

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF A CONTRACTUAL
ARRANGEMENT FOR
NON-EMERGENCY TRANSPORTATION
OF MEDICAID RECIPIENTS**



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



May 5, 2006

Gregg A. Pane, MD
Director
Department of Health
825 North Capital Street, N.E., Suite 4400
Washington, D.C. 20002

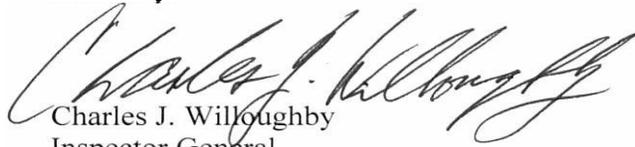
Dear Dr. Pane:

Enclosed is our final audit report summarizing the results of the Office of the Inspector General's (OIG) *Audit of a Contractual Arrangement for Non-Emergency Transportation of Medicaid Recipients* (OIG No.05-2-18HC(a)). This audit is part of our continuous coverage of the District's Medicaid Program. The report is the first of two audits covering the Department of Health's (DOH) Non-Emergency Transportation of Medicaid recipients.

On February 28, 2006, we issued a Management Alert Report (MAR 06-A-02) containing four recommendations informing DOH of the results our review of a contractual arrangement executed by a DOH employee who did not have contracting authority. We received a response to the MAR from DOH on March 15, 2006. We consider the actions taken and/or planned to be responsive to our recommendations. The full text of DOH's response is shown at Exhibit B.

We appreciate the cooperation and courtesies extended to our staff during the audit. If you have questions, please contact William J. DiVello, Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,


Charles J. Willoughby
Inspector General

Enclosure

AAA/ws

cc: See Distribution List

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**AUDIT OF A CONTRACTUAL ARRANGEMENT
FOR NON-EMERGENCY TRANSPORTATION
OF MEDICAID RECIPIENTS**

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EXECUTIVE DIGEST

OVERVIEW

The District of Columbia Office of the Inspector General (OIG) has completed an audit of a contractual arrangement for non-emergency transportation of Medicaid recipients. This audit is part of our continuous coverage of the District's Medicaid Program. The report is the first of two audits covering the Department of Health's (DOH) non-emergency transportation of Medicaid recipients. This audit focused on a review of a contractual arrangement executed by a DOH employee for the Transportation Authorization Program (Program).

The Program is administered by the DOH Medical Assistance Administration (MAA) Office of Program Operations. The objective of the Program is to provide transportation authorization services for Medicaid recipients receiving various forms of medical services. Recipients qualify for transportation assistance after completing a Transportation Request and Medical Necessity Certification form, which is certified by a doctor or other medical facility staff member.

The Program requires doctors or medical facility staff members to obtain a pre-authorization number (from the contractor) to arrange for non-emergency transportation for eligible Medicaid recipients seeking medical care. After obtaining the pre-authorization number, doctors or medical facility staff members then contact a certified Medicaid transportation provider to schedule transportation services for the recipient.

CONCLUSIONS

A DOH employee, who did not have authority to bind the District in a contractual arrangement, executed a contract for the transportation authorization services. The contractual arrangement bypassed the normal procurement process, and the funds to pay for the services had not been pre-encumbered (budgeted). Approval to pay the contractor was made only after a formal ratification process had been completed. This procurement violated basic procurement rules contained in the District of Columbia Code and the District of Columbia Municipal Regulations (DCMR). *See* D.C. Code § 2-301.05(d)(1)(2001) and 27 DCMR § 1200.1.

SUMMARY OF RECOMMENDATIONS

We directed four recommendations to the Director, DOH which focused on: (1) ensuring the integrity of the agency procurement functions; (2) issuing written guidelines informing the DOH employees that a DOH contracting officer is the only agency employee authorized to execute a contract on behalf of the agency; (3) amending the ratification package; and (4) implementing controls to ensure that the Office of Contracting and Procurement is fully informed of services to be provided under the contract.

EXECUTIVE DIGEST

MANAGEMENT RESPONSES AND OIG COMMENTS

DOH provided a written response to our MAR on March 15, 2006. We consider the actions taken and/or planned to be responsive and meet the intent of our recommendations. The full text of DOH's response is shown at Exhibit B.

INTRODUCTION

BACKGROUND

The Office of the Inspector General (OIG) has completed an audit of a contractual arrangement for non-emergency transportation of Medicaid recipients. This report is the first of two audits covering the Department of Health's (DOH) non-emergency transportation of Medicaid recipients.

