

**OFFICE OF AUDITOR OF STATE**  
STATE OF IOWA

State Capitol Building  
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

Mary Mosiman, CPA  
Auditor of State

NEWS RELEASE

Contact: Mary Mosiman  
515/281-5835  
or Tami Kusian  
515/281-5834

FOR RELEASE \_\_\_\_\_ November 5, 2015 \_\_\_\_\_

Auditor of State Mary Mosiman today released a report on a review of the Iowa Department of Administrative Services (DAS) for the period April 5, 2011 through February 7, 2014. The review was performed as a result of concerns brought to the attention of the Office of Ombudsman regarding leave taken by DAS' former Chief Legal Counsel, Ryan Lamb.

Mosiman reported the review identified \$22,635.55 of improper disbursements. The improper disbursements identified include \$13,098.28 of excess gross pay and benefits Mr. Lamb received during the period he was on military leave and \$9,537.27 of excess vacation payout at the time he left DAS employment. The excess gross pay and benefits received by Mr. Lamb were a result of DAS not complying with the State's military leave policy.

Mosiman also reported Mr. Lamb did not meet the experience requirements for the Attorney 3 position he held from December 23, 2011 through March 1, 2012. In addition, because his personnel file did not contain his résumé, it could not be determined if he met the minimum education, experience, and special requirements for the other positions he held at DAS.

In addition, Mr. Lamb's base pay increased approximately 23% between April 5, 2011, the date he began employment with DAS, and October 25, 2013. However, since the pay raise he received on October 25, 2013 was retroactive to December 12, 2012, the entire base pay increase was essentially granted over a period of less than 21 months through a position reclassification, pay increases awarded by former Director Mike Carroll, and cost of living increases. Unless identified in the report, all increases were awarded in accordance with State policies and Administrative Rules.

The report includes recommendations to strengthen DAS' controls over timesheet approval, implementing procedures to ensure compliance with the State's military leave policy, and ensuring employees meet the minimum qualifications for their position.

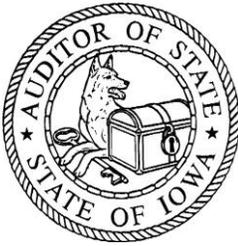
A copy of the report is available for review in the Office of Auditor of State and on the Auditor of State's web site at: <http://auditor.iowa.gov/specials/1560-0050-BE00.pdf>.

# # #

**REPORT ON A REVIEW  
OF THE  
IOWA DEPARTMENT OF ADMINISTRATIVE SERVICES  
FOR THE PERIOD  
APRIL 5, 2011 THROUGH FEBRUARY 7, 2014**

## Table of Contents

|   | <u>Page</u>     |
|---|-----------------|
| Auditor of State's Report                 | 3               |
| Review Summary:                           |                 |
| Background Information                    | 4               |
| Detailed Findings                         | 5-12            |
| Recommended Control Procedures            | 12-13           |
| Staff                                     | 14              |
| Appendices:                               |                 |
|   | <u>Appendix</u> |
| Copy of Letter to the Office of Ombudsman | 1      16       |
| Copy of Affidavit                         | 2      17       |



OFFICE OF AUDITOR OF STATE  
STATE OF IOWA

Mary Mosiman, CPA  
Auditor of State

State Capitol Building  
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

Auditor of State's Report

To Janet Phipps, Director of the  
Iowa Department of Administrative Services:

As a result of concerns brought to the attention of the Office of Ombudsman regarding leave taken by the Iowa Department of Administrative Services' (DAS) former Chief Legal Counsel, Ryan Lamb, we have applied certain tests and procedures to selected DAS financial transactions for the period April 5, 2011 through February 7, 2014. Based on a review of relevant information and discussions with DAS officials and personnel, we performed the following procedures:

- 1) Reviewed Mr. Lamb's personnel file to determine if notice of military leave was provided to the personnel assistant and if the 30 day military leave limit was complied with in accordance with the State of Iowa Employee Manual.
- 2) Reviewed Mr. Lamb's timesheets to determine if military leave was properly recorded.
- 3) Reviewed Mr. Lamb's position reclassifications and pay increases recorded in the State's payroll system to determine if proper procedures were followed by DAS.
- 4) Reviewed Mr. Lamb's timesheets and travel reimbursements to determine if Mr. Lamb made a trip to Florida at State expense to take the bar examination.
- 5) Interviewed Mr. Lamb and other DAS officials to determine if military leave was taken and to determine what procedures DAS followed during the leave.

