STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2022-174
March 2022

WEST VOLUSIA HOSPITAL AUTHORITY

Sherrill F. Norman, CPA
Auditor General

Board of Commissioners

The following individuals served on the West Volusia Hospital Authority Board during the period of October 2018 through June 2020:

	Seat No.
Barbara Girtman to 12-31-18 [a]	Group A, Seat 1
Dr. John Hill from 1-17-19	
Andy Ferrari, Chair to 1-16-19	Group A, Seat 2
Judy Craig, Chair 1-17-19 to 1-15-20, Vice-Chair to 1-16-19	Group A, Seat 3
Dolores Guzman, Chair from 1-16-20, Vice-Chair 1-17-19 to 1-15-20	Group B, Seat 1
Kathie D. Shephard to 3-18-19 [b]	Group B, Seat 2
Voloria Manning from 4-18-19 Vice-Chair from 1-16-20	

[a] Member resigned as of 12-31-18. Position vacant through 1-16-19.

[b] Member deceased 3-18-19. Position vacant through 4-17-19.

The team leader was James H. Cole, CPA, and the audit was supervised by Derek H. Noonan, CPA.

Please address inquiries regarding this report to Derek H. Noonan, CPA, Audit Manager, by e-mail at dereknoonan@aud.state.fl.us or by telephone at (850) 412-2864.

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WEST VOLUSIA HOSPITAL AUTHORITY

SUMMARY

This operational audit of the West Volusia Hospital Authority (Authority) focused on selected processes and administrative activities. Our audit disclosed the following:

Summary of Findings

Finding 1: Contrary to State law, the Authority did not provide requested records needed to achieve all the objectives of our audit, thereby imposing significant constraints on the conduct of our audit.

Finding 2: The Authority should enhance its oversight and monitoring procedures to provide greater assurance that grantees provide services consistent with the Board's intent and that payments to grantees are appropriate, properly supported, and in compliance with agreement terms and conditions.

Finding 3: The Authority did not have adequate policies and procedures to ensure that grantee compliance review reports contained all information necessary for the Authority to make fully informed decisions on reported results. Additionally, the Authority Board did not always take appropriate action of record to resolve deficiencies identified in those reports.

Finding 4: The Authority paid a grantee for medical services pursuant to invoices not supported by the detailed records required by the grant agreement.

Finding 5: The Authority did not approve health care services agreements between the Authority's third-party administrator and health care providers that obligated the Authority to pay for the health care services.

Finding 6: The Authority accumulated significant resources that may be in excess of amounts necessary for the Authority to fulfill its duties and responsibilities.

Finding 7: The Authority had not established written budget preparation policies and procedures. Additionally, contrary to State law, the 2015-16 through 2020-21 fiscal year budgets generally did not include estimated beginning or ending fund balances.

Finding 8: The Authority had not established policies and procedures governing the removal of Citizens Advisory Committee (CAC) members. In addition, in May 2019, the Authority Board removed a CAC member at a public meeting without placing the member's removal on the agenda, which limited the opportunity for public involvement.

Finding 9: The Authority had not established anti-fraud policies or procedures.

BACKGROUND

The West Volusia Hospital Authority (Authority) is an independent special district in Volusia County, created in 1957 to provide access to health care for the qualified indigent residents within the Authority's geographic boundaries, the western portion of Volusia County (West Volusia). The Authority is governed

by a five-member Board of Commissioners (Board), each elected for 4-year terms.[1] The commissioners elect a chair, vice-chair, secretary, and treasurer on an annual basis. The Authority has also established a Citizens Advisory Committee (CAC), which is composed of ten members appointed by the Board and who serve at the pleasure of the Board. The CAC makes recommendations to the Board on how to serve and meet the health care needs of West Volusia residents.

The Authority does not directly own or manage any hospital or clinic and has no employees. The Authority levies ad valorem (property) taxes to provide funding to hospitals and contracted agencies to support health care for low-income residents of West Volusia. As the Authority has no employees, the Board contracted with an accounting firm to perform its accounting and administrative functions (including maintaining Board meeting agendas and minutes) and with an attorney for legal work. The Authority contracted with a third-party administrator (TPA) to provide health care network access and related administrative services.

To provide health services to low-income West Volusia residents, the Authority established the HealthCard Program.[2] West Volusia residents are eligible for a HealthCard if they meet certain residency, identification, income, and medical coverage requirements.

FINDINGS AND RECOMMENDATIONS

Finding 1: Significant Constraints Imposed on Audit

Pursuant to State law,[3] the Authority was created to provide, either directly or through third parties, health care access to indigent residents within its geographic boundaries, the western portion of Volusia County. To exercise these powers, the Authority's enabling legislation[4] granted the Board the power to contract and be contracted with.

The Board entered into agreements[5] with a health care provider agency to provide Human Immunodeficiency Virus (HIV) testing and counseling, health behavior and education, and non-clinical support to West Volusia's indigent population for the 2018-19 and 2019-20 fiscal years[6] with maximum amounts of $235,000 and $219,000, respectively. The health care provider agency (HIV Grantee) invoiced the Authority monthly for variable amounts based upon the amount of HIV services performed, and the Authority paid the HIV Grantee $198,548 and $186,350 for those 2 fiscal years, respectively.

[1] Chapter 2004-421, Section 3, Charter Section 2, Laws of Florida, provides that, to stagger Board member 4-year terms, elections are held every 2 years by identifying Commissioners as either Group A (three Commissioners) or Group B (two Commissioners). Group A Commissioners are elected in one election cycle, and Group B Commissioners are elected in the next election cycle.

[2] The HealthCard Program is a program whereby eligible indigent residents receive an Authority HealthCard which the residents provide to contracted health care agencies to receive health care services.

[3] Chapter 2004-421, Section 3, Charter Section 1, Laws of Florida.

[4] Chapter 2004-421, Section 3, Charter Section 1, Laws of Florida.

[5] The Authority's health care agencies' funding agreement contracts refer to the agencies as "Grantee", but the Authority internally refers to them as funded agencies.

[6] The Authority's fiscal year begins on October 1 and ends on September 30. The grant periods corresponded with the Authority's fiscal years ended, September 2019 and September 30, 2020, respectively.

As described in the ***OBJECTIVES, SCOPE, AND METHODOLOGY*** section of this report, the objectives of our audit included objectives related to various aspects of the Authority's agreement with the HIV Grantee. For example, our audit objectives included determining whether payments to the HIV Grantee were appropriate, properly supported, and complied with the agreement terms and conditions. To achieve those objectives, we requested relevant records for examination. However, contrary to Federal law[7] and State law,[8] our requests for certain records related to the Authority's contract with the HIV Grantee were denied, imposing significant constraints on the conduct of our audit. Specifically:

- In connection with our analysis of the frequency of the HIV Grantee's testing and counseling of West Volusia residents, and to determine the number of those residents who were HIV positive, we requested electronic records from the HIV Grantee showing information regarding services provided during the period October 2018 and June 2020, including service dates and HIV test results. Acknowledging the Authority's concerns about patient privacy, we requested that the information be provided without patient names, social security numbers, or any other sensitive or personally identifiable information. In August 2021, the HIV Grantee's attorney denied our request, stating that, due to the Health Insurance Portability and Accountability Act (HIPAA) requirements, the HIV Grantee would not provide the requested records. Insofar as Federal law[9] states that nothing in the HIPAA laws limits a state from accessing health records and information for audits, and State law[10] requires that all officers whose respective offices the Auditor General is authorized to audit shall make all public records[11] available to the Auditor General on demand, the HIV Grantee's refusal to provide the requested records was unfounded.
- In September 2021, we obtained from the accounting firm the HIV Grantee's invoices for the period October 2018 through June 2020. Cumulatively, the invoices disclosed that the HIV Grantee billed the Authority for HIV services[12] provided to 1,274 individuals. However, the HIV Grantee declined our request to provide detail supporting the invoices, such as descriptions of the actual services provided.
- In October 2021 we requested the Authority's accounting firm to obtain records from the HIV Grantee to explain the significant difference in the number of clients noted between statements recorded in the minutes of the June 2020 Citizens Advisory Committee (CAC) meeting and data reported in the HIV Grantee report for the period October 2018 to March 2019,[13] which was accepted by the Board at the Authority's May 2019 meeting. The HIV Grantee's attorney responded that the HIV Grantee was not "in the appropriate position to investigate the concerns raised regarding perceived inconsistencies with meeting minutes."