This report covers the results of our review of a contractual arrangement executed by a DOH employee. The employee was not a contracting officer for the District of Columbia government (District) and, therefore, did not have legal authority to bind the District in a contract. This matter was brought to our attention by senior DOH officials during our ongoing audit.

Medical Assistance Administration (MAA). MAA is the District's state agency responsible for administering Title XIX of the Social Security Act, the Medical Charities Program, the District's Medicaid Program, and other health care financing initiatives of the District. MAA also develops eligibility, service coverage, service delivery, and reimbursement policies for the District's health care financing program, and ensures improved access and efficient delivery of services.

Transportation Authorization Services. Title XIX of the Social Security Act requires that, in order to receive federal matching funds (i.e., for Medicaid costs), certain basic services must be offered to certain categories of the needy population of any state. As such, the District's state plan requires that the state agency (District of Columbia) must provide effective access to healthcare for the recipient population and maintain continuity of care. In this regard, the Transportation Authorization Program (Program), which is managed and operated by a private contractor, fulfilled the need of providing non-emergency transportation services to eligible Medicaid recipients.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether the Department of Health: (1) operated the Program in an efficient, effective, and economical manner; (2) complied with requirements of applicable laws, rules and regulations, policies and procedures; and (3) documented Program reimbursements properly and for the correct amounts. Our specific objectives were to review the circumstances surrounding a contractual arrangement executed by a DOH employee who was not a contracting official for the District of Columbia.

As a part of our audit, we examined a ratification package for the Program submitted by MAA to the District of Columbia City Council for approval, a Determination and Findings prepared and signed by an official of the Office of Contracting and Procurement (OCP), and the present and previous contracts related to services for the District's Medicaid Management

INTRODUCTION

Information System. We also conducted interviews and discussions with responsible DOH officials, as well as an official of OCP.

We did not rely on computer-processed data in developing the report findings. The audit was conducted in accordance with generally accepted government auditing standards and included such tests as we considered necessary under the circumstances.

FINDINGS AND RECOMMENDATIONS

FINDING: IMPROVING THE CONTRACT PROCESS
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SYNOPSIS

A DOH employee who did not have authority to bind the District in a contractual arrangement executed a contract for transportation authorization services. The contractual arrangement bypassed the normal procurement process, and the funds to pay for the services had not been pre-encumbered (budgeted). Approval to pay the contractor was made only after a formal ratification process had been completed. This procurement violated basic procurement rules contained in the District of Columbia Code (D.C. Code) and the District of Columbia Municipal Regulations (DCMR).

DISCUSSION

Criteria. Criteria governing the authority of District employees to bind the District contractually are provided in the D.C. Code and the DCMR. In general, a District government employee must have formally-delegated contracting authority in order to execute a contract for goods or services. In this case, a MAA senior official prepared and signed a letter dated May 17, 2002, which authorized a contractor to provide services for Medicaid recipients that totaled \$936,000. However, the employee was not a contracting officer for the District and did not have the authority to enter into a contractual arrangement.

Applicable Laws, Rules, and Regulations. D.C. Code § 2-301.05(d)(1)(2001) states that “[n]o District employee shall authorize payment for the value of supplies and services received without a valid written contract.” Further, D.C. Code § 2-301.05(d)(2)(2001) states, that “no District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract. Any violation of this paragraph shall be cause for termination of employment of the District employee.” Finally, 27 DCMR § 1200.1 states that “only a contracting officer is authorized to sign and enter into a contract on behalf of the District.”

Transportation Authorization Services. Title XIX of the Social Security Act requires that in order to receive federal matching funds (i.e., for Medicaid costs), certain basic services must be offered to certain categories of the needy population of any state. As such, the District’s state plan requires that the state agency (District of Columbia) must provide effective access to healthcare for the recipient population and to maintain continuity of care. In this regard, the Program, managed and operated by a private contractor, fulfilled the need of providing non-emergency transportation services to eligible Medicaid recipients.

FINDINGS AND RECOMMENDATIONS

The Program requires doctors or medical facility staff members to obtain a pre-authorization number (from the contractor) to arrange for non-emergency transportation for eligible Medicaid recipients seeking medical care. After obtaining the pre-authorization number, doctors or medical facility staff members then contact a certified Medicaid transportation provider to schedule transportation services for the recipient.

