

**STATE OF NEBRASKA
ATTESTATION REVIEW
OF THE
NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES**

JULY 1, 2007 THROUGH JUNE 30, 2008

**This document is an official public record of the State of Nebraska, issued by
the Auditor of Public Accounts.**

**Modification of this document may change the accuracy of the original document
and may be prohibited by law.**

Issued on December 28, 2009

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

TABLE OF CONTENTS

<u>Sections</u>	<u>Page</u>
Independent Accountant’s Report	1 - 2
Background	3 - 7
Criteria	8
Summary of Procedures	8 - 10
Summary of Results	10 - 30
Overall Conclusion	30 - 31
Exhibit 1 – Food Service Expenditures by Institution	
Exhibit 2 – Travel Expenditures	
Exhibit 3 – Federal Surplus Property – Revenues, Expenditures, and Ending Balance	
Exhibit 4 – Canteen Profit and Loss Schedule	
Exhibit 5 – Schedule of State Prisoner Reimbursements to Counties	
Exhibit 6 – Example of Overtime Calculation	
Exhibit 7 – Top 10 Correctional Employees Earning Overtime/Comp	
Exhibit 8 – Overtime Comparison	
Exhibit 9 – Fixed Assets for Divisions 2, 21, and 888	
Exhibit 10 – Unable to Locate Fixed Assets	
Exhibit 11 – Contract Conflict of Interest Emails	
Exhibit 12 – Department’s Response to Comment 17	



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
P.O. Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
www.auditors.state.ne.us

Independent Accountant's Report

Citizens of the State of Nebraska:

We have reviewed the payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations of the Nebraska Department of Correctional Services for the period July 1, 2007, through June 30, 2008. The Nebraska Department of Correctional Services' management is responsible for the payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations. We did not obtain a written assertion regarding such matters from management. Subsequent to the above review period, certain matters came to our attention that are reported in the Summary of Results section of this report as Comments 17 and 18.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations. Accordingly, we do not express such an opinion.

As established in State statutes, Cornhusker State Industries (CSI) is operated and accounted for by the Nebraska Department of Correctional Services. The Nebraska Auditor of Public Accounts performed a review of certain subject matters of CSI for the fiscal year ended June 30, 2008. Our report on the subject matters of CSI was issued separately on May 11, 2009, and is not included in this report. To fully disclose the total financial activity of the Nebraska Department of Correctional Services the financial data of CSI is included in this report.

Based on our review, nothing came to our attention that caused us to believe that the payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations are not presented, in all material respects, in conformity with the criteria set forth in the Criteria section.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Nebraska Department of Correctional Services' payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over the Nebraska Department of Correctional Services' payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations or on compliance and other matters; accordingly, we express no such opinions.

Our review disclosed certain findings that are required to be reported under *Government Auditing Standards* and certain other matters. Those findings, along with the views of management and the identification of significant deficiencies and material weaknesses, are described below in the Summary of Results. A significant deficiency is a deficiency in internal control, or combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria or framework such that there is more than a remote likelihood that a misstatement of the subject matter that is more than inconsequential will not be prevented or detected.

This report is intended solely for the information and use of the Citizens of the State of Nebraska, management of the Nebraska Department of Correctional Services, others within the Nebraska Department of Correctional Services, and the appropriate Federal and regulatory agencies; however, this report is a matter of public record, and its distribution is not limited.

Signed Original on File

Mike Foley
Auditor of Public Accounts

Don Dunlap, CPA
Assistant Deputy Auditor

December 28, 2009

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

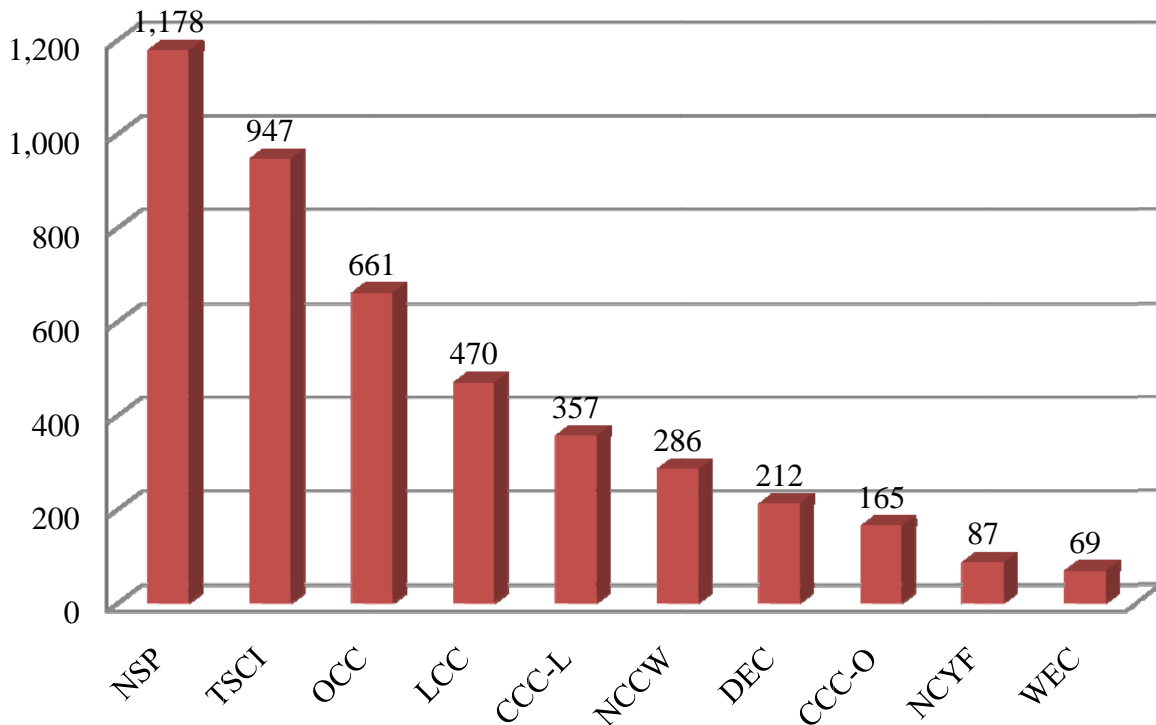
Background

The Nebraska Department of Correctional Services (Department) was established as a separate agency of State government in 1973. The Department has responsibility for the custody, control, study, correctional treatment, training, and rehabilitation of persons committed to it so they may be prepared for lawful and productive community living. The Department's Director is appointed by the Governor. The Department's operating funds come from State general funds, supplemented by Federal funds, and certain cash funds. The Department maintains and administers the Nebraska State Penitentiary (NSP), the Lincoln Correctional Center (LCC), the Diagnostic and Evaluation Center (DEC), the Community Corrections Center – Lincoln (CCC-L), the Omaha Correctional Center (OCC), the Community Corrections Center – Omaha (CCC-O), the Nebraska Correctional Center for Women in York (NCCW), the Nebraska Correctional Youth Facility in Omaha (NCYF), the Work Ethic Camp in McCook (WEC), and the Tecumseh State Correctional Institution (TSCI). The Department also supervises adults on parole, administers parole services, and operates Cornhusker State Industries (CSI) and Federal Surplus Property (FSP). As of June 30, 2008, the Department employed 2,116.25 full-time equivalents, 69 of these full-time equivalents were involved in CSI operations.

As of June 30, 2008, the Department was responsible for 4,432 individuals. The following chart shows populations by institution:

Population Numbers

As of June 30, 2008



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
 ATTESTATION REVIEW

The mission of the Department is to serve and protect the public by providing control, humane care, and program opportunities for those individuals placed in its custody and supervision, thereby facilitating their return to society as responsible persons. The following schedule represents the legislative appropriations for the General Fund along with the revenues received and expenditures incurred on a modified cash basis for the Department for the fiscal year ended June 30, 2008:

SCHEDULE OF APPROPRIATIONS, REVENUES, AND EXPENDITURES

For the Fiscal Year Ended June 30, 2008

APPROPRIATIONS AND REVENUES:

Appropriations, General Fund	\$ 153,062,263
Intergovernmental	1,707,606
Sales & Charges	17,566,413
Miscellaneous	12,003,251
TOTAL APPROPRIATIONS AND REVENUES	\$ 184,339,533

EXPENDITURES:

Personal Services	\$ 110,758,540
Operating	61,808,114
Travel	1,009,782
Capital Outlay	1,577,211
Government Aid	3,910,000
TOTAL EXPENDITURES	\$ 179,063,647

The Department's CSI operation engages in the manufacturing and marketing of a wide variety of products and services produced by inmates within the correctional facilities. CSI sales are limited to Nebraska State agencies, county and local governments, political subdivisions, public schools and colleges, non-profit organizations, and private venture associates. As mentioned in the Independent Accountant's Report, the Auditor of Public Accounts performed a separate review of certain subject matters of CSI for the fiscal year ended June 30, 2008. Our report on these subject matters was issued on May 11, 2009, and is not included in this report. CSI's portion of the Department's revenues and expenditures above, which are included in this separate report, are as follows:

SCHEDULE OF REVENUES AND EXPENDITURES

For the Fiscal Year Ended June 30, 2008

REVENUES:

Intergovernmental	\$ 147,739
Sales & Charges	9,869,836
Miscellaneous	349,870
TOTAL REVENUES	\$ 10,367,445

EXPENDITURES:

Personal Services	\$ 4,259,986
Operating	6,263,566
Travel	115,818
Capital Outlay	529,642
TOTAL EXPENDITURES	\$ 11,169,012

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
 ATTESTATION REVIEW

The Department provides humane, comprehensive, and integrated health care; including program opportunities consistent with the standards of quality and scope of services found in the community to promote the health and well being of those individuals placed in the Department's custody. The Department has medical clinics in each of their ten institutions and also has three hospitals which are located at NSP, DEC, and TSCI. All hospital facilities are licensed by the Nebraska Department of Health and Human Services and fully comply with all requirements imposed by that agency. The following schedule and chart show health services expenditures on a modified cash basis for the Department for the fiscal year ended June 30, 2008:

SCHEDULE OF HEALTH SERVICES EXPENDITURES

For the Fiscal Year Ended June 30, 2008

Expenditure	Amount
Payroll	\$ 11,818,841
Contract Medical	9,190,629
Pharmaceuticals	2,508,417
Medical Services (<i>Note 1</i>)	2,293,632
Other Expenditures (<i>Note 2</i>)	436,741
Medical Supplies (<i>Note 3</i>)	423,020
Lab Services	354,945
Health Services Equipment	147,721
Dental Services	129,144
Other Supplies (<i>Note 4</i>)	109,862
Travel	87,837
Radiological Services	86,882
Repair & Maintenance	72,041
Grand Total	\$ 27,659,712

Note 1: Medical Services include nursing, hospital, pharmacy, psychological, physician, medical assessment, optical, and ambulance services.

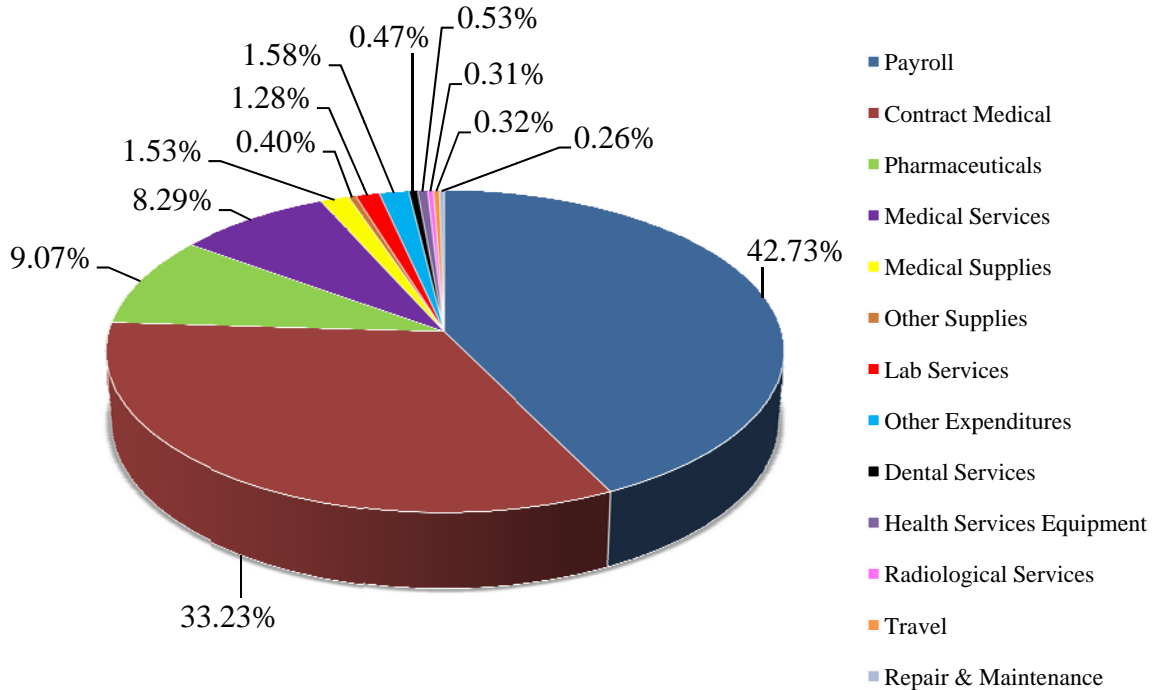
Note 2: Other Expenditures include such items as postage, freight, data processing, publications, dues and subscriptions, conference registrations, fuel, electricity, rent, temporary services, IT consulting, software, insurance, advertising, accounting and auditing services, recycling, awards interest, debt service, pest, third party reimbursement, janitorial, surety and notary, and hazardous waste disposal expenses.

Note 3: Medical Supplies include general medical, lab, and x-ray supplies.