In August 2021, we requested the Authority's assistance in obtaining records from the HIV Grantee. The HIV Grantee agreement permits Authority representatives to review "grantee internal records and operations"; however, the Authority's attorney responded that, since the records belong to the HIV

[7] Title 42, Section 1320d-7(c), United States Code, Effect on State Law, provides that "nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification laws limits a state from accessing health records and information for audits."

[8] Section 11.47(1), Florida Statutes, requires that all officers whose respective offices the Auditor General is authorized to audit shall make all public records available to the Auditor General on demand.

[9] Title 42, Section 1320d-7(c), United States Code, Effect on State law.

[10] Section 11.47(1), Florida Statutes.

[11] Section 119.011(12), Florida Statutes, defines "public records" as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

[12] The invoices did not distinguish between counseling and testing services.

[13] October 2018-March 2019 Verbal Utilization Report, page 7.

Grantee rather than the Authority, the Authority did not have to provide the records to us. In addition, at its August 2021 meeting, the Board passed a motion that, while it would generally continue to provide the Auditor General information within its possession, it would not request the HIV Grantee to provide records to us because "the Auditor General has not pointed to any contractual or other basis for this 'unique' treatment of [(the HIV Grantee) versus other Authority] funded entities, none of which have received such intrusive requests concerning the number of times a client has received a test/exam, the frequency, the outcome, along with the clients' addresses."[14]

Constraints limiting access to records and information requested for audit purposes frustrates the audit process and limits our ability to provide timely and relevant information to the Legislature and other decision makers.

Recommendation: In future audits, the Authority should demonstrate a commitment to accountability and comply with all auditor requests when such requests are made in accordance with Federal and State laws.

Follow-Up to Management's Response

In her response to the finding, the Board Chair indicated the HIV Grantee's legal counsel had advised "that responding to the request raised concerns under both State law and HIPAA" and that the referenced Federal laws "don't apply since neither the WVHA [Authority] nor RAAO [HIV Grantee] would be considered a 'health plan'." Notwithstanding, as stated in our finding, the HIV Grantee's refusal was unfounded as the Authority was required to provide the requested records to us under Federal regulations and State law. Pursuant to Title 45 Code of Federal Regulations (CFR) Section 164.501, the Auditor General is a "health oversight agency" which assists in health care operations and entitled to protected health information pursuant to Title 45 CFR Section 164.506, without the written authorization of the individual under Title 45 CFR Section 164.512. Additionally, Section 119.07(6), Florida Statutes, provides records rendered exempt and confidential under State law are nonetheless available to the Auditor General for inspection without limitation and Section 11.47, Florida Statutes, requires cooperation for all audit requests. Consequently, the finding and related recommendation stand as presented.

Finding 2: Monitoring – Human Immunodeficiency Virus Services Agreement

The Florida Attorney General has opined[15] that a governmental entity may carry out a public purpose through private nonprofit corporations provided that "some degree of control should be retained by the public authority to assure accomplishment of the public purpose." Consequently, it is important that agreements with Authority grantees include provisions for sufficient oversight to provide assurance that the grantees utilize Authority grant moneys consistent with the Board's intent. Stewardship and fiduciary responsibilities include ensuring that Board internal controls provide for the effective and efficient use of public resources in accordance with applicable laws and contracts and agreements entered into by the Board. Effective management for contractual services includes procedures to monitor and evaluate

[14] To determine client eligibility, we requested documentation establishing that clients resided within the Authority's boundaries (West Volusia).

[15] Attorney General Opinion No. 2002-18.

grantee performance and compliance with agreement terms and conditions and appropriate actions to address any noted deficiencies.

Our review of grant agreement provisions and evaluation of the Authority's monitoring of agreements disclosed that the Authority could enhance the provisions in its agreements with, and improve its oversight of, the HIV Grantee.

As we received an allegation that the HIV Grantee was frequently and repeatedly testing and counseling the same West Volusia residents, we reviewed the grant agreements and noted that the agreements did not establish a minimum time between each test or between each counseling session. Because the grant agreements provided for the Authority to reimburse the HIV Grantee for each HIV test and counseling service and did not stipulate the frequency of repeat testing or counseling services for the same individuals, there was an incentive for the HIV Grantee to maximize agreement revenue by testing and providing counseling services to the same individual multiple times within an inappropriately short time frame. However, according to the Authority's attorney, the HIV Grantee elected on its own to only bill the Authority for three HIV tests per individual client per fiscal year.

To evaluate the Authority's monitoring of the HIV Grantee performance, we reviewed meeting minutes and HIV Grantee reports and requested documentation, including records obtained by the Authority or its accounting firm to support payments made by the Authority to the HIV Grantee. We found that:

- The June 2020 CAC meeting minutes documented discussions with HIV Grantee representatives regarding 12 of their 2020-21 fiscal year grant funding requests, including discussions between the Grantee representatives and the CAC members concerning the number of clients served and tested. In response to a CAC member's question, "How many clients do you see?" the HIV Grantee representatives stated that they had served approximately 675 unique clients for the 2019-20 fiscal year and that 80 percent of those clients tested were HIV positive. Insofar as the Authority's May 2019 meeting minutes indicated that the Board accepted an HIV Grantee report for the period October 2018 to March 2019,[16] which indicated that the HIV Grantee had identified 30 HIV positive individuals, the number of HIV positive clients purported by the HIV Grantee representatives at the June 2020 CAC meeting appeared unreasonable. However, the Authority did not request the HIV Grantee to provide an explanation for the significant difference and, as noted in Finding 1, our request for records to explain the difference was denied. Absent explanations for the discrepancies in information provided by the HIV Grantee at public meetings, the Authority's Board may not have reliable information regarding the clients served by the HIV Grantee.

  In February 2022, the Board Chair[17] provided to us her contemporaneously prepared notes from the June 2020 meeting indicating that the HIV Grantee's representative reported a 3 percent HIV positive rate (rather than 80 percent), which would equate to 20 positive HIV positive individuals based upon 675 clients served. An e-mail accompanying the notes stated, "On further review, [Authority] staff provided me with the audio file and substantial interpretations emerged as to what others heard in the audio. Answers ranged from 3%, 8%, 30%, & 80%." The Board Chair also provided us with an audio file of the meeting and stated that "the applicable portion of the audio file is inaudible." We listened to the file and confirmed that the audio quality of the file was poor and did not clearly indicate the percentage of HIV positive individuals served according to the HIV Grantee representative.

[16] October 2018-March 2019 Verbal Utilization Report, page 7.

[17] Elected Board Chair at January 20, 2022, meeting.

- The Authority did not monitor the frequency of the HIV Grantee's testing and consultation of West Volusia residents or determine the number of residents that tested positive for HIV. In the absence of such monitoring, we requested electronic records from the HIV Grantee showing the individuals served during the period October 2018 and June 2020, the service dates, and HIV test results. However, as noted in Finding 1, our requests for these records were denied. Absent Authority efforts to verify and measure the services provided by the HIV Grantee, the Board has limited assurance that the HIV Grantee provided services consistent with the Board's intent.
- For the period October 2018 through June 2020, the HIV Grantee billed the Authority $324,623 for HIV services. According to the HIV Grantee invoices we obtained in September 2021 from the accounting firm, the HIV Grantee provided services to 1,274 individuals, and 94 of these clients received 4 to 10 HIV services during the period October 2018 through June 2020. However, the invoices did not provide sufficient detail to support the services performed or the number of clients with positive HIV test results. For example, the invoices did not distinguish between counseling and testing services. Absent the necessary detail to support the invoiced amounts, we selected 17 of the 94 clients who received more than 3 HIV services and requested that the HIV Grantee identify the specific procedures performed and indicate whether any HIV test results were positive or negative. As noted in Finding 1, the HIV Grantee declined to provide the requested information. Absent detailed records supporting the amounts billed by the HIV Grantee, the Board has limited assurance that the Grantee used Authority grant moneys consistent with the Board's intent and public resources were used efficiently and effectively.

