MNsure during her tenure with the agency. The report finding states:

> *MNsure did not appropriately authorize $925,458 of additional marketing work or execute a contract amendment until after the contractor completed work.*
>
> *Lack of Management Authorization. MNsure marketing staff did not obtain management approval for $925,458 of additional marketing work completed by BBDO Proximity. The original contract, totaling $666,590, was effective from April 8, 2013 to March 31, 2014;* ***however, MNsure staff indicated that the former marketing director allowed the scope of work to increase beyond the original contract without management's written authorization.***

MNsure's response, which was incorporated into the OLA report communicates to the reader that Ms. Sienko failed to properly discharge her duties as MNsure's marketing and communications director and authorized nearly $1 million of additional marketing work on her own. Ms. Sienko disputes MNsure's contention that she acted without authorization or knowledge of her superiors. MNsure officials, including Ms. Sienko's immediate supervisor knew about her actions, and that she was unable to obtain a contract amendment through MNsure's procurement process. This letter sets forth the truthful facts surrounding the finding referenced above.

The Truthful Facts

Not one of the additional expenses in question was undertaken without the full knowledge of Ms. Sienko's direct supervisor, John Reich, who at the time was MNsure's Public Affairs Director. It was at the direction of April Todd-Malmlov and the board chair, Brian Buetner that the ad spend was increased from the $1.5 million that was stated in the RFP to $2.5 million. The direction to increase the ad spend was communicated to Ms. Sienko in June or July of 2013.

The contract with BBDO was written with the premise that additional expenses were going to occur. MNsure knew that additional expenses were going to be added for transcription of marketing materials and that it was likely that production costs for collateral materials would increase depending on the amount of pieces MNsure decided to produce. In addition, MNsure knew it was possible that broadcast production costs would increase depending on the creative theme that was selected. Once the ad spend was increased, Ms. Sienko recognized that it would have an impact on production costs by increasing them. Knowing this, she consulted with the CFO as to how she should best handle the situation. She was instructed to talk to the purchasing manager, Kevin Marsh and follow his instructions since he was the individual responsible for directing staff on proper procurement and contracting processes. Ms. Sienko met with Mr. Marsh and he advised her to account for the anticipated additional expenses by way of a contract amendment. She noted that the expenses would occur before the amendment could be executed, which would not follow standard State procedure. Mr. Marsh responded that MNsure would need to draft a 16A document to explain why the organization proceeded as it did.

Ms. Sienko drafted the first amendment to the BBDO contract in mid-September 2013 to account for some additional expenditures, namely production, measurement and sponsorship increases. The amendment was submitted to Mr. Marsh for processing. Ms. Sienko actually drafted a total of 4 amendments to the BBDO contract between September 2013 and February 2014. The reason for so many amendments was because Mr. Marsh did not process any of them. Ms. Sienko had to continue to adjust and rewrite the amendments as additional items were rolled into the contract.

It is Ms. Sienko's position that her reputation has been substantially damaged by MNsure's actions in falsely communicating directly and impliedly that she allowed the scope of the BBDO contract to expand solely on her own, without the knowledge of MNsure leadership. Not only were a number of people well aware of the process – the Public Affairs Director, the Executive Director, the CFO and the Purchasing Manager – but, in fact, Ms. Sienko was advised to proceed as she did by the person responsible for procurement and contract processes. In addition, she personally informed MNsure General Counsel, Mike Turpin, of the situation 2-3 months before her departure in February 2014. By that time, the expenses attributed to the contract had changed from the original amount of $666,590 to an amended figure of $1,567,673.

MNsure's response to the OLA Report communicates to the reader that Ms. Sienko failed to properly discharge her duties as MNsure's marketing and communications director and authorized $1 million of additional marketing work on her own. It is Ms. Sienko's position that MNsure's response, which is damaging and injurious to her in her professional capacity, is false. On October 29, 2014, the Star Tribune published an article, in which Mr. Leitz's letter to Legislative Auditor James Nobles is referenced and MNsure agent, Joe Campbell is quoted:

Article by: CHRISTOPHER SNOWBECK , Star Tribune

...In a letter to Legislative Auditor James Nobles, MNsure Chief Executive Scott Leitz said the health exchange has resolved or is working to resolve all issues identified by the audit. ***The marketing director responsible for the contract problem is no longer with MNsure...***
*...Joe Campbell, a spokesman for the exchange, added in an interview: "****The former marketing director obtained services she did not have authorization to obtain on her own,*** *but the money was budgeted and allocated to the marketing department."*

It is Ms. Sienko's position that MNsure's conduct in representing that Ms. Sienko was responsible for authorizing nearly $1 million of additional marketing work on her own, without the knowledge or authorization of MNsure officials is false and inaccurate and injurious to her reputation. Thank you for the opportunity to present Ms. Sienko's position.

Sincerely,

FABIAN MAY & ANDERSON, PLLP

[redacted]

John A. Fabian