

MANAGEMENT AUDIT REPORT

OF

SOCIAL SERVICE CONTRACTS
DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
COMMUNITY DEVELOPMENT DIVISION
BEHAVIORAL HEALTH DIVISION

REPORT NO. 10-107



City of Albuquerque
Office of Internal Audit

Management Audit of Social Service Contracts
Department of Family and Community Services
Community Development Division
Behavioral Health Division
Report No. 10-107
Executive Summary

Background: The Office of Internal Audit (OIA) conducted a management audit of Social Service Contracts (SSCs) funded by the general fund and administered during FY10 by the Department of Family and Community Services (DFCS) Community Development (CD) and Behavioral Health (BH) Divisions. The audit was included in the fiscal year (FY) 2010 audit plan.

SSCs are funded through the City's general fund and other sources, such as Community Development Block Grants, Home Investment Partnerships Fund, and Public Safety Tax. DFCS-CD provides grant assistance for programs and services that serve persons of low and moderate income. DFCS-BH is responsible for the development of a comprehensive behavioral health services system that includes substance abuse and mental health treatment services for low income citizens of Albuquerque. DFCS spent approximately \$15.4 million on SSC programs during FY10.

Objective: Do agencies that pay low or no rent in exchange for services also have separate contracts with DFCS in which they get paid to provide the same services?

- DFCS executed a lease agreement with *Agency A* without submitting it to City Council for approval.
- DFCS is not regularly verifying services, valued at \$27,390 annually, being provided as a rent payment by *Agency A*.
- For the time period November 2009 through June 2010, DFCS paid telephone expenses of approximately \$3,800 which were the responsibility of *Agency A*.
- 23 of 29 lease agreements (79%) between the City and various Social Service agencies have had the same rental rate of \$5 per square foot for over seven years.
- The owners of *Agency A* have active City e-mail accounts.

Recommendations: DFCS should:

- Submit lease agreements to City Council for approval prior to executing them.
- Require *Agency A* to submit documentation monthly of services in exchange for rent and verify the services are being provided to individuals that are not currently funded by the City through a SSC.
- Request *Agency A* pay back the telephone expenses paid by the City.
- Regularly have market rent studies of the City properties that it leases to ensure that the lease agreements reflect the current market rate.

- Regularly review information technology (IT) user access for contractors and determine if it is appropriate.

Objective: Are reimbursement requests from the social service agencies submitted timely and supported with sufficient documentation?

Agency B submitted 15 of 33 (45%) reimbursement requests late during FY10. This resulted in DFCS paying \$338,491 that the City was not contractually obligated to pay because they were submitted more than 30 days after the end of the contract term.

Recommendation: DFCS should not make payments for reimbursement requests submitted more than 30 days after the end of the contract and request *Agency B* pay back the \$338,491.

During our fieldwork we noted no exceptions for the following objectives:

Are the DFCS CD and BH Divisions administrating contracts in accordance with the Project Monitoring Requirements of the Administrative Requirements for Contracts Awarded Under the City of Albuquerque?

Management responses are included in the audit report.



City of Albuquerque
Office of Internal Audit
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

