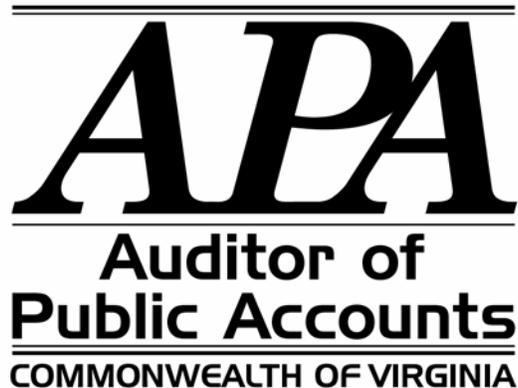


**VIRGINIA OFFICE  
FOR PROTECTION AND ADVOCACY**

**REPORT ON AUDIT  
FOR THE YEAR ENDED  
JUNE 30, 2005**



## **AUDIT SUMMARY**

Our audit of the Virginia Office for Protection and Advocacy for the year ended June 30, 2005, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System and the Office's accounting records;
- weaknesses in internal controls that require management's attention and corrective action; and
- instances of noncompliance with applicable laws and regulations.

- TABLE OF CONTENTS -

	<u>Page</u>
AUDIT SUMMARY	
AGENCY HIGHLIGHTS:	
Organizational History	1
Board of Directors	1
Governance Findings and Recommendations	1-2
Internal Control Findings and Recommendations	3-4
PROGRAM HIGHLIGHTS	5-6
FINANCIAL HIGHLIGHTS	7
INDEPENDENT AUDITOR'S REPORT	8-9
AGENCY RESPONSE	10
AGENCY OFFICIALS	11

## **AGENCY HIGHLIGHTS**

### **Organizational History**

The Virginia Office for Protection and Advocacy (Office) is an independent state agency that strives to solve problems for disabled individuals through the legal system. The Office replaced the Department for the Rights of Virginians with Disabilities (Department), an executive branch state agency, in July 2002. The Department's clients often received services from other executive branch agencies, which caused an inherent conflict of interest when they pursued legal action against those other agencies on behalf of their clients. Therefore, legislators removed the function of protection and advocacy from the executive branch and established the Office to ensure that the system would most effectively protect and represent the rights of persons with disabilities who have experienced abuse, neglect, or discrimination.

The Office's mission is to provide advocacy services and legal representation for persons with disabilities; to protect and advance legal, human, and civil rights; to combat abuse, neglect, and discrimination; and to promote independence, choice, and self-determination. Since the Office has limited resources, they selected specific areas in which to focus their work after extensive public input, guidance from their two advisory councils, and their Board of Directors' approval. The Office developed selection criteria for accepting or declining cases. The Office may pursue cases outside of the stated criteria with the approval of the Executive Director.

The current Executive Director joined the Office on April 1, 2003. The Board recruits the Executive Director, who serves at the pleasure of the Board. However, the Appropriation Act sets the Executive Director's salary.

### **Board of Directors**

An 11-member board, consisting entirely of non-legislative citizens, governs the Office. The Speaker of the House of Delegates appoints five members, the Senate Committee on Rules appoints three members, and the Governor appoints three members. The Code of Virginia requires all board members to be either disabled or a parent, family member, guardian, advocate, or authorized representative of a disabled individual.

The Code of Virginia outlines the powers and duties of the Board. The Board appoints an Executive Director and annually evaluates the Director's performance. The Executive Director, who cannot be a member of the Board, must be an attorney in good standing with the Commonwealth and capable of administering and directing the provision of protection and advocacy for persons with disabilities. Additionally, the Board must prepare and submit budgets to the General Assembly, establish general policies for the Office, advise and assist the Director in developing annual program priorities, and monitor and evaluate the operations of the Office.

