Report of the Vermont State Auditor

February 15, 2013

SUMMARY OF AUDIT FINDINGS – FY 2012

Vermont State Auditor

Mission Statement

The mission of the Auditor's Office is to hold state government accountable. This means ensuring that taxpayer funds are used effectively and efficiently, and that we foster the prevention of waste, fraud, and abuse.

DOUGLAS R. HOFFER
STATE AUDITOR

STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

February 15, 2013

Members of the Senate Appropriations Committee
Members of the House Appropriations Committee

In accordance with 2007 No. 65 Sec. 42(a), I am providing you with this summary of findings and recommendations resulting from financial, compliance and performance audits conducted or contracted by my office during fiscal year 2012 (FY 2012). The summary provides information about the number of findings per audit and the significance of the finding.

Generally, trends in the volume, type and significance of findings may be tracked for the Federal A-133 Compliance (A-133) audit and the Comprehensive Annual Financial Report (CAFR) audit. Specifically, with regard to A-133 audits, we note that certain federal programs administered by the State have received audit findings for multiple years, which has resulted in increased audit fees. The amount of federal funds to Vermont as a result of the American Recovery and Reinvestment Act (ARRA) decreased in FY 2012, however, the level of funding continues to be at a level that triggers audit requirements, which increases the number of programs subject to audit.

The subject matter and objectives for performance audits vary widely. As a result, it may not be possible to identify trends in findings applicable across state government. However, on occasion multiple entities are audited based on the same performance audit objective, which may produce findings that have implications for the State as a whole. An example is the tax increment financing district audits conducted by my office in accordance with 32 V.S.A. §5404a(l).

My office conducts an annual review of the extent to which our recommendations are accepted and acted upon. The results of our follow-up are positive and show that agencies had implemented 74% and 85% of recommendations contained in reports issued during calendar years 2010 and 2008, respectively.

Please contact me with any questions. I would be pleased to provide further information.

Respectfully,

Doug Hoffer

Douglas R. Hoffer
Vermont State Auditor

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Abbreviations

A-133	Federal A-133 Compliance Audit
ARRA	American Recovery and Reinvestment Act
CAFR	Comprehensive Annual Financial Report
FY	Fiscal year

Federal A-133 Compliance Audit Findings

Total programs audited for FY 2010 through 2012 have ranged from 27 to 30.[1] Over time, many of the departments have decreased the number of findings for programs. However, a large number of programs continued to be audited in these years, largely driven by the increased audit responsibility required by ARRA. See Table 1 for a summary of the number of findings by program since FY 2010.

Table 1: Summary of A-133 Audit Findings by Agency/Department and Program FY 2010 through FY 2011

	FY 2010	FY 2011	FY 2012
Agency of Human Services	**15**	**10**	**11**
Medicaid	5	4	3
Temporary Aid to Needy Families	1	1	1
Supplemental Nutrition Assistance Program	1	1	
Child Support Enforcement	3	2	
Grants for Infants and Families			1
Low Income Heating Assistance Program			2
Adoption Assistance	1	1	1
Foster Care			3
Vocational Rehabilitation Grants to States	1		
Weatherization Assistance for Low-Income Persons	3		
ARRA Emergency Shelter Grants Program Homelessness Prevention and Rapid Rehousing		1	

[1]Generally, absent significant audit findings, programs may be audited once every three years. Programs with significant audit findings must be re-audited until the finding is corrected. Many programs with ARRA funding are required to be audited each year.

