



Leslie W. Merritt, Jr., CPA, CFP
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet <http://www.ncauditor.net>

February 7, 2008

Ms. Mary McAllister, Executive Director
Mr. Aaron Johnson, Board Chairman
Operation Sickle Cell, Inc.
2409 Murchison Road
Fayetteville, North Carolina 28301

RE: State Grants from the Department of Health and Human Services:
State Fiscal Year 2005, \$325,627
State Fiscal Year 2006, \$343,684
State Fiscal Year 2007, \$225,725 (thru 3/31/07)

Dear Ms. McAllister and Chairman Johnson:

We have completed an examination employing certain procedures¹ described below at Operation Sickle Cell, Inc. related to its management of state grant funds. Our objective was to identify whether any deficiencies in internal controls, instances of noncompliance with laws, regulations, and provisions of contracts or grant agreements, and/or deficiencies in the management of financial resources existed. North Carolina statutes authorize the Office of the State Auditor to have ready access to all records related to State and Federal funds. See N.C.G.S. §147-64.7(a).

Our procedures included, but were not limited to, interviewing personnel; examining accounting and other records for the purpose of identifying State grant transactions; examining documentation supporting selected transactions and balances; reviewing available policies and procedures; and reviewing available board minutes.

The results of these procedures conducted between June 5 and October 30, 2007 disclosed internal control deficiencies, instances of noncompliance and/or other matters of concern that are described in the attached findings and recommendations.

¹ These procedures do not constitute an audit, examination or a review as described in professional standards governing those types of services. Furthermore, our procedures were not agreed upon by you or any third party. Our procedures do not provide a basis for providing any level of assurance regarding internal control, compliance or financial management and should not be relied upon for that purpose.

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This letter, including your written response to the draft findings, will be published on our Electronic Publication System (EPS) at www.ncauditor.net. You and others who are interested in the publication should register with EPS on the web site. Registered parties will receive an email notification and a link to the publication as soon as it is available.

This letter is intended solely for the information and use of the board of directors and management of Operation Sickle Cell, Inc., the Governor, the General Assembly, and grantor agencies and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,



Leslie W. Merritt, Jr., CPA, CFP
State Auditor

LWMjr/dr

Attachment

CC: Secretary Dempsey Benton
Department of Health and Human Resources
Ms. Laketha Miller, Controller
Department of Health and Human Resources

Operation Sickle Cell, Inc.
FINDINGS AND RECOMMENDATIONS

Grants Overview:

NC Department of Health and Human Services – Division of Public Health – NC Sickle Cell Syndrome Program Grant—This grant is to provide specialized care, case management, consultation, referrals, genetic counseling, education, and other services in order to reduce morbidity and mortality of individuals and families affected by sickle cell disease. The service area incorporates all of Cumberland, Harnett, Hoke, and Robeson counties. The budget was to pay for salaries (administrative assistant, nurse, educator/counselor, receptionist/secretary, and fifty percent of the executive director²), consultant & contract services, supplies, equipment, travel, and other operating expenses.

NC Department of Health and Human Services – Division of Public Health – HIV Prevention and Community Planning Project Grant – This grant is for a HIV/STD risk project for Health Education/Risk Reduction program for substance abusers with special emphasis on injecting drug users. The grant provides HIV/STD counseling, testing, and referral services in accessible community settings for substance abusers in nontraditional hours. The budget was to pay for salary and fringes of an AIDS Educator, supplies, educational material, general contractor services, and other operating expenses.

NC Department of Health and Human Services – Division of Public Health – Office of Minority Health and Health Disparities – The grant funding is to be used to enhance community focused eliminating health disparities in North Carolina. The budget was to pay for salary and fringes of a project coordinator (15% for 6 months) and an AIDS Educator (20% for 6 months), contracted services, summit expenses, promotional items, supplies, and other operating expenses.

1. OPERATION SICKLE CELL BLOCKED READY ACCESS TO THE OFFICE OF THE STATE AUDITOR IN VIOLATION OF STATE LAW AND THE GRANT CONTRACT.

North Carolina General Statute §147-64.7 grants the Auditor and his authorized representatives “ready access” to “examine and copy” all records and documents associated with “any State agency” or any organization funded through contract or grant from the State. Furthermore, the grant contract states,

The Office of the State Auditor has audit oversight for all Contractors that receive, use, or expend State funds. The Contractor shall furnish to the Office of the State Auditor and the funding agencies, upon request, all financial books, records, and any other information requested by them to provide full accountability for the use and expenditure of State Funds.