Note 4: Other supplies include such items as office, cleaning, food service, cell/dorm, education and recreational, engineering technology and communication, construction and maintenance, gas/oil, clothing, non-capitalized equipment, and other miscellaneous supplies.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
 ATTESTATION REVIEW

Health Services Expenditures
 For the Fiscal Year Ended June 30, 2008

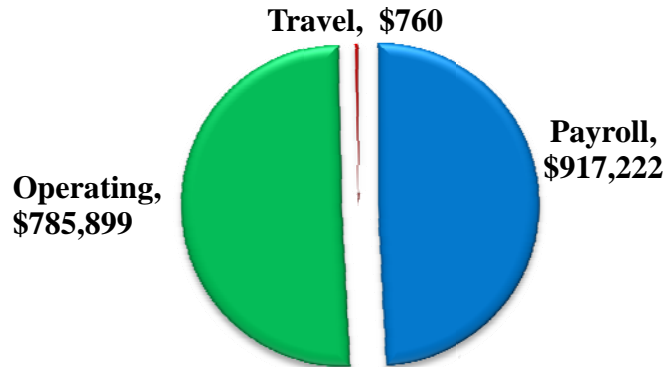


The Department is required to ensure that all persons confined within the Department are offered meals which are nutritionally adequate, properly prepared, and attractively served in a sanitary manner and within budgetary limitations. Each institution is responsible for providing food service to inmates which adheres to the Department's guidelines. **Exhibit 1** represents food service costs at each of the Department's ten institutions for the fiscal year ended June 30, 2008.

The Department has developed and maintains educational services to meet individual inmate needs. Educational instruction is made available to all inmates. Education staff work to provide an integrated program of educational offerings and services designed to provide individual inmates those specific educational opportunities most used and relevant to their futures. Educational options provided to inmates include assessment, literacy instruction, English as a second language, Adult Basic Education/General Education Development (ABE/GED), and life skills/pre-release courses. Effective January 1, 2008, the Department began operating all of the educational programs with certified teachers as employees versus a contract that previously provided the majority of educational programs. The following chart shows General Fund education expenditures for the Department on a modified cash basis for the fiscal year ended June 30, 2008:

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Educational Expenditures
For the Fiscal Year Ended June 30, 2008



The Department, in order to develop and maintain services for both employees and inmates, incurs travel related expenditures. For the fiscal year ended June 30, 2008, the Department had \$893,965 in travel related expenditures. **Exhibit 2** shows travel expenditures for the Department by program and expenditure category.

The goal of the FSP program is to make available to eligible organizations surplus Federal government property on a fair and equitable basis. The Federal government allocates surplus property to a designated State agency, for the State of Nebraska that agency is the Department of Correctional Services, which is responsible for managing the FSP and charges a service fee to eligible donees for items they acquire. Donees include State and local governmental agencies, public and non-profit schools and hospitals, non-profit museums and zoos, certain agencies providing assistance to the elderly, impoverished, homeless, and needy, and service educational activities. Examples of Federal surplus property managed by the Department include office furniture, shop equipment, electronic equipment, heavy equipment, vehicles, tractors, mowers, forklifts, and generators. **Exhibit 3** represents revenues, expenditures, and fund balances on a modified cash basis for FSP for five fiscal years.

Canteens are located at NSP, LCC, OCC, TSCI, NCCW, CCC-L, NCYF, and WEC. These canteens function as stores for the inmates to make purchases for items such as food, clothing, personal hygiene, pop tokens, televisions, CD players, and school supplies with their own money. **Exhibit 4** shows each institution's canteen sales, cost of goods sold, operating expenses, other revenues, and income or loss for the fiscal year ended June 30, 2008.

The Department received \$3,910,000 in General Fund appropriations for the fiscal year ended June 30, 2008, to reimburse counties for holding State prisoners as defined in Neb. Rev. Stat. § 47-119.01 (Reissue 2004). Counties are paid at a rate of \$35 per eligible day, except during any quarter where the approved county jail reimbursement claims exceed the available appropriations; the State shall prorate each county's total reimbursement for that quarterly fiscal period in proportion to the remaining appropriation. Requests are made on a quarterly basis by the county sheriff for reimbursement from the State. **Exhibit 5** shows aid disbursed up to the statutory limit for the fiscal year ended June, 30, 2008.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Criteria

The criteria used in this attestation review were State Statutes; Department Administrative Regulations and Operational Memorandums; Department of Administrative Services' (DAS) Purchasing and Accounting Manual; Nebraska Administrative Code (NAC); Records Retention Schedule; Fair Labor Standards Act; and the Nebraska Association of Public Employees (NAPE) Labor Agreement.

Summary of Procedures

Pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2008), the Auditor of Public Accounts (APA) conducted an attestation review of the payroll, fixed assets, canteen operations, supplies inventory, inmate trust activity, expenditures, revenues, and Federal surplus property operations for the period July 1, 2007, through June 30, 2008, in accordance with standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

The APA performed a number of procedures common to the subject matter identified. These procedures included gaining an understanding of internal controls, analytical procedures, risk identification, and follow up on prior year recommendations. The APA's attestation review also consisted of the following procedures by subject matter:

Payroll

1. Selected employees with a large amount of total hours worked, overtime, and shift differential to ensure hours agreed to supporting timesheets.
2. Selected pay rate changes to determine if the change was supported and appropriate.
3. Tested terminated employees' final payout to determine if the amount paid and leave accrued was calculated correctly.
4. Selected employees to determine if their adjusted service date was correct and if vacation and sick leave were being earned at the correct rate.

Fixed Assets

1. Tested retirement of assets, accuracy of assets with a status of "Unable to Locate" (UL), and expenditures coded to the fixed asset object account which were not added to the Department's fixed asset listing.
2. Tested the Department's fixed asset listing to determine if assets were in the Department's possession and properly tagged.
3. Determined why some assets did not have assigned dollar values or had unusual asset valuations.

Canteen Operations

1. Determined if profits were appropriately transferred to the Inmate Welfare Fund in a timely manner.
2. Performed detail testing of canteen expenditures and sales receipts.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Supplies Inventory

1. Selected pharmacy, warehouse, and canteen inventory to determine the accuracy of inventory on hand compared with inventory records.
2. Determined if appropriate logs were being maintained at facilities to track drugs coming in from the Department's Central Pharmacy and given to inmates.
3. Observed a portion of the physical inventory taken at the Department's Central Warehouse during their conversion to the Nebraska Information System (NIS) and verified count quantities were correctly transferred to NIS.

Inmate Trust Activity

1. Reviewed the June 30, 2008, bank, NIS, and inmate trust accounting system reconciliation with supporting documentation, and confirmed the bank balance.
2. Performed detail testing of inmate trust receipts and disbursements.
3. Reconciled inmate payroll shown in the Department's inmate trust accounting system to NIS.
4. Obtained the inmate securities listing as of June 30, 2008, and agreed all items listed to the actual security document and ensured the inmate was still held by the Department.

Expenditures

1. Performed detail testing of medical, food, travel, educational expenditures; reimbursements to counties; journal entries; and negative records.
2. Selected expenditures from the repairs and maintenance object account to determine if bids were received.

Revenues

1. Reviewed bank reconciliations for emergency cash funds, journal entries, and negative records.
2. Performed cash counts as needed.

Federal Surplus Property Operations

1. Obtained a listing of property orders from the U.S. General Services Administration (GSA) for the fiscal year 2008 to confirm amounts received by FSP.
2. Performed detail testing of FSP orders.

Exit Conference

An exit conference was held on August 27, 2009, to discuss the results of this attestation review. Those in attendance from the Department of Correctional Services were:

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

<u>Name</u>	<u>Title</u>
Robert Houston	Director
Joyce Woofter	Assistant Controller
Mary Carmichael	NDCS Materiel Administrator
John McGovern	Deputy Director of Cornhusker State Industries
Robin Spindler	Deputy Director for Administrative Services
Marian Layman	Human Resources Administrator
Inga Hookstra	Controller
Larry Wayne	Acting Deputy Director for Institutions

Summary of Results

The summary of our attestation review noted the following findings and recommendations by subject matter:

PAYROLL

1. Overtime Rate Calculation

Title 29 CFR § 778.107 (July 1, 2007) states, “The general overtime pay standard in section 7(a) requires that overtime must be compensated at a rate not less than one and one-half times the regular rate at which the employee is actually employed.” In addition, Title 29 CFR § 778.108 (July 1, 2007) states, “Section 7(e) of the Act requires inclusion in the ‘regular rate’ of ‘all remuneration for employment paid to, or on behalf of, the employee’ ...”

Per the US Dept of Labor, the overtime premium due to employees should be calculated as follows: 1) Total straight time earnings divided by total hours worked equals the employee’s regular rate. 2) Multiply the regular rate by .5 to determine the half time premium. 3) Multiply the half time premium by the overtime hours to determine the total overtime premium due. Earnings must include on call and shift differential pay. See **Exhibit 6** for an example of how this calculation should be performed for an employee earning overtime.

Per the 2007-2009 NAPE Labor Contract employees covered by the bargaining unit who work second or third shift shall receive \$.60 in shift differential for hours worked. If any other employees work fifty percent or more of a shift between the hours of 6:00 pm and 6:00 am, they shall receive \$.60 shift differential for all hours worked that shift. NAPE also outlines various shift differential rates, ranging from \$1 to \$2.50, for Nurse I, Nurse II, and direct care staff positions. Furthermore, NAPE states employees at a salary grade equivalent to salary grade 14 or below and required to be on-call/standby status shall be compensated at the rate of 8% of the normal hourly rate of pay for each hour in such on-call/standby status.

The US Dept of Labor Employment Standards Administration states a two-year statute of limitations generally applies to the recovery of back pay. In the case of a willful violation, a three-year statute of limitations may apply. Employers who willfully violate the act may be prosecuted criminally and fined up to \$11,000. Additionally, employers who willfully or repeatedly violate the minimum wage or overtime pay requirements are subject to a civil money penalty of up to \$1,100 for each such violation.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

The Department was not including shift differential and on-call hours when calculating employees' overtime premium as outlined by the Fair Labor Standards Act. During the fiscal year ended June 30, 2008, the Department paid a total of 2,619 employees of which 1,218 were paid shift differential and 103 were paid on-call.

The Department's incorrect overtime premium rate calculation is considered a significant deficiency. A similar finding was noted in the prior attestation report for the fiscal year ended June 30, 2005.

We recommend the Department develop policies and procedures for calculating overtime rates in accordance with Fair Labor Standards. We further recommend the Department work with their legal counsel and the labor union to resolve this issue.

Department's Response: The Department agrees that we have not calculated the overtime premium rate in accordance with the Fair Labor Standards Act. DCS Accounting and Human Resources staff along with our legal counsel have been working with the Department of Administrative Services regarding the correct payment process in the Nebraska Information System. We agree that we should have corrected this following the previous audit. We anticipate the correction being implemented in September or October. Following the implementation in NIS we will provide back pay adjustments as determined appropriate by our legal counsel.

*Department's Additional Response: See an update to the above response on **Exhibit 12**, page 4.*

2. Shift Differential Pay

Per the 2007-2009 NAPE Labor Contract, "Bargaining unit members on duty and working fifty percent or more of a shift between the hours of 6:00 p.m. and 6:00 a.m. shall receive sixty cents per hour shift differential for all hours worked on that shift." Additionally, "Shift differential for Nurse I and Nurse II is as follows: 2nd and 3rd shifts weekdays \$1.50; 1st shift weekends (Saturday and Sunday) and holidays \$2.00; 2nd shift weekends (Saturday and Sunday) and holidays \$2.50; and 3rd shift weekends (Friday and Saturday) and holidays \$2.50." Good internal control also requires payroll be reviewed to ensure that amounts paid are correctly calculated.

For two of three employees tested, auditor's calculation of shift differential hours, based on actual hours worked in the time keeping system, did not agree to their paystub for shift differential hours. For one of three employees tested, shift differential was not paid in accordance with the NAPE Labor Contract due to an improper shift differential rule being entered into the time keeping system for the employee. Both errors involved employees who were receiving payment of back shift differential. These errors caused an underpayment of \$178 and an overpayment of \$6 to the employees involved.

Without adequate internal controls, there is an increased risk of loss or misuse of State funds.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

We recommend the Department implement policies and procedures to ensure payroll is calculated correctly. These procedures should include a second review of any back pay calculations. We also recommend the Department implement a second review of the initial set-up of employees' daily rules in the time keeping system as these daily rules will determine if an employee is eligible for shift differential.

Department's Response: All back pay situations will be reviewed by an HR Manager prior to processing the payment. All employees are initially set up in KRONOS with their schedule for Pre-Service training. Once they are at the facility and a primary schedule is determined KRONOS is updated. Supervisors must modify the daily rules as deemed appropriate, pay rules can change daily for an employee depending on their assignment. Additionally, Payroll Verification has been implemented on a Department wide basis. This process selects 15 employees at random plus all staff that has an HR 22 level in NIS to have their payroll verified from KRONOS/time sheet to the Pay Stub.

3. Timesheets

Neb. Rev. Stat. § 84-1001(1) (Reissue 2008) states, "All state officers and heads of departments and their deputies, assistants, and employees . . . shall render not less than forty hours of labor each week . . ." In addition, sound business practices, as well as good internal control requires hours actually worked be adequately documented, for example, via timesheets, time logs, etc., and such documentation be kept on file to provide evidence of compliance with the requirements of § 84-1001. Furthermore, good internal control also requires that whenever employees accrue vacation and sick leave, adequate documentation be maintained to support the employees' having "earned" the amounts recorded in the leave records by documenting not less than forty hours being rendered each week.

During our audit, we noted the Department's overtime exempt employees were not required to maintain a timesheet and/or other similar supporting documentation. These employees record only the leave they use during the month. As a result, there was no support that these employees rendered not less than forty hours of labor each week as required by Statute. As of January 31, 2009, the Department had 369 exempt employees.

A similar comment was noted in the prior attestation report for the fiscal year ended June 30, 2005.

Without adequate records to support hours worked, there is an increased risk for fraudulent or inaccurate payment of regular hours worked and/or accumulation of leave.

We recommend the Department establish a policy requiring all Department employees to maintain adequate supporting documentation, such as timesheets or the simple addition of a signed certification added to their leave reporting to comply with State statute. An example of certification wording would be as follows: "I certify that I have worked or been on approved leave for at least 40 hours each week of this pay period."

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Department's Response: We believe that overtime exempt employees are not required by the Fair Labor Standards Act to document their specific hours; furthermore, this could lead to the implication that they are a non-exempt employee. Signing a statement is an unnecessary process. Exception reporting for leave is more appropriate for those employees not eligible for overtime.

