IN THE SUPREME COURT OF THE STATE OF OKLAHOMA
IN THE DISTRICT COURT OF OKLAHOMA COUNTY

IN THE MATTER OF THE MULTICOUNTY	)	Case No. SCAD-2016-95
GRAND JURY, STATE OF OKLAHOMA	)	D.C. Case No. GJ-2016-1

A FORMAL WRITTEN REPORT OF INVESTIGATION:

FINDINGS OF THE SIXTEENTH MULTI-COUNTY GRAND JURY AS TO THE ALLEGED INAPPROPRIATE ACCOUNTING PRACTICES AND FINANCIAL MISMANAGEMENT AT THE OKLAHOMA STATE DEPARTMENT OF HEALTH

May 17, 2018

Contents

I. INTRODUCTION AND FINDINGS

Over the past six months, the Sixteenth Multi-County Grand Jury of Oklahoma received evidence related to the inappropriate accounting practices and financial mismanagement at the Oklahoma State Department of Health ("Department of Health", "Department", or "OSDH"). The Multi-County Grand Jury would like to thank the Auditors from the Oklahoma State Auditor and Inspector's Office, Special Agents with the Federal Bureau of Investigation, Agents with the United States Department of Health and Human Services, and the legal advisors, investigators, and support staff within the Office of Attorney General assigned to the Multi-County Grand Jury Unit for their hard work and dedication in seeking the truth surrounding this investigation.

The Multi-County Grand Jury, after careful consideration of all the evidence, including witness testimony, physical evidence, interviews conducted by investigators and legal advisors to the grand jury and agents of the aforementioned outside agencies, does hereby submit to this Honorable Court this report of its findings:

1. The Department of Health was never insolvent. The Department had ample cash to pay all of its expenses, including payroll, through the end of the fiscal year. In particular, the failure of the Department to pay the Ryan White insurance premium until it nearly defaulted was unnecessary, as there was ample unrestricted cash available for the premium payment to be made. The emergency supplemental appropriation was unnecessary and remains unspent in the Department's fund balances.
2. The Department of Health, through manipulation of federal and state funds, maintained a slush fund[1] that allowed the Department to overspend without consequence.
3. The Department's Reduction in Force ("RIF"), which eliminated the jobs of 198 Oklahomans, was unnecessary. The Department had sufficient money, both budgeted and in its slush fund, to pay for these positions. In particular, the abolishment of certain classified positions did not serve the purposes submitted to the Legislature and the Office of Management and Enterprise Services ("OMES") in the proposed RIF, as they did not save the State appropriated dollars as claimed by the Department of Health.
4. Annual budgets submitted to the Legislature and OMES had no basis in reality; federal dollars received and spent were routinely overstated by tens of millions of dollars.
5. The Oklahoma State Board of Health ("the Board") failed to provide proper financial oversight. Senior Leadership at the Department of Health dictated what information the Board received regarding finances. Senior Leadership prevented the Internal Auditor access to the Board, preventing him from exercising his duty to brief the Board. This resulted in the Board's inability to exercise its statutory fiduciary duty.
6. The financial unit at the Department of Health lacks training, education, and knowledge of proper financial systems and protocols.
7. The use of an antiquated internal financial system, as opposed to the statewide financial system used by the vast majority of other state agencies, was a direct cause of the perceived financial crisis and masked the slush fund maintained by the Department. The lack of reconciliation of

[1] Discussed more fully at II(2); throughout this report, "slush fund" refers to discretionary dollars held by the Department within its federal fund with no legislative oversight or accountability. This is the same term used within the Investigative Audit as discussed beginning at Appendix A, p. 35.

financial information between the Department and the statewide system at OMES must be addressed in order to prevent future fiscal mismanagement.

8. The Department misused the Incident Command Structure, a form of crisis management utilized for tornadoes or infectious disease outbreaks, to internally address the perceived financial crisis.

The Multi-County Grand Jury finds reprehensible the inept practices and processes conducted by the Department of Health before and after the alleged financial crisis came to light. The lack of a criminal statute covering the mismanagement, deception, and obfuscation by the Department of Health is lamentable. Fortunately, no state dollars were spent in an unlawful way. No federal or state dollars were embezzled or stolen by employees at the Department. While financial mismanagement, fictitious fiscal reporting, and reckless overspending abounded at the Department, no criminally prosecutable conduct provable by proof beyond a reasonable doubt was identified. The Multi-County Grand Jury expresses hope that the Legislature will take note of the unique facts and circumstances of this investigation, and appropriately amend criminal statutes to encompass some of the actions taken by individuals throughout this investigation.

In this Interim Report, the Multi-County Grand Jury will explain these findings by addressing first the alarm raised by the former Chief Financial Officer and former Chief Operating Officer and why that alarm ultimately proved to be false. Next, the Multi-County Grand Jury will reveal the general practices at the Department of Health that led both to this inconceivable error as well as the problems surrounding the financial system within the Department in general. Finally, the Multi-County Grand Jury will detail its recommendations to the Department, the Legislature, the Governor, and the Board to ensure the identified problems are corrected. Certain portions of this report will rely heavily on the Investigative Report of the State Auditor and Inspector ("SAI"), attached as an appendix to this report, and will be complemented with the testimony and evidence submitted exclusively to the Multi-County Grand Jury.

II. UNDERSTANDING THE FINANCIAL CRISIS

The Department of Health launched itself into the public spotlight in the fall of 2017 when management startlingly claimed that the Department was out of money and would be unable to remain solvent through the fiscal year. In order to understand why this was not true, it is important to first understand the claim – and how close to coming true it actually was. Thus, part (1) will first explain what those inside the agency came to believe and their attempts to get this information to those in positions to solve the problem. It is alarming the number of times this information was repeated to those in Senior Leadership with no meaningful response or action taken. As explained in part (2) below, were it not for the slush fund maintained by the OSDH, the Department would have gone bankrupt within the past couple of years. Finally, part (3) explains the aftermath at the Department and the efforts to fix the problem, and how those efforts actually compounded the crisis.

1. The Insolvency Claim

After a year without a Chief Financial Officer ("CFO"), [2] a new CFO began working at the Oklahoma State Department of Health on April 17, 2017.[3] The Chief Operating Officer ("COO") chose this CFO,[4] because he was an independent individual from outside the Department[5] who could put the finance department back in order.[6]

Immediately after the CFO began working at the Department, he encountered numerous fiscal management problems and red flags. The CFO requested the Department of Health's financial statements – basic documents that show profit and loss and the balance of assets and liabilities carried by the Department.[7] To his surprise, he discovered that the Department did not have any such financial statements, in fact, they never existed.[8] He next learned that the only financial reports provided to the Board of Health was a broad budget utilization report which only presented information in select programmatic areas.[9] This report[10] did not tell the Board whether departmental revenue was on track with what was projected, if expenses were in line with revenue, or if the Department had sufficient cash to pay accruing costs.[11] As the CFO continued questioning staff regarding his disconcerting discoveries, the resounding sentiment among Department staff members was "we are going broke."[12]

i. Payroll Not Posted and "Borrows"

Through discussions with financial staff at the Department, the CFO learned Payroll Not Posted ("PNP") plagued the financial health of the Department. The finance department kept track of PNP as a liability – a debt the Department would need to pay off. Financial staff within the Department struggled with PNP due to the internal financial accounting system at the Department, called FISCAL.[13] The CFO also learned from financial staff that another liability, "borrows" were draining Department resources. PNP and "borrows" are not technical accounting terms and are not used in Generally Accepted Accounting Principles nor by the Government Accounting Standards Board.[14] These terms were developed internally at the Department and are also the terms used to describe these accounting practices within the Investigative Audit.[15] These liabilities, PNP and "borrows," forced the Department to hold financial periods open, in some cases for years.[16]

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[2] Tr. COO, January 16, 2018, p. 26, ll. 20-22.
[3] Tr. CFO, January 16, 2018, p. 5, ll. 2-4.
[4] Tr. COO, January 16, 2018, p. 39-40.
[5] Tr. COO, January 16, 2018, p. 19, ll. 3-12.
[6] Tr. COO, January 16, 2018, ll. 17-20.
[7] Tr. CFO, January 16, 2018, p. 16.
[8] Tr. CFO, January 16, 2018, p. 17, ll. 8-14.
[9] Tr. CFO, January 16, 2018, p. 19, l. 19 through p. 20, l. 10.
[10] *See* Grand Jury Ex. #6.
[11] Tr. CFO, January 16, 2018, p. 20-21.
[12] Tr. CFO, January 16, 2018, p. 22, ll. 12.
[13] Tr. CFO, January 16, 2018, p. 22, ll. 13.
[14] Tr. CFO, January 16, 2018, p. 51, ll. 5-14.
[15] *See* Appx. A, p. 31-32.
[16] Tr. COO, January 16, 2018, p. 43, ll. 1-3.

OSDH developed and utilized PNP internally.[17] The PNP problem is an artifact of the woefully outdated and unyielding FISCAL system maintained at the Department. FISCAL is a 1982[18] piece of command prompt software which is housed in a computer system that is no longer supported.[19] The Department attempts to find replacement parts outside the United States to maintain the system, as none remain in the US.[20] The FISCAL system has no connection to the statewide system maintained by OMES.[21] Every transaction conducted by OSDH must be entered into FISCAL, and any transfers or transactions conducted on behalf of OSDH by OMES in the statewide system must be copied into FISCAL.[22] As a result, the Department's reliance on an antiquated and ineffective accounting system internal to the OSDH failed to accurately depict the financial position of the Department.

There are three major fund groups at the Department of Health: federal funds, state appropriations, and revolving[23] fund dollars.[24] Like other state agencies, OMES holds all of the Department's dollars in various bank accounts called funds.[25] OMES designates the various funds using three-digit numbers. State appropriations for a given fiscal year ("FY") are designated 19X,[26] revolving funds are 2XX,[27] and all federal funds are held in the 400 Federal fund.[28] OMES has the ability to view the balances of the various funds, but not the specific programs within these funds or the revenue streams that make up the dollars within these funds.[29]

In order for payroll to post to the FISCAL system, the system must believe it has sufficient cash to pay it.[30] Financial staff must budget revenue into FISCAL in order for the system to believe it has sufficient cash to pay expenses.[31] Discussed *infra* at (iii), OSDH routinely exaggerated revenues and expenses in its annual budget in order to trick FISCAL into booking revenue, and to make matters worse, the expenditures often exceeded revenue. When financial staff entered payroll expenses into FISCAL that exceeded budgeted revenue, the system refused to post these costs.[32] For example, if, payroll expenditures were $10 million more than revenue, the $10 million in excess costs did not post, and the system suspended the excess $10 million as PNP. This led to an increasingly large balance of payroll which could not be posted to the internal financial system because FISCAL did not indicate it

17 Tr. CFO, January 16, 2018, p. 23, ll. 16-23.
18 Tr. CFO, February 14, 2018, p. 87, ll. 23.
19 Tr. CFO, January 16, 2018, p. 53.
20 Tr. CFO, January 16, 2018, p. 53.
21 Appx. A, p. 31.
22 Tr. CFO, January 16, 2018, p. 58, ll. 6-9.
23 Revolving fund dollars are comprised of fines and fees paid to the Department, such as the fee paid to purchase a birth certificate.
24 Tr. COO, January 16, 2018, p. 35, l. 23 through p. 36, l. 7.
25 Tr. CFO, January 16, 2018, p. 25-26.
26 The X represents the fiscal year associated with the account, for example all FY17 appropriations are deposited into fund 197.
27 Numerous revolving funds associated with a particular program are given individual accounts. General revolving fund dollars not associated with an individual program are deposited in the 210 revolving fund, which is the most commonly discussed revolving fund account in this report.
28 *See e.g.* Tr. COO, January 16, 2018, p. 35, l. 23 through p. 36, l.7; Appx. A, p. 13-15, 35.
29 Tr. CFO, January 16, 2018, p. 27, l. 16 through p. 28, l. 3.
30 Tr. CFO, January 16, 2018, p. 51, ll. 16-24.
31 Tr. CFO, January 16, 2018, p. 54, ll. 12-16.
32 Tr. CFO, January 16, 2018, p. 51, ll. 5-9.

had the requisite amount of cash to do so.[33] Financial staff created spreadsheets tracking PNP dating to 2009.[34] As of July 12, 2017, the Department carried an $8.9 million PNP liability, though this liability was a fiction created by accounting staff.

The Department also carried a liability it tracked as "borrows."[35] If a program area needed money for something, the Department moved money from another program over to the one that needed an expense paid.[36] The Department, within FISCAL, took excess cash from one program and transferred it to another program that needed money to pay expenses.[37] Department financial staff maintained spreadsheets spanning several years in an attempt to keep track of how much each program was owed.[38] In order to close the open periods, the Department must pay back the "borrows" for the costs to post in FISCAL.[39] The CFO and COO believed the Department carried debt due to these "borrows."[40] The Department's "borrows" liability totaled $21.6 million as of July 12, 2017, again, a fiction created by accounting staff.

The CFO believed that the Department would eventually run out of money.[41] He reasoned the Department was borrowing against restricted funds to pay payroll that exceeded budgeted revenue.[42] He knew the Department paid payroll out of the 400 Federal fund then realigned costs afterwards.[43] Without enough budgeted revenue to pay payroll expenses, he believed that the Department must be fronting payroll with restricted federal funds.[44] Since 60% of the Department's overall budget consisted of federal dollars,[45] the Department was relying on the steady stream of federal dollars coming in to stay solvent. The CFO and COO believed it was only a matter of time until the Department would be insolvent and unable to pay payroll.[46]

In July, when the CFO began raising alarms of the perceived impending financial collapse, Senior Leadership[47] refused to listen to his warnings.[48] Initially, the CFO was not a part of Senior Leadership meetings,[49] but after his warnings were shared by the COO at these meetings, Senior Leadership provided the CFO with one hour to present the Department of Health's fiscal crisis.[50] This

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33 Tr. CFO, January 16, 2018, p. 51 ll. 19-20.
34 Tr. COO, January 16, 2018, p. 35, ll. 4-6.
35 Appx. A, p. 32.
36 Tr. COO, January 16, 2018, p. 37, ll. 20-25.
37 Appx. A, p. 32.
38 Tr. CFO, January 16, 2018, p. 58, ll. 1-10.
39 Tr. COO, January 16, 2018, p. 43, ll. 13-23.
40 Tr. COO, January 16, 2018, p. 43, ll. 20-24.
41 Tr. CFO, February 14, 2018, p. 42, ll. 18-25.
42 Tr. CFO, January 16, 2018, p. 52, ll. 3-10.
43 Tr. CFO, January 16, 2018, p. 56, ll. 8-16.
44 Tr. CFO, January 16, 2018, p. 56, ll. 16-22.
45 Tr. CFO, January 16, 2018, p. 9, l. 6.
46 Tr. COO, January 16, 2018, p. 53, ll. 3-7.
47 Throughout this report, Senior Leadership refers to the Commissioner, Senior Deputy Commissioner, and Business Planning Director.
48 Tr. COO, January 16, 2018, p. 44, ll. 20-23.
49 Senior Leadership meetings included Senior Leadership, along with the COO and Legislative Liaison.((*See* Tr. Commissioner).
50 Tr. COO, January 16, 2018, p. 54, ll. 18-20.

initial briefing of Senior Leadership by the CFO occurred on July 18, 2017.[51] After his hour was up, the Commissioner asked the CFO to leave.[52] This meeting ended with no apparent sense of urgency to address or take action on the issues presented.[53]

ii. Ryan White Program

On July 21, 2017, the CFO's ominous predictions that cash would run out and the Department would be unable to pay its bills appeared to come to fruition. A bill for the Ryan White Program had come due June 15,[54] and it was several weeks late.[55] The federal Ryan White Program pays insurance premiums on behalf of patients with HIV/AIDS.[56] The Ryan White Program fell under the purview of the State Epidemiologist.[57] The program generates cash through rebates from pharmaceutical companies, thus it maintains a unique cash balance within FISCAL[58] unlike other Department grants.[59] A second bill came due on July 15, and the insurance carrier expected payment by August 15 in order to continue coverage on qualifying Oklahoma citizens.[60] An email from the insurance carrier indicated that the total amount due for June and July 2017 was a little over $1 million.[61] At the last budget meeting for the program, the Epidemiologist learned there was over $5 million in the Ryan White fund.[62] However, when the CFO spoke with the Payments Officer,[63] he learned there was only $15.00 in the federal fund at OMES.[64] The Payments Officer had pushed out payroll on July 20, which reduced the 400 Federal fund by $5.8 million.[65] Even though FISCAL showed the Ryan White fund had $3.2 million, that money had been utilized to make payroll.[66] In response, at the CFO's direction,[67] the Payments Officer subsequently emailed the Ryan White Program Director indicating that they were unable to make the payment because the money had been spent on payroll.[68]

On July 25, 2017, Senior Leadership finally responded to this crisis[69] by instituting the Incident Command Structure ("ICS").[70] ICS is a Federal Emergency Management Administration protocol designed to address major health crises, such as an earthquake or disease outbreak.[71] In response to the Department's apparent inability to pay the Ryan White insurance premium reimbursement, the

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51 *See* Tr. COO, January 16, 2018, p. 56, ll. 8-12.
52 Tr. CFO, January 16, 2018, p. 75, l. 11.
53 Tr. COO, January 16, 2018, p. 56, ll. 18-20.
54 *See* Grand Jury Ex. #38.
55 Tr. CFO, January 16, 2018, p. 104, ll. 12-16.
56 Tr. CFO, January 16, 2018, p. 105, ll. 20-22.
57 Tr. Epidemiologist p. 7.
58 Tr. Auditor M.C., April 19, 2018, p. 18, ll. 7-19.
59 Tr. Epidemiologist, March 7, 2018, p. 11.
60 *See* Grand Jury Ex. #38.
61 *See* Grand Jury Ex. #38; Tr. Epidemiologist, March 7, 2018, p. 12, ll. 6-18.
62 Tr. Epidemiologist, March 7, 2018, p. 13, ll. 5-9.
63 *See* Grand Jury Ex. #56.
64 Tr. CFO, January 16, 2018, p. 108 ll. 1-6.
65 Grand Jury Ex. #56, p.2.
66 Appx. A, p. 33.
67 Tr. CFO, January 16, 2018, p. 108, ll. 7-15.
68 *See* Grand Jury Ex. #34.
69 *See* Tr. Commissioner, May 15, 2018.
70 Tr. CFO, January 16, 2018, p. 110.
71 Tr. CFO, January 16, 2018, p. 111, ll. 5-18.

Senior Leadership decided to set up ICS with the Senior Deputy Commissioner[72] as its head.[73] The COO believed that ICS was set up to cut her out of chain of command, and place the CFO directly under the Senior Deputy Commissioner's control.[74]

Since the Ryan White Program fell under the State Epidemiologist's administration, she contacted the Senior Deputy Commissioner to learn why Ryan White dollars had been utilized for Department of Health payroll.[75] The Senior Deputy Commissioner first indicated that it was a computer system problem, which the State Epidemiologist found unconvincing.[76] The Senior Deputy Commissioner later claimed in an email that the issue was a pending budget request of the Legislature, stating:

> This has everything to do with the fact that we [sic] awaiting a budget revision and transfer(s) that will reconcile the State of Oklahoma's accounting system to the OSDH accounting system.
>
> We have a state requirement that gives the House and Senate the authority to disapprove certain revisions. OMES and the House have approved the changes and we are waiting on the Senate (one Senator in particular) to approve. If he does not by Monday, the allowed time period will have expired and OMES will execute the change on that day.[77]

This email, dated August 7, 2017, was the final explanation the State Epidemiologist received from Senior Leadership as to what had happened to the program funds. However, it did not address why the Department used Ryan White rebate funds to pay payroll.[78] The Program Director over the Ryan White Fund had numerous conversations with the Senior Deputy Commissioner regarding the missing dollars needed to pay the vendor.[79] The Senior Deputy Director explained to the Program Director that she "had an allocation problem" and that "as soon as we get your allocation from the State Legislature, then your money is there."[80] The Program Director did not understand that explanation, because the dollars for the Ryan White Program did not come from the State.[81] The Senior Deputy Commissioner's explanation to her own staff was false.

