GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL

Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration

CHARLES J. WILLOUGHBY
INSPECTOR GENERAL

Report No. OIG 06-2-18JA **September 20, 2006**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General

September 20, 2006

The Honorable Adrian M. Fenty
Chairperson
Committee on Human Services
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 408
Washington, D.C. 20004

Dear Chairperson Fenty:

Enclosed is the final report summarizing the results of the Office of the Inspector General's (OIG) Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration (MRDDA).

We performed the review based, in part, on your concerns of possible local and federal anti-deficiency violations. Our report contains two sections. The first section contains findings detailing management operations relative to identifying program needs, maximizing the use of available federal funding sources, and reducing costs for services. The second section provides details concerning compliance with anti-deficiency laws.

Our report contains 13 recommendations made to District officials, some requiring coordination, necessary to correct identified deficiencies. We received a response to a draft of this report from MRDDA officials and the Office of the Chief Financial Officer (OCFO) on September 12, 2006. District officials concurred with all 13 recommendations. While the Deputy Mayor for Children, Youth, Family, and Elders did not separately respond, an official from that office stated that the Deputy Mayor's responses were incorporated into the responses provided by MRDDA. The responses obtained fully addressed the recommendations, and we consider the actions taken and/or planned to be responsive.

If you have questions, or need additional information regarding this report, please contact me, or William J. DiVello, Assistant Inspector General for Audits at 202-727-2540.

Sincerely,

Charles J. Willoughby
Inspector General

CJW/cf

Enclosure

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General

September 20, 2006

Kathy Elmore Sawyer
Interim Administrator
Mental Retardation and Developmental Disabilities Administration
25 M Street, S.W., Suite 303
Washington, D.C. 20024

Sebastian Lorigo
Chairman
Anti-Deficiency Review Board
1275 K Street, N.W., Suite 518
Washington, DC 20005

Brenda Donald Walker
Deputy Mayor for Children,
Youth, and Elders
1350 Pennsylvania Avenue, N.W., Suite 303
Washington, D.C. 20004

Natwar M. Gandhi, Ph.D.
Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, N.W., Room 203
Washington, D.C. 20004

Dear Ms. Sawyer, Ms. Walker, Mr. Lorigo, and Dr. Gandhi:

Enclosed is the final report summarizing the results of the Office of the Inspector General's (OIG) Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration (MRDDA). This audit was requested by Councilmember Adrian Fenty based, in part, on concerns of possible local and federal anti-deficiency violations.

Our report contains 13 recommendations made to District officials, some requiring coordination, necessary to correct identified deficiencies. We received a response to a draft of this report from MRDDA officials and the Office of the Chief Financial Officer (OCFO) on September 12, 2006. District officials concurred with all 13 recommendations. While the Deputy Mayor for Children, Youth, Family, and Elders did not separately respond, an official from that office stated that the Deputy Mayor's responses were incorporated into the responses provided by MRDDA. The responses obtained fully addressed the recommendations, and we consider the actions taken and/or planned to be responsive.

We appreciate the cooperation 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

CJW/cf

cc: See Distribution List

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ACRONYMS

ACFO	Associate Chief Financial Officer
AFO	Agency Fiscal Officer
BRT	Budget Review Team
CFO	Chief Financial Officer
CMS	Center for Medicare and Medicaid Services
CRF	Community Residential Facilities
DDB	Data Driven Budget
DHS-OCFO	Department of Human Services Office of the Chief Financial Officer
DOH	Department of Health
FRP	Financial Review Process
FTE	Full-Time Equivalent
HCBS	Home and Community-Based Service
HRA	Health Regulation Administration
ICF/MR	Intermediate Care Facilities for the Mentally Retarded
IHP	Individual Habilitation Plan
ISP	Individual Service Plan
MAA	Medical Assistance Administration
MAA-ODA	Medical Assistance Administration Office on Disabilities and Aging
MRDDA	Mental Retardation and Developmental Disabilities Administration
MRDDP	Mental Retardation and Developmental Disabilities Program
OBP	Office of Budget and Planning
OCFO	Office of the Chief Financial Officer
OIG	Office of the Inspector General
PASS	Procurement Automated Support System
SOAR	System of Accounting and Reporting

EXECUTIVE DIGEST

OVERVIEW

This report summarizes the results of the Office of the Inspector General's (OIG) Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration (MRDDA). As a result of hearings regarding budget shortfalls at MRDDA and possible local and federal anti-deficiency violations, the OIG was requested by Councilmember Adrian Fenty to perform an audit at MRDDA.

The objectives of this audit were to: 1) determine the status of current year funds budgeted for MRDDA; 2) review MRDDA's spending practices and compliance with District and/or federal anti-deficiency laws; and 3) evaluate controls to prevent or detect over-obligation of funds.

CONCLUSIONS

Program officials did not implement sufficient management controls or take sufficient ownership over MRDDA operations, which resulted in an $18 million budget shortfall. Although responsible officials were aware of this budget shortfall as early as November 2005, it was not disclosed to the D.C. Council until a February 16, 2006, Council hearing. Specifically, during the FY 2006 budget development process, program officials did not timely or adequately identify financial impacts or operational remedies relative to: 1) developing a distinct or achievable plan to address "cuts" made to MRDDA's budget; 2) identifying program needs adequately and timely; and 3) maximizing available federal funds or reducing costs for services, which we estimate to be in the millions of dollars. Further, unless changes are made to MRDDA's current Medicaid Home and Community-Based Service Waiver[1] (Waiver), spending pressures will continue into FY 2007 as MRDDA continues to move consumers to less restrictive settings. This funding issue is compounded by the $15 million proposed cut to MRDDA's FY 2007 budget request.

Possibly as early as the start of FY 2006, MRDDA was in an over obligated status based on its commitments to consumers. Ultimately, in order to continue its operations, it was necessary for District officials to augment MRDDA's FY 2006 budget by $18 million. In essence, MRDDA was obligated financially to pay for services for its consumers without adequate funding. Also, MRDDA did not completely record valid obligations. Lastly, MRDDA did not submit required financial reports, either as a program within the Department of Human Services (DHS) or as a separate agency (based on its current reporting structure), as required by the District's Anti-Deficiency Act of 2002. These actions resulted in apparent violations of the District's and federal anti-deficiency laws.

[1] The Waiver affords the District the flexibility to develop and implement creative alternatives to placing Medicaid-eligible individuals in medical facilities, such as nursing homes, Community Residential Facilities (CRF), and Intermediate Care Facilities for the Mentally Retarded (ICF/MR).

EXECUTIVE DIGEST

SUMMARY OF RECOMMENDATIONS

We made recommendations to several District officials that we believe are necessary to correct the deficiencies noted in this report. The recommendations, in part, center on:

- Identifying current FY 2006 outstanding obligations;
- Ensuring that program staff have the tools necessary to monitor and review program operations;
- Providing timely and detailed information to appropriate stakeholders regarding program operations;
- Implementing changes to the Waiver to maximize available federal funding;
- Establishing a plan to reduce program costs and operate within budgetary authority;
- Taking action, as appropriate, relative to the apparent violations of local and federal anti-deficiency laws;
- Tightening controls over the recording of obligations;
- Improving visibility of financial operations; and
- Addressing conflicts caused by MRDDA's current reporting structure.

During audit fieldwork, we verbally recommended that the MRDDA Interim Administrator take immediate action to contact providers to determine any outstanding bills or obligations relative to FY 2006. We recommended this action because District officials could not provide us positive assurances that MRDDA would not need funding over the $18 million already provided to meet its FY 2006 commitments. The Interim Administrator concurred with this recommendation and stated that MRDDA had already taken action in this regard.

PRIOR OIG AUDIT

On October 26, 2000, the OIG issued an audit of the Mental Retardation and Developmental Disabilities Program (OIG No. 23-99JA). Our previous audit cited needed improvements by DHS and the Department of Health (DOH) to ensure that: (1) a strategic plan and a performance measurement system is developed for MRDDA; (2) action is taken to collect $6.8 million due to the District from eight group home providers; (3) procedures for background investigations and training of direct care staff are improved; (4) formal procedures are established for accounting for client bank accounts and for processing payments to group home providers; (5) formal procedures are established for a legal sufficiency review of provider agreements; (6) providers comply with all contract provisions laws, rules, and regulations; and (7) formal procedures are established for client work programs.

EXECUTIVE DIGEST

Factors causing these conditions included insufficient policies and procedures, noncompliance with directives, internal control weaknesses, and a lack of management continuity.

Based on information obtained through our current audit and other reports of MRDDA operations, many of these conditions still exist.

MANAGEMENT RESPONSE AND OIG COMMENTS

Our report contains 13 recommendations made to District officials, some requiring coordination, necessary to correct identified deficiencies. We received a response to a draft of this report from MRDDA officials and the Office of the Chief Financial Officer (OCFO) on September 12, 2006. District officials concurred with all 13 recommendations. While the Deputy Mayor for Children, Youth, Family, and Elders did not separately respond, an official from that office stated that the Deputy Mayor's responses were incorporated into the responses provided by MRDDA. The responses obtained fully addressed the recommendations, and we consider the actions taken and/or planned to be responsive. MRDDA's response is included at Exhibit B (without attachments). The OCFO response is included at Exhibit C.

INTRODUCTION

BACKGROUND

The mission of MRDDA is to plan, coordinate, develop, and administer a network of services that support persons with mental retardation or other developmental disabilities. MRDDA operates under a court order, the Pratt Consent Decree, issued in 1978. This court order makes specific requirements pertaining to Individual Habilitation Plan (IHP) and other case management issues. The Decree also requires a system of monitoring MRDDA community-based residential programs, and specifies the timeframe for payments to vendors.

MRDDA coordinates services for approximately 1,977 consumers with mental retardation and developmental disabilities in an effort to maximize the quality of life for its consumers and allow them to thrive in the least restrictive environment. The agency's FY 2005 total program expenditures (local, federal, and other) exceeded $150 million. A breakdown of MRDDA consumer demographics is shown in Table 1 below.