Reliable information and documentation evidencing the number and types of services provided is essential to the Board's ability to effectively monitor and evaluate grantee performance. Although the Authority's accounting firm performed compliance reviews to monitor certain aspects of grantee performance, the compliance reviews of the HIV Grantee did not include the procedures necessary to comprehensively evaluate the Grantee's performance. For example, the reviews did not determine the number of times the same individual received HIV services or verify verbal representations made by the Grantee regarding the number of clients served and the number of HIV positive individuals. (See Finding 3 for further discussion of compliance reviews.) As such, it is important that Authority agreements facilitate the provision of grantee records and information necessary to the Board's responsibility to perform appropriate oversight and monitoring procedures.

Recommendation: The Authority should enhance its oversight and monitoring procedures to provide greater assurance that grantees provide services consistent with the Board's intent and that payments to grantees are appropriate, properly supported, and in compliance with agreement terms and conditions. In addition, the Authority should:

- **Include provisions in future HIV Grantee agreements requiring the Grantee to provide records, including records supporting the clients served, the services provided, and test results, in sufficient detail to enable the Board to effectively monitor and evaluate Grantee performance.**
- **Consider establishing the frequency of HIV testing and other services eligible for reimbursement in the grant agreement and periodically verify the HIV Grantee's compliance with such limits.**

Finding 3: Grantee Compliance Monitoring

During the period October 2018 through June 2020, the Authority paid $6.3 million to ten grantees to provide various health-related services to eligible indigent residents located within the Authority's

boundaries. The Authority paid amounts exceeding $500,000 each, for a total of $4.9 million, to three grantees for five service types:

- $1.3 million for primary care services.
- $1.3 million for pharmacy services.
- $1.1 million for residential treatment services.[18]
- $0.6 million for Health Card Application screening services.
- $0.6 million for mental health (Baker Act[19]) services.

The Authority's standard grant agreements included provisions allowing the Authority or its representative to review grantee records and operations and prepare a grantee compliance report[20] on the results. The compliance reports were to include the total amount received by the grantee, an opinion on the grantee's compliance with the agreement requirements, and any instances of noncompliance noted during the compliance review. However, the Authority had not established written policies and procedures to ensure the proper completion of the compliance reports.

The Authority's accounting firm performed the compliance reviews, and the accounting firm's engagement letter with the Authority characterized the engagements as agreed upon procedures engagements.[21] The engagement letter specified that the accounting firm would:

- Document the grantee's monitoring procedures regarding grant agreement compliance.
- Select a sample of transactions and test compliance with agreement provisions.
- Prepare a written report summarizing the results and provide recommendations to the Board.

Our examination of 19 of the accounting firm's 23 compliance reports issued during the period October 2018 through December 2020 disclosed that 9 of the reports contained findings of noncompliance and recommendations. Our review of these compliance reports disclosed that:

- Contrary to the Authority's standard grant agreement terms,[22] none of the 19 compliance reports indicated the amount of funding received by the grantees. Including the funding received by the grantees would provide valuable perspective to the Board when considering any findings and recommendations disclosed in the compliance reports.
- Questioned costs for identified exceptions and deficiencies were not included in 7 of the 9 reports. For example, the October 2018 HIV Grantee compliance report noted that the accounting firm tested 28 (11 percent) of the 269 October 2017 client visits and found 2 (7 percent) of the 28 tested client files did not contain adequate client identification, and 2 other client files did not contain proof of the client's West Volusia residency. As a result of this finding, at its November 2018 meeting, the Board directed the accounting firm to perform an expanded compliance review for May 2019. The resulting June 2019 compliance review report noted that

[18] The grant agreement indicates that examples of such services include hospital diversion and post-detoxification services.

[19] Section 394.463, Florida Statutes, provides that a mentally ill person may be taken to a receiving facility for involuntary examination under certain circumstances; for example, there is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

[20] Authority records also refer to the compliance reports as "site visit reports."

[21] AT-C Section 215, *AICPA Professional Standards*, promulgated by the American Institute of Certified Public Accountants, defines an agreed-upon procedures engagement as an attestation engagement in which a practitioner performs specific procedures on subject matter and reports the findings without providing an opinion or conclusion.

[22] Section 8, Grantee Funding Agreement.

the accounting firm obtained a list of 231 May 2019 client events, examined 23 client files, and found that 4 (17 percent) of the client files did not contain approved proof of identification. Thus, the exception rate increased. However, the compliance review reports did not quantify the resulting questioned costs. Subsequent to our requests, the accounting firm determined that the resulting non-qualified client questioned costs totaled $1,200. Requiring compliance reports to include identified questioned costs would inform the Board of the dollars associated with the noted exceptions.

- None of the compliance reports with identified exceptions and deficiencies included a reasonable estimate of the potential total exceptions and deficiencies, including the potential dollar impacts, that may exist in the untested portion of the population. For example, the accounting firm tested selected Baker Act clients identified as served in a grantee's May 2019 invoice totaling $16,227 and reported exceptions. Upon our request, the accounting firm determined that questioned costs totaled $566. However, as the Authority paid the grantee $300,000 for the 2018-19 fiscal year, additional questioned costs associated with untested transactions were likely present. Including an estimate of the potential total exceptions and deficiencies in the compliance reports would provide the Board with valuable perspective as to the potential magnitude of the noncompliance noted.

We also noted that the Board did not always take official action to either waive reported questioned costs or require grantees to repay the costs associated with noted exceptions and deficiencies. For example, the Board did not, of record, address the deficiencies or $753 in questioned costs reported in the August 2019 grantee compliance report for residential treatment services. Specifically, while the report was listed for review during the September 2019 Board meeting, the meeting minutes do not reflect any discussions about the report. Notwithstanding, the grantee refunded the $753 in October 2019. While the Board often requested the accounting firm to follow up on deficiencies noted in compliance reports, absent thorough discussions about the report findings, including the potential for exceptions and deficiencies to exist in the untested portion of the population, and formal Board actions to resolve all findings, the compliance reports' benefits are limited.

According to the accounting firm, the Board has always taken the stance that each compliance report is different and unique, due to the nature of the programs, and that the Board evaluates the report findings during regular meetings and discusses any findings. At the July 2020 meeting, the Board and accounting firm discussed whether the Board wished to pursue or create additional policies for future compliance reports presented to the Board and, although the Board did not vote on any motion associated with the compliance reports, the Board reached a general consensus that the policies in place for evaluating findings were sufficient and each compliance report should be evaluated on a case-by-case basis.

Notwithstanding, failure of the compliance reports to include the total amount received by the grantee[23] and the absence of written policies and procedures requiring the calculation and presentation of all questioned costs and the Board to take official action on all deficiencies, the Board has limited assurance that the compliance review process is effective and sufficient to determine grantee compliance with agreement requirements, evaluate the potential impact of instances of noted noncompliance, and verify that grantees are providing appropriate services to eligible residents.

Recommendation: The Board should require its accounting firm to include in the compliance reports the amounts received by grantees. In addition, the Board should adopt written policies

[23] Section 8. Site Inspection/Agreed Upon Procedures Report, of the grantee funding agreements typically require that "the Compliance Report shall include a statement of the total amount received by Grantee from the Authority."

and procedures to ensure that the compliance reports include all factors and information, including questioned costs and a reasonable estimate of the potential total exceptions and deficiencies, necessary for the Board's informed consideration of grantee performance. Also, the policies and procedures should require the Board to take appropriate actions based upon findings and recommendations noted in compliance reports. Such actions should include waiving or requiring repayment of questioned costs and determining whether additional compliance testing is warranted.

Finding 4: Monitoring Contracted Services

As the Authority's governing body, the Board is responsible for monitoring and enforcing the terms and conditions of all funding agreements and contracts to ensure that deliverables are appropriately provided, and related payments are adequately supported.

Between October 2018 and June 2020, the Authority paid one grantee 21 payments totaling $1.3 million for pharmacy services pursuant to funding agreements for the 2018-19 and 2019-20 fiscal years. The agreements provided that payments from the Authority to the grantee were to be based upon the presentation of invoices that included a client listing with the client's zip code, prescription dispensed date, name of prescription dispensed, prescription price, the prescribing doctor, and other supporting information as deemed necessary by the Authority's contracted TPA.

Our examination of invoices for 2 pharmacy services payments totaling $152,200 disclosed that payments were not always supported by the records required under the funding agreements. Specifically, neither invoice included a client listing with the client's zip code, prescription dispensed date, name of prescription dispensed, or the prescribing doctor.