The Epidemiologist, distressed by the information she was receiving about federal dollars being used to pay payroll, felt she had to report the improper use of Ryan White funds to the federal agency that oversaw the grant.[82] Importantly, in the Senior Deputy Commissioner's email, she claimed

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72 The Senior Deputy Commissioner was the only individual in Senior Leadership who exercised her 5th Amendment right not to testify. Thus, the Grand Jury was deprived of her view of the events surrounding the fiscal crisis at the Department of Health.
73 Tr. CFO, January 16, 2018, p. 110, ll. 24-25.
74 Tr. COO, January 16, 2018, p. 59 l. 12 through p. 60, l 3.
75 *See* Grand Jury Ex. #55.
76 Grand Jury Ex. #55; Tr. Epidemiologist, March 7, 2018, p. 19, ll. 16-23; p. 30-31.
77 Grand Jury Ex. #36, p. 2.
78 Grand Jury Ex. #55, p. 2.
79 Tr. Program Director, March 8, 2018, p. 22, ll. 3-4.
80 Tr. Program Director, March 8, 2018, p. 22, ll. 8-15.
81 Tr. Program Director, March 8, 2018, p. 24, ll. 16-20.
82 Tr. Epidemiologist, March 7, 2018, p. 20, ll. 12-17.

a budget revision was awaiting approval from the Legislature, but the Legislature was not in session at that time.[83] This explanation to Department staff was at best an attempt to distract them from the apparent issues surrounding the Ryan White rebate dollars.

iii. The Budget

Immediately after starting at the Department, the CFO began developing the FY18 budget, due June 30, 2017. He quickly discovered budgeted expenses exceeded budgeted revenue by $12 million.[84] OSDH routinely operated over budget, and it was over budget by $6 million in FY17.[85] This budget deficit had to be fixed prior to the submittal of the allotment[86] to the OMES on June 30, 2017.[87] According to the Business Planning Director, when the FY18 budget was first discussed, the gap was $12 million.[88] The Senior Deputy Commissioner identified cuts and brought the gap down to $10 million.[89] At that point, the Business Planning Director indicated that the Senior Deputy Commissioner "plugged" the gap by increasing projected federal revenues by $10 million in order to balance the budget that was submitted to OMES.[90] The CFO believed this meant the budget being submitted was not balanced.[91]

In early fall of 2017, the Legislative Liaison at OSDH received requests from the House and Senate Fiscal Staffs for budget documents from OSDH, including the 2018 Revenue Budget.[92] Although the CFO believed that the request came about as part of the beginnings of FY19 budget planning,[93] the Legislative Liaison believed the requests came about due to the ongoing special legislative session and the unbalanced state budget.[94] The CFO, with the help of his Budget Officer,[95] prepared a document for submission to the Legislature.[96] Under the belief the FY18 budget was $10 million over budget, the CFO listed FY18 State Appropriated Funds as $63 million and highlighted that actual appropriated funds were only $53 million.[97] On August 29, 2017, the Legislative Liaison forwarded this document to the House Fiscal Staff.[98] Both individuals acknowledged that the document clearly indicated that OSDH was running at a $10 million deficit. In fact, both individuals expressed shock that after the document was sent, no one from the House Fiscal Staff reached out to question the apparent $10 million shortfall.[99]

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[83] The Legislature ended its regular session on May 26, 2017; the First Extraordinary Legislative Session did not begin until September 25, 2017.
[84] Tr. CFO, January 18, 2018, part II, p. 10, ll. 5-15.
[85] Tr. COO, January 16, 2018, p. 37, l. 9 through p. 38, l. 1.
[86] The allotment is an agency's final budget submitted to OMES at the beginning of the fiscal year.
[87] *See* Appx. A, p. 17.
[88] Appx. A, p. 17.
[89] Appx. A, p. 17; Tr. Auditor M.C., April 19, 2018, p. 10, ll. 11-14.
[90] Tr. BPD, May 15, 2018, p. 19, l. 23 through p. 20, l. 3.
[91] Tr. CFO, January 16, 2018, p. 40, ll. 23-25
[92] Tr. LL, February 15, 2018 p. 36, ll. 1-19.
[93] Tr. CFO, February 14, 2018 p. 20, l. 18 through p. 21, l. 16.
[94] Tr. LL, February 15, 2018, p. 36, ll. 1-19.
[95] Tr. CFO, February 14, 2018, p. 107, ll. 22-23.
[96] Tr. CFO, February 14, 2018, p. 25, ll. 7-19.
[97] Tr. CFO, February 14, 2018, p. 26, ll. 4-17.
[98] Grand Jury Ex. #26A; Tr. LL, February 15, 2018, p. 36, l. 20 through p. 37, l. 10.
[99] Tr. CFO, February 14, 2018, p. 27, l. 20 through p. 28 l. 2; Tr. LL p. 38, ll. 6-12.

Based upon the document provided to the House Fiscal Staff,[100] and the internal budgetary documents reviewed by the Auditors,[101] it appears this "plug" was only done on the allotment submitted to OMES. [102] In other words, the Senior Deputy Commissioner inflated federal revenue in order to balance revenues and expenses for the overall agency budget. [103] Internally, the $10 million gap was still present on the FISCAL system, and was subsequently highlighted by the CFO in the document provided to the Legislative Liaison and to the House Fiscal Staff.[104] The Legislative Liaison forwarded that document to the House Fiscal Staff without conferring with the Senior Deputy Commissioner or Business Planning Director.[105] However, the CFO copied and sent the budget document to the Business Planning Director at the same time he sent it to the Legislative Liaison.[106]

iv. Attempts to Brief Stakeholders

The CFO decided to explain the fiscal crisis to an Auditor with the State Auditor and Inspector's Office ("SAI").[107] Prior to August 1, the CFO explained to the COO and subsequently to the Senior Deputy Commissioner of his decision to meet with the Auditor.[108] The CFO and COO met with the Auditor on August 1, 2017, and the CFO explained his concerns.[109] The CFO explained to the Auditor PNP, "borrows," Ryan White, and the FY18 budget.[110] The Auditor promised to relay the information he received to his supervisors at the SAI.[111]

The CFO's first opportunity to brief the Board of Health regarding his fears of the Department's impending fiscal collapse came in August of 2017. The Board of Health held a retreat in Stillwater and the CFO was permitted to present his concerns on August 12, 2017.[112] The Board members reacted with shock.[113] The Commissioner and Senior Deputy Commissioner focused on the $10 million budget gap.[114] This was the first opportunity for the President of the Board to be briefed. However, ultimately nothing came of this briefing.[115]

On September 1, 2017, Senior Leadership held a day-long meeting to discuss the financial condition of the Department.[116] At this meeting, the Senior Deputy Commissioner and the CFO disagreed as to the extent of the financial situation that the Department was facing; the Senior Deputy Commissioner believed the Department was $10 million over budget, while the CFO and COO

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100 Grand Jury Ex. #26A.
101 *See* Appx. A, p. 17.
102 Tr. Auditor M.C., April 19, 2018, p. 7, l. 10 through p. 8, l. 12; p. 9, ll. 11-19.
103 Tr. BPD, May 15, 2018, p. 19, l. 23 through p. 20, l. 3.
104 Tr. CFO, February 14, 2018, p. 26, ll. 11-13, "basically they're $10 million overspent with respect to state appropriation for fiscal '18."
105 Tr. LL, February 15, 2018, p. 37, ll. 17-23.
106 Grand Jury Ex. #26B.
107 Tr. COO, January 16, 2018, p. 60, l. 24 through p. 61, l. 2.
108 Tr. CFO, January 16, 2018, p. 86-87.
109 Tr. CFO, January 16, 2018, p. 92, ll. 1-8.
110 Tr. CFO, January 16, 2018, p. 92-93.
111 Tr. COO, January 16, 2018, p. 61, ll. 23-24.
112 Tr. CFO, February 14, 2018, p. 42, ll. 17-18.
113 Tr. CFO, February 14, 2018, p. 45, ll. 22-25.
114 Tr. COO, January 16, 2018, p. 65, ll. 1-5.
115 Tr. CFO, February 14, 2018, p. 42, ll. 18-25.
116 Tr. LL, February 15, 2018, p. 40, ll. 7-14.

believed at that point they were $20 to $30 million in debt[117] from the PNP and "borrows".[118] Further, the Department was over budget by $10 million for FY18.[119] The CFO believed the financial position of the Department required a cash injection of $30 million[120] based on the liabilities from prior years' PNP, "borrows", and other non-posted costs,[121] in addition to cutting costs to meet the FY18 budget.[122] Meanwhile, the Commissioner and Senior Deputy Commissioner continued to focus only on the $10 million budget gap for FY18.[123] The Commissioner circled $10 million at a Senior Leadership meeting as the number he believed must be addressed.[124] Senior Leadership started planning a potential furlough and voluntary buyout as a remedy to the budget gap.[125]

On September 5, 2017, the Senate Fiscal Staff requested from the Legislative Liaison the same general budgetary information that the House Fiscal Staff previously requested.[126] The Legislative Liaison forwarded the request from the Senate Fiscal Staff to the CFO and Senior Deputy Commissioner; the CFO provided the Legislative Liaison with the same document which had already been provided to the House Fiscal Staff.[127] Prior to delivering this information, the Business Planning Director and Senior Deputy Commissioner intervened.[128] The CFO and Senior Deputy Commissioner still disagreed how to express the $10 million gap in the budget.[129] Evidence revealed that the Senior Deputy Commissioner altered[130] the document[131] and provided it to the Legislative Liaison to send to the Senate Fiscal Staff.[132] The Legislative Liaison believed the budget document as modified by the Senior Deputy Commissioner was disingenuous – explicitly stating in an email[133] that the budget document was "approved to be sent" by the Senior Deputy Commissioner.[134]

In an email to the Business Planning Director and CFO on September 13, 2017, the Senior Deputy Commissioner characterized the $10 million as an "other" fund as it was not an "<u>appropriated</u>" budget.[135] According to the Business Planning Director, the Senior Deputy Commissioner knew the $10 million could not be left in the appropriated fund because it would raise

[117] Appx. A, p. 32.
[118] Tr. LL, February 15, 2018, p. 41, ll. 4-12.
[119] Tr. LL, February 15, 2018, p. 41, ll. 18-23.
[120] Tr. CFO, February 14, 2018, p. 16, ll. 20-24.
[121] Grand Jury Ex. #19.
[122] Tr. CFO, February 14, 2018, p. 17, ll. 5-6.
[123] Tr. LL, February 15, 2018, p. 41, ll. 13-17.
[124] Tr. LL, February 15, 2018, p. 41, ll. 22-23.
[125] Tr. COO, January 16, 2018, p. 62, ll. 7-17.
[126] Tr. LL, February 15, 2018, p. 61, ll. 13-22; Grand Jury Ex. #28.
[127] Tr. LL, February 15, 2018, p. 63, l. 19 through p. 64, l. 3.
[128] Tr. LL, February 15, 2018, p. 64, ll. 4-10.
[129] Tr. CFO, February 14, 2018, p. 28, ll. 22-25.
[130] Tr. BPD, May 15, 2018, p. 34, ll. 12-16.
[131] Grand Jury Ex. #27A.
[132] Tr. LL, February 15, 2018, p. 64, ll. 11-20.
[133] Grand Jury Ex. #27C.
[134] Tr. LL, February 15, 2018, p. 65, l. 23 – p. 65, l. 9.
[135] Grand Jury Ex. # 27B; *See also* Appx. A, p. 20.

red flags,[136] especially since the documents sent to the House and Senate Fiscal Staffs conflicted.[137] The Senior Deputy Commissioner acknowledged this, stating:

> If we get a call (and we might very well get a call) we will just tell them we are projecting less revenue than we have to support the current budget and have isolated the amount so we can reduce expenses and (ultimately) the budget.[138]

The Senior Deputy Commissioner was referring to the "plug" she made when the budget was submitted to OMES on June 30, 2017, by increasing federal revenues to balance overall expenses at the Department.[139] The Business Planning Director explained that Senior Leadership knew that if they were unable to cut expenditures, they would make up the budget gap with the Department's slush[140] fund, discussed *infra* at (2). [141]

During September 2017, ICS and Senior Leadership developed a plan to address the $10 million budget gap, which was to be carried out in two phases.[142] Phase 1 was a furlough of all employees who made over $35,000 one day per pay period (two days a month).[143] Phase 2 was a voluntary buyout of employees ("VOBO").[144] The Legislative Liaison encouraged the Commissioner to brief the Legislature at this time.[145] Just a few months prior, as the State faced a state-wide budget shortage, the Department had been hit with a relatively small 2.8% budget cut,[146] and Senior Leadership expressed satisfaction with this reduction.[147] The Legislative Liaison believed legislators were pleased they had managed to limit the cut, and they would be shocked that just a few months later, the Department was facing a $10 million budget deficit.[148]

The Commissioner and Senior Deputy Commissioner met with House Leadership on September 25, 2017, to outline the current $10 million budget gap and the two-phased approach to the problem.[149] The Legislative Liaison was "troubled" that the Commissioner was focused solely on the $10 million budget gap without further discussion with the CFO or COO regarding a much larger financial problem.[150] A State Representative directly asked the Commissioner if the furloughs and VOBO would solve the Department's budgetary issue, and the Commissioner responded affirmatively.[151] The Commissioner and Senior Deputy Commissioner met with Senate leadership the

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[136] Tr. BPD, May 15, 2018, p. 32, ll. 13-16.
[137] *See* Grand Jury Ex. #26A and #27A.
[138] Grand Jury Ex. #27B.
[139] Tr. BPD, May 15, 2018, p. 33, ll. 11-24.
[140] Tr. Auditor M.C., April 19, 2018, p. 14, l. 13 through p. 15, l. 12.
[141] Tr. BPD, May 15, 2018, p. 20, l. 23 through p. 21, l. 12.
[142] Tr. LL, February 15, 2018, p. 45, ll. 2-16.
[143] Tr. LL, February 15, 2018, p. 45, ll. 2-16.
[144] Tr. LL, February 15, 2018, p. 45, ll. 2-16.
[145] Tr. LL, February 15, 2018, p. 44, ll. 9-18.
[146] It is important to note that this reduction only affected state appropriations and not the overall OSDH budget. State appropriations for FY17 were $53,703,390 which was reduced to $53,138,108 for FY18 – a reduction of $565,282, out of an almost $400 million overall budget.
[147] Tr. LL, February 15, 2018, p. 44, ll. 9-18.
[148] Tr. LL, February 15, 2018, p. 44, ll. 9-18.
[149] Tr. LL, February 15, 2018, p. 46, ll. 14-18.
[150] Tr. LL, February 15, 2018, p. 47, l. 16 through p. 48 l. 5.
[151] Tr. LL, February 15, 2018, p. 48, ll. 19-25.

following day, September 26, 2017,[152] and in each legislative meeting, leadership presented the same $10 million budget shortfall.[153]

The morning of September 28, 2017, the Commissioner informed members of Senior Leadership via email[154] that he was requesting a special audit from the SAI for the Department.[155] In this request letter, the Commissioner and Senior Deputy Commissioner asked the SAI to consider the following areas of concern:

- Review of cash draw procedures
- Cash management and/or agency "borrow" procedures
- Timely closure of prior budget procedures
- Corrective actions and timeliness of resolution of payroll not posting to internal agency budgets
- Management of outstanding obligations
- Timely accounts receivable
- Budget reconciliation to available revenue[156]

Notably, the items outlined in the audit request are the same issues that were raised repeatedly at ICS meetings, Senior Leadership meetings, and external board meetings by the CFO and COO.[157] Nevertheless, at each opportunity prior to this letter, the Commissioner and Senior Deputy Commissioner failed to express that the financial situation at the Department involved more than a $10 million budget shortfall. The same day the Department requested the audit, OSDH released a public statement[158] claiming a $10 million budget shortfall caused by reductions in state appropriations and falling federal revenue.[159] In his internal email announcing the special audit request, the Commissioner expressed that he was committed to "shining the brightest light" on the Department finances.[160] The Legislative Liaison[161] and CFO[162] believed this request was purely an "attempt to distract" or a "charade." The juxtaposition of the press release and the audit request letter shows the Commissioner attempting to obfuscate, at least publicly, the issues plaguing the financial systems within the Department.

The CFO had a second opportunity to brief members of the Board of Health, including the Board President, on October 3, 2017, at a Tri-Board[163] meeting in Tulsa.[164] This meeting was just a

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[152] Tr. LL, February 15, 2018, p. 50, ll. 6-7.
[153] Tr. LL, February 15, 2018, p. 54, ll. 12-14.
[154] Tr. LL, February 15, 2018, p. 57, ll. 20-24
[155] Grand Jury Ex. #1.
[156] Grand Jury Ex. #1.
[157] Tr. CFO, February 14, 2018, p. 38, ll. 8-9.
[158] Dale Denwalt, *Oklahoma Health Department calls for furloughs, buyouts,* The Oklahoman, September 28, 2017, http://newsok.com/article/5565804/oklahoma-health-department-calls-for-furloughs-buyouts.
[159] Tr. CFO, February 14, 2018, p. 39, ll. 6-10.
[160] Grand Jury Ex. #18.
[161] Tr. LL, February 15, 2018, p. 60, ll. 13-25.
[162] Tr. CFO, February 14, 2018, p. 38, ll. 20-24.
[163] Made up of the Board of the Health, the Oklahoma City-County Health Board, and the Tulsa Board of Health.
[164] Tr. CFO, February 14, 2018, p. 44, ll. 4-10.

few days following the public announcement regarding furloughs and the special audit request. The CFO explained to the Board of Health executive committee and the Commissioner and Senior Deputy Commissioner the fiscal disaster he believed was looming.[165] He stated that the Department would need a cash injection in order to pay its debts, to include the unposted costs and payroll.[166] Again, board members and the President acted surprised at the information.[167] During the presentation, the Commissioner and Senior Deputy Commissioner interjected comments and explanations, such as the special audit was requested to "calm the mood" in order to appear to be in control of the crisis.[168] Senior Leadership refused to consider asking for a supplemental appropriation, which the CFO, COO, and Legislative Liaison believed was the only solution.[169]

The Legislative Liaison, CFO, and COO believed that the Commissioner and Senior Deputy Commissioner were refusing to acknowledge the dire financial situation.[170] The Senior Leadership refused to go to the Legislature for outside cash, which was the only solution the CFO believed would help save the Department.[171] Collectively, the CFO, COO, and Legislative Liaison decided the best course of action was to seek a clandestine meeting with a non-quorum representation of the Board of Health.[172] On October 11, 2017, the Legislative Liaison reached out to a member of the Board of Health, asked for his confidence, explained to him what was happening, and asked for a meeting.[173] The Legislative Liaison feared that if word got back to the Commissioner regarding this communication he would lose his job.[174]

On October 18, 2017, the President of the Board of Health, the Finance Committee Chair of the Board, and another board member, met with the COO, the CFO, the Legislative Liaison, and the Internal Auditor.[175] Prior to this meeting, all interactions the COO and CFO had with the Board included the Commissioner or Senior Deputy Commissioner.[176] At OSDH, all communication with the Board was approved by and went through the Commissioner or Senior Deputy Commissioner.[177] Board members expected all communication to be through the Senior Leadership and Board members did not communicate with employees outside of that line of communication, including the Internal Auditor who, according to the Organizational Tree,[178] had direct access to the Board.[179]

The CFO, COO, Internal Auditor, and Legislative Liaison believed asking for a meeting with board members without the Commissioners[180] would shock the Board and encourage them to take

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165 Tr. CFO, January 18, 2018, part I, p. 38, ll. 20-25.
166 Tr. CFO, February 14, 2018, p. 45, ll. 10-16.
167 Tr. CFO, February 14, 2018, p. 46, ll. 3-4.
168 Tr. CFO, February 14, 2018, p. 46, ll. 12-20.
169 Tr. COO, January 16, 2018, p. 66, ll. 18-21.
170 Tr. LL, February 15, 2018, p. 65, ll. 18-22.
171 Tr. CFO, February 14, 2018, p. 47, ll. 13-17.
172 Tr. LL, February 15, 2018, p. 65, ll. 23-24, p. 66, ll. 16-22.
173 Tr. LL, February 15, 2018, p. 66, ll. 11-16.
174 Tr. LL, February 15, 2018, p. 66, ll. 16-22.
175 Tr. CFO, February 14, 2018, p. 47, ll. 23-25.
176 Tr. CFO, February 14, 2018, p. 48, ll. 8-17.
177 Tr. CFO, February 14, 2018, p. 48, ll. 8-17.
178 Grand Jury Ex. #2.
179 Tr. CFO, February 14, 2018, p. 48, ll. 18-23.
180 Tr. LL, February 15, 2018, p. 67, ll. 5-16.

action.[181] The CFO provided the Board an outline of the financial situation. It indicated the Department had $30 million in debt, that restricted funds were being misused, and that the Department needed to lay-off two hundred employees and seek a cash injection.[182] As with prior presentations, the President of the Board expressed shock and anger.[183] Perhaps due to the publicity surrounding the Department after requesting the special audit, the Board seemed willing to listen and act.[184] During the course of the three-and-a-half-hour meeting,[185] the parties developed a plan of action, to include informing other board members,[186] reaching out to legal counsel,[187] and considering calling a special meeting of the Board.[188]

After hearing three presentations from the CFO regarding the financial emergency at the Department, including a clandestine meeting that was kept secret within the OSDH and the Board of Health, the President of the Board reached out individually to each member of the Board, explaining what she believed was the financial situation at the Department.[189] As a result, the Board shut off communication with the Commissioner from that point until his resignation two weeks later.[190]

The actions of the Department did not coincide with the public claim of a $10 million budget shortfall. In addition to the plan for furloughs and a VOBO, the Department gave notice of cancellation of two contracts, the Uncompensated Care Fund[191] and the Child Abuse Prevention Program,[192] which raised media and legislative scrutiny.[193] Internally, the Commissioner and Senior Deputy Commissioner were acknowledging the $30 million narrative they had been resisting previously.[194] During this time, the Legislature was in special session,[195] so the CFO, COO, and Legislative Liaison pushed the idea for a supplemental appropriation.[196] However, the Commissioner and Senior Deputy Commissioner refused this idea, believing the Legislature would not acquiesce.[197] The week prior to the resignations of the Commissioner, Senior Deputy Commissioner, and the Business Planning Director, the Legislative Liaison pushed the Commissioner to go before the Legislature and "fall on the sword."[198] The Legislative Liaison testified in front of the Multi-County Grand Jury on February 15, 2018, stating the following:

> The 30th, I believe, was on a Monday, a Monday morning. The prior week, I had a conversation in [the Commissioner's] office where we were walking through the $30 million, because we were still talking about that, and we were walking through it. And

[181] Tr. CFO, February 14, 2018, p. 48, ll. 24 through p. 49, ll. 5.
[182] Grand Jury Ex. #31.
[183] Tr. CFO, February 14, 2018, p. 50, ll. 11-13.
[184] Tr. LL, February 15, 2018, p. 68, ll. 18-25.
[185] Tr. LL, February 15, 2018, p. 68, ll. 18-19.
[186] Tr. LL, February 15, 2018, p. 69, ll. 13-17.
[187] Tr. LL, February 15, 2018, p. 69, ll. 18-21.
[188] Tr. LL, February 15, 2018, p. 69, ll. 22-25.
[189] Tr. LL, February 15, 2018, p. 70, ll. 9-16.
[190] Tr. LL, February 15, 2018, p. 70, ll. 15-16.
[191] This fund reimburses community health centers who provide care to individuals who cannot pay for care.
[192] Contracts with third parties to deliver services on child abuse prevention.
[193] Tr. LL, February 15, 2018, p. 71, ll. 20-23.
[194] Tr. LL, February 15, 2018, p. 73, ll. 4-7.
[195] Tr. LL, February 15, 2018, p. 73, ll. 17-18.
[196] Tr. CFO, February 14, 2018, p. 17, ll. 1-23.
[197] Tr. LL, February 15, 2018, p. 73, ll. 20-25.
[198] Tr. LL, February 15, 2018, p. 76, ll. 9.