Table 1 MRDDA POPULATION STATISTICS As of June 2006	
Community Residential Facility	103
Group Home	77
Independent Living	29
Intermediate Care Facility	676
Natural Home	588
Nursing Home	6
Other[2]	84
Out Of State Placement	46
Respite	16
Specialized Home Care/Foster Home	54
Supervised Living Arrangement/Apartment	298
Total MRDDA Consumers	1,977

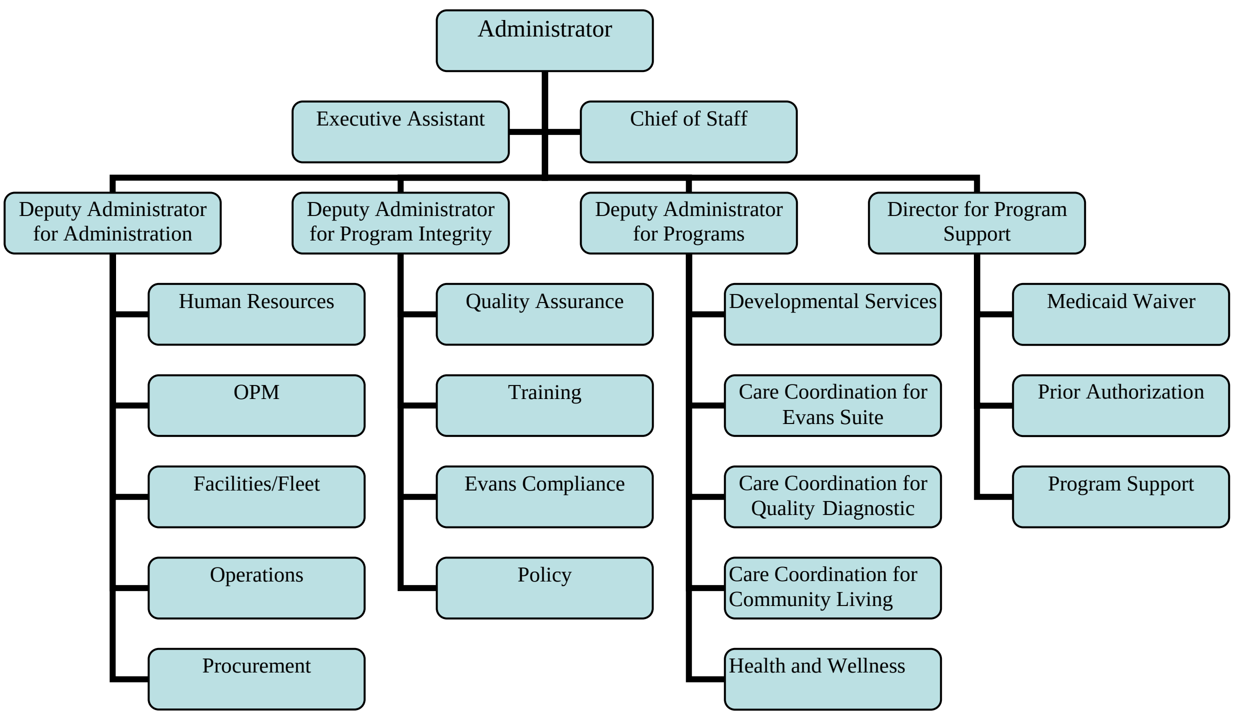
[2] Consumers in the "Other" category include those placed in hospitals, mental health facilities, alternate living units, under the care of D.C. Child and Family Services Agency, or uncategorized by MRDDA officials.

INTRODUCTION

MRDDA Reporting Structure

MRDDA is headed by an Administrator who carries out the mission of the agency through four separate units: 1) Administration; 2) Program Integrity; 3) Programs; and 4) Program Support. On October 1, 2005, MRDDA's reporting structure was changed to reflect that of an agency rather than a program of the Department of Human Services (DHS). Specifically, MRDDA's program monitoring is currently conducted by the Office of the Deputy Mayor for Children, Youth, Families, and Elders. Although MRDDA's reporting structure changed to reflect that of an agency, all financial, budget, and accounting operations for MRDDA still reside under DHS. Below is a listing of the key components within MRDDA.

MRDDA Organizational Chart
As of June 2006



MRDDA Change of Management

MRDDA has experienced a long-standing history of changes in its administration. In the past 10 years, there have been numerous administrators. We were informed that many key positions and duties within MRDDA are currently under review and additional personnel changes are underway.

INTRODUCTION

Further, an internal review of MRDDA's workforce structure reported that key positions at MRDDA were: 1) vacant; 2) constantly changing; or 3) staffed by individuals that do not appear to have the experience or qualifications needed to successfully perform budget or monitoring functions. This review also stated that the MRDDA budget unit is currently designed to operate under the supervision of a Budget Chief, a newly established and currently vacant position. The Budget Unit is responsible for assisting the Administrator in developing and monitoring the budget. Although there are three full-time equivalents (FTEs) assigned to this unit, this review could not verify that this function was actually being performed within MRDDA, but rather, functions primarily within DHS.

It is important to note that consistent leadership is vital to the attainment of goals. District officials need to address the issue of maintaining consistent leadership at MRDDA as decisions are made regarding the future of MRDDA's organizational structure.

Role of Mental Retardation and Developmental Disabilities Administration

The MRDDA partners with numerous providers to offer services that include:

- Adaptive equipment
- Attendant care
- Case management
- Day and residential placement
- Language and hearing screenings
- Medical, dental, and speech services
- Occupational therapy
- Respite care
- Supported employment
- Transportation services

MRDDA provides many of these and other services through its management of Home and Community-Based Service Waivers (Waiver), federal funding sources designed to enable individuals to remain in their own homes or live in community settings, as opposed to institutional settings such as a hospital, nursing home, or other facilities for the developmentally disabled.

Medicaid Home and Community-Based Service Waiver (Waiver)

The Waiver affords the District the flexibility to develop and implement creative alternatives to placing Medicaid-eligible individuals in medical facilities, such as nursing homes, Community Residential Facilities (CRF), and Intermediate Care Facilities for the Mentally Retarded (ICF/MR). The Waiver provides a wide range of previously unavailable services and offers services in settings that were not traditionally covered by the Medicaid program. Additionally, the Waiver recognizes that many individuals who are at risk of being placed in

INTRODUCTION

a medical facility can be cared for in their natural homes and communities, thus preserving the individual's independence and ties to families and friends.

The District can make home and community-based services available to individuals who qua1ify for Medicaid and meet the criteria set forth in the Waiver. Waivers are applicable to individuals already living at home, in nursing facilities, in a hospital awaiting discharge, or in intermediate care facilities for the mentally retarded and/or individuals with developmental disabilities. The Waiver includes support services that are necessary to maintain an individual in the community as an alternative to institutionalization, but these services cannot exceed the cost of care in an ICF/MR. The Waiver was initially approved for 3 years and may be renewed at 5 year intervals.

The Waiver was implemented in the District of Columbia on September 1, 1998. The Waiver was renewed by the federal Center for Medicare and Medicaid Services (CMS) on November 20, 2002, for 5 years and will allow enrollment of additional individuals each year to reach a total of 1,445 recipients by the end of the fifth year (November 19, 2007).

MRDDA has responsibility for the day-to-day operations of the Waiver to include the following:

- Intake of Waiver referrals for Waiver services.
- Development of the Individual Habilitation Plan (IHP)/Individual Service Plan (ISP).
- Level of Care determination.
- Review and approval of Waiver services for each recipient.
- Generating prior-authorizations for Waiver services to the selected and approved providers of services.
- Monitoring (quality assurance) of Waiver services.

Participation in the Waiver is voluntary for both the consumer and provider. Participants are chosen on a first-come, first-served basis. Costs for eligible Waiver services are reimbursed at the 70/30 (federal/local funds) ratio by Medicaid. However, in order for the District to be reimbursed under the Waiver, both the consumer and provider must participate in the Waiver.

Case managers are responsible for determining the needs of the consumers upon enrollment, and annually thereafter. Consumer needs are recorded in an ISP along with the number of services and corresponding costs. MRDDA enters into Human Care Agreements with providers to provide services to consumers.

INTRODUCTION

MRDDA FUNDING STATISTICS

Program Budget Summary

MRDDA's FY 2006 gross budget is $55,845,969. The gross budget includes $51,033,292 of local funds, $487,212 of federal funds, $2,925,465 of Medicaid funds, and $1,400,000 of Special Purpose Revenue funds. The gross budget supports 258 FTEs. MRDDA carries out its mission through six activities: 1) Health, Medical, Rehabilitation, and Habilitation Services; 2) Disability Services; 3) Case Management Services; 4) Housing/Residential Services; 5) Advocacy Services; and 6) Quality Assurance.

Consumer Cost Analysis

The majority of MRDDA's budget is contained in the Housing/Residential Services activity. This activity is designed to provide stable housing and support services to eligible individuals and families so that they can achieve their maximum potential for independence and integration/reintegration into the community. The services provided under this activity include overnight homes, group and shelter homes, emergency shelter, respite care, and assisted/supported living services.

Community Based Residential Facilities. There are two types of community based residential facilities for mentally retarded persons: 1) Intermediate Care Facilities for the Mentally Retarded (ICF/MR), which are funded by Medicaid (federal) funds; and 2) Community Residential Facilities for the mentally retarded (CRF), which are funded by appropriated (local) funds. CRF providers service clients on a contractual basis with MRDDA and ICF/MRs provide services to clients pursuant to provider agreements entered into with the Medical Assistance Administration (MAA). MAA is an administration within the DOH that is charged with administering the Medicaid program in the District of Columbia.

ROLE OF MAA, OFFICE ON DISABILITIES AND AGING

The MAA Office on Disabilities and Aging (ODA) sets policy guidance for home and community based waivers for individuals with mental retardation and developmental disabilities. This policy provides an outline of the Waiver, program administration, eligibility, services offered, and program/contractual responsibilities of all parties.

INTRODUCTION

MAA-ODA has primary responsibility for administering the Waiver as well as establishing agreements with approved providers for the provision of the Waiver services. Specifically, MAA:

- Approves providers of Waiver services.
- Ensures that recipients meet the criteria for Waiver services.
- Conducts quality assurance of Waiver services and providers.
- Performs financial oversight of the Waiver.

MAA reimburses providers in accordance with the approved prior-authorization for service(s) and the established rates for Waiver services. MAA will not reimburse for services that were not prior-authorized. Reimbursement will be made only for the frequency and duration of the services, as prior-authorized.

OBJECTIVES

The objectives of this audit were to: 1) determine the status of current year funds budgeted for MRDDA; 2) review MRDDA's spending practices and compliance with District and/or federal anti-deficiency laws; and 3) evaluate controls to prevent or detect over-obligation of funds.

SCOPE AND METHODOLOGY

Our review focused on budget documents, spending plans, and reports of expenditures for MRDDA for FYs 2004 – FY 2006. We also obtained and reviewed enhancement documents and other support prepared for FY 2007 reprogramming and enhancement requests. We examined potential cost savings initiatives that MRDDA could avail themselves of, such as, changes to the Waiver to allow for payment of services for out-of-state consumers, transfer of facility certification to new providers, and negotiation of updated Medicaid rates for providers. Further, we identified areas that MRDDA needed to continuously analyze to estimate the cost of consumer needs, including: 1) new consumer intakes; 2) contract rate increases; and 3) business closures.

To obtain information relating to MRDDA program operations, adequacy of MRDDA's budget, and status of funds, we attended (or reviewed testimony from) D.C. Council hearings and held discussions with the Deputy Mayor for Children, Youth, Families, and Elders (as well as her Chief of Staff), D.C. Councilmembers; representatives for the Evans plaintiffs; and the President of the D.C. Coalition for Community Services. We also interviewed staff from MAA, the Office of the Chief Financial Officer (OCFO), Office of Budget and

INTRODUCTION

Planning (OBP), and the Anti-Deficiency Review Board, as well as MRDDA program staff, to delineate their respective roles in the budget process, the review and monitoring of expenditures, and the notification of spending pressures both within and outside of their agencies.

We relied on computer-processed data provided to us, which detailed information on MRDDA's budget, expenditures, and costs for services and residential care of consumers. Although we did not perform a formal reliability assessment of the computer-processed data, we determined that the hard copy documents we reviewed were reasonable and generally agreed with the information contained in the computer processed data. We did not find errors that would preclude use of the computer-processed data to meet the audit objectives or that would change the conclusions in this report.

Our review was conducted in accordance with generally accepted government auditing standards and included such tests as deemed necessary.

AUDIT RESULTS

SECTION 1: MANAGEMENT OF PROGRAM OPERATIONS

SYNOPSIS

Program officials did not implement sufficient management controls or take sufficient ownership over MRDDA operations, which resulted in an $18 million budget shortfall. Although responsible officials were aware of this budget shortfall as early as November 2005, it was not disclosed to the D.C. Council until a February 16, 2006, Council hearing. Specifically, during the FY 2006 budget development process, program officials did not timely or adequately identify financial impacts or operational remedies relative to: 1) developing a distinct or achievable plan to address “cuts” made to MRDDA’s budget; 2) identifying program needs adequately and timely; and 3) maximizing available federal funds or reducing costs for services, which we estimate to be in the millions of dollars. Further, unless changes are made to the current Waiver, spending pressures will continue into FY 2007 as MRDDA continues to move consumers to less restrictive settings. This funding issue is compounded by the $15 million proposed cut to MRDDA’s FY 2007 budget request.