APA's Response: We do not believe exception reporting of time worked provides adequate documentation to determine whether an employee worked 40 hours per week. We recommend the Department implement procedures to ensure Neb. Rev. Stat. § 84-1001(1) requirements are met.

4. Terminations

Neb. Rev. Stat. § 81-1328 (Reissue 2008) states, "Each employee, upon retirement, dismissal, or voluntary separation from state employment, shall be paid for unused accumulated vacation leave." Neb. Rev. Stat. § 81-1325 (Reissue 2008) states, "Each employee . . . upon termination of employment with the state by reason of retirement or voluntary resignation in lieu of retirement, be entitled to a one-time payment of one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the time of termination or retirement."

Neb. Rev. Stat. § 81-1320 (Reissue 2008) provides a schedule of sick leave earnings and Neb. Rev. Stat. § 81-1328 (Reissue 2008) provides a schedule of vacation leave earnings for permanent employees. Neb. Rev. Stat. § 81-1320 (Reissue 2008) states, "Permanent employees of the State of Nebraska shall be entitled to sick leave with full pay . . . provided, that employees who are regularly employed less than forty hours a week shall be entitled to sick leave proportionate to their regular workweek." Good internal control requires termination dates be correctly entered into the accounting system, amounts paid be calculated using the correct hourly rate, leave hours be accrued based on actual hours worked, and payout of leave balances be completed in a timely manner.

In fiscal year 2008, the Department had 511 terminations. During our testing of five terminations, we noted the following:

- The termination date in the accounting system differed from the supporting documentation contained in the employee's personnel file for one employee by four days.
- One employee was overpaid \$.563 per hour for 2 hours of regular pay, 1.5 hours of vacation pay, and 15.25 hours of comp used and \$.045 per hour for 80 hours of on-call. Total overpayment to the employee was \$14.
- Two employees were not properly paid their vacation or sick leave balances at termination. These two employees are due \$151 and \$1,011.
- One employee's sick and vacation earnings were not properly adjusted for hours not worked during the pay period. This employee over accrued 2.465 hours of vacation leave and 2.155 hours of sick leave.
- Two employees had untimely leave payouts or pay adjustments. For one employee, the Department did not process the individual's vacation and sick leave payout until six months after the termination. For the other employee, the Department did not process a pay adjustment until almost a year after the employee's termination.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
 ATTESTATION REVIEW

A similar comment was noted in the prior attestation report for the fiscal year ended June 30, 2005.

Without adequate internal controls, there is an increased risk of loss or misuse of State funds. Additionally, without adequate procedures over terminations, there is an increased risk that vacation and sick leave payoff amounts are not properly paid to employees and that improper leave balances on the accounting system will be available to employees if they return to employment with the State.

Considering the number of problems we noted in our small sample, we recommend the Department implement procedures to have a second individual review terminated employees' final pay checks for all terminations and this review be documented. This second review should include a verification of final payout amounts and leave balance accruals. We also recommend the Department ensure leave payouts and pay adjustments be completed in a timely manner.

Department's Response: All termination payments will be reviewed by an HR Manager prior to processing the final payment. Additionally, the DCS recently implemented the Payroll Verification process which does include terminated employees in our sampling and therefore a review of final pay, if an employee was selected in the sample. Finally, the payroll reconciliation process would identify employees that are terminating and would require verification of the number of hours being paid as compared to documentation in NIS reports.

5. Department Overtime

During our testing of payroll, we noted the Department spent or obligated \$5,045,065 on 237,632 hours of overtime worked by 2,133 employees for the fiscal year ended June 30, 2008. As it was beyond the scope of our review, we did not calculate an estimate of any possible savings the Department would realize if the Department was staffed at various levels of overtime. The Department may want to consider performing such an analysis.

Information is presented below on overtime costs by facility for the fiscal year ended June 30, 2008.

Overtime by Facility	
Institution	2007 - 2008 Amount
TSCI	\$ 1,285,733
NSP	840,643
LCC	339,609
NCCW	320,798
Central Office	191,094
OCC	180,442
DEC	165,973
CSI	144,385

(Continued)

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
 ATTESTATION REVIEW

Overtime by Facility	
Institution	2007 - 2008 Amount
NCYF	64,123
WEC	45,150
CCC-O	35,238
CCC-L	28,654
Adult Parole Administration	8,577
FSP	7,787
Overtime Total	3,658,206
Comp Time Total	1,529,456
Holiday Overtime at 1.5	(142,597)
Grand Total	\$ 5,045,065

Comp time earned is shown as one lump sum figure, as comp time earned by facility was not readily available. Additionally, holiday at 1.5 was not included in total overtime/comp hours because those hours represent work required to be done on a holiday. No matter how many staff members the facility has, those days must be worked by someone, and thus were considered "regular hours." In addition, an adjustment was made for holiday overtime as one lump sum because for part of the year the Department coded holiday at 1.5 to the same object account as overtime and a determination of the amount by facility was not readily available.

Exhibit 7 outlines the top ten employees who earned overtime and comp time during the fiscal year. During the fiscal year ended June 30, 2008, the top ten employees each worked overtime ranging from 929 to 1,426 hours in addition to their regular hours worked which ranged from 2,105 to 2,122 hours.

Exhibit 8 compares the overtime worked in hours and paid out in dollars by the Department for the fiscal year ended June 30, 2008, to the overtime paid out for the fiscal year ended June 30, 2009. It was noted the overtime paid out for the fiscal year ended June 30, 2009, was \$342,307 and 14,096 hours less than the previous fiscal year.

We recommend Department management review the appropriateness of the overtime hours worked by their employees. The APA will refer this matter to the Legislature's Performance Audit Committee for their consideration.

Department's Response: The Department has been working to reduce the overtime. The Director has testified before the Legislature in regards to the Department's overtime. We have essential posts that must be filled to operate our facilities and union contract provisions regarding overtime must be followed. We have decreased our vacancies from over 200 in FY08 to approximately 80 at the present time. Total overtime paid in FY09 was over \$300,000 less than in FY08.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

FIXED ASSETS

6. Fixed Assets

Neb. Rev. Stat. § 81-1118.02 (Reissue 2008) states in part, “Each executive, department commission, or other state agency ... shall annually make or cause to be made an inventory of all property, including furniture and equipment, belonging to the State of Nebraska and in the possession, custody, or control of any executive, department, commission, or other state agency.”

Good internal control requires procedures to ensure all fixed asset records are accurate and up-to-date at all times, fixed asset integrity reports are reviewed on a regular basis to detect and correct any errors, and all fixed assets are assigned costs when purchased or have costs added in a timely manner.

Within the Department, each institution is assigned a division number and is responsible for completing an annual inventory of all fixed assets listed under their division number. As of June 30, 2008, the Department had 3,250 assets totaling \$194,477,211 at original cost.

During our review we noted the following:

- The annual physical inventory count for fiscal year 2008 was not completed for the entire Department. The annual inventory was only partially completed for Central Office, Division 2, and no inventory count was completed for either Division 21 or Division 888. Division 21 corresponds to the Hastings Correctional Center which was closed on June 1, 2005. Division 888 does not correspond to any institution. **Exhibit 9** shows the total dollar amount and number of assets assigned to Divisions 2, 21, and 888, as well as the number of assets and their dollar amounts which were completely, partially, or not inventoried at all.
- As of June 30, 2008, the Department had identified 72 assets as being “unable to locate.” Not all “unable to locate” items on the fixed asset listing had the correct status identified. For both assets tested, the item was incorrectly identified as “unable to locate.” We also noted items which the Department had been unable to locate during their physical inventory as still “working” per their fixed asset listing. Additionally, unable to locate assets that should have been removed from the Department’s fixed asset listing (assets which have not been found for over two years) have not been removed. See **Exhibit 10** for the complete listing of June 30, 2008, assets identified as unable to locate by the Department.
- All eight ionscan machines/narcotic instruments on the Department’s fixed asset listing had problems with a wrong tag number, location, working status, or serial number.
- Two of 30 fixed assets selected for testing, could not be located. These two items were a PC with an original cost of \$1,620 and a narcotic instrument with an original cost of \$21,435. Additionally, ten assets selected were listed under the incorrect division, the wrong business unit, or had an incorrect location description.
- As of June 30, 2008, the Department had 30 assets on their fixed asset listing which were valued at \$1 instead of their fair market value. Of these 30 assets, 25 were purchased within the last eight years. Six of these assets were land, 23 were equipment, and 1 was a building.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

- No one is reviewing the Additions and Retirements Report, the Unposted Fixed Assets Report, the Fixed Asset No Cost Integrity Report, and the Fixed Asset Category Code Omissions Report.

The Department's lack of controls over fixed assets is considered a significant deficiency.

Without adequate policies and procedures in place to ensure all fixed assets are accurate and up-to-date at all times, there is an increased risk of theft or misuse of State property. When fixed asset reports are not reviewed on a regular basis, there is an increased risk errors and irregularities related to fixed assets may remain undetected.

We recommend the Department complete an annual physical inventory, review assets with an "unable to locate" status, and implement policies and procedures to correct and maintain fixed asset records. We further recommend the Department regularly review all pertinent fixed asset reports.

Department's Response: The Department agrees that Fixed Asset procedures needed to be improved. We have made modifications in responsibilities to ensure records will be updated in NIS in a timely manner and all reports reviewed. Additionally, we believe the bar coding scanning process established by DAS will provide better accountability. Eight additional items have been located totaling \$24,517. Revised total of unable to locate is \$118,281. Division 888 has had all items changed to division 19 TSCI. The only fixed asset remaining in Division 21 is the Building.

CANTEEN OPERATIONS

7. Canteen Expenditures

Good internal control requires goods be recorded in the inventory tracking system at the correct number of units purchased and price. Good business practices require goods be purchased and paid for at their contracted rates.

During our testing of canteen expenditures we noted the following:

- For one of ten expenditures tested, the amount charged by the vendor did not agree to the contract rate.
- Seven of ten expenditures tested were incorrectly entered into the inventory tracking system. Variances in incorrect quantities ranged from 2 to 160 units, while variances in incorrect prices ranged in total from \$38 below the invoiced amount to \$73 above the invoiced amount.

The Department's lack of controls over canteen inventory input is considered a significant deficiency.

When contract prices are not verified, there is an increased risk of over/underpayment for goods. When inventory is incorrectly entered into the inventory tracking system, there is an increased risk of loss of State funds.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

We recommend the Department ensure expenditures are for the contracted rate. We also recommend the Department have a second individual review all goods entered into the inventory tracking system.

Department's Response: We believe that we are generally paying the contract price and that this one instance was a minor error. Canteens are requested to attach a copy of their entry document in the Corrections Information and Tracking system to the receiver they forward to Purchasing. This point will be referred to a Canteen Work Group that was previously created to identify areas to improve efficiency and create process improvements.

SUPPLIES INVENTORY

8. Pharmaceutical Logs

Department of Correctional Services Administrative Regulation 115.18 states, "Each Hospital, Medical Clinic, Dental Clinic and Laboratory will maintain a single inventory log for all medical control items in their respective areas."

The OCC medical clinic only had two controlled stock drug logs on hand during our visit and staff only began retaining these logs in February 2009. Controlled stock drug logs prior to the beginning of February 2009 had been shredded by OCC medical personnel. No reasonable explanation was provided by medical staff on why these logs were shredded. During the fiscal year ended June 30, 2008, OCC received six controlled stock drugs. They received 830 tablets of hydrocodone, 170 tablets of acetaminophen/codeine, 17 tablets of diazepam, 60 tablets of diphenoxylate/atropine, 20 tablets of isometh dichlor, and 1 injection of lorazepam.

By not maintaining adequate records of controlled stock drugs, there is a very significant risk that controlled drugs were misused or misappropriated.

We recommend the Department implement procedures to ensure each institution's medical clinic is maintaining controlled stock drug logs in accordance with all applicable regulations.

Department's Response: We agree that the logs should be maintained and this issue was addressed immediately.

9. Inventory Monitoring

Good internal control requires an inventory system designed to safeguard assets and provide reliable financial records.

The Department was using an inventory system called IntelliTrack up until February, 1, 2009, to track supplies kept at their Central Warehouse. Since its implementation in 2000, the IntelliTrack system has gradually become less reliable as the system became overwhelmed by the volume of inventory records processed by the Department's Central Warehouse in Lincoln.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

During the fiscal year ended June 30, 2008, this system could not provide reliable inventory records for the Department and the APA could not determine the accuracy of this system. On February 1, 2009, the Department started to use NIS to track their Central Warehouse inventory items.

Without a reliable inventory system, there is an increased risk for errors, abuse, or misappropriation of State assets.

We recommend the Department ensure inventory tracking systems provide reliable data. In addition, until such time that management is confident the Department's Central Warehouse inventory is complete and accurate, additional monitoring of the records of the Warehouse is recommended. We also recommend the Department ensure accurate data was converted from the old inventory system to the new inventory system.

Department's Response: We agree that the Central Warehouse needed an adequate system; which is why we chose to place the inventory and sales in NIS. A physical inventory was taken at conversion and we have completed our reconciliation of the data between the two systems. A second physical inventory has since been taken and appropriate adjustments processed. Monthly meetings occur to monitor the inventory and review inventory adjustments.

10. Canteen Inventory

Department of Correctional Services Administrative Regulation 113.05 states, "Any adjustments made in supply/inventory records to account for discrepancies between physical count and amounts recorded are to be reviewed and approved, in writing, by the Warden/Program Administrator, or designee, at each program/institution. Adjustments made in excess of one hundred dollars (\$100) are to be forwarded to the DCS Materiel Administrator, for review and approval." Good internal control also requires procedures be in place to ensure inventory records are accurate and approval of adjustments are on file.

For the fiscal year ended June 30, 2008, the Department had net sales at their nine canteens of \$3,367,966. During our testing of supply inventory, we noted the following:

- At NSP three of six inventory counts performed did not agree to inventory records and for all three inventory adjustments tested the adjustment approval was not kept on file. Variances noted when performing inventory counts ranged from one to 24 units and inventory adjustments ranged from \$285 to \$1,920. Additionally, we noted at NSP that canteen employees could make inventory adjustments to either of the institution's two canteen stores regardless of which store they actually worked in.
- At TSCI five of six inventory counts performed did not agree to inventory records and for all three inventory adjustments tested the adjustment approval was not kept on file. Variances noted when performing inventory counts ranged from one to seven units and inventory adjustments ranged from \$106 to \$3,970.
- At OCC one of six inventory counts performed did not agree to inventory records. The variance noted when performing these inventory counts was for one unit.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

- Hundreds of adjustments were made to the Department's canteen inventory records during the fiscal year ended June 30, 2008.

