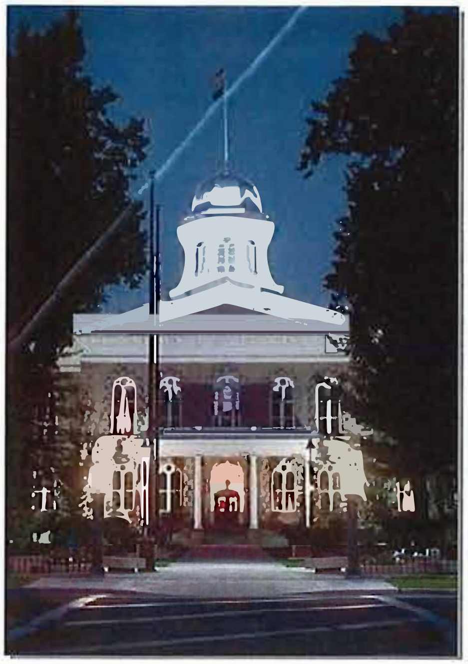

State of Nevada
Governor's Finance Office
Division of Internal Audits

Audit Report

Department of Corrections

*****

Fiscal Processes.2

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Improved oversight of fiscal management and accounting practices will increase transparency and achieve more efficient and effective operations.

DIA Report No. 22-05
February 22, 2022

EXECUTIVE SUMMARY
Nevada Department of Corrections
Fiscal Processes.2

Objective: Improve Oversight of Fiscal Management and Accounting Practices

Develop Offenders' Store Fund Markup Limits and Incorporate Methodology into Legislatively Approved Regulations.. page 2

Developing Offenders' Store Fund (OSF) markup limits and incorporating methodology into legislatively approved regulations adopted through the public rulemaking process will help ensure offenders can purchase basic necessities at a reasonable cost. Incorporating these limits and methodology into regulations will increase transparency and ensure an average $14.2 million in annual OSF sales conform with statutory authority and legislative intent. The Nevada Department of Corrections (NDOC) assesses a 40% markup on most OSF goods and services sold to offenders and visitors. NDOC does not have documented criteria or legislatively approved regulations defining what constitutes the markup.

A previous audit conducted by the Division of Internal Audits (DIA) found OSF expenditures were not administered through legislatively approved regulations enacted in March 2010. NDOC still has not adopted OSF regulations through the public rulemaking process as required by statute and recommended by the audit.

Increase Oversight of the Prisoners' Personal Property Fund.. page 7

Increasing oversight of the Prisoners' Personal Property Fund (PPPF) by adopting regulations through the public administrative rulemaking process and determining a reasonable medical co-pay to charge offenders will: comply with statute requiring adoption of regulations; include members of the public in the process; increase transparency in PPPF operations; and ensure assessments charged to offenders' accounts are reasonable and conform with statutory authority and legislative intent.

Charges to offenders' accounts may significantly reduce amounts available for personal use. Prior to enactment of Senate Bill (SB) 22 of the 2021 legislative session effective July 1, 2021, NDOC deducted up to 80% of deposits made to offenders' accounts for restitution payments and other assessments. NDOC has implemented the SB 22 deduction caps but has not yet adopted regulations for administering the provisions.

Improve Administrative Accountability to Reduce Use of State Resources .... page 15

Improving administrative accountability to reduce the use of state resources will help ensure NDOC follows state requirements and accurately reports information. Reducing use of state resources could benefit the state up to $77,000 annually. NDOC can improve administrative accountability by: reducing approved overtime hours for Director's Office (DO) employees; requiring employees whose duties warrant standby pay to use an agency-level overtime reason code specific to standby emergencies; removing employees from standby status for whom standby pay is inconsistent with position duties; and reassigning vehicles for pooled use when vehicle use does not meet the state's minimum requirements.

DO employees were paid excessive overtime and standby pay. Pay was often associated with employee travel or internal meetings and was inconsistent with position duties. Two previous DIA audits found NDOC incurred excessive overtime and standby pay due to inadequate oversight of personnel and payroll practices; NDOC has not yet implemented the audit recommendations to improve oversight of overtime. Additionally, NDOC inappropriately assigns state-owned vehicles and inaccurately reports vehicle use. Vehicle use for 61% of employees assigned a vehicle did not meet the state's minimum usage requirements and vehicle usage was not logged.

Improving oversight over weapons purchases will increase transparency in operations and improve the accuracy of accounting expenditures and records. NDOC could improve oversight by ensuring purchases are not classified as inmate driven costs and are accounted for in budget accounts associated with the facilities where the weapons will be used. Improved oversight will increase transparency in operations and accuracy of accounting expenditures and records.

NDOC weapons purchases misstate costs and obscure the purpose of the purchases. NDOC misclassified weapons purchases as inmate driven costs during fiscal years 2019 through 2021, or 36% of all weapons purchased. Almost half of all weapons purchased were charged to the DO during a period when the offender population decreased by 9.2%. Additionally, 22.1% of weapons charged to the DO budget account were purchased for other NDOC facilities and locations.

INTRODUCTION

At the direction of the Executive Branch Audit Committee, the Division of Internal Audits (DIA) conducted an audit of the Nevada Department of Corrections (NDOC). The audit continued DIA's focus on NDOC's fiscal processes. The audit's scope and methodology, background, and acknowledgements are included in Appendix A.

DIA's audit objective was to develop recommendations to:

✓ Improve oversight of fiscal management and accounting practices.

Department of Corrections Response and Implementation Plan

DIA provided draft copies of this report to NDOC for review and comment. DIA considered NDOC's comments in the preparation of this report; NDOC's initial response is included in Appendix B. In its response, NDOC accepted the recommendations. Appendix C includes a timetable to implement the recommendations.

NRS 353A.090 requires within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps NDOC has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six-month follow-up results to the committee and NDOC.

The following report (DIA Report No. 22-05) contains DIA's *findings, conclusions,* and *recommendations*.

Respectfully,

Warren Lowman
Administrator

Improve Oversight of Fiscal Management and Accounting Practices

The Nevada Department of Corrections (NDOC) can improve oversight of fiscal management and accounting practices by:

- Developing Offenders' Store Fund markup limits and incorporating methodology into legislatively approved regulations;
- Increasing oversight of the Prisoners' Personal Property Fund;
- Improving administrative accountability to reduce use of state resources; and
- Improving oversight over weapons purchases.

Improving oversight of fiscal management and accounting practices will: increase transparency in the administrative rulemaking process and operations; ensure offenders can purchase basic necessities at a reasonable cost; ensure administrative accountability; and reduce costs to the state. These improvements could benefit Nevada up to $14.3 million annually.

Develop Offenders' Store Fund Markup Limits and Incorporate Methodology into Legislatively Approved Regulations

The Nevada Department of Corrections (NDOC) should develop Offenders' Store Fund (OSF) markup limits and incorporate methodology into legislatively approved regulations adopted through the public rulemaking process. Developing and incorporating OSF markup limits and calculation methodology into regulation will help ensure offenders can purchase basic necessities at a reasonable cost. Incorporating these limits and methodology into regulations will increase transparency and ensure an average $14.2 million in annual OSF sales conform with statutory authority and legislative intent.