These procedures identified \$22,635.55 of improper disbursements. In addition, it was determined Mr. Lamb did not meet the minimum experience requirements for the Attorney 3 position he held from December 23, 2011 through March 1, 2012. Also, because his personnel file did not contain his résumé, it could not be determined if he met the minimum education, experience, and special requirements for the other positions he held at DAS. Several internal control weaknesses were also identified. Our detailed findings and recommendations are presented in the Investigative Summary of this report.

The procedures described above do not constitute an audit of financial statements conducted in accordance with U. S. generally accepted auditing standards. Had we performed additional procedures, or had we performed an audit of financial statements of the Iowa Department of Administrative Services, other matters might have come to our attention that would have been reported to you.

We would like to acknowledge the assistance extended to us by officials and personnel of the Iowa Department of Administrative Services during the course of our review.

  
MARY MOSIMAN, CPA  
Auditor of State

  
WARREN G. JENKINS, CPA  
Chief Deputy Auditor of State

August 5, 2015

Report on a Review of the  
Iowa Department of Administrative Services

Review Summary

**Background Information**

The Department of Administrative Services (DAS) provides leadership and management for support of State government operations. Services provided by DAS include engineering project management services, facility maintenance, mail services, personnel services, procurement and processing, and reporting of financial information.

The Office of Ombudsman received a letter on January 7, 2014 which outlined a complaint regarding leave time taken by DAS' former Chief Legal Counsel, Ryan Lamb. A copy of the letter is included in **Appendix 1**. As illustrated by the **Appendix**, the letter states, "Mr. Lamb's military leave was longer than 30 calendar days and the decision to provide him with his regular salary [from DAS] beyond 30 calendar days violated state of Iowa policy." In addition, the letter states Mr. Lamb was not required to take vacation for days away from work, including a trip to Florida to take the bar examination. Representatives of the Office of Ombudsman provided the letter to the Office of Auditor of State for consideration of any actions to be taken.

Mr. Lamb began employment with DAS on April 5, 2011 as a Public Service Executive 4 (PSE4). As a PSE4, he was responsible for supervising and performing administrative and professional legal work as DAS' Chief Legal Counsel. Mr. Lamb reported directly to former DAS Director Mike Carroll.

Mr. Lamb was reclassified to an Attorney 3 position, with no change in pay, effective December 23, 2011. He continued to perform administrative and professional legal work as DAS' Chief Legal Counsel, but no longer had supervisory duties.

Mr. Lamb was reclassified to a Public Service Executive 5 (PSE5) position, with a 4.79% increase in pay, effective March 2, 2012. As a PSE5, he continued to serve as DAS' Chief Legal Counsel and supervised the Labor Relations Team. The Labor Relations Team was a new group of attorneys who performed duties previously handled by Human Resource Specialists. Mr. Lamb left employment with DAS on February 7, 2014.

In addition to his work at DAS, Mr. Lamb was a member of the U.S. Army Reserves. During Mr. Lamb's employment by DAS, he applied to become and was accepted as a Judge Advocate General (JAG) lawyer for the U.S. Army. He later received orders to attend JAG training at Fort Benning, Georgia from June 16 through July 26, 2013, and Charlottesville, Virginia from July 27 through October 3, 2013, which resulted in him taking military leave from his DAS position.

As a result of the concerns identified in the correspondence provided by the Office of Ombudsman, we performed the procedures listed above for the period April 5, 2011 through February 7, 2014. As a result of the procedures, we identified the findings which are summarized in the following paragraphs.