AUDIT RESULTS

The following subsections provide details of our audit concerning management of MRDDA’s program operations.

Budget Process

Agency Level Budget Process

The Department of Human Services, Office of the Chief Financial Officer (DHS-OCFO), plays a major role in the budget formulation process and the routine monitoring of MRDDA’s budget. DHS-OCFO staff stated that they meet with MRDDA program officials during the budget formulation process to obtain and share information related to the MRDDA budget. At the DHS-OCFO level, budget analysts develop, prepare, monitor, and review data relative to MRDDA’s budget, obligations, and expenditures. This information is also reviewed by the DHS Budget Officer, the DHS Agency Fiscal Officer (AFO), and the DHS Chief Financial Officer (CFO), not only during the budget formulation process, but also regularly throughout the year. DHS-OCFO budget analysts discuss all aspects of the MRDDA budget with MRDDA officials, including needs, pressures, and cuts. These budget analysts additionally make reports available to MRDDA officials so that reviews of expenditures and budgets can be made at the program level.

AUDIT RESULTS

The process to develop, submit, and approve MRDDA's FY 2006 budget began in September 2004. In September 2004, the Office of Budget and Planning (OBP) provided instructions to DHS for use in preparing its budget, which included budget authority for MRDDA. The budget instructions included identification of FY 2005 actual expenditures for each program within DHS, along with an estimate of the current year's needs, also referred to as the agency's "baseline." (See Appendix II for an overview of the District's budget process.)

Program Level Budget Process

MRDDA uses Object Class 50 (Subsidies and Transfers) to record the available budget and costs for housing and services for MRDDA consumers. MRDDA uses a data-driven budget (DDB) document to identify and estimate the needs of its consumers. No other budgeting at the program level is performed by MRDDA staff. The DDB is provided to OCFO officials during the initial budget planning and formulation period and is used as the basis for the budget for Object Class 50 (Subsidies and Transfers). However, MRDDA officials did not update or prepare a DDB during the development of MRDDA's FY 2006 budget.

We noted that key MRDDA positions related to the review of expenditures, and identification of needs for the budget formulation were vacant during this period. Specifically, the budget analyst position was vacant from August 2004 – March 2005. The budget analyst is responsible for the day-to-day budget execution and monitoring of MRDDA's spending plan and expenditures. Additionally, we found that the current position of Deputy Administrator for Administration, which is responsible for Budget, Human Resources, Facilities and Contracts, was only created in March 2005, 5 months after the completion of MRDDA's FY 2006 budget. Further, the person filling the newly formed position of Chief Operating Officer was appointed on March 19, 2006.

MRDDA and DHS-OCFO personnel stated that it was not until the fall of 2005 that they first realized that the budget line item for Subsidies and Transfers was deficient. The DDB however, was compiled by MRDDA staff in April of 2005 and transmitted to the OCFO in November of 2005 – almost 1 year after MRDDA's FY 2006 budget was finalized and approved. (See Appendix III for a chronology of the events surrounding the identification and notification of MRDDA's FY 2006 spending pressure.)

MRDDA Budget Shortfalls

Program officials did not take action to reduce program costs or develop a plan to address budget pressures it experienced as a result of "cuts" made to its budget. At the end of FY 2005, MRDDA experienced a budget shortfall. Further, at the start of FY 2006, MRDDA had information that its proposed and approved budget would not be sufficient to meet consumer needs. We found no evidence that steps were taken to address these issues. Appropriate remedial actions would include: requesting additional funding; reducing costs,

AUDIT RESULTS

increasing revenues; or even notifying appropriators of certain shortages before MRDDA had already overspent its FY 2006 budget. Additionally, MRDDA is facing cuts to its FY 2007 budget. The following is a summary of MRDDA's status of funds for FYs 2005 – 2007.

MRDDA FY 2005 Budget

A review of actual FY 2005 expenditures showed that MRDDA had overspent its local funding by about $2.3 million for Object Class 50 (Subsidies and Transfers). DHS-OCFO officials stated that unexpended funds in other object classes within MRDDA, coupled with monies derived from social security subsidies within the DHS cluster, were used to cover this budget shortfall. Our review of the budget request documents submitted by DHS for MRDDA's FY 2006 budget revealed that it closely resembled MRDDA's FY 2005 budget request, even though MRDDA had experienced an object class budget deficit in FY 2005.

Additionally, during FY 2005, MRDDA hired personnel in excess of budgeted dollars in Schedule A in the amount of $.856 million.[3] In addition to MRDDA's mismanagement of its staffing, a contributing factor may be that the District's Payroll system does not have sufficient position controls in place to prevent hiring of an employee at a level higher than the authorized level.[4] Specifically, we identified that vacant positions that were slated at a particular grade and step were filled at a higher grade and step. For example, we found that grade 5s were replaced with grade 11 positions, and grade 11 positions with grade 13 or grade 14 positions. While many lateral replacements occurred and positions were filled at lower grades, funding was not available to support overall staff changes. Further, complaints have been made by both current and former MRDDA employees that job descriptions, duties, and related education and experience do not change with corresponding grade increases.

MRDDA FY 2006 Budget

During the formulation of the Mayor's FY 2006 budget, $5.5 million was cut from MRDDA's budget by the Budget Review Team (BRT)[5] without any documented plan to achieve savings or reduce costs. The major events in the development of MRDDA's local budget are summarized below.

- DHS-OCFO submitted a request of $57,480,923 for MRDDA's FY 2006 local budget.

- OBP made no adjustments to the request and recommended a local budget of $57,480,923 for MRDDA.

[3] Schedule A identifies the position title, grade, step, and salary of all FTEs for an agency.
[4] The OIG is currently performing additional work related to this issue and potential impacts at other agencies.
[5] The Budget Review Team is made up of the City Administrator, the Deputy Mayors, Associate Chief Financial Officers, Agency Directors, the Office of Budget and Planning, and the Mayor's Senior Policy Advisors.

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- BRT reduced MRDDA's budget request for Object Class 50 (Subsidies and Transfers) by $5,500,000:

    - A reduction of $1,000,000 in the Case Management activity.
    - A reduction of $4,500,000 in the Housing activity.

- The Mayor's final proposed local budget for MRDDA was $51,980,923, sustaining the BRT reduction.

- The D.C. Council made the following adjustment:

    - A net decrease of $947,631 in personal services reflecting adjustments for historical salary lapse savings.

- The approved FY 2006 proposed local budget for MRDDA was $51,033,292.

When cuts to MRDDA's budget were proposed and made, program officials did not adequately identify or articulate program needs or provide justifications to prevent these reductions. For instance, neither the agency (DHS) nor the Mental Retardation Developmental Disabilities Program (MRDDP) had identified or requested any enhancements needed for FY 2006. As a result, once those cuts were made in the approved budget, there was no plan as to how consumer needs would be met with $7.8 ($2.3 + $5.5) million less than the amounts expended in FY 2005. Without a documented plan, and someone to roll-out and monitor such a plan, the achievement of any savings is significantly diminished, if not impossible.

A representative from the Deputy Mayor's Office stated that MRDDA's FY 2006 budget was cut based on anticipated savings that would be realized with more efficient use of the Waiver. However, this official further stated that stakeholders and others are not fully informed about the costs associated with consumer residential changes. Specifically, many shifts in residential changes results in increased costs for MRDDA because residential changes may not be covered under the Waiver.

MRDDA FY 2007 Budget

The Mayor's proposed FY 2007 gross funds budget for MRDDA was $76,480,917. This proposal is $20,634,948 or 36.9 percent greater than the approved FY 2006 MRDDA approved gross funds budget of $55,845,969. It should be noted that $14,386,000 or 69.7 percent of the proposed budget increase is attributable solely to housing/residential services.

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The D. C. Council's Committee on Human Services met on April 28, 2006, and recommended a FY 2007 operating budget of $61,512,964 for MRDDA. While this recommendation is $5.6 million greater than the approved FY 2006 budget, it includes a reduction of almost $15 million from the housing and residential services provided by MRDDA. This reduction represents the Committee's rejection of the Mayor's proposal to increase local funds spending in this activity. Rationale for these cuts included the Committee's concern that the Mayor's budget proposal lacked a credible plan to improve the quality of services currently available to MRDDA consumers or to begin new programmatic initiatives in FY 2007. Additionally, the Committee stated that the Mayor's budget proposal failed to significantly improve the ability of MRDDA consumers to choose federally-reimbursable services provided in the least restrictive settings consistent with their clinical needs. Although the Council cited inadequacies in MRDDA's current plan to provide services to consumers, a specific detailed plan as to how savings are to be realized or what impact a $15 million cut will have on services to consumers has not been identified.

Without significant changes to the current Waiver, spending pressures will continue into FY 2007 as MRDDA continues to move consumers to less restrictive settings, especially in light of the $15 million proposed cut to MRDDA's FY 2007 budget request.

Subsequent to the proposed FY 2007 budget cut, MRDDA submitted an enhancement package which details the justifications supporting the increases needed in MRDDA's budget in order to effectively carry out its mission and fulfill court ordered mandates. The costs identified in this package were also provided as support for the requested reprogramming of $18 million for MRDDA's FY 2006 budget. While these figures may represent valid needs, we have not seen a specific plan to reduce administrative costs or to maximize the use of federal funds to meet budget pressures.

Notification of Shortfalls

Program officials did not adequately identify financial impacts or operational remedies relative to costs associated with providing services to MRDDA consumers. While data identifying budget pressures were available as early as April 2005, the specific details of the pressures, an analysis of where these pressures were occurring, and a request for reprogramming were not made until almost 1 year later. (See Appendix IV for the District's Notification of Deficit Process related to requests for reprogramming.)

Our review of MRDDA's DDB prepared in April 2005 showed a spending pressure of approximately $9 million. In October 2005, MRDDA officials updated this figure and identified needs exceeding $21 million. Subsequent information related to MRDDA's identified needs have since ranged from $14 million to as much as $24 million. MRDDA staff has stated that consumer needs are a constantly moving target. On April 18, 2006, the MRDDA Administrator submitted a request for reprogramming of $10 million in local funds to address spending pressures related to costs associated with residential services as a result

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of movement of consumers to "less restrictive" settings. This reprogramming was made on May 9, 2006. DHS was provided an additional $7.896 million on June 26, 2006, as part of the "June Reserve Fund and Fund Balance Allocation Emergency Act of 2006," to cover MRDDA's remaining budget pressure so that FY 2006 commitments to consumers would be met.

On July 11, 2006, we met with the current Interim Administrator of MRDDA who stated that they are again revising these estimates and hope to have a firm set of numbers by the end of July. At this meeting, we recommended that the Interim Administrator contact providers to determine any outstanding bills. This would not only aid in the identification of current needs, but would also help to identify any unbilled amounts for FY 2006. The Interim Administrator concurred with this approach and stated that the agency had already begun to take action in this regard. Based on the various iterations of needs identified and submitted, District officials could not provide assurances to our auditors that MRDDA will not need funding over the $18 million already provided to meet its FY 2006 commitments.