In response to our inquiries, the TPA indicated that the grantee billed the Authority in 12 equal payments that equated to the grant agreement's annual maximum and, as such, neither the Authority nor the TPA expected the grantee to provide the detailed information required by the funding agreement. Notwithstanding this explanation, the funding agreement provides that the Authority be invoiced based upon actual prescriptions dispensed and requires documentation supporting such prescriptions. Absent such documentation, the Authority lacks the information needed for accurate payment processing and effective monitoring of contracted services and the Board has limited assurance that it is receiving the desired services at the agreed-upon rates.

Recommendation: The Authority should require the grantee providing pharmacy services to provide the invoice supporting information required by the funding agreements and ensure that the information is utilized for payment processing and accomplishing the Authority's contract monitoring responsibilities. If the Board determines that such documentation is not necessary to support grantee invoices, the Board should remove the requirements from the funding agreements and establish alternate payment and monitoring procedures to ensure that the grantee is providing the contracted services in accordance with the Board's expectations.

Finding 5: Contract Approval

State law[24] authorizes the Board to contract as necessary to carry out its responsibilities. Such contracting may be directly or through third parties providing access to health care for indigent residents within district boundaries. As a good business practice, and to promote transparency and ensure that the contracts are in accordance with Board intent, the Board, as the Authority's governing body, should approve at a publicly noticed meeting contracts entered into by or on behalf of the Authority.

In June 2021 the TPA[25] entered into agreements with four health care providers, including a hospital, to provide health care services and the agreements designated the Authority as the payor for the services provided. The agreements included provisions for the health care providers to provide inpatient, outpatient, and urgent care services on a fee-for-service basis to eligible residents at contracted rates. However, the Authority did not sign or otherwise approve the agreements at a publicly noticed meeting. Contracted Authority representatives indicated that, because the agreements were between the TPA and the health care providers, the Board was not signatory to the agreements and, consequently, it was not necessary for the Board to sign or otherwise approve the contracts.

Notwithstanding this response, the Authority is designated in the agreements as the payor of services and the Authority pays health care providers upon the TPA's authorization. For example, the Authority paid a total of $22.5 million to TPA-contracted non-grantee health care providers during the 2018-19 and 2019-20 fiscal years. Acknowledging and approving the health care provider agreements at a publicly noticed Board meeting would enhance transparency; affirm that the agreements meet the intent of the Board; and reduce the potential for misunderstandings and disagreements among the Board, TPA, and health care providers.

Recommendation: The Board should adopt policies and procedures to require contracts negotiated by the TPA on the Board's behalf be Board-approved at a publicly noticed meeting.

Follow-Up to Management's Response

In her response to the finding, the Board Chair indicated that there is no legal requirement that the Authority directly approve provider agreements between the TPA and its network of providers and that approving the agreements at a publicly noticed Board meeting could limit the TPA's negotiating power and increase overall healthcare costs. Notwithstanding, acknowledging and approving the health care provider agreements at a publicly noticed Board meeting would enhance transparency; affirm that the agreements meet the intent of the Board; and reduce the potential for misunderstandings and disagreements among the Board, TPA, and health care providers. Consequently, the finding and related recommendation stand as presented.

Finding 6: Accumulation of Resources

The General Fund serves as the Authority's operating fund and accounts for all financial resources, and the Authority's operations are primarily funded by ad valorem property taxes levied by the Authority. Fund

[24] Chapter 2004-421, Section 3, Charter Section 1, Laws of Florida.

[25] As previously noted, the TPA provided the Authority with health care network access and related administrative services.

balance in the General Fund represents the net financial resources available in the fund. The Governmental Accounting Standards Board[26] (GASB) established classifications of fund balance based on the extent to which the funds are bound by external and internal constraints.

A Government Finance Officers Association (GFOA) best practice[27] recommends that governments establish a formal policy on the level of unrestricted fund balance, which is composed of committed, assigned, and unassigned fund balance that should be maintained for the General Fund. Contrary to the best practice, the Authority had not established a formal policy on the level of fund balance that should be maintained. As shown in Table 1, the Authority's General Fund unrestricted (i.e., sum of assigned and unassigned) fund balance increased significantly from the 2016-17 to the 2019-20 fiscal year.

Table 1
Revenues, Expenditures, and Fund Balances by Fiscal Year
For the 2016-17 Through 2019-20 Fiscal Years

	2016-17	2017-18	2018-19	2019-20
Ad Valorem Tax Revenue	$12,510,790	$20,092,455	$20,241,288	$19,507,765
Other Revenue	209,474	136,419	285,169	217,927
Total Revenue	12,720,264	20,228,874	20,526,457	19,725,692
Total Expenditures, Health Care and Other	16,640,666	16,766,315	17,443,639	15,496,057
Net Change in Fund Balance	(3,920,402)	3,462,559	3,082,818	4,229,635
Fund Balance, Beginning	10,499,331	6,578,929	10,041,488	13,124,306
Fund Balance, Ending	$ 6,578,929	$10,041,488	$13,124,306	$17,353,941
Fund Balance:				
Nonspendable	$ 2,000	$ 2,000	$ 39,454	$ 133,626
Assigned, Subsequent Year's Budget	-	-	-	2,000,000
Unassigned	6,576,929	10,039,488	13,084,852	15,220,315
Total Fund Balance	**$ 6,578,929**	**$10,041,488**	**$13,124,306**	**$17,353,941**
Property Tax Millage	1.5900	2.3660	2.1751	1.9080
Months of Available Fund Balance On-Hand, Based on Subsequent Year's Expenditures	4.7	6.9	10.1	CND[a]

[a] The months of available fund balance on-hand could not be determined as the audited 2020-21 fiscal year expenditure data was not available at the conclusion of our audit fieldwork.

Source: Authority's audited financial statements and auditor analysis.

As shown in Table 1, the amount of unrestricted fund balance increased from $6.6 million to $17.2 million, a total increase of $10.8 million or 162 percent, from September 30, 2017, to September 30, 2020. The increase was primarily due to the Authority increasing the ad valorem millage rates over the 2016-17 fiscal year rate and the resultant increase in tax revenues. The accounting firm indicated that the number of the Authority's HealthCard holders increased in 2016, resulting in increased medical operating costs which led to the 2017 ad valorem millage rate increase. The Authority's expenditures declined by $1.9 million from the 2018-19 fiscal year to the 2019-20 fiscal year due to reduced service

[26] GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions.
[27] GFOA publication, *Fund Balance Guidelines for the General Fund (2015)*.

demand, which the Authority attributes to the COVID-19 pandemic. According to the accounting firm, the subsequent Board did not lower the millage rate because it wanted to retain fund balances in case demand for medical services increases when COVID-19 fears decline.

In addition, according to the accounting firm, because the Authority receives most of its ad valorem tax revenues at the end of December, and the Authority's fiscal year begins on October 1, the Authority needs 3 months of operating costs to start each fiscal year (approximately $5 million). The accounting firm also recommended the Authority set aside an additional 3 months of operating costs for unexpected events, resulting in a recommended unrestricted fund balance of approximately $10 million at the end of each fiscal year. Notwithstanding, as of September 30, 2019, the Authority's fund balance represented over 10 months of the 2019-20 fiscal year's total expenditures, and the accounting firm indicated that, based upon discussions with the Board, the Board acknowledged the increase in fund balance and was planning to reduce fund balance through future year tax decreases. The Board reduced the 2021-22 fiscal year property tax millage rate to 1.4073 mills, a 6.4 percent decrease from the 2020-21 fiscal year 1.5035 millage rate.

Notwithstanding the need for the Authority to maintain sufficient operating resources, the Authority may have retained resources in excess of the amount needed to achieve its purpose of providing health care access to qualified indigent residents within the Authority's geographic boundaries.

Recommendation: The Authority should adopt a written policy that establishes minimum and maximum levels of unrestricted fund balance. In addition, the Board should establish a plan to address any excessive General Fund resources, for example, the Board could reduce ad valorem tax levies or expand health care services to West Volusia residents.

Finding 7: Budget Preparation

State law[28] requires the governing body of each special district to adopt a budget by resolution each fiscal year and provides that the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves.

Our examination of the Authority's 2015-16 through 2020-21 fiscal year budgets disclosed that, contrary to State law, available fund balances were not brought forward from the prior fiscal year and included as available resources for the next year. Table 2 shows the Authority's budgeted resources.