	FY 2010	FY 2011	FY 2012
Department of Labor	**4**	**2**	**3**
Unemployment Insurance	2		
Workforce Investment Act Cluster	1	1	3
Employment Services Cluster	1		
Competitive Grants for Workforce Training and Placement		1	
Agency of Transportation	**5**	**4**	**2**
Highway Planning & Construction	2		
Public Assistance Grants – Public Assistance (Presidentially Declared Disaster)		2	1
Disaster Recovery Public Assistance	2		
Formula Grants to Other Than Urban Areas	1		
High Speed Rail and Intercity Passenger Rail Service Capital Assistance Grants		2	1
Agency of Natural Resources	**4**	**-**	**-**
Drinking Water State Revolving Loan Funds	2		
Clean Water State Revolving Loan Funds	2		
Department of Education	**2**	**5**	**11**
Education Jobs Fund			1
State Fiscal Stabilization Fund	1	1	1
Special Education Cluster		1	2
Improving Teacher Quality			1
Twenty-First Century After School Learning Centers			2
Child Nutrition Cluster	1	2	3
Title I, Part A Cluster		1	1
Department of Public Service	**-**	**2**	**-**
Energy Efficiency & Conservation Block Grant		1	
State Energy Program		1	
Department of the Military	**1**	**-**	**-**
National Guard Military Operations and Maintenance Projects	1		

Note: The final FY2012 A-133 report has not been issued as of the date of this report. The FY2012 numbers provided are based on a draft report.

For further information regarding these audits, please reference www.auditor.vermont.gov/audits/federal.

Comprehensive Annual Financial Report Audit Findings

Recurring audit findings have been an issue with the CAFR although the state has taken some corrective actions. Generally, the state has had audit findings related to 1) a variety of significant audit adjustments indicating the risk associated with a decentralized accounting function and 2) IT general controls.

See Table 2 for a summary of the number and significance of CAFR findings for fiscal years 2010 through 2012.

Table 2: Summary of the Number and Significance of CAFR Audit Findings FY 2010 through FY 2012

	FY 2010	FY2011	FY 2012[1]
Material weaknesses	1	1	unknown
Significant deficiencies	1	2	unknown
Total Findings	2	3	unknown

[1] The final FY2012 internal control report associated with the CAFR audit has not been issued as of the date of this report. Once issued, this report may be found in the FY2012 A-133 report.

For further information regarding these audits, please reference www.auditor.vermont.gov/audits/cafr.

Performance Audit Findings

During FY 2012, the office issued 6 performance audits. See Table 3 for a list of reports issued.

Table 3: List of FY 2012 Performance Audits

Title	Entity
Medicaid: Many Provider Enrollment and Claims Controls in Place, but Gaps Exist	Department of Vermont Health Access
Tax Increment Financing Districts: Town of Milton Appropriately Established Districts, but the Administration was Flawed	Milton
Medicaid Providers: State has Foregone an Opportunity to Recover Delinquent Taxes from Providers	Department of Vermont Health Access and Department of Taxes
Choices for Care: Desired Outcomes Established, but Evaluation of Actual Results Incomplete	Department of Aging and Independent Living
Tax Increment Financing Districts: City of Burlington Did Not Always Administer Its TIF District According to Statutory Requirements and Did Not Remit All Monies Owed to the State Education Fund	Burlington
Vermont Employment Growth Incentive: Progress Under Way on Audit Recommendations	Vermont Economic Progress Council and Department of Taxes

See Appendix I for the highlights pages from each of the performance audit reports. The full text of these reports may be found on the State Auditor's website, www.auditor.vermont.gov/audits/performance.

Appendix I
Highlights of Performance Audits Issued in FY2012

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Medicaid: Many Provider Enrollment and Claims Controls in Place, but Gaps Exist

(September 15, 2011, Rpt. No. 11-5)

Why We Did This Audit

Medicaid is at risk of fraud attempts by unscrupulous individuals. One of the ways to combat fraud attempts is to implement robust provider enrollment and claims controls. Accordingly, the objective of this audit was to ascertain the effectiveness of the processes and controls in place to ensure that only legitimate Medicaid providers are paid claims for services they are entitled to perform.

What We Recommend

We made a variety of recommendations to DVHA to address the control weaknesses that we found. For example, we recommended that DVHA direct HPES to modify its credential verification process to eliminate gaps in the independent verification of provider credentials. We also recommended that DVHA modify its monthly excluded parties process to be in accordance with federal regulations, including checking out-of-state providers and all providers' ownership and controlling interests, and managing employees.

Findings

Improvements to the state's processes and controls over Medicaid providers are needed in order to provide greater assurance that only legitimate providers are paid for claims to which they are entitled. Table 1 shows the Medicaid enrollment control areas that were complete, needed improvement, or were lacking.