² Salaries for executive directors for all four of the Sickle Cell nonprofits and the State operated Regional Offices were compared since questions were raised about the amount of Ms. McAllister’s salary at Operation Sickle Cell, Inc. The most recent data available was from Form 990 for the 2006 fiscal year. Based on this comparison, Ms. McAllister’s State salary is in line with the others based on the magnitude of the program and her years of experience. See Appendix A, page 11 for the comparison.

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On June 6, 2007, State audit staff were denied ready access to the hard drives of Operation Sickle Cell's computers and the information contained in them. To enforce its statutory right to access, the Auditor's Office issued subpoenas pursuant to its power to do so granted in N.C.G.S. § 147-64.7(c)(1). Operation Sickle Cell refused to comply with the subpoenas, and continued to deny ready access to the auditors. On Friday, June 8, at approximately 6:00 p.m., a Superior Court Judge ordered Operation Sickle Cell to comply with the subpoenas and provide the auditors immediate access to all of Operation Sickle Cell's computer hard drives. Operation Sickle Cell's actions were in violation of State law and the grant contract. These actions resulted in a scope limitation and unreasonable delay of the examination, as well as making it unascertainable as to whether or not the information contained on the hard drives was compromised.

Recommendation:

In the future, Operation Sickle Cell should comply with all requirements of State statute surrounding State funds as well as the terms of any grant contracts. Noncompliance with these requirements may result in either permanent or temporary suspension of grant funds to Operation Sickle Cell by the funding agency or the Office of State Budget and Management.

2. OPERATION SICKLE CELL ENGAGED IN POLITICAL ACTIVITY IN POSSIBLE VIOLATION OF INTERNAL REVENUE CODE § 501(c) (3).

Operation Sickle Cell is currently qualified as a 501(c)(3) organization. Internal Revenue Code § 501(c)(3) prohibits any such organization from participating or intervening in "any political campaign on behalf of (or in opposition to) any candidate for public office." The Internal Revenue Service (IRS) takes the position that an individual's political activity can be attributed to the organization if the organization allowed the individual to use the organization's "financial resources, facilities or personnel" in furtherance of the political activity³.

Examination of computer hard drives for 12 computers purchased by Operation Sickle Cell uncovered examples of political activity, including but not limited to, letters to voters from Rep. Mary McAllister, the Executive Director for Operation Sickle Cell, seeking support for re-election, scripts for

³ Internal Revenue Service Technical Advisory Memorandum 2004-46-033 (June 15, 2004)

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TV campaign ads advocating for Rep. McAllister, various files containing logistical information relating to the political campaigns for Rep. McAllister, etc. In addition, there were files related to her position and work in the legislature that are not directly related to the mission of Operation Sickle Cell as defined in the grant contract. Examples of this include correspondence related to several bills and issues taken up by the North Carolina House of Representatives, as well as correspondence related to the awarding of Scholarships from the General Assembly's Black Caucus.

Recommendation:

The Internal Revenue Service should review the State Auditor's findings relative to possible political activity by staff of Operation Sickle Cell to determine whether or not the nonprofit has violated federal tax code. If such violation is found, we request that the IRS notify the appropriate State agencies.

3. OPERATION SICKLE CELL USED COMPUTERS PURCHASED WITH GRANT FUNDS FOR POLITICAL ACTIVITY.

As noted in the previous finding, certain Operation Sickle Cell computers were used to generate or modify documents related to political activity. The three computers on which political activity was found were assigned to the Operation Sickle Cell employee who served as the Rep. McAllister's 2006 campaign treasurer. The grant contract allowed the purchase of computer equipment to be used for the project or program for which it was acquired. The grant contract included a detailed scope of work limited to care coordination and case management services to sickle cell clients.

Records showed that two of the three computers were purchased with State grant funds. Additionally, the employee to whom the computers were assigned was paid with State grant funds. Of the 6,247 files reviewed, 64 files identified as related to Rep. McAllister's campaign or her work in the General Assembly were created at times that would be part of the normal workday. While we have no way to know how long it took to create these files, it appears that grant funds could have paid for this time. These activities were in violation of the terms of the grant contract which requires grant funds to be used only for grant purposes.

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In addition to violating the terms of the grant contract, using the computers and other resources of Operation Sickle Cell for political purposes violated Operation Sickle Cell's Political Activities policy, as well as its Acceptable Use policy for computer resources.

Recommendation:

The Department of Health and Human Services should consider requesting repayment of the salary expended for activities not related to the grant. The Board and management of Operation Sickle Cell should review the existing policies related to political activity. The existing political activity policy should be expanded to prohibit performance of political activities during the workday and with all types of resources. A specific policy to address use of equipment purchased with State grant funds, as required by the grant contract, should be established. Once the Board is satisfied that the policies address all relevant aspects of the question, management should reiterate political activity policies to all employees to ensure that these policies are adequately discussed with and understood by all staff.