[28] Section 189.016(3), Florida Statutes.

Table 2
Budgeted Revenues, Expenditures, Fund Balances, and Property Tax Millages by Fiscal Year
For the 2015-16 Through 2020-21 Fiscal Years

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21[a]
Budgeted Revenues:						
Ad Valorem Taxes	$12,225,000	$12,500,000	$19,910,000	$20,194,000	$19,350,000	$16,431,158
Other Revenue	131,876	132,301	113,304	125,968	206,988	135,000
Use of Reserves	-	-	-	-	-	2,000,000
Total Revenues and Other Sources	$12,356,876	$12,632,301	$20,023,304	$20,319,968	$19,556,988	$18,566,158
Total Budgeted Expenditures	$16,741,063	$18,096,855	$20,022,257	$20,319,968	$19,556,988	$18,566,158
Revenue Less Expenditures	(4,384,187)	(5,464,554)	1,047	-	-	-
Financial Statements Assigned and Unassigned Fund Balance Available From Prior Fiscal Year	**$12,295,627**	**$10,497,331**	**$ 6,576,929**	**$10,039,488**	**$13,084,852**	**$17,220,315**
Property Tax Millage	1.6679	1.5900	2.3660	2.1751	1.9080	1.5035

[a] The 2020-21 fiscal year amounts are unaudited amounts. At the conclusion of our audit fieldwork, the most recent audited financial statements available were for the 2019-20 fiscal year.

Source: Authority budget records, financial records, and audited financial statements.

Our analysis of the Authority's fund balance disclosed that:

- At the end of the 2014-15 fiscal year, the Authority had $12.3 million available for the 2015-16 fiscal year budget.
- At the end of the 2015-16 fiscal year, the Authority had $10.5 million available for the 2016-17 fiscal year budget.
- At the end of the 2016-17 fiscal year, the Authority had $6.6 million available for the 2017-18 fiscal year budget.
- At the end of the 2017-18 fiscal year, the Authority had $10 million available for the 2018-19 fiscal year budget.
- At the end of the 2018-19 fiscal year, the Authority had $13.1 million for the 2019-20 fiscal year budget.
- At the end of the 2019-20 fiscal year, the Authority had $17.2 million available for the 2020-21 fiscal year budget. Of this amount, the Authority budgeted $2 million "use of reserves." However, the Authority did not budget the remaining $15.2 million of available fund balance for the 2020-21 fiscal year.

According to the Authority's accounting firm, to address the excess fund balance accumulation, the Authority budgeted significant deficits for the 2015-16 and 2016-17 fiscal years "to repay taxpayers for excess cash on hand" and, to address an expected significant increase in HealthCard membership, the Authority increased the millage rate from 1.5900 in the 2016-17 fiscal year to 2.3660 in the 2017-18 fiscal year.

In response to our October 2021 request for the Authority's budget policies and procedures, the Authority responded that their budget process was governed by the Volusia County Tax Collector's Office (Tax Collector) and the Florida Department of Revenue's (FDOR) Truth-In-Millage (TRIM) processes.

However, although the Tax Collector and FDOR processes provide guidance on the millage calculation and budget approval processes, they do not provide guidance for estimating revenues, expenditures, and beginning fund balance. The Authority did point out that the 2018-19 and 2019-20 fiscal year newspaper budget advertisements included estimated beginning fund balances as available for appropriation and estimated ending fund balances with the planned expenditures. However, these published amounts were tentative budgets and the estimated beginning and ending fund balances were excluded from the approved final budget documents on the Authority's Web site.

In response to our inquiries, the accounting firm indicated that the Board does discuss fund balances during the budget process when they discuss the "use of reserves" line item in the budgets. Notwithstanding, without including balances brought forward from prior fiscal years, the budget does not include all available resources, and the budget's usefulness as a financial management tool is diminished. In addition, the exclusion of prior fiscal year fund balance as available resources increases the risk that the Authority may levy more ad valorem property tax than necessary to fund budgeted expenditures.

Recommendation: The Authority should establish written budget policies and procedures that require budgets to include balances brought forward from prior fiscal years as required by State law.

Finding 8: Citizens Advisory Committee (CAC) Member Removal

Except as otherwise provided in the Constitution of the State of Florida, pursuant to the State's Sunshine Law,[29] Board meetings at which official acts are to be taken are to be public meetings open to the public at all times. State law requires the Board meeting minutes to be promptly recorded and open to public inspection. To assist the public and governmental entities in understanding the requirements and exemptions to Florida's open government laws, the Attorney General's Office compiles a comprehensive guide known as the *Government-in-the-Sunshine Manual* (*Sunshine Manual*). The *Sunshine Manual* is published each year.

When addressing the use of an agenda for board meetings, the *Sunshine Manual* refers to a Florida Attorney General Opinion (AGO),[30] which indicates that, although boards are not required to consider only those matters on a published agenda during a noticed meeting, it is strongly recommended that boards postpone formal action on controversial matters where the public has not been given notice that such an issue will be discussed. The AGO further indicates that "the purpose of the notice requirement in the Sunshine Law is to apprise the public of the pendency of matters that might affect their rights, afford them the opportunity to appear and present their views, and afford them a reasonable time to make an appearance if they wished."

During its May 2019 meeting, the Board voted to add a discussion item to remove a CAC member due to allegations made against him. This discussion item was not on the publicly noticed meeting agenda. During the meeting, the Authority's attorney recommended that the Board consider adding the CAC member removal action to a future Board meeting agenda and give the CAC member notice to appear

[29] Section 286.011(1) and (2), Florida Statutes (Sunshine Law).
[30] Florida General Attorney Opinion No. 2003-53.

before the Board and the opportunity to be heard at such meeting; however, contrary to the attorney's advice, the Board removed the CAC member during the May 2019 meeting. The Board's decision to remove the CAC member without prior public notice was contrary to the Sunshine Manual's recommendation and limited the opportunity for public input.

In addition, although the CAC Bylaws provide that a member can be replaced at any time without cause, the Bylaws do not include specific provisions for removing members from the CAC. Revision of the CAC Bylaws to establish a process for removal of CAC members would provide more transparency and increase the public's trust that advisory committees, such as the CAC, are functioning as intended.

Recommendation: To promote transparency of Authority operations and encourage community involvement, the Board should:

- **Publicly notice in advance all proposed Board actions, including those that may be deemed controversial**
- **Amend its bylaws or otherwise establish policies and procedures for removing CAC members.**

Finding 9: Anti-Fraud Policies and Procedures

Effective policies and procedures for communicating, investigating, and reporting known or suspected fraud are essential to aid in the mitigation, detection, and prevention of fraud. Such policies and procedures serve to establish the responsibilities for investigating potential incidents of fraud and taking appropriate action, reporting evidence of such investigations and actions to the appropriate authorities and protecting the reputation of persons suspected but determined not guilty of fraud.

Such policies and procedures should:

- Provide examples of actions constituting fraud.
- Require individuals to communicate and report known or suspected fraud.
- Provide for anonymous reporting of known or suspected fraud. Particularly if regarding the Authority's grantee medical service providers.
- Require officials to keep accurate records of reported fraud or suspected fraud.
- Assign responsibility for investigating potential incidents of fraud and taking appropriate action.
- Provide guidance for investigating potential and actual incidents of fraud, reporting evidence obtained by the investigation to the appropriate authorities, and protecting the reputations of persons suspected but determined not guilty of fraud.

In response to our October 2020 inquiry, the Authority's attorney identified some controls and procedures that serve as compensating controls for the lack of anti-fraud policies and procedures. These controls require:

- All checks be signed by two Board members.
- All moneys be transacted through a qualified public depository.
- The Authority's accounting firm to prepare monthly financial statements for review by Board members and members of the public.
- The accounting firm to conduct periodic site visits of funded agencies and prepare reports.

- A separate CPA firm to conduct the Board's annual financial statements audit.

As of October 2021, the Board had not established written policies and procedures to mitigate the risk of fraud and the Authority's attorney again responded that the controls already in place were adequate. Notwithstanding this response, absent adequately designed, comprehensive anti-fraud policies and procedures, there is an increased risk that known or suspected fraud may not be identified, communicated, investigated, or reported to the appropriate authority for resolution.