The OSF is a special revenue fund generated by proceeds from prison commissaries, the inmate package program, and vending machines located in visiting areas. The money and interest in the OSF must be spent for the welfare and benefit of all offenders with limited exceptions.[1] Sales and various NDOC assessments to offenders are paid from offenders' accounts held in trust in the Prisoners' Personal Property Fund (PPPF) administered by NDOC. All money an offender receives through deposits or wages is deposited into his or her individual account for these purposes.

[1] NRS 209.221(3).

NDOC Assesses 40% Markup on Most OSF Sales

According to profitability reports, NDOC assesses a 10% markup on sales of religious items and 40% markup on most other sales, including: food; beverages; clothing; hygiene; and other basic necessities. NDOC additionally charges an electric surcharge on sales of electronics such as televisions, hotpots, and fans sold by prison commissaries to defray the costs of operating the equipment. Markups for electronics are determined at the discretion of facility commissary managers. NDOC OSF sales have been subject to formal regulation since 2010 yet remain unregulated.[2]

NDOC Has Not Adopted OSF Regulations through the Public Administrative Rulemaking Process

A previous audit conducted by the Division of Internal Audits examined regulations in place for oversight of certain OSF expenditures.[3] The audit found OSF expenditures were not administered through legislatively approved regulations. NDOC has not yet adopted OSF regulations through the public rulemaking process as required by statute and recommended by the audit.

Charges to the OSF for prison commissary, coffee shop, gymnasium, and correctional officer salaries for visitation posts must be administered through regulations adopted through the public rulemaking process. Final adopted regulations are incorporated into Nevada Administrative Code. To date, these OSF operations remain unregulated, which reduces transparency in OSF commissary and other pricing structures.

<u>NDOC Has Not Followed Statutory Requirements for Rulemaking</u>

NDOC has not followed statutory requirements for administrative rulemaking. Review of the Nevada Register of Administrative Regulations revealed NDOC has not submitted emergency, temporary, or permanent regulations at any given time to begin the public rulemaking process. All temporary, emergency, and permanent regulations established under the authority of NRS 233B require NDOC to take the following steps:

1. Draft language for proposed regulation and submit to the Board for approval.
2. Consider the impact the regulation may have on small business and prepare a small business impact statement.
3. Conduct at least one public workshop to discuss the general topics addressed in the regulation. Public workshops must follow the requirements

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[2] Regulation requirement enacted by the Legislature during the 26th Special Session of 2010, effective March 12, 2010.
[3] DIA Report No. 21-03, NDOC Fiscal Processes.1, issued January 28, 2021.

of Open Meeting Law and a copy of the meeting materials must be submitted to the Legislative Counsel Bureau.

4. For permanent regulations, NDOC must additionally send draft regulation language to Legislative Counsel. Legislative Counsel will return a copy of the proposed regulation in standard form.
5. NDOC must then allow the public a 30-day comment period, hold a hearing for public comment following all requirements set forth in NRS 233B.
6. Evaluate and consider written and oral public comment on the proposed regulation, discuss the comments with the Board, and amend draft regulations resulting from public comment.
7. Draft an informational statement describing the regulation and rulemaking proceedings and form for filing and submit to Legislative Counsel.[4]

<u>NDOC's Lack of Regulation Results in OSF Monthly Profits up to 42%</u>

NDOC does not have documented criteria or legislatively approved regulations defining what constitutes a reasonable markup for goods or services sold to offenders, which allows for inconsistent and unreasonable markups.[5] Review of internal monthly OSF profitability reports revealed unregulated commissary sales resulted in monthly profits ranging between 29% to 42% or an average of $439,000 net profits monthly from $14.2 million in gross sales annually. See Exhibit I for OSF sales, net profits, and profit percentages for fiscal years 2020 and 2021.

Exhibit I

Monthly OSF Sales, Net Profits, and Profit Percentages
Fiscal Years 2020 and 2021

Month	Store Sales	Net Profits	Profit %
July 2019	$ 1,251,598	$ 464,696	37.1%
August 2019	1,198,520	460,711	38.4%
September 2019	1,075,590	402,594	37.4%
October 2019	1,089,384	430,037	39.9%
November 2019	1,025,525	382,853	37.3%
December 2019	1,380,738	536,776	38.9%
January 2020	1,226,233	451,288	36.8%
February 2020	1,040,253	382,905	36.8%
March 2020	1,318,184	489,205	37.1%
April 2020	1,200,707	419,941	35.0%
May 2020	1,453,710	528,305	36.3%
June 2020	1,100,543	462,660	42.0%

[4] In the case of a temporary regulation, file a copy of the regulation as adopted and the informational statement with the Secretary of State, the Legislative Counsel, and the State Library and Archives. In the case of an emergency regulation, file a copy of the regulation with the Secretary of State and the Legislative Counsel.
[5] Statute does not provide guidance on what would be considered a reasonable markup. Guidance could be provided in regulations approved by the Legislature and the agency's internal administrative regulations.

Month	Store Sales	Net Profits	Profit %
July 2020	1,467,734	532,937	36.3%
August 2020	1,352,523	501,638	37.1%
September 2020	1,218,519	470,683	38.6%
October 2020	1,208,680	488,355	40.4%
November 2020	932,466	360,011	38.6%
December 2020	816,196	233,687	28.6%
January 2021	995,989	332,615	33.4%
February 2021	1,016,441	352,342	34.7%
March 2021	1,248,883	455,392	36.5%
April 2021	1,407,326	536,080	38.1%
May 2021	1,364,695	488,993	35.8%
June 2021	1,077,064	362,141	33.6%
Totals	**$ 28,467,501**	**$ 10,526,845**	
Monthly Average	**$ 1,186,146**	**$ 438,619**	**37.0%**
Annual Average	**$ 14,233,751**	**$ 5,263,423**	**37.0%**

Source: Derived from NDOC monthly commissary profitability and reconciliation reports.

OSF Markups May Cause Some Offenders to Struggle

Basic necessities are only available for purchase by those who can afford them. OSF markups may cause some disadvantaged offenders to struggle to purchase hygiene supplies, food, clothing, stamps, and other basic necessities. Disadvantaged offenders with limited access to funds must rely on no-charge rations allotted to them by NDOC to meet personal needs because they do not have the means to make purchases.[6]

No-charge rations of basic hygiene supplies include items such as: a roll of toilet paper; toothpaste; toothbrush; bar of soap; and razors.[7] Low balances in offenders' accounts combined with average annual OSF sales between $1,100 and $1,300 per offender create a significant financial burden for disadvantaged offenders. See Exhibit II for calculations for average annual OSF sales per offender for fiscal years 2020 and 2021.

[6] For purposes of this discussion, disadvantaged offenders are those who are indigent, near-indigent, or low-income. NDOC considers offenders whose account balance was $10 or less for the entire previous month as indigent offenders.

[7] NDOC Administrative Regulation 705.

Exhibit II

Average Annual OSF Sales Per Offender
Fiscal Years 2020 and 2021

Description	FY 20	FY 21
Annual Commissary Sales	$ 14,360,984	$14,106,516
Average Population	12,524	10,851
Average Sales per Offender	**$ 1,147**	**$ 1,300**

Source: NDOC monthly commissary reconciliation and prison statistics reports.

Conclusion

NDOC assesses a 40% markup on most Offenders' Store Fund (OSF) goods and services sold to offenders and visitors. Unregulated OSF commissary sales resulted in $14.2 million in monthly profits ranging between 29% to 42% or an average of $439,000 net profits monthly from $14.2 million in gross sales annually. These markups may cause disadvantaged offenders to struggle to purchase hygiene, supplies, food, clothing, stamps, and other basic necessities. A previous audit conducted by the Division of Internal Audits found OSF expenditures were not administered through legislatively approved regulations, which NDOC still has not adopted.