### **Governance Findings and Recommendations**

#### **Introduction**

As an independent agency, the Office relies on the Board to provide oversight. The Board provides the Office annual program goals to ensure that the Office focuses its resources on those cases that will have the greatest impact. However, we found issues in the area of financial operations that resulted from a lack of Board governance and oversight and not requiring sufficient information to monitor and evaluate the financial operations of the Office. Our review found the following deviations:

As stated earlier, the Board has responsibility for monitoring and evaluating the operations of the Office, but does not have adequate policies and procedures nor has it adopted the appropriate structure for completing this task. Furthermore, while the Board approves a separate annual budget for each of the Office's nine programs, at the Board's request, they do not receive budget-to-actual reports to compare the Office's performance with the Board's expectations.

The Board is also responsible for appointing and annually evaluating the performance of the Office's Executive Director. Currently, the Board relies on the Executive Director to provide them guidance on the Board's duties and responsibilities.

## **Board Policies and Procedures**

### Clarify Duties and Responsibilities of the Board and Executive Director

The Board has duties and responsibilities similar to Executive Branch organizations, which the Commonwealth refers to as supervisory boards. Supervisory boards employ their Executive Director and have responsibility over the use of state funding. In this capacity, the Board assumes some liability for the use and disposition of these funds. Further, the Board, as the employer, assumes responsibility for the performance and duties of the Executive Director and anyone the Director employs.

We found the Board's governing policies to be generally vague and without clear definition of specific roles and responsibilities. Also, these policies did not address the Board's working relationship with the Executive Director and the Board's delegation of authority to the Chair or any of the Board's committees.

Underlying the Board's current policies appears to be the assumption that staff will keep the Board informed of major state statutes, rules, and policies governing the conduct of state business. We believe that in addition to clarifying the roles and responsibilities, the Board should periodically receive an update on whether its policies comply with state statutes, rules, and policies and how they affect operations.

### Implement Board Training and Operations

In January 2005, the Board approved an annual salary for the Executive Director in excess of the salary limit set by the Appropriation Act. Fortunately, controls at the Department of Human Resource Management prevented the Office's fiscal staff from increasing the Executive Director's salary, as doing so would have been a clear violation of Virginia law and could have resulted in Board Members being personally liable for any funds the Executive Director received in excess of the amount set by the Appropriation Act.

The Board receives a report, which compares the Office's expenses with its budget set by the Appropriation Act; however, the report does not match the Board's budget or explain revenues. Originally, the Office provided the Board with detailed budgeted-to-actual information using the budget for the nine programs and included additional data. The Office's staff informed us that some Board members did not understand the information in the report and therefore, believed the information was not useful and instead of requesting training, changed the report.

Both of the above examples reflect the Board's lack of understanding of the fiscal, budgetary, legal, and management constraints under which they need to operate within the Commonwealth. Most citizen board members receive training concerning their duties and responsibilities and how their board and agency must operate within the fiscal, budgetary, legal and management constraints of the Commonwealth. Boards typically receive an annual update of changes and have a detailed manual with instruction for new members. Typically, the Attorney General's Office and the agency's staff conduct this board training.

## Internal Control Findings and Recommendations

### **Operational Policies and Procedures**

#### Develop Operational Policies and Procedures

The Office has also not formalized its operating policies and procedures. The lack of formal documented policies and procedures increases risks and the likelihood that errors and improper payments could occur and go undetected. As stated in the Commonwealth Accounting Policies and Procedures (CAAP) Manual, part of management's responsibilities is having sound internal controls operating within the Agency. Documented policies and procedures help to ensure proper accounting and administrative controls. The auditor reviewed unofficial documents that outline some of the Office's procedures; however, there is no comprehensive document outlining the Office's policies and procedures.