Details of OIG Review. Our review disclosed that the contractual arrangement bypassed the normal procurement process, and the funds to pay for the services had not been pre-encumbered (budgeted). Approval to pay the contractor was made only after a formal ratification process had been completed. This procurement violated basic procurement rules contained in the D.C. Code and the DCMR, as noted.

Specifically, a senior official of the DOH Medical Assistance Administration (MAA) prepared and signed a letter dated May 17, 2002, which authorized a contractor to provide transportation authorization services for Medicaid recipients and subsequently bill DOH \$936,000 for the services. The contractor provided the services for DOH during the period July 1, 2002, through March 31, 2004. After the ratification process was completed, a direct payment was made to the contractor in the amount of \$936,000 on August 24, 2005.

Our review disclosed that the authority to provide services was given without a valid written contract; therefore, there was no valid basis for pricing the transportation authorization services that cost the District \$936,000. Because a valid contract had not been executed, the required contract deliverables were not specific, and the standard contract provisions and protections normally afforded the District were absent. Also, MAA could not provide us with sufficient documentation to determine how and when the unauthorized commitment was terminated. At the time of our review, the individual responsible for authorizing this procurement remained in a position (MAA Chief, Program Operations) to act on other procurement actions. This situation, in our opinion, poses risk for the District.

Further, in accordance with the ratification procedures pertaining to unauthorized commitments, an official of the District of Columbia Office of Contracting and Procurement (OCP) prepared and signed a Determinations and Findings for Price Reasonableness (D&F) on June 1, 2005.

Upon examination of the D&F and after discussions with the responsible OCP official, we determined that the D&F was based on an assumption that the contractor would provide actual transportation services for recipients. However, the contractor did not provide transportation services; rather, the contractor only authorized transportation services for Medicaid recipients. Consequently, the cost basis used to determine that the District received a fair and reasonable price of \$936,000 for the services provided by the contractor was never established. As such, we concluded that the D&F was flawed and was prepared in an attempt to justify program costs.

FINDINGS AND RECOMMENDATIONS

Without adequate documentation to explain how and when the unauthorized contractual arrangement was terminated, there is a high risk that District funds may have been inefficiently spent or misused. Further, no evidence was provided to us to indicate that DOH received a fair and reasonable price for the services provided by the contractor.

Contract Number DCHC2000C0037. On February 28, 2001, OCP executed a contract for DOH with a contractor to provide overall management services for a Medicaid Management Information System (MMIS) for the District. The contract covered the period February 28, 2001, through February 27, 2006, and included the following services in the Scope of Work section of the contract:

- Design of a new MMIS system
- Development/Testing
- Implementation
- Operations

During discussions with staff of the DOH Office of the Director, we were informed that DOH staff prepared and developed the Scope of Work section of the contract, but failed to include the Transportation Authorization Program in the Scope of Work section of the contract.¹ We were also informed that the contracting officer's technical representative recognized the omission (after the contract was executed), and brought the matter to the attention of the former MAA Senior Deputy Director.²

Subsequent to the issuance of the current contract # DCHC2000C0037, a MAA senior official signed a letter authorizing the contractor to provide transportation authorization services. This MAA senior official was not authorized to bind the District contractually because the official did not possess a contracting officer warrant. Further, a formal written contract document or modification to the existing contract was never prepared or issued.

Letter Authorizing Services. The MAA senior official who made the arrangement with the contractor informed us that around March 2002, while performing his duties as the contracting officer technical representative (for contract # DCHC2000C0037), it was discovered that the Transportation Authorization Program was not included as part of the contract. The official stated that he immediately informed the former Senior Deputy Director of MAA about the omission.

¹ DOH officials stated that the previous contract (# 7412-AA-NS-4J-W) for MMIS services included transportation authorization services. However, because OCP was unable to provide us with the Statement of Work from the previous MMIS contract, we could not verify that this provision was included.

² The OIG did not interview the former MAA Senior Deputy Director, who left the District government in 2002.

FINDINGS AND RECOMMENDATIONS

We questioned the MAA senior official as to the rationale for preparing and signing the memorandum dated May 17, 2002, (which authorized the contractor to provide the services) without having formal contracting authority. The official stated that a major concern was the need to continue providing transportation authorization services to Medicaid recipients. The official also stated to us that he did not know, at that time, that District procurement laws and regulations prohibit District employees from entering into an agreement with a vendor to provide goods or services to the District government without a valid written contract.

We interviewed the current MAA Senior Deputy Director concerning this matter, who told us that the former MAA Senior Deputy Director had agreed with the arrangement between the MAA senior official and the contractor. The MAA Senior Deputy Director also told us that the former District official knew that the services were being provided by the contractor without a valid written contract, but did attempt to obtain a valid contractual vehicle through OCP.