Developing OSF markup limits and incorporating methodology into legislatively approved regulations adopted through the public rulemaking process will help ensure offenders can purchase basic necessities at a reasonable cost. Incorporating these limits and methodology into regulations will increase transparency and ensure an average $14.2 million in annual OSF sales conform with statutory authority and legislative intent.

[8] See Recommendation 2 for a full discussion on deductions made from offenders' accounts held in trust in the Prisoners' Personal Property Fund.

Recommendation

1. Develop Offenders' Store Fund markup limits and incorporate methodology into legislatively approved regulations.

Increase Oversight of the Prisoners' Personal Property Fund

The Nevada Department of Corrections (NDOC) should increase oversight of the Prisoners' Personal Property Fund (PPPF) by adopting regulations through the public administrative rulemaking process. NDOC also needs to document how it determines the amount for a reasonable medical co-pay to charge offenders as prescribed in statute.[9] Adopting PPPF regulations will:

- Comply with statute requiring adoption of regulations;
- Include members of the public in the process;
- Increase transparency in PPPF operations; and
- Ensure assessments charged to offenders' accounts are reasonable and conform with statutory authority and legislative intent.

More reasonable co-pays will help reduce the financial burden of health care placed on offenders, encourage offenders to seek basic preventative or specialty care when needed, and reduce the potential for higher healthcare costs in the future.

High medical co-pays and assessment rates may reduce funds available in offenders' accounts to levels that make it difficult for some offenders to purchase basic necessities. Until recently, some assessments almost completely depleted balances in some offenders' accounts.[10]

Debt Owed to NDOC by Offenders Follows Them After Release

Debt owed to NDOC for costs related to services and supplies are charged to offenders' accounts and must be repaid, even following release from incarceration.[11] Offenders owe debt to NDOC for various assessments charged to offenders' accounts for: restitution; fines; room and board; child support; court fees; medical costs; and other charges. NDOC deducts payments from offenders' accounts when deposits are made. These deductions may significantly reduce amounts in offenders' accounts available for personal use. In fact, prior to October 2020 NDOC deducted up to 80% of deposits and earnings credited to offenders' accounts as payment for restitution assessments.

[9] NRS 209.246(2).
[10] Legislation enacted in the 2015 and 2017 legislative sessions resulted in a state-level constitutional amendment approved by voters in 2018 (Marsy's Law for Nevada) guaranteeing enforceable rights to victims of crime, including the right to full and timely restitution.
[11] NRS 209.241.

Released Offenders Owe $10.4 Million to NDOC

Review of records revealed NDOC has $10.4 million in outstanding and uncollected offender debt for the fiscal quarter ending September 30, 2021, which includes $1.7 million (16%) assessed to offenders in collection agency and interest fees in excess of principal balances. For example, one account reviewed had an outstanding balance of about $189,000, including:

- $162,526 for medical charges resulting from altercations;
- $25,874 in collections fees and interest;
- $90 for medical co-pays for medical treatment provided to the offender; and
- $25 gate money upon release from incarceration.

An additional $1.7 million in offender collections is pending write-off. Balances for accounts in active collections for the period range between $0.50 and $327,000 not including write-offs. Debt for these accounts date as far back as June 2006. For active collections, average debt per offender is about $1,271. See Exhibit III for summary of NDOC collections for the period ending September 30, 2021.

Exhibit III

Summary of NDOC Collections
September 30, 2021

Collection Status	Debt Recorded	# of Offenders	Fees and Interest	Payments Made	Avg Debt / Offender[a]
Active	$ 8,724,387	8,163	$ 1,690,539	$ 31,073	**$ 1,271**
Pending Approval	1,024,525	2,785	458,857	1,559	**544**
Preparing for Write-Off	116,970	1,966	41,157	160	**82**
Written Off	810,342	5,667	-	91	**-**
Totals	**$ 10,676,224**	**18,581**	**$ 2,190,553**	**$ 32,882**	

Source: NDOC Collections Report.
Notes: [a] Average debt per offender represents average debt owed at the time of the offenders' release from incarceration.

Assessment Rates and Debt Affect Disadvantaged Offenders the Most

Similar to markups on Offenders' Store Fund goods and services, PPPF assessment rates affect disadvantaged offenders the most.[12,13] NDOC provides rations of basic hygiene supplies at no cost to all offenders, including: a roll of toilet

[12] See Recommendation 1 for detailed discussion regarding Offenders' Store Fund markups on goods and services sold to offenders by NDOC.
[13] For purposes of this discussion, disadvantaged offenders are those who are indigent, near-indigent, or low-income. NDOC considers offenders whose account balance was $10 or less for the entire previous month as indigent offenders.

paper; toothpaste; toothbrush; bar of soap; female hygiene products; and razors.[14] Offenders must pay for other services and supplies, such as: medical co-pays; legal assistance; writing supplies; stamps; deodorant; food; and clothing. Charging assessments that may be unreasonable for disadvantaged offenders reduces funds available to make purchases of basic necessities. Moreover, these offenders have a reduced ability to repay the debt.

Assessments Had Been up to 80% of Offenders' Account Balances

Internal NDOC regulations were revised in April 2018 to increase assessment rates charged to offenders' accounts at the discretion of the Director from a maximum of 50% to 80% for Marsy's Law restitution payments.[15] This legislation resulted in a state-level constitutional amendment approved by voters in 2018 guaranteeing enforceable rights to victims of crime, including the right to full and timely restitution.[16] The 80% restitution assessment rate was applied to all sources of income deposited to offenders' accounts, including gifts and offender wages.[17] NDOC does not have documented criteria as to how the 80% rate was determined or if the rate was reasonable.

Board Questioned Methodology and Rationale for Assessment Rates

The Board did not take issue with charging restitution assessments to offenders in compliance with Marsy's Law. However, at its October 2020 meeting, the Board questioned the methodology and rationale for the 80% assessment rate, pointing to other states assessing restitution at much lower rates. NDOC could not provide an explanation to the Board.

<u>Increase in Restitution Rate to 80%
Not Adopted by the Board</u>

The Board suspended the NDOC administrative regulation governing offender banking procedures and reduced the 80% restitution assessment rate to the previous 50% level. This assessment rate was formally adopted by the Board at its January 2021 meeting in conjunction with a reduction in the department debt collection rate from 50% to 20%. See Exhibit IV for NDOC assessment rates charged to offenders' accounts prior to the October 2020 Board meeting.

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[14] NDOC Administrative Regulation 705.
[15] NDOC Administrative Regulation 258.
[16] Legislative approval was granted in the 2015 and 2017 legislative sessions and the constitutional amendment was approved by Nevada voters November 6, 2018.
[17] The only source of income not assessed an 80% rate was for wages for pay above minimum wage. These wages were assessed a 50% rate.