February 23, 2011

Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Audit: Management Audit
Social Service Contracts
Department of Family and Community Services
Community Development Division
Behavioral Health Division
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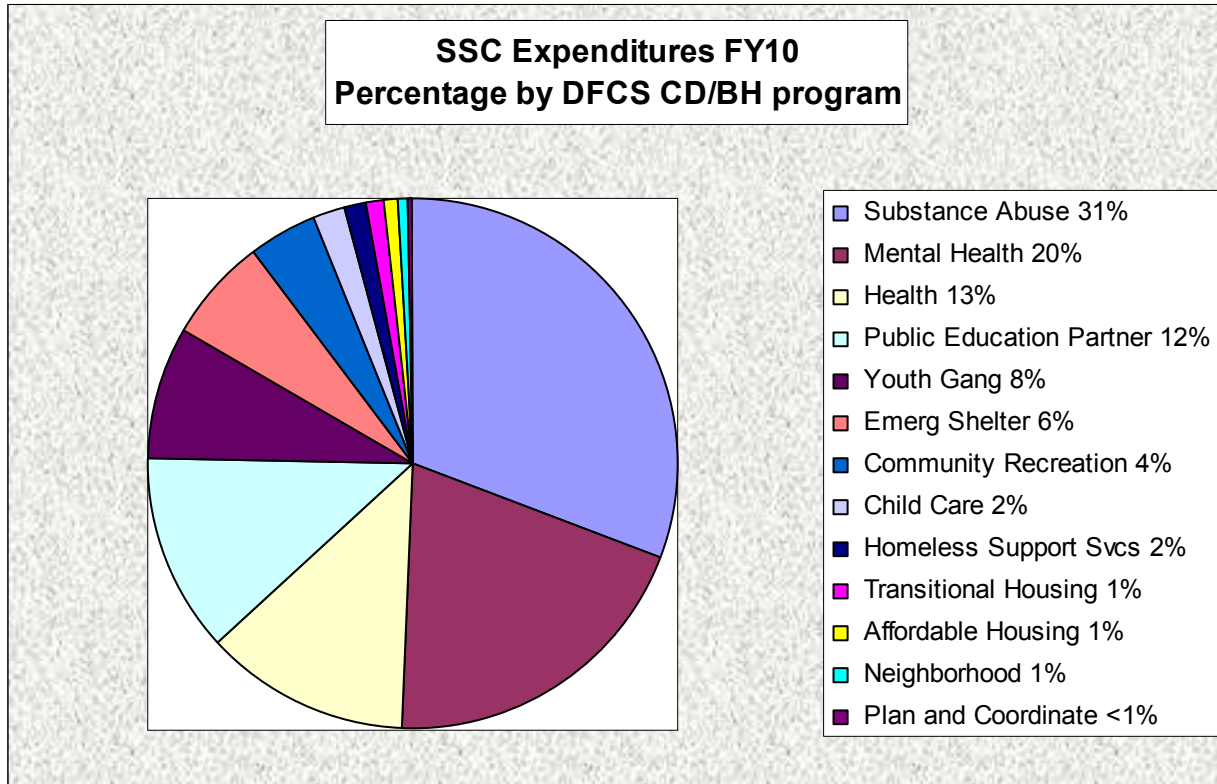
FINAL

INTRODUCTION

The Office of Internal Audit (OIA) conducted a management audit of Social Service Contracts (SSCs) funded by the general fund and administered during FY10 by the Department of Family and Community Services (DFCS) Community Development (CD) and Behavioral Health (BH) Divisions. The audit was included in the fiscal year (FY) 2010 audit plan.

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DFCS-CD/BH spent approximately \$15.4 million on SSC programs during FY10. The following chart shows the percentage of expenditures for each SSC program:



AUDIT OBJECTIVES

The objectives of the audit were to determine:

- Are the DFCS-CD and BH Divisions administrating contracts in accordance with the Project Monitoring Requirements of the Administrative Requirements for Contracts Awarded Under the City of Albuquerque?
- Do agencies that pay low or no rent in exchange for services also have separate contracts with DFCS in which they get paid to provide the same services?
- Are reimbursement requests from the agencies submitted timely and supported with sufficient documentation?

SCOPE

Our audit did not include an examination of all functions and activities related to SSCs. Our scope included a review of documents and records relating to our objectives for the period of July 2009 through June 2010 (FY10).

This report and its conclusions are based on information taken from a sample of transactions and do not intend to represent an examination of all related transactions and activities. The audit report is based on our examination of activities through the completion of fieldwork, December 23, 2010 and does not reflect events or accounting entries after that date.

We conducted this performance 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 believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

OIA interviewed DFCS and Department of Finance and Administrative Services (DFAS)-Real Property Division (Real Property) personnel. Documents and processes reviewed included the following:

- Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services issued July 2008
- City Council Resolution - R-09-226 § 4 Goal 1 – Human & Family Development
- City of Albuquerque Social Service Contracts Procurement Rules and Regulations
- FY10 City Council approved SSCs
- New Mexico Constitution Article IX § 14: Aid to Private Enterprise; Veterans' Scholarship Program; Student Loans; Job Opportunities; Affordable Housing
- City Ordinance § 5-2-4 (A) ROA 1994: Leasing of Real Property Owned by the City
- Contracts, Lease Agreements, Reimbursement Requests, City Funding Requests
- IT Governance Institute's Control Objectives for Information and related Technology (CobiT) audit guidelines.

FINDINGS

The following findings concern areas that we believe could be improved by the implementation of the related recommendations.

1. DFCS SHOULD SUBMIT LEASE AGREEMENTS TO CITY COUNCIL FOR APPROVAL PRIOR TO EXECUTING THEM.

A. Agreement not submitted to City Council

DFCS had 29 lease agreements with various social service agencies during FY10. OIA reviewed all 29 lease agreements and identified one that was not submitted to City Council for approval. The lease agreement requires *Agency A* to pay monthly rent of \$100 plus services valued at \$27,390 annually. This would be \$2,382 in rent and services per month. The contract has a term from November 2009 through November 2011.

DFCS management stated that the lease agreement was submitted to City Council in February 2010 but withdrawn in August 2010 prior to being heard after a decision was made to work on an alternative plan in which *Agency A* will purchase the property. According to DFCS management, the alternative plan is still in process, and has not been finalized.

