




Date: November 7, 2017

To: Members, Legislative Audit Commission

From: Jim Nobles, Legislative Auditor 

Subject: OLA Special Reviews

I am following up on the discussion we had during our last Legislative Audit Commission meeting about OLA's special reviews.

Legal Responsibility and Authority

Minnesota Statutes 2017, 3.971, subd. 6, says, "The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance."

Minnesota Statutes 2017, 3.972, subd. 2, says, "The legislative auditor shall...(9) ascertain that all financial transactions and operations involving the public funds and property of the state comply with the spirit and purpose of the law, are sound by modern standards of financial management and are for the best protection of the public interest."

Decision Criteria and Process

Throughout the year, legislators, other public officials, and private individuals contact OLA with concerns and allegations they want us to address. In addition, we often become aware of allegations and issues in media reports and other sources that may require action by OLA.

We decide how to respond on a case-by-case basis after we gather additional information about the nature of the allegations or issues, as well as the organization and people involved.

We then apply the following criteria and address the following questions:

- **Jurisdiction and Authority.** Does OLA have jurisdiction over the organization and/or individual(s) involved? Does OLA have authority to investigate the issues?
- **Need.** Does OLA need to conduct a review to fulfill its legal responsibilities and mission? Does OLA need to conduct a review to provide legislators and/or the general public with assurance that an allegation or issue will be addressed thoroughly by an independent, nonpartisan office?

- **Timing.** If OLA needs to conduct a review, do we need to start immediately or can we wait? If we can wait, approximately when will we begin?
- **Scope and Methods.** Would a special review be large and complex, narrow and straightforward, or somewhere in between? Will OLA need to interview people under oath, use our subpoena power, and/or involve law enforcement?
- **Staff and Impact.** Which OLA staff will be involved in the review? What impact will their involvement have on other assignments?

As you know, every year OLA has a full schedule of audits and evaluations to complete; we conduct special reviews in addition to the other responsibilities we must fulfill. Therefore, we are more inclined not to conduct a special review if there is an alternative. For example, we often decide to include the issues in a forthcoming financial audit or propose that the issues be addressed in an evaluation approved by the Legislative Audit Commission. In addition, we generally do not investigate personnel issues between public employees and employers since there are other mechanisms available to them.

We are inclined to initiate an immediate investigation of issues that involve the alleged misuse of public money or other public resources, or an alleged conflict of interest. These issues are not only central to OLA's responsibility but, if not addressed thoroughly by an office that is—and perceived to be—independent and nonpartisan, they foster further mistrust of government.

2017 Special Reviews

As you know from our previous discussion, special reviews are a significant part of OLA's 2017 work schedule and significantly more than in past years.

So far this year, we have completed the following special reviews:

- Metropolitan Transit Financial Activity
- Metropolitan Airports Commission: Conflict of Interest Policies
- Department of Commerce: Data Practice Allegations
- Minnesota Sports Facilities: Governance and Operations
- Minnesota Licensing and Registration System (MNLARS)
- Minnesota Sports Facilities Authority: Use of Suites at the U.S. Bank Stadium

We are currently working on the following special reviews:

- Sexual Harassment Policies and Practices at the University of Minnesota
- State Employee Gainsharing Program
- State Historic Preservation Office Transfer
- Minnesota Department of Commerce: The Safelight Case
- County Audits Conducted by the State Auditor
- State Oversight of Gopher State One-Call, Inc.

We will begin special reviews of the following topics as staff are available:

- Pension Boards: Conflict of Interest Policies and Practices
- Legacy Money Spent on Administrative Costs
- Protection of State Employee Whistleblowers
- Small Agency Assistance Program
- Use of Fetal Tissue in Research at the University of Minnesota
- Department of Health: Responsiveness to Data Access Requests

Examples of Past OLA Special Reviews

- University of Minnesota Department of Psychiatry: The Dan Markingson Case (2015)
- Minnesota Racing Commission: Oversight of Purse Contributions at Running Aces (2014)
- Minnesota State University, Mankato: The Coach Todd Hoffner Case (2014)
- MNsure: An Unauthorized Disclosure of Private Data (2013)
- Minnesota Orchestral Association: Use of State Grants (2013)
- Department of Natural Resources: Agassiz Valley Project (2012)
- Department of Health: Grants to the Sierra Young Family Institute, Inc. (2012)
- Department of Revenue: Follow-up Review of Fraud (2011)
- Minnesota Opportunities Industrialization Centers State Council (2011)
- E-Verify Vendor Data Security (2010)
- Metro Gang Strike Force (2009)
- 2007 North American Wildlife Enforcement Officers Association Conference (2008)
- Office of the Minnesota Attorney General: Personnel Allegations (2008)

Additional Comments

All of us at OLA feel a strong responsibility to address issues that legislators, other public officials, and citizens bring to us. We decide which issues to pursue based on our authority, jurisdiction, mission, and the other criteria noted above.

I hope this follow-up memo has provided you with helpful information. I always welcome your questions and feedback on this and any other issues that involve the work of OLA and the role of the Legislative Audit Commission.