> I told him that the Legislature – that he was right, that the Legislature probably, on the surface would not want to appropriate $30 million more to the State Department of Health. But I told him that, when the Legislature finally realizes that the Agency is going to go off a fiscal cliff and that public health in Oklahoma is going to fail, that they will realize that they have no other choice but to appropriate supplemental funds, because we are not going to let public health fail in Oklahoma.
>
> But I told him, I said, but the consequence of that request is probably going to be your job. And there are probably going to be other demands that come along with that because they're going to want reform. They're going to want to know what happened. They're going to take a pound of flesh out of our Agency because of the fact they're going to have to, basically, bail us out with $30 million of taxpayer dollars. And it seemed that – and I don't have any verification of this. But it seemed like it finally clicked with [the Commissioner], that he kind of saw the writing on the wall, kind of knew how this was going to go.
>
> So we had our normal leadership meeting on Monday morning, and he walked in, [the Senior Deputy Commissioner] and him, both, and said that they had become a distraction, and over the weekend, they had contacted Governor Fallin, and he has submitted his resignation as Secretary of Health and that both of them were submitting their resignations to the Board of Health for their current positions.[199]

Later that evening on October 30, 2017, the Board of Health held an emergency meeting, accepting the resignation of the Commissioner and appointing an Interim Commissioner.[200] Shortly thereafter, on November 6, 2017, after being briefed internally, then briefing members of the Legislature, the Interim Commissioner requested a supplemental appropriation of $30 million for the Department.

2. The Actual Financial State of the Department

Based on financial records presented to the Legislature, it appeared that the Department of Health's expenditures were outpacing its revenues, and thus, the Department would not be able to cover its expenses. However, the deeper problem was glossed over by the use of improper accounting practices. First, the Department maintained a slush fund with millions of dollars that allowed the Department to absorb budget cuts and revenue failures without reducing expenditures. Second, the Department was just as bad at budgeting revenue as expenses. Third, some of the "borrows", including PNP, that were allegedly driving the catastrophic debt situation at the Department simply did not need to be paid back.

As discussed *infra* at III(5), the Department utilized Program Funds Recovered (PFR) to maintain a slush fund of discretionary dollars that would not be swept, or taken back to be used elsewhere, by the Legislature. The Investigative Audit thoroughly explains the nature and mechanism for the creation and maintenance of this slush fund.[201] The slush fund allowed the OSDH to spend

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199 Tr. LL, February 15, 2018, p. 74-75.
200 Tr. LL, February 15, 2018, p. 79, ll. 11-20.
201 *See* Appx. A, p. 35 *et seq.*

beyond its means for years without running out of money.[202] The Department kept the 400 Federal and 210 Revolving fund hidden from the oversight of the Executive Branch and the Legislature.[203] Historically, agencies fear the end of the fiscal year "sweep", when the Legislature recovers excess funds leftover in agency coffers. The prospect of a sweep incentivizes agencies to spend all their appropriated dollars, lest their next year's budget be reduced due to lack of need. OSDH avoided a sweep by keeping the PFR monies in the federal fund where the Legislature would not sweep them due to the perceived restricted nature of federal dollars within that fund. Millions of dollars[204] were kept in the 400 Federal fund that were in no way restricted.[205] The Department should have realigned PFR dollars to their respective appropriation or revolving funds, and informed the Legislature that appropriations were higher than necessary based upon the amount of federal dollars the Department was utilizing.[206]

To be clear, none of the dollars kept in the OSDH slush fund appear to have been used in an illegal manner. However, by not correctly reporting its budgetary figures, and by hiding these monies in a way that the Legislature would not know they existed, the OSDH requested and received appropriations from the Legislature by presenting itself in a false financial position. These PFR monies allowed the OSDH to continue spending at levels well beyond its supported revenue. From FY11 through FY17, OSDH expenditures increased by $15 million, while revenues only increased by $13 million.[207] In particular, in FY16, OSDH ran a $16 million loss – yet never defaulted on payroll. These off-books monies mitigated the effect of the Department's budget shortfall.

The Department's budgeting woes were not limited to the budget shortfall identified by the CFO at the time of the budget submittal June 30, 2017. As identified by the Investigative Audit, the Department routinely exaggerated revenue well above actual revenues.[208] From FY13 through FY16, the Department spent more than its revenues could support. Senior Leadership routinely exaggerated revenues to support the expenditures they budgeted, similar to the FY18 budget when the Senior Deputy Commissioner "plugged" the $10 million budget gap into federal revenue, discussed *supra* at (iii). The Commissioner's Suite annually inflated the 400 Federal fund in the budget going back to at least FY11. Budgeted revenue and expenses were double what actual revenue and expenses were since 2011, and further, expenses outstripped revenue in all but two of the last seven years.[209] The Investigative Audit states:

> A review of the trends for Fund 400 (Federal Funds) indicates that budgeted revenues were consistently much higher than actual revenues for the entire analysis period (see graph on previous page). This is alarming, as federal revenues should be relatively easy to project accurately based on the federal grants the agency has been awarded. Based on interviews with OSDH staff members, Fund 400 was one of the primary funds

[202] Tr. Auditor M.C., April 19, 2018, p. 20, ll. 8-21.
[203] Tr. BPD, May 15, 2018, p. 24, l. 12 through p. 25, l. 10; p. 27, l. 20 through p. 28, l. 8.
[204] Tr. Auditor M.C., April 19, 2018, p. 20, ll. 2-5.
[205] Funds drawn down from a grant to pay for an employee's time on a program should have been used to reimburse the state dollars initially used, and then were free to be used at the discretion of the agency.
[206] Tr. Auditor M.C., March 8, 2018, p. 48, ll. 2-6.
[207] Appx. A, p. 12.
[208] Appx. A, p. 13.
[209] Appx. A, p. 14.

> used by senior management (the Senior Deputy Commissioner and the Business Planning Director) to inflate revenue estimates to justify their expenditure budgets.[210]

Senior Leadership made it impossible for lawmakers to know how much over, or under, budget the Department was by routinely exaggerating both revenue and expenditures. And as a result of the Department's annual misinformation campaign, the Legislature could not make intelligent decisions regarding appropriations to the Department. This campaign failed to rise to prosecutable criminality because the declarants believed they had sufficient funding through PFR to pay for budgeted expenses. The Department never explicitly told the Legislature they were sitting on unrestricted funds, which could be used for any purpose, because they were never required to.

Finally, the CFO never fully understood the underlying budget data or the agencies cash position. He mistakenly believed the Department must reimburse the "borrows" and PNP when he began sounding the alarm regarding the Department's financial woes. He did not understand that PFR dollars were discretionary dollars, not restricted dollars. His belief was a fatal flaw in the presentation of the Department's fiscal mismanagement. The Legislature appropriated $30 million in supplemental appropriations to pay back these "debts". But the "borrows" and PNP were merely internal transfers. There was no need to pay back these transfers because there were no grants or funds to be made whole. To date, there is no person or vendor or entity that needs cash to be made whole as a result of "borrows" and PNP.[211] The Department was able to pay these expenses up front with cash it maintained in the slush fund. Because the slush fund, PFR, is not a grant or any other restricted funding source, these discretionary dollars were used just as they should have been – to pay payroll and other expenses.

If the Department had not been maintaining a stockpile of discretionary cash, and in fact was paying payroll with grant money, for example, without sufficient reserve cash to pay its over budget expenditures, it is **possible** that particular grants might have required money to be made whole. However, that is not the case. The Department has not spent **any** of the $30 million supplemental appropriation.[212] The supplemental appropriation was unnecessary. The Department has no debt to pay back because it covered its excess expenses with funds from the PFR. The Department has no leftover expenses that needed the supplemental appropriation to pay down.

What caused the much-discussed Ryan White Program payment debacle – where payroll was paid using Ryan White dollars and the Department nearly defaulted on the insurance premium reimbursement? It is impossible to confirm that the 400 Federal fund balance was $15.00 on July 21, 2017, as claimed by the CFO[213] and Payments Officer.[214] However, on June 30, 2017, the Department had $20 million in cash; on July 31, 2017, the Department had $15 million in cash; and on August 31, 2017, the Department had $23 million in cash. A timing issue could have left the 400 Federal fund at $15.00 on June 21, 2017, because the Payment Officer pushed out payroll the day before, reducing

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[210] Appx. A, p. 15.
[211] Tr. Auditor M.C., March 8, 2018, p. 60, ll. 16-22.
[212] *See e.g.* Grand Jury Ex. #58.
[213] Tr. CFO, January 16, 2018, p. 108, ll. 1-6.
[214] Grand Jury Ex. #56, p. 2.

the 400 Federal fund by \$5.8 million.[215] By the end of the month the 400 Federal fund held over \$900,000, which was enough to make the invoice payment.[216] However, the Department could have utilized other non-restricted funds to pay the vendor. On June 30, 2017, the Department held \$9 million in the state appropriated fund, so the Department could have transferred money to the federal fund and paid the Ryan White Program vendor prior to the beginning of July or at any time during July.[217] The Department's willingness to use Ryan White Program rebate dollars to pay payroll – but not to transfer unrestricted funds to pay a \$600,000 invoice is impossible to understand.[218]

3. The Aftermath of the Department's Financial Misinformation and Mismanagement

On November 1, 2017, just a month after the Commissioner, Senior Deputy Commissioner, and Business Planning Director resigned, the COO resigned.[219] The COO testified decisions made by the Interim Commissioner to bring over "cronies" from OMES to help run OSDH led to her resignation.[220] She also believed a conflict of interest existed in implementing the changes needed at the Department while continuing to be Secretary of Finance over OMES, and the de facto head of OMES.[221]

The newly appointed Interim Commissioner went to the Legislature to request an emergency supplemental appropriation. He did this at the insistence of the CFO and COO without waiting for the results of the audit requested by the Commissioner. The Legislature required the Department to cut appropriated costs by 15% by June 30, 2019, as part of the supplemental \$30 million appropriation.[222]

On December 6, 2017, the Interim Commissioner submitted the RIF[223] plan that had been developed during ICS by the CFO and COO. [224] This was done without exercising due diligence to determine if this cut was truly necessary. This plan called for the reduction of 198 employees total – 37 unclassified employees, effective immediately, and 161 classified employees, effective March 2, 2018.[225]As detailed previously at II(b), the financial crisis necessitating these layoffs was fictional. It was unnecessary for the Department to slash costs because the Department was not insolvent.

In addition to being unnecessary, the Corrective Action Report claimed the classified employees laid off on March 2, 2018, would save \$7 million in state appropriated dollars. This claim proved untrue.[226] In order to cut appropriated costs, any employees that were RIF'd must be paid for

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215 Grand Jury Ex. #56, p. 2.
216 Appx. A, p. 34.
217 Appx. A, p. 34.
218 For a visual representation of the balances of the Department's accounts during the relevant periods, *See* the spreadsheet on page 38 of the Audit and page 22 of this report.
219 Tr. COO, January 16, 2018, p. 76, ll. 18-22.
220 Tr. COO, January 16, 2018, p. 78, ll. 11-16.
221 Tr. COO, January 16, 2018, p. 78, ll. 17-25.
222 Grand Jury Ex. #54, p. 5.
223 Grand Jury Ex. #53.
224 Tr. COO, January 16, 2018, p. 77, ll. 4-7; Tr. CFO, January 18, 2018, part I. p. 43, l. 9 through p. 44, l. 4.
225 Grand Jury Ex. #53.
226 Grand Jury Ex. #54, p. 12.

by appropriated dollars.[227] On October 6, 2017, the Senior Deputy Commissioner received a letter from a Regional Director[228] stating his concerns with the proposed RIF plan – a full two months before the plan was ultimately submitted.[229] The Regional Director expressed concerns that the RIF would not have the desired cost saving effect.[230] Because the employees proposed for RIF were paid in part by federal and revolving dollars, the state appropriated savings would be lower than estimated. In this Regional Director's area, the RIF plan proposed an annual savings of $1.7 million by removing 23 employees.[231] In fact, these 23 employees to be RIF'd would save only $300,000 in state appropriations and the region would lose over $1 million in federal funding.[232] Because the plan focused on the total payroll of the employees, and not on the source of employees' pay, savings to state appropriations were grossly exaggerated. The CFO rejected this analysis and insisted that the RIF was necessary and would save state-appropriated dollars.[233] He claimed in an email to the Legislative Liaison that "it is possible that some of the eliminated positions may have been funded or partially funded by millage…that is the exception and not the rule and is tied to the nuances of reduction in force plans."[234] This was not true. In fact, the classified employee RIF list, provided to the COO on November 21, 2017, showed that of the 171 classified employees targeted at that time for the RIF, 100 of the employees were not paid out of state-appropriated dollars.[235]

On March 2, 2018, the second half of the Department's Reduction-in-Force ("RIF") plan took effect, laying off 161 classified employees.[236] The 161 classified employees let go were in addition to the 37 unclassified employees laid off with immediate effect on December 8, 2017.[237]

The Investigative Audit examined of the total projected savings as detailed in the Corrective Action Report, like the analysis the Regional Director provided early on in the RIF planning process. The Audit confirmed the Regional Director's fears and corroborated the classified employee RIF list discussed above.[238] The Department claimed the RIF, including classified and unclassified employees would save $10 million in state-appropriated dollars.[239] The Department projected that the unclassified employees part of the RIF would save $2.5 million in state-appropriated dollars and the Investigative Audit found this to be accurate.[240] This was not the case, however, with the unclassified employees in the RIF plan. The Department projected the unclassified employee RIF would save $7.5 million in state-appropriated dollars. Based on the Auditors' analysis the RIF of unclassified employees only saved between $3.3 million and $6 million state-appropriated dollars.[241] The claimed savings of state-

227 Tr. Auditor M.C., April 19, 2018, p. 3, l. 16 through p.4.
228 Regional Director for Cleveland, McClain, Garvin, Grady, and Murray County Health Departments.
229 Grand Jury Ex. #52.
230 Grand Jury Ex. #52.
231 Grand Jury Ex. #52, p. 2.
232 Grand Jury Ex. #52, p. 2.
233 Grand Jury Ex. #61B.
234 Grand Jury Ex. #61B.
235 Grand Jury Ex. #60A.
236 Grand Jury Ex. #53.
237 Grand Jury Ex. #53.
238 Grand Jury Ex. #60A.
239 Grand Jury Ex. #54, p. 12.
240 Appx. A, p. 39 – projected state appropriation savings of $2,652,505.
241 Appx. A, p. 40.

appropriated dollars by the RIF program was **overstated** by $2 million to $5 million, according to the SAI audit. The classified employee list, where 100 of the slated RIF employees were not paid state-appropriated dollars, corroborates of this analysis.[242] According to the Investigative Audit, the total savings of the RIF is not known, but the savings projected by the Department in the Corrective Action Report are erroneous.

The RIF plan was unnecessary because the Department was not bankrupt. The RIF plan was unwise because it did not save state-appropriated dollars as the Department claimed. The Department promised the Legislature that the RIF of classified employees would save $7.5 million in state-appropriated funds. Instead, the Department saved between $3.3 million and $6 million in state-appropriated funds by terminating 161 classified employees needlessly. The RIF plan wasted tax dollars unnecessarily as the one-time-cost to implement the plan was $3 million.[243] Finally, as it is clear that the savings is not the $7.5 million claimed by the Department, the remaining dollar amount represents federal grant dollars lost as a result of the RIF.

The unnecessary and ineffective termination of 198 Oklahomans stands in marked contrast to the 94 significant pay raises that occurred from July 1, 2010 to September 30, 2017.[244] This included a $20,500 annual pay raise for the Senior Deputy Commissioner, which was not properly approved.[245] In addition, 15% of the pay raises in that time frame were handed out to members of the Commissioner's Office.[246] Finally, the top nineteen pay raises ranged from a $30,122 to $41,505 salary increase.[247] The Commissioner admitted he approved these pay raises.[248]

In sum, the financial crisis presented to the Legislature and to the public simply did not exist. The long term "borrows" and PNP were internal transfers which did not need to be paid back. The FY18 budget shortfall was funded through the slush fund maintained by the Department. The RIF plan was unnecessary because there was no financial crisis, and it did not save money as claimed. The supplemental state appropriation was unnecessary, and the Department has not yet spent the money, as explained in the Investigative Audit:

> Additional analysis of the month-end cash balances indicates that the $30 million emergency special appropriation (which was transferred into Fund 197 in November 2017) had not been disbursed as of the end of February 2018. According to the grants reporting officer, $20 million has been used primarily to "pay" internal borrows, prior year payroll not posted, and data bills not posted. He also stated that the remaining $10 million will be used for the same purpose and approximately $3 million of these funds would be used to pay costs associated with the RIF of 161 classified employees and termination of 37 unclassified employees. Therefore, because payroll and data expenditures **have already been paid by OSDH in the statewide accounting**

242 Grand Jury Ex. #60A.
243 Appx. A, p. 38.
244 Appx. A, p. 16, "We defined significant pay raises as anything **over** $10,000 annually."
245 Appx. A, p. 16.
246 Appx. A, p. 16.
247 Appx. A, p. 16.
248 *See* Tr. Commissioner, May 15, 2018.

> **system,** what is *really* occurring within FISCAL is an internal realignment of funds that have little or no bearing on actual OSDH statewide accounting system accounts.

(emphasis added).[249] As of the end of the audit period, February 28, 2018, nearly four months after the emergency $30 million was transferred to the Department, the $30 million is still sitting at the Department, untouched.

Further, as of April 30, 2018, the money remains untouched in the OSDH accounts.[250]

Fund	Name	30-Jun-17 SRD	31-Jul-17 SRD	31-Aug-17 SRD	30-Sep-17 SRD	31-Oct-17 SRD	30-Nov-17 SRD	31-Dec-17 SRD	31-Jan-18 SRD	28-Feb-18 SRD	31-Mar-18 SRD	30-Apr-18 SRD
194	Appropriated											
195	Appropriated											
196	Appropriated	0	2,400	2,400	2,400	2,400	0	0	0			
197	Appropriated	9,515,068	6,871,810	3,110,572	2,090,969	1,548,976	31,365,315	30,274,193	20,471,415	20,430,329	19,663,181	18,561,412
198	Appropriated		1,423,649	5,302,830	4,838,075	3,409,499	4,331,227	5,391,370	9,334,512	10,407,256	11,799,794	14,341,199
210	Public Health Special	3,366,327	3,706,435	525,683	991,948	1,681,332	754,259	1,293,460	1,895,033	1,107,434	1,379,992	3,138,788
79901	Clearing Account	3,681,095	2,853,932	7,386,553	3,495,679	3,160,630	4,274,541	4,560,889	4,456,277	5,426,982	4,535,617	5,886,096
400	Federal Grants	3,587,292	903,782	6,700,431	12,607,642	9,999,916	14,049,466	6,370,528	11,476,115	11,775,719	11,105,897	7,616,653
	Federal Grant Reductions - Restricted	(4,000,000)	(4,261,305)	(4,000,000)	(6,028,778)	(6,089,742)	(4,843,529)	(3,443,030)	(5,805,607)	(4,417,896)	(4,500,000)	(4,500,000)
	Estimated Available Unrestricted Cash	**$ 16,149,782**	**$ 11,500,703**	**$ 23,028,470**	**$ 17,997,937**	**$ 13,713,011**	**$ 49,931,279**	**$ 44,447,410**	**$ 41,827,747**	**$ 44,729,825**	**$ 43,984,482**	**$ 45,044,148**
	LESS: $30 MIL SPECIAL APPROPRIATION						$ (30,000,000)	$ (30,000,000)	$ (30,000,000)	$ (30,000,000)	$ (30,000,000)	$ (30,000,000)
	Estimated Available Funds Less Special Approp.						**$ 19,931,279**	**$ 14,447,410**	**$ 11,827,747**	**$ 14,729,825**	**$ 13,984,482**	**$ 15,044,148**
202	Kidney Health	1	1	1	1	1	1	1	1	1	1	1
203	Genetic Counseling Licensure	31,649	31,665	30,786	31,166	32,382	32,882	33,440	34,619	36,214	37,988	40,029
204	Tobacco Prevention	956,203	1,017,704	1,042,288	1,104,723	1,107,948	1,215,749	1,292,974	961,048	976,552	995,287	1,035,055
207	Alternatives	27,952	27,952	22,952	22,952	22,952	22,952	22,952	22,952	22,952	22,952	22,952
211	Nursing Facility Admin Penalties	56,471	56,554	56,554	56,554	62,362	62,362	62,362	68,592	68,592	68,592	77,092
212	Home Health Care	769,319	811,066	818,979	786,684	762,340	747,538	734,336	717,277	695,750	695,860	693,067
216	National Background Check	1,460,582	1,368,593	1,431,060	1,411,944	1,236,195	1,280,217	1,345,910	1,307,837	1,240,903	1,206,106	1,262,080
220	Civil Monetary Penalties	7,834,076	7,621,513	7,496,104	7,410,991	6,928,736	7,616,354	7,306,825	7,135,968	6,989,778	6,741,202	7,217,351
222	Organ Donor Education	143,938	132,307	136,152	142,034	158,983	176,602	200,687	238,931	247,855	117,855	117,855
225	Breast Cancer	116,633	117,934	119,236	120,478	122,018	124,038	125,238	126,378	127,558	128,418	129,278
226	Sports Eye Safety	4,965	5,015	5,030	5,030	5,030	5,030	5,030	5,035	5,040	5,040	5,040
228	Leukemia & Lymphoma	63,432	63,441	63,441	63,441	63,441	63,441	63,441	63,441	63,443	63,443	63,443
229	Multiple Sclerosis Society	151	158	158	158	158	158	158	158	163	163	163
233	Prevent Birth Defects	2,105	2,125	2,125	2,145	2,165	2,165	2,185	2,185	2,185	2,185	2,225
235	Oklahoma Lupus	12,513	12,568	12,589	12,589	12,589	12,589	12,589	12,589	12,591	12,591	12,591
236	Trama Care Assist	2,327,453	3,706,244	3,209,432	3,074,027	2,815,082	1,710,782	1,244,863	1,475,910	2,471,676	627,094	3,791,278
242	Pancreatic Cancer Research	11,910	11,980	10,151	8,090	7,272	7,291	7,691	8,171	8,330	8,351	8,773
250	Regional Guidance Centers	12	12	12	12	12	12	12	12	12	12	12
255	Lic Prof Counselors											
265	Child Abuse Prevention	151,777	138,911	135,518	133,227	133,664	133,638	136,527	136,664	140,338	140,909	143,551
267	Emergency Medical Technician	149,957	150,217	150,317	150,517	150,757	151,057	151,217	151,557	151,757	146,957	147,357
268	Emergency Response Systems	2,481,827	2,499,570	2,609,367	2,701,641	2,764,616	2,631,995	2,696,444	2,559,892	2,642,376	2,705,649	2,602,538
284	Dental Loan	353,453	312,176	341,682	341,682	297,313	263,957	388,262	405,754	407,215	398,262	391,383
285	Institute for Disaster & Emergency	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657
290	OK Safe Kids Asso	860	860	860	860	860	860	860	860	860	860	860
295	State Athletic Comm	218,549	197,178	254,467	261,785	260,630	266,972	270,424	268,223	291,751	284,050	319,672
340	CMIA - WIC	22,421	(402,509)	(244,310)	(594,663)	343,514	334,895	(76,371)	235,188	239,831	234,842	(152,953)
490	ARRA	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461
700					891,162							
994	Payroll Withholding	4,084	3,744	444	3,598	(715)	(180)	4,957	3,028	2,584	1,912	(563)
	SUBTOTAL	**$ 17,360,411**	**$ 18,045,099**	**$ 17,863,515**	**$ 18,300,946**	**$ 17,448,423**	**$ 17,021,475**	**$ 16,191,131**	**$ 16,100,388**	**$ 17,004,425**	**$ 14,804,698**	**$ 18,088,247**
	TOTAL	**$ 33,510,192**	**$ 29,545,801**	**$ 40,891,985**	**$ 36,298,883**	**$ 31,161,433**	**$ 66,952,754**	**$ 60,638,541**	**$ 57,928,134**	**$ 61,734,250**	**$ 58,789,181**	**$ 63,132,395**

Expenditures must be for the purpose of the fund
that purpose could include payroll

General Operations of the Agency

Source: PeopleSoft Summary of Receipts and Disbursement reports
Purpose: Support for ---------------- B.01✓

As demonstrated above, the Department continues to hold the $30 million supplemental appropriation, with no effect on the operational balances of the Department's accounts.