Table 1: Summary of SAO Assessment of Enrollment Controls and Testing Results

Control Attribute	Control Design Assessment	Exception Found During Testing?
Provider Agreement	◍	Yes
Credentials and other requirements for enrollment	◍	Yes
Excluded parties lists	◍	No
State approval of providers	●	Yes
Post-enrollment checks	○	Yes
Provider record accuracy mechanisms	◍	Yes

● = Control attribute performed
◍ = Weakness in design of control attribute
○ = Control attribute not performed

Examples in which the state's controls were generally in place were (1) regular updates of provider agreements due to reenrollment frequency and (2) provider approval by state officials. Nevertheless, our testing of the Medicaid provider records found numerous errors, some significant. For example, errors in about 420 provider records (e.g., providers whose records should have been terminated because they were no longer affiliated with an institution or because they were deceased) could have led to improper claim payments. (HPES corrected errors as we brought them to their attention.) Gaps in provider enrollment controls can be inadvertently or intentionally exploited to allow the payment of claims that the provider would otherwise not be entitled to receive.

Regarding claims processing, the applicable logic in the MMIS edits related to confirming that providers were legitimate and were submitting claims for appropriate procedures appeared generally sound. However, the MMIS did not have edits to enforce some provider restrictions. For example, laboratory certifications issued by CMS are generally limited to specific service locations, but the MMIS does not capture the relationship between the location on the certificate and the provider's service location(s). According to an HPES systems manager, this is because the MMIS is not designed to track claims at the service location level and the required usage of a single national provider identifier for most Medicaid providers makes establishing such a tracking process a difficult challenge. However, without a system mechanism to link the laboratory certificate to a specific service location or a compensating manual control, the MMIS could be paying for laboratory services that a provider is not authorized to carry out at a particular location.

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Tax Increment Financing Districts: Town of Milton Appropriately Established Districts, but the Administration Was Flawed

(January 19, 2012, Rpt. No. 12-01)

Why We Did This Audit

Act 45 (2011) requires that we audit the state's active TIF districts. To fulfill this requirement, our objectives were to 1) assess whether the municipality adhered to requirements in state statute governing establishment of the Husky and Catamount TIF districts and any associated debt, 2) ascertain whether, since inception through FY2010, the municipality has administered the TIF districts according to statutory requirements, including a) utilizing the incremental property tax revenue to pay for eligible TIF district debt, b) retaining the appropriate statewide education increment and c) timely and accurately reporting TIF district property values and incremental property tax revenue to VEPC or the legislature, as appropriate, and 3) assess the extent to which the municipality has established performance measures and monitors actual results that demonstrate achievement of the state and municipality's economic and fiscal goals.

What We Recommend

We made recommendations to Milton to address the mistakes that resulted from its approach to administering the TIF districts and to improve its administration. For example, we recommended that the town arrange to pay the state $3,368,000 for the statewide education increment inappropriately retained and designate a town official to document policies and procedures for TIF district administration in consultation with VEPC and the Vermont Department of Taxes (DOT).

Findings

Milton adhered to state statute in establishing its two TIF districts. For instance, it held publicly warned meetings to discuss formation and financing of the TIF districts, passed a selectboard resolution approving the districts and obtained VEPC approval. To ensure appropriate steps were followed to establish its TIF districts, Milton consulted with VEPC and other state entities regarding compliance with applicable statutory requirements related to the VEPC approval process.

Milton's practices for administering its TIF districts were not always in accordance with statutory requirements. Of the $4.5 million in incremental property tax revenue used by Milton, about $3 million or 67 percent was used for ineligible purposes. Regarding the retention of statewide education increment, Milton's determination of the amount to retain was not consistent with statutory parameters and the Town retained $3.4 million that should have been remitted to the state. Milton's approach to utilizing incremental property tax revenue and retaining statewide education increment may have increased the likelihood that the Town will need to seek alternative sources to repay its TIF district debt. In addition, although Milton reported to VEPC using the required format, the 2008 report was not timely and contained some data that was inconsistent with the Town's financial records. The limited activity that Milton submitted for FY2009 also had inaccuracies. Town officials cited various rationales for their approach to administering the TIF districts, including their belief that the state committed to minimizing the impact of the cost of TIF district development to Milton. Nonetheless, the mistakes in their approach may have been avoided if town officials had utilized practices for administering the TIF districts similar to the one they used to establish the districts, such as consultation with state organizations like VEPC.