4. THERE ARE WEAKNESSES IN INTERNAL CONTROLS OVER EXPENDITURES.

Non-governmental entities have an inherent responsibility to be prudent in the use of public (and private) resources. The management of these entities must adhere to regulations and must be sure that control procedures are in place to review and approve only expenditures that are necessary, reasonable, and demonstrate an efficient use of funds.

To assess internal controls, we examined a sample of 60 expenditures from July 1, 2004 through May 31, 2007 and travel reimbursements along with supporting documentation, totaling \$52,972.92. The sample was selected judgmentally after reviewing the check registers for that time period. Table 1, page 7 contains the results, showing that Operation Sickle Cell, Inc. has incurred some minor costs that are inadequately supported and that may not be necessary for the operation of the program, along with other internal control weaknesses. The lack of supporting documentation and not canceling supporting documentation to prevent it from being paid twice increases the risk that funds could be misappropriated.

The management of Operation Sickle Cell is responsible for ensuring its personnel are aware of the requirements for expenditure reimbursements.

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The entity and its Board of Directors are responsible for ensuring controls are in place to prevent and detect errors and for ensuring compliance with accounting and organizational regulations. Based on the results of the sample, it is our opinion that Operation Sickle Cell personnel are not properly informed of these requirements and procedures in place are not working properly or are not being adhered to.

Table 1 Operation Sickle Cell, Inc. Internal Control Weaknesses Noted from Sampled Expenditures				
# of Questioned Expenditures	% of Total Sample of 60	Amount of Internal Control Weaknesses	Problem Noted	Comments
14	23%	\$14,787.15	No approval for payment shown	Procedures required Executive Director or Administrative Assistant to approve. Some were stamped "approval for payment/" others were attached to an approved Expense Report; none had Executive Director's or Administrative Assistant's signature or initials.
3	5%	3,761.64	Not cancelled to prevent from being paid twice	
2	3%	192.80	Unallowable purchases	Flowers purchased for relative of Board member; removal of Christmas decorations
2	3%	337.50	No purpose for payment listed	May not be reasonable or necessary
1	2%	168.75	No supporting documentation attached	Could not be located by staff
Total Internal Control Weaknesses		\$19,247.84		

Recommendation:

The Department of Health and Human Services should periodically examine documentation for expenditures to ensure that adequate records are kept. For those items identified above, the Department should determine the amount of unallowable costs that should be reimbursed. The Board and management of Operation Sickle Cell should review the existing controls to identify any weaknesses that allowed the above errors. Controls over the accounts payable and check writing process should be strengthened to provide reasonable assurance that instances such as those noted are detected and prevented. All personnel should be properly informed of the accounting and organizational requirements concerning payment of expenditures and reimbursement of travel.

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5. THERE ARE WEAKNESSES IN THE ACCOUNTABILITY AND MAINTENANCE OF FIXED ASSETS.

Non-governmental entities that purchase equipment with state grant (contract) funds are subject to certain conditions specified in the contract. For equipment costing in excess of \$500.00, equipment controls and procedures should include accurate, detailed equipment records. Per Operation Sickle Cell's Personnel Policies and Procedures, a master list of all tangible property owned by the nonprofit is maintained by the Executive Director or his/her designee. Inventories are to be taken periodically to account for the property and to ascertain its condition. However, Operation Sickle Cell did not have specific fixed assets and/or supplies inventory policies and procedures.

We obtained Operation Sickle Cell's Revised Inventory List, dated January 2006, which also contained medical supplies. This list showed items by area and/or office and the quantity of each specific item. We randomly selected a sample of 40 fixed assets to verify that: (1) the items were properly recorded in the fixed asset system, (2) fixed asset numbers were attached to the assets, and (3) the assets were physically secure. Results were:

- 14 (35%) of the assets were traced from the inventory list to the physical asset;
- 26 (65%) items could not be located.

Since we were unable to find so many of the items in the original sample, we randomly selected 26 items from locations around the office.

- 26 (100%) were traced from their physical location to the fixed asset inventory list.

Other problems noted were:

- No tag on the fixed assets (100%);
- Operation Sickle Cell's land and building were not included on the list;
- Detailed equipment records were not maintained with the description and location of the equipment, serial number, acquisition date/cost, useful life and depreciation rate, source/percentage of funding for purchase, restrictions as to use or disposition, and disposition data (date of disposal, sales price or method used to determine fair market value).