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249 Appx. A, p. 38.
250 Grand Jury Ex. #58 – this spreadsheet is identical to the spreadsheet on p. 38 of Appx. A, but expanded beyond the audit period to the most recent closed period – April 30, 2018.

III. ACCOUNTING PRACTICES OF THE OKLAHOMA STATE DEPARTMENT OF HEALTH

1. TSET and OUHSC

During the ICS process, as the Department scrambled to find available cash, the Senior Deputy Commissioner stated that she had money available "in the millions" at the Tobacco Settlement Endowment Trust ("TSET").[251]

In May 2011, the Senior Deputy Commissioner and Executive Director of TSET collaborated to develop the Certified Healthy Community Grant Program.[252] The purpose of the program was to "provide incentives for organizing, implementing policy initiatives, and developing community partnerships that address identified local health issues."[253] The Legislature created the Certified Healthy Communities standard via statute.[254] According to statute, the program would pay grant dollars "for the voluntary certification of communities that promote wellness, encourage the adoption of healthy behaviors, and establish safe and supportive environments."[255] The statute creating the Certified Healthy Communities standard merely contemplated an awarded certification – no financial incentive was included.[256] However, OSDH and TSET partnered to give grant dollars to communities that achieved certification.[257] The funding for the grant was $3.5 million from OSDH, which was transferred to TSET on July 1, 2011.[258] While the contract, which was for a term of three years, called for the money to be transferred in $1.2 million payments each year on renewal, the entire $3.5 million was transferred immediately.[259]

In December 2011, six months after the initial contract, TSET and OSDH renegotiated the contract to include a grant program for schools.[260] Certified Healthy Schools was also created by statute, and the Legislature created financial incentives for schools that chose to go through the certification process.[261] However, the financial incentives were "[s]ubject to available funding **specifically appropriated** for this purpose."[262] The Legislature never appropriated funding for this purpose but the Department renegotiated the TSET contract to include an additional $5 million, transferred December 23, 2011, for Certified Healthy Schools.[263]

The Executive Director indicated she did not know where the money for these programs came from.[264] She believed the Department wanted the money held and administered at TSET so that it was

[251] Tr. CFO, January 18, 2018, part I., p. 4, ll. 7-13; Appx. A, p. 22.
[252] *See* Grand Jury Ex. #16.
[253] Grand Jury Ex. #16, p. 1.
[254] Title 63 O.S. § 2060.
[255] Title 63 O.S. § 2060(B).
[256] *See* 2010 HB 2774.
[257] Grand Jury Ex. #60.
[258] Grand Jury Ex. #49, p. 1.
[259] Grand Jury Ex. #16.
[260] Grand Jury Ex. #17.
[261] Title 63 O.S. § 2061.
[262] (emphasis added) Title 63 O.S. § 2061(E).
[263] Grand Jury Ex. #49, p. 5.
[264] Grand Jury Ex. #60.

not where the Legislature would take it away.[265] TSET provided two employees who were paid out of the $8.5 million contract.[266]

The Department also entered into a contract with the University of Oklahoma Health Sciences Center ("OUHSC") in December 2011.[267] This contract provided $1.5 million upfront to the University to "recruit, educate, and train racial and ethnic minority students in public health."[268] The OUHSC contract spent $400,000, with $1.1 million being returned to the Department at the Interim Commissioner's request.[269]

After explaining that she had millions at TSET, in August 2017,[270] the Senior Deputy Commissioner entered into an agreement with TSET to return $3 million from what remained of the TSET contract.[271] This left $1.4 million at TSET to continue the programs through June 29, 2018.[272] However, after the Senior Deputy Commissioner resigned, the Interim Director requested the return of the remaining balance from the contract on November 9, 2017.[273]

The Investigative Audit determined that the contracts violated state law.[274] In both cases, the contracts advanced dollars prior to services or products being provided.

> Payments for products or services pursuant to a contract executed by a state agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, Sect 85.1 et seq. of this title, shall be made only after products have been provided or services rendered.[275]

The Investigative Audit determined that $9 million of the $10 million provided in the contracts came from the 400 Federal fund, specifically the PFR.[276] The Department did not use specifically appropriated funds for the program, which the statute mandated.[277] It does not appear that federal funds were used inappropriately, nor does it appear that funds were used for a non-health related purpose, but the programs were funded in a manner not conforming to state law.

2. OMES Administration of Funds

The Oklahoma State Department of Health, like most state agencies, deposits money into, pays money out of, and keeps balances at OMES. In 2011, agencies began to use OMES as the central state government bank after HB 2140's consolidation of the Office of State Finance, Department of Central Services, Employee Benefit Council, Office of Personnel Management, and Education

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265 Grand Jury Ex. #60.
266 Grand Jury Ex. #60.
267 Grand Jury Ex. #48.
268 Appx. A, p. 21.
269 Tr. Auditor M.C., March 8, 2018, p. 6, ll. 17-24.
270 Grand Jury Ex. #11A.
271 Grand Jury Ex. #11B.
272 Grand Jury Ex. #11B.
273 Grand Jury Ex. #15.
274 *See* Appx. A, p. 23-25.
275 Appx. A, p. 23.
276 Appx. A, p. 24; Tr. Auditor M.C., March 8, 2018, p. 28, ll. 11-21.
277 Appx. A, p. 24.

Employees Group Insurance Board (*hereinafter* referred to as "consolidation"). After consolidation, the OSDH kept various "bank accounts" at OMES: the 19X[278] funds for state appropriated dollars, the 210 funds for revolving fund dollars, the 400 fund for federal dollars, and various 2XX[279] funds, which are funds for certain programs created by state statute. The accounts maintained at OMES were at the three-digit level, i.e. 400 for all federal funds, but as discussed *supra* at (2), the OSDH FISCAL system broke down each of these funds or accounts into subaccounts with much longer account numbers. For example, the federal fund, which is made up of numerous federal grants and programs included the Ryan White Fund. [280]

These broad fund categories represent the revenue streams of money coming into the OSDH. Generally, the OSDH budget is made up of state appropriated dollars, a known figure which is given to the agency by an act of the State Legislature prior to the beginning of a fiscal year; revolving fund dollars, which is an estimated amount of revenue made up from the sale of licenses, taxes, fees, etc.; and estimated federal dollars made up of grants and other federal programs.

At any given point, OMES may only look at the broad financial health of OSDH at this overview level. OMES is not able to see the various individual revenue streams that make up these broad categories of monies to identify restricted and unrestricted funds because the Department continues to use FISCAL as opposed to the statewide financial system. Until the Department switches to the statewide financial system, OMES cannot protect against the inappropriate use of restricted dollars.

3. Payroll

Like all other expenditures, payroll is paid from the bank accounts at OMES. Payroll is approximately $5 million every two weeks. At some time prior to 2006, the OSDH paid payroll out of each of the three bank accounts at OMES – state dollars, revolving dollars, and federal dollars. It then realigned the costs to the specific subaccounts only recorded at the OSDH. This meant that at the broad fund breakdown level visible to OMES, payroll dollars were being spent out of the proper account. Over ten years ago, someone made the decision, for payroll, which was paid bi-weekly, to be paid out of the 400 Federal fund account, then for realignment to take place at both the OMES and OSDH level.[281] Once payroll was paid, OSDH realigned the costs on its FISCAL system, as well as transferred money from the state and revolving funds at OMES into the federal fund to pay back monies which were not federal dollars for payroll.[282] Within the last six months, OMES reiterated that OSDH should pay payroll out of the 400 Federal fund and then realign the dollars internally and externally after the fact.[283]

State is using restricted, federal grant dollars in a manner not authorized by the grants to pay payroll in this way. The State and Department risks a federal audit and the canceling of important federal grants which make up a large portion of the agency's budget. Even if costs are realigned, i.e.

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278 The X refers to the fiscal year. For example, 198 would refer to the state appropriated funds for FY18.
279 Each specific revolving fund has its own number, for example, 204 would refer to the Tobacco Prevention revolving fund; 210 is the general revolving fund.
280 *See* Appx. A, 32, 34.
281 Grand Jury Ex. #56, p. 2.
282 Grand Jury Ex. #56, p. 2.
283 Grand Jury Ex. #56, p. 2.

appropriated funds are transferred back into the 400 Federal fund to pay back payroll expenses which are not properly a federal expense, the State is still using restricted federal dollars for a non-approved purpose, and often this realignment is not being done in a timely manner, such as the Ryan White Program late payment discussed *supra* at II(1)(ii).

The Department and OMES should reevaluate the use of the 400 Federal fund to pay all of payroll. The most critical change must first come from the Department switching to the statewide accounting system, but the Department and OMES should then consider using the three-fund approach to pay payroll so that payroll dollars align with payroll expenses correctly.

4. Budgets

One of the most problematic areas at the OSDH is the budget process. Agencies are required to submit their next fiscal year's allotted budget to OMES on June 30 each year – the end of the state fiscal year. OSDH submitted its FY18 budget on June 30 signed by the Senior Deputy Commissioner on behalf of the Commissioner and by the Chief Financial Officer.[284] Historically, OSDH failed to present a budget based on accurate projections, particularly federal dollars.[285] The Department's FY17 budget had a $6 million deficit.[286] In FY16, the OSDH accurately budgeted state appropriations and expenditures at $60 million and $58 million respectively, which was accurate.[287] But for federal dollars, OSDH budgeted revenue and expenditures at $172 million and $167 million, respectively; while actual revenue and expenditures $133 million and $131 million.[288] This resulted in a difference in budgeted dollars to actual dollars of almost $40 million in revenues and $36 million in expenditures.[289] This resulted in the Department taking a $16 million loss in FY16.[290] As the Investigative Audit shows, the budget for the 400 Federal fund and the 210 Revolving fund were routinely inflated, often grossly so.

Presenting such an inflated and inaccurate budget to legislative leaders and to the Executive Branch means that leaders do not have an accurate assessment of the Department's financial situation. Further, it complicates efforts to understand whether the Department is running out of money or not.

5. Program Funds Recovered

The OSDH Investigative Audit details the phenomena within the OSDH financial accounting system known as Program Funds Recovered (PFR). These are accounts nestled within the 400 Federal fund and the 210 Revolving fund that only exist within FISCAL, the OSDH side accounting system. They are not visible to OMES except as the combined figure which makes up the 210 and 400 funds. All OMES sees is the total dollar amounts in the 210 and 400 funds, while OSDH can see the detail that makes up those dollar amounts.

PFR is generated from the difference between budgeted and actual expenditures. As discussed *supra* at II(1)(iii), at the OSDH, budgeted and actual figures may have no basis in reality. If an employee

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284 Grand Jury Ex. #4.
285 *See* Grand Jury Ex. #57.
286 Tr. COO, January 16, 2018, p. 37, ll. 9-25.
287 Grand jury Ex. #57.
288 *See* Appx. A, pp. 13-15.
289 *See* Appx. A, pp. 13-15; Grand Jury Ex. #57.
290 Appx. A, p. 12.

is estimated or budgeted to work 50% on a federal grant and 50% on another program where they would be paid out of state appropriations, then the budget submitted to OMES should show state appropriated dollars expended at 50% of the employee's salary and federal grant dollars expended at 50% of the employee's salary.

Actual draws from grants are based on Time and Effort (T&E),[291] which allows the Department to draw down federal funds based on validated T&E. Once T&E is validated, funds are drawn down from the grant to pay for the employee's work on the grant program. If a 50/50 employee's T&E is more than 50%, additional funds are drawn to pay for the additional work. If an employee is budgeted to work 50/50, but works 75% on the federal grant, then the Department may draw down the full 75% of the employee's salary from the grant.[292] Once this occurs, the Department should reimburse the state-appropriated dollars budgeted to pay the employee.[293] But rather than reimbursing the state appropriated dollars expended on the employee, these additional funds are kept in the 400 Federal fund.[294] By keeping these excess dollars in the 400 Federal fund, the Department is able to build up an account of discretionary dollars that is outside the oversight of the Legislature.[295]

The Department also held a PFR fund within the 210 Revolving fund.[296] If T&E provided additional dollars from a restricted fund for an employee's work, the Department would hide those additional dollars within PFR and not reimburse the state appropriated dollars spent on the employee's salary. Both of these PFR funds allowed the Department to spend above its revenue with impunity and build a slush fund for the Department's use.[297]

In FY15 or FY16, the Department changed to a more accurate budgeting system to forecast expected federal revenue.[298] The Department's ability to generate PFR dropped because employees were projected accurately. The Department quickly suspended this budgeting process because it spent its PFR too quickly.[299] Ultimately, the Department went back to how it was forecasting federal dollars in order to generate more PFR.[300]

Any claims that OSDH was insolvent, incapable of making payments, or defaulting on payroll were simply not true. Mismanagement and poor budgeting certainly abounded. But in terms of cash, OSDH had more than enough to close FY18 without the special appropriation. In particular, this is evidenced by the fact that as of the date of this report, OSDH has not spent any of the special appropriation.

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[291] T&E is a system to determine work provided for a particular grant, which ultimately allows an agency to draw down federal grant funds for work on a grant completed by the employee.
[292] Tr. BPD, May 15, 2018, p. 23, ll. 11-17.
[293] Appx. A, p. 36.
[294] Appx. A, p. 36.
[295] Tr. Auditor M.C., April 19, 2018, p. 15, ll. 6-12.
[296] Appx. A, p. 36.
[297] Appx. A, p. 36; Tr. Auditor M.C., April 19, 2018, p. 21.
[298] Tr. Auditor M.C., April 19, 2018, p. 21, ll. 13-16.
[299] Tr. Auditor M.C., April 19, 2018, p. 22, ll. 9-24.
[300] Tr. Auditor M.C., April 19, 2018, p. 22, l. 25 through p. 26, l. 3.

6. The Board

The Board of Health's close relationship with Senior Leadership[301] controlled all access to the Board. All communication to and from the Board was vetted by the Commissioner and Senior Deputy Commissioner.[302] The Business Planning Director told the COO that the Board did not need to receive higher-level financial reports.[303] The Senior Leadership believed the Board to be advisory in nature,[304] and did not allow the Board to fulfill its statutory requirements.[305]

Financial information provided to the Board was limited to a utilization report.[306] The report indicated through a red, green, or yellow highlight whether a program area was on-track as to its utilization of its budget.[307] The report did not show whether there was sufficient revenue to cover the budgeted expenses,[308] nor if the Department as a whole was operating within the confines of its supported revenue.[309] The COO believed the information provided to the Board was limited and not sufficient for the Board to make decisions.[310] She voiced her concerns to the Senior Deputy Commissioner, but her concerns were rebuffed and the board continued to receive the same reports .[311]

Early into the CFO's tenure, when presenting these stop-light utilization reports, he stressed that not enough information was being presented to the Board, suggesting the Board should be asking for more financial information.[312] In fact, the Finance Committee Chair asked the CFO after a couple of presentations by the CFO at regular board meetings if there was more financial information they should be looking at – but ultimately nothing changed.[313]

7. IT Costs

In 2011, the Department attempted to move from the antiquated and duplicative FISCAL internal accounting system to the statewide accounting system.[314] After spending $3.6 million on this venture, the Department "walked away" from the project after being told they would have to spend millions more to complete the project.[315] The Department attempted to renegotiate their Master Service Agreement[316] with OMES but was rebuffed.[317]

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301 Tr. CFO, February 14, 2018, p. 114, ll. 9-15.
302 Tr. CFO, February 14, 2018, p. 48, ll. 8-17.
303 Tr. COO, January 16, 2018, p. 23, ll. 11-25.
304 Tr. COO, January 16, 2018, p. 24.
305 Title 63 O.S. § 1-104.
306 *See* Grand Jury Ex. #6.
307 Tr. CFO, February 14, 2018, p. 55, ll. 3-10.
308 Tr. COO, January 16, 2018, p. 22, l. 1.
309 Tr. CFO, February 14, 2018, p. 55, ll. 16-25.
310 Tr. COO, January 16, 2018, p. 20, ll. 2-3.
311 Tr. COO, January 16, 2018, p. 20, ll. 7-8.
312 Tr. CFO, February 14, 2018, p. 56, ll. 5-11.
313 Tr. CFO, February 14, 2018, p. 56, ll. 5-11.
314 Appx. A, p. 29.
315 Appx. A, p. 30.
316 The Master Service Agreement is a monthly contract with OMEs to provide IT support including computer, internet, and phone services throughout the agency.
317 Tr. CFO, February 14, 2018, p. 84, ll. 6-16.

IV. CONCLUSION AND RECOMMENDATIONS

The Multi-County Grand Jury submits the following recommendations to the Department of Health, the Board of Health, the Governor, and the Oklahoma Legislature as a result of this investigation:

1. The $30 million supplemental appropriation should be rescinded from the Department of Health and appropriated by the Legislature for the purpose of additional performance and investigative audits to uncover fraud, misuse, and mismanagement of taxpayer dollars by other state agencies. Further, the Legislature must mandate regular performance audits be conducted on each state agency.
2. The Department **must** move to the statewide financial system maintained by OMES and used by the vast majority of state agencies. The Department should be required to utilize the dollars sitting in the PFR fund to accomplish this project – and not any additional state appropriations.
3. The Board of Health had a duty to act not just as advisors or advocates for public health, but to fulfill its fiduciary duty as required by statute and ensure that public health is managed in a fiscally appropriate and sound manner. The Board's failure to fulfill this duty demonstrates that boards and commissions throughout the State of Oklahoma are antiquated in their management of administrative agencies. Unpaid volunteers with no knowledge or experience in state government cannot be expected to exercise such a duty over an agency as large and complex as the Department of Health. The Multi-County Grand Jury notes and commends the change in structure of the Board of Health resulting in it serving only in an advisory capacity.
4. Title 21 O.S. § 341 – Embezzlement of State Property should be amended to include the creation or possession of public dollars which are not reported to the Legislature or that are not designated for a particular purpose by a federal grant or state statute.
5. The Legislature should pass a statute, mandating each state agency to annually publish to the public a Balance Sheet and Statement of Revenues, Expenditures, and Changes in Fund Balances pursuant to the standards of the Governmental Accounting Standards Board (GASB).
6. State employees, particularly those assigned to financial positions within state agencies, must have sufficient knowledge and training within the areas they work. Job descriptions need to be reviewed or created mandating technical financial or accounting education and expertise.
7. The Department must return to the federal budgeting system that correctly projects federal grant dollars and no longer generate or possess PFR.

There are no winners as a result of this exhaustive investigation – only losers. Senior Leadership, who no doubt wanted only the best for public health in Oklahoma, resigned in disgrace due to their mismanagement of a state agency on a public stage. Taxpayers have lost trust in their state government for letting this crisis develop and for compounding it with wasted tax dollars and unnecessary layoffs. It may lose federal funding as grant audits loom over the coming months due to the gross mismanagement of the Department. Lastly, 198 Oklahomans have lost their jobs – for no reason.

Although we find no current criminal statute under which we may indict, we find the inappropriate accounting practices and reckless financial mismanagement at the Department of Health to be reprehensible. We believe that without the implementation of the findings and recommendations of this report and the Investigative Audit, another abject failure of the financial processes and internal controls of a state agency will undoubtedly occur.

V. Appendix A

INVESTIGATIVE AUDIT

Oklahoma State Department of Health

For the period July 1, 2010 through February 28, 2018

Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

Investigative Audit Report of the
Oklahoma State Department of Health

For the Period
July 1, 2010 through February 28, 2018

Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

May 15, 2018

TO THE HONORABLE MIKE HUNTER, OKLAHOMA ATTORNEY GENERAL

Pursuant to your request and in accordance with the requirements of 74 O.S. § 18(f), we performed an audit with respect to the Oklahoma State Department of Health for the period July 1, 2010 through February 28, 2018.

The objectives of our audit primarily included, but were not limited to, the concerns surrounding the agency's financial condition. The results of this audit, related to these objectives, are presented in the accompanying report.

Because the procedures performed do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Oklahoma State Department of Health for the period July 1, 2010 through February 28, 2018.

We also wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our engagement.

Sincerely,

Gary A Jones

GARY JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

Oklahoma State Auditor & Inspector

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Investigative Audit Report

Executive Summary

Background

In the late summer and early fall of 2017, officials with the Oklahoma State Department of Health (OSDH or agency) began "sounding the alarm" regarding inappropriate accounting practices, financial mismanagement, and dire financial circumstances at the agency.

The officials' concerns were first brought to the attention of the State Auditor and Inspector's office during an audit of the expenditures at OSDH for the State of Oklahoma's Comprehensive Annual Financial Report (CAFR). As the audit process moved forward[1], the officials' concerns were reiterated and were also included in testimony before the Oklahoma House of Representatives Special Investigative Committee. They specifically mentioned that the agency was experiencing a $30 million shortfall due to current year "borrows" and "payroll not posted" (PNP).

Subsequently, an urgent request for a $30 million emergency supplemental appropriation was made. OSDH's corrective action report provided to the legislature stated that a "critical infusion of funds in the amount of $30 million . . . allowed OSDH to stabilize payroll and turn its attention to issues causing the staggering financial crisis in which OSDH finds itself."