Identification and Action on Program Needs

Changes in MRDDA's operations impacted several areas in which MRDDA did not adequately or timely identify its needs or "champion" its program. As a result, budget shortfalls occurred. MRDDA officials, in conjunction with DHS-OCFO personnel, have prepared an enhancement to MRDDA's FY 2007 operating budget based on identified shortfalls which occurred in FY 2006. While these enhancements do not represent all consumer needs, MRDDA officials believe that they do substantially account for the budget pressure of $18 million identified in FY 2006. Requests for enhancements include, but are not limited to increased costs associated with: consumer shifts in residential placement; business facility closures; contract rate increases; and new consumer intakes. It is critical that analyses of the costs and allowable reimbursements associated with consumer residential placements and changes in consumer residential placements are performed on a regular basis and are used in the development of MRDDA's budget. A description of these areas follows.

Consumers Shifts in Residential Placements

Moving consumers to less restrictive living environments is a goal of MRDDA and a requirement of the Evans lawsuit.[6] The District has been slow to place clients in the least restrictive settings based on the agreed-upon service plan. Many factors impact this issue, including the identification of: 1) suitable places for the consumers to live; and 2) funding to

[6] *Evans v. Williams* is a longstanding federal class action lawsuit brought by the University Legal Services and the Department of Justice. The case has been pending for more than 20 years since the court issued a final order finding the District's care of persons with mental retardation at Forest Haven (a hospital style asylum in Maryland) to be unconstitutional. The court then ordered that the District deinstitutionalize its care for the Forest Haven residents and provide services to them in a separate, integrated, and least restrictive community setting.

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cover the cost of residential placements. The cost related to residential placements for consumers is not covered by the Waiver. However, costs for consumers in medical or other assisted living facilities due to a cognitive impairment are covered by Medicaid.

The trend in the last 3 years has been for consumers to move from institutions-such as, ICF/MRs, which are Medicaid funded (the District pays 30 percent of the costs), and CRFs-to supervised apartments which are more expensive and 100 percent locally funded. MRDDA identified an increase of 210 apartment placements from FY 2004 to FY 2005. The increase in residential housing costs was a combination of shifts in placements and new entrants into MRDDP. As MRDDA continues to move consumers to less restrictive settings, spending pressures will continue into FY 2007 and beyond.

Business Facility Closures

Facilities close for many reasons. The Department of Health (DOH), Health Regulation Administration (HRA) has the responsibility of licensing and inspecting group homes. These inspections usually result in three to five ICF/MR closures annually. Additionally, a provider may choose not to renew a contract based on business decisions or financial reasons. Once the facility is closed, the residential costs for these clients are 100 percent locally funded. On average, it takes a new provider 90 to 100 days to become Medicaid certified. Additionally, several of the MRDDA clients elect to transition into supervised apartments, which also increases the spending pressure because supervised apartments are funded 100 percent by local dollars.

Costs associated with FY 2006 business closures have exceeded $3 million. Therefore, MRDDA should perform documented analyses on the impact of business closures on its budget and the effect on service delivery to MRDDA consumers.

Contract Rate Increases

Human Care Agreements entered into with providers for residential care of consumers have inflationary increase clauses that become effective with the renewal of the respective option year. A review of these costs show that on average, the inflationary increases for providers is 2.3 percent. This increase resulted in a pressure of $0.918 million in FY 2006, which will continue into FY 2007.

New Consumer Intake

MRDDA receives several applicants each year that meet the eligibility requirements to become participants in the program. Applicants come from a variety of sources, including Child and Family Services Agency, D.C. Public Schools, natural homes in the community, and other partnering entities in the District.

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MRDDA needs to be more vigilant in coordinating with agencies (such as, Child and Family Services Agency and D.C. Public Schools) to determine the number of potential new consumers who will require the services of MRDDA in future years. The proper and timely identification of these persons, with estimates regarding their needs and costs associated with these needs, should be performed and used to support program enhancements or additional federal funding. Meaningful budgets cannot be prepared without all available information.

Identification of Program Cost Reductions

In addition to the failure to timely or adequately identify consumer needs, MRDDA did not take steps to reduce administrative costs or implement measures to reduce program costs. We were unable to identify any cost saving measures taken, either by implementing operational efficiencies, reducing administrative costs, or negotiating lower rates to providers. In fact, we found that the costs actually increased, due to agency spending in excess of budgeted amounts for staff salaries.

Potential Savings in Residential Costs

The District incurs significant costs when providers go out of business. However, the District may be able to lessen, if not avoid, paying costs associated with business closures that could otherwise be reimbursed at 70 percent via the Waiver if it is able to: 1) negotiate Medicaid rates to prevent business closures; 2) establish interim rates and provider numbers in instances where providers cease operations or there is a change of providers that was otherwise unplanned; 3) transfer Waiver certification by facility rather than by provider; or 4) establish an available pool of certified/approved Medicaid providers. If the District had been proactive in addressing the issue of business closures, it may have avoided paying millions of dollars annually in local funds.[7]

An analysis of business closures in the District in the past 5 years shows that MRDDA providers reported financial hardships as a contributing factor. Providers have informed the OIG that ICF rates have not changed in 4 years and day treatment rates have not changed for 15 years even though required services, the quality of care expected to be provided, and the cost of operating homes, have risen significantly. As a result of escalating costs, some providers are forced to go out of business. In the District's Medicaid system, it is very difficult (if not impossible) for providers to obtain rate adjustments when it is clear that the existing rate does not cover overall costs. Even when the provider has data to prove that the costs for services have risen significantly or the consumer's required services have changed, MAA will not make an adjustment to existing provider rates.

[7] MAA officials stated that it often takes the District at least 4 months to process the applications for new providers.

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MAA officials explained that while it is true that day treatment rates have not changed in 15 years, it is a bit misleading to assert that ICF rates have not changed in 4 years. MAA officials informed us that providers of ICF facilities are afforded the opportunity to request a rate adjustment due to the acuity level for consumers they serve. An acuity review must be performed by the provider and submitted to MAA in order to receive approval for this rate adjustment. Notwithstanding the positions presented above, we believe that there is merit in examining the issue of rate adjustments, especially in light of saving the District money and allowing providers in good standing to remain solvent.

Fiscal Impact of Business Closures

As a result of two business closures in FY 2006, MRDDA is paying $1.5 million per month for 99 consumers until the new providers obtain Medicaid certification. This transition has already taken 90 days. While one of the two providers has obtained the required certifications, attainment of certification for the second will take approximately another month. If MRDDA and MAA had been proactive in addressing the issue of business closures, it could have potentially avoided paying $2.4 million in local funds (70 percent of $3.48 million).

Additionally, providers have informed the OIG that the District's system fails to set rates in a timely manner for new providers assuming support responsibilities for consumers. Even though a new provider obtains certification, is determined eligible to serve consumers, and provides services to consumers, the new provider may not be eligible to be paid for several months because its rates have not been approved.

Cost Reductions in Reporting Waiver Entrants

Notification of new enrollees into the Waiver are not always accurately recorded by MRDDA or timely reported to DHS-OCFO, MAA, and providers. Specifically, when a consumer who is already receiving MRDDA services transfers to the Waiver, notification of the date the consumer became Waiver eligible and the new rates that should be charged, should be timely relayed to providers so that providers do not continue to bill MRDDA for the cost of services that are now billable to Medicaid. We reviewed documents that showed that the monthly amounts for three consumers did not change after the date of enrollment into the Waiver, even though the District was entitled to the 70 percent offset based on the consumer's status as a Waiver participant. Instead, duplicate payments from local and federal funds were made for several months after the consumer's Waiver enrollment date. While we were unable to identify the fiscal impact related to new Waiver enrollments, MRDDA should immediately identify the over billings and establish controls to eliminate these discrepancies.

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Proposed Waiver Changes to Maximize Revenues

Mandatory Participation

Participation in the Waiver is voluntary for both providers and consumers. There are eligibility requirements, such as income and ability, which may prevent a consumer from participating. Although the Waiver limits the number of consumers that may be enrolled each year, there is no limit on the number of Waiver providers the District can enroll. Consideration should be given, however, to the number of providers enrolled due to the varying rates charged by providers and the District's ability to monitor the services of a large number of providers.

The District pays 30 percent for all charges billed by a Waiver provider. Conversely, the District pays 100 percent of the costs for the same service billed by a non-Waiver provider. Based on the current number of Waiver providers to non-Waiver providers, significant savings could be realized if all providers were required to participate in the Waiver.

We discussed the Waiver with representatives from neighboring jurisdictions, providers, advocacy groups, legal representatives of consumers, and officials from MAA to identify areas of additional funding or cost savings. Although these areas are not all inclusive, we believe they are worthy of pursuit. Below is a discussion of these areas.

Consumer Participation

If a consumer elects not to participate in the Waiver, none of the costs for their care is reimbursed under the Waiver. As of June 2006, only 866 of the 1,977 MRDDA consumers were participating in the Waiver. Additionally, our review showed that MRDDA had available slots for consumers to transition into the Waiver.

We attempted to identify potential cost savings that could be realized by the District if current enrollees were converted to the Waiver. We asked program officials to identify an average annual cost of services for consumers; however, this figure was not readily available. Therefore, using conservative figures, under the current Waiver in effect, we calculated that MRDDA had lost the opportunity to realize Waiver revenues of $8.2 million. However, MRDDA still is able to realize potential cost savings of $6.3 million by enrolling eligible individuals into the Waiver for the remainder of 2006 and in 2007.

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The tables below show calculations related to lost opportunity and potential savings related to Waiver enrollments.

Table II - Schedule of Lost Opportunity of Savings from Waiver						
Column A	Column B	Column C	Column D	Column E	Column F	Column G
Enrollment Year	Number of Consumers Enrolled	Waiver Annual Allotted Cap	Cumulative Unused Available Slots (C - B + previous year)	Estimated Individual Annual Savings	Total Projected Costs (E X D)	Projected Savings (F X 70%)
Prior to 2003		225				
2003	125	255	130	22,817	2,966,187	2,076,331
2004	193	245	182	23,523	4,281,095	2,996,767
2005	236	240	186	24,250	4,510,500	3,157,350
						$ 8,230,448

The above data shows that MRDDA could have enrolled an additional 186 persons into the Waiver during FYs 2003 - 2005. By not meeting enrollment figures, MRDDA lost the opportunity to realize these revenues.

Table III - Schedule of Potential Cost Savings from Waiver						
Column A	Column B	Column C	Column D	Column E	Column F	Column G
Enrollment Year	Number of Consumers Enrolled	Waiver Annual Allotted Cap	Available Slots	Estimated Individual Annual Savings	Total Projected Costs (E X D)	Projected Savings (F X 70%)
2006	129	240	111	25,000	2,775,000	1,942,500
2007		240	240	25,750	6,180,000	4,326,000
						$ 6,268,500

Further, for FYs 2006 and 2007, MRDDA still has the opportunity to save $6.3 by enrolling 351 persons into the Waiver.

Proper Identification of Waiver Core Services

The current Waiver expires in November 2007. MAA and MRDDA have the opportunity to identify the services which will be covered under the new Waiver. While we are not able to quantify potential savings in this area, we believe that core services should be in alignment with needs and not duplicated.

Court officials have informed the OIG that certain services currently included in the Waiver do not best meet the needs of MRDDA consumers. For instance, costs for consumers in an ICF/MR are split on a 70/30 basis. These consumers receive 24-hour care. The current Waiver only allows for care during the first 8-hours of each day for consumers outside of an ICF/MR. Hence, when these consumers are moved to a less restrictive setting, the remaining 16 hours of care would have to be paid 100 percent by local funds. As such, when the Waiver

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is renegotiated, MRDDA needs to ensure that Waiver services are based on an analysis of consumer needs as well as needs that are not otherwise covered by Medicaid.