The lack of adequate policies and procedures, detailed equipment records, and training of staff responsible for maintaining the fixed asset inventory list resulted in an ineffective process and led to noncompliance with the terms of the contract.

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Recommendation:

The Board and management of Operation Sickle Cell should develop written internal procedures for fixed asset management that comply with the terms of the grant contract. These procedures, once approved by the Board, should be provided to all employees, to include fixed asset management training to all employees engaged in this function. Land and building should be included on the fixed asset inventory; however, inventory supplies (medical, office, etc,) should not be included. Equipment should be assigned a control (fixed asset) number in the accounting records and should be tagged individually with a permanent identification number. Also, a physical inventory should be performed annually and results compared to accounting and fixed asset records. Any discrepancy should be brought to the attention of management and the Board for immediate resolution.

6. BOARD MINUTES CONTAINED INADEQUATE DOCUMENTATION AND APPROVAL.

We reviewed minutes from the 11 official Board meeting held between July 2004 and May 2007. We noted the following concerns:

- Minutes for all eleven (100%) meetings were not signed and dated as approved by the Board Chairman and Secretary.
- No indication that minutes for prior meetings were approved in the current meeting.
- Minutes for two (18%) meetings did not contain the names of the board members present; unable to determine if quorum was present.
- For one (9%) meeting, Operation Sickle Cell did not have the required members for a quorum in order to conduct business.
- In all instances (100%), the Board minutes did not reflect members who voted for or against a motion, or who abstained from voting for a motion.
- Minutes only reflect members present; not those absent.

Since none of the minutes were signed and dated, Operation Sickle Cell has no official copy of any Board or Committee minutes. Without a copy of the minutes that have been signed and dated as approved by the Board/Committee Chairman and Secretary, there is no means to assure the minutes on record are indeed the actual version approved by the Board. Prudent business practices dictate that the minutes be signed and dated to assure authenticity.

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Recommendation:

The Board should immediately implement procedures to assure that accurate minutes are taken and recorded for each Board meeting. All minutes should be signed and dated, contain a list of all Board/Committee members present and/or absent, and provide detailed activity of all items discussed and voted upon. To avoid the appearance of any conflict of interest, the minutes should include the name of the member who made the motion, the member who seconded the motion, and the names of the members who voted for, who voted against, or who abstained from voting for the motion. Minutes of the last meeting should be distributed to all members prior to the next meeting for review and approval at the next meeting.

7. OPERATION SICKLE CELL, INC. DOES NOT HAVE COMPLETE, UP-TO-DATE POLICIES AND PROCEDURES.

Operation Sickle Cell staff provided a written copy of the Personnel Policies and Procedures Manual (revised 2004) for its internal operations. Review of these policies and procedures reveals that they contain mainly policies relating to personnel, attendance and leave, employee conduct, disciplinary system, and the grievance process. They did not include any specific accounting policies and procedures, nor did each major section within the organization have specific, written, step-by-step procedures in place.

Every organization, regardless of size, should have formal, written policies and procedures which address all aspects of operations. Such procedures aid in consistency of operations and serve as a valuable training tool for new staff. Lack of written policies and procedures can lead to inconsistency and weakness in internal controls.

Recommendation:

The Board of Directors and management should make the development of a comprehensive internal policies and procedures manual, as well as specific policies and procedures manuals for each major section within Operation Sickle Cell, Inc., a priority. Procedures should include administrative, personnel, financial, and programmatic functions which detail actions to be taken by staff in different situations. A system for distributing and updating these procedural manuals should also be implemented. Once the policies and procedures are in place, the Board of Directors and management should enforce strict adherence to the procedures at all times.

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COMPARISON OF SALARIES FOR COMMUNITY-BASED AND STATE OPERATIONS

APPENDIX A

Program	Director	FY 2006 Salary			FY 2006 Expenses			Number of Clients		Counties	# Clients FY 2007
		Total	State	State % Total	Total	Grant	Grant % Total	FY 2006	State Salary Per Client		
COMMUNITY BASED ORGANIZATIONS (1)											
Piedmont Health Services and Sickle Cell Agency (Greensboro)	Gladys Robinson	\$101,348	\$ 0.00	0.0%	\$1,534,609	\$299,246	19.5%	326	\$ 0.00	Caswell Rockingham Alamance Guilford Randolph Forsyth	387
Operation Sickle Cell, Inc. (Fayetteville)	Mary McAllister	115,000	55,000	47.8%	514,130	250,858	48.8%	198	277.78	Harnett Cumberland Hoke Robeson	206
Sickle Cell Disease Association of America-Eastern NC Chapter (Jacksonville)	Marcia Wright	45,377	39,600	87.3%	245,479	201,500	82.1%	131	302.29	Carteret Pamlico Craven Jones Onslow Lenoir Greene Wayne	152
Sickle Cell Regional Network (Charlotte)	Pat Lambright	48,600	45,000	92.6%	230,608	200,600	87.0%	346	130.05	Mecklenburg	354
	TOTALS	\$310,325	\$139,600	44.9%	\$2,524,826	\$952,204.	37.7%	1001	\$139.46		
(1) Salary and Client data supplied by DHHS; Expenses data from 990s filed by community based organizations											