What We Found

- The agency did not need the $30 million emergency special appropriation. Based on our analysis, at no point during the time period of June 2017 through February 2018 was the agency's un-restricted cash insufficient to meet payroll needs. (See page 36)
- The agency may have unnecessarily terminated 198 employees. The lack of need for the $30 million indicates that all or part of the cost saving efforts related to those terminations may not have been required. In addition, cost savings projections were inconsistent and inaccurate and the terminations will not result in the savings claimed in the Reduction In Force (RIF) plan submitted to the Office of Management and Enterprise Services (OMES). (See pages 38 - 40)

[1] A special audit was originally requested by the Commissioner of Health in September 2017. This audit was subsequently revised in November 2017 to a special investigation under the authority of the Attorney General's office in accordance with 74 O.S. § 18(f).

- The State Board of Health (Board) failed to exercise its fiduciary responsibility as required by state statutes and best practices. (See page 6)
- Senior management created a hostile work environment, poor control environment, and poor tone at the top. (See page 10)
- Senior management inflated budgets and promoted an increasing trend of expending funds in excess of revenues received by the agency. (See page 12)
- The agency inappropriately advanced $8.5 million to the Tobacco Settlement Endowment Trust (TSET) and $1.5 million to the Oklahoma University Health Sciences Center (OUHSC). (See page 22)
- All federal funds, and Ryan White restricted rebate funds, are comingled in the 400 fund at OMES. (See page 34)

How Did This Happen?

OSDH management was relying almost entirely on information obtained from an outdated internal accounting system (FISCAL) that duplicates the statewide accounting system, and on inappropriate unorthodox accounting practices (such as internal borrows, payroll not posted, and program funds recovered) that did not reflect reality. The agency has made some efforts in the past to discontinue the use of FISCAL and convert to the State of Oklahoma's statewide accounting system as their primary accounting system. However, after spending $3.6 million on this project, and anticipating additional expenditures, they walked away with no tangible results.

Although the agency claimed that the current financial "crisis" is due in part to decreasing revenues, that claim does not reflect the full picture. While appropriated revenues decreased $7 million between fiscal year (FY) 2011 and FY 2017, non-appropriated revenues increased $20 million during the same time period. In summary, total agency revenues increased by $13 million and total overall expenditures increased by $15 million.

The concerns regarding the agency's financial position were compounded by a negative control environment set by senior management. In addition to the tone at the top issues, there was a large amount of turnover in key financial positions such as the Chief Financial Officer (CFO). At one point, this position went vacant for approximately one year. Not only did this result in the loss of key institutional knowledge, it resulted in lack of appropriate financial oversight. Negative attitudes of staff toward senior management, as communicated to us during interviews, impacted morale and increased risk. The magnitude of this negativity is a red flag regarding the agency's general environment and tone at the top, and validates that this is a real and pervasive issue.

Finally, the Board did not perform its fiduciary duties during this time period as mandated by state law and best practices. Its failure to appropriately communicate with key financial personnel or require sufficient and appropriate financial information to perform their duties clearly contributed to the overall situation.

How Do We Fix It?

The complex problems at OSDH will require an equally multi-faceted solution. We recommend at a minimum that:

- The Board and the Commissioner make every effort to improve the control environment and tone at the top of the agency
- OSDH immediately discontinue inappropriate unorthodox accounting practices and move toward using the statewide accounting system
- OSDH hire a CFO and Controller experienced with federal grant reporting and state accounting practices to fill the currently vacant positions
- OSDH immediately begin preparing and submitting budgets that are realistic and based on known and historical data and ensure that expenditures do not exceed revenues
- OMES establish a separate restricted fund for the Ryan White program rebates
- The legislature consider recalling all or part of the $30 million emergency special appropriation
- The OSDH Board should work towards fulfilling its fiduciary responsibilities for the agency as outlined in state statutes and best practices. When the duties and powers of the Board are transferred to the State Commissioner of Health in January 2019 as outlined in HB 3036, the Commissioner can benefit from following this same recommendation.

Background

For more than one hundred years – first as the Territorial Board of Health then, following statehood, as the Oklahoma Department of Health – the agency has been entrusted by the people of Oklahoma to be the state's prudent stewards of public health.

Today, the Board has nine members appointed by the governor with senate confirmation. The Board appoints the commissioner of health who coordinates activities of the agency with the federal government and other agencies, and directs activities of county health departments.

Each county has a board of health with authority to establish a health department. Through this system of local health services delivery, the OSDH protects and improves the health status of Oklahoma communities through strategies that focus on preventing disease and promoting health. Seventy counties operate health departments. Of those seventy counties, Oklahoma and Tulsa counties are served by autonomous city-county health departments, which enforce and administer Board rules and are administratively different.

According to information compiled by the Oklahoma Department of Libraries[2], OSDH has 1,484 classified employees, 510 unclassified employees, and 83 temporary employees. The agency also has eleven advisory boards. Its mission statement is: "To protect and promote health, to prevent disease and injury, and to cultivate conditions by which Oklahomans can be healthy."

One area of focus that has seen significant expansion in recent history is that of improving health outcomes for Oklahomans. This was a key part of Governor Fallin's campaign platform and initiatives after coming into office in 2011. In response to the governor's initiatives, the Board created the Center for the Advancement of Wellness in 2011, which primarily addresses anti-obesity, anti-tobacco, and other wellness initiatives. During the time period of FY 2011 through FY 2017, the agency spent approximately $120 million on these initiatives.

The agency has diverse sources of revenue that include state appropriations, nearly 50 federal grants, county millage reimbursements, and fee-based revenues (see table on next page).

[2] According to the *Agencies, Boards, and Commissions* Book issued by the Department of Libraries on September 12, 2017

Revenues for FY 2011 through FY 2017 were as follows:

	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Appropriations	61,533,119	61,800,479	62,964,574	64,689,694	55,547,338	56,109,667	54,884,356
Taxes	20,174,466	21,645,688	20,943,217	18,919,337	18,204,845	18,495,516	18,515,296
Licenses, Permits, Fees	31,762,379	30,621,690	32,041,460	34,219,666	35,527,185	34,730,233	34,158,848
Fines, Forfeits, Penalties	1,578,926	757,468	1,778,258	2,486,615	1,495,995	1,488,145	1,885,337
Income from Money & Prop.	7,312	9,850	2,876	1,156	2,194	5,655	22,245
Grants, Refunds, Reimb.	195,775,241	199,623,003	198,696,992	200,726,290	207,695,201	209,032,533	212,607,529
Sales and Services	16,512,632	16,202,232	15,962,389	15,038,977	12,386,565	21,927,887	16,835,819
Non-Rev. Receipts	7,255,500	6,550,106	6,973,698	6,684,565	4,285,312	5,095,923	9,215,051
Total	**334,599,574**	**337,210,516**	**339,363,464**	**342,766,300**	**335,144,635**	**346,885,559**	**348,124,481**

Source: Combining Trial Balance (revenues presented at the major category level)

Governance

Fiduciary Responsibility

The Board was established by 63 O.S. § 1-103, and consists of nine members selected in a representative fashion from all areas of the state, appointed by the Governor, and confirmed by the Senate for staggered terms of nine years. The Board must include at least four members currently licensed to practice medicine in the State of Oklahoma.

The powers and duties of the Board are enumerated in 63 O.S. § 1-104(B) and include the following:

1. Appoint and fix the compensation of a State Commissioner of Health;
2. Adopt such rules and standards as it deems necessary to carry out any of the provisions of this Code;
3. Accept and disburse grants, allotments, gifts, devises, bequests, funds, appropriations, and other property made or offered to it; and
4. Establish such divisions, sections, bureaus, offices, and positions in the State Department of Health as it deems necessary to carry out the provisions of this Code.

Number three above clearly indicates that the Board has a fiduciary responsibility for the agency and is not limited to an advisory role or merely providing guidance regarding strategic policy. Although the detailed execution of these responsibilities may be delegated by the Board to a State Commissioner of Health, doing so does not relieve the Board of its statutory obligation to ensure financial oversight and proper administration of the agency. Based on testwork performed, the Board abdicated its fiduciary responsibility by failing to request and require sufficient financial information to properly perform its duties.

Best Practices

Based on our review of Board meeting minutes, interviews of Board members, interviews of OSDH staff, and other testwork performed, the Board did not follow best practices[3] in the following areas:

- **Fiduciary responsibility** – Best practices dictate that while it is appropriate to delegate the daily operations of the agency, the Board cannot delegate their statutory responsibility for financial oversight. Although they may have taken more recent steps to at least partially exercise their responsibilities in this area, it appears

[3] Information for best practices obtained from: *The Guide to Not-for-Profit Governance*; Weil, Gosthal, & Manges LLP (2012); *Best Practices for the Executive Directors and Boards of Nonprofit Organizations*; Whatcom Council for Nonprofits; *Best Practice – Audit Committees,* The Government Finance Officers Association (GFOA)

that they did not fulfill their fiduciary responsibilities during the audit period.

- **Communication** – Best practices dictate that the Board should establish open lines of communication with senior financial staff to facilitate the exchange of information. Obtaining comprehensive and accurate financial information is critical to the Board's ability to fulfill their statutory fiduciary responsibilities. This does not appear to have happened during our audit period. Rather than establishing direct communication with those who could provide the needed financial information, the Board relied on often minimal financial information that had been screened, and in some cases altered, by the Senior Deputy Commissioner. We did not discover any evidence of the Board directly requesting or requiring sufficient financial information to fulfill their fiduciary responsibilities.

- **Monitoring** – Best practices dictate that the Board, and the audit committee specifically, monitor and ensure the integrity of the organization's financial reporting processes. We did not discover any substantial evidence of the Board or audit committee doing this during our audit period.

Financial Reporting and Board Involvement

We reviewed Board meeting minutes for the period of January 2010 through August 2017. Our review largely corroborated information we gathered during interviews with current and former agency employees.

Most meeting minutes included a general discussion regarding the agency's budget-to-actual expenditures utilizing what was internally referred to as a "stoplight" report (see example below). One notable missing element is a comparison of expenditures to actual revenues; such information is not presented. There is also no consideration of cash balances and the current financial position of the agency.

SFY 2017 BUDGET AND EXPENDITURE FORECAST: AS OF 05/26/2017

Division	Current Budget	Expenditures	Obligations	Forecasted Expenditures	Not Obligated or Forecasted	Performance Rate
Public Health Infrastructure	$ 21,836,428	$ 13,595,662	$ 4,889,329	$ 2,985,408	$ 366,029	98.32%
Protective Health Services	$ 60,526,021	$ 42,545,956	$ 4,293,073	$ 13,513,195	$ 173,797	99.71%
Office of State Epidemiologist	$ 58,220,933	$ 36,968,611	$ 14,883,338	$ 6,203,379	$ 165,605	99.72%
Health Improvement Services	$ 32,502,699	$ 18,036,168	$ 5,409,556	$ 8,594,975	$ 462,000	98.58%
Community & Family Health Services	$ 222,635,489	$ 152,156,605	$ 12,928,548	$ 57,545,364	$ 4,972	100.00%
Totals:	**$ 395,721,570**	**$ 263,303,002**	**$ 42,403,844**	**$ 88,842,321**	**$ 1,172,403**	99.70%

< 90%	90% - 95%	95% - 102.5%	102.5% - 105%	>105%

Source: OSDH Board Packet

In approximately April 2013, the Board finance committee chair began including a "Finance Brief" with the committee report that included a slightly more detailed discussion of the area of focus chosen for that month. Examples of focus areas included funds used by the agency, and the appropriations process.

Although meeting minutes included discussions and presentations regarding budget cuts and potential cuts in appropriated funds, we noted no indication of consideration of budget-to-actual revenues, cash balances, or overall financial condition of the agency by the Board on a systematic basis.

Most meeting minutes also included a very general report from the Audit, Ethics, and Accountability Committee chair stating that there were "no known significant audit issues to report at this time." Rare exceptions included meetings where the Board approved the annual internal audit plan for the upcoming year.

During interviews with the Board President, Board Vice-President (Chair of Audit, Ethics, and Accountability Committee), and a Board member (chair of finance committee) each one revealed that they had only been involved with agency finances at a very high level. One Board member noted that this seemed appropriate based on the nature of the Board and their status as volunteer Board members. Their primary interest in being on the Board was as "passionate advocates of healthcare," and not to provide financial oversight.

When asked if they felt they had received appropriate financial information, all three expressed that the stop-light report was appropriate for their roles. Two of the three interviewees believed that financial information had been filtered or condensed, particularly by the Senior Deputy Commissioner. They noted that this person was "heavy-handed" with OSDH employees but reasoned at the time that it may have been necessary for an organization of that size. Current and former employees in financial positions recounted meetings where financial staff were reluctant to speak. In those meetings, all questions were answered by the Senior Deputy Commissioner or the Business Planning Director.

All three interviewees agreed that they did not become aware of the severity of the financial issues at OSDH until an October 18, 2017 meeting between the three of them, the Chief Financial Officer, the Chief Operating Officer, the Chief of Internal Audit, and the Legislative Liaison. According to the Board members, they had been notified prior to this meeting that the agency was experiencing a financial shortfall but were reassured by the Commissioner of Health and the Senior Deputy Commissioner that the efforts being undertaken by the agency would be sufficient to address the financial problems faced. However, this timeline appears to be contradicted by information we were provided by the Chief of Internal Audit showing that he had contacted one of the Board members on September 8th and 9th, 2017 suggesting a "sense of urgency" from the financial staff regarding the agency's financial position and specific details regarding his concerns.

During our audit, we became aware of two confidential special investigations performed by the OSDH Office of Accountability Systems (OAS) based on complaints regarding hostile work environments, tone at the top[4], and discrepancies in human resources practices. Based on our discussions with Board members and OAS staff, these matters were appropriately reported to the Board for consideration and action because executive management of the agency was implicated in the complaints. We were unable to find any evidence that the Board responded to the complaints in a substantive manner.

[4] Tone at the Top is discussed further in the Control Environment section.

Control Environment

Negative Control Environment and Inadequate Communication

Management's ethics, integrity, attitude, and operating style are the foundation of all other internal control components that help an entity achieve its objectives and minimize risk. According to government accounting standards[5], an effective internal control system has in place policies and procedures that reduce the risk of errors, fraud, and professional misconduct within the organization. Key factors in this system are the environment established by management, and effective information and communication to achieve the agency's objectives. In addition, standards suggest management needs to assess relevant and reliable communication related to internal and external events.

The agency-wide control environment has a *pervasive* influence that affects all business decisions and activities of the organization. The governing board, chief executive officer, and entire management team must all contribute to creating a positive control environment or "tone at the top." The governing board sets the proper tone for the control environment when it establishes and communicates a code of ethics, requires ethical and honest behavior from all employees, observes the same rules it expects others to follow, and requires appropriate conduct from everyone in the organization. Management's philosophy and methods of employee direction and development also greatly influence this environment.

Tone at the top and throughout the agency is fundamental to an effectively functioning internal control system. Without strong ethical leadership, awareness of risk can be undermined, responses to risk may be inappropriate, control activities may be ill-defined or not followed, information and communication may falter, and feedback from monitoring activities may not be heard or acted upon. Therefore, tone can be either a driver or a barrier to internal control, influencing the control consciousness of all employees.

In addition, the Statewide Accounting Manual for the State of Oklahoma in paragraph 70.10.01 states, "Management's attitude, actions, and values set the tone of an organization, influencing the control consciousness of its people. Internal controls are likely to function well if management believes that those controls are important and communicates that view to employees at all levels. If management views internal controls as unrelated to achieving its objectives, or even worse, as an obstacle, this attitude will also be communicated."

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[5] The United States Government Accountability Office's *Standards for Internal Control in the Federal Government* (2014 Revision)

Throughout our interviews of twenty-one current and previous OSDH employees who had direct interaction with senior management in some capacity, we were made aware of situations regarding the control environment at the central office in Oklahoma City. The following general concerns were expressed about the OSDH senior management:

- An atmosphere of mistrust and poor communication exists;
- Decisions are not effectively communicated to employees;
- Integrity and ethical values are questioned;
- Personnel turnover in finance impacted the division's ability to effectively perform its function;
- Employees are treated unfairly and favoritism exists;
- Employees receive no direction but ample criticism;
- Improprieties are not addressed in a timely and appropriate manner;
- Employees who report improprieties are subject to reprisal;
- A culture of fear exists where long-term employees are afraid to contradict senior management for fear of losing their jobs and impacting their state retirements; and
- The Board is not well informed and has been given misleading financial information.

The magnitude of negative comments communicated to us during interviews is a red flag about the agency's general environment and tone at the top and validates that this is a real and pervasive issue. The negative impact on the agency's control environment has a universal impact on the overall system of internal control, which increases the risk of errors, misappropriation of assets, and decreases quality of services provided. At a time of significant statewide budget issues, a positive work environment and employee satisfaction are integral to retaining staff and maintaining quality of services provided.

Financial Management

Budget, Revenues, and Expenditures

Expenditures Compared to Actual Revenues (cash basis)

We performed a cash-basis analysis (see below) for FY 2011 through FY 2017 comparing total expenditures to total revenues using Combining Trial Balance reports from the statewide accounting system.

Revenues	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
Total Revenues	$ 273,066,455	$ 275,410,036	$ 276,398,889	$ 278,076,606	$ 279,597,297	$ 290,775,892	$ 293,240,126	$ 1,966,565,301
Total Appropriations	61,533,119	61,800,479	62,964,574	64,689,694	55,547,339	56,109,667	54,884,356	417,529,227
Total Revenues/Appropriations	**$ 334,599,574**	**$ 337,210,515**	**$ 339,363,463**	**$ 342,766,300**	**$ 335,144,636**	**$ 346,885,559**	**$ 348,124,482**	**$ 2,384,094,528**
Expenditures	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**TOTAL**
Total Personnel Expenditures	$ (133,329,994)	$ (132,783,666)	$ (141,953,145)	$ (147,217,872)	$ (153,432,738)	$ (163,942,365)	$ (152,876,328)	$ (1,025,536,107)
Total Non-Personnel Expenditures	(193,592,310)	(199,199,905)	(198,714,539)	(199,804,506)	(189,388,830)	(199,128,034)	(188,676,360)	(1,368,504,485)
Total Expenditures	**$ (326,922,304)**	**$ (331,983,571)**	**$ (340,667,684)**	**$ (347,022,378)**	**$ (342,821,568)**	**$ (363,070,399)**	**$ (341,552,688)**	**$ (2,394,040,592)**
Ending Revenues Over (Under) Expenditures	**$ 7,677,270**	**$ 5,226,944**	**$ (1,304,221)**	**$ (4,256,078)**	**$ (7,676,932)**	**$ (16,184,840)**	**$ 6,571,794**	**$ (9,946,064)**

Source: Oklahoma Statewide accounting system, Combining Trial Balance Reports

Several important points can be drawn from our analysis (amounts from the table above have been rounded in the following paragraphs):

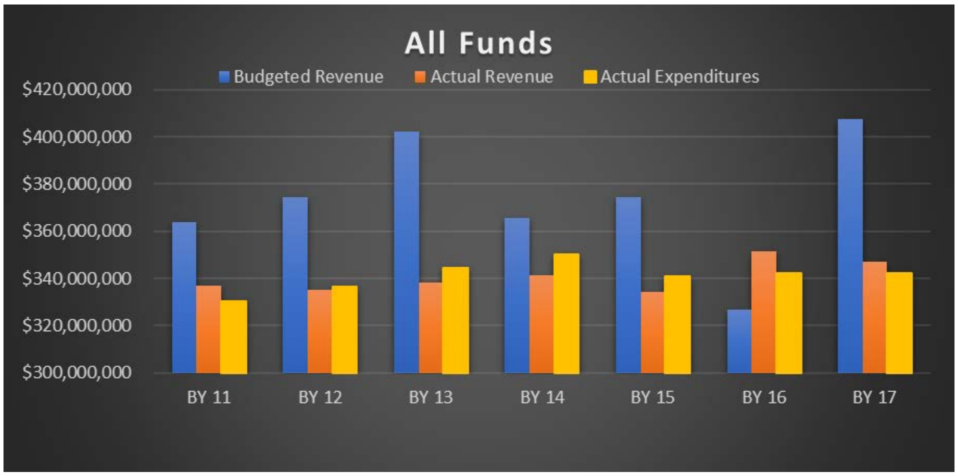
- Although OSDH has claimed that the current financial “crisis” is due in part to decreasing revenues, that claim does not reflect the full picture of the agency’s revenue streams. As reflected in the table above, appropriated revenues have decreased from $62 million in FY 2011 to $55 million in FY 2017. However, during the same time period, non-appropriated revenues increased from $273 million in FY 2011 to $293 in FY 2017. Overall, total agency revenues increased from $335 million in FY 2011 to $348 million in FY 2017, an increase of $13 million, or 4%.

- Overall expenditures for the agency increased from $327 million in FY 2011 to $342 million in FY2017, an increase of $15 million, or 5%. Personnel (payroll) expenditures increased $20 million with the largest increase taking place in FY 2016 (total highlighted in red). This increase was partially related to an agency Voluntary Buy Out of approximately 100 employees. However, the non-personnel expenditures decreased $5 million for the audit period. The increase in total expenditures outpaced the increase in total revenues by $2 million ($15 million increase in expenditures - $13 million increase in revenues = $2 million) for the time period of our analysis. The agency was able to sustain the overspending through the funds made available in the Program Funds Recovered (PFR) account. This account is discussed later in the report.

- Four out of the seven years of our analysis on the previous page (FY 2013 through 2016) reflect the fact that agency expenditures exceeded agency revenues. Spending in excess of current year revenues ranged from $1 million in FY 2013 to $16 million in FY 2016. It should be noted that FY 2017 indicated $7 million less in expenditures than current year revenues. However, data from one year is insufficient to determine whether expenditures being less than revenues is a trend or an anomaly.

Budget Analysis

In the previous section, we compared revenues to expenditures on a cash basis. This section includes an analysis of budgeted revenue to actual revenue per budget year (BY) and expenditures per BY for BY 2011 through BY 2017. (Note: "actual" revenues and expenditures are on a budget-year basis. Budget years can be for periods up to thirty months and may overlap multiple fiscal years.)