Milton established two performance measures for one of three state and municipal TIF objectives - to broaden the tax base. The measures, increases in incremental property value and incremental property tax revenue, had targets for the measures and actual results were monitored. However, this type of performance data was not established and collected for the remaining two objectives, (1) encourage development and (2) improve employment opportunities. Although Milton indicated in its application to VEPC that it expected to derive benefits related to these objectives, such as to create 1,240 new jobs, Milton did not collect data to determine whether these benefits occurred. According to the town manager, Milton had no procedures or methods to track the performance of the TIF districts, other than increases in incremental property value and incremental property tax revenue. As a result, the Town lacks a systematic mechanism to evaluate whether the TIF districts are meeting all of the intended goals.

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Medicaid Providers: State Has Foregone an Opportunity to Recover Delinquent Taxes from Providers

(January 31, 2012, Rpt. No. 12-2)

Why We Did This Audit

Providers (e.g. physicians, durable medical equipment suppliers and pharmacies) are often enrolled in both Medicaid and Medicare. Since Medicare providers have been found to be delinquent in paying federal taxes at the same time as they were receiving Medicare payments, the objective of this audit was to determine the extent to which the state has assurance that Medicaid funds are not paid to providers that are delinquent in paying their Vermont taxes.

What We Recommend

We recommend that the legislature amend 32 VSA §3113(d) to allow Medicaid claim payments to be offset against delinquent Vermont tax debts.

Findings

The state had limited assurance that Medicaid funds were not paid to providers that were delinquent in paying their Vermont taxes. Firstly, the Department of Vermont Health Access's (DVHA) standard Medicaid provider agreement used as of January 29, 2010 did not require Medicaid providers to certify that they were in good standing with respect to Vermont taxes (which includes delinquent taxpayers who have a payment plan in place), as required by 32 VSA §3113(b). While some Medicaid providers had to submit such certifications to other state entities as a condition of their Vermont license, others, such as out-of-state providers, did not have to provide such a certification. DVHA amended the agreement in November 2011 to include a declaration of tax standing. This recent action makes it less likely that providers that owe delinquent taxes and have not made repayment arrangements will be enrolled in Medicaid.

Secondly, the state does not offset tax debts against payments to providers for Medicaid claims. As authorized by 32 VSA §3113(d), Vermont has a tax offset program for payments made by its primary financial system, including those made to vendors that provide goods to state government, child care providers, and foster parents who receive stipends. This offset program has resulted in over $3 million dollars in gross recoveries between fiscal years 2008 and 2011. However, the Department of Taxes (DOT) has determined that the statute that authorizes these offsets does not pertain to payments to Medicaid providers. (The Office of the Attorney General opined that the applicable statute was unclear, but that DOT's statutory interpretation was a permissible construction of the statute.) Our comparison of Medicaid providers to DOT's file of taxes delinquent over 60 days found 68 providers that owed about $360,000 as of October 30, 2011. Moreover, DOT had submitted about 30 percent of this amount to collection agencies, which could cost the state up to 25 percent of the amount owed if collection is made using this method. While DOT may not be able to collect all of the $360,000 through offsetting Medicaid payments, the use of offsets would likely increase collections at a time when the state is facing budgetary shortfalls as well as treat Medicaid providers in a manner consistent with other vendors used by the state to provide goods and services.

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Choices for Care: Desired Outcomes Established, but Evaluation of Actual Results Incomplete

(April 12, 2012, Rpt. No. 12-4)

Why We Did This Audit

Pursuant to Act 63 (2011), our audit objective was to determine whether and how DAIL could more effectively use performance measurement to evaluate the success of the Choices for Care program.