While the Office should document all of its policies and procedures to ensure they are sufficient, at a minimum, they should address the following critical areas:

- *Systems Access* – The Office has no criteria for granting and deleting system access or for evaluating the staff's level of access. The Systems Security Officer (SSO), who ensures individuals have proper access to the Office's systems, has not evaluated individual access since the Office took over the accounting function from the Department of General Services (DGS) in September 2004. Additionally, the SSO was not aware of the system access listing available for their accounting system or each user's capability within the system.
- *Payment processing* – There is no clear description of individual duties and responsibilities for authorizing, posting, and reviewing payments. Auditors tested 13 payments and noted three issues (23 percent) including a voucher coded incorrectly, a meal per diem not reduced for meals provided during a conference, and a travel advance not repaid until four months after the last day of travel.
- *Small Purchase Charge Cards (SPCC)* – There is no assignment and documentation of the duties of agency personnel for Small Purchase Charge Cards (SPCC). The CAPP Manual (Topic 20355) states, "Agencies must establish written procedures for use of the purchasing card and provide copies of the procedures to all cardholders and their supervisors." The auditor found the Office used the SPCC for non-catered meals and hotel rooms, items they should have charged to an employees' travel card. Using SPCC to pay for travel expenses increases the Office's risk of reimbursing an employee for expenses already paid by the Office. Additionally, an employee did not repay the Office for personal charges on the SPCC until questioned by the auditors, which was 15 months after the Office paid the SPCC bill.

Because the Office operates with limited administrative staff, the lack of formal policies and procedures causes several additional problems. Having formally documented policies and procedures compensates for the loss of key personnel and enables the Office to operate efficiently with consistent process applications.

The Office should have formalized policies and procedures readily available to all employees with relevant responsibilities. They should also delineate the authority and responsibility of all employees, especially the authority to authorize transactions and the responsibility for the safekeeping of assets and records. Likewise, the documentation should indicate which employees should perform specific procedures.

The Office should also implement a policy to cross-train individuals in key administrative and accounting roles. Having documented policies and procedures is essential for cross-training and having knowledgeable staff will ensure continuity of operations in the event of the loss of key personnel and when hiring new personnel.

Without policies and procedures, management uses their judgment when deciding what course of action is appropriate and whether their solution is in line with an entity's goals and mission. Often, this places management in the position to later justify actions rather than citing public documents that demonstrate their decision followed established standards.

## **Audit Findings**

### Procurement of Services

The Office has a limited amount to expend for items other than personal services that are subject to procurement requirements. The Office did not follow Commonwealth procurement guidelines for two of the three (66 percent) large purchases tested for proper procurement.

The Office could not produce a purchase order for payments to one vendor totaling \$20,567. Purchase orders are not only required by the Agency Procurement and Surplus Property Manual, section 4.12A, but are important because they should include the terms and conditions specific to the agency's needs.

The Office also purchased services totaling \$74,986 without following procurement and contract guidelines for soliciting and analyzing competitive bids before vendor selection. Additionally, the Office made payments to the vendor without having a contract or a purchase order.

The State Comptroller's and the Department of General Services' manuals require proper procurement and documentation for agency payments. Without following the proper procurement guidelines, we are unable to determine if federal grant costs of \$95,553 are reasonable.

### Indirect Cost Recoveries

The Office does not have detailed procedures for completing their indirect cost recovery proposal. While we recognize that the Department of Accounts and the federal Department of Health and Human Services provide guidance, they do not provide detailed procedures that are specific to the Office.

The fiscal officer completed the indirect cost proposal without an internal review, which when combined with a lack of detailed procedures, caused the Office to submit an incorrect amount for central cost allocation in fiscal year 2006. Therefore, the calculated indirect cost rate, based on total indirect cost, is incorrect. The fiscal officer also consistently used an incorrect rate for determining the statewide portion of the indirect recoveries that caused the Office to underreport statewide recoveries for fiscal years 2004 and 2005 and the first three quarters of 2006.

The Office is exempt from depositing statewide recoveries into the general fund for recoveries up to \$78,705. By using the incorrect rate to determine the statewide portion of recoveries, the Office is unable to monitor the total of these recoveries.