When inventory records are not accurate, there is an increased risk of theft or loss of supplies. Additionally, when adjustments are not forwarded to the proper personnel for review and approval, there is an increased risk errors, irregularities, or abuse may remain undetected.

We recommend the Department ensure inventory records are accurately maintained and are restricted to only those individuals with a logical need for such access. Additionally, we recommend the Department keep on file all approvals for adjustments over \$100.

Department's Response: The Department agrees that it is important for canteen inventory to be accurate. This issue had already been identified as a subject for the previously created Canteen Work Group. Procedures for approving adjustments will be reviewed as well by this work group.

INMATE TRUST ACTIVITY

11. Segregation of Duties

Good internal control includes a plan of organization, procedures, and records designed to safeguard assets and provide reliable financial records. A system of internal control should include proper segregation of duties so no one individual is capable of handling all phases of a transaction from beginning to end.

During our review we noted one individual who has access to the inmate trust bank account can also gain full access to the inmate tracking system data without the knowledge and approval of management. Additionally, we noted two individuals who can complete the daily balancing of the inmate trust account activity also have the ability to enter batches in the inmate tracking system, access the check stock, print checks, and use the check signer.

Without proper internal controls, there is an increased risk individuals could conceal errors, irregularities, or fraud.

We recommend the Department periodically review employees' access to the inmate accounting system to ensure the access is appropriate for their job function. Additionally, we recommend system access be approved by someone other than the employee requesting the access. Furthermore, we recommend the Department consider removing access to either the check stock, check signer, or the check printer for those employees who complete the daily balancing of the inmate trust account activity.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Department's Response: This access is necessary to accomplish the day to day tasks with such a small staff. We have other compensating controls to reduce the risk in this area to an acceptable level. Monthly balancing is performed by a staff member who is not otherwise assigned to Inmate Accounting. All Inmate Accounting staff are aware of the rule which does not allow the staff member that is balancing that week to undertake transactions for which they balance. In addition, because the balancing goes back and forth between two staff members, there is a certain amount of review of the other staff member's work that is inherent in that process. To further strengthen our compensating controls, we have moved the batch documentation review from the balancing clerks to a position that is otherwise assigned to financial accounting duties and only has inquiry access in CIT.

12. Inmate Trusts

Neb. Rev. Stat. § 83-153 (Reissue 2008) states, in part, "Any claim to money or personal property in the hands of the...Department of Correctional Services to the credit of an inmate or patient of any institution subject to the jurisdiction of such departments shall be required to be asserted within two years from and after either (1) the date of the death of the inmate or patient, while confined in such institution, or (2) the date of the discharge of the inmate or patient from such institution. If such claim is not presented within the time limited by this section, it shall be forever barred."

Neb. Rev. Stat. § 83-154 (Reissue 2008) states, in part, "Upon the failure to assert a claim for money within two years as prescribed by section 83-153...the Department of Correctional Services shall transfer such money to a special fund to be set up for the use and benefit of all the inmates or patients of the institution in which the deceased or discharged inmate or patient was confined."

Good internal control requires adequate policies and procedures to be in place over inmate accounts to monitor, collect, and disburse inmates' funds and to follow-up on account reconciling items to determine the necessary actions that should be taken to correct the item to ensure accurate balances in the inmate trust funds.

During our review we noted the following:

- The Department maintains monetary securities such as savings accounts, savings bonds, and certificates of deposit for inmates. The Department is still holding monetary securities for three inmates who have been released and one inmate who is deceased. The amounts of these securities range from \$25 to \$10,000. Three of these inmates were released or deceased over two years ago.
- The Hastings Correctional Center has been closed since 2005; however, the inmate trust fund for this institution has a balance of \$211 which has not yet been returned to the proper individuals.
- The Department's June 30, 2008, trust fund reconciliation included adjustments dating back to 1997.
- The Department had 19 direct deposits totaling \$5,209 on their June 30, 2008, trust fund reconciliation which had not yet been credited to any inmate's accounts. Thirteen of these direct deposits, totaling \$3,496, were made over two years ago.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

- Forged checks totaling \$126 from 2001 were still a reconciling item on the trust fund's June 30, 2008, reconciliation.

Without adequate procedures in place for the review of account balances and reconciling items, there is an increased risk of loss or misuse of inmate funds and misstatement of trust fund balances.

We recommend the Department develop and implement policies and procedures to ensure all inmate securities are properly returned to an inmate upon their release or death. If the funds are not able to be returned, the amounts should be transferred to the inmate welfare fund as required by § 83-154. We further recommend the Department implement procedures to follow-up on account reconciling items to determine if the funds will be recovered, if the trust fund should be replenished, or if funds need to be returned to a released inmate.

Department's Response: Issues with securities for released and deceased inmates have been addressed. Checks for the Hastings Detainees have been written and are being held in Accounting's safe, but we do not have a forwarding address. A process has been implemented to review all Inmate Trust Fund adjustments quarterly. Direct Deposits cannot be identified unless the inmate turns in their pay stub; we only know the sending employer. Accounting does work with facility staff to obtain the information. Once these are two years old they will be transferred to Inmate Welfare.

13. Unclaimed Property

Neb. Rev. Stat. § 69-1307.01 (Reissue 2003) states that personal property held by public entities or political subdivisions which remained unclaimed for more than three years is presumed abandoned. Neb. Rev. Stat. § 69-1310 (Reissue 2003) requires such items be reported to the Nebraska State Treasurer before November 1 of each year as of June 30 next proceeding.

Neb. Rev. Stat. § 83-153 (Reissue 2008) states, in part, "Any claim to money or personal property in the hands of the...Department of Correctional Services to the credit of an inmate or patient of any institution subject to the jurisdiction of such departments shall be required to be asserted within two years from and after either (1) the date of the death of the inmate or patient, while confined in such institution, or (2) the date of the discharge of the inmate or patient from such institution. If such claim is not presented within the time limited by this section, it shall be forever barred."

Neb. Rev. Stat. § 83-154 (Reissue 2008) states, in part, "Upon the failure to assert a claim for money within two years as prescribed by section 83-153...the Department of Correctional Services shall transfer such money to a special fund to be set up for the use and benefit of all the inmates or patients of the institution in which the deceased or discharged inmate or patient was confined."

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

During our review we noted the following:

- The Central Office's emergency cash fund had one outstanding check for \$27 over three years old and ten outstanding checks totaling \$38 over two years old. None of these checks were due to inmates.
- NCCW's emergency cash fund had seven outstanding checks totaling \$28 over three years old and one check for less than a \$1 over two years old. Seven of these checks were due to inmates.
- The Department is depositing all unclaimed checks from the Inmate Trust Fund into the Inmate Welfare Fund despite some of the checks not being payable to inmates.

Management indicated that they believe most of their outstanding checks are to inmates and that the time required to identify checks which are not to inmates would not be worthwhile. Management also interprets § 83-154 as allowing the Department to transfer all outstanding checks from the inmate trust fund to the inmate welfare fund after two years without regard to payee.

Without adequate procedures to review outstanding items due to vendors or inmates, there is an increased risk of noncompliance with State statute and the Unclaimed Property Act.

We recommend the Department implement procedures to ensure the proper disposition of outstanding items. This includes reviewing items to determine if monies are due to an inmate and need to be transferred to the inmate welfare fund or if monies are due to other individuals and should be transferred to Unclaimed Property.

Department's Response: Outstanding checks from the emergency cash fund that do not relate to inmate funds will be submitted under the unclaimed property statute. We believe that outstanding checks from the inmate trust fund are appropriate to transfer to inmate welfare based on State Statute 83-154.

APA's Response: Neb. Rev. Stat. § 83-154 only allows money to the credit of an inmate to be transferred from the inmate's account to the inmate welfare fund. It is the APA's position that funds issued from an inmate's account to a vendor no longer represent funds which are due to the credit of an inmate but are due to the vendor and thus should be submitted to Unclaimed Property if they are not cashed within three years.

EXPENDITURES

14. Travel

Neb. Rev. Stat. § 81-1174 (Reissue 2008) states, in part, "Whenever any state officer, employee, or member of any commission, council, committee, or board of the state is entitled to be reimbursed for actual expenses incurred by him or her in the line of duty, he or she shall be required to present a request for payment or reimbursement each month to the Director of Administrative Services."

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

Neb. Rev. Stat. § 81-1176 (Reissue 2008) states, in part, "...mileage request shall be allowed for each mile actually and necessarily traveled in each calendar month by the most direct route regardless of the fact that one or more persons are transported in the same motor vehicle."

Neb. Rev. Stat. § 81-1025 (Reissue 2008) states, in part, "(1) Each operator of a state-owned motor vehicle, except a special-use vehicle as prescribed in section 81-1011 or a motor vehicle in which a state agency holds the title, shall report the points between which the motor vehicle traveled each time used, the odometer readings at such points, the time of arrival and departure, the necessity and purpose for such travel, the license number of such motor vehicle, and the department to which such motor vehicle belongs."

Good internal controls require obtaining and approving contracts with individuals prior to incurring expenses related to those contractual services, maintaining adequate supporting documentation of expenditures for subsequent review, and that expenditures be reviewed to ensure compliance with State and Department travel policies. Good internal control also requires that in-state hotels be directly billed to the Department to ensure that sales, use, and lodging taxes are not unnecessarily paid by the Department.

During our review we noted the following:

- One of five expense reimbursement documents tested was not submitted monthly.
- Meals and lodging were not reasonable based on the Federal GSA per diem rate per place of travel for one of four documents. Total amount for meals and lodging over the Federal GSA per diem rates were \$100 and \$799 respectively.
- There was not an approved contract on file for two contractors prior to the payment of the contractors' travel expenses. In addition, the in-state lodging incurred by these two contractors was not directly billed to the Department resulting in sales, use, and lodging taxes to be unnecessarily paid by the Department.
- Two of eleven travel documents tested could not be traced to supporting documentation. While vehicle logs noted reasons for the trips, the exact locations of destinations were not documented and no additional support for these trips was provided.
- Mileage did not appear reasonable for two documents. Exact locations of destinations were not documented and no documentation was provided to support the excess mileage.
- One employee's vehicle log was mathematically incorrect and contained excessive mileage on 21 of 29 trips recorded.
- One Transportation Service Bureau (TSB) invoice tested contained an incorrect mileage rate charge. The incorrect rate resulted in an underpayment of \$44.
- One employee arrived one day early for a conference and incurred lodging and meal expenses. The additional amount reimbursed to the employee for the additional day was \$204. In addition, the employee rented a car for the conference; however, the individual was staying at the hotel where the conference was held. There was an airport shuttle available for \$43 roundtrip. Total car rental cost was \$138.

Without adequate policies and procedures in place for the review and approval of expenditures, there is an increased risk of loss, theft, or misuse of State funds or property and noncompliance with State statutes.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

We recommend the Department implement policies and procedures to ensure all expenditures for travel are reasonable and necessary and that supporting documentation to support travel expenses be maintained for subsequent review. We further recommend the Department obtain approved contracts for services prior to the incurrence of expenses.

Department's Response: We believe that we have appropriate policies and procedures in place. These policies are reviewed annually, including a review with the Business Managers. Errors may occur and when they do we discuss the issues with the Business Manger so the issue can be addressed with the appropriate employees. The Department has worked to improve the documentation on vehicle logs, specifically with Adult Parole.

15. Purchasing Cards

Neb. Rev. Stat. § 81-118.02 (Reissue 2008) states an itemized receipt shall accompany all State purchasing card purchases. Per the Department of Correctional Services Purchasing Card Program Manual, purchasing cards may not be used for single purchases in excess of \$500 or for items which are available through statewide contracts. Additionally, the Department of Correctional Services Purchasing Card Program Manual states cardholders should notify vendors that purchases are Nebraska state sales tax exempt. If vendors refuse to grant this exemption the purchase may still be made, but cardholders are to notify accounting that sales tax was paid so a refund can be obtained. Furthermore, the Purchasing Card Program Manual states it is the cardholder's responsibility to enter data on the purchasing card receiving log and have other staff verify receipt of the goods to the invoice or packing list and sign the receiving log.

For the period July 1, 2007, to December 31, 2007, the Department had \$321,952 of purchasing card transactions. Of these transactions, we tested \$35,497 and noted the following:

- Seven transactions violated the Department's \$500 transaction limit.
- One fixed asset purchased with a purchasing card was not assigned a cost on the Department's fixed asset listing.
- One individual purchased items which could be obtained through a statewide contract.
- Sales tax of \$28 was paid in August 2007 and as of March 2008 no refund had been received for this amount.
- The receiving log was not signed for a purchase of \$4,573.

The Department also maintained a pending list of items for May 2007 through December 2007 card purchases which included pending refunds, receiving signatures, and original invoices/itemized receipts. The total amount of purchasing card transactions on this pending list was \$30,190. As of March 2008, this pending list had not been fully resolved.

Without the proper monitoring of the purchasing cards by business managers/accounting to ensure cardholders are following Department purchase card guidelines or without the timely follow-up of pending items, there is an increased risk that unauthorized and/or inappropriate purchases are being made.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

We recommend the Department ensure purchases are in compliance with Department purchase card guidelines and any discrepancies are followed up in a timely manner.

Department's Response: Use of purchasing cards increases the efficiency of many purchases. The Department has followed up on all such violations with notification to the appropriate business manager. The business manager will discuss the problem with the cardholder and will respond to DCS Accounting. All pending items from that time period have been cleared. We have suspended use of cards for a time period when needed. The Department takes their duties in this area very seriously. At the same time, we recognize that continued use of purchasing cards is in the best interest of the Department and the State of Nebraska.

REVENUES

16. Emergency Cash Funds

Neb. Rev. Stat. § 83-914 (Reissue 2008) states an emergency revolving fund, which is not to exceed six thousand dollars for any one institution or the Central Office of the Department, shall be used by the chief executive officer of each institution or the Central Office as an emergency cash fund and shall be accounted for once a month.