What We Recommend

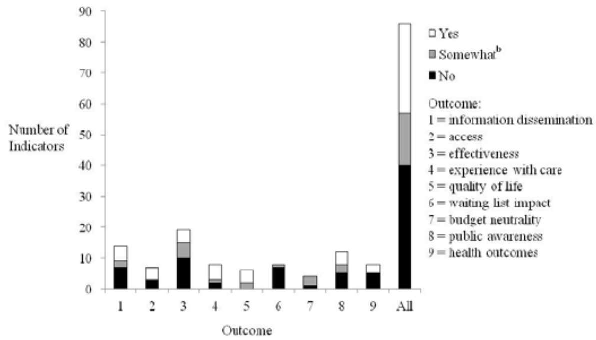
We made a variety of recommendations to the commissioner of DAIL. For example, we recommend that DAIL establish a mechanism to include the feedback of CFC participants that reside in nursing facilities and enhanced residential care settings, ensure that actual results are tracked and reported for all performance indicators in the CFC evaluation plan, and develop targets against which actual results are compared.

Findings

The desired outcomes, evaluation questions, and performance indicators adopted by DAIL for the CFC program generally provide a basis for an effective performance measurement framework. However, the partial reporting of actual results limits its usefulness in evaluating the program's success. DAIL contracted with the University of Massachusetts Medical School (UMMS) to be its independent evaluator of CFC. UMMS' 2008 CFC evaluation plan listed nine desired outcomes: (1) information dissemination, (2) access, (3) effectiveness, (4) experience with care, (5) quality of life, (6) impact of waiting list (also called an applicant list), (7) budget neutrality, (8) public awareness, and (9) health outcomes. These outcomes largely support the expectations and evaluation and monitoring requirements of the CFC program.

Each outcome includes a series of performance indicators, but actual results were not reported in CFC evaluation reports for almost half of the indicators (see figure 1).

Figure 1: Summary of the Extent to Which Actual Results Were Reported for CFC Performance Indicators, by Desired Outcome[a]



[a] A few indicators were included in multiple outcome areas and are counted more than once.
[b] The somewhat category includes those indicators in the evaluation reports that (1) were similar, but not the same as those of the evaluation plan (e.g., numbers rather than percentages or not all settings included), (2) were not evaluated in all years, or (3) both.

DAIL and UMMS reported actual results related to the number of CFC participants that live in a nursing facility versus the number that live in home or community-based settings, showing the extent to which the desired balance between these two settings is being achieved. However, in other cases actual results were not reported or were reported sparingly. For example, DAIL did not obtain feedback about CFC participants that reside in nursing facilities and enhanced residential care settings—about 60 percent of participants. It appears that actual results were not always reported because evaluation reports were weighted toward analyzing the results of surveys of CFC participants using certain home-based services and the use of a more limited set of data sources than originally intended. The CFC evaluation plan also did not include targets (i.e., desired results stated numerically) to provide context for the actual results reported. The lack of complete analyses of actual results against targets limits the extent to which the success of CFC can be assessed as a whole.

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Tax Increment Financing District: City of Burlington Did Not Always Administer Its TIF District According to Statutory Requirements and Did Not Remit All Monies Owed to the State Education Fund

(June 4, 2012, Rpt. No. 12-03)

Why We Did This Audit

Pursuant to statutory requirements that we audit the TIF districts, our objectives were to 1) assess whether Burlington adhered to requirements in state statute governing establishment of the TIF district, 2) ascertain whether, since inception through FY2010, Burlington has administered the TIF district according to statutory requirements, including a) utilizing the incremental property tax revenues to pay for eligible TIF district debt, b) retaining the appropriate statewide education increment and c) timely and accurately reporting TIF district property values and incremental tax revenues to city officials, the legislature and other state officials, as appropriate, and 3) assess the extent to which Burlington has established performance measures and monitors actual results that demonstrate achievement of the state and municipality's economic and fiscal goals.

What We Recommend

We made multiple recommendations, including that Burlington should work cooperatively with the state to resolve the city's $1 million shortfall in payments to the state education fund.

Findings

Burlington adhered to requirements in state statute associated with establishing and expanding its TIF district in 1996 and 1997, respectively. For instance, the city held publicly warned meetings to discuss formation and financing of the TIF district and obtained voter approval for anticipated financing. The city council and city officials worked together to identify and adhere to requirements associated with establishing the TIF district.