Operation Sickle Cell, Inc.
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COMPARISON OF SALARIES FOR COMMUNITY-BASED AND STATE OPERATIONS

APPENDIX A

Program	Counselors	FY 2006 Salary			FY 2006 Expenses			Number of Clients		Counties	# Clients FY 2007
		Total	State	State % Total	Total	Grant	Grant % Total	FY 2006	State Salary Per Client		
STATE REGIONAL OFFICES (2)											
Region 1	Naomi Moore		\$40,036					59	\$678.58	Cherokee Clay Graham Macon Swain Jackson Transylvania Haywood Henderson Buncombe Madison Yancey McDowell Rutherford Polk Cleveland Burke Avery Mitchell Caldwell Alexander Catawba Lincoln Gaston	73

**Operation Sickle Cell, Inc.
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COMPARISON OF SALARIES FOR COMMUNITY-BASED AND STATE OPERATIONS

APPENDIX A

Program	Counselors	FY 2006 Salary			FY 2006 Expenses			Number of Clients		Counties	# Clients FY 2007
		Total	State	State % Total	Total	Grant	Grant % Total	FY 2006	State Salary Per Client		
Region 2	James Rogers		41,703					170	245.31	Watauga Ashe Wilkes Alleghany Surry Yadkin Stokes Davie Irdell Rowan Davidson Cabarrus Stanly Union	160
Region 3	Tommy Thomas		38,485					121	318.06	Orange Chatham Wake	142
Region 4	Ester Kearney		50,917					124	410.62	Person Durham Granville Vance Warren Franklin	136
Region 5	Debra Figgins		38,485					130	296.04	Northampton Halifax Nash Edgecombe Wilson	135

Operation Sickle Cell, Inc.

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COMPARISON OF SALARIES FOR COMMUNITY-BASED AND STATE OPERATIONS

APPENDIX A

Program	Counselors	FY 2006 Salary			FY 2006 Expenses			Number of Clients		Counties	# Clients FY 2007
		Total	State	State % Total	Total	Grant	Grant % Total	FY 2006	State Salary Per Client		
Region 6	Lillie Morgan Nixon		44,939					111	404.86	Anson Montgomery Richmond Scotland Moore Lee Johnson Sampson	123
Region 7	Zaneta Taylor		40,870					61	670.00	Currituck Camden Perquimans Pasquotank Chowan Gates Hertford Washington Tyrell Dare	65
Region 8	Mildred Council (retired)		52,492					108	486.04	Bertie Martin Pitt Beaufort Hyde	115

Operation Sickle Cell, Inc.

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COMPARISON OF SALARIES FOR COMMUNITY-BASED AND STATE OPERATIONS

APPENDIX A

Program	Counselors	FY 2006 Salary			FY 2006 Expenses (3)			Number of Clients		Counties	# Clients FY 2007
		Total	State	State % Total	Total	Grant	Grant % Total	FY 2006	State Salary Per Client		
Region 9	Mary Susan Varner Miller		48,755					105	464.33	Duplin Pender New Hanover Brunswick Columbus Bladen	93
			\$396,682					989	\$401.09		
		Avg.	\$44,076								
(2) Salary data from Office of State Personnel PMIS; Client data from DHHS. (3) DHHS was not able to break down the expenses data by region since its accounting system is not set up in that manner.											

GRANTEE'S RESPONSE

RESPONSE OF OPERATION SICKLE CELL
TO FINDINGS OF THE OFFICE OF STATE AUDITOR
DATED JANUARY 10, 2008

PRELIMINARY STATEMENT

Operation Sickle Cell, Inc. respectfully submits this response to the Office of State Auditor ("OSA") draft findings in connection with its examination of Operation Sickle Cell's management of grants from the North Carolina Department of Health and Human Services ("DHHS") for state fiscal years 2005 (\$325,627), 2006 (\$343,684) and 2007 (\$225,725 thru 3/31/07).