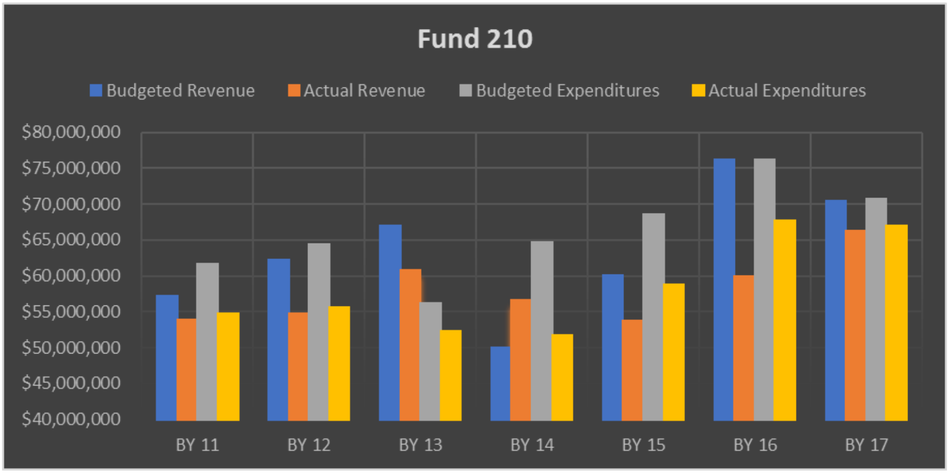
When all funds are considered in the aggregate for our period of analysis (see graph above), two concerning trends are illustrated.

- Apart from BY 2016, budgeted revenues are much higher than the actual revenues received. This supports claims by OSDH employees that senior management (the Senior Deputy Commissioner and the Business Planning Director) "padded" the revenue estimates to justify their expenditure budgets. Revenue budgets/projections do not appear to be based on historical trends.

- Actual expenditures per BY for BY 2012 through BY 2015 exceeded actual revenues per BY. The agency was spending more than it was receiving in revenues annually; this is not a sustainable operating practice.

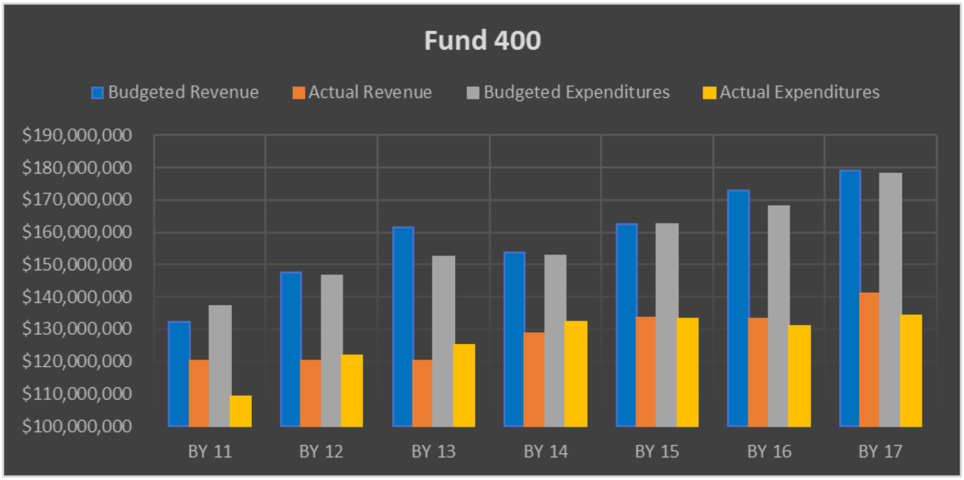
Additional analysis for the Public Health Special Fund (Fund 210)[6] and federal funds (Fund 400) provides further insight.

Public Health Funds (Fund 210)



Fund 210 (Public Health Special Fund) budgeted revenues exceeded actual revenues per budget year in all years but BY 2014. For BY 2013 and BY 2014, actual expenditures per budget year were less than actual revenues for the fund, which is a positive trend. However, starting in BY 2015, this trend reversed and we see actual expenditures outpacing actual revenues, which is not a sustainable operating practice.

Federal Funds (Fund 400)



[6] Fund 210 was created by 63 O.S. § 1-107, which states that the funds "may be budgeted and expended by the Commissioner for the purpose of maintaining and operating the State Department of Health, and in administering and executing the laws pertaining to the duties and functions of the State Department of Health."

A review of the trends for Fund 400 (Federal Funds) indicates that budgeted revenues were consistently much higher than actual revenues for the entire analysis period (see graph on previous page). This is alarming, as federal revenues should be relatively easy to project accurately based on the federal grants the agency has been awarded. Based on interviews with OSDH staff members, Fund 400 was one of the primary funds used by senior management (the Senior Deputy Commissioner and the Business Planning Director) to inflate revenue estimates to justify their expenditure budgets. Budgeted expenditures also appear to have been inflated to levels close to the inflated revenue budgets. Although actual expenditures were closer to actual revenues, grossly inflated revenue and expenditure budgets are misleading and paint an inaccurate picture of available funds.

Overall, inflated and inaccurate budgets do not provide decision-makers within and outside the agency sufficient and appropriate information to make important decisions. Again, expenditures consistently exceeding revenues is not sustainable.

Payroll Expenditure Analysis
We performed additional analyses on payroll expenditures to determine if there were any notable trends of increases or decreases in agency personnel for particular departments or fiscal years. Our analysis revealed the following:

- The agency's authorized number of positions or Full Time Equivalent (FTE) count varied between 2,009 (in FY 2013) and 2,094 (in FY 2017). As of November 6, 2017, the FTE count was 1,996 with 2,049 actual employees. The relationship between the FTE count and the actual number of employees is as follows:

	FY 2011	FY2012	FY2013	FY2014	FY 2015	FY 2016	FY 2017	Nov 6, 2017
FTE	2,069	2,018	2,009	2,010	2,034	2,088	2,094	1,996
Actual	Not Available	2,172	2,071	2,135	2,151	2,227	2,213	2,049

- According to OSDH Human Resources staff, the reason for the actual employee count exceeding the authorized FTE is that there are a number of part-time employees (so two part-time employees equal one FTE).

- We noted one division with a significant increase in personnel, Division 238 – Protective Health Services. This division added a net of 206 personnel during the audit period (307 added – 101 reduced = 206 net); however, this does not factor in any of the employees included in the December 2017 termination of unclassified employees and March 2018 RIF of classified employees.

We also analyzed the data to determine if there were any significant pay increases for particular departments or fiscal years. We defined significant pay raises as any amount **over** $10,000 annually. We identified twelve locations that had 94 significant pay raises between July 1, 2010 and September 30, 2017. The following three divisions[7] accounted for 75 of the 94 pay raises, or 80%:

- 32 significant raises (34%) – Deputy Secretary of HHS/Senior Deputy Commissioner;
- 29 significant raises (31%) – Community & Family Health Services; and
- 14 significant raises (15%) – Commissioner's Office

We reviewed the top nineteen pay raises, which ranged from $30,122 to $41,505 annually, and the Senior Deputy Commissioner's pay raise of $20,500, for proper approval. Proper approval includes an HCM-92 (Employment Action Form) signed by the agency's Cabinet Secretary. The following was noted:

- The pay raise for one individual took effect eight days prior to being properly approved
- The pay raise for the Senior Deputy Commissioner was not properly approved

We noted the following trends in payroll and professional services expenditures (amounts have been rounded):

- Personnel expenditures increased by $31 million (24%) from FY 2012 to FY 2016
- Professional Services expenditures increased by $28 million (89%) from FY 2011 to FY 2016 and decreased by $10 million between FY 2016 and FY 2017

Unsupported $10 million Budget Item

Annual budgets were developed by the OSDH Budget Officer, reviewed by the CFO (if the position was filled), and approved by the Commissioner or the Senior Deputy Commissioner. During the timeframe when the CFO position was unfilled, the budget was reviewed

[7] There was some fluctuation of location codes and divisions during our audit period. However, based on information provided by OSDH management, we estimate the total number of employees for each of these three divisions as follows as of June 30, 2017: Deputy Secretary of HHS/Senior Deputy Commissioner – 118; Community & Family Health Services – 1,558; Commissioner's Office – 23.

by the Business Planning Director and approved by the Senior Deputy Commissioner (the Senior Deputy Commissioner had signature authority for the Commissioner so it is unclear whether he reviewed the budget or not).

According to the Budget Officer, the balanced budgets that were developed and submitted to the Business Planning Director and the Senior Deputy Commissioner were not the same budgets that were submitted to OMES, the legislature, and the Board.

For example, the internal FY 18 budget for the Community and Family Health division indicates a $12 million shortfall (see document below); budgeted expenditures exceed budgeted revenues by $12 million.

Program	SFY 18 Allocation	Payroll	Contractual	Travel	Supplies	Other	Data	Total	Variance
CFHS Admin (IDC) (WA)	350,000.00	348,150.00		2,449.00	440.00	10,804.00	7,499.00	369,342.00	(19,342.00)
CFHS Admin (NON - IDC) (WD)	4,100,000.00	3,615,358.00	8,400.00	76,677.00	1,642.00	277,544.00	120,379.00	4,100,000.00	-
Shared Services (WO)	2,460,482.00	7,261,827.00	530,000.00	91,757.00	655.00	1,323,411.00	1,145,534.00	10,353,184.00	(7,892,702.00)
Nursing Service (WN)	2,060,000.00	1,849,230.00		25,909.00	30,009.00	109,847.00	45,005.00	2,060,000.00	-
Dental Health (OC)	250,000.00	238,777.00		2,000.00	1,700.00	7,033.00	7,752.00	257,262.00	(7,262.00)
Child Adolescent Health (NC)	1,408,144.00	962,404.00	397,274.00	18,165.00			30,301.00	1,408,144.00	-
Peranatal (ND)	4,725.00		2,725.00	2,000.00				4,725.00	-
Infant Mortality (NI)	1,334,000.00	304,869.00	1,012,682.00			5,415.00	11,034.00	1,334,000.00	-
Teen Pregnancy (NK)		288,295.00		8,900.00	2,900.00	7,000.00	10,008.00	317,103.00	(317,103.00)
Maternity (TQ)	25,000.00		25,000.00					25,000.00	-
Family Planning (TS)	2,500,000.00	4,549,655.00		68,250.00	20,000.00		134,423.00	4,772,328.00	(2,272,328.00)
Abstinence (TN)	75,000.00	41,631.00	15,000.00	1,100.00	10,200.00	5,818.00	1,251.00	75,000.00	-
MCH Perinatal (TB)	49,095.00	47,844.00					1,251.00	49,095.00	-
Fetal Infant (T7)	394,610.00		394,610.00					394,610.00	-
PHEP				14,604.00		27,571.00	26,819.00	68,994.00	(68,994.00)
Violent Death Reporting (5G)		12,366.00					375.00	12,741.00	(12,741.00)
TSET Healthy Living (EK)			-				114,984.00	114,984.00	(114,984.00)
ParentPro (N3)	1,995,921.00	1,575,370.00	313,522.00	26,318.00	1,651.00	23,180.00	55,880.00	1,995,921.00	-
Child Guidance (NG)	2,845,795.00	1,851,918.00	860,000.00	23,879.00	280.00	7,741.00	101,977.00	2,845,795.00	-
Children First (NL)	5,500,000.00	3,032,036.00	2,750,544.00	124,821.00	11.00	72,113.00	140,340.00	6,119,865.00	(619,865.00)
Immunization VFC (P7)		293,908.00		81.00			15,017.00	309,006.00	(309,006.00)
Tuberculosis (PE)		148,420.00	9,293.00					157,713.00	(157,713.00)
Immunization 317 (PG)		379,605.00		9,251.00		561.00	21,588.00	411,005.00	(411,005.00)
Acute Disease (PI)		24,324.00		235.00			1,004.00	25,563.00	(25,563.00)
Senior Companion (W5)							2,502.00	2,502.00	(2,502.00)
Early Foundation (W7)							5,248.00	5,248.00	(5,248.00)
Adult Services (WE)		10,338.00		104.00			2,380.00	12,822.00	(12,822.00)
Child Abuse (WH)	2,214,668.00	147,103.00	2,039,668.00	3,500.00		20,771.00	3,626.00	2,214,668.00	-
Food & Lodging (XK)				-	-	-	2,502.00	2,502.00	(2,502.00)
CHD Communicable Disease (YA)		43,093.00	-				1,871.00	44,964.00	(44,964.00)
Records Management (WC)	1,093,749.00	783,602.00		36,260.00	124.00	109,013.00	164,750.00	1,093,749.00	-
Community Epidemiology (WZ)	81,851.00	71,430.00	5,216.00		542.00	1,538.00	3,125.00	81,851.00	-
Screening & Special Services								-	-
SoonerStart/Early Intervention (VM,YI)		1,763.00		252.00			76.00	2,091.00	(2,091.00)
EPRS (PHEP-CF)	773,902.00	773,902.00						773,902.00	-
TB X-RAY (PI) PE	40,000.00		40,000.00					40,000.00	-
Health Promotion (FE)	281,705.00	217,788.00		2,291.00	13.00	2,268.00	59,345.00	281,705.00	-
Public Health Accreditation (W6)	321,958.00	280,107.00				8,707.00	33,144.00	321,958.00	-
Tobacco (ER)	78,063.00	72,735.00		2,265.00		561.00	2,502.00	78,063.00	-
STD (PK)	376,056.00	353,085.00		5,843.00			19,276.00	378,204.00	(2,148.00)
Federal Medical Asst Percentages (FMAP Match)	1,803,500.00		1,803,500.00					1,803,500.00	-
Total	32,418,224.00	29,580,933.00	10,207,434.00	546,911.00	70,167.00	2,020,896.00	2,292,768.00	44,719,109.00	(12,300,885.00)
Millage	30,737,185.00	29,928,895.00						29,928,895.00	808,290.00

Source: internal budget documents obtained from the OSDH Budget Officer

At the time the budget was presented to the Business Planning Director and the Senior Deputy Commissioner, the intent was for them to decide where to make cuts, or to identify additional revenue sources so projected expenditures would equal projected revenues. During their review, the Business Planning Director and the Senior Deputy Commissioner identified an additional $2 million available in federal funds, reducing the shortfall in the Community and Family Health Budget to $10 million.

All other OSDH budget areas were balanced so when the overall internal OSDH budget was produced, there remained a difference of $10 million between the amount of appropriated funds that were budgeted and the amount of appropriated funds that were actually allocated by the legislature ($63.5 million budgeted and $53.1 million appropriated; see document below).

	Appropriated Funds	Dedicated Funds	Inter-Agency Funds	Other Funds	Total Funds	Actual Appropriation for FY18
State Department of Health						
FY'18 General Revenue Fund for Duties	$63,543,378				$63,543,378	$53,083,790
Kidney Health Revolving Fund 202 for Duties		$0			$0	
Genetic Counseling License Revolving Fund 203 for Duties		$4,650			$4,650	
Tobacco Prevention and Cessation Revolving Fund 204 for Duties		$1,207,393			$1,207,393	
Alternatives to Abortion Services Revolving Fund 207 for Duties		$17,951			$17,951	
Public Health Special Revolving Fund 210 for Duties		$34,804,776	$2,267,800	$30,737,185	$67,809,761	
Nursing Facility Administrative Penalties Fund 211 for Duties		$0			$0	
Home Health Care Revolving Fund 212 for Duties		$310,892			$310,892	
Oklahoma National Background Check Fund 216 for Duties		$1,227,400			$1,227,400	
Civil Monetary Penalty Revolving Fund 220 for Duties		$2,879,776			$2,879,776	
Oklahoma Organ Donor Education and Awareness Program Revolving Fund 222 for Duties		$18,416			$18,416	
Breast Cancer Act Revolving Fund 225 for Duties		$50,000			$50,000	
Sports Eye Safety Program Revolving Fund 226 for Duties		$0			$0	
Oklahoma Leukemia and Lymphoma Revolving Fund 228 for Duties		$50,000			$50,000	
Multiple Sclerosis Society Revolving Fund 229 for Duties		$0			$0	

Source: FY 18 Budget documents obtained from the OSDH Budget Officer

In order to balance the budget, the Business Planning Director and/or the Senior Deputy Commissioner added an additional revenue line titled FY'18 Operational Budget for $10 million (see pink highlight in the document on the next page) and reduced the FY' 18 General Revenue Fund (immediately above the pink highlight) by the corresponding amount. This change was essentially a "plug" to balance the budget.

	Appropriated Funds	Dedicated Funds	Inter-Agency Funds	Other Funds	Total Funds
State Department of Health					
FY'18 General Revenue Fund for Duties	$53,138,108				$53,138,108
FY'18 Operational Budget				$10,459,588	$10,459,588
Kidney Health Revolving Fund 202 for Duties		$0			$0
Genetic Counseling License Revolving Fund 203 for Duties		$4,650			$4,650
Tobacco Prevention and Cessation Revolving Fund 204 for Duties		$1,207,393			$1,207,393
Alternatives to Abortion Services Revolving Fund 207 for Duties		$17,951			$17,951
Public Health Special Revolving Fund 210 for Duties		$34,804,776	$2,267,800	$30,737,185	$67,809,761
Nursing Facility Administrative Penalties Fund 211 for Duties		$0			$0
Home Health Care Revolving Fund 212 for Duties		$310,892			$310,892
Oklahoma National Background Check Fund 216 for Duties		$1,227,400			$1,227,400
Civil Monetary Penalty Revolving Fund 220 for Duties		$2,879,776			$2,879,776
Oklahoma Organ Donor Education and Awareness Program Revolving Fund 222 for Duties		$18,416			$18,416
Breast Cancer Act Revolving Fund 225 for Duties		$50,000			$50,000

Source: FY 18 Budget document obtained from OSDH Budget Officer

Because the budget submission made in the statewide accounting system must match the actual appropriations amount, the Budget Officer stated that they were directed by the Business Planning Director and the Senior Deputy Commissioner to put the extra $10 million into a 400GI fund to "hide" it. Because OSDH could not change the amount of appropriated funds and did not want to add $10 million to a revolving account, the increase was added to the 400GI fund revenue within the budget. Based on comments provided by staff, the GI in 400GI stands for "Gastrointestinal" to reflect what finance department staff thought of the Business Planning Director and Senior Deputy Commissioner's plan.

The Budget Officer's assertions appear to be supported by several e-mails (see next page).

From: [redacted]
Sent: Wednesday, September 13, 2017 5:14 PM
To: [redacted]
Subject: RE: FY'18 Total Budget 82917.xls

Oh yeah! It's in the budget so I suppose it is okay to send however I don't think that fund has cash to support that budget so it needs to be reduced. Further the 228 – leukemia fund was budgeted at $50,000 and was set aside for colorectal cancer. Two problems – 1) we discontinued colorectal cancer screening as part of the budget cuts and 2) we can't use the leukemia money for things other than leukemia.

So in both those cases – 242 and 228 we probably need to do some budget work. That was mostly for you guys to note and correct. We can remove the note and take off the highlight.

[redacted]
Deputy Secretary of Health and Human Services
Sr. Deputy Commissioner

Oklahoma State Department of Health
(405)271-4200
[redacted]

From: [redacted]
Sent: Wednesday, September 13, 2017 5:09 PM
To: [redacted]
Subject: RE: FY'18 Total Budget 82917.xls

[redacted]

Did you want to send with the highlighted line for fund 242 and the note "budget in excess of revenue"?

From: [redacted]
Sent: Wednesday, September 13, 2017 5:04 PM
To: [redacted]
Subject: FY'18 Total Budget 82917.xls

Okay, let's think about it this way. The internal 198GI budgets shouldn't be in the top line because it is not a state appropriated budget. So, I created another line that is just SFY '18 operational budget and copied the amount into "other" just like it was shown in the top line.

The reality is when we took down the WO we probably didn't have to change the fund number we just needed to associate the expense with the appropriate service chief code... anyway, water under the bridge now. If we get a call (and we might very well get a call) we will just tell them we are projecting less revenue than we have to support the current budget and have isolated the amount so we can reduce expenses and (ultimately) the budget.

So... in other words your 198GI is in the second line.

Seem reasonable?

It is apparent that both the Business Planning Director and the Senior Deputy Commissioner were aware of the fact that the budget was not supported by revenue. They also concurred on the decision to insert a plug into the OSDH internal budget spreadsheet, by moving the unsupported $10 million in expenditures to the Fund 400 budget, to obscure the fact that projected revenues were $10 million short of supporting the proposed budget. Although the email above references 198GI, the funds were budgeted in Fund 400 in the final budget submitted to OMES and the Legislature (this reflects $53 million budgeted from Fund 198 and the $10 million included in the Fund 400 budget of $175 million). This essentially further inflated the Fund 400 budget. It should be noted that although this is a readily identifiable example, inflating the Fund 400 budget was a historical trend and not an isolated event (see Fund 400 analysis on page 14). In addition, the agency has historically relied on the use of PFR funds (see page 35) to facilitate the practice of inflating the Fund 400 budget.

Contracts

Contracts with Tobacco Settlement Endowment Trust (TSET) and Oklahoma University Health Sciences Center (OUHSC)

During our initial interviews with current and previous OSDH employees, we were made aware of concerns regarding two contracts. These concerns were also specifically identified by the agency's CFO in his updated response to a SAS 99[8] interview conducted by the State Auditor & Inspector's (SA&I) office as part of the State CAFR audit.

One contract was executed in May 2011 for $3.5 million (a modification was made in December 2011 for an additional $5 million) between OSDH and the TSET to develop a Certified Healthy Community Grant Program and a Certified Healthy Schools Program, consistent with the Certified Healthy Communities standards. The grant program was designed to provide incentives for organizing, implementing policy initiatives, and developing community partnerships that address identified local health issues.

The second contract was executed in October 2011 for $1.5 million between OSDH and OUHSC. The purpose of this contract was to develop an education and training program to recruit, educate, and train racial and ethnic minority students in public health in order to support a public health workforce that adequately represents the diversity of the citizens of Oklahoma.

These contracts came to the attention of the CFO in July 2017, at a time agency management believed OSDH to be experiencing a cashflow crisis. This stemmed in part from the depletion of Ryan White HIV/AIDS Program[9] rebate funds and the agency's perceived inability to pay program-related invoices and make payroll (these issues are discussed in other sections of this report).

The following email between the Senior Deputy Commissioner and Chief Operating Officer (COO) highlight this issue (see next page):

[8] **Statement on Auditing Standards No. 99: Consideration of Fraud in a Financial Statement Audit**, commonly abbreviated as **SAS 99**, was an auditing statement issued by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) in October 2002, now part of SAS 122, which requires, among other things, inquiries of management and others within the audited entity regarding the risk of fraud.