Attempt to Issue a Formal Contract or Modification After Authorization to Proceed.

We discussed this issue with an official of OCP. The official informed us that several meetings had been held with MAA officials in an attempt to issue a sole source contract for transportation authorization services and to amend or modify the original contract (#DCHC2000C0037) in the later part of 2002. The official stated it was explained to MAA officials that OCP could not execute, modify, or amend a contract when the contractor had already begun to provide services and was due payment from the District.

In April of 2004, the current MAA Senior Deputy Director terminated the arrangement with the contractor and began operating the Transportation Authorization Program in-house using MAA staff. The MAA Senior Deputy told us that the contractual arrangement was terminated because the contractor was operating without a valid written contract, and was not being paid for the services provided.

Review of Determinations and Findings. In accordance with the ratification procedures set forth in OCP Directive 1800.03, effective August 11, 2003, an OCP official prepared and signed a D&F for the Transportation Authorization Program, dated June 1, 2005, after the services provided by the contractor had ended. During our review of this document, we noted that unit-per-trip costs were used to justify price reasonableness of program costs. However, the contractor only authorized transportation services for Medicaid recipients and did not provide actual transportation.

We questioned the responsible OCP official concerning the use of cost-per-trip pricing to justify the program costs for transportation authorization services. The official informed us that MAA officials did not clearly indicate the type of services that were being provided by the contractor and that it was OCP's understating that actual transportation services were provided. Therefore, OCP never established the appropriate cost basis for determining

FINDINGS AND RECOMMENDATIONS

whether the \$936,000 price was fair and reasonable for the transportation authorization services provided by the contractor.

Title 27 DCMR § 1206.6 (d) states, “[e]ach D&F shall include at least the following information in a format prescribed by the Director . . . [f]indings that detail the particular circumstances, facts, or reasoning essential to support the determination, including supporting documentation obtained from appropriate requirements and technical personnel”

In our opinion, the D&F was fundamentally flawed because it used incorrect criteria to determine price reasonableness. As stated above, OCP obtained and used actual trip costs, rather than transportation authorization services costs (the appropriate requirement), to justify program costs. Therefore, the total program costs of \$936,000 billed by the contractor (and paid for by the District) may not have been fair and reasonable.

Ratification Process. The contractual arrangement bypassed the normal procurement process and, therefore, funds to pay for the services had not been budgeted. More importantly, the services were provided by the contractor without a valid written contract. The contractor was paid only after a formal ratification process was completed, which included approvals from officials of the Office of the Chief Financial Officer, the Mayor of the District of Columbia, and the District of Columbia City Council. A direct payment was made in the amount of \$936,000 (to cover program costs) because a liability was incurred without adherence to the appropriate procurement process, procedures, and laws.

MAA indicated in the ratification package that the individual responsible for this ratification request was no longer employed with the District government. However, we disagree with this statement. The individual noted in the ratification package is not the individual responsible for initiating the contractual arrangement. The individual who prepared and signed the May 17, 2002, letter to provide transportation authorization services for Medicaid recipients is still employed with DOH.

CONCLUSION

No evidence was provided to us to indicate that DOH received a fair and reasonable price for the services provided by the contractor. The document authorizing the services was prepared and signed by a District employee who did not have contracting authority. Yet, the employee responsible for authorizing this procurement was not specifically identified as the responsible party in the ratification package.

District procurement laws and regulations prohibit District employees from entering into an agreement with a vendor to provide goods or services to the District government without a

FINDINGS AND RECOMMENDATIONS

valid written contract. An employee found in violation of these laws and regulations can be terminated.

RECOMMENDATIONS

We recommended that the Director, Department of Health:

1. Ensure that the employee responsible for initiating the procurement discussed in this report is no longer involved in procurement-related activities until this matter is resolved and appropriate personnel action, if any, is taken to ensure the integrity of the agency procurement function.
2. Issue written guidelines informing DOH employees that a DOH contracting officer is the only agency employee authorized to execute a contract on behalf of the agency.
3. Amend the ratification package, pending resolution of Recommendation 1.
4. Implement controls to ensure that the Office of Contracting and Procurement is fully informed of services to be provided under contract.

DOH RESPONSE (Recommendation 1)

DOH concurred with the recommendation. In its response, DOH stated that the employee discussed in the report will be removed from all responsibilities involving procurement-related activities and will receive disciplinary action as appropriate. DOH's full response is included at Exhibit B.