City Ordinance § 5-2-4 ROA 1994: Leasing of Real Property Owned by the City requires,

(A) Leases or other conveyances for a specified term of an interest in real property owned by the city or amendments to such leases or other conveyances shall be submitted to the Council by the Mayor after negotiation or prior to bidding when: (2) the term of the lease or other conveyance is proposed to be in excess of one month and the income or other consideration to be received by the city is proposed to be in excess of \$500 per month.

(E) The Mayor may withdraw the proposal at any time from the Council and may present revisions thereof. In the event of withdrawal, the proposed lease or other such conveyance shall be a nullity.

If lease agreements are executed without proper approval, the City might be put in an adverse financial situation.

B. Verification of services provided as rent payment

The lease agreement requires *Agency A* to pay monthly rent of \$100 plus services valued at \$27,390 annually. This would be \$2,382 in rent and services per month. The services *Agency A* provides are karate, aerobics, or personal fitness training to 30 participants at a minimum of twice per week.

Agency A also has a SSC with the City in the amount of \$55,000 to provide the following activities:

- An estimated 30 participants will attend karate classes twice weekly.
- An estimated 20 participants will attend aerobics classes once weekly.

The lease agreement states that the services, in exchange for rent, shall be provided to participants not currently funded by the City through the SSC.

DFCS personnel said that they do not require *Agency A* to submit documentation of services provided and therefore do not regularly verify if *Agency A* is providing the services, as required by the lease agreement. DFCS also does not know if the participants receiving the services are different individuals than those who are funded by the City through the SSC.

If services are not regularly verified, an agency might get paid to provide the same service under separate contracts.

C. Agency telephone expenses paid by DFCS

OIA performed a comparative analysis of rent revenues received and operating costs paid by the City for each of the 29 properties leased by social service agencies. OIA determined that the City paid approximately \$3,800 in telephone expenses for *Agency A* during November 2009 through June 2010. This amount would be approximately \$11,400 during the term of the contract (November 2009 through November 2011).

Section 10 (A) of the Utility Services section of lease agreement between the City and *Agency A* is silent on the responsibility of telephone expenses and states,

The City shall provide to the Premises the same air conditioning, heat, water, gas, electricity, light, sewage, and security services that are used in or rendered or supplied to the Center.

DFCS fiscal personnel did not know that *Agency A* should be paying for its own telephone expenses. DFCS is paying for services that are not the responsibility of the City.

D. Access to City e-mail

OIA determined the owners of *Agency A* have active City e-mail accounts. According to DFAS-Information Systems Division personnel, the e-mail account access was granted in March 2001. DFCS management said it is unusual for social service agencies contracting with the City to have this access.

CobiT recommends maintaining a formal record, including access levels, of all individuals who are registered to use the system, and a timely and regular review of user identification and access rights.

There may be an increased risk of misrepresentation that the contractors are City employees.

RECOMMENDATION

DFCS should:

- Submit lease agreements to City Council for approval prior to executing them.
- Require *Agency A* to submit documentation monthly of services in exchange for rent and verify the services are being provided to individuals that are not currently funded by the City through a SSC.
- Request that *Agency A* pay back telephone expenses paid by the City.
- Regularly review user information technology (IT) access for contractors and determine if it is appropriate.

RESPONSE FROM DFCS/EXPECTED COMPLETION DATE

- ***“DFCS acknowledges the requirement to submit leases to City Council for approval. The Department is currently evaluating selling the subject property to Agency A. Either a real estate sales agreement or lease agreement will be submitted to City Council no later than June 30, 2011.***
- ***“DFCS will require Agency A to submit documentation monthly of services performed in exchange for rent and for services performed through any City funded SSC. The Department will require Agency***

A to submit sign in sheets, intake/applications forms, or other evidence in a form sufficient to identify services utilized by individuals. This information will be analyzed to ensure no duplicated services are being charged to the City. DFCS staff is working with Agency A to have this process in place by April 1, 2011.

- *“DFCS will work with City Legal to determine the legal advisability of requesting repayment from Agency A for telephone expenses. A decision to seek or not to seek reimbursement from Agency A will be made by March 30, 2011.*
- *“DFCS will work with DFAS-Information Systems Division personnel to develop a procedure to review IT access for contractors. DFCS staff will begin to meet with DFAS-Information Systems Division personnel in March to develop this procedure.”*

2. DFCS SHOULD FOLLOW ITS ADMINISTRATIVE REQUIREMENTS WHEN REIMBURSING AGENCIES.

Social service contract terms include cost reimbursement in which the agencies submit requests to the City to have costs incurred reimbursed. OIA performed test work to determine if reimbursement requests submitted by the agencies were timely and had sufficient documentation. During FY10 there were 1,147 agency reimbursement requests. A sample of 48 was selected, and the following was determined:

- 15 of 33 (45%) reimbursement requests submitted by *Agency B* were received by DFCS more than 30 days after the end of the SSC term. All 33 had sufficient documentation prior to being paid by the City.
- 15 of 15 (100%) requests submitted by other agencies were timely and had sufficient documentation.