Exhibit IV

NDOC Assessment Rates Charged to Offenders' Accounts Prior to October 2020 Board Meeting

Assessment Type / Order of Priority	Outside Source (Non-Payroll)	Private Sector/Institutional (Payroll)	
		< Min Wage	> Min Wage
Restitution (Victim-Specific)[f]	**80%**	**80%**	**50%-80%**
Victims of Crime Fund	0%	5%	5%
Child Support[g]	0%	0%	0% - 20%
Court Filing Fees[e]	20%	20%	20%
Capital Improvement[b]	0%	0% - 5%	0% - 5%
Room and Board[c]	0%	25%	0% - 55%
DOC Sanctions	50%	50%	50%
Savings[d]	10%	10%	10%
Restitution (Non-Victim Specific)	3%	3%	3%
Offenders' Accounts:	*Any remaining balance after deductions applied.*		

Source: NDOC fiscal records.

Notes: [a] Per NDOC records, this table determines the priority and maximum amount to be deducted from offenders' accounts by assessment type.

[b] Capital improvement assessment applied for Prison Industries wages only.

[c] For private sector pay, room and board varies by facility and ranges between 24.5% and 55%.

[d] Savings account cap based on where the offender is housed.

[e] Court filing fees and NDOC sanctions are paid based on first-in, first-out method. Restitution and child support are paid proportionately.

[f] Marsy's Law for Nevada restitution assessment. Assessed at 50% for private sector pay greater than minimum wage.

[g] Child support is assessed at 20% for private sector pay greater than minimum wage.

Legislature Enacted Provisions to Cap Assessments Charged to Offenders

The state Legislature enacted provisions during the 2021 legislative session to cap assessments charged to offenders. Senate Bill 22 (SB 22) amended NRS 209 to cap assessments to 25% of deposits made by friends and family and 50% of wages for each pay period. Other changes to statute include:

- Assessments must be charged to offender accounts with an order of priority to conform with restitution provisions in the Nevada Constitution;
- The Director must establish and maintain a package program not subject to assessments;[18] and
- NDOC must provide a monthly itemized statement to each offender relating to their individual account.

The provisions enacted by SB 22 became effective July 1, 2021. See Exhibit V for NDOC assessment rates charged to offenders' accounts following enactment of SB 22.

[18] A package program authorizes offenders to order at least one clothing and one food package per quarter.

Exhibit V

NDOC Assessment Rates Charged to Offenders' Accounts Following Enactment of SB 22

Assessment Type / Order of Priority	Outside Source (Non-Payroll)	Private Sector/Institutional (Payroll)	
		< Min Wage	> Min Wage
CAP FOR TOTAL DEDUCTIONS	**25%**	**50%**	**50%**
Court Filing Fees[e]	20%	20%	20%
Restitution (Victim-Specific)[f]	10%	10%	10%
Child Support[g]	0%	0%	20%
Capital Improvement[b]	0%	0% - 5%	0% - 5%
Room and Board[c]	0%	25%	25%
DOC Sanctions	15%	15%	15%
Savings[d]	10%	10%	10%
Victims of Crime Fund	0%	5%	5%
Restitution (Non-Victim Specific)	5%	5%	5%
Offenders' Accounts: *Any remaining balance after deductions applied.*			

Source: NDOC fiscal records.

Notes: [a] Per NDOC records, this table determines the priority and maximum amount to be deducted from offenders' accounts by assessment type.

[b] Capital improvement assessment applied for Prison Industries wages only.

[c] Savings account cap based on where the offender is housed.

[d] Court filing fees and NDOC sanctions are paid based on first-in, first-out method. Restitution and child support are paid proportionately.

[e] Marsy's Law for Nevada restitution assessment.

NDOC Did Not Implement Statutory Caps When Required

NDOC did not implement assessment caps enacted by SB 22 until directed by the Board at its July 27, 2021 meeting. Marsy's Law 80% restitution assessments continued to be charged to offenders' accounts until then and were later refunded. According to NDOC statements made at the meeting, these legislative requirements were not implemented due to issues in adjusting NDOC's banking system.

NDOC also stated the changes to assessments could not be made until regulations could be adopted through the public administrative rulemaking process. However, the legislative assessment caps are expressly stated in the newly enacted sections of NRS 209. These caps do not require formally adopted regulations to be implemented because they have already been legislatively approved, although formal regulation is required to administer them.

Nevada's Constitution Confers Authority to Legislature for Regulatory Measures

The Nevada Constitution confers authority over regulatory measures to the Legislature to review, modify, or veto administrative regulations adopted under NRS 233B.[19] NRS 233B requires the Legislature to ensure proposed regulations are consistent with statutory authority and carry out legislative intent.[20] Prior to adoption, Legislative Counsel must review proposed regulations "...to determine if the language is clear, concise, and suitable for incorporation in the Nevada Administrative Code."[21] Following adoption, the Legislative Commission must review and approve a regulation to become effective. Once approved, the regulation is codified in the Nevada Administrative Code and has the force and effect of law.

Regulations for Deductions Must Be Adopted Through Public Administrative Rulemaking Process

The provisions enacted by SB 22 also authorize NDOC to adopt regulations relating to deductions from offender accounts and wages. If the Director elects to adopt these regulations, they must be adopted through the public administrative rulemaking process.[22] Once approved by the Legislative Commission, regulations adopted through the public rulemaking process are codified and have the full force of law. As with regulations in place for the Offenders' Store Fund, NDOC's internal regulations do not meet the public rulemaking requirement. Consequently, existing internal PPPF regulations reduce oversight and exclude members of the public from the administrative rulemaking process.

Formal adoption of regulations through the public administrative rulemaking process would increase transparency in PPPF operations, as well as provide the public the opportunity to participate in rulemaking. The public administrative rulemaking process discloses:[23]

- The need for and purpose of the proposed regulation;
- The estimated economic effect of the regulation on business and the public, including adverse, beneficial, immediate, and long-term effects; and
- Whether the regulation establishes a new fee or increases an existing fee.

Through this process, agencies must also solicit comments from the public, hold public workshops and hearings, and follow Open Meeting Law requirements.[24] These procedures would allow members of the public to participate in decision-

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[19] Nevada State Constitution, Article 3, Section 1.
[20] NRS 233B.067(5).
[21] Nevada Office of the Attorney General, *Administrative Rulemaking, A Procedural Guide* (Nevada: 2015).
[22] Applicable to regulations adopted to carry out the provisions of NRS 209.247 and 209.463. These statutory amendments have not yet been codified.
[23] Nevada Office of the Attorney General, *Administrative Rulemaking, A Procedural Guide* (Nevada: 2015).
[24] NRS 233B.061.

making by providing the opportunity to publicly submit concerns, support, or objections for consideration by both NDOC and the Legislature.

Medical Co-Pays Are Determined at the Discretion of the Director

Medical co-pays are determined at the discretion of the Director and approved by the Board. The provisions enacted by SB 22 cap certain assessments to a percent of deposits to offender accounts. However, these provisions do not change existing statute governing charges to offenders' accounts to repay or defray costs to provide medical care.

<u>Medical Co-Pays Charged to Nevada's Offenders Among Highest in the Nation</u>

Research shows medical co-pays charged to Nevada's offenders are among the highest in the nation. NDOC charges $8.00 for a medical co-pay or 231% higher than the national average of $3.47.[25] As a practice, NDOC does not waive these fees and charges them to offenders' accounts regardless of ability to pay. In fact, Nevada was the only state that continued to charge co-pays throughout the pandemic, regardless of symptoms or infection status.[26] Other prisons across the country suspended either co-pays for all medical visits or co-pays for respiratory and flu-like symptoms at the height of the COVID-19 pandemic.