Recommendation: The Board should establish policies and procedures for communicating, investigating, and reporting known or suspected fraud that:

- **Define fraud and provide examples of acts constituting fraud.**
- **Require individuals to communicate and report known or suspected fraud.**
- **Provide for anonymous reporting of known or suspected fraud.**
- **Require officials to keep accurate records of known or suspected fraud reported.**
- **Assign responsibility for investigating potential incidents of fraud and for taking appropriate action.**
- **Provide guidance for investigating potential and actual incidents of fraud; reporting evidence obtained by the investigation to the appropriate authorities; and protecting the reputations of persons suspected but determined not guilty of fraud.**

Follow-Up to Management's Response

In her response to the finding, the Board Chair indicated that our characterization of the Authority attorney's response as "the controls already in place were adequate," is inaccurate. However, as the attorney identified specific controls and procedures and stated in his October 2020 e-mail, "I've been their contracted attorney for over 13 years and the above layers of review seem to have worked," and indicated in his October 2021 e-mail, that his response "remains the same," we believe that our characterization of the attorney's response is accurate.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. Pursuant to Section 11.45(2)(j), Florida Statutes, the Legislative Audit Committee, at its December 17, 2019, meeting, directed us to conduct this operational audit of the West Volusia Hospital Authority (Authority).

We conducted this operational audit from October 2020 through October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls significant to our audit objectives; instances of noncompliance with applicable laws, contracts, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records for the audit period October 2018 through June 2020, and selected Authority actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of Authority management, contractors, and grantees and, as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, grants, contracts, Authority policies and procedures, and other guidelines, and interviewed contracted personnel to obtain an understanding of applicable processes and administrative activities.

- Examined Board records to determine whether the Board had adopted anti-fraud policies and procedures to provide guidance for communicating known of suspected fraud to appropriate individuals.
- Obtained and reviewed Attorney General Opinion No. 2007-11, which indicates that the Authority is permitted to provide services to qualified illegal aliens residing within the Authority's boundaries.
- Evaluated financial condition monitoring procedures for reasonableness, including projections of revenues and expenditures used in setting the ad valorem property tax millage rates for the 2018-19, 2019-20, and 2020-21 fiscal years.
- Analyzed the Authority's financial condition to determine whether the financial resources accumulated by the Authority were reasonable compared to Authority expenditures.
- Examined Authority records to determine whether the Authority complied with applicable Florida Department of Revenue ad valorem property tax levy requirements.
- Evaluated the adequacy of Authority policies and procedures governing public records retention, including retention of electronic communications, for compliance with Section 286.011, Florida Statutes (Sunshine Law).
- For the period October 2018 through June 2020, examined all 55 public records requests received by the Authority to determine whether the Authority timely responded to records requests.
- Examined Authority records to determine the legal authority for the Citizens Advisory Committee (CAC) and to understand the CAC's purpose and functionality. We also evaluated whether the CAC operated and interacted with the Board as intended.
- Examined Board records to determine whether the Board had adopted policies and procedures for removing CAC members and whether the removal of a CAC member in May 2019 complied with the Sunshine Law and CAC Bylaws and was conducted in a transparent manner that provided opportunity for public input.
- Examined minutes of the 50 Board meetings and 9 CAC meetings held during the period October 2018 through June 2020 to determine whether the Board:
    - Conducted the meetings using pre-established agendas.
    - Discussed topics not included in the pre-established agendas in a transparent manner that allowed for participation of interested members of the public.
    - Discussed significant items in detail prior to acting on those items.
- From the 23 compliance reports completed by the Authority's accounting firm during the period October 2018 to June 2020, selected and examined 19 reports to determine whether:
    - The reports were completed in compliance with grant agreement provisions, which required, for example, that the reports include the total amount received by the grantee, and engagement letter provisions.
    - The reports were presented to the Board and the reports included adequate context to enable the Board to understand the potential effects of the noted deficiencies.
    - The Board adequately discussed the report results and took reasonable follow-up actions to resolve any noted deficiencies.
- Scanned Board accounting records for the period October 2018 through October 2020, to determine whether the $33 million of expenditures incurred by the Board during that period were for stated purposes consistent with the Authority's powers and duties established in Chapter 2004-421, Laws of Florida.

- From the population of 5,682 health cards active during the period October 2018 through June 2020, examined 30 health card applications to determine whether the Authority determined the cardholders to be eligible in accordance with the Authority's *Health Card Program Eligibility Guidelines and Procedures*.
- Reviewed the Authority's accounting records and supporting documentation to determine whether the Authority remitted the correct amount of ad valorem property tax revenues to all community redevelopment agencies (CRAs) within the Authority's borders and refrained from remitting property tax revenues to CRAs not located within the Authority's borders.
- Evaluated the Board's procedures for negotiating grant agreements and contracts with various health care entities to determine whether the grants and contracts served a valid public purpose, as allowed by Chapter 2004-421, Laws of Florida, and that the Board made reasonable efforts to negotiate the lowest rates.
- Reviewed the Board's contracts with its hospital operators to determine whether the Board took reasonable efforts to receive the most favorable terms and rates.
- Determined whether the Board competitively selected grantees and contractors for the various services required by the Board.
- Examined 29 of the 33 grant agreements, the hospital agreements, and the two third party administrator (TPA) contracts for which the Authority paid $17.3 million during the 2018-19 and 2019-20 fiscal years, to determine whether the agreements and contracts contained provisions that:
    - Identified the required deliverables, including services to be performed by the grantee or contractor.
    - Where applicable, included clear eligibility criteria for Authority residents to qualify for the services to be provided.
    - Included a requirement that supporting documentation be provided prior to payment being rendered.
- From the population of 844 expenditures totaling $26.9 million paid to grantees and the Authority's TPAs from October 2018 through June 2020, selected and examined 37 expenditures totaling $2.2 million to determine whether sufficient detail was provided to support each expenditure and as required by the grant agreements.
- Reviewed Authority and grantee records and interviewed applicable individuals to determine whether policies and procedures had been established to provide reasonable assurance that grantees only provided services to eligible individuals.
- Reviewed the minutes for Board meetings occurring during the audit period and examined Authority accounting records to determine whether the Authority had any restricted revenues requiring separate accounting.
- Determined whether the amounts paid to grantees during the audit period exceeded the contracted amounts.
- Communicated on an interim basis with applicable individuals to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading ***MANAGEMENT'S RESPONSE***.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE[1]

West Volusia Hospital Authority

March 17, 2022

Sherrill F. Norman, CPA
Auditor General
State of Florida
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman,

We received the Auditor General's preliminary and tentative audit findings and recommendations on February 21, 2022, resulting from your operational audit of the West Volusia Hospital Authority. We appreciate your team's diligence and review during the audit process and we are pleased that the audit reports no instances of fraud or violations of WVHA's internal controls to avoid fraud. A focus of my time as chair, which began in January 2022, is to promote more transparency of internal practices and procedures for budgeting and operations, and your findings will be a useful tool.

Sincerely,

Jennifer Coen
Chair, West Volusia Hospital Authority

P.O. Box 940 • DeLand, FL 32721-0940 • Phone (386) 626-4870 • Fax (386) 738-5351

[1] The Findng 9 response refers to e-mails that are not included in this report but may be obtained from the Authority upon request.

West Volusia Hospital Authority's Response to the Florida Auditor General's Preliminary and Tentative Audit Findings

The Board of Commissioners of the West Volusia Hospital Authority appreciates the operational audit performed by staff of the Auditor General and their recommendations. The West Volusia Hospital Authority (WVHA) funds local agencies that serve the health care needs of our community. It operates as an independent special taxing district for the purpose of providing access to *no-cost* primary and hospital care, *low co-pay* specialty care, and *low-cost* prescriptions for working poor residents of West Volusia. To qualify for access to this unique network of low or no cost healthcare, applicants must first demonstrate that they are not eligible for Medicare, Medicaid, Affordable Care Act, SSI or any other governmental or private health care program. WVHA is a payer of last resort for those who would otherwise fall through the cracks. Instead of burdening taxpayers with the operational expense and liabilities of owning and operating hospital facilities, WVHA appropriates $4 million dollars each year to reimburse for hospital and emergency room expenses of Health Card members, with no balance billing, at three privately owned and operated hospitals: AdventHealth DeLand, AdventHealth Fish Memorial, or HalifaxHealth| UF Health Medical Center of Deltona. Outside of funding for staffing local hospitals, WVHA funding partially ***supports over 150 employees*** of local agencies — people who live and work right here in West Volusia. WVHA also encourages funded agencies to work together to combine resources and reduce costs. Our goal is to keep costs down and keep local tax dollars close to home.