The following is a comparison of contract end dates and dates the reimbursement requests were received from *Agency B* as well as the amounts of each request:

#	Contract End Date	Date Received	Days Past Due	Amount
1	12/31/2008	7/29/2009	210	\$17,466
2	12/31/2008	7/29/2009	210	3,756
3	12/31/2008	7/29/2009	210	6,998
4	12/31/2008	7/29/2009	210	12,595
5	12/31/2008	7/29/2009	210	58,534
6	6/30/2009	8/28/2009	59	83,658
7	6/30/2009	8/21/2009	52	11,630
8	6/30/2009	8/21/2009	52	12,593
9	6/30/2009	8/21/2009	52	32,246
10	6/30/2009	8/21/2009	52	11,638
11	6/30/2009	8/21/2009	52	11,644
12	6/30/2009	8/21/2009	52	11,635
13	6/30/2009	8/21/2009	52	16,755
14	6/30/2009	8/21/2009	52	7,803
15	6/30/2009	8/19/2009	50	39,540
Total				\$338,491

Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services § 5.6.4 a. [5] Cost Reimbursement states,

[5] As noted above, with the exception of a request for payment of audit expenses, all requests for reimbursement must be received by the City within 30 days of the end date of the contract. Requests received beyond 30 days may be considered excluded from contract obligation resulting in non-payment.

§ 28 of each of the contracts between the City and *Agency B* states,

The Contractor shall comply with the Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services, as amended, and understands that failure to comply with the Administrative Requirements shall constitute grounds for termination of this Agreement.

DFCS fiscal personnel said that they worked with *Agency B* and provided it with technical assistance to obtain the reimbursement requests more timely in order to maintain a good working relationship with the entity.

DFCS reimbursed *Agency B* for \$338,491 in requests that the City was not contractually obligated to pay.

RECOMMENDATION

DFCS should not make payments for reimbursement requests submitted more than 30 days after the end of the contract and request *Agency B* pay back the \$338,491.

RESPONSE FROM DFCS/EXPECTED COMPLETION DATE

“DFCS concurs with the finding and will establish procedures for ensuring compliance with the Department’s Administrative Requirements which require reimbursement requests to “be received by the City within 30 days of the end date of the contract.” The Department, however, will not request Agency B pay back the \$338,491 pursuant to the audit recommendation since the Agency did perform the services for which the reimbursement request was submitted and the Department did not perform adequate due diligence to warrant the City’s ability to request the refund from the agency.”

“DFCS will establish procedures prior to the beginning of FY 12.”

3. DFCS SHOULD REGULARLY HAVE MARKET RENT STUDIES OF THE CITY PROPERTIES THAT IT LEASES TO SOCIAL SERVICE AGENCIES.

OIA determined that 23 of the 29 SSC lease agreements (79%) have had the same rental rate of \$5 per square foot for over seven years. Neither the DFCS management nor DFAS - Real Property personnel know why the rental rates have remained the same.

DFAS-Real Property personnel suggested that DFCS consider a market rent study. The study will help ensure that the lease agreements are up to date with the existing market.

For each of the leased properties, OIA compared rental revenues received to operating costs paid by the City, and determined that rental revenues covered operating costs for each lease agreement.

If rental rates are not regularly reviewed, the lease agreements might not be up-to-date with the current market, and the City might not be receiving the fair market rental rate.

RECOMMENDATION

DFCS should regularly have market rent studies of the City properties that it leases to ensure that the lease agreements reflect the current market rate.

RESPONSE FROM DFCS/EXPECTED COMPLETION DATE

“DFCS concurs with the recommendation to have regular market rent studies performed of the properties that it leases. Subject to budgetary constraints, DFCS will contract with an outside firm to provide market rent studies for each of its properties that it leases.”

“DFCS will seek bids for the market rent studies beginning in March 2011, with an anticipated completion date for the market rent studies by June 30, 2011.”

CONCLUSION

Based on the test work performed, DFCS should require *Agency A* to submit documentation of services provided in exchange for rent to ensure the individuals being served are not also funded by a SCC. DFCS should request repayment from *Agencies A & B*.

We appreciate the assistance and cooperation of DFCS personnel during the audit.

Senior Information Systems Auditor

REVIEWED:

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APPROVED:

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