<u>Higher Medical Co-Pays May Discourage Offenders from Seeking Care</u>

Some Nevada offenders earn as little as $0.50 an hour, depending on work performed.[27] The cost of medical co-pays in comparison to offender wages may discourage offenders from seeking basic preventative or specialty care. Not seeking early medical care increases the potential for illnesses to worsen over time, resulting in more aggressive and expensive treatments in the long run.[28] Consequently, offenders may experience poorer health and costs to the state will increase to provide treatment for worsened conditions.

<u>Lower Co-pays May Lead to Better Outcomes</u>

Charging lower co-pays to offenders may lead to better outcomes. Statute requires the Director to determine a reasonable co-pay to charge to offenders.[29] Determining a reasonable medical co-pay would require NDOC to:

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[25] www.prisonpolicy.org | Prison Policy Initiative, Prison Medical Co-pays.
[26] www.prisonpolicy.org | Prison Policy Initiative, Co-pay Survey.
[27] Some higher-paid administrative or clerk positions earn as much as $14.17 an hour. These are not typical wages for most NDOC offenders. Source: NDOC inmate position and salary data.
[28] www.prisonpolicy.org | Prison Policy Initiative, Co-pay Survey.
[29] NRS 209.246.

- Review current medical policies and practices to determine areas that could be improved to reduce costs;
- Determine whether standard of care metrics are being met for disadvantaged offenders;
- Assess co-pay burden on offenders;
- Compare findings to other states; and
- Present findings to the Board for action.

Appropriate co-pays will help reduce the financial burden of health care placed on offenders, encourage offenders to seek basic preventative or specialty care when needed, and reduce the potential for higher healthcare costs in the future.

Conclusion

Offenders owe $10.4 million in debt to NDOC for costs related to services and supplies that must be repaid, even following release from incarceration. These charges include medical co-pays and assessment rates determined at the discretion of the Director. These charges may significantly reduce amounts in offenders' accounts available for personal use. Disadvantaged offenders are affected the most.

Prior to October 2020, NDOC deducted up to 80% of deposits and earnings credited to offenders' accounts as payment for restitution assessments in response to Marsy's Law for Nevada legislation. The Board of State Prison Commissioners reverted the rate to its previous 50%. Subsequently, the state Legislature enacted provisions during the 2021 legislative session to cap assessments to 25% of deposits made by friends and family and 50% of wages for each pay period. The provisions became effective July 1, 2021 but regulations for implementing the provisions have not yet been adopted.

Increasing oversight of the Prisoners' Personal Property Fund (PPPF) by adopting regulations through the public administrative rulemaking process and determining a reasonable medical co-pay to charge offenders will: comply with statute requiring adoption of regulations; include members of the public in the process; increase transparency in PPPF operations; and ensure assessments charged to offenders' accounts are reasonable and conform with statutory authority and legislative intent.

Appropriate co-pays will help reduce the financial burden of health care placed on offenders, encourage offenders to seek basic preventative or specialty care when needed, and reduce the potential for higher healthcare costs in the future.

Recommendation

2. Increase oversight of the Prisoners' Personal Property Fund.

Improve Administrative Accountability to Reduce Use of State Resources

The Nevada Department of Corrections (NDOC) should improve administrative accountability to reduce use of state resources by:

- Reducing approved overtime hours for Director's Office (DO) employees;
- Requiring employees whose duties warrant standby pay to use an agency-level overtime reason code specific to standby emergencies;[30]
- Removing employees from standby status when standby pay is inconsistent with position duties;
- Ensuring vehicle use is logged, reassessed annually, and reported accurately; and
- Reassigning vehicles for pooled use when vehicle use does not meet the state's minimum requirements.

Paying DO employees excessive overtime and standby pay increased costs to the state by $77,000 annually for five DO employees. NDOC inappropriately assigns and reports state-owned vehicle use, which violates state requirements, uses state resources, and results in inaccurately reported information. NDOC could improve administrative accountability to reduce the use of state resources and ensure NDOC follows state requirements and accurately reports information.

Director's Office Employees Were Paid Excessive Overtime and Standby Pay

NDOC DO employees were paid excessive overtime and standby pay in calendar years 2020 and 2021.[31] Overtime and standby pay for five DO employees cost the state an average $77,000 annually, 43% of which was paid to one employee. Review of payroll registers and accounting records revealed multiple issues related to volume of hours paid and timeframes when employees were accruing overtime.

<u>Overtime and Standby Hours Were Excessive</u>

Payroll records show some employees were paid for excessive overtime hours in comparison to other DO employees and employees statewide in the same position type. One employee was paid almost five times the overtime hours than the next highest hours paid in the Director's Office, for an average of 22 hours paid overtime per pay period. Likewise, several DO employees received standby pay on a continuous, round-the-clock basis, equivalent to approximately a 16% pay increase. One employee accumulated more standby hours from January through August 2021 than any other DO employee.

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[30] Standby pay is paid at a rate of 5% of an employee's regular rate of pay.
[31] Records included payroll occurring in calendar year 2020 and through August 2021.

Overtime and Standby Pay Often
Associated with Travel or Internal Events

DO overtime and standby pay were often associated with employee travel or internal meetings and events. Travel for several DO employees was often initiated during days and hours outside employees' standard schedules automatically qualifying them for paid overtime. Employees who were typically paid standby also received standby while traveling. For example, one employee was paid overtime and standby for every travel event recorded between August 2019 through March 2021.

Overtime and Standby Pay
Inconsistent with Position Duties

Paid overtime and standby hours were inconsistent with the nature of position duties. For example, one employee was paid for more than double the overtime hours in calendar year 2020 than any other employee in the same position type statewide. More than half of the employees in the same position type statewide did not receive overtime pay at all during the year.

The same employee had more standby hours in January through August 2021 than any other DO employee and is the only employee in their position type statewide to receive standby pay since the inception of the state's accounting system in 1999. Additionally, two of the five employees with excessive standby pay had no paid overtime for calendar year 2020. The lack of overtime pay shows the employees were never activated for emergencies while on standby status; standby pay may not be warranted for these employees.

Previous Audits Pointed to Inadequate
Oversight of Employee Overtime

Two previous Division of Internal Audits (DIA) audits found NDOC incurred excessive overtime and standby pay due to inadequate oversight of personnel and payroll practices.[32] According to DIA Report No. 21-03, NDOC did not ensure employees followed department overtime policies that prohibit overtime abuses. Based on review of DO payroll and fiscal records, NDOC has not yet implemented the audit's recommendation for NDOC to improve oversight over personnel and payroll practices.

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[32] DIA Report No. 18-01, Correctional Officer Overtime Management, issued January 16, 2018; and DIA Report No. 21-03, Fiscal Processes.1, issued January 28, 2021.

NDOC Could Improve Oversight of
DO Employee Overtime and Standby Pay

Currently, NDOC does not track in its agency-level overtime reason codes whether overtime is related to standard overtime or standby emergencies. Because of this, DIA could not differentiate between overtime related to workload or overtime for standby emergencies. NDOC could improve oversight of DO employee overtime and standby pay by:

- Reducing approved overtime hours for DO employees;
- Requiring employees whose duties warrant standby pay to use an agency-level overtime reason code specific to standby emergencies; and
- Removing employees from standby status when standby pay is inconsistent with position duties.

Using these criteria, all employees not eligible to receive standby pay could be eligible for callback pay for emergencies. Callback pay is assigned a standard pay code that is trackable across all agencies in the state's central payroll system.