The Board of Commissioners has thoroughly reviewed the operational audit findings and recommendations made by the Auditor General. In responding to all of the requests for records and information from the Auditor General between September 2020 and the receipt of its preliminary findings in February 2022, WVHA's contracted Accountant, Administrative Support and Attorney have logged over $17,000.00 in billable time to respond to this inquiry.

We are pleased that the audit findings did not discover any fraud or violations of WVHA's existing internal controls to avoid fraud. This is consistent with the "clean" audit findings WVHA has received over the last fifteen years of yearly outside audits, currently conducted by James Moore & Company and previously by Moore, Stephens Lovelace, P.A. Similarly, as to WVHA's compliance with the statutory budget process during this timeframe, WVHA has consistently received findings of "no violations" of the TRIM (Truth in Millage) certifications requirements by the Director of Property Tax Oversight Program.

We continuously look for ways to improve our budget and operational practices, while keeping costs down for taxpayers. For example, we implemented or began implementing some new practices before notification of the audit findings which addressed concerns noted by the audit team, including the modification of its Electronic Records Retention policy to discourage social media posts generally but to require their retention as public records whenever such posts are

deemed necessary by Board members, and also with the adoption of a 2021-22 budget that represents a gradual reduction of millage and the spend down of reserves that were accumulated due to uncertainties of the Covid-19 pandemic.

Below are our written explanation to the findings presented to us for your operational audit of the West Volusia Hospital Authority.

Finding 1: Contrary to State law, the Authority did not provide requested records needed to achieve all the objectives of our audit, thereby imposing significant constraints on the conduct of our audit.

WVHA provided all requested records in its possession and all documentation that was provided to it by contracted third-parties. The disputed request sought protected health information (HIV test results) concerning clients of one third-party contractor, Rising Against All Odds (RAAO), which has received State and national recognition for its effectiveness in reducing the spread of HIV-AIDS in Volusia County. RAAO consulted their own legal counsel who expressed concerns that responding to the request raised concerns under both State law and HIPAA. Briefly, RAAO's counsel expressed concern about the disclosure of HIV Test Results, which is protected under Florida law (381.004(e), F.S.). RAAO's counsel also expressed concerns about the manner in which the audit team suggested client information could be de-identified which was believed to be non-complaint with 45 CFR 164.514. We have no record that the audit team replied back to RAAO's counsel to dispute its determination or to WVHA with citations to applicable State law to the contrary of Section 381.004(e). See attached follow-up letter dated 3/4/2022 from RAAO's counsel.

It should be noted that federal laws cited by the audit team with regard to its ability to audit health plans don't apply since neither WVHA nor RAAO would be considered a "health plan" as defined in that statute. Additionally, there is plainly recognition of enhanced patient privacy protections for HIV Test Results under Florida law (381.004(e), F.S.). WVHA has complied with its obligations under State law to avoid becoming complicit with the unauthorized disclosure of HIV Test Results to any State agency (other than the Department of Health itself) without specific releases signed by those tested.

Finding 2: The Authority should enhance its oversight and monitoring procedures to provide greater assurance that grantees provide services consistent with the Board's intent and that payments to grantees are appropriate, properly supported, and in compliance with agreement terms and conditions.

The oversight and monitoring procedures performed for the Grantees were to ensure compliance with Grantee contract provisions. The issue documented by the auditors was a lack of limit on number of times and individual may be tested for HIV. The contract with the Grantee contained no limits on the number of times an individual may be tested. Instead, the WVHA Board allowed this health care provider the same level of discretion as all other providers to exercise professional discretion in providing health care. There can be valid reasons that an individual may need re-testing ranging from verification of original test results to subsequent tests of an at-risk individual requiring on-going monitoring for the protection of themselves, their family and the whole community.

Consistent with the recommendations of the Auditor General, moving forward WVHA contracts concerning HIV testing will specify any limits on the number and frequency of testing allowed and include provisions to require more detailed invoices to that would indicate in a de-identified fashion whether the bundle of services included a test and the number of times that each unique client is tested.

Finding 3: The Authority did not have adequate policies and procedures to ensure that grantee compliance review reports contained all information necessary for the Authority to make fully informed decisions on reported results. Additionally, the Authority Board did not always take appropriate action of record to resolve deficiencies identified in those reports.

The WVHA authorizes its accountants to review grantee records and prepare a compliance report based on contract requirements. The finding requested that additional information be included in the compliance reports.

Consistent with the recommendations of the Auditor General, all future WVHA compliance review reports will contain the grantee's annual budget, questioned costs, and a reasonable estimate of potential total exceptions and deficiencies. The findings of any reports with questioned costs will be presented to the Board for discussion and consideration of follow-up action on a case-by-case basis. This action will be based on the findings and recommendations noted in the compliance review reports and may include waiving or requiring repayment of questionable costs and determining whether additional compliance testing is warranted.

Finding 4: The Authority paid a grantee for medical services pursuant to invoices not supported by the detailed records required by the grant agreement.

This finding was related to information provided by our former contracted pharmacy. The pharmacy was required to submit claims to the TPA for processing. The TPA would them submit claims to the WVHA for payment. The pharmacy got behind on providing detailed paperwork. The TPA, knowing that patients were receiving prescriptions, approved payment for the claims. When a new TPA was hired in 2020, they also had difficulty getting detailed records. They worked to set up a new pharmacy that would provide them with appropriate processing information. They approved the payment of the claims in the interim period to ensure that the WVHA card members were not cut off from medications that they needed.

In 2021, the WVHA contracted with a new agency to provide pharmacy services. They provide supporting information such as client Health Card information, prescription dispensed date, name of prescription dispensed, prescription price, the prescribing doctor, and other supplemental information requested by the TPA sufficient to ensure that the payment is made for valid prescriptions for eligible Health Card members.

Finding 5: The Authority did not approve health care services agreements between the Authority's third-party administrator and health care providers that obligated the Authority to pay for the health care services.

The WVHA reimburses its Third Party Administrator ("TPA") on a fee-for-service basis for the hospital and specialty care services needed by Health Card members. The TPA is responsible for establishing its own hospital and specialty care networks, based on contracts that it negotiates directly with providers. WVHA determines an overall budget for these hospital and

specialty care services and also determines a maximum potential reimbursement rate tied to comparable Medicaid or Medicare rates, but WVHA's agreement with the TPA permits and provides incentives for the TPA to negotiate lower rates with individual providers. While approving health care provider agreements at a publicly noticed Board meeting would enhance transparency, WVHA has learned based on past experience that it would also limit the negotiating power of our TPA and increase overall costs of providing healthcare to taxpayers. Once one provider knows what other providers are willing to accept, the WVHA loses the ability to get the competitive reimbursement rates.

WVHA is deeply committed to transparency in government, particularly where it is required by State laws such as the Public Records and Sunshine Law. But, WVHA is also deeply committed to reducing the costs of government to taxpayers. Because the audit team acknowledged during the exit interview that there is no legal requirement that WVHA directly approves these provider agreements between the TPA and its network of providers, WVHA will continue allowing the TPA to negotiate for lower rates with its own network of providers and passing along those savings to taxpayers.

Finding 6: The Authority accumulated significant resources that may be in excess of amounts necessary for the Authority to fulfill its duties and responsibilities.

The WVHA has been rebuilding its reserves over the past several years. After the passage of the Affordable Care Act, the enrollment of the WVHA Health Card dropped considerably. Due to the unknown effects, the WVHA generated a large cash reserve. They cut their millage rate in 2012-2016 to reduce the large cash reserve position. Unfortunately, as cash reserves diminished, the enrollment increased on unexpected 38%. This caused the Board to dramatically increase the millage rate to cover current costs and provide a small buffer for unexpected costs. Since 2017, this reserve has been rebuilding. In 2020, the uncertainties associated with Covid-19 caused the Board to be conservative in their budgeting to ensure that there was enough money to cover medical expenses for the Health Card members. This Covid-19 related uncertainty continued through the 2021-22 budget cycle.