Provider Participation

Waiver providers have established rates for services such as those set for participating medical providers in a traditional healthcare plan. Non-participating providers can set and raise their rates without approval from CMS, MAA, or MRDDA. As such, these rates tend to be higher than those charged by participating providers. Requiring participation of all providers in the Waiver would provide standardized rates and also provide a limit on the amounts providers are able to charge for services.

Providers have argued that the recordkeeping, reporting requirements, and billing procedures for participation in the Waiver are too rigorous. Advocates have argued that these providers should be held to a uniform set of standards. Regardless of whether a provider participates in the Waiver, the District has an obligation as the oversight agency to ensure that services are actually provided, properly documented, and timely billed.

We were able to identify providers that are currently not participating in the Waiver. Costs paid to these providers for day programs and professional services approximate $1 million annually. As stated earlier, in order to be reimbursed under the Waiver, both the provider and the consumer must participate in the Waiver. MRDDA officials could not identify whether the $1million paid annually was for services provided to Waiver or non-Waiver consumers. As such, we could not conclusively identify potential savings in this area.

Out of State Placements

MRDDA has placed consumers outside of the District based primarily on the identification of a facility that is able to provide the required services for consumers, and is willing to accept the liabilities associated with providing required services to the consumer. In the case of suburban Maryland placements, the decision was an attempt to save money based on lower housing costs compared to those available in the District. The current Waiver does not allow payment for service provided by out-of-state providers. Currently 45 of the 1,977 people served by MRDDA reside in homes outside of the D.C. Metropolitan area (e.g. Texas, Pennsylvania, and West Virginia). Costs associated with the care for these 45 persons are $5.2 million annually. Based on the level of care needed for these individuals, the total amount of $5.2 million could be reimbursed if changes were made to the current Waiver.

A roster provided by MRDDA officials shows more than 200 MRDDA consumers with addresses in Maryland. MRDDA officials were not able to provide the costs of care for these consumers. MRDDA officials stated that the providers that operate facilities in Maryland, often also operate facilities in the District. Consequently, billings for these providers are not separated in the District’s financial records. A detailed analysis of each payment made to these

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providers would have to be made to determine which location the bill represented payment for. Also, a provider with a Maryland billing address may not necessarily own a facility in Maryland, so a listing of payments made to providers located in Maryland would not be representative of costs associated with payments related to Maryland placements. A conservative estimate shows that savings of $7 million could be realized if costs for services of these consumers were reimbursable at the 70 percent rate. (Cost of care estimated at $50,000 X 200 consumers = $10 million annually; X 70 percent Waiver reimbursement rate = $7 million.[8])

In discussions with MAA officials, it was explained that monitoring is a critical part of the approval process for payment of services. CMS requires ongoing monitoring of services and facilities for payment authorization. However, issues regarding who would be responsible for the monitoring of these facilities - District officials or officials of the state where the facility is located - have arisen. Until these types of issues are resolved, the District continues to pay 100 percent of the cost of care for these consumers. The OIG was informed that other states do have memorandums of understanding, reciprocal agreements, or some formal means to allow for reimbursement by the Waiver for out-of-state placements.

RECOMMENDATIONS

We recommend that the Interim Administrator of MRDDA:

1. Contact MRDDA providers to determine any outstanding bills or obligations relative to FY 2006.

2. Require budgets to be prepared based on identified needs for each consumer served. Additionally, establish controls to routinely evaluate and refine consumer needs so that budgets can be timely updated and accurately forecasted.

3. Train current MRDDA staff to develop and monitor expenditures and related budgetary documents so MRDDA management will have accurate and timely information necessary to make decisions regarding program expenditures and resources.

4. Request that the CFO temporarily assign OCFO staff to assist MRDDA staff, pending completion of training in budget formulation and monitoring.

5. Submit written notification to the applicable Deputy Mayor, Mayor, and D.C. Councilmember of any spending pressure exceeding a certain threshold, as determined

[8] MRDDA officials were able to provide data that showed the average cost for out-of-state consumers (except for those in Maryland) was $140,000 annually. These costs are for consumers with severe needs. Assuming that the consumers that reside in suburban Maryland do not require the same level of care as these other out-of-state consumers, and that they reside in a non-reimbursable facility, we have estimated the average cost for these consumers to be $50,000 annually.

AUDIT RESULTS

in conjunction with the Executive Office of the Mayor, so that all stakeholders can be involved in the process of taking immediate corrective action.

6. Identify and seek recovery of over-billings for Waiver enrollments. Further, establish proper controls to ensure that entrance dates for Waiver enrollments are properly recorded by MRDDA and that all appropriate officials are timely notified so that the costs for Waiver services provided are properly billed.

We recommend that the Interim Administrator of MRDDA, in conjunction with MAA officials:

7. Develop a specific plan to develop an inter-state compact agreement, enter into MOUs or identify other formal means necessary to maximize services or reduce costs to the District, to:

   a. Maximize all available Waiver enrollment slots and address costs for out-of-state placements so the District can obtain federal reimbursement for costs of services.

   b. Identify services to meet consumer needs that are not otherwise covered by Medicaid so the most services can be delivered to consumers at the lowest costs;

   c. Take steps to minimize costs related to business closures. Specifically:

      - provide a seamless mechanism for providers in good standing to re-negotiate rates to keep them solvent;

      - identify a pool of pre-certified providers to reduce the application processing time, thereby eliminating the use of 100 percent local funds during the certification period; or

      - transfer facility certification, or provide temporary certification, to the new provider.

MRDDA RESPONSE (RECOMMENDATIONS 1 - 7)

The Interim MRDDA Administrator concurred with all of the recommendations and provided the details of actions taken and planned to address each recommendation. Additionally, MRDDA has developed a Systems Improvement Plan that largely addresses the program operational deficiencies identified in our report. The plan includes specific objectives and tasks to accomplish goals and also identifies responsible or lead staff and timelines for completion.

AUDIT RESULTS

OCFO RESPONSE TO RECOMMENDATION NO. 4

Effective July 16, 2006, the AFO for DHS was detailed to MRDDA three days a week. Once the OCFO's position of Senior Budget Analyst is filled, this position will be in place full-time at MRDDA.

OIG COMMENT

The responses addressed all recommendations, and we consider the actions taken and/or planned to be responsive. The full text of the responses from MRDDA and the OCFO are included at Exhibits B and C, respectively.

AUDIT RESULTS

SECTION 2: ANTI-DEFICIENCY ACT VIOLATIONS

SYNOPSIS

Possibly as early as the start of FY 2006, MRDDA was in an over obligated status based on commitments to consumers. Ultimately, in order to continue its operations, it was necessary for District officials to augment MRDDA's FY 2006 budget by $18 million. Specifically, MRDDA was obligated financially to pay for services for its consumers without adequate funding. Also, MRDDA did not completely record valid obligations. Lastly, MRDDA did not submit required financial reports, either as a program within DHS or as a separate agency (based on its current reporting structure), as required by the District's Anti-Deficiency Act of 2002. These actions resulted in apparent violations of the District's and federal anti-deficiency laws.

AUDIT RESULTS

The following subsections provide details of our audit concerning compliance with anti-deficiency laws.

Federal and District Anti-Deficiency Laws

The federal anti-deficiency statute prohibits an employee of the federal government or the District of Columbia from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation or fund or involving the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. 31 U.S.C. §§ 1341(a)(1)(A) and (B).

The District's Anti-Deficiency Act (D.C. Code § 47-355.02 (Lexis through D.C. Law 16-40), effective June 22, 2006), states, in part, the following:

> A District agency head, deputy agency head, agency chief financial officer, agency budget director, agency controller, manager, or other employee may not: (1) Make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund; (2) Involve the District in a contract or obligation for the payment of money before an appropriation is made unless authorized by law . . . .

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The Act further requires District managers to:

> [D]evelop year-end spending projections, by source of funds, on a monthly basis, which show year-to-date spending, approved budget, year-end projected spending, explanations of variances greater than 5%, and in the case of overspending, a corrective action plan. Spending projections shall be submitted to the agency head and the agency chief financial officer. Summarized agency spending projections shall be submitted to the Chief Financial Officer no more than 30 days after the end of the month.

Id. § 47-355.03

Additionally, the District's anti-deficiency statute requires the CFO, agency heads and agency chief financial officers to submit spending plans and projections in a timely manner. *Id*. §§ 47-355.04 - .05. Specifically, agencies are required to submit to the OBP: 1) monthly spending plans by October 1st of each year; 2) year-end spending projections, by source of funds, on a monthly basis; 3) a report of actual expenditures, obligations, and commitments compared to the approved spending plan, on a quarterly basis; and 4) a revised spending plan showing proposed revisions to approved operating budgets within 10 days of the approval of the revised budget.

Guidelines of the Board of Review for Anti-Deficiency Violations, Section 1113.2 states:

> The following action[] [is] defined as [a] violation[] by the Act and must be reported promptly to the CFO . . . for referral to the Board: . . . (e) Allowing an expenditure or obligation to exceed apportioned amounts. (i) For purposes of operating appropriations, this Act will be enforced at the level of agency, by fund by quarter.[9]

In addition, the review board's guidelines define "[m]aking an expenditure or obligation exceeding an amount available in an appropriation or fund" as an anti-deficiency violation, and provide that the Act "will be enforced at the level of agency, fund, and program level." *Id*. §§ 1113.2(a) and (a)(i).

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[9] The Notice of Emergency and Proposed Rulemaking for these guidelines provided an effective date of August 4, 2004, and the guidelines remained in effect for up to 120 days, or upon publication of a Notice of Final Rulemaking in the D.C. Register. Although authorization of final rules never occurred, the members of the District of Columbia's Anti-Deficiency Review Board confirmed that it currently follows these guidelines.

AUDIT RESULTS

Establishment of Valid Obligations Without Adequate Funding

MRDDA established obligations for goods and services necessary to run its operations without adequate funding during FY 2006. A status of MRDDA funds prepared by DHS-OCFO officials showed that MRDDA had outstanding obligations of approximately $30 million as of May 31, 2006. These obligations, along with actual expenditures for the same time period, show that MRDDA had exceeded its FY 2006 approved budget authority by $18 million.

Table 1: Status of Funds[10]

Program	FY 2006 Budget Appropriation (Local Dollars)	Actual Expenditures Through May 31, 2006	Outstanding Obligations	Available Balance as of May 31, 2006
MRDDA	$51,033,292	$39,179,636	$29,853,656	($18,000,000)

Further review of these obligations disclosed that MRDDA did not always record the total amount of obligations.

Unrecorded Obligations

MRDDA did not always record the total amount of obligations for Human Care Agreements in the District's Procurement Automated Support System (PASS). PASS allows District buyers to place purchase orders, keep detailed information on purchase orders, and provide real-time accounting of expenditures and obligation of funds assigned to those purchases in PASS. We were informed by MRDDA officials that the normal process is to record the total amount of an obligation into the District's PASS once a liability is identified and established.

MRDDA officials provided data for 38 Human Care Agreements valued at $52.6 million. MRDDA did not record the total value of these obligations in the District's procurement or accounting systems when the liability was identified and established. By not recording obligations in the District's official accounting records, intricate fund controls and procurement controls were non-existent for these transactions, resulting in an apparent violation of the District's anti-deficiency laws.

[10] Data were provided to the OIG by DHS-OCFO officials on July 11, 2006.

AUDIT RESULTS

In order to make monthly payments on these contracts, MRDDA officials issued a purchase order in PASS for 27 of the 38 contracts and used a direct payment voucher[11] for the remaining 11 contracts. Due to insufficient budget authority, MRDDA officials circumvented controls by loading obligations on a quarterly or mid-year basis. Recording total obligations in the procurement or accounting system not only ensures that funding is available and set aside for a particular use, it also establishes authority to pay for those goods and services when received and accepted.