NDOC Inappropriately Assigns State-Owned Vehicles and Inaccurately Reports Vehicle Use

NDOC inappropriately assigns state-owned vehicles to wardens, investigators, and DO management, regardless of need or actual use. Further, NDOC inaccurately reports use for these vehicles to state authorities annually. Inappropriately assigning state-owned vehicles increases costs to the state and violates state policies governing use. Inaccurately reporting vehicle use misstates benefits identified in employees' annual federal W-2 earnings statements and obscures actual usage. NDOC assigned 25 vehicles to these positions in calendar year 2019 and 18 in calendar year 2020.

Certain Criteria Must Be Met to Assign
State-Owned Vehicles to Employees

State-owned vehicles may be assigned to employees only if the department has verified that the justification for an employee's use of the assigned state vehicle meets IRS guidelines for non-taxable fringe benefits and one of the following criteria is met:[33]

1. The agency is unable to provide adequate, secure storage for the vehicle and the vehicle is at substantial risk if not stored at an employee's home during non-working hours; or
2. The officer or employee is directed, in writing, by the head of the agency to keep the vehicle at their residence because their duties include responding to conditions that regularly require an immediate response; or

[33] State Administrative Manual 1311.

3. The employee operates out of their home.

Authorization may only be given for the second and third reasons if demonstrated that it is less costly to the state to assign a vehicle than to reimburse the employee for the use of their personal vehicle. Authorizations are also limited by benefit to the state, rather than to the authorized driver.

Purpose for Using Vehicles
May Not Meet State Criteria

Review of records indicate employees' stated purpose for using vehicles for the majority of NDOC's state-owned vehicles may not be accurate. According to DIA review of 2020 vehicle records, all but one NDOC employee assigned a state-owned vehicle used "24-Hour Call Back" as the purpose for requesting vehicle assignment.[34] The state's standardized vehicle information sheet where this information is documented requires the employee to provide details on the number of instances and reasons for call-back during the most recent calendar year. However, none of the forms disclosed the required information. Moreover, NDOC could not provide vehicle mileage logs to confirm whether this information is tracked.

Employee-Assigned Vehicles Must Meet
State Minimum Usage Requirements

Employee-assigned vehicles must meet state minimum usage requirements. Each vehicle must be assigned to a specific utilization group that is reported to the state's Fleet Services Division, regardless if an agency owns the vehicles or leases them from the division.[35] There are five utilization groups: pooled administrative vehicles; individually assigned administrative vehicles; maintenance/contractors' equipment; public safety; and specialty. All vehicle utilization groups must meet the minimum usage requirements.

NDOC's vehicles are all categorized as individually assigned administrative vehicles. Individually assigned administrative vehicles must be used a minimum of 75% of the available time or be driven a minimum of 4,800 miles annually. Each NDOC vehicle must therefore be driven a minimum of 164 days annually. See Exhibit VI for Fleet Services' available time minimum usage calculation for individually assigned administrative vehicles.

[34] Purpose of the one non-24-hour call back employee documented as for the convenience of the state and security of the vehicle.
[35] State Administrative Manual 1407.

Exhibit VI

Fleet Services' Available Time Minimum Usage Calculation
Individually Assigned Administrative Vehicles

Days	Description
260	Base Work Days
(11)	Holidays
(30)	Miscellaneous Days[a]
= 219	Work Days
x 75%	Minimum Usage Rate
= 164	**Days Minimum Usage**
or 328	**Minimum Number of One-Way Trips per Year**

Source: Fleet Services Division, Vehicle Utilization Codes table.
Note: [a] Miscellaneous Days includes sick leave, vacation, training, and other days according to Fleet Services' calculation table.

Most Employees Did Not Meet
Minimum Usage Requirements

Review of 2020 reported trips for NDOC vehicles assigned to employees shows 11 of 18 (61%) did not meet the state's minimum usage requirements. Underutilized vehicles were driven an average of 211 one-way trips or 36% less than required. NDOC employees are not using vehicles sufficiently to justify individual assignment.

NDOC Could Reduce or Improve
the Use of State-Owned Vehicles

NDOC could reduce or improve the use of state-owned vehicles ensuring they are appropriately assigned and used. Reducing or improving the use of state-owned vehicles can be achieved by:

- Assigning state-owned vehicles to only employees who meet the state's justification for home storage;
- Ensuring use of employee-assigned vehicles meet state minimum usage requirements;
- Ensuring employees are accurately reporting vehicle use, including the implementation and retention of vehicle mileage logs; and
- Reassigning vehicles not meeting minimum requirements for pooled use.

Conclusion

Nevada Department of Corrections (NDOC) Director's Office (DO) staff were paid $77,000 annually in excessive overtime and standby pay in calendar years 2020 and 2021, 43% of which was paid to one employee. Overtime and standby pay were often associated with travel and internal events; accumulated hours were inconsistent with the nature of position duties. Two previous audits conducted by the Division of Internal Audits (DIA) found inadequate oversight of personnel and payroll practices. These recommendations have not yet been implemented.

NDOC inappropriately assigns state-owned vehicles to wardens, investigators, and DO management regardless of need or actual use. Inappropriately assigning state-owned vehicles increases costs to the state and violates state policies governing use. Inaccurately reporting vehicle use misstates benefits identified in employees' annual federal W-2 earnings statements and obscures actual usage. NDOC assigned 25 vehicles to these positions in calendar year 2019 and 18 in calendar year 2020.

Improving administrative accountability to reduce the use of state resources will help ensure NDOC follows state requirements and accurately reports information. Improving administrative accountability can be achieved by: reducing approved overtime hours for DO employees; requiring employees whose duties warrant standby pay to use an agency-level overtime reason code specific to standby emergencies; removing employees from standby status when standby pay is inconsistent with position duties; ensuring vehicle use is logged, reassessed annually, and reported accurately; and reassigning vehicles for pooled use when vehicle use does not meet the state's minimum requirements. Improving administrative accountability and reducing use of state resources could benefit the state by $77,000 annually.

Recommendation

3. Improve administrative accountability to reduce use of state resources.

Improve Oversight over Weapons Purchases

The Nevada Department of Corrections (NDOC) should improve oversight over weapons purchases by:

- Ensuring weapons purchases are not classified as inmate driven costs; and
- Ensuring weapons purchases are accounted for in budget accounts associated with the facilities the weapons are purchased for.[36]

Improving oversight over weapons purchases will increase transparency in operations and improve the accuracy of accounting expenditures and records.

NDOC Misclassified Weapons as Inmate Driven Costs

NDOC misclassified $43,400 in weapons purchases as inmate driven costs during fiscal years 2019 through 2021, or 36% of all weapons purchased. Weapons are not considered inmate driven costs because they are long-term, fixed assets having a usable life over many accounting periods. Inmate driven costs are caseload costs dependent on NDOC offender population size, including: operating costs; housing; clothing; food; medical costs; and offender supplies.[37] Inmate driven costs may also include consumable supplies necessary for oversight of offender populations, such as ammunition.

<u>Misclassifying Weapons Misstates
Costs to the Legislature</u>

Misclassifying weapons as inmate driven costs misstates costs used as the basis for caseload statistics and budgeted expenditures presented to the Legislature in NDOC's biennial budget. Additionally, this means that funding approved for inmate driven costs such as housing, food, and clothing were used to purchase weapons, violating the intended purpose of the budgeted funds.