Department of Correctional Services Administrative Regulation 113.01 Fiscal Management provides for the use of the emergency cash funds for various items such as for gate pay and inmate's account balance up to a maximum of \$100, to reimburse or advance employees for monies spent for meals and/or lodging of an inmate while in travel status, payments deemed to be of an emergency nature, and to pay invoices for goods which are less than \$10 provided that there are not multiple invoices to the same vendor.

Good internal control requires that petty cash/emergency revolving funds be used only for such purposes as they were created, and not for the use of paying refunds or other claims that do not meet the criteria for which such funds were established. Sound accounting practice also requires that refunds be processed through the State's accounting system to ensure better accountability for such transactions.

During our review we noted the following:

- Six of ten expenditures tested did not appear reasonable and appropriate for the emergency cash fund. These expenditures include CSI refunds, FSP refunds, inmate Holiday Gift Plan refunds, and multiple purchases of goods from the same vendor for the Inmate Stamp Club which were in excess of the \$10 limit.
- OCC does not perform a monthly reconciliation of their emergency cash fund as required by statute.

When emergency cash funds are not used and accounted for in accordance with State statute and established Department policies, there is an increased risk of loss or misuse of State funds.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

We recommend the Department utilize the emergency cash fund for only those purposes established in State statute and administrative regulations. We further recommend the Department ensure facilities account for emergency cash funds as prescribed by State statute. This accounting would include a monthly reconciliation.

Department's Response: We believe these were reasonable situations that for efficiency were appropriate use of the Emergency Cash Fund. OCC has been reminded that reconciliations are due monthly and this will be monitored by Accounting.

APA's Response: We do not feel expenditures for CSI refunds, FSP refunds, and multiple purchases of goods from the same vendor in excess of the \$10 limit are appropriate per the Department's emergency cash fund usage criteria in Administrative Regulation 113.01.

SUBSEQUENT EVENTS

17. Psychological Services Contract

Department of Correctional Services Administrative Regulation 112.31 states, "An employee will not enter into any contracts with the Department on their own behalf or on behalf of any business in which the employee or a member of the employee's family has an interest."

Neb. Rev. Stat. § 49-14,101.01(1) (Supp. 2009) provides, "A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated."

Subsequent to fieldwork completion of our review, the APA received information regarding a potential conflict of interest in connection with the Department's award of a psychological services contract worth approximately \$200,000. Based on this information and our subsequent investigation, we noted the following.

A Request for Proposal number 44989-Z6 (RFP) was sent to interested parties, detailing the nature of the psychological services sought by the Department. Three vendor proposals were received in response. On August 25, 2009, the Department issued a letter of intent to contract with First Step Recovery Center, Inc. (First Step), a Lincoln-based treatment facility whose president, a practicing psychologist, was then employed as the Behavioral Health Assistant Administrator for Substance Abuse by the Department. In addition, the spouse of the employed psychologist was on the board of directors and the owner of First Step. Although not a member of the Department's contract proposal evaluation committee, the employed psychologist was instrumental in preparing the RFP and developing the criteria/weighting to be used in evaluating the bidders. Furthermore, per the Department, the evaluation committee was comprised of staff working under the direct supervision of the employed psychologist. It was revealed also that First Step was awarded a previous \$4,800 service contract with the Department during the

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

employed psychologist's tenure with the Department. The employed psychologist was directly involved in the selection process of this contract as he provided written justification for First Step to be selected as a sole source provider. The purchasing department subsequently approved First Step as a sole source provider.

The proposal submitted by First Step indicated clearly the employed psychologist's relationship with both that company and the Department; however, the document did not disclose that either the employed psychologist or his spouse had a financial interest in the company. The APA also noted various personnel within the Department had an awareness of some sort of relationship between the employed psychologist and First Step.

We discovered the three evaluation committee members were aware, to various degrees, of a relationship between the employed psychologist and First Step. Additionally, APA review of Department emails indicated the Department's assistant procurement manager, materiel administrator, health services' chief operating officer, and the deputy director had an awareness of a potential conflict of interest. (See **Exhibit 11** pages 1 through 2.) Emails from the Department's legislative coordinator also indicate the employee's supervisor being aware of the employed psychologist's relationship to First Step. (See **Exhibit 11** page 3 for a copy of this email.) Furthermore, emails from First Step's associate business manager corroborates Department personnel were aware of a relationship. (See **Exhibit 11** pages 4 through 6.)

Regardless, the Department's contract procedures failed to follow up on this potential conflict. The conflict was later brought to the Department's further attention by one of the unsuccessful bidders, who filed a grievance with the Department. Upon receiving this grievance on August 26, 2009, the Department issued an amended letter of intent to contract instead with Lutheran Family Services, rescinding its earlier acceptance of First Step's proposal in the process. Then, on August 31, 2009, the Department issued another amended letter of intent to contract and placed the RFP on hold, thus rescinding all previous letters of intent to contract.

Additionally, this grievance was sent to Administrative Services State Materiel Division (State Materiel). State Materiel also made inquiries into what procedures broke down. The Department's responses to these inquiries can be found on pages 7 through 9 of **Exhibit 11**.

After being placed on unpaid administrative leave pending investigation of the matter, the employed psychologist subsequently resigned from the Department on October 8, 2009. An internal investigation regarding this matter was performed by the Department and a copy of this investigation was provided and reviewed by the APA. The information contained in this investigation was considered when drafting the content of this comment.

Without proper procedures to ensure conflicts of interest do not exist or are properly addressed when awarding contracts, there is an increased risk Department employees may obtain financial gains, other than compensatory, from their employment. Additionally, with the lack of proper internal control procedures, there is an increased risk that fraud or waste may occur.

We recommend the Department conduct a thorough review of their contract procedures and revise their procedures to ensure such conflicts of interest do not go undetected. Specifically we

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

recommend procedures include obtaining a list of the board of directors and letters of incorporation for companies bidding on contracts. Additionally, members of the Department's contact proposal evaluation committees should be properly trained to look for and report any potential conflicts of interest. Moreover, we recommend the Department consult the Attorney General regarding this matter. Finally, we recommend that the Department consider what legal implications, if any, this incident might have upon its ability to conduct future business with First Step. The APA will also be referring this matter to the Accountability and Disclosure Commission.

Department's Response: See Exhibit 12.

APA's Response: Although the Department conducted their own internal investigation into this matter, the APA conducted an independent investigation. The APA's investigation confirmed some of the conclusions reached by the Department's internal investigator. Additionally, on page 4 of the response, the Department states that the October 29, 2009, email is the only indication alleging any person at the Department may have known about First Step's ownership; however, we noted the following:

- **An email sent in March 2008 by the Department's Legislative Coordinator, see Exhibit 11, page 3, clearly indicates the employee's supervisor had knowledge that the psychologist was the founder of First Step. This knowledge was affirmed by an interview with the Department's Behavioral Health Administrator.**
- **In this interview the Behavioral Health Administrator states he was aware the employee was the owner of First Step at time of hire in April 2005.**
- **Furthermore, interviews with a Department psychiatrist indicated his ongoing knowledge of the employee's ownership of First Step.**

18. Use of State Computer and Staff Time

Neb. Rev. Stat. § 49-14,101.01(1) (Supp. 2009) provides, "A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated."

Neb. Rev. Stat. § 49-14,101.01(2) (Supp. 2009) provides, "A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain."

Subsequent to the fieldwork completion of our review, the APA received information regarding a Department employee using the Department's administrative staff and resources under his official care while receiving personal financial gain from an outside source. Based on this information and our subsequent investigation, we noted the following.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

In line with authorized practices, a Department employee became an adjunct professor at a Nebraska college in August 2009. Per the university's financial system, the adjunct professor, received \$2,000 from September 1, 2009 through December 18, 2009 while receiving his normal full-time pay from the State of Nebraska during the same time period.

On December 15, 2009, the APA met with the Director, the employee involved, and two administrative assistants to discuss the situation. The following was confirmed:

- The Department employee was teaching the course at the university and was using his Department email and phone for course services.
- The Department employee was having his Administrative Assistant assist with typing of exams, syllabi, and other class items using Department equipment. Additionally, the Administrative Assistant was sending emails using Department email addresses.

Based on our review and supporting documentation the employee was using Department resources to receive personal financial gain.

The Department's procedures and controls failed to detect and prevent staff from using Department equipment resources for personal financial gain. Without proper procedures to ensure equipment and resources are being used appropriately, there is an increased risk Department employees may obtain financial gains using their current employment. Additionally, with the lack of proper internal control procedures, there would be an increased risk that fraud or waste may occur.

We recommend the Department conduct a thorough review of their employees' use of Department staff and resources to better ensure they are being used for Department purposes. The APA will be referring this matter to the Accountability and Disclosure Commission.

Department's Response: NDCS agrees with the finding and has conducted a thorough review of its procedures and controls related to use of Department equipment resources for personal financial gain. The Department is making the recommended upgrades to policy, training, and monitoring.

Overall Conclusion

Numerous errors involving payroll shift differential adjustments and overtime were noted as well as problems with terminated employee payouts. One of the major issues concerning payroll was the shift differential overtime rate calculation which was also noted in the fiscal year ended June 30, 2005, attestation report and which we considered a significant deficiency for the fiscal year ended June 30, 2008. Our office recommends the Department work with the labor union and their legal counsel to resolve this shift differential overtime rate calculation immediately. During the fiscal year ended June 30, 2008, the Department's payroll included 2,619 employees.

Records to maintain fixed assets were not always up to date. Additional issues we noted included missing fixed assets, assets in the wrong locations, and assets that the Department had marked as "unable to locate" but were actually on hand. Also, a complete physical inventory

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ATTESTATION REVIEW

was not conducted to help correct these records. Fixed asset records were considered to be a significant deficiency. In order to correct these fixed asset deficiencies, we recommend the Department take steps to adequately monitor fixed assets. These steps would include physical counts of all assets and review of pertinent fixed asset reports to help ensure assets have not been misappropriated.

Errors were noted when items ordered for the canteens were received and entered into the inventory system. We considered these canteen inventory entry errors to be a significant deficiency. We recommend the Department reduce these input deficiencies by implementing a second review of inventory additions.

Procedures to monitor inventory did not appear adequate in certain areas. A major oversight occurred concerning the logs used to track certain controlled drugs at the OCC. These controlled drug logs were shredded by staff. We recommend the Department review and develop their inventory monitoring procedures to provide greater control of the Department's assets.

We noted instances of unclaimed securities and funds not being transferred to the inmate welfare or Unclaimed Property fund as required by State Statute. We also noted issues involving the Department's internal controls over the inmate trust fund.

Several issues involving errors and noncompliance were noted for travel expenditures and purchasing card use.

The Department's emergency cash funds were not always used as they were originally designed. These emergency cash funds should not be used to make repeated payments to vendors who could be set up and paid using the State's accounting system.

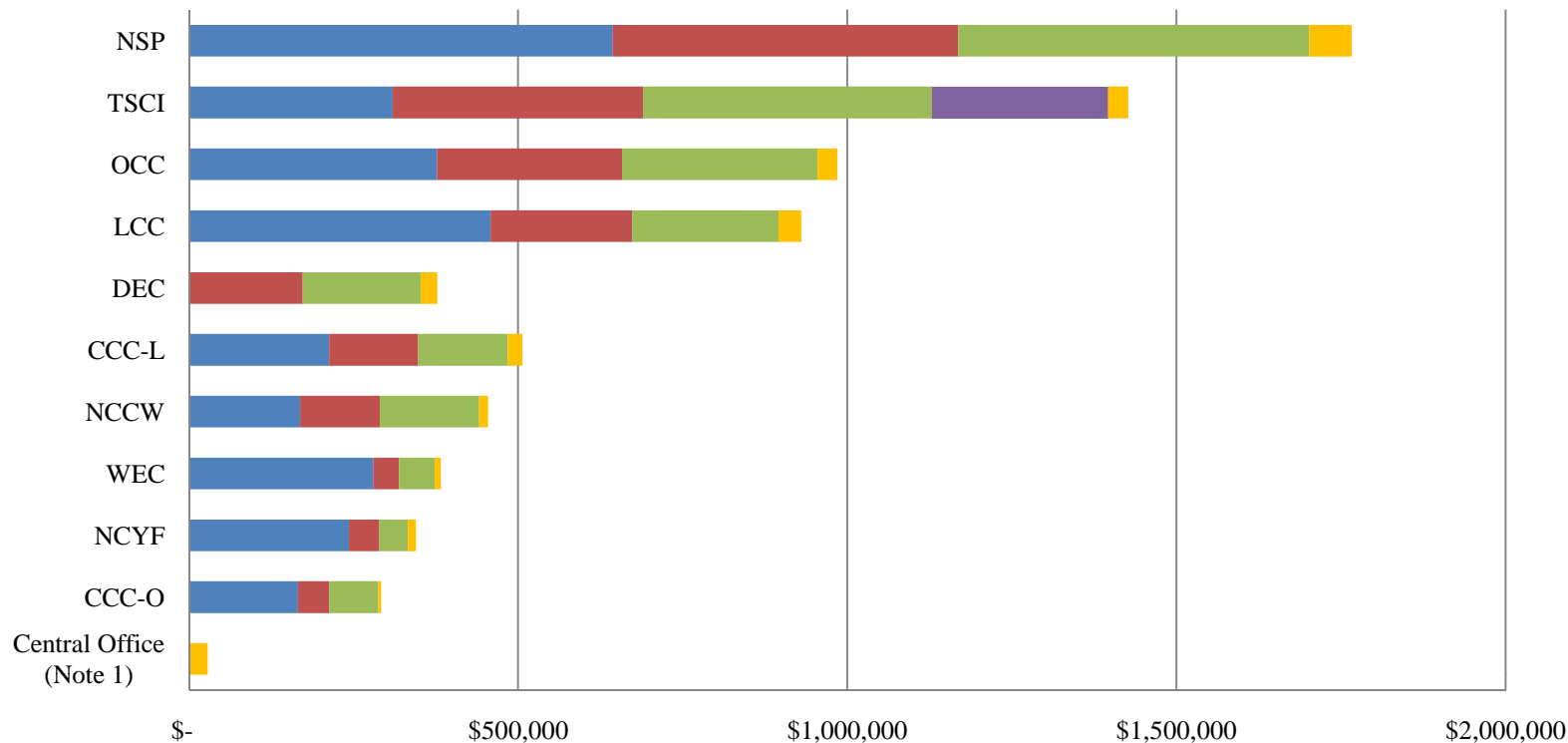
The APA staff members involved in this attestation review were:

Don Dunlap, CPA, Assistant Deputy Auditor
Amy Hock, Auditor-In-Charge
Tyler Niday, CPA, Auditor-In-Charge
Dennis Sugden, Auditor II
Erin Pope, Auditor
Kelli Roach, Auditor II

If you have any questions regarding the above information, please contact our office.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
FOOD SERVICE EXPENDITURES BY INSTITUTION
 For the Fiscal Year Ended June 30, 2008

Exhibit 1



	Central Office (Note 1)	CCC-O	NCYF	WEC	NCCW	CCC-L	DEC	LCC	OCC	TSCI	NSP
■ Payroll	\$-	\$165,261	\$243,017	\$280,172	\$168,876	\$212,968	\$-	\$458,204	\$376,581	\$309,346	\$643,738
■ Grocery-Staples	\$-	\$47,729	\$45,954	\$38,967	\$120,999	\$135,307	\$172,825	\$214,904	\$281,252	\$380,317	\$524,598
■ Meat, Dairy, Produce & Bread	\$-	\$74,300	\$43,693	\$54,380	\$150,863	\$135,794	\$179,381	\$222,681	\$296,771	\$439,072	\$533,371
■ Contracted Food Services	\$-	\$-	\$-	\$-	\$-	\$-	\$-	\$-	\$-	\$266,876	\$-
■ Food Serv. Supp. & Other	\$28,109	\$4,712	\$11,940	\$9,219	\$13,719	\$22,455	\$24,794	\$34,404	\$30,467	\$31,219	\$64,685

Note 1: Amount in Central Office Food Serv. Supp. & Other represents purchases for food service uniforms. Food service uniforms purchased by the Central Office are not charged back to the individual institutions.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
TRAVEL EXPENDITURES
For the Fiscal Year Ended June 30, 2008

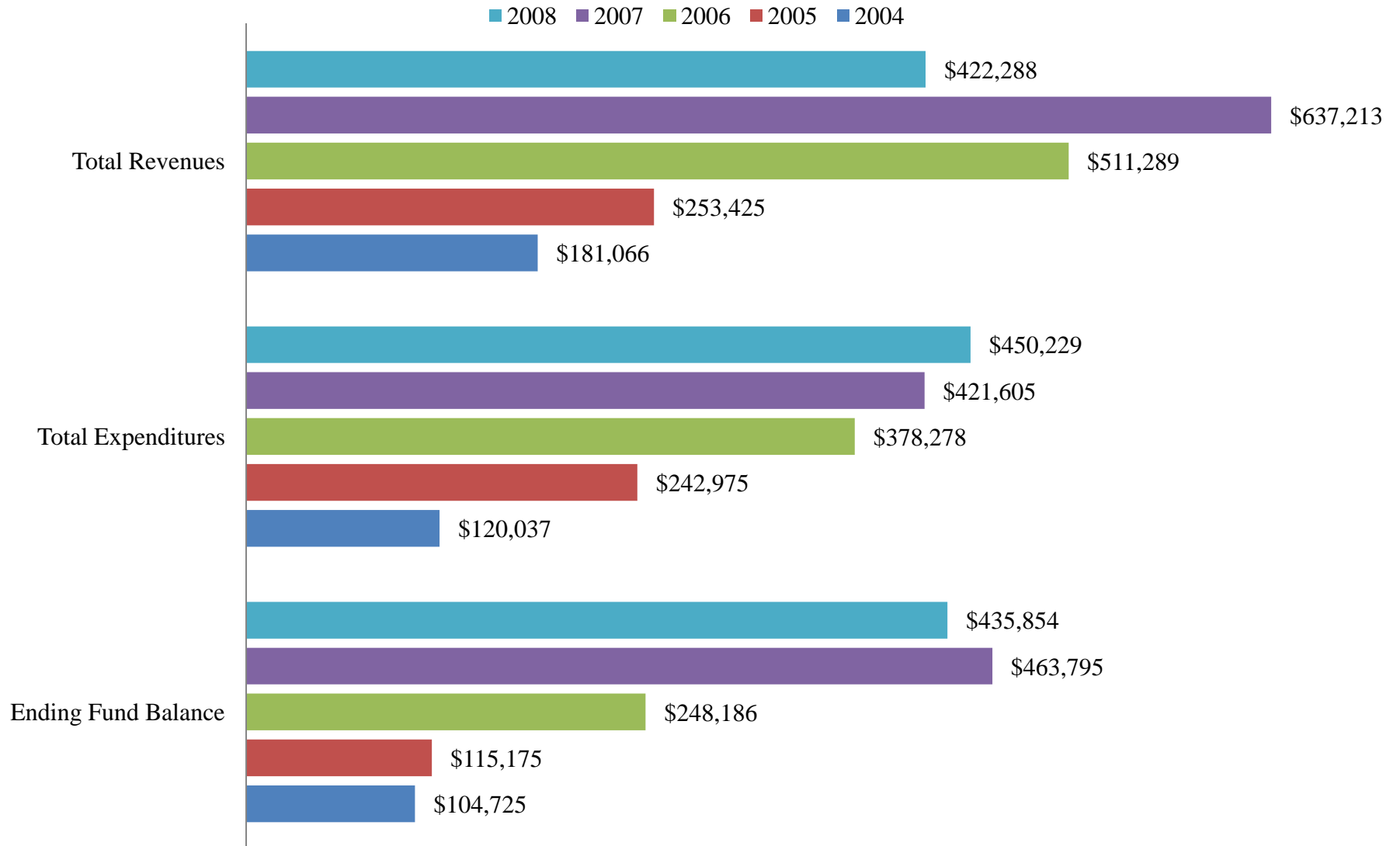
Exhibit 2

Institution	State-Owned Vehicle Transporation	Board & Lodging	Personal Vehicle Mileage	Commercial Transportaion	Contractual Service Travel	Miscellaneous	Total
Central Office	\$ 152,011	\$ 41,112	\$ 9,836	\$ 10,021	\$ 7,206	\$ 1,271	\$ 221,457
Adult Parole Administration	119,220	1,769	-	365	-	10	121,364
TSCI	110,431	4,546	-	249	-	113	115,339
WEC	92,038	17,490	2,789	-	375	-	112,692
CCC-O	72,241	13	452	-	-	-	72,706
CCC-L	59,850	78	800	780	-	13	61,521
OCC	50,230	1,463	2,046	-	-	5	53,744
NSP	32,448	2,897	236	919	-	38	36,538
NCYF	25,801	1,559	127	-	-	70	27,557
NCCW	21,939	1,703	2,707	359	-	25	26,733
LCC	21,663	2,250	575	1,605	-	81	26,174
DEC	9,986	1,468	-	-	-	-	11,454
FSP	-	4,540	-	2,023	-	123	6,686
Totals	<u>\$ 767,858</u>	<u>\$ 80,888</u>	<u>\$ 19,568</u>	<u>\$ 16,321</u>	<u>\$ 7,581</u>	<u>\$ 1,749</u>	<u>\$ 893,965</u>

Note: The travel expenditures above exclude expenditures related to CSI operations.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
FEDERAL SURPLUS PROPERTY
REVENUES, EXPENDITURES, AND ENDING FUND BALANCE
 For the Fiscal Years Ended June 30, 2004 through June 30, 2008

Exhibit 3



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
CANTEEN PROFIT AND LOSS SCHEDULE
For the Fiscal Year Ended June 30, 2008

Exhibit 4

	<u>NSP</u>	<u>LCC</u>	<u>OCC</u>	<u>TSCI</u>	<u>NCCW</u>	<u>CCC-L</u>	<u>NCYF</u>	<u>WEC</u>	<u>Combined</u>
Net Sales	\$ 1,050,416	\$ 550,064	\$ 509,290	\$ 677,014	\$ 265,846	\$ 258,650	\$ 51,496	\$ 5,190	\$ 3,367,966
Cost of Goods Sold	810,275	435,805	399,033	529,486	210,257	189,996	39,869	1,311	2,616,032
Gross Profit	240,141	114,259	110,257	147,528	55,589	68,654	11,627	3,879	751,934
Operating Expenses	234,658	166,710	138,465	161,813	58,192	39,854	1,984	1,288	802,964
Operating Income/(Loss)	5,483	(52,451)	(28,208)	(14,285)	(2,603)	28,800	9,643	2,591	(51,030)
Other Revenues	13,666	7,544	8,529	9,615	4,528	11,534	939	205	56,560
Net Income/(Loss)	<u>\$ 19,149</u>	<u>\$ (44,907)</u>	<u>\$ (19,679)</u>	<u>\$ (4,670)</u>	<u>\$ 1,925</u>	<u>\$ 40,334</u>	<u>\$ 10,582</u>	<u>\$ 2,796</u>	<u>\$ 5,530</u>
Profit Margin	1.82%	-8.16%	-3.86%	-0.69%	0.72%	15.59%	20.55%	53.88%	0.16%

Note: Numbers were obtained from the Nebraska Department of Correctional Services' internal use Canteen Income Statement Summaries.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
SCHEDULE OF STATE PRISONER REIMBURSEMENTS TO COUNTIES

Exhibit 5

For the Fiscal Year Ended June 30, 2008

DOUGLAS COUNTY	\$	1,801,830
LANCASTER COUNTY		793,931
HALL COUNTY DEPT OF CORRECTION		263,446
SARPY COUNTY		242,271
MADISON COUNTY		151,291
DAKOTA COUNTY		120,705
DODGE COUNTY		67,407
LINCOLN COUNTY		50,273
WASHINGTON COUNTY		45,897
BUFFALO COUNTY		43,865
ADAMS COUNTY		41,190
SCOTTS BLUFF COUNTY		38,638
CASS COUNTY		29,645
SEWARD COUNTY		24,651
DAWSON COUNTY		22,995
OTOE COUNTY		22,879
GAGE COUNTY		21,880
BUTLER COUNTY		18,865
JEFFERSON COUNTY		17,277
CUSTER COUNTY		14,412
PIERCE COUNTY		10,255
THAYER COUNTY		9,106
SHERIDAN COUNTY		8,941
MERRICK COUNTY SHERIFFS OFFICE		7,980
KEITH COUNTY		6,440
VALLEY COUNTY		5,855
FILLMORE COUNTY		5,495
DAWES COUNTY		5,250
ANTELOPE COUNTY		4,795
JOHNSON COUNTY		3,955
NEMAHA COUNTY		2,373
HAMILTON COUNTY		2,052
YORK COUNTY		1,196
DIXON COUNTY		919
CHERRY COUNTY		595
PHELPS COUNTY		563
PLATTE COUNTY		511
RICHARDSON COUNTY		194
FURNAS COUNTY		126
KEARNEY COUNTY		28
KNOX COUNTY		23
TOTAL	\$	3,910,000

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
EXAMPLE OF OVERTIME CALCULATION

Exhibit 6

Department of Correctional Services' Calculation

Straight Time Earnings	Hours	Pay Rate	Amount
Total Regular Hours Paid	72	\$ 19.500	\$ 1,404.00
Total Overtime Hours Paid - Regular Rate	8	\$ 29.250	234.00
Total Holiday Hours Paid	8	\$ 19.500	156.00
Shift Differential	64	\$ 0.60	38.40
On Call	30	\$ 1.56	46.80
Total Pay			<u><u>\$ 1,879.20</u></u>

Calculation Based on the US Dept of Labor Formula

Straight Time Earnings	Hours	Pay Rate	Amount		Hours
Total Regular Hours Paid	72	\$ 19.500	\$ 1,404.00	Regular	72
Total Overtime Hours Paid - Regular Rate	8	\$ 19.500	156.00	Overtime	8
Shift Differential	64	\$ 0.60	38.40	Holiday	0
On Call	30	\$ 1.56	46.80	Total	<u><u>80</u></u>
Total Renumeration			<u><u>\$ 1,645.20</u></u>		

Total Hours Worked 80

Regular Pay Rate (total remuneration/total hours worked) \$ 20.565

Premium Rate (one-half of the Regular Rate) \$ 10.283

Overtime Hours Worked 8

Additional Pay **\$ 82.26**

Holiday 8 \$ 19.500 \$ **156.00**

Total Pay **\$ 1,883.46**

Variance Between the Department's Calculation and the U.S.
 Department of Labor's Calculation of Total Pay Owed \$ 4.26

This example is for an employee who worked 72 regular hours, 8 holiday hours, 8 overtime hours, 30 on call hours, and 64 shift differential hours (\$.60/hour).

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
TOP 10 CORRECTIONAL EMPLOYEES EARNING OVERTIME/COMP
 For the Fiscal Year Ended June 30, 2008

Exhibit 7

Years of Service, as of June 30, 2008	Position	Note 1 Overtime Hours	Note 2 Regular Hours	Institution	Total Hours Worked	Average Hours Per Week (52 weeks/year)	Max hours on one paycheck	Total Wages Paid for the Year	Normal Wage per hour	Yearly salary at normal wage
7.1	Corrections Officer	1,426	2,118	NSP	3,544	68	153.84	\$ 60,767	\$ 13.807	\$ 28,718.56
4.2	Corrections Unit Caseworker	1,240	2,119	NSP	3,359	65	153.84	\$ 58,553	\$ 14.129	\$ 29,388.32
4.1	Corrections Officer	1,223	2,122	TSCI	3,345	64	168.76	\$ 54,040	\$ 13.143	\$ 27,337.44
6.8	Corrections Corporal	1,161	2,116	NCCW	3,277	63	187.75	\$ 60,658	\$ 14.844	\$ 30,875.52
7.6	Corrections Officer	1,120	2,121	LCC	3,241	62	170.17	\$ 56,233	\$ 14.152	\$ 29,436.16
6.6	Corrections Corporal	1,059	2,121	TSCI	3,180	61	148.68	\$ 55,477	\$ 14.506	\$ 30,172.48
6.1	Corrections Corporal	1,058	2,117	TSCI	3,175	61	147.17	\$ 55,460	\$ 14.154	\$ 29,440.32
6.9	Corrections Sergeant	995	2,107	TSCI	3,102	60	163.25	\$ 64,032	\$ 15.703	\$ 32,662.24
2.9	Corrections Corporal	973	2,105	TSCI	3,078	59	161.01	\$ 51,444	\$ 14.129	\$ 29,388.32
4.0	Corrections Corporal	929	2,116	NCCW	3,045	59	146.09	\$ 53,262	\$ 14.129	\$ 29,388.32

Note 1: Overtime hours consist of straight overtime, overtime at 1.5, straight comp time earned, comp time earned at 1.5, and holiday at 2.