MRDDA Reporting Structure

Understanding MRDDA's relationship to DHS is critical to understanding the complexity of the problems that its current organizational structure causes.

In late 2005, MRDDA was given authority to report directly to the Deputy Mayor for Children, Youth, Families, and Elders. This authority was further supported by directives delegating certain administrative functions to the then Interim Administrator of MRDDA. The Director of the Department of Human Services, issued a memorandum dated September 13, 2005, delegating the Interim Administrator of MRDDA the authority "to approve or disapprove actions involving budget, contracts, and personnel…, [and with the specific authority] to take adverse and corrective personnel actions…." This delegation was effective October 1, 2005.[12]

However, the Strategic Business Plans of DHS dated 2005 – 2007 continue to reference MRDDA as an Administration under the authority of DHS. Likewise, we found that MRDDA continues to defer to and seek approval from DHS for many of its administrative actions. Thus, it appears that MRDDA, for all practical purposes, remains under the administrative direction, authority, and control of DHS.

Specifically, we determined that aside from DHS' financial reports, monthly and quarterly financial reports for MRDDA, either as a program within DHS or as a separate agency (based on its current reporting structure), are not prepared and submitted to the OCFO Office of Budget and Planning (OBP) as required by the District's Anti-Deficiency Act of 2002. *See* D.C. Code § 47-355.03 (Lexis through D.C. Law 16-140, effective June 22, 2006).

[11] A direct payment voucher is a check issued by the District for payment of goods or services for which no obligation or encumbrance has been established.
[12] Memorandum, Yvonne Gilchrist, Director, Department of Human Services, September 13, 2005. (Included at Exhibit A.)

AUDIT RESULTS

We reviewed FY 2006 quarterly Financial Review Process (FRP) reports for DHS. These reports identify budget pressures within the MRDDA Program. Pertinent details of DHS's FY 2006 FRP reports follow:

- First quarter FRP report for the period ending December 31, 2005, was prepared by DHS-OCFO and submitted to OBP through the Deputy Mayor for Children, Youth, Families, and Elders on March 20, 2006. This report projected a $15.3 million overspending in MRDDA.

- Second quarter FRP report for the period ending March 31, 2006, was prepared by DHS-OCFO and submitted to OBP through the DHS Director and DHS-ACFO on April 28, 2006. This report identified spending pressures within MRDDA of $15.64 million. The report further stated that OBP had prepared a city-wide reprogramming to provide an additional $10 million to MRDDA for the 3rd quarter. The remaining $5.64 million was still a projected spending pressure.

While the DHS reports did identify the overspending at the MRDDA program level, we do not believe these reports were timely or visible enough for District stakeholders. Also, OBP and CFO officials confirmed that financial reports are not prepared at the program level, as required by the Guidelines of the Board of Review for Anti-Deficiency Violations. OBP officials stated that it would be a monumental task to have every agency report in such detail.

Actions to Address Spending Pressure

The DHS-OCFO provided us an analysis that identified the status of funds, as of May 31, 2006, available within DHS that could be reprogrammed to cover MRDDA's spending pressure. The analysis showed that sufficient funds were not available within MRDDA, or within DHS, to cover this budget pressure. Further, we were informed that funding of $18 million did not exist within the Human Services Cluster because agencies inside this cluster depend on matching funds; therefore, reprogramming from these programs would jeopardize the matching funds.

On May 9, 2006, pursuant to the Reprogramming Policy Act of 1980 (D.C. Code §§ 47-363-365), $10 million in local funds from the D.C. Public Charter Schools to DHS was made by the District's OCFO. On June 20, 2006, an additional $8 million was transferred to MRDDA from the District's Reserve Fund to cover the remaining identified budget shortfall. Because MRDDA over-obligated its appropriated funds and required funding outside of the Human Support Services Cluster, our audit found an apparant violation of the federal Anti-Deficiency Act, in accordance with 31 U.S.C. § 1341(a)(1), and the District's Anti-Deficiency Act, D.C. Code § 47-355.02(1).

AUDIT RESULTS

RECOMMENDATIONS

8. We recommend that the Chief Financial Office in conjunction with the Deputy Mayor for Children, Youth, Families, and Elders, make a legal determination whether a local or federal Anti-Deficiency Act violation occurred because of the over obligation of MRDDA's FY 2006 budgetary authority. If a violation of federal laws governing spending with the District's Appropriation Act has occurred, the Mayor must submit, to the President and Congress, the report required by 31 U.S.C. § 1351 (1994) in accordance with guidance contained in OMB Circular A-34 (revised October 19, 1999).

9. We recommend that the Anti-Deficiency Review Board Chairman convene the Anti-Deficiency Board and take appropriate action regarding the MRDDA over-obligation in accordance with the federal and District's Anti-Deficiency Acts.

10. We recommend that the Chief Financial Officer and the Deputy Mayor for Children, Youth, Families, and Elders prepare quarterly FRP reports and monthly spending plans for MRDDA separate from those of DHS to improve visibility of program finances and to better monitor and manage MRDDA's budget.

11. We recommend that the Deputy Mayor for Children, Youth, Families, and Elders, in conjunction with the MRDDA Administrator establish controls to ensure that obligations are recorded at the point in time that they are incurred. These controls should include training, written procedures, and increased management oversight.

12. We recommend that the Chief Financial Officer submit quarterly FRP reports for all agencies to improve visibility of program finances so program budgets can be better monitored and managed as required by the District's Anti-Deficiency Act of 2002.

13. We recommend that the Deputy Mayor for Children, Youth, Families, and Elders finalize MRDDA's reporting structure with regard to making MRDDA a separate agency or part of the DHS reporting structure.

OCFO RESPONSE TO RECOMMENDATIONS 8, 9, 10, AND 12

The OCFO concurred with the recommendations and stated that a referral was made to the CFO's General Counsel to make a legal determination whether a local or federal Anti-Deficiency violation occurred. If the ruling finds that a violation has occurred, the findings will be reported to the Anti-Deficiency Board for further action.

AUDIT RESULTS

In regard to MRDDA agency reporting requirements, DHS/OCFO's officials stated that quarterly FRP reports and monthly spending plans for each administration are prepared separate from those of DHS. However, these reports are consolidated into one agency report for submission. These reports, along with other monthly budget reports are distributed to each administration within DHS including MRDDA.

MRDDA MANAGEMENT RESPONSE (Recommendations 11 and 13)

MRDDA has already implemented procedures and management controls with regard to the recording of obligations, staff training, and increased management oversight. Many of these actions are outlined in MRDDA's System Development Plan.

In regard to MRDDA's reporting structure, we were informed that both the Mayor and the DHS Acting Director have issued delegation orders clarifying MRDDA's authority. Additionally, MRDDA has been working with the Executive Office of the Mayor on draft legislation creating a separate agency.

OIG COMMENT

The responses received addressed the recommendations, and we consider the actions taken and/or planned to be responsive. The full text of the responses from MRDDA and the OCFO are included at Exhibits B and C, respectively.

APPENDIX I: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendation	Description of Benefit	Amount and/or Type of Monetary Benefit	Status[13]
1	**Internal Control and Economy and Efficiency.** Establishes controls to ensure that funding amounts are adequate.	Non-Monetary	Closed
2	**Internal Control.** Establishes controls to routinely update budget forecasts and continually evaluate consumer needs.	Non-Monetary	Closed
3	**Internal Control and Economy and Efficiency.** Ensures adequate knowledge and skills of staff in order to provide management accurate and timely information necessary to make decisions regarding program expenditures and resources.	Non-Monetary	Closed
4	**Internal Control and Economy and Efficiency.** Ensures adequate knowledge and skills of staff in order to provide management accurate and timely information necessary to make decisions regarding program expenditures and resources.	Non-Monetary	Closed
5	**Internal Control.** Establishes a process for notification of a deficit to the Mayor's office and D.C. Council once a pre-determined threshold is reached so that actions can be taken to prevent anti-deficiency violations.	Non-Monetary	Closed
6	**Economy and Efficiency.** Determines whether the provider submitted duplicate billings and over billings, and take the necessary action to recover funds.	Indeterminable. Benefits would be determined based on the identified billing errors.	Open

[13] This column provides the status of a recommendation as of the report date. For final reports, "**Open**" means management and the OIG are in agreement 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.

APPENDIX I: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendation	Description of Benefit	Amount and/or Type of Monetary Benefit	Status
7	**Economy and Efficiency.** Implements changes to the Waiver to reduce consumer costs and maximize available funding sources.	$20.8 million	Open
8	**Compliance with Laws and Regulations.** Determines appropriate action to be taken with regard to anti-deficiency requirements.	Non-Monetary	Open
9	**Compliance with Laws and Regulations.** Determines appropriate action to be taken with regard to anti-deficiency requirements.	Non-Monetary	Open
10	**Internal Control.** Improves visibility of program finances to better monitor program budgets.	Non-Monetary	Closed
11	**Compliance and Internal Control.** Ensures that obligations are properly recorded in the District's financial systems.	Non-Monetary	Open
12	**Internal Control and Economy and Efficiency.** Clarifies program reporting requirements and improves visibility of program finances to better monitor program budgets	Non-Monetary	Closed
13	**Internal Control.** Finalizes program organizational structure.	Non-Monetary	Open

APPENDIX II: OVERVIEW OF THE DISTRICT'S BUDGET PROCESS

In September of each fiscal year (FY), agency officials are provided instructions for use in preparing their budget. Budgets are prepared 2 years in advance. For instance, the process to develop, submit, and approve an agencys FY 2006 budget would have begun in September 2004. Budget instructions include identification of the previous year's actual expenditures and the current year's estimate of needs, also referred to as an agency's "baseline." Agency officials are to then identify needs and propose changes along with justifications. These are called enhancements.

During October through December, OCFO staff work with program staff to develop budgets. Once budgets are finalized at this level the budgets are submitted to OBP. The budgets are submitted in tiers 1 – 3, in 2-week intervals over the next 6 weeks to allow time for OBP to review submissions. OBP analyzes agency budget submissions and makes recommendations regarding proposed agency budgets. During the first two weeks of January, OBP meets with agency personnel to discuss the budgets. By January 20th, OBP submits preliminary baseline budgets to Deputy Mayors, agency directors, and CFOs. Agency officials have until the third week of January to submit appeals regarding OBP changes to their budgets. Final/revised revenue estimates are completed by the last week of January. OBP provides appeal decisions to respective agencies. Complete packages of all decisions are sent to the Budget Review Team (BRT). During the month of February, fixed cost estimates are provided to OBP. OBP reviews and decides on program enhancements and completes the baseline document for distribution. Finally, the CFO is briefed on the final budget baseline.

Starting in February, the D.C. Council conducts performance hearings, which cover agencies' statistical reporting of accomplishments in the prior fiscal year and the first quarter of the current FY. Following those hearings, the D.C. Council holds budget hearings. At these hearings, agency officials testify on the impact of any proposed cuts to their budgets and justify enhancement requests.

Once these actions are completed, the Mayor develops and submits the proposed budget and financial plan for the next fiscal year to the Council of the District of Columbia by mid-March. The Council holds public hearings and accepts the Mayor's budget or adopts its own version. The Mayor may sign or veto the Council's budget. If the Mayor vetoes the budget, the Council may override the veto. Once agreement is reached between the Mayor and the Council, the budget is adopted and transmitted to the President of the United States for submission to Congress for approval. Congress acts on the District's budget as one of the 13 annual federal appropriations bills.

APPENDIX III: CHRONOLOGY OF EVENTS

The following chronology of events depicts the events surrounding MRDDA's FY 2006 budget, and the dates corresponding to when MRDDA's FY 2006 spending pressure was first identified and reported to District officials.