OIG COMMENT

DOH's corrective actions are responsive and meet the intent of the recommendation.

DOH RESPONSE (Recommendation 2)

DOH concurred with the recommendation and issued written guidelines informing the DOH employees that a DOH contracting officer is the only agency employee authorized to execute a contract on behalf of the agency.

OIG COMMENT

DOH's corrective actions are responsive and meet the intent of the recommendation.

FINDINGS AND RECOMMENDATIONS

DOH RESPONSE (Recommendation 3)

DOH concurred with the recommendation and will amend the ratification package.

OIG COMMENT

DOH's corrective actions are responsive and meet the intent of the recommendation.

DOH RESPONSE (Recommendation 4)

DOH concurred with the recommendation to ensure that all facts are presented to OCP relative to contractual actions.

OIG COMMENT

DOH's corrective actions are responsive and meet the intent of the recommendation.

EXHIBIT A - SUMMARY OF BENEFITS RESULTING FROM AUDIT

Recommendation	Description of Benefit	Amount and Type of Benefit	Status³
1	Compliance and Internal Control. Ensures the integrity of the DOH's procurement function.	Nonmonetary	Open
2	Compliance and Internal Control. Ensures that DOH's employees are aware that only a contracting officer can bind the District in a contract.	Nonmonetary	Closed
3	Compliance and Internal Control. Ensures that the ratification package accurately reflects the procurement process.	Nonmonetary	Open
4	Compliance and Internal Control. Ensures that the Office Contracting and Procurement is fully informed of the service that will be provided under the contract.	Nonmonetary	Closed

³ This column provides the status of a recommendation as of the report date. For final reports, "**Open**" means Management and the OIG agree on the action to be taken, but action is not complete. "**Closed**" means management has advised that the action necessary to correct the condition is complete. "**Unresolved**" means that management has neither agreed to take the recommended action nor proposed satisfactory alternative actions to correct the condition.