Note 2: Regular hours consist of regular hours, vacation used, sick used, comp time used, roll-call, and holiday.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

OVERTIME COMPARISON

Fiscal Year Ended June 30, 2008

Compared To

Fiscal Year Ended June 30, 2009

Hour Types	Fiscal Year 2008	Fiscal Year 2009	Variance
Straight Overtime	23,636	20,522	(3,114)
Overtime at 1.5	138,333	131,408	(6,925)
Straight Comp Time Earned	9,564	8,928	(636)
Comp Time Earned at 1.5	62,354	59,208	(3,146)
Holiday at 2	3,745	3,470	(275)
Grand Total Hours	237,632	223,536	(14,096)

Institution	Fiscal Year 2008	Fiscal Year 2009	Variance
TSCI	\$ 1,285,733	\$ 843,164	\$ (442,569)
NSP	840,643	1,049,604	208,961
LCC	339,609	454,121	114,512
NCCW	320,798	174,363	(146,435)
Central Office	191,094	171,702	(19,392)
OCC	180,442	178,985	(1,457)
DEC	165,973	97,646	(68,327)
CSI	144,385	130,001	(14,384)
NCYF	64,123	70,097	5,974
WEC	45,150	67,226	22,076
CCC-O	35,238	17,656	(17,582)
CCC-L	28,654	35,424	6,770
Adult Parole Administration	8,577	18,169	9,592
FSP	7,787	7,741	(46)
Grand Totals	\$ 3,658,206	\$ 3,315,899	\$ (342,307)

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
FIXED ASSETS FOR DIVISIONS 2, 21, AND 888
As of June 30, 2008

Exhibit 9

Area	Number of Assets	Total Asset Amount
TOTAL ASSETS		
Division 2 - Central Office	818	\$ 4,814,539
Division 21 - Hastings Correctional Center	8	\$ 802,634
Division 888 - No Facility/Program Assigned	26	\$ 64,668
 INVENTORY COMPLETED		
Division 2 - Central Office		
Medical	187	\$ 1,679,012
Training	68	85,235
Buildings	2	1,317,136
Central Warehouse	7	109,832
Total Division 2 Inventory Completed	264	\$ 3,191,215
 INVENTORY PARTIALLY COMPLETED		
Division 2 - Central Office		
Information Systems	356	\$ 1,144,181
 INVENTORY NOT COMPLETED		
Division 2 - Central Office		
Remaining Areas, see <i>Note 1</i>	198	\$ 479,143
Division 21 - Hastings Correctional Center, <i>Note 2</i>	8	802,634
Division 888 - No Facility/Program Assigned	26	64,668
Total Department Inventory Not Completed	232	\$ 1,346,445

Note 1: Inventory was not completed for the following areas within Division 2: Accounting, Administration, CERT, Engineering, Mental Health, Planning and Research, Residential Treatment Center, SORT, Training, Emergency Management, Purchasing, Hastings, OCC, NSP, Substance Abuse Unit, Personnel, and Special Services.

Note 2: One of the eight assets for Hastings Correctional Center is the actual building, which accounts for \$792,722 of the total \$802,634.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
UNABLE TO LOCATE FIXED ASSETS
As of June 30, 2008

Exhibit 10

TAG NUMBER	DESCRIPTION	DATE ACQUIRED	COST
Division 2 - Central Office			
46AIS10	PC	4/1/1997	\$ 1,651
46AIS1188	PC	11/1/1995	\$ 1,620
46AIS1200	PC	6/2/2003	\$ 1,631
46AIS1320	PC	9/1/2000	\$ 1,609
46AIS1331	LAPTOP	10/1/2000	\$ 2,184
46AIS1612	SWITCH	10/1/2001	\$ 2,881
46AIS1828	PC	7/1/1998	\$ 1,741
46AIS1868	PC	10/1/1996	\$ 1,694
46AIS1982	PC	6/1/2002	\$ 7,250
46AIS1983	VIDEO VISUALIZER	6/1/2002	\$ 3,185
46AIS2001	LAPTOP	3/1/2002	\$ 2,314
46AIS2270	PRINTER	5/16/2003	\$ 1
46AIS2271	PRINTER	5/16/2003	\$ 1
46AIS2276	CONTROLLER	5/22/2003	\$ 2,500
46AIS2315	CONTROLLER	6/11/2003	\$ 2,500
46AIS299	PC	9/1/1994	\$ 2,991
46AIS3248	SERVER	8/31/2005	\$ 2,412
46AIS3323	CP60 DUPLEX PRINTER	10/20/2006	\$ 2,700
46AIS355	PC	7/1/1996	\$ 1,565
46AIS369	PC	10/1/1999	\$ 1,801
46AIS375	PC	10/1/1999	\$ 1,801
46AIS439	PC	6/1/1999	\$ 1,843
46AIS6009	PC	6/1/1998	\$ 1,720
46AMED2507	TONOMETER NON-CONTACT	6/1/1976	\$ 3,426
46AMED3130	Machine, X-Ray Mobile	4/1/1984	\$ 1,916
46AMED4280	Autoclave	2/1/1998	\$ 2,600
46AMED4287	Hand Piece Quiet Air	12/1/1997	\$ 520
46AMED4366	Autoclave for Dental-white	11/1/1998	\$ 1,685
46H747	PANASONIC CAMERA	11/1/1999	\$ 1,488
AIS1331	Laptop	10/1/2000	\$ 2,184
Number of Unable to Locate Assets = 30			\$ 63,414
Division 3 - NSP			
46N10058	Bill Changer w/ Optional Dual	8/1/1983	\$ 2,777
46N10451	Storage Cabinet Flammable 45	12/1/1985	\$ 593
46N10564	BURNISHER CLARKE #1500	4/1/1986	\$ 1,249
46N11227	Paper Shredder/Cart	1/1/1990	\$ 1,885
46N12756	Barcode System	11/1/1994	\$ 3,500
46N13130	Laptop	10/1/1996	\$ 5,547
46N13323	Paper Shredder	8/1/1998	\$ 2,400
46N13327	Steam Cleaner	5/1/1998	\$ 1,995
46N13816	Digital Scale	7/1/2000	\$ -
Number of Unable to Locate Assets = 9			\$ 19,946
Division 4 - NCCW			
46AADM349	IONSCAN, Note 1	11/1/2000	\$ 39,700
46Y377	PC	10/1/1999	\$ 1,802
Number of Unable to Locate Assets = 2			\$ 41,502
Division 6 - Adult Parole			
46P9382	Alco-Sensor	2/1/1983	\$ 375
Number of Unable to Locate Assets = 1			\$ 375

(Continued)

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
UNABLE TO LOCATE FIXED ASSETS
As of June 30, 2008

Exhibit 10

TAG NUMBER	DESCRIPTION	DATE ACQUIRED	COST
Division 7 - CSI			
46AIS2234	PC, Desktop	12/1/1998	\$ 1,778
46AIS2242	Printer	11/1/2000	\$ 4,569
46AIS2243	PC, Desktop	4/1/2000	\$ 2,434
46AIS2261	PC	4/1/2000	\$ 1,645
46AIS2265	TERMINAL	12/1/1990	\$ 2,176
46AIS2857	PC	1/27/2004	\$ 1,791
46C1601	PC, Desktop	3/1/1987	\$ 2,253
46C1727	Sewing Machine, Upholstery	7/1/1989	\$ 1,195
46C2149	Sewing Machine/Button	11/1/1992	\$ 1,587
46C2157	Sewing Machine/Button	11/1/1992	\$ 3,542
46C2171	Yamata Serger	12/1/1992	\$ 1,819
46C2199	Airless Sprayer	3/1/1994	\$ 4,035
46C2202	Binding Machine	6/1/1993	\$ 1,395
46C2382	PC, Desktop	2/1/1999	\$ 2,175
46C2586	Water Softener, <i>Note 2</i>	6/1/2006	\$ 16,982
Number of Unable to Locate Assets = 15			\$ 49,376
Division 8 - DEC			
46D1825	PAINT	6/1/1995	\$ 1,626
46D1981	CAMERA, CCD 1/2 "	9/1/1993	\$ 753
46D1982	CAMERA, CCD 1/2"	9/1/1993	\$ 753
46D1983	CAMERA, CCD 1/2 "	9/1/1993	\$ 753
46D1984	CAMERA, DDC 1/2 "	9/1/1993	\$ 753
46D1985	CAMERA CCD 1/2 "	9/1/1993	\$ 753
46D253	FIXED MAP DISPLAY BRD ON WALL	1/1/1994	\$ 4,000
Number of Unable to Locate Assets = 7			\$ 9,391
Division 9 - LCC			
46L11815	Laundry Marking Machine	10/1/1981	\$ 3,417
46L14068	Hot Food Pan Unit w/ Shelf	5/1/1990	\$ 3,849
46L14993	Cart, Food Transport	8/1/1992	\$ 3,002
Number of Unable to Locate Assets = 3			\$ 10,268
Division 14 - CCC-L			
46W366	Refractometer	3/26/2003	\$ 951
Number of Unable to Locate Assets = 1			\$ 951
Division 19 - TSCI			
46T305	Phalanx Alpha Gas Mask	3/1/2002	\$ 216
Number of Unable to Locate Assets = 1			\$ 216
Division 21 - Hastings Detainee Center			
46H26	CAMERA, INSTANT ID-3 SYSTEM	8/1/1987	\$ 2,595
46H65	ALCO SENSOR WITH CASE	8/1/1987	\$ 495
Number of Unable to Locate Assets = 2			\$ 3,090
Division 888 - No Location Assigned			
46T497	REFRACTOMETER	3/26/2003	\$ 951
Number of Unable to Locate Assets = 1			\$ 951
Total Number of Unable to Locate Assets = 72			\$ 199,480

Note 1: The Ionscan Machine was found by the Department during testing and should not have an unable to locate status in NIS.

Note 2: The water softener was found by the Department during testing and was incorrectly reported as unable to locate during the fiscal year ended June 30, 2008, inventory count.

Total of Unable to Locate Assets, excluding the Ionscan Machine and Water Softener **\$ 142,798**

Foley, Mike

From: Spindler, Robin
Sent: Thursday, August 20, 2009 11:25 AM
To: Hobbs, Chris A
Cc: Carmichael, Mary
Subject: RE: \$200,000 RFP

I am going to forward to Steve. But plan on proceeding (I am confident that it is a 100% go).

Thanks,

Robin Spindler
Deputy Director, Administrative Services
(402) 479-5711 (w)
(402) 479-5623 (f)

(402) 479-5712 Katina Farritor, Administrative Asst.

Please note that my new email address is Robin.Spindler@nebraska.gov

From: Hobbs, Chris A
Sent: Thursday, August 20, 2009 11:11 AM
To: Spindler, Robin
Cc: Carmichael, Mary
Subject: \$200,000 RFP

The RFP has been scored today by the following:

Nicole Lockhart
Natalie Sluka
Pam Kaliff

Their recommendations are: First Step Recovery for **Lincoln**
McCullough Counseling & Recovery LLC for **Omaha**

Dr. McNeese was not part of scoring because possible conflict of interest.

If this is ok with you, I will proceed with the Letter of Intent to Contract on Tuesday.

Note: Robin Spindler is the Deputy Director for Administrative Services of the Department, Mary Carmichael is the NDCS Materiel Administrator, and Chris Hobbs is the Assistant Procurement Manager (Buyer III at the time of this email).

Foley, Mike

From: Spindler, Robin
Sent: Thursday, August 20, 2009 11:25 AM
To: Urosevich, Steve
Subject: FW: \$200,000 RFP

Fyi!

Robin Spindler
Deputy Director, Administrative Services
(402) 479-5711 (w)
(402) 479-5623 (f)

(402) 479-5712 Katina Farritor, Administrative Asst.

Please note that my new email address is Robin.Spindler@nebraska.gov

From: Hobbs, Chris A
Sent: Thursday, August 20, 2009 11:11 AM
To: Spindler, Robin
Cc: Carmichael, Mary
Subject: \$200,000 RFP

The RFP has been scored today by the following:

Nicole Lockhart
Natalie Sluka
Pam Kaliff

Their recommendations are: First Step Recovery for **Lincoln**
McCullough Counseling & Recovery LLC for **Omaha**

Dr. McNeese was not part of scoring because possible conflict of interest.

If this is ok with you, I will proceed with the Letter of Intent to Contract on Tuesday.

Note: Steve Urosevich is the Health Services' Chief Operating Officer.

Foley, Mike

From: Nemec, Connie
Sent: Friday, March 14, 2008 10:38 AM
To: Bell, Robert
Subject: RE: First Step

Robert—

I checked with Rick's supervisor.

Rick founded the First Step facility, is still director, and does some private practice there.

His supervisor is very aware of this and both are very clear concerning boundaries and ethical issues so as to not jeopardize the Agency, the business, or any services provided to clients.

Connie

From: Bell, Robert
Sent: Thursday, March 13, 2008 10:14 AM
To: Nemec, Connie
Subject: First Step

<http://www.firststeprecovery.com/staff.html>

Does Rick McNeese still work with NDCS?

Robert M. Bell
Governor's Policy Research Office
(402) 471-2853
robert.bell@nebraska.gov

Note: Connie Nemec is the former Legislative Coordinator and Robert Bell is in the Governor's Policy Research Office.

Foley, Mike

Subject: FW: Additional Question

From: Stephen K. Kroll [mailto:skk@firststeprecovery.com]
Sent: Wednesday, August 05, 2009 12:35 PM
To: Hock, Amy; Dianne McNeese
Cc: Dunlap, Don; Rick McNeese; DianneMarie Mcneese
Subject: RE: Additional Question
Importance: High

Yes, I have answers to all of those questions, but have included Dr. McNeese in this reply in case he wishes to expand or clarify.