Increase in Weapons Incongruent with NDOC's Declining Offender Population

The increase in NDOC's weapons purchases is incongruent with its declining offender population. NDOC weapons purchases have increased significantly since fiscal year 2019. Review of accounting and purchasing records shows weapons purchases increased from the prior year by 184% and 35% in fiscal years 2020 and 2021, respectively. However, NDOC's offender population has declined steadily over the last five fiscal years indicating these purchases may have been unwarranted.

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[36] Weapons purchased includes handguns, rifles, projectile launchers, and tasers.
[37] Biennial 2021-2023 State of Nevada Executive Budget, inmate driven budget narrative.

Decline in Offender Population May
Not Correlate with Increase in Purchases

The decline in NDOC's offender population may not warrant the increase in weapons purchases. Review of 2021 legislative hearing records revealed the "major issue" discussed was a projected decrease in NDOC's offender population and associated inmate-driven costs.[38] According to data provided by legislative staff, NDOC's offender population had decreased by 15.6% over fiscal years 2016 through 2021, with a decrease of 9.2% in fiscal year 2021 from the prior year.

Almost Half of All Weapons Purchased Were Charged to the Director's Office

Almost half (40.1%) of all weapons purchased in fiscal years 2019 through 2021 were charged to the Director's Office (DO) budget account, a departmental administration account. Review of NDOC records shows 59.7% of DO weapons purchases were allocated to offender transportation services. Purchases for transportation services were level between fiscal years 2019 and 2020. However, increased by 363% from fiscal year 2020 to 2021 during a time when NDOC implemented measures to modify operations to limit travel between facilities in response to the COVID-19 pandemic.[39]

Purpose for DO Weapons
Purchases Unclear

The purpose for weapons purchases charged to the DO budget is unclear. NDOC asset reports do not indicate weapons were disposed of or removed from NDOC's fixed asset listing during the same period. While offender transportation is an approved DO function, the sharp increase of weapons purchased and reductions in offender transportation in fiscal year 2021 compared to a 9.2% decrease in offender population indicate the purchases may have been unwarranted. Additionally, 22.1% of weapons charged to the DO budget account were purchased for other NDOC facilities and locations, further obscuring the purpose of the purchases.

NDOC Relies on Firearms to Maintain Order in Facilities

A report issued in fiscal year 2016 by the Association of State Correctional Administrators revealed NDOC heavily relies on firearms as a means to maintain order in its facilities. The study was conducted at the request of the NDOC Director at the time and concluded NDOC's reliance on firearms was directly related to low staffing levels.[40] Other states' prison systems use hands-on double escorts of restrained inmates as a first line procedure for inmate interactions. Review of

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[38] Public Safety, Natural Resources, and Transportation Joint Subcommittee hearing, April 27, 2021, NDOC Budget Highlights, Major Issue: Inmate Population and Facility Capacity.
[39] NDOC COVID-19 Updates, 11/6/2020, https://doc.nv.gov/About/Press_Release/covid19_updates/.
[40] Association of State Correctional Administrators, "Use of Force Policy, Practices and Staff Training Regarding the Use of Shotguns in Nevada Prisons," September 21, 2015.

NDOC asset inventory listing revealed 67.2% of weapons purchased in fiscal years 2019 through 2021 were for firearms. This points to a continued reliance on lethal weapons to maintain order. The current policy undermines the overall goal of hiring and retaining correctional officers.

Conclusion

The Nevada Department of Corrections' (NDOC) accounting practices and records reduce transparency by accounting for weapons purchases in incorrect cost categories and facility budget accounts, including: $43,000 in weapons misclassified as inmate driven costs; charging 40.1% of all weapons purchased in fiscal years 2019 through 2021 to the Director's Office; and charging weapons purchased for other NDOC facilities and locations to the DO budget account.

NDOC relies heavily on firearms as a means to maintain order in its facilities, pointing to a continued reliance on lethal weapons to maintain order. The current policy undermines the overall goal of hiring and retaining correctional officers.

Improving oversight over weapons purchases will increase transparency in operations and accuracy of accounting expenditures and records. Improved oversight will help ensure weapons purchases are not classified as inmate driven costs and are accounted for in budget accounts associated with the facilities where weapons are located.

Recommendation

4. Improve oversight over weapons purchases.

Exhibit VII

Summary of Audit Benefits

Recommendation	**Benefit**
1. Develop Offenders' Store Fund markup limits and incorporate methodology into legislatively approved regulations.	$ 14.2 million
2. Increase oversight of the Prisoners' Personal Property Fund.	-
3. Improve administrative accountability to reduce use of state resources.	$ 77.3 thousand
4. Improve oversight over weapons purchases.	-
Total estimated benefit:	$ 14.3 million

Appendix A

Scope and Methodology, Background, Acknowledgements

Scope and Methodology

We began the audit in April 2021. In the course of our work, the Division of Internal Audits (DIA) interviewed members of management and staff from the Nevada Department of Corrections (NDOC), the Governor's Office of Finance/Budget Division, and Central Payroll to discuss policies, procedures, and internal controls inherent to NDOC's operational and fiscal processes. We reviewed NDOC records and researched legislative history, applicable Nevada Revised Statutes, Nevada Administrative Code, Nevada State Administrative Manual, and other state guidelines. We concluded fieldwork in November 2021.