By way of background, Operation Sickle Cell was founded in 1972. For more than 35 years, the agency has been a formidable non-profit advocacy organization. Operation Sickle Cell was instrumental in creating a state and national focus to address sickle cell syndrome, the agency's primary focus. The agency was the first to establish a community-based HIV/AIDS program in Cumberland County, North Carolina a county with one of the highest HIV/AIDS rates in the State. Operation Sickle Cell was formed for the public benefit and continues to adhere to its mission.

OSA notified Operation Sickle Cell by letter dated May 31, 2007 that the grants awarded to Operation Sickle Cell by DHHS had been selected to undergo limited procedures related to the management of the grants. The stated objectives of the limited procedures were "to identify whether or not there [were] any deficiencies in internal control; instances of noncompliance with laws, regulations, and provisions of contracts or grants agreements; and/or deficiencies in the management of financial resources based solely on the performance of those procedures." The aforementioned letter further states that "procedures will include interviewing personnel; examining accounting records for the purpose of identifying state grant transactions; and examining other documentation supporting selected transactions and balances." On May 31, 2007, Operation Sickle Cell through its legal counsel, contacted OSA by email and communicated the following message regarding OSA's May 31, 2007 request:

"This law firm is counsel to Operation Sickle Cell, Inc ("OSC"). I am in receipt of the letter from Janet Hayes dated May 31, 2007 regarding the proposed limited examination related to the management of grant funds. Please contact me to discuss your scheduled visit to the offices of OSC. Our client desires to make your review smooth and uneventful. In this regard, if appropriate, please let me know which personnel you propose to interview so that we can secure their availability. Also, please let me know what records you propose to review so that OSC can have those records available when you arrive. OSC has reserved a conference room for you to work. Please let us know if you have any other requirements. Thank you."

OSA did not respond to communications from Operation Sickle Cell's legal counsel until after being contacted for a second time on Monday, June 4, 2007. On this date, OSA submitted its request for records. A copy of the request is attached hereto as Exhibit A.

On June 5, 2007, Operation Sickle Cell made available to OSA staff the requested accounting records, bank records, personnel files, payroll files, credit card records, asset list, contracts and governing documents as agreed. In addition, the requested personnel including the agency's outside auditor were made available for interview. OSA staff performing the limited examination at the offices

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of Operation Sickle Cell did not question the sufficiency of the records or personnel produced pursuant to the requests made by OSA.

On June 7, 2007, other representatives of OSA made an unannounced visit to the offices of Operation Sickle Cell for the stated purpose of taking possession of Operation Sickle Cell's computers to image the hard drives. Operation Sickle Cell objected to the request on the grounds that removal of its computers would substantially interrupt Operation Sickle Cell operations, impair delivery of services to its clients and that procedural safeguards were necessary to protect the confidentiality of information contained on the hard drives. Moreover, no prior request to image the agency's computer hard drives had been made by OSA. Operation Sickle Cell questioned whether the request to image the hard drives exceeded the scope of the limited examination set forth in OSA's letter dated May 31, 2007 and whether OSA had the statutory authority to essentially confiscate private property without due process or procedural safeguards to protect the confidentiality of information contained on the hard drives, including privileged communications.

Auditor's Note: The date OSA first attempted to retrieve Operation Sickle Cell's ("OSC") hard drives was actually June 6, 2007. Later that same day, after OSC had expressed concern that taking the computers would hurt operations, OSA e-mailed OSC's attorney and offered the following solution, "We are certainly sensitive to that and we offer the option of doing all the imaging at OSC, doing one or just a few computers at a time, and/or staying overnight to do the imaging during non working hours. Basically the OSA wants to remove any roadblock to our access that is related to the potential interference with OSC's operations".

Contrary to agreement reached with attorneys from the North Carolina Department of Justice, OSA issued subpoenas ordering production of Operation Sickle Cell's computer hard drives. In response thereto, Operation Sickle Cell exercised its constitutional right to challenge the OSA subpoena by petitioning to have a Superior Court Judge review the matter. Operation Sickle Cell had a right under the Open Courts Clause of the North Carolina Constitution to seek a determination as to whether OSA exceeded the scope of its authority with respect to the issuance of the subpoenas and whether Operation Sickle Cell was entitled to protection therefrom. The North Carolina Constitution provides: "All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay." N.C. CONST. art. I, § 18. While the court did not grant all of the relief sought, the court acknowledged the sensitivity of the issues raised by Operation Sickle Cell and the need to protect the confidentiality thereof.