Consistent with the recommendations of the Auditor General, the WVHA will adopt a policy that establishes a minimum and maximum level of unrestricted fund balance. This plan will include known reserve requirements (such as the need for operating capital for 3 months until the ad-valorem tax levies are collected), an expected minimum reserve for unexpected expenses, and an additional reserve amount for specific uncertainties or costs as deemed necessary by the Board. If the reserves end above their maximum level of unrestricted fund balance, the Board will develop a plan to gradually reduce the reserves while avoiding the need for a sudden and dramatic increase in millage rates.

Finding 7: The Authority had not established written budget preparation policies and procedures. Additionally, contrary to State law, the 2015-16 through 2020-21 fiscal year budgets generally did not include estimated beginning or ending fund balances.

The Board follows the TRIM process in scheduling their budget meetings. As part of this TRIM process and the determination of ad-valorem tax rates, the Board considers expected revenue and expenses, budget vs actual budget presentations and discusses unrestricted reserve money carrying forward and the impact that may have on the budgeting process. As noted in the preliminary audit findings, the newspaper advertisements describing the tentative budgets for the TRIM hearings presented carry forward fund balances. But, the final budget

presentations listed on the website did not list the carry forward fund balances from prior fiscal years.

Consistent with the recommendations of the Auditor General, WVHA will ensure that future budget presentations include balances brought forward from prior fiscal years.

Finding 8: The Authority had not established policies and procedures governing the removal of Citizens Advisory Committee (CAC) members. In addition, in May 2019, the Authority Board removed a CAC member at a public meeting without placing the member's removal on the agenda, which limited the opportunity for public involvement.

This is an isolated incident. As noted in the preliminary audit findings, WVHA amended its agenda at the beginning of the May 16, 2019 meeting to include a discussion item to consider complaints that a new CAC member had allegedly made so many disruptive, abusive and potentially defamatory comments at the May 7th CAC meeting that some other members, including the CAC Chair were offering to resign their volunteer public service rather than continue being subjected to such comments. This amendment was made after Board members received last minute information including a letter from the CAC Chair, the complained about CAC's member's "reply to all" response and verbal reports from others who attended the May 7th CAC meeting. As a standard practice, the Board places all known items on a preliminary agenda, regardless of how controversial they may be. This agenda is published a week in advance according to State guidelines. At times, due to last minute events leading up to the board meeting, the agendas are amended at the start of the Board meeting. Because the subject of this discussion originated in a meeting that occurred after the publication of that preliminary agenda and then the Board received pressing letters from the CAC Chair 2 days before the meeting and a detailed response from the complained about CAC member 1 day before the meeting, WVHA exercised its discretion to make a last-minute amendment and took immediate action that it deemed necessary to restore good order and decorum in the overall functioning of the CAC. To our knowledge for at least the last 15 years, this removal power had not been exercised previously and WVHA has not had any occasion to exercise it since May 16, 2019.

The CAC bylaws state that "The Board may expand, reduce, or abolish the Committee or replace any member without stating a cause". To avoid even the appearance that this removal power is being utilized often and arbitrarily, WVHA will amend this provision to state that "The Board may expand, reduce or abolish the Committee or replace any member without stating a cause; provided however, the Board will only exercise this discretion during a regular meeting where the question is noticed on its published agenda unless exigent circumstances require otherwise".

Finding 9: The Authority had not established anti-fraud policies or procedures.

The characterization of either Attorney's 10/8/2021 or 10/15/2020 email as an expression of his opinion that "the controls already in place were adequate" is not accurate. See attached those emails. During the exit interview with the audit team, all WVHA representatives, including the Attorney, welcomed members of the audit team to send sample policies that might be appropriate for an entity like WVHA where, as here, any documented report of fraud to a member of "management" would become a public record since WVHA has no employees and the elected officials are the management. Consistent with the recommendations of the Auditor General, WVHA will consider any such suggestions and will also endeavor to find on its own anti-fraud policies and procedures that would respond to this finding.

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March 4, 2022

Via Email
tsmall@businessemploymentlawyer.com

Ted W. Small
General Counsel
West Volusia Hospital Authority
C/O PO Box 172
DeLand, Florida 32721

Re: **Comments Regarding Florida Auditor General's Preliminary and Tentative Audit Findings**

Dear Mr. Small:

Please allow this correspondence to serve as a reply to some of the issues raised in the above referenced Audit Findings. As you know, our office represents Rising Against All Odds, Inc., ("RAAO"), on certain matters as requested by the client. One such matter involved reviewing requests from representatives of the Florida Auditor General's Office to RAAO for sensitive patient information (HIV Test Results) related to clients of RAAO. Ostensibly, the Auditor General's request was to determine the West Volusia Hospital Authority's, ("WVHA"), compliance with its statutory purpose. As more fully explained below, RAAO was not able to comply with the request as doing so would have violated applicable law. Unfortunately, it appears that the Auditor General has equated RAAO's attempt to comply with applicable law as being contrary to Federal and State law. RAAO would vigorously deny that it has done anything other than comply with applicable law.

In the Summer of 2021, representatives of the Auditor General's office contacted RAAO and requested certain patient related information. More specially, the Auditor General's representative made the following request:

"*Can you please provide a version (preferably in excel) of the "HIV Utilization 2021 WHVA Audit Docs" that includes individuals served by RAAO between October 2018 and June 2020 and shows the result of the test, if applicable? Please do not include the address on this file so that the listing is as deidentified as possible.*"

Our office, on behalf of RAAO, responded the Auditor General's representative via email on August 5, 2021, and advised that we had regulatory concerns about RAAO releasing such

information under both HIPAA and applicable state law. We briefly explained our concerns and in particular focused on the Auditor General's request for patent information that "*is as deidentified as possible*". We attempted to explain our concerns that under 45 CFR 164.514 deidentification of PHI can only be achieved by two methods; expert determination and/or the applicable safe harbor which requires the removal of all specified identifiers. Our email response to the Auditor General's representative concluded with an invitation to contact our office if they had any questions. To my knowledge there was no response to our office or any effort to address RAAO's concerns.

It is RAAO's good faith belief that it has a legal obligation to safeguard the information of its clients. First, under HIPAA, RAAO has an obligation not to disclose PHI without the individual patients' authorization or consent. RAAO may release PHI under HIPAA for treatment, payment or health care operations without an individuals' specific consent.[1] However, it should be noted that given the sensitive nature of the information, Florida law treats the disclosure of HIV Test Results in a more restrictive manner than HIPAA.[2] Based on the sensitive nature of RAAO's HIV testing services, only limited information was supplied to the WVHA as set forth in the agreement between the parties. The request from the Auditor General's representative exceeded what RAAO felt it was legally able to provide, a fact that we would have been happy to discuss with the Auditor General's representative had they contacted our office.

We would also note that in the Audit Findings, the Auditor General seems to imply (Footnotes 9 and 10) that RAAO somehow impeded the Auditor General's authority. With all due respect to the Auditor General, we would disagree. With regard to Footnote 9, the Auditor General implies that 42 USC 1320d-7(c), provides it with the authority to require a "health plan" to provide access to certain records, however, RAAO is not a "health plan" and as such the stated statutory reference would not seem to apply in so far as a request to RAAO. Accordingly, RAAO would have no legal basis to release the information to the Auditor General without individual authorization from the patients whose information was to be disclosed. While we are not counsel for WVHA, it should be noted that under HIPAA's regulatory definition for "Health plan", specifically excluded from the definition is any "government-funded program", like WHVA, that makes grants to fund the direct provision of health care to persons.[3] As for RAAO's purported non-compliance with 11.47(1), F.S., (Footnote 10), it is RAAO's good faith belief that as a private not for profit organization, not specifically identified 11.45, F.S., it does not fall under the purview of the Auditor General statute. Accordingly, we believe it would have been a violation of applicable law for RAAO to supply to the Auditor General the PHI it was requesting.

In conclusion, it has been RAAO's pleasure to serve individuals in the community who are concerned with and/or are dealing with a life-threatening disease that still, unfortunately, has a significantly negative social stigma. RAAO has been proud to work with the WVHA in carrying out its mission to serve the residents of West Volusia County. It will always be RAAO's primary

[1] 45 CFR 164.502
[2] 381.004, F.S.
[3] 45 CFR 160.103

mission to serve the patients in the community and RAAO looks forward to partnering with the WVHA to perform continued good works.

Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,
The Gunster Law Firm

William Dillon