- October 2004 – November 2004 - DHS-OCFO prepares budget package for MRDDA based on instructions provided by OBP.

- December 22, 2004 - DHS submits its FY 2006 budget. No enhancements are requested for MRDDA.

- January 2005 - OBP meets with agencies to discuss the budget baseline analysis.

- January 2005 – Agency officials have until the third week of January to submit appeals to OBP changes to their budgets. No changes are requested to MRDDA's budget.

- February 2005 - Final/revised revenue estimates are completed by OBP.

- April 2005 - MRDDA budget personnel notify the MRDDA Deputy Administrator for Administration, who in turn was believed to notify the MRDDA Program Administrator of pending FY 2006 spending pressures. The initial notification was made via internal email.

- May 10, 2005 - Council approves the District's FY 2006 budget.

- June 2, 2005 - MRDDA budget personnel meet with MRDDA Administrator regarding the immediate potential spending pressures at the end of FY 2005 and FY 2006 because the proposed FY 2006 budget was less than FY 2005.

- October 1, 2005 - Based on operational concerns surrounding noncompliance with the *Evans vs. Williams* case, the MRDDA administrator was directed to report to the Office of the Deputy Mayor for Children, Youth, Families, and Elders.

- October 3, 2005 - MRDDA budget personnel provide data to the MRDDA Administrator regarding deficit over baseline budget. This data resulted from a request from the MRDDA Administrator to have the budget specialist provide the DHS CFO updates to MRDDA's budget for preparation of needed changes to the FY 2006 budget and formulation of the FY 2007 budget.

- October 2005 – February 2006 - MRDDA Administrator meets monthly with the Deputy Mayor to discuss MRDDA program operations. Weekly meetings

APPENDIX III: CHRONOLOGY OF EVENTS

commenced in February 2006 and continue to the present time.

- November 18, 2005 – OCFO notifies OBP of spending pressures of $8.5 million within MRDDA.

- November 30, 2005 - Congress approves the District's FY 2006 budget.

- February 16, 2006 – MRDDA Budget Hearing before D.C. Council – notification of shortfall made to D.C. Council.

- March 20, 2006 – FY 2006 First Quarter FRP report for the period ending December 31, 2005 is prepared by DHS Agency Fiscal Officer and submitted to OBP, through the Deputy Mayor for Children, Youth, Families, and Elders. This report projected a $15.3 million overspending in MRDDA. The report further stated that the overspending was identified as a spending pressure and forwarded to OBP.

- April 28, 2006 – FY 2006 Second Quarter FRP prepared and submitted by DHS Agency Fiscal Officer to OBP, which identified a spending pressure within MRDDA of $15.64 million. The report further states that OBP prepared a city-wide reprogramming to provide an additional $10 million to MRDDA for the 3rd quarter. The remaining $5.64 million was still a projected spending pressure.

- May – 2006 – MRDDA and OCFO officials perform analysis of MRDDA needs and support for request for reprogramming of $18 million.

- May 9, 2006 – Council of the District of Columbia Committee on Human Services Report issued regarding FY 2006 budget proposal, which included a proposed budget cut of $15 million.

- May 9, 2006 - $10 million is reprogrammed from D.C. Charter Schools to MRDDA.

- May 26, 2006 – Public Oversight Roundtable on locally and federally funded services to MRDDA clients. Discussions of FY 2006 shortfall and Council's FY 2007 proposed $15 million cut to MRDDA's budget.

- June 26, 2006 - As part of the "June Reserve Fund and Fund Balance Allocation Emergency Act of 2006," DHS was provided an additional $7.896 million additional funding for MRDDA.

APPENDIX IV: DISTRICT'S NOTIFICATION OF DEFICIT PROCESS

Spending pressures are identified by the program (as in the case of MRDDA) and applicable OCFO staff during monthly reviews of an agency's expenditures and monthly spending plans. Additionally, Financial Reporting Progress (FRP) reports are prepared quarterly and are submitted to OBP, which identify spending patterns, budget pressures, and potential anti-deficiency violations.

If a budget pressure is identified, the agency head is to be notified. The program is to first look within its own program, and then other programs within its agency to identify a source of funds available for reprogramming to cover identified spending pressures. If funds are not available, or insufficient to cover the identified need, the agency head can request a reprogramming of funds within the appropriation in which the agency and program fall (in MRDDA's case, it would be within the DHS cluster). If monies cannot be identified within the appropriation title, the Deputy Mayor is notified and a request is made to the Mayor to identify reprogramming from a source outside of the agency's appropriation title.

Reprogrammings are budget changes from one area of an agency's budget to another area of an agency's budget. The reprogramming process should be used when an unforeseen situation develops for which postponement to the next appropriation cycle would result in a serious hardship on the District. Reprogrammings should not be used to establish new programs and projects or change allocations specifically denied, limited, or increased by Council or Congress. Templates for preparing a reprogramming request are provided by OBP, along with other documents to aid an agency's submission.

Guidelines have been established as to what amounts can be reprogrammed within an activity, program, agency, and appropriation, and the corresponding approvals and/or notifications to be obtained. An outline of these requirements follows:

Performance Based-Budget (PPB) Agencies only			
Individual Action	Within or Between Programs	Between PPB Agencies only within the same Appropriation Title	Across Appropriation Titles
$1 - $860,000	ACFO	Council	Council
$860,001 - $999,999	Council	Council	Council
$1 million and Over[14]	Council, Congress	Council, Congress	Council, Congress

[14] Requires notification and a 30-day waiting period for approval without a veto.

APPENDIX IV: DISTRICT'S NOTIFICATION OF DEFICIT PROCESS

For agencies without an ACFO and where approval is required at that level, the OBP will approve or disapprove the reprogramming. Reprogramming must still be sent first to the Executive Office of the Mayor before approval in SOAR.

Reprogrammings equal to or greater than $1,000,000 or 10 percent of a project, program, or activity require a 15-day congressional notification period in addition to Council approval. Additionally, increases of 20 percent or more of personnel assigned to a project, program, or activity require Council approval.

EXHIBIT A. DELEGATION OF AUTHORITY REGARDING MRDDA

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES

Office of the Director

MEMORANDUM

TO: Marsha Thompson
Interim Administrator
Mental Retardation and Developmental
Disabilities Administration

FROM: Yvonne Gilchrist
Director

Yvonne Gilchrist

DATE: SEP 13 2005

SUBJECT: Delegation of Authority for Personnel, Contract and Budget Actions

I hereby delegate to Marsha Thompson, Interim Administrator, Mental Retardation and Developmental Disabilities Administration, Department of Human Services, authority to approve or disapprove actions involving budget, contracts, and personnel for the Mental Retardation and Developmental Disabilities Administration. This delegation specifically includes authority to take adverse and corrective personnel actions pursuant to Chapter 16 of the District Personnel Manual and authority to approve Request for Personnel Action, D.C. Form 52 (hiring, promotions, transfers, etc.). This delegation of authority is effective October 1, 2005 and supersedes all prior delegations of authority.

cc: Neil Albert
Vanessa Chappell-Lee

P.O. Box 54047, 64 New York Avenue, N.E., Sixth Floor, Washington, D.C. 20002 Ph. (202) 671-4200 Fax (202) 671-4326

EXHIBIT B. MRDDA MANAGEMENT RESPONSE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

September 8, 2006

Mr. Charles J. Willoughby
Inspector General
D.C. Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

RE: *OIG Report No. OIG 06-2-18JA dated August 18, 2006, Draft Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration*

Dear Mr. Willoughby:

This letter sets forth the response of the Mental Retardation and Developmental Disabilities Administration ("MRDDA") to the 13 recommendations contained in the draft "Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration," OIG Report No. OIG 06-2-18JA, that was received on August 18, 2006. Based on the agreement of the parties, MRDDA's response to the draft audit is being provided to the Office of the Inspector General ("OIG") on September 8, 2006.

Before responding to OIG's recommendations, however, it is important that I provide some preliminary factual information for your consideration. First, MRDDA and OIG convened for purposes of the exit interview on July 11, 2006, which was only three weeks after my appointment as MRDDA Interim Administrator on June 19, 2006. Rather than conduct a duplicative, internal investigation into how the current fiscal crisis evolved, I have concentrated MRDDA's efforts on looking forward. Subsequent to the exit interview, on July 15, 2006, MRDDA published the attached Systems Improvement Plan (July – December 2006), which identifies the following five goals:

- to enhance quality of care and services to individuals served;
- to establish and implement cost containment and saving measures;
- to maximize opportunities for revenue enhancement;
- to establish a new organizational structure with proposed staffing changes; and
- to establish a System's Management Advisory Board.

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September 8, 2006
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The Systems Improvement Plan includes specific objectives and tasks to accomplish these five goals, along with responsible or lead staff and timelines for completion. In large measure, the Systems Improvement Plan addresses the concerns raised in Section 1 of the draft audit as to MRDDA's program operations.

Second, D.C. Law 2-137, the "Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978," D.C. Official Code § 7-1301.01 *et seq.*, sets forth the Council of the District of Columbia's intent to "[s]ecure for each resident of the District of Columbia with mental retardation, *regardless of ability to pay*, such habilitation as will be suited to the needs of the person, and to assure that such habilitation is skillfully and humanely provided with full respect for the person's dignity and personal integrity and in a setting least restrictive to personal liberty." D.C. Official Code § 7-1301.02(a)(2) (italics added). While D.C. Law 2-137 recognizes that, "*[t]o the extent that appropriated funds are available to carry out the purpose of this chapter*, no District resident with mental retardation shall be denied habilitation, care, or both suited to the person's needs regardless of the person's age, degree of retardation, or handicapping condition," D.C. Official Code § 7-1305.01(a), the Remedial Plan filed August 2, 1996 in *Evans v. Barry* (D.D.C., Harris, USDJ) (currently, *Evans v. Williams*), at pages 2 and 3, requires MRDDA to make timely payments to vendors, and specifically orders that invoices may *not* be rejected "due to the unavailability of funds." Moreover, it has been increasingly apparent that the Family Court directs placements and services for our consumers irrespective of MRDDA's fiscal constraints and spending pressures.

Third, subsequent to the exit interview, the Mayor and the Acting Director of the Department of Human Services ("DHS") clarified MRDDA's separate agency status. By the attached memorandum dated July 14, 2006, from the DHS Acting Director to the MRDDA Interim Director, DHS delegated authority for MRDDA's budget, contracting and procurement, personnel, policy, and Medicaid actions to the MRDDA Administrator. In addition, in the attached Mayor's Order 2006-101 dated July 26, 2006, "Delegation of Authority to Administrator of the Mental Retardation and Developmental Disabilities Administration and Requirements for Inter-Agency Cooperation," 53 D.C. Reg. 6393 (Aug. 4, 2006), the Mayor referenced the DHS delegation order and further defined MRDDA's separate authority for budget, contracting and procurement, personnel, and Medicaid, and instituted a monthly meeting of affected agencies "to take steps necessary and appropriate to comply with the "2001 Plan for Compliance and Conclusion of *Evans v. Williams*." Accordingly, MRDDA's roles and responsibilities with respect to budget and contracting and procurement already have been addressed.

For ease of reference, below we have provided the full text of each of OIG's recommendations, followed by MRDDA's response. Recommendations numbered 1 to 6 appear on pages 23 and 24 of the draft audit and are directed to MRDDA's Interim Administrator as follows:

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1. *Contact MRDDA providers to determine any outstanding bills or obligations relative to FY 2006.*

MRDDA agrees with this recommendation as previously indicated during the exit interview. On August 2, 2006, MRDDA sent correspondence (a sample of which is attached) to each of its providers in order to obtain outstanding bills and obligations for fiscal year ("FY") 2006.