EXHIBIT B - MANAGEMENT RESPONSE

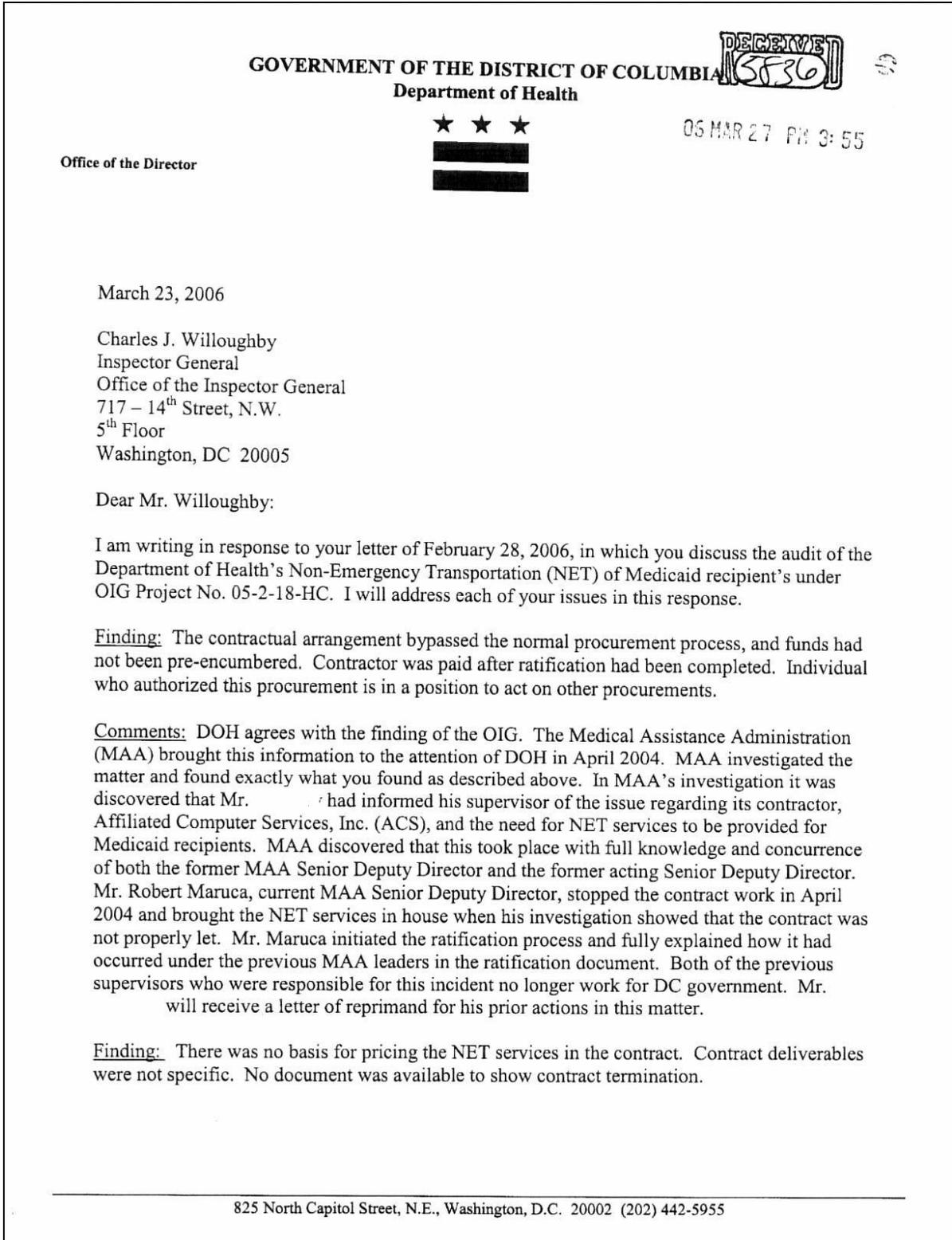


EXHIBIT B - MANAGEMENT RESPONSE (Con't.)

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Comments: DOH agrees with the findings of the OIG. Since a formal contract was not initiated, there was no Determination & Findings (D&F) prepared at the time ACS was told to begin services. We agree that a D&F prepared after the fact would be flawed. All MAA staff have been instructed verbally and in writing on the proper procedures for initiating contracts and all know they cannot unilaterally initiate a contract without following established District procedures. The work that ACS was doing was terminated by verbal direction of Mr. Robert Maruca, the current MAA Senior Deputy Director. As stated above, Mr. Maruca verbally terminated this illegal contract when he became aware of it in April 2004. Again, this information was included in the ratification document. We also agree with you that there was no way in retrospect to determine a fair and reasonable price for the services rendered. MAA staff have been made aware of relevant aspects of the DC Code and of the DC Municipal Regulations. A contract liaison has also been established at DOH to deal with the Office of Contracting and Procurement (OCP) on all contract issues. Senior MAA officials will continue to work with the Office of the Inspector General proactively.

Comments regarding your recommendations are as follows:

Recommendation: Ensure the employee responsible for this procurement is no longer involved in procurement related activities.

Comments: Mr. _____ will be removed from all responsibilities involving procurement related activities. His Contract Officer Technical Representative (COTR) authority will be withdrawn in his letter of reprimand, which will be issued by Mr. Maruca through the DOH Personnel Office.

Recommendation: Issue written guidelines to DOH employees that a DOH Contracting Officer is the only person authorized to execute contracts on behalf of DC government.

Comments: See enclosed letter. MAA notified all its Senior Staff in writing on December 19, 2005 that only individuals authorized by OCP as contracting officers can bind the District in a contract.

Recommendation: Amend the ratification package per recommendation #1

Comments: Per discussion with William J. Divello, DOH/MAA will amend the ratification package by sending a letter to the Office of Contracting and Procurement (OCP) to have such information attached to the ratification package. This will ensure that information on Mr. _____ letter of reprimand and the reassignment of his procurement related activities are part of that file.

EXHIBIT B - MANAGEMENT RESPONSE (Con't.)

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Recommendation: Implement controls to ensure OCP is fully informed of services provided under contract.

Comments: Per discussion with William J. DiVello, the intent of this recommendation is to ensure that all facts are presented to OCP when they are pricing a contract. MAA has advised all its Senior Staff of this requirement (see enclosed e-mail).

Thank you for your report. MAA was proactive in handling this matter when it was brought to the attention of the current Senior Deputy Director. MAA has oversight in place to preclude such incidents in the future, as evidenced by the enclosed letter, which was sent to all MAA Senior Staff on December 19, 2005, regarding contract responsibilities.

Sincerely,



Gregg A. Pane, MD
Director

Enclosures

cc: Robert C. Bobb, Deputy Mayor and City Administrator
Herbert Tillary, Deputy Mayor for Operations
Ben Lorigo, Executive Director, Office of Integrity & Oversight, OCFO
, DOH
DOH
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Robert T. Maruca, MAA