Certain aspects of Burlington's TIF district administration were not in accordance with statutory requirements. For example, of the $8.3 million in incremental property tax revenue used by Burlington, approximately $1.2 million was used for ineligible purposes – to pay refinanced debt associated with land (the Urban Reserve) that was acquired four years prior to the creation of the TIF district. Largely because of this error, the city's determination of the amount of the statewide education increment to retain was not consistent with statutory requirements. As a result, the city retained $1 million that should have been remitted to the state. Additionally, Burlington has been required to issue reports related to the TIF district to both city and state organizations (executive and legislative branches). The city has not met all reporting requirements, but the information that was reported was consistent with its financial records. City officials provided various rationales for their approach to administering the TIF district, including a legal opinion justifying aspects of their approach. We considered the city's legal justifications but disagree with its conclusions based on discussions with the AG's office and reviews of records and other evidence. For example, the city argues that refinancing the Urban Reserve debt is a legitimate TIF district transaction. However, the AG's office advised that TIF districts are authorized for the purpose of funding expenditures such as acquisition of property that will stimulate development or redevelopment within the TIF district. If an investment has already occurred as it has in this instance (with the purchase of the land) the creation of a TIF district at a subsequent date does not serve the purpose of motivating the investment.

The city's establishment and monitoring of performance measures to indicate the extent to which its TIF district was meeting state and municipal economic and fiscal goals was limited. Specifically, Burlington did not 1) establish measures for all objectives (broaden the tax base, encourage development and improve employment opportunities), 2) consistently set targets and 3) consistently track actual results. According to city officials, they consider growth in property values to be the primary TIF district performance measure and believe this measure is sufficient to track the performance of the TIF district. However, without targets and actual results for measures relevant to all objectives, the city's ability to determine whether the TIF district is operating as intended is limited.

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Vermont Employment Growth Incentive: Progress Under Way on Audit Recommendations

June 27, 2012, Rpt. No. 12-05)

Why We Did This Audit

32 V.S.A. §163(10) requires the State Auditor's Office to biennially conduct an audit of the VEGI program.

This report has two audit objectives. The first was to determine the extent to which VEPC and the legislature have taken corrective actions to address previous SAO audit recommendations regarding the VEGI application process (SAO Report No. 08-08).

Our second objective was to determine the extent to which the Tax Department has taken corrective actions to address previous audit recommendations regarding the VEGI claims process (SAO Report No. 10-04).

Findings

VEPC and the legislature have taken corrective action to address most of the previous SAO audit recommendations regarding the VEGI application process. Specifically, of the 12 recommendations reported, six were fully implemented and two were partially implemented. For example, VEPC has strengthened and improved the controls over application signatures by company officials, and through statute and administrative rules changes has better defined economic activity commencement dates. The legislature has implemented our recommendation regarding maintaining the annual $10 million cap on the total amount of incentives that may be authorized each year.

VEPC and the legislature did not implement four recommendations pertaining to the application process. For example, VEPC did not change the methodology of using industry averages for background growth rates rate (i.e. the rate used to determine whether a project will produce economic growth above growth that would naturally occur) instead of using a company's actual historical background growth. Using the industry background rate assumed all companies within the same industry were expected to grow at the same rate regardless of the company's size or maturity, allowing for a higher performing company to receive larger incentives. Also, the legislature did not implement our recommendation to change the methodology regarding the calculation of the wage threshold (currently set at not less than 60 percent above the minimum wage at the time of the application).

The Department of Taxes took corrective action to address the three recommendations directed at the claims process. For example, DOT updated its procedures to include a VEGI claims checklist, documented the tax examiner's claim review process, and developed a mechanism to ensure supervisory review of the examiner's work. Our recommendation that DOT have written standards for data validation and audit procedures was partially implemented. DOT uses a sampling program for reviewing the payroll data for large employers, but the procedures could be strengthened regarding the data validation process of qualifying capital investment claims. Capital investment incentive claimants are not required to submit copies of invoices or other supporting documents with the claim. Without such documentation, DOT lacks data needed to validate claims related to qualifying capital investments.