Auditor's Note: The "agreement" OSC refers to in the above paragraph was reached between OSA and OSC on the afternoon of June 7, 2007. Based on a promise from OSC of full and ready access to the computers, OSA said it would hold off on issuing subpoenas. However, subsequent to this promise by OSC, full access was once again denied and, therefore, OSA moved forward with issuing subpoenas to enforce its legal rights under N.C.G.S. § 147-64.7(c)(1).

OSA used the occasion of the above mentioned hearing before a Cumberland County Superior Court Judge to press its rights under N.C.G.S. § 147-64.7(c)(2). The Superior Court Judge agreed with OSA on all counts and ordered OSC to comply with the subpoenas issued by OSA thereby enforcing OSA's statutory right to full immediate access to OSC's computers.

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At no time did Operation Sickle Cell refuse to cooperate with OSA, except with respect to the agency's requests to have a Superior Court Judge determine the appropriateness of the subpoenas issued by OSA. Operation Sickle Cell understands that it must balance its privacy rights and the privacy rights of its clients against the responsibility of OSA to review grants of public funds made to private corporations.

Executive Director's Salary Reasonable

During the period of time leading up to the May 31, 2007 notice that OSA would perform limited procedures with respect to the management of the grants awarded to Operation Sickle Cell, questions were raised regarding the reasonableness of the salary of the Executive Director. OSA reviewed and compared "salaries for executive directors for all four of the Sickle Cell nonprofits and the State operated Regional Offices." Based on this comparison, OSA found that Operation Sickle Cell's Executive Director's "State salary is in line with the others based on the magnitude of the program and her years of experience."

RESPONSES

FINDING NO. 1: OPERATION SICKLE CELL BLOCKED READY ACCESS TO THE OFFICE OF THE STATE AUDITOR IN VIOLATION OF STATE LAW AND THE GRANT CONTRACT.

RESPONSE TO FINDING NO. 1: Operation Sickle Cell disputes the representations of OSA to the extent that OSA alleges that the agency violated state law and the terms of any grant contract. As set forth in the Preliminary Statement above, Operation Sickle Cell lawfully petitioned the Superior Court for a determination of its rights, status, and other legal obligations under N.C.G.S. §§ 147-6.2 and 147-64.7 with respect to the right of OSA to confiscate and image the agency's computer hard drives. The removal of the computers from the offices of Operation Sickle Cell as planned by OSA would clearly have interrupted the operations of the agency and substantially impaired the ability of the agency to service its clients. Operation Sickle Cell reasonably believed and therefore contended that OSA exceeded its authority or jurisdiction; acted erroneously; failed to use proper procedure; acted arbitrarily or capriciously; and failed to act as required by law or rule. The agency reasonably believed that without judicial intervention it would suffer immediate and irreparable injury, loss, or damage, including but not limited to violations of its state and federal statutory and constitutional rights.

As set forth in its Preliminary Statement above, Operation Sickle Cell had a right under the Open Courts Clause of the North Carolina Constitution to seek a determination as to whether OSA exceeded the scope of its authority with respect to the issuance of the subpoenas and the right of OSA to confiscate the agency's computers and image the computer hard drives.

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FINDING NO. 2: OPERATION SICKLE CELL ENGAGED IN POLITICAL ACTIVITY IN POSSIBLE VIOLATION OF INTERNAL REVENUE CODE § 501(C) (3).

RESPONSE TO FINDING NO. 2: Operation Sickle Cell disputes the representations of OSA to the extent that OSA alleges that the agency engaged in political activity in possible violation of internal revenue code § 501(c) (3). Neither the Board of Directors nor management of Operation Sickle Cell have authorized the agency's financial resources, facilities, or personnel to be utilized in political activity or otherwise authorized the agency to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office. Previously, an employee of Operation Sickle Cell served as treasurer to The Committee to Re-Elect Mary E. McAllister ("Committee") and provided contract services after normal work hours for which the committee paid the employee a fee. This employee no longer provides any services to the Committee nor serves in any capacity with the Committee.

With respect to the 12 computers examined by OSA, 3 were identified by OSA to have files relating to possible political activity. OSA did not identify the period of time that the computers at issue were in service. Operation Sickle Cell believes that certain of the computers examined have been in service for more than 5 years. *OSA identified 64 files (or one percent) of the total 6,247 files existing on 3 computers as possibility relating to political activity.* Operation Sickle Cell requested a copy of the imaged computer hard drives in order to review the documents identified by OSA as being related to possible political activity. Unfortunately, Operation Sickle Cell has been unable to review the documents because the agency does not have access to the software program referred to as *ILook Investigator*. This tool is for law enforcement and a license is required to download the same. Therefore, Operation Sickle Cell is unable to respond further to this finding.