Dr. McNeese provides clinical oversight for FSI outside his regularly scheduled hours with the State of Nebraska Corrections Department. This function is done primarily during the evening hours and weekends. He consults with our supervising LIMHPs & Ph.D.s, program management staff and contracting therapists using his personal email, by phone, and through evening site visits to both locations during the week as necessary. This oversight is directed toward all major clinical policy formation, change or review, direct answers to questions from supervising licensure therapists, or our designated Medicaid supervisory pool (different from licensure), managerial disciplinary or supervisory actions within the organization that the business office [Dianne & myself] decide require his direct involvement. Dr. McNeese provides this oversight and guidance in support of his wife's ownership of the business and equity in the venture. The NE Corrections Department is fully aware of this role and his involvement with First Step.

Rick has a very limited private practice of clients that he still sees when time permits, typically on Wednesday evenings and every other Saturday morning. Normally he would be compensated at our standard contractor split rate for those sessions; this did happen in the past. However, being that our cash flow has been extremely tight over the past couple of years, due to the costs of replacing our billing system & the ever increasing administrative capitol costs, Dr. McNeese elected not to take any direct payment for his counseling services, but allowed this revenue stream to stay within FSI as a cash infusion back into the business.

Hopefully this answers your questions in this regard. We are certainly hoping to restore the standard payment of Rick's practice monies to him soon, it is something we are keenly aware of and want to put back to normal.

skk - FSI

-----Original Message-----

From: Hock, Amy [mailto:amy.hock@nebraska.gov]
Sent: Wednesday, August 05, 2009 9:18 AM
To: Stephen K. Kroll; Dianne McNeese
Cc: Dunlap, Don
Subject: Additional Question

Just had one more quick question for you. Looking at your website we see that your Clinical Director is also a State employee. We were wanting to know what his job duties included and when he provides these services. We also noticed that he was not on the listing of employees and salaries you provided. Could you tell us what type of compensation he receives from First Step?

Amy Hock
Auditor In Charge
Auditor of Public Accounts
Room 2303, State Capitol
Lincoln, NE 68509
phone 402-326-3057
amy.hock@nebraska.gov

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. Any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited.

Foley, Mike

From: Stephen K. Kroll [skk@firststeprecovery.com]
Sent: Thursday, October 29, 2009 2:40 PM
To: Foley, Mike
Cc: Dianne McNeese
Subject: Additional thoughts after our Tuesday Meeting.

Importance: High

Mr. Foley,

In reflection, after our meeting with you Tuesday, there was meeting months earlier with Chris Hobbs on a completely different contract that should attest to Chris' knowledge of Dr. McNeese's association with First Step. We were asked to do perform a small feasibility study in a sole source contract on the logistics of providing neuro-therapy to a small volunteer group of inmates as a proof of concept project. This service involved researching current literature, developing a test protocol, scheduling two of our contracting therapists and their specialized equipment to enter the correctional facilities to perform the study, then analyze the results and predict treatment effectiveness; for possible inclusion of this specialized therapy into the correction's treatment programs. As I understand it, this culminated as part of a series of Technical Reports submitted to the Nebraska Department of Correctional Services (NDCS).

Chris Hobbs , Dr. McNeese and myself met at our First Step's Greentree Office around the first of April 2009 to work out how we could facilitate the logistics and a manageable scope for the project request from NDCS. We met for approximately an hour or little longer.

After the meeting Rick gave Chris a short tour of the Greentree Facility. Dianne was here that day and they met her in the hallway outside of the business office during the tour. Rick introduced Diane to Chris at that time. I can attest that the three of them were visiting in the hallway together, and my recollection is they laughed about her being his wife and the boss. Dianne can attest to the fact that she was introduced as First Step's owner and the relationship between her and Dr. McNeese was evident in the introductions and subsequent conversation.

Stephen Kroll (c) 402-416-6077
FSI Associate Business Manager & Manager of IT Services
First Step Recovery & Wellness *** Lincoln's First Choice ***

Foley, Mike

From: Spindler, Robin
Sent: Thursday, August 27, 2009 2:20 PM
To: Kroeger, Concha
Attachments: QUESTIONS FROM DAS 082709.doc

*Robin Spindler
Deputy Director, Administrative Services
(402) 479-5711 (w)
(402) 479-5623 (f)*

(402) 479-5712 Katina Farritor, Administrative Asst.

Please note that my new email address is Robin.Spindler@nebraska.gov

TO: Steve Sulek, DAS Acting Materiel Administrator

FROM: Robin Spindler, Deputy Director, Administrative Services

DATE: August 27, 2009

RE: Response to Questions

- Grievance filed involving First Step Wellness Services and NDCS Employees

How did this happen? It has been accepted practice in Purchasing to allow the Evaluation Committee to independently score the responses to the RFP. Dr. Rick McNeese, an NDCS employee with a conflict of interest, was not on the Evaluation Committee but availed himself to answer questions. Evaluation Committee members were: Pam Kaliff (Substance Abuse Supervisor at NCCW), Natalie Sluka (Substance Abuse Supervisor at NSP) and Nicole Lockhart (Substance Abuse Supervisor at OCC).

When bids are received and opened, they are given to the designated evaluation team. The evaluation team is to review all of the documentation provided, evaluate the bids and make a recommendation as to vendor selection. NDCS Central Office Purchasing does review the bids submitted to ensure mandatory requirements are met; however, NDCS Central Office Purchasing does not review all bid documentation and its content.

How do you plan to address this in the future? NDCS will immediately implement:

- Immediately following the bid opening, the NDCS Buyer will carefully and thoroughly review all bid documents to look for any concerns. This additional time will be factored into the schedule of events to allow for this initial review process.
- A NDCS Central Office Purchasing Buyer shall be part of the evaluation committee for all contracts.
- All NDCS service contracts will include a requirement for the bidder to provide the Articles of Incorporation, specifically showing the hierarchy of the organization. Other sources, such as Web Sites, can be checked also if verification or clarification is needed. If this is not included in an RFP, the bid will be rejected.
- The initial Request for Contract may not be submitted without the appropriate signatures of either the Chief Operational Officer, Health Care Administrator, or Deputy Director of Health Services.

Why did this happen, and Why was this not caught? NDCS Purchasing did not have the appropriate tools in place (as noted above) to screen for this level of discrepancy. Submitting the specifications to DAS for review would not have caught the omission of this information, it is only in the evaluation period this would have come into question under current practice. The above measures being implemented will provide a means to prevent similar issues from occurring.

How do you know it is not happening elsewhere? NDCS ran NIS queries to identify NDCS payments made to First Step Wellness Services. In the course of doing so, NDCS staff identified payments and a financial interest by Dr. McNeese and/or a family member in First Step Recovery Center, Inc. A grant funded short-term contract was awarded to First Step Recovery Center, Inc. for April through July 2009. At this time, three payments of \$1,600 each were made to First Step Recovery Center, Inc. This particular contract was issued as a sole source based on input from Dr. McNeese. At this time, NDCS is verifying service completion.

Further, First Step Recovery Center and First Step Wellness Services provide many services to other state agencies.

How do you plan to address this in the future? The four (4) steps identified above will greatly assist us in ensuring this does not happen in the future. Because the issue was isolated to one Division, an audit will occur of all contracts for the health services division since July 2008. The Materiel Administrator will be the initial receiver of all Requests for Contract and will review them with the appropriate Buyer. The steps noted above will be for all service contracts regardless of where they originate.

At this time, the matter has been assigned to an NDCS investigator. Upon completion of the investigation, appropriate action will occur with Dr. Rick McNeese, the employee with the conflict of interest. We will also address this issue as appropriate with any other NDCS employee who may have a conflict of interest.

DEPARTMENT OF CORRECTIONAL SERVICES

Robert P. Houston

Director



Dave Heineman
Governor

December 15, 2009

Mike Foley
Auditor of Public Accounts
P. O. Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509

Dear Mr. Foley:

I appreciate the opportunity and adequate time to provide a written response to the "Psychological Services Contract" audit point. The overarching theme is that staff members need to take personal responsibility to follow our clearly established conflict of interest rules. Also, we agree with you and your staff that enhanced safeguards will minimize the chances of a recurrence. Ethics training will be further expanded to equip staff members with key skills to respect the State's responsibility to be fair to all.

Document Clarifications

In Exhibit 11 Page 1 of 9 you have DCS staff listed with their titles. Following are the correct titles:

Robin Spindler, Deputy Director for Administrative Services
Mary Carmichael, NDCS Materiel Administrator
Chris Hobbs, Assistant Procurement Manager (Buyer III at the time of the email)

2009 Psychological Services Request for Purchase (RFP)

No contract was awarded.

A NDCS certified law enforcement officer investigated this incident as a personnel matter when brought to our attention by the vendor grievance. We kept you and your Office informed through meetings, telephone calls and emails as the investigation progressed. The basic facts and documents presented in Audit Point 17 were from the investigation which led to the resignation of Dr. Rick McNeese. We appreciate that you accurately stated these findings.

I personally contacted the Accountability and Disclosure Commission Executive Director Frank Daley to advise him of the situation and seek guidance. This

Note: Attachments referenced in this response were not included.
Inquiries concerning those attachments can be made to the Department.

occurred the same day as my notification of the grievance and the same day I called Dr. McNeese and first learned of his spouse's ownership of First Step.

NDCS is taking the following steps:

- The Department is reviewing all existing service contracts for potential conflicts of interest. A questionnaire has been sent to all existing service contractors (attached). The Deputy Director of Administrative Services will oversee an extensive review of all existing service contracts with NDCS.
- All Administrative Regulations will be updated during the next policy reviews. Our new set of practices has been put in place for any upcoming purchases. Policy and practice will further clarify staff member's responsibility and channels to report conflicts of interest.
- The Initial Request for Contract may not be submitted without the appropriate signatures as reviewed and approved by NDCS Purchasing.
- Immediately following bid openings, the NDCS Buyer will carefully and thoroughly review all bid documents to look for any concerns.
- All NDCS service contracts will include a requirement for the bidder to provide the Articles of Incorporation or ownership specifically showing the hierarchy of the organization and to identify any work-related associations or family relationships with NDCS employees. Other sources, such as Web Sites, will be checked also if verification or clarification is needed. If these guidelines are not included in an RFP, the bid may be rejected.
- A NDCS Central Office Purchasing Buyer shall be a member of the evaluation committee for all contracts.
- Employees serving on RFP evaluation committees or involved in developing RFPs will be provided with an orientation that outlines their responsibilities, including reporting any potential conflicts of interest that may exist between any vendors bidding on a RFP and any NDCS employee. This will be reviewed with the evaluation committee immediately before beginning interviews with vendors. Any potential conflicts identified will be reviewed with NDCS General Counsel. Each committee member will sign a form acknowledging such. No person having a conflict will serve on the committee.
- For decades, every NDCS employee signs a form acknowledging their responsibility to follow guidelines in the NDCS Employee Handbook. A copy of this Handbook is given to every employee. (Employee Handbook attached). Also attached is Dr. McNeese's acknowledgement form.

The following guidelines pertain to Dr. McNeese's personal responsibility for financial accountability and conflicts of interest:

"O. Financial Accountability

Employees will not use their public positions to obtain any personal gain or privilege for themselves, their families or any business or properties in which the employees may have an interest.

Employees shall not enter into any contracts with the Department on their own behalf or on the behalf of any business in which the employees have an interest. Employees shall not receive fees or commissions from any person doing business with the Department or from an inmate. Employees shall not receive gifts or gratuity from any person/company doing business with the Department or from an inmate.

N. Conflicts of Interests and Outside Employment

Employees will avoid activities that would conflict with their responsibility as employees of the Department of Correctional Services. Any employee who wishes to engage in additional employment must notify his or her Warden/Program Administrator. This person then reviews the employee's request to determine whether or not such additional employment would conflict with the employee's responsibility to the Department. Notification of additional employment requires completion of an Outside Employment Form, an attachment to AR 112.31, Code of Conduct and Ethics. The Warden/Program Administrator will notify the employee of their approval or denial."

- All NDCS employees are required to attend the NDCS Ethics In-Service course. Beginning July 1, 2010, the course curriculum will more fully emphasize all aspects of financial accountability and their obligations to report conflicts of interest and outside employment.

Dr. McNeese did not disclose his financial interest or ownership in First Step until after the vendor grievance was received and investigated by NDCS, nor after the Auditor's Office contact with First Step which had copied Dr. McNeese. The following information relates to email attachments to the Audit Report:

- The August 20, 2009 email referred to NDCS Administration and Purchasing knowledge that Dr. McNeese had been previously employed by First Step as disclosed by Dr. McNeese, not to knowledge of a financial or ownership interest.

- NDCS is unable to respond to the August 5, 2009 email as that was received by the Auditor's Office approximately three (3) weeks prior to NDCS becoming aware of the conflict interest and was not reviewed until received in Audit Point 17. No NDCS employee with the exception of Dr. McNeese was copied on this correspondence.
- The October 29, 2009 email from Stephen Krull to your office is the only indication alleging that any person at NDCS may have known about Dr. McNeese's ownership role in First Step. This email was transmitted at a time when Mr. Krull was employed by First Step, approximately two (2) months after the vendor complaint that started the NDCS investigation, and relates to his recollection of a meeting in April of that year. No related or follow up documentation involving the referenced NDCS employees is included to this email.

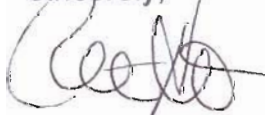
Update on Overtime Rate Calculation

I would also like to take this opportunity to provide you an update on the Overtime Rate Calculation point. This issue has proven to be more complex than anticipated, requiring not only changes in NIS but also KRONOS. We expect all programming changes to be completed in January. NDCS legal staff have been providing guidance on any back pay issues. We now anticipate those being completed in February. We will be providing a general notice to our staff members shortly.

Inga Hookstra, Controller, and two of her managers have been coordinating the Department's efforts with assistance from our Human Resources staff on the Overtime Rate Calculation issue.

Once again, thank you for the opportunity to provide a response on this additional issue. If you have any questions on this information, please contact Inga Hookstra, Controller at 402-479-5756.

Sincerely,



Robert P. Houston
Director

C: Inga Hookstra, Controller