[9] The Ryan White HIV/AIDS Program is a federal program that provides a comprehensive system of care that includes primary medical care and essential support services for people living with HIV who are uninsured or underinsured. Although the rebate funds are not technically considered federal funds, they are subject to federal restrictions regarding their use.

From: [redacted]
Sent: Thursday, July 27, 2017 3:44 PM
To: [redacted]
Subject: RE: Budget Watch

Thanks. Nice to talk with [redacted] about communication but she won't have the solution (obviously).

Time to talk about draw procedures and borrows.

I will have a cash transfer amount back from TSET tomorrow. Its in the millions.

[redacted]

[redacted]
Deputy Secretary of Health and Human Services
Sr. Deputy Commissioner
Oklahoma State Department of Health
(405)271-4200
[redacted]

From: [redacted]
Sent: Thursday, July 27, 2017 3:34 PM
To: [redacted]
Subject: RE: Budget Watch

There are other concerns coming from this. [redacted] requested payment of $600k from the Ryan White funds to pay a vendor. There is $15 dollars in the Ryan White fund at OMES. [redacted] is demanding an explanation. I am trying to get hold of [redacted] so we can work through her and keep this off the email chain. We cannot answer the question of when the $3.1 million can be paid back into the fund.

Oklahoma State Department of Health
[redacted]
Chief Operating Officer
1000 NE 10th Street, Suite 310
Oklahoma City, Oklahoma 73117-1299

Of specific concern to the CFO was the fact that the Senior Deputy Commissioner had the ability to obtain millions of dollars at her discretion. He also mentioned concerns about the Business Planning Director creating a "pro forma" invoice, after the fact, for the funds returned from TSET (see email below).

From: [redacted]
Sent: Tuesday, August 08, 2017 9:11 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Reverse Cash Transfer

I just spoke with TSET to check on the transfer, she requested the transfer last Friday however OMES will not have the cash until tomorrow. TSET has also requested an invoice which I am creating now unless you have a template you can send me to utilize and send to TSET. It will need to contain the funding information for deposit. Do you have a draft invoice?

Thanks

The CFO had additional concerns: a total of $8.5 million (TSET) and $1.5 million (OUHSC) having been advanced to the recipients prior to receipt of contracted services, potential lack of contract monitoring, possible related party transactions, and federal funds having been used to pay part or all of the cash advances. We obtained and reviewed relevant documentation related to each contract and created a timeline of events.

On August 16, 2017, the OSDH Chief of Internal Audit and Director of the Office of Accountability Systems requested an opinion from the SA&I Director of Audits, State Agency Audit Division regarding the advancement of funds related to the OSDH contract with TSET. SA&I's response indicated that it was inappropriate for OSDH to advance funds to TSET according to 74 OS § 85.44(B), which states in part:

> *Payments for products or services pursuant to a contract executed by a state agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, Sect 85.1 et seq. of this title, shall be made only after products have been provided or services rendered.*

After reviewing the contracts and supporting documentation, we affirm the previous opinion and guidance provided by our office on this issue stating that the advancement of funds from OSDH to TSET is not an allowable practice based on state law. It is our opinion that this also applies to the contract between OSDH and OUHSC which was very similar in nature to the contract with TSET. The Oklahoma State Constitution, Article 10 § 15.A also states:

> *Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.*

In addition, $7.5 million of the $8.5 million total advanced to TSET was paid from 400 funds and all of the $1.5 million paid to OUHSC was paid from 400 funds. These 400 funds are designated as "federal" funds in the statewide accounting system, and in most cases in FISCAL.

Advancing federal funds to a contractor prior to receiving goods or services is not consistent with federal grant management requirements or federal law (2 CFR § 200.305) which in general state that cost reimbursement is the preferred funding method for federal grants. Cash advances of federal funds are rare, are typically to non-federal recipients or sub-recipients (rather than vendors or contractors), are determined allowable on a grant-specific basis, and always require that the recipient minimize the time elapsing between the receipt and disbursement of federal funds.

Because the funds advanced to TSET and OUHSC were paid from OSDH's PFR account (discussed in detail on page 35), it appears those funds were not truly federal in nature but were funds reimbursed for previous expenditures paid from state appropriated or revolving funds. However, the payments were made from Fund 400 in the statewide accounting system, which, although not segregated by federal program, is clearly identified as federal funds. The agency's accounting for federal reimbursements are concerning, but we have no evidence that federal funds were used inappropriately.

An additional funding issue was noted where the authorizing legislation for the TSET program (HB 2774 (2010), § 3.K) stipulates that OSDH may provide a monetary reward to schools that earn certification under the Oklahoma Healthy Schools Act "subject to available funding specifically appropriated for this purpose." Based on the information above, OSDH did not use funds specifically appropriated for this purpose for payments to TSET (which TSET used in part to pay certification rewards to schools) but instead primarily used PFR funds to fund the contracts. This does not comply with the statutory requirements.

In order to gain a better understanding of the two contracts, we interviewed the following individuals:

- Secretary to the Board, who was listed as the contract monitor for both contracts
- Director of the OSDH Center for the Advancement of Wellness
- OSDH Contracting and Acquisitions Agent III who is listed as the buyer on both contracts

Although the general counsel is listed on the OUHSC FY 2015 contract renewal, we were unable to interview him because his employment was terminated prior to our official engagement on this audit.

The Secretary to the Board, who characterized her involvement as purely "administrative," provided one email with supporting documentation where she had requested expenditure reconciliations from TSET for the first two years of the contract. The reconciliations were extremely late; the contract states they were due within 30 days of the end of the preceding contract period, and the one example we were given shows the reconciliations for FY 2012 and FY 2013 were not submitted until February of 2014.

We were unable to determine from the documentation if any significant review or discussion of the reconciliations provided by TSET had been performed. The Secretary to the Board specifically indicated that she believed the Contracting and Acquisitions Agent III or Director of Procurement would have been responsible for contract monitoring.
The Contracting and Acquisitions Agent III confirmed that her role with the TSET and OUHSC contracts was limited to setting up the purchase orders and contracts and processing any renewals, amendments, or modifications to the contract, and that contract monitoring functions should have been performed in the program areas. She expressed her

opinion that significant turnover in the agency has resulted in a lack of training for contract monitors.

The Director of the OSDH Center for the Advancement of Wellness had no knowledge of the contract between OSDH and TSET when she was hired into her position and assumed the program was a TSET program (i.e. funded with TSET funds). She added that there were no contract monitoring files (or any files for that matter) in her area.

Overall, we found no evidence of substantive contract monitoring for either contract by OSDH personnel.

Board

We learned during interviews with the Board President, Board Vice-President (Chair of Audit, Ethics, and Accountability Committee), and a Board member (Chair of Finance Committee) that they became aware of the contracts between OSDH and TSET, and OSDH and OUHSC, during an October 18, 2017 meeting with the CFO, COO, and internal auditor.

The consensus was that they were shocked the agency was "giving" money to TSET or OUHSC, as neither entity appeared to need the money. They were also concerned with the concept of advancing funds. One Board member commented that TSET was a valuable strategic partner but that didn't justify giving them funds. Another Board member mentioned that the rationale for the contract with TSET might have been that they were in a better position to perform some of the "prevention" activities than OSDH.

OSDH Internal Audit

In order to determine if the advanced funds were expended according to the contract, we first interviewed OSDH internal audit staff and obtained their audit workpapers related to the contract between OSDH and TSET. Although not complete, their efforts included obtaining expenditure reports from TSET, working to validate expenditures using OpenBooks on www.ok.gov, and performing an analysis of various aspects of the contract.

It should be noted that the internal audit of TSET was discontinued prior to completion at the direction of the OSDH Interim Commissioner. This also coincided with efforts to terminate the Director of Internal Audits.

Based on our review of their workpapers, we noted the following:

- OSDH internal auditors believe the advancement of funds to TSET to be contrary to state law.

- OSDH internal auditors believe the programs managed by TSET are consistent with the contract.
- OSDH internal auditors reconciled salary amounts between TSET and OMES.

TSET

To determine whether expenditures were in compliance with the contract, we first reconciled expenditures reported by TSET to the statewide accounting system records. TSET spent funds on the following categories and in the following amounts, as of January 20, 2018.

Program Manager Salary	613,913.64
Program Manager Fringe	279,103.31
Total Personnel	**893,016.95**
Evaluation Support	265,499.32
Communications Support	383,345.13
Sub total Personnel and Support	**1,541,861.40**
Admin Fee at 10%	154,186.14
Total Program Support	**1,696,047.54**
Direct Awards	3,146,750.00
Total Expenditures	**4,842,797.54**

8,500,000.00	Total Advanced to TSET (May and December 2011)
(4,842,797.54)	Expenditures from Funds (May 2011 - August 2017)
(3,000,000.00)	Returned to OSDH (August 2017)
657,202.46	**Remaining Funds**

Overall, expenditures by TSET appear to be consistent with the categories of expenditures outlined in the original contract between OSDH and TSET. However, the amounts listed in the itemized budget (included as an appendix to the contract) only cover the original $3.5 million advanced for Certified Healthy Communities and do not include the additional $5 million contract modification to include Certified Healthy Schools. Therefore, we were unable to compare actual amounts expended in each category to an approved budget.

The original contract stated that the contract period was for one year with two additional one-year renewal options. It also stated that cash balances should be refunded to OSDH upon request at the end of each contract year. We obtained detailed evidence of one contract renewal for the first renewal period of May 16, 2012 through May 15, 2013 and limited documentation of a renewal for the period of May 16, 2013 through May 15, 2014. Without a documented contract renewal, all remaining funds should have been returned to OSDH in May 2014. Funds were not returned until August 2017, when OSDH requested them.

On August 8, 2017, a letter was sent from OSDH to TSET requesting the return of $3,000,000. These funds were returned to OSDH as evidenced by the following receipt:

Oklahoma State Department of Health
Accounting Services
Customer Receipt

Receipt Number:
3967197
#00016941

For Monies Received From Mr./Ms. Tobacco Se Inv#TSET2018Special V 8/14/2017

In the Sum of Three million dollars and 00/100 $3,000,000.00

For Services Provided For:
Misc Wire Transfers
210HAX8 001810ZZ00 10001 5810101
Method of Payment: Other

E. Krogstad
Received By:

OKLAHOMA STATE DEPARTMENT OF HEALTH

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In addition, TSET was continuing to expend funds without a valid contract renewal in place from May 2014 until a Memorandum of Understanding was executed in September of 2017. This memorandum allowed TSET to "provide support for the work being completed pursuant to the Contract and Purchase Order, as amended, until June 29, 2018" and "to work with OMES and the OSDH for the remittance of any remaining funds left from the original $8,500,000 after the work and terms of the Contract and Purchase Order, as amended, has concluded."

On November 9, 2017, the Interim Commissioner sent a letter to TSET requesting the return of all remaining funds at the time of the accounting report provided by TSET to OSDH ($1,464, 036). A response was sent to OSDH from TSET on November 15, 2017 disputing the amount to be returned and some of the key points of the November 9th letter. However, TSET indicated their willingness to work with OSDH to return remaining funds. At the time of our interview of TSET officials on January 12, 2018, we were informed that TSET, at the advice of their general counsel, had requested and was waiting on a "proper invoice" from OSDH for the return of remaining funds.

OUHSC

To determine whether expenditures complied with the contract, we obtained the expenditure reports provided by OUHSC to OSDH. Based on our review of those reports, it appears OUHSC spent funds on the following summarized categories and in the following amounts, as of September 20, 2017 (see next page):

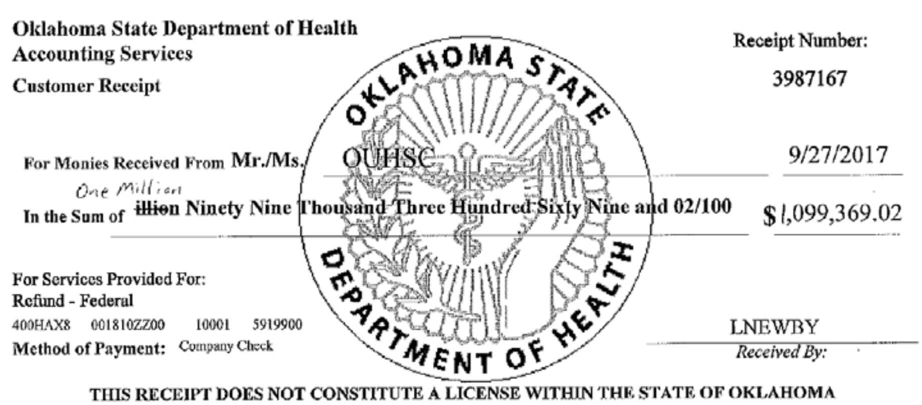
Operating Costs	129,330.83
Student Support	271,300.15
Total Expenditures	**400,630.98**

1,500,000.00	Total Advanced to OUHSC (October 2011)
(400,630.98)	Expenditures from Funds (October 2011 - September 2017)
(1,099,369.02)	Returned to OSDH (September 2017)
0.00	**Remaining Funds**

Overall, expenditures by OUHSC appear to be consistent with the categories of expenditures provided for in the original contract between OSDH and OUHSC.

We also obtained a copy of the "Attachment B" Workplan (required by the original contract) and a program participant list from OUHSC. The workplan appears to be consistent with the contract requirements. To confirm that all employees listed were hired into full-time positions with OSDH in accordance with the contract and workplan requirements, we traced the individuals listed on the program participant list to personnel records in the statewide accounting system.

We reviewed evidence of contract renewals for FY 2012, FY 2013, FY 2014, and a new contract for FY 2015 (with four 1-year renewal options). We reviewed evidence of contract renewals for FY 2016 and FY 2017. A letter was sent to OUHSC on September 17, 2017 notifying them that that the contract was being terminated and requesting return of $1,099,369.02. These funds were returned to OSDH as evidenced by the following receipt:


Oklahoma State Department of Health
Accounting Services
Customer Receipt

Receipt Number: 3987167

For Monies Received From Mr./Ms. OUHSC 9/27/2017

One Million
In the Sum of ~~illion~~ Ninety Nine Thousand Three Hundred Sixty Nine and 02/100 $1,099,369.02

For Services Provided For:
Refund - Federal
400HAX8 001810ZZ00 10001 5919900
Method of Payment: Company Check

LNEWBY
Received By:

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Contract with OMES for CORE Phase II Implementation

In 2011, OSDH began working with the OMES Information Services Division (ISD) to move away from their duplicative internal accounting system known as FISCAL (see next section in this report) and to integrate all accounting functions into the statewide accounting system. This project was known as "CORE Phase II Implementation."

OMES ISD sub-contracted with two vendors, CherryRoad Technologies and Local People, to complete this project. Each vendor was contractually required to provide progress reports on a regularly scheduled basis and was covered by the following Statements of Work (SOW) as appendices to the contracts between OSDH and OMES ISD with specific deliverables (tasks) due by certain dates.

CherryRoad – SOW #65

5. SOW Tasks

Milestone	Planned Start	Planned Finish
OSDH Project	05/23/2012	06/21/2013
Project Management Phase	05/23/2012	03/27/2013
Initiation Phase	07/9/2012	08/01/2012
Initiation	07/9/2012	08/01/2012
Design Phase	09/11/2012	02/01/2013
Configuration (By Module)	07/7/2012	10/12/2012
Business Process Testing (By Module)	09/11/2012	02/01/2013
Development Phase	07/30/2012	01/03/2013
Modifications	07/9/2012	12/12/2012
Conversions	08/13/2012	01/03/2013
Interfaces	07/9/2012	09/28/2012
Reports	07/9/2012	12/10/2012
Validation Phase	08/01/2012	05/13/2013
End-User Training	08/01/2012	02/14/2013
System Rollout Preparation	12/10/2012	01/11/2013
Testing and Acceptance	01/21/2013	05/06/2013
Perform Integration Test.	01/21/2013	03/22/2013
Perform User Acceptance Test.	03/25/2013	05/03/2013
System Rollout	05/07/2013	05/13/2013
Perform System Rollout	05/07/2013	05/13/2013
DELIVERABLE: GO-LIVE	05/13/2013	05/13/2013
Post Implementation Support Phase	05/14/2013	06/21/2013
Provide on-site Support for six weeks following Go-Live	05/14/2013	06/21/2013

CherryRoad – SOW #74

6. SOW Tasks

Milestone	Planned Start	Planned Finish
Project Initiation	12/12/2011	12/12/2011
Map Current Agency Process for GPC, AR, BI, IN, PO, AM, TL	12/12/2011	2/10/2012
Develop revised process flows	2/3/2012	3/2/2012
Agency Review (Fit Session)	3/5/2012	3/16/2012
Develop 10% Plan	3/19/2012	4/6/2012
Develop Roles and Responsibilities	3/26/2012	4/10/2012
Present 10% Proposal	4/11/2012	4/13/2012

Local People – SOW #11.

5. SOW GPC/ARBI Implementation and Support For:

Development Phase	07/30/2012	01/03/2013
Modifications	07/30/2012	12/12/2012
Conversions	08/13/2012	01/03/2013
Interfaces	08/02/2012	09/28/2012
Reports	08/23/2012	12/10/2012
Validation Phase	08/01/2012	05/13/2013
End-User Training	08/01/2012	02/14/2013
System Rollout Preparation	12/10/2012	01/11/2013
Testing and Acceptance	01/21/2013	05/06/2013
Perform Integration Test.	01/21/2013	03/22/2013
Perform User Acceptance Test.	03/25/2013	05/03/2013
System Rollout	05/07/2013	05/13/2013
Perform System Rollout	05/07/2013	05/13/2013
DELIVERABLE: GO-LIVE	05/13/2013	05/13/2013
Post Implementation Support Phase	05/14/2013	06/21/2013
Provide on-site Support for six weeks following Go-Live	05/14/2013	06/30/2013

On February 27, 2018, we requested information from OMES ISD related to this project/contract including copies of progress reports provided in accordance with the contracts, copies of evidence of completion of tasks, an explanation and comparison of the services provided by Local People compared to what was provided by CherryRoad, and a copy of the project termination letter submitted to OMES ISD by the Senior Deputy Commissioner on October 21, 2013. As of the date of this report, we had not received any of the requested information from OMES ISD.

Executed contracts between OMES ISD and OSDH for this project totaled $3.7 million and the agency spent $3.6 million related to the project, which was never completed. Based on our interviews of a former long-time CFO and the Chief of Accounting Services, the project was a "failure" that OSDH walked away from after being told by OMES ISD that they would need to invest additional millions and the project still wouldn't meet some of OSDH's biggest "needs" and requests.

Duplicative Financial System (FISCAL) and Inappropriate Accounting Practices

The introduction to the Statewide Accounting Manual for the State of Oklahoma states, "The state has established a statewide system referred to as the State Accounting System that must be used by all state agencies to record their official financial transactions." This system is the official record of account for all state transactions and includes actual cash balances and transactions for all funds.

One of the challenges in obtaining adequate financial information for decision making is the fact that OSDH has operated with a duplicative internal financial information system known as FISCAL for over thirty years. This system is also supplemented with numerous ancillary Microsoft ACCESS databases. The agency does not maintain a central listing of all the databases being utilized.

Further complicating matters is the fact that many financial staff within OSDH do not recognize the statewide accounting system as the record of account but place more reliance on information produced by FISCAL because of the level of detail that is maintained by that system. This is despite the fact that information obtained from FISCAL often does not reflect actual transactions and balances reported by the statewide accounting system.

The use of this internal system has also resulted in, or at least supported, several unorthodox accounting practices known as Payroll Not Posted (PNP), Borrows (internal within FISCAL), and Program Funds Recovered (PFR), all of which contributed significantly to the agency's perceived financial situation and the decision to request a $30 million emergency supplemental appropriation.

Payroll Not Posted (PNP)
In the statewide accounting system, the payroll is initially paid out of the 400 fund (federal). This action generates a payroll allocation file containing detailed payroll costs that is subsequently posted in FISCAL. This posting process matches payroll expenditures with the appropriate funds.

Any payroll or data expenditure (charges from OMES related to IT services) that fails to post in FISCAL becomes PNP. PNP occurs if there is either insufficient budget or if there is insufficient cash in the appropriate fund in FISCAL. To allow a PNP expenditure to post that previously failed for insufficient budget, the budget either needs to be increased or the expenditure (payroll item) needs to be paid from a different fund that has adequate budget and cash available (in FISCAL).

If PNP occurred due to insufficient cash within FISCAL, the expenditure needs to be paid from a different fund that has adequate budget and cash, or the fund needs to “borrow” cash from another fund. Borrows/loans are made within the same fund type.

Borrows

Borrows are internal movements in FISCAL that occur within the same fund type, i.e. revolving to revolving. Because OSDH operates primarily as a reimbursement agency (they receive reimbursements after incurred expenditures have been paid), in order to initially pay expenditures (typically payroll), the need to “borrow” cash internally occurs routinely.

In FISCAL, when a fund has insufficient cash to pay payroll or cover non-payroll expenses, it “borrows” the amount required so payroll can post or expenses can be paid. It is key to OSDH operations that payroll posts as quickly as possible because the agency will not be able to draw federal funds (be reimbursed) until the payroll has been posted.

The OSDH position is that it requires actual cash to extinguish prior year borrows in FISCAL and that, without a cash infusion, eliminating prior year borrows with current year dollars would leave OSDH unable to continue as a going concern. OSDH does not retain historical borrowing records. Borrows/loans are tracked by spreadsheet and continuously updated as old borrows are paid off and new ones are created.

When a borrow occurs in FISCAL it is simply an internal realignment of agency funds. Repaying a loan that 210X made to 210Y (two areas within the same revolving fund in the statewide accounting system) is basically shifting funds in FISCAL to satisfy detailed internal budget requirements. With very few exceptions, repayment of borrows or corresponding cash infusion is not required. The only type of borrows that would need to be repaid are restricted funds that were loaned out in the statewide accounting system such as Ryan White funds or other funds that have statutory restrictions. As of March 2018, no “borrows” exist in the statewide accounting system requiring repayment of restricted funds.

Cash infusions to close out funds in prior fiscal years in FISCAL should only be required if there is no cash in the corresponding funds in the statewide accounting system and there are either outstanding prior year bills that have not been paid in the statewide accounting system or there are loans made from restricted funds that have not been repaid. Current year borrows (if they have not reduced restricted funds) are purely internal issues and, by themselves, do not require a cash infusion.