We conducted our audit in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

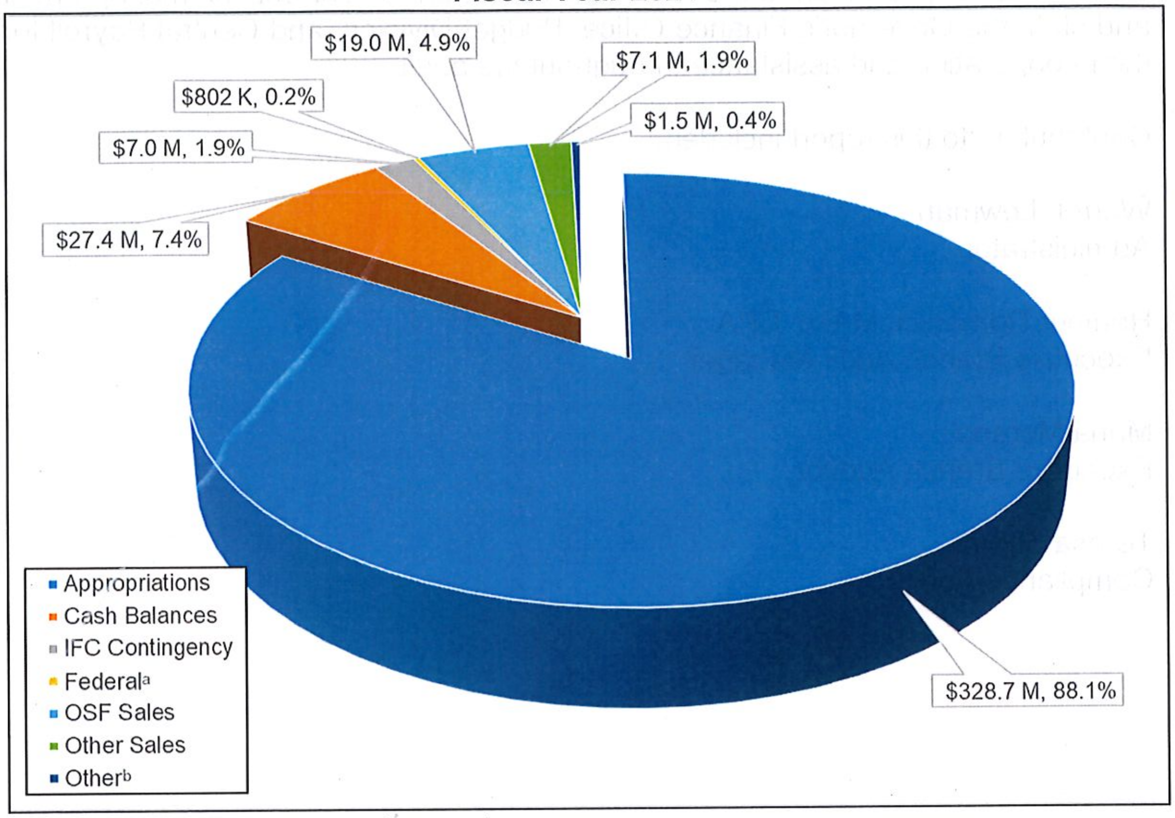
Background

The mission of the Nevada Department of Corrections (NDOC) is to protect society by maintaining offenders in safe and humane conditions while preparing them for successful reentry back into society. NDOC operates in a team-based environment, including but not limited to the following goals: maintain a safe environment for employees and offenders; establish an agency strategic planning program; maintain industry standards and best practices; and implement professional development programs and curriculum specific to supervisory, mid-level managers, managers, leadership, and executive level leadership development.

NDOC is funded by the State General Fund, federal funds, and a variety of agency-generated sales. For fiscal year 2021, NDOC additionally received $7.0 million in General Fund Contingency Account funds. NDOC's revenues for fiscal year 2021 were $391.5 million. NDOC is responsible for the oversight of: seven operating correctional facilities; 10 conservation camps; two transitional housing facilities; and 32 budget accounts with budget authority, fiscal activity, or cash balances in the year. Exhibit VIII summarizes NDOC's budget by funding source for fiscal year 2021.

Exhibit VIII

NDOC's Budget by Funding Source
Fiscal Year 2021



Source: Derived from state accounting records.

Notes: [a] Federal funds included $218,000 in Coronavirus Relief Funds received by NDOC in fiscal year 2021.

[b] Other includes the following funding sources: reimbursements; Treasurer's interest distribution; room, board, and transportation charges; offender wage assessments; energy rebates and utility credits; prior year refunds; and other miscellaneous revenues.

Acknowledgments

We express appreciation to the Nevada Department of Corrections management and staff, the Governor's Finance Office, Budget Division, and Central Payroll for their cooperation and assistance throughout the audit.

Contributors to this report included:

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Appendix B

Nevada Department of Corrections Response and Implementation Plan

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STATE OF NEVADA
Department of Corrections

January 31, 2022

Heather Domenici, MAcc, CPA, Executive Branch Audit Manager
Governor's Finance Office
Division of Internal Audits
209 E. Musser Street, Suite 302
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RE: DIA Report No. 22-05 Nevada Department of Corrections, Fiscal Processes.2

Dear Ms. Domenici:

This is in response to the Division of Internal Audit's audit report, DIA Report No. 22-05 Nevada Department of Corrections, Fiscal Processes.2.

Thank you for the opportunity to meet and discuss the audit finding. With the information provided, our team hopes to improve oversight of fiscal management and accounting practices to increase transparency and achieve more efficient and effective operations.

If you have any questions or need further information, please do not hesitate to contact Christina Leathers, Assistant to the Director at (725) 216-6022, or cleathers@doc.nv.gov.

Charles Daniels, Director
Nevada Department of Corrections

Attachment

Recommendation

1. **Develop Offenders' Store Fund markup limits and incorporate methodology into legislatively approved regulations.Agency Fiscal and Operations Administration**

   Agency Response

   The Nevada Department of Corrections has started writing an Administrative Regulation - XXX to determine the percentage of each type of deduction.

   The final rough draft of the Administrative Regulation will be completed by the end of February and sent through the process (Administrative Regulation - 100).

2. **Increase oversight of the Prisoners' Personal Property Fund.**

   Agency Response

   The Nevada Department of Corrections is reviewing Administrative Regulation 245 – Inmate Medical Charges, Medical Directive SS-0014 (Inmate Banking), and Medical Directive 445 (Reversal of Medical Charges). Once this is completed (mid March), they will be sent through the process to obtain public comments. NRS 233b.

   Co-pays were established sometime in the 1990's, and the rate was $4.00. This rate was confirmed by the co-pay processor for Inmate Banking. Prior to 2010, the rate was changed to $8.00 by the former Medical Administrator. The archived folders do not have any pertinent information as to why the rate was increased, or what matrix was used to calculate an actual rate. The current rate remains at $8.00.

   NDOC Medical is currently reviewing the medical co-pay. We are proposing a $2.00 monthly co-pay in lieu of $8.00 for all inmates and indigent inmates.

3. **Improve administrative accountability to reduce use of state resources.**

   Agency Response

   Director's Office overtime will be reviewed and approved when the overtime is warranted and cannot be completed within the employees normal work week schedule. Staff shortages and short deadlines given by other agencies can place a burden upon the department mandating overtime be used to accomplish tasks. A review of Administrative Regulation (AR) 326, Posting of Shifts/Overtime, will be completed to reflect this update in procedures.

Since this audit, the employees currently receiving standby pay are within the Office of the Inspector General, who are responsible for communicating with institutions and responding to qualifying events 24 hours a day, 365 days a year. The Director's Office will review commit to completely an audit of standby pay on a quarterly basis as well as including language in to address standby pay within Administrative Regulation (AR) 326, Posting of Shifts/Overtime.

The Director's Office will review the Nevada Administrative Code in detail. Form DOC 4512 W-2 Information Sheet Home Storage of Vehicles and form DOC 4513 Vehicle Information Sheet will be evaluated for updates and or changes.

All DOC 4512 and DOC 4513 forms will be resubmitted for each vehicle.

4. **Improve oversight over weapons purchases.**

<u>Agency Response</u>

The Nevada Department of Corrections will ensure the Ordnance Committee consisting of four Wardens and the Deputy Director of Operations will review weapons purchases throughout the Nevada Department of Corrections. This will need to be submitted for inclusion to AR 412 at the next revision.

The Chief of Fiscal and a budget analyst will ensure firearms and other safety equipment are not classified as inmate driven costs.

The Directors office will conduct annual fixed asset inventories providing oversight and transparency in the departments operations as well as improve records accuracy.

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Nevada Department of Corrections (NDOC), the Division of Internal Audits categorized the recommendations contained within this report into two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). NDOC should begin taking steps to implement all recommendations as soon as possible. The target completion dates are incorporated from Appendix B.

Category 1: Recommendations with an anticipated implementation period less than six months.

Recommendation	Time Frame
3. Improve administrative accountability to reduce use of state resources. (page 15)	Jul 2022
4. Improve oversight over weapons purchases. (page 21)	Jul 2022

Category 2: Recommendations with an anticipated implementation period exceeding six months.

Recommendation	Time Frame
1. Develop Offenders' Store Fund markup limits and incorporate methodology into legislatively approved regulations. (page 2)	TBD
2. Increase oversight of the Prisoners' Personal Property Fund. (page 7)	TBD

The Division of Internal Audits shall evaluate the action taken by NDOC concerning the report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Executive Branch Audit Committee and NDOC.