## PROGRAM HIGHLIGHTS

The Office operates the following programs, all of which provide information and referral services, training and outreach, and systems advocacy:

- *Virginians with Disabilities Act Program* – Allows the Office to bring legal action in the event of unlawful discrimination in employment, voting, state programs and activities, education, transportation, housing, and access to places of public accommodation.
- *Help America Vote Act Program* – Monitors the way the Commonwealth and local Boards of Elections implement the Help America Vote Act with regard to persons with disabilities. During fiscal year 2005, three individuals filed complaints against institutions under this Act. Each case was resolved through the advocacy and public awareness campaign.
- *Developmental Disabilities Program* – Protects persons with developmental disabilities who have experienced abuse, neglect, or discrimination in education, housing, employment, community programs, treatment, or services. During fiscal year 2005, the program served 75 individuals, 17 of whom were carried over from the previous year. The Office successfully closed the majority of cases with technical assistance in self-advocacy, short-term assistance, negotiations, and administrative hearings.
- *Protection and Advocacy for Individuals with Mental Illness Program* – Protects human rights and access to services for mental health facility residents or persons recently discharged, or persons living in the community who have a mental illness. During fiscal year 2005, the program served 154 individuals, 47 of whom were carried over from the previous year. Negotiations and short-term assistance resolved the majority of the cases.
- *Client Assistance Program* – Protects the rights and benefits of people who are applicants or clients of the Department of Rehabilitative Services, Department for the Blind and Vision Impaired, Center for Independent Living, or other programs funded under the Rehabilitation Act of 1973, as amended. During fiscal year 2005, the program served 68 individuals, 28 of whom were carried over from the previous year. Twenty-nine cases were still open at the end of the fiscal year. The majority of the cases were resolved through advisory/interpretational communication and negotiations.
- *Assistive Technology Program* – Assists disabled individuals in obtaining access to assistive technology devices and services. During fiscal year 2005, the program served 31 individuals, 18 of whom were carried over from the previous year. There were 16 open cases at the end of the fiscal year. Most cases were resolved using negotiation procedures, though one case required legal remedy/litigation.

- *Protection and Advocacy of Individual Rights Program* – Provides information or services that help clients overcome discrimination, barriers to living independently, or barriers to accessing benefits. The program also provides services to individuals not eligible for other advocacy programs. During fiscal year 2005, the program served 66 individuals, 27 of whom were carried over from the year before. Negotiations closed most of the cases, and two cases went to litigation.
- *Protection and Advocacy for Beneficiaries of Social Security Program* – Provides assistance and representation to social security beneficiaries with disabilities who have experienced employment discrimination based on disability, been inappropriately denied Medicaid benefits, or are at-risk of losing their job because of a loss of Medicaid benefits. The program also serves individuals who are unable to take a job because of the denial of Medicaid benefits. During the 12 month period beginning December 1, 2004, the Office served 29 individuals under this program.
- *Traumatic Brain Injury Program* – Improves access to comprehensive and high-quality services and reduces incidences of discrimination. The Office uses the program to educate individuals and families about their rights, reduce eligibility barriers for community services, and enable access to quality health care, rehabilitation, and other services. During fiscal year 2005, the program served 13 individuals, two of whom were carried over from the previous year. Five cases remained open at the end of the fiscal year. Negotiations successfully closed the majority of the cases.

## FINANCIAL HIGHLIGHTS

As illustrated in Table 1, federal grants and indirect federal cost recoveries are the primary funding sources for the Office, accounting for 92 percent of the total funding in fiscal year 2005.

Table 1

### Budget and Actual Funding Analysis by Funding Source

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Funding</u>
General fund appropriations	\$ 216,247	\$ 219,407	\$ 219,407
Indirect federal cost recoveries, special revenue	307,665	307,665	227,540
Federal grants	<u>2,219,742</u>	<u>2,439,742</u>	<u>2,348,701</u>
Total	<u>\$2,743,654</u>	<u>\$2,966,814</u>	<u>\$2,795,648</u>

Table 2

### Budget and Actual Expense Analysis by Program

	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenses</u>
Social services research, planning, and coordination	\$1,226,106	\$1,229,266	\$ 992,837
Protective services	1,277,247	1,497,247	1,497,247
Individual care services	<u>240,301</u>	<u>240,301</u>	<u>191,913</u>
Total	<u>\$2,743,654</u>	<u>\$2,966,814</u>	<u>\$2,681,997</u>

For fiscal year 2005, personnel services accounted for the largest portion (66 percent) of total expenses as shown in Table 3.