2. *Require budgets to be prepared based on identified needs for each consumer served. Additionally, establish controls to routinely evaluate and refine consumer needs so that budgets can be timely updated and accurately forecasted.*

MRDDA agrees with this recommendation and currently is engaged in a review of each consumer's ISP and budget to determine whether providers are being paid only for support services required by the ISP and at the funding levels set forth in the applicable human care agreement or purchase order.

3. *Train current MRDDA staff to develop and monitor expenditures and related budgetary documents so MRDDA management will have accurate and timely information necessary to make decisions regarding program expenditures and resources.*

MRDDA agrees, in principle, with this recommendation, and has developed a new case management model whereby consumers will be assigned to support services coordination teams on the basis of whether the individual requires intensive or non-intensive supports. These teams will be multi-disciplinary with specialists, advocates, nurses, and case managers, and are intended to develop expertise in the community based support services available for those consumers in the particular setting (*i.e.* ICF-MR). Each MRDDA staff will be better able to monitor the delivery of services with respect to the assigned caseload. As part of the implementation of and transition to the new case management model, MRDDA staff will receive training on the fiscal impacts (*i.e.* expenditure and budget) of specific placements and will work directly with service management specialists in MRDDA's contracts office to procure the necessary support services.

4. *Request that the CFO temporarily assign OCFO staff to assist MRDDA staff, pending completion of training in budget formulation and monitoring.*

MRDDA agrees with this recommendation and worked with the Office of the Chief Financial Officer ("OCFO") to have OCFO staff work directly with MRDDA staff in budget formulation and monitoring. Indeed, the OCFO has assigned an agency chief fiscal officer to MRDDA who works on site three days per week.

5. *Submit written notification to the applicable Deputy Mayor, Mayor, and D.C. Councilmember of any spending pressure exceeding a certain threshold, as*

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determined in conjunction with the Executive Office of the Mayor, so that all stakeholders can be involved in the process of taking immediate corrective action.

While this recommendation is directed to the MRDDA Interim Administrator, it is worth noting that implementing specific action in this regard exceeds the authority of either an agency director or administrator. Nevertheless, MRDDA will work with the Executive Office of the Mayor and the OCFO to explore the development of a written notification tool as recommended. We are advised that the Deputy Mayor for Children, Youth, Families, and Elders concurs with this recommendation.

6. *Identify and seek recovery of over billings for Waiver enrollments. Further, establish proper controls to ensure that entrance dates for Waiver enrollments are properly recorded by MRDDA and that all appropriate officials are timely notified so that the costs for Waiver services provided are properly billed.*

While this recommendation is directed to the MRDDA Interim Administrator, it is worth noting that implementing specific action in this regard exceeds the authority of this agency. Nevertheless, MRDDA will work with the Department of Health's Medical Assistance Administration ("MAA"), the OCFO, and the Office of the Attorney General ("OAG") to identify and to seek to recover over billings for Waiver enrollments. In addition, we request that your office determine whether referral to OIG's Medicaid Fraud Control Unit is appropriate in these circumstances.

Recommendation numbered 7 appears on page 24 of the draft audit and is directed to MRDDA's Interim Administrator, in conjunction with MAA officials, as follows:

7. *Develop a specific plan to develop an inter-state compact agreement, enter into MOUs or identify other formal means necessary to maximize services or reduce costs to the District, to:*

   a. *Maximize all available Waiver enrollment slots and address costs for out-of-state placements so the District can obtain federal reimbursement for costs of services.*

   b. *Identify services to meet consumer needs that are not otherwise covered by Medicaid so the most services can be delivered to consumers at the lowest costs;*

   c. *Take steps to minimize costs related to business closures. Specifically:*

      - *provide a seamless mechanism for providers in good standing to re-negotiate rates to keep them solvent;*

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- *identify a pool of pre-certified providers to reduce the application processing time, thereby eliminating the use of 100 percent local funds during the certification period; or*

- *transfer facility certification, or provide temporary certification, to the new provider.*

While this recommendation is directed to the MRDDA Interim Administrator and MAA, it is worth noting that implementing specific action in this regard exceeds the authority of these two agencies and will require participation by several other agencies. Nevertheless, MRDDA will work with MAA, the OCFO, the OAG, and the Office of Contracting and Procurement to determine the extent to which the District government can address OIG's recommendation.

Recommendations numbered 8 through 13 appear on page 30 of the draft audit and are directed to various District officials, as follows:

8. *We recommend that the Chief Financial Office in conjunction with the Deputy Mayor for Children, Youth, Families, and Elders, make a legal determination whether a local or federal Anti-Deficiency Act violation occurred because of the over obligation of MRDDA's FY 2006 budgetary authority. If a violation of federal laws governing spending with the District's Appropriation Act has occurred, the Mayor must submit, to the President and Congress, the report required by 31 U.S.C. § 1351 (1994) in accordance with guidance contained in OMB Circular A-34 (revised October 19, 1999).*

This recommendation should be addressed by the OCFO and the Executive Office of the Mayor in consultation with legal counsel and therefore MRDDA takes no position.

9. *We recommend that the Anti-Deficiency Review Board Chairman convene the Anti-Deficiency Board and take appropriate action regarding the MRDDA over-obligation in accordance with the federal and District's Anti-Deficiency Acts.*

This recommendation is not directed to this agency and therefore MRDDA takes no position.

10. *We recommend that the Chief Financial Officer and the Deputy Mayor for Children, Youth, Families, and Elders prepare quarterly FRP reports and monthly spending plans for MRDDA separate from those of DHS to improve visibility of program finances and to better monitor and manage MRDDA's budget.*

This recommendation should be addressed by the OCFO and the Executive Office of the Mayor and therefore MRDDA takes no position.

11. We recommend that the Deputy Mayor for Children, Youth, Families, and Elders, in conjunction with the MRDDA Administrator establish controls to ensure that obligations are recorded at the point in time that they are incurred. These controls should include training, written procedures, and increased management oversight.

As stated above, MRDDA already is working within the context of the Systems Improvement Plan and with the OCFO to effect the types of procedures and management controls recommended by OIG.

12. We recommend that the Chief Financial Officer submit quarterly FRP reports for all agencies to improve visibility of program finances so program budgets can be better monitored and managed as required by the District's Anti-Deficiency Act of 2002.

This recommendation is not directed to this agency and therefore MRDDA takes no position.

13. We recommend that the Deputy Mayor for Children, Youth, Families, and Elders finalize MRDDA's reporting structure with regard to making MRDDA a separate agency or part of the DHS reporting structure.

While this recommendation is directed to the Deputy Mayor for Children, Youth, Families, and Elders, as noted above, both the Mayor and the DHS Acting Director have issued delegation orders clarifying MRDDA's authority. In addition, MRDDA has been working with the Executive Office of the Mayor on draft legislation creating a separate agency. MRDDA anticipates that the legislation will be introduced as soon as the Council returns from its summer recess.

Thank you for this opportunity to respond to the draft OIG Report No. OIG 06-2-18JA dated August 18, 2006, "Audit of the FY 2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration." We look forward to working with OIG in the coming months as we seek to improve MRDDA's operations.

Sincerely,

Kathy E. Sawyer, ACSW
Interim Administrator

Attachments as stated (4)

- Systems Improvement Plan (July – December 2006) (20 pages)

Letter to Charles J. Willoughby
September 8, 2006
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- Memorandum dated July 14, 2006, from DHS Acting Director to MRDDA Interim Director, delegating authority for MRDDA's budget, contracting and procurement, personnel, policy, and Medicaid actions (2 pages)
- Mayor's Order 2006-101 dated July 26, 2006, "Delegation of Authority to Administrator of the Mental Retardation and Developmental Disabilities Administration and Requirements for Inter-Agency Cooperation" (3 pages)
- Sample letter sent to MRDDA providers on August 2, 2006 (2 pages)

cc: Robert C. Bobb, City Administrator and Deputy Mayor
Brenda Donald Walker, Deputy Mayor for Children, Youth, Families and Elders
Natwar M. Gandhi, Chief Financial Officer
Gregg A. Pane, MD, Director, Department of Health
Kate Jesberg, Interim Director, Department of Human Services

EXHIBIT C. OCFO MANAGEMENT RESPONSE

Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

September 12, 2006

Charles J. Willoughby
Inspector General
Office of the Inspector General
717-14th Street, NW-5th Floor
Washington, DC 20005

Dear Mr. Willoughby:

Thank you for the opportunity to respond to the findings and recommendations in Office of Inspector General's draft report on "Audit of the FY2006 Fund Status at the Mental Retardation and Developmental Disabilities Administration". Our responses to the issues and recommendations relating to the OCFO are presented below:

4. **OIG Recommendation:** Request that the CFO temporarily assign OCFO staff to assist MRDDA, pending the completion of training in budget formulation and monitoring.

   DHS/OCFO Response: We concur. Effective July 16, 2006, the AFO for DHS was detailed to MRDDA three days a week. Once the OCFO's position of Senior Budget Analyst is filled, this position will be there full-time.

8. **OIG Recommendation:** We recommend that the Chief Financial Office in conjunction with the Deputy Mayor for Children..........make a legal determination whether a local or federal Anti-Deficiency Act violation occurred and proceed in accordance with legal requirements.

   DHS/OCFO Response: We concur. We will refer this matter to the CFO's General Counsel to determine whether an anti-deficiency violation has occurred. If the ruling finds that this is the case, we will promptly refer the issue to the District's Anti-Deficiency Review Board for further action. We will inform the OIG of the results of Counsel's review.

9. **OIG Recommendation:** We recommend that the Anti-Deficiency Board Chairman convene the Anti-Deficiency Board and take appropriate action regarding the MRDDA over-obligation with the federal and District's Anti-Deficiency Act.

1350 Pennsylvania Avenue, N.W., Suite 209, Washington DC 20004 (202) 727-2476
www.cfo.dc.gov

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DHS/OCFO Response: We concur. Should the CFO's General Counsel find that a violation has taken place, we will send the matter forward to the Anti-Deficiency Board for further action.

10. **OIG Recommendation:** We recommend that the Chief Financial Officer and the Deputy Mayor for Children, Youth, Families, and Elders prepare quarterly FRP reports and monthly spending plans for MRDDA separate from those of DHS to improve the visibility of the program's finances and to better monitor and manage MRDDA's budget.

DHS/OCFO Response: We concur. The DHS/OCFO's office prepares quarterly FRP and monthly spending plans for each administration. These reports are then consolidated into one agency report for submission. Also note that monthly budget reports (EIS reports) are distributed to each administration within DHS including MRDDA.

12. **OIG Recommendation:** We recommend that the Chief Financial Officer submit a quarterly FRP for all agencies to improve visibility of program finances so program budgets can be better monitored and managed as required by the District's Anti-Deficiency Act of 2002.

DHS/OCFO Response: We concur. The DHS/OCFO's office prepares quarterly FRPs for each administration. These reports are then consolidated into one agency report (DHS) for submission to the Office of Budget and Planning (OBP).

Should you have any further questions, please contact Associate Chief Financial Officer for the Human Support Services cluster, at (202) 671-

Sincerely,

Natwar M. Gandhi

cc: Chief of Staff, OCFO
Jerry Malone, General Counsel, OCFO
Bert Molina, Deputy Chief Financial Officer, OBP
Associate Chief Financial Officer, HSSC
Sebastian Lorigo, Executive Director, OIO
; Director, Internal Security, OIO
Agency Fiscal Officer, HSSC