<p>Auditor's Note: While it may be true that OSC does not have the capability to look at the hard drive copies that OSA provided them, the copies made are of the existing hard drives OSA put back into OSC's computers once we were done imaging them. Therefore, if OSC desires to review the documents pertaining to political activity which OSA found on OSC's computers, OSC need only review the files on its existing hard drives.</p>
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The Board of Directors of Operation Sickle Cell will ensure that the agency's policy prohibiting political activity is strictly complied with in order to prevent any inadvertent violation of applicable law.

FINDING NO. 3: OPERATION SICKLE CELL USED COMPUTERS PURCHASED WITH GRANT FUNDS FOR POLITICAL ACTIVITY.

RESPONSE TO FINDING NO. 3: Please see response to Finding No. 2 above.

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FINDING NO. 4: THERE ARE WEAKNESSES IN INTERNAL CONTROLS OVER EXPENDITURES.

RESPONSE TO FINDING NO. 4: Operation Sickle Cell acknowledges that OSA has identified a total of only \$699.05 as possible unallowable costs relating to grants from DHHS for state fiscal years 2005 (\$325,627), 2006 (\$343,684) and 2007 (\$225,725 thru 3/31/07).

The agency agrees that all invoices should be approved before payment and each paid invoice marked as "paid." It is important to note that all invoices were reviewed by the responsible person and properly authorized for payment prior to issuance of checks. In addition, all checks issued by Operation Sickle Cell are signed by the Chair of the Board of Directors and the Executive Director. The questioned items in Finding No. 4 represent invoices which were not properly stamped as paid and initialed by the reviewer. Management will take appropriate measures to ensure that there is compliance with established procedures regarding approval of invoices.

FINDING NO. 5: THERE ARE WEAKNESSES IN THE ACCOUNTABILITY AND MAINTENANCE OF FIXED ASSETS.

RESPONSE TO FINDING NO. 5: The Board of Directors and Management will ensure that procedures are established to account for the agency's fixed assets in a manner that provides records consistent with the requirements of the grants awarded by the State of North Carolina. With respect to OSA's finding that Operation Sickle Cell's land and building were not included on the inventory records, it is important to note that the land and building are maintained on a separate fixed asset depreciation schedule.

FINDING NO. 6: BOARD MINUTES CONTAINED INADEQUATE DOCUMENTATION AND APPROVAL.

RESPONSE TO FINDING NO. 6: The Board of Directors and management of Operation Sickle Cell will ensure that the proceedings of the Board of Directors are properly documented.

FINDING NO. 7: OPERATION SICKLE CELL, INC. DOES NOT HAVE COMPLETE, UP-TO-DATE POLICIES AND PROCEDURES.

RESPONSE TO FINDING NO. 7: The Board of Directors and management of Operation Sickle Cell will review all policies and procedures of the agency to ensure that the policies and procedures are current and address all aspects of the agency's operation.

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GRANTEE'S RESPONSE

Attachment A

Management Services & Non-Governmental Compliance Division
Operation Sickle Cell of Fayetteville, Inc.
Request for Records, Information, etc.

The following items are requested from Operation Sickle Cell for our review.

1. Articles of Incorporation
2. Orgainzational Bylaws
3. Organizational Chart showing positions & names – 7/1/04-6/30/05, 7/1/05-6/30/06, 7/1/06-Current
4. Policies and Procedures – Personnel, Accounting, Operational
5. Board Minutes (including executive and committee meetings) – 7/1/04-6/30/05, 7/1/05-6/30/06, 7/1/06-Current
6. List of Board Members – 7/1/04-6/30/05, 7/1/05-6/30/06, 7/1/06 – Current
7. List of Staff Members – 7/1/04 – 6/30/05, 7/1/05 – 6/30/06, 7/1/06 – Current
8. Accounting Records for period 7/1/04-6/30/05, 7/1/05-6/30/06, 7/1/06 – Current which includes the following:
 - a. Chart of Accounts
 - b. Check Registers
 - c. Deposit Registers/Logs
 - d. General Ledgers
 - e. Bank Statements, cancelled checks, void check file, deposits, etc.
 - f. Supporting documentation for our expenditure sample
9. Timesheets/Records for above time periods
10. Payroll files for above time periods
11. Pension Plans for above time periods
12. Lease agreements (copiers, space, equipment, vehicles, etc.) for above time periods
13. Credit cards/Charge accounts for above time periods
14. List of Fixed Assets (computers, copiers, vehicles, etc.) for above time periods
15. Bids/Contracts for services (bookkeeping, janitorial, etc.) for above time periods