Table 3

### Expenses by Type

Personal services	\$1,781,498
Contractual services	409,758
Continuous charges	213,672
Transfer payments	231,300
Supplies and materials	14,400
Equipment	<u>31,369</u>
Total	<u>\$2,681,997</u>



# Commonwealth of Virginia

Walter J. Kucharski, Auditor

Auditor of Public Accounts  
P.O. Box 1295  
Richmond, Virginia 23218

May 25, 2006

The Honorable Timothy M. Kaine  
Governor of Virginia  
State Capital  
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.  
Chairman, Joint Legislative Audit  
and Review Commission  
General Assembly Building  
Richmond, Virginia

We have audited selected financial records and operations of the **Virginia Office for Protection and Advocacy** (Office) for the year ended June 30, 2005. We conducted our audit in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

## Audit Objectives

Our audit's primary objective was to evaluate the accuracy of the Office's financial transactions as reported in the Comprehensive Annual Financial Report for the Commonwealth of Virginia for the year ended June 30, 2005. In support of this objective, we evaluated the accuracy of recording financial transactions on the Commonwealth Accounting and Reporting System and in the Office's accounting records (PeopleSoft), reviewed the adequacy of the Office's internal control, and tested for compliance with applicable laws, regulations, contracts, and grant agreements.

## Audit Scope and Methodology

The Office's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances:

Federal grant revenues and expenditures	Small purchase charge card
Contractual services expenditures	Petty cash
Payroll expenditures	

We performed audit tests to determine whether the Office's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel; inspection of documents; review of Board minutes and appropriate sections of the Code of Virginia and contracts; and

observation of the Office's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

### Conclusions

We found that the Office properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and in the Office's accounting records. The Office records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted certain matters involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. These matters are described in the sections entitled "Governance Findings and Recommendations" and "Internal Control Findings and Recommendations."

### EXIT CONFERENCE

We discussed this report with management on June 23, 2006. Management's response is included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record and its distribution is not limited.

AUDITOR OF PUBLIC ACCOUNTS

GDS/kva



## COMMONWEALTH of VIRGINIA

Virginia Office for Protection and Advocacy  
1910 Byrd Avenue, Suite 5  
Richmond, VA 23230

(804) 225-2042  
FAX (804) 662-7057  
[www.vopa.state.va.us](http://www.vopa.state.va.us)

Toll Free Assistance  
1-800-552-3962  
(TTY or Voice)

July 6, 2006

Walter Kucharski  
Auditor of Public Accounts  
P. O. Box 1295  
Richmond, Virginia 23218

Dear Mr. Kucharski:

Thank you for providing us with the results of your audit of the Virginia Office for Protection and Advocacy (VOPA). At all times, your staff was professional and respectful. We thank you for their careful work.

We are pleased that you found proper recording of all transactions, in all material respects, in the Commonwealth Accounting and Reporting Systems and in VOPA's accounting records. As far as the remaining findings and recommendations, while we disagree with some specific details, we do agree with the need to centralize and formalize our financial procedures. In fact, we have already begun that process. As you know, VOPA has only recently assumed responsibility for our own financial operations. As this was VOPA's first audit, we intend to learn from it and to improve our operations in support of our mission.

Additionally, with respect to the recommendations made about VOPA's Governing Board, the Board leadership has received the draft report and reviewed it thoroughly. The Board leadership pledges to address swiftly the issues raised in your letter.

Thank you, again, for this positive audit report.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Colleen Miller".

V. Colleen Miller, Esq.  
Executive Director

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

BOARD MEMBERS

Maureen S. Hollowell  
Chair

P. Brent Brown  
Vice Chair

Barbara S. Barrett	Waja Grimm
Raymond F. Burmester	Susan R. Kalanges
Michael J. Cooper	Rita Kidd
William Fuller	Elizabeth Priaulx

Dink E. Shackleford

AGENCY OFFICIALS

V. Colleen Miller  
Executive Director

Yvette Simard  
Fiscal Officer

Annette Sannuti  
Business Manager