Effect of PNP and Borrows

According to OSDH, as of July 12, 2017, PNP totaled $8,959,530, and as of September 20, 2017, “borrows” totaled $21,680,000.

Based on our analysis, "borrows" and PNP are both internal to FISCAL and have *no effect* on actual cash available or cash required in the statewide accounting system. Neither the elimination of PNP nor the repayment of a "borrow" requires actual cash. Even though payroll may not be posted in FISCAL, thus creating PNP, the actual payroll has already been paid; therefore, no additional cash is required to eliminate PNP. A borrow/loan between 400 funds or 210 funds in FISCAL does not change the cash balance in the 400 or 210 fund in the statewide accounting system. There are no actual expenditures (payroll or otherwise) that have not already been paid in the statewide accounting system because of "borrows" or PNP in FISCAL.

Borrows Effect on Restricted (Ryan White) Funds

During July 2017, concerns regarding the fund balance for the Ryan White program were noted by the OSDH finance staff. It was determined that there were insufficient funds to pay an invoice related to the program.

In response to questions from the Health Resources and Services Administration regarding the balance of the fund, OSDH responded January 2, 2018 with the following information. After running payroll on July 14, 2017, the balance in the statewide accounting system 400 fund dropped from $6.2 million to approximately $222,390. According to FISCAL, the balance in the Ryan White fund at this time was $3,261,305.29 and by August 9, 2017, the balance in the statewide accounting system 400 fund was $9,116,558.90.

We confirmed that the balance in the Ryan White fund (according to FISCAL) was $3,261,305.29 on Friday, July 14, 2017 and $3,256,876.18 on Monday, July 17, 2017.

OSDH asserted that the temporary drop in the 400 fund (below the restricted Ryan White fund balance of $3.26 million) was due to a delay in payroll processing caused by the fact that the aforementioned payroll spanned two fiscal years (FY 2017 and FY 2018).

According to the statewide accounting system Summary of Receipts and Disbursement (SRD) reports, cash balances for the 400 fund and the following unrestricted funds (that could have been used to transfer funds into the 400 fund) were as follows:

Month Ended	Fund 400 (Federal)	Fund 197 (Appropriated)	Fund 198 (Appropriated	Fund 210 (Revolving)	Fund 79991 (Clearing Acct.)	**Total**
6/30/2017	$3,764,426	$9,515,608	$ 0	$3,366,327	$3,587,291	**$20,233,651**
7/31/2017	$ 903,782	$6,871,809	$1,423,649	$3,703,434	$2,853,931	**$15,759,605**
8/31/2017	$6,700,430	$3,110,571	$5,302,830	$ 525,683	$7,386,552	**$23,026,066**

By OSDH's own admission, the funds in the 400 fund dropped below the required restricted funds of $3.26 million after the July 14, 2017 payroll was paid out of the 400 fund. As per OSDH financial staff, the balance in the 400 fund reached $15 in July 2017. In addition, according to the CFO, OSDH came within one day of defaulting on a $600,000 insurance supplement payment, to be paid with 400 restricted funds, because funds available in the 400 fund were insufficient (only $15 available).

We were only able to determine fund balances at the end of each calendar month (depicted in table above) so we cannot determine the actual 400 fund balance after payroll was run or on the dates leading up to the $600,000 payment. It is clear that the 400 fund was still well below the required $3.26 million on July 31, 2017 when the balance (according to the statewide accounting system *SRD* report) was $903,782. According to the statewide accounting system *Allotment Budget and Available Cash* report there was only $92,559 available on July 31, 2017. However, it appears that there were ample unrestricted funds available to replenish the 400 fund throughout this time period. We were unable to ascertain *why* OSDH failed to replenish the 400 fund in a timely manner when the $600,000 invoice became due.

Program Funds Recovered (PFR)

PFR (400H) is an OSDH-created slush fund that only exists in FISCAL. The PFR fund receives cash from federal reimbursement payments after each individual fund's Time and Effort (T&E) validation if validated costs exceed booked costs. Booked costs are estimated costs based on how each employee is budgeted internally and are the basis for the initial federal draws. Validated costs are actual costs based on what the employee worked on as verified by the T&E process. Historically, validated costs typically exceed booked costs; as a result, excess validated costs (subject to grant limits) are routinely deposited into the PFR account. The PFR account has been the primary source for funds when other federal funds need to "borrow" cash in order to meet obligations.

As a result of this process, reimbursement payments for federal expenditures originally made from the 19X/210 (appropriated and revolving) funds are now retained in the PFR account instead of being returned to the 19X/210 funds. This has the following financial effects:

- Money that should be returned to the 19X/210 funds is now retained in the 400H fund.
    - The 400H funds that should have been returned to 210/revolving funds are not subject to being swept by the legislature (removed for non-OSDH funding purposes)

- Expenditures funded from appropriated and revolving funds are understated and federally funded expenditures are overstated.

There is a PFR equivalent revolving fund (210H) that is used as the funding source for approximately 65% of revolving fund borrows. The 210H fund receives all Vital Records revenue and a 15% administrative fee from any program revenue generated from any source that doesn't already have an indirect cost rate in their contract. The 210H is also funded through portions of payments received by OSDH when they act as a contractor for another entity.

The actual result of this process is that some 19X/210/400 funds that were initially used to pay salary expenditures are retained in the 210H account instead of being returned to the appropriate 19X/210/400 funds. This has the following financial effects:

- Money that should be returned to various 19X/210/400 funds is retained in the 210H fund
- Revolving account funded expenditures may be overstated and appropriated/federally funded expenditures may be understated

We do not believe that the use of either the 400H or 210H PFR funds is appropriate because neither provides an accurate record of OSDH financial transactions for those relying on reports generated from FISCAL. In all circumstances, reimbursements should be returned to the funds from which the payments were originally made.

Because of over-reliance on the duplicative internal financial system, failure to fully consider actual resources available, and the use of unorthodox accounting such as PNP, Borrows, and PFR, OSDH may have significantly overstated the severity of the financial condition of the agency. This ultimately led to the request and receipt of an emergency $30 million supplemental appropriation as defined by HB 1019 (2017 Special Session). It also resulted in the termination of 37 unclassified positions and 161 classified positions, which appears may have been unnecessary and will not result in the cost savings claimed by OSDH. It should be noted that in an interview with the CFO and COO (prior to the resignation of the Commissioner and Senior Deputy Commissioner), both agreed that the cause of the "current financial situation" was a result of internal borrows and internal payroll not posted. The CFO explicitly stated that he estimated it would take approximately $30 million to cover the agency's current borrows and PNP.

In the corrective action report submitted to the Oklahoma Legislature as required by HB 1028 (2017 Special Session), the interim commissioner stated that a "critical infusion of funds in the amount of $30 million . . .

allowed OSDH to stabilize payroll and turn its attention to issues causing the staggering financial crisis in which OSDH finds itself." The corrective action report went on to state that "it became imperative that a supplemental infusion of funding would be necessary to make payroll (approximately $11.6 million)."

This information appears to have been based on data from the internal FISCAL system and does not paint an accurate picture of the agency's true financial condition at the time of the request. We performed an analysis of the cash balances of the agency for the time period of June 2017 through February 2018 (see on page 38). Based on our analysis, at no point during this time period did the "Estimated Available Unrestricted Cash" at month-end fall below $11.5 million.

This contradicts the claim that $11.6 million was "necessary to make payroll." It also contradicts the statement that the agency was in a "staggering financial crisis." By simply transferring funds from their clearing account to agency funds on a more frequent basis (OSDH only transfers once a month), they could have improved their monthly cashflow by at least $3 million. **It appears the agency had sufficient unrestricted cash to make payroll and did not actually need the $30 million supplemental appropriation.**

Fund	Name	30-Jun-17 SRD	31-Jul-17 SRD	31-Aug-17 SRD	30-Sep-17 SRD	31-Oct-17 SRD	30-Nov-17 SRD	31-Dec-17 SRD	31-Jan-18 SRD	28-Feb-18 SRD
194	Appropriated									
195	Appropriated									
196	Appropriated	0	2,400	2,400	2,400	2,400	0	0	0	
197	Appropriated	9,515,068	6,871,810	3,110,572	2,090,969	1,548,976	31,365,315	30,274,193	20,471,415	20,430,329
198	Appropriated		1,423,649	5,302,830	4,838,075	3,409,499	4,331,227	5,391,370	9,334,512	10,407,256
210	Public Health Special	3,366,327	3,706,435	525,683	991,948	1,681,332	754,259	1,293,460	1,895,033	1,107,434
79901	Clearing Account	3,681,095	2,853,932	7,386,553	3,495,679	3,160,630	4,274,541	4,560,889	4,456,277	5,426,982
400	Federal Grants	3,587,292	903,782	6,700,431	12,607,642	9,999,916	14,049,466	6,370,528	11,476,115	11,775,719
	Federal Grant Reductions - Restricted	(4,000,000)	(4,261,305)	(4,000,000)	(6,028,778)	(6,089,742)	(4,843,529)	(3,443,030)	(5,805,607)	(4,417,896)
	Estimated Available Unrestricted Cash	**$ 16,149,782**	**$ 11,500,703**	**$ 23,028,470**	**$ 17,997,937**	**$ 13,713,011**	**$ 49,931,279**	**$ 44,447,410**	**$ 41,827,747**	**$ 44,729,825**
	LESS: $30 MIL SPECIAL APPROPRIATION						**$ (30,000,000)**	**$ (30,000,000)**	**$ (30,000,000)**	**$ (30,000,000)**
	Estimated Available Funds Less Special Approp.						**$ 19,931,279**	**$ 14,447,410**	**$ 11,827,747**	**$ 14,729,825**
202	Kidney Health	1	1	1	1	1	1	1	1	1
203	Genetic Counseling Licensure	31,649	31,665	30,786	31,166	32,382	32,882	33,440	34,619	36,214
204	Tobacco Prevention	956,203	1,017,704	1,042,288	1,104,723	1,107,948	1,215,749	1,292,974	961,048	976,552
207	Alternatives	27,952	27,952	22,952	22,952	22,952	22,952	22,952	22,952	22,952
211	Nursing Facility Admin Penalties	56,471	56,554	56,554	56,554	62,362	62,362	62,362	68,592	68,592
212	Home Health Care	769,319	811,066	818,979	786,684	762,340	747,538	734,336	717,277	695,750
216	National Background Check	1,460,582	1,368,593	1,431,060	1,411,944	1,236,195	1,280,217	1,345,910	1,307,837	1,240,903
220	Civil Monetary Penalties	7,834,076	7,621,513	7,496,104	7,410,991	6,928,736	7,616,354	7,306,825	7,135,968	6,989,778
222	Organ Donor Education	143,938	132,307	136,152	142,034	158,983	176,602	200,687	238,931	247,855
225	Breast Cancer	116,633	117,934	119,236	120,478	122,018	124,038	125,238	126,378	127,558
226	Sports Eye Safety	4,965	5,015	5,030	5,030	5,030	5,030	5,030	5,035	5,040
228	Leukemia & Lymphoma	63,432	63,441	63,441	63,441	63,441	63,441	63,441	63,441	63,443
229	Multiple Sclerosis Society	151	158	158	158	158	158	158	158	163
233	Prevent Birth Defects	2,105	2,125	2,125	2,145	2,165	2,165	2,185	2,185	2,185
235	Oklahoma Lupus	12,513	12,568	12,589	12,589	12,589	12,589	12,589	12,589	12,591
236	Trama Care Assist	2,327,453	3,706,244	3,209,432	3,074,027	2,815,082	1,710,782	1,244,863	1,475,910	2,471,676
242	Pancreatic Cancer Research	11,910	11,980	10,151	8,090	7,272	7,291	7,691	8,171	8,330
250	Regional Guidance Centers	12	12	12	12	12	12	12	12	12
255	Lic Prof Counselors									
265	Child Abuse Prevention	151,777	138,911	135,518	133,227	133,664	133,638	136,527	136,664	140,338
267	Emergency Medical Technician	149,957	150,217	150,317	150,517	150,757	151,057	151,217	151,557	151,757
268	Emergency Response Systems	2,481,827	2,499,570	2,609,367	2,701,641	2,764,616	2,631,995	2,696,444	2,559,892	2,642,376
284	Dental Loan	353,453	312,176	341,682	341,682	297,313	263,957	388,262	405,754	407,215
285	Institute for Disaster & Emergency	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657	1,657
290	OK Safe Kids Asso	860	860	860	860	860	860	860	860	860
295	State Athletic Comm	218,549	197,178	254,467	261,785	260,630	266,972	270,424	268,223	291,751
340	CMIA - WIC	22,421	(402,509)	(244,310)	(594,663)	343,514	334,895	(76,371)	235,188	239,831
490	ARRA	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461	156,461
700					891,162					
994	Payroll Withholding	4,084	3,744	444	3,598	(715)	(180)	4,957	3,028	2,584
	SUBTOTAL	**$ 17,360,411**	**$ 18,045,099**	**$ 17,863,515**	**$ 18,300,946**	**$ 17,448,423**	**$ 17,021,475**	**$ 16,191,131**	**$ 16,100,388**	**$ 17,004,425**
	TOTAL	**$ 33,510,192**	**$ 29,545,801**	**$ 40,891,985**	**$ 36,298,883**	**$ 31,161,433**	**$ 66,952,754**	**$ 60,638,541**	**$ 57,928,134**	**$ 61,734,250**

Additional analysis of the month-end cash balances indicates that the $30 million emergency special appropriation (which was transferred into fund 197 in November 2017) had not been disbursed as of the end of February 2018. According to the grants reporting officer, $20 million has been used primarily to “pay” internal borrows, prior year payroll not posted, and data bills not posted. He also stated that the remaining $10 million will be used for the same purpose and approximately $3 million of these funds would be used to pay costs associated with the RIF of 161 classified employees and termination of 37 unclassified employees. <u>Therefore, because payroll and data expenditures **have already been paid by OSDH in the statewide accounting system,** what is *really* occurring within FISCAL is an internal realignment of funds that have little or no bearing on actual OSDH statewide accounting system accounts.</u>

Additionally, the savings projected by the agency related to the elimination of 198 employees is not accurate. The following table is the agency’s projected cost savings reported in the corrective action report to the Oklahoma Legislature:

Table 1: Cost Saving Measures and Anticipated Results

Cost Saving Measure	Projected Savings SFY 2018	Projected Savings SFY 2019
Furlough	$1,235,916	N/A
RIF - Unclassified*	$1,281,252	$2,562,505
RIF - Classified*	$1,281,252	$7,550,147
999 Employees	$92,400	$140,000
Staff to County Millage	$1,254,000	N/A
GALT Contract	$1,980,000	$3,000,000
TSET Contract	$3,000,000	N/A
College of Public Health Contract	$1,000,000	N/A
OCAP Contracts Termination	$928,000	$1,600,000
FQHC Contracts Termination	$1,102,000	$1,900,000
Fleet Utilization	$320,000	$640,000
Shipping Program Products	$60,000	$60,000
Cell Phone / Hot Spot Consolidation	$72,300	$96,400
WC Premium Cost Reduction	$266,197	$266,197
Estimated Total Savings	$13,873,317	$17,815,249

Source: OSDH Corrective Action report submitted to the Legislature as required by HB 1028

Based on information in the table above, the agency projects to save over $10 million ($2,562,505 SFY 2019 RIF – Unclassified + $7,550,147 SFY 2019 RIF – Classified = $10,112,652) per year as a result of terminating the 198 employees. This is close to the projected savings reported in the RIF plan ($2,500,000 for unclassified employees + $8,000,000 for classified employees = $10,500,000 total savings) submitted to OMES on December 6, 2017. However, these savings appear to be significantly overstated.

We obtained the data from OSDH used to prepare the cost and savings estimates related to the termination of the 37 unclassified employees and RIF of the 161 classified employees. We recalculated their projected cost savings for unclassified employees using the same data that OSDH had used. We determined that the projected annual savings for terminated unclassified positions appeared to be accurate within approximately $100,000. We recalculated their projected cost savings for classified employees using the same data that OSDH had used. Our calculation is as follows:

	Salary (Full-Time Annual Rate)	Insurance Premiums (2017 data)	Longevity bonus w/FICA	Total Savings
Annual Savings	$5,957,420	$1,093,726	$171,087	$7,222,233

Based on our calculation, it appears that at a minimum, OSDH overstated projected savings by over $777,000 ($8,000,000 - $7,222,233).

Upon further analysis, we determined that the agency did not use a consistent methodology to calculate the cost savings for the RIF – Classified Employees. Specifically, although payroll funding source was considered for the unclassified positions to be terminated, it was not for the classified positions included in the RIF. Eliminating positions that are funded with federal or millage funds does not result in a cost savings to the agency unless those funds can be shifted to remaining employees. The cost savings figure used for the classified positions essentially assumes that all related payroll costs were paid from appropriated or revolving funds and would therefore result in cost savings.

If we were to use the same methodology for calculating savings resulting from the classified RIF as OSDH used to determine savings from the termination of unclassified positions, the results would be as follows:

	Non-Federal Non-Medicaid Non-Millage Salary	Insurance Premiums (2017 data)	Longevity bonus w/FICA	Total Savings
Annual Savings	$2,770,159	$508,575	$86,059	$3,364,793

If one were to assume that positions funded by millage would not result in the loss of the millage, the results would be as follows:

	Non-Federal Non-Medicaid Salary	Insurance Premiums (2017 data)	Longevity bonus w/FICA	Total Savings
Annual Savings	$5,033,168	$924,042	$146,430	$6,103,640

Based on the information presented above, the cost savings related to the RIF were overstated by approximately $2 million ($8 million -$6 million) and potentially up to $5 million ($8 million - $3 million). This is worsened by the fact that as a condition to receiving the $30 million supplemental appropriation, HB 1028 requires a 15% reduction in state appropriations by June 30, 2019. This amounts to approximately $8 million ($53 million FY 17 appropriation X 15%) which the agency claimed to be saving at least in part with the RIF. Had the agency not requested the $30 million, there would have been no House Bill 1028 requiring a 15% cut in state appropriations. Consequently, many of the personnel cuts may not have been necessary either.

Subsequent to our fieldwork, we obtained additional information from an OSDH regional director regarding concerns about the RIF plan. His concerns had previously been communicated to the Senior Deputy Commissioner, CFO, COO, and the Deputy Commissioner and the Assistant Deputy Commissioner for the Community and Family Health Services Division in October 2017 and the Interim Commissioner in November 2017. Included in those communications were concerns about the accuracy of the cost savings calculations, specifically including the central office's failure to consider funding sources for employees being terminated. As previously noted, failure to consider employee funding sources could significantly impact the actual cost savings realized by the agency. As indicated by the regional director in his communications to senior management, the proposed RIF of 23 employees with an annual payroll of $1,720,000 would only result in a net savings of $300,000 in state appropriated dollars. This is less than 18% of the total payroll amount for those 23 employees. The response received by the regional director from the central office was that it was also a cashflow issue because of their process of fronting payroll costs and seeking reimbursements.

According to the regional director, the cashflow issue was made worse by a historical lack of timely invoicing for payroll costs by the central office (often two months late). Timely billing could significantly improve agency cashflow issues with reimbursements from county millage funds. The information we obtained from the regional director corroborates our findings related to the RIF cost savings calculations and confirms that OSDH executive management was aware of, but chose to ignore, potential problems with their calculations prior to reporting projected cost savings to the legislature and terminating 198 OSDH employees.

Recommendations

1. The Board and the Commissioner should recognize the risks associated with this type of environment and work towards evaluating and addressing the situation to ensure the mission of the agency is accomplished in the most efficient and positive manner possible. In addition, they should be cognizant of the risk associated with ineffective communication within the agency and work to eliminate any such barriers in an impartial manner.

   We further recommend management perform some level of continuous monitoring, communicate its expectations for internal controls to all employees, and establish a system of clear communication that relays information from the bottom of the organization to the top and vice versa. The tone at the top regarding internal controls will determine to a great extent the success of the various elements of the internal control framework.

2. OSDH should hire a CFO and Controller with adequate experience in state government including experience with federal grant reporting and experience with the statewide accounting system. The CFO should have unfettered access to, and regular communication with, the Board regarding the financial condition of the agency.

3. OSDH should begin working immediately towards eliminating the duplicative internal accounting system FISCAL, and any related processes that duplicate accounting transactions, and move towards integrating with the statewide accounting system. This may require an agency-wide survey of what end financial information is **needed**, the basis for that need, and the most efficient means of obtaining that information without duplicating efforts. Doing this would eliminate the unorthodox accounting practices of borrows, payroll not posted, and program funds recovered.

4. To maximize cash flow, OSDH should consider transferring funds from the clearing account to agency funds on a basis that is more frequent than once a month.

5. A separate restricted fund should be established at OMES for the Ryan White program rebates. A separate 4XX fund should be established at OMES for any federal grants that may require OSDH to maintain a cash balance.

6. OSDH should begin preparing budgets that reflect reasonable revenue projections based on currently known and historical information. Budgeted expenditures should also reflect estimated available funds and should avoid the use of "plugs" in the Fund 400 to make the budget balance.

7. OSDH should monitor expenditures to ensure that they do not exceed actual revenues during any year as this is not a sustainable operating process.

8. OSDH should work towards a process to pay payroll from an appropriate fund, based on accurate budgets, when it is initially processed in the statewide accounting system rather

than funding all payroll from Fund 400 and then relying on manual entries to correct payroll.

9. OSDH should perform a work-flow analysis of financial staff to determine what tasks they are performing, whether those tasks add value to the financial reporting and accounting process, and if not, how those employee's duties should be re-directed to support the needs of the agency.

10. The OSDH Board should work towards fulfilling their fiduciary responsibilities for the agency as outlined in state statutes and best practices. They should develop a direct line of communication with the new CFO to ensure they receive sufficient and appropriate detailed financial information to perform their duties. When the duties and powers of the Board are transferred to the State Commissioner of Health in January 2019 as outlined in HB 3036, the Commissioner can benefit from following this same recommendation.

11. The Oklahoma Legislature may want to consider recalling all or part of the $30 million emergency special appropriation as the majority of those funds have not been used to pay actual expenses of the agency as of the time of this report.

12. OSDH should implement procedures to ensure timely invoicing of payroll cost by the central office for employees located in county health departments and who are funded by county millage. This process could significantly improve agency cashflow.

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