## Detailed Findings

Based on the procedures performed, we determined Mr. Lamb received \$22,635.55 more gross pay and benefits than allowed in accordance with compensation policies and procedures established by DAS. **Table 1** summarizes the improper disbursements identified.

| <b>Table 1</b>                                |                |              |
|---|----------------|--------------|
| Description                                   | Table          | Amount       |
| Excess pay and benefits during military leave | <b>Table 2</b> | \$ 13,098.28 |
| Excess vacation payout                        | <b>Table 4</b> | 9,537.27     |
| Total   |                | \$ 22,635.55 |

In addition, Mr. Lamb’s salary increased approximately 23% during his employment with DAS. Because his last base pay increase was retroactively effective to December 2012 in accordance with former Director Mike Carroll’s approval, his pay increases were effective during his first 21 months of employment. Also, it was determined Mr. Lamb did not meet the minimum experience requirements for the Attorney 3 position he held from December 23, 2011 through March 1, 2012. A detailed explanation of each finding follows.

**Military Leave** – The State of Iowa Employee Manual states, “If you are called for military duty as a member of the National Guard, organized reserve, or any component part of the military of the State of Iowa or the United States, you will be paid your regular salary for time spent on military leave for up to 30 calendar days per year. You must provide proper notice to the personnel assistant in your department.”

While the State of Iowa Employee Manual states “30 calendar days,” Iowa Administrative Code section 11-63.9(8A) states, “Any amount of military leave taken during any part of an employee’s scheduled workday, regardless of the number of hours actually taken, shall count as one day toward the 30 paid day maximum.” In addition, guidance provided in a memo issued by DAS on January 4, 2013 states, in part, “Employees who are currently on military leave become eligible for an additional 30 workdays of paid military leave at the start of each calendar year.” Based on the Iowa Administrative Code and the memo from DAS, the maximum paid military leave employees are eligible for each calendar year is 30 work days, not 30 calendar days as specified in the State of Iowa Employee Manual.

Notice of the military leave was not located in Mr. Lamb’s personnel file at DAS. However, according to Lon Anderson, former DAS Deputy Director, Mr. Lamb was on military leave from June 17, 2013 to October 7, 2013, which includes 78 scheduled work days and 2 holidays.

Using information from the State’s payroll system, we determined Mr. Lamb received his regular salary for the entire period he was on military leave, which exceeds the 30 paid work days allowed. After 30 days of paid military leave, employees are allowed to use accrued vacation in order to continue receiving their salary. However, if they choose not to use their accrued vacation or they exhaust all of their accrued vacation, their remaining time on military leave is to be unpaid. Vacation is not to accrue while on military leave. However, information from the State’s payroll system shows Mr. Lamb continued to accrue vacation during the time he was on military leave.

**Table 2** compares the time recorded in the State’s payroll system for Mr. Lamb during his military leave to the time which should have been recorded in accordance with the State’s military leave policy. The **Table** also compares the gross pay and benefits recorded in the State’s payroll system for Mr. Lamb during his military leave to the amounts which should have been recorded and paid in accordance with the State’s military leave policy. The State’s cost of benefits includes the State’s share of FICA and IPERS and premiums for health, dental, life, and disability insurance.

**Table 2**

| PPE:   | Hours   |                |          |        | Gross Pay   | State Cost of Benefits | Total Gross Pay and Benefits |
|--|---------|----------------|----------|--------|-------------|------------------------|------------------------------|
|  | Regular | Military Leave | Vacation | Total  |             |                        |                              |
| <u>Recorded for and Paid to/on Behalf of Mr. Lamb:</u>     |         |                |          |        |             |                        |                              |
| 06/20/13   | 80      | -              | -        | 80     | \$ 4,527.20 | 737.34                 | 5,264.54                     |
| 07/04/13   | 80      | -              | -        | 80     | 4,579.10    | 1,848.74               | 6,427.84                     |
| 07/18/13   | 80      | -              | -        | 80     | 4,572.80    | 756.67                 | 5,329.47                     |
| 08/01/13   | 80      | -              | -        | 80     | 4,579.10    | 1,848.74               | 6,427.84                     |
| 08/15/13   | 80      | -              | -        | 80     | 4,572.80    | 756.67                 | 5,329.47                     |
| 08/29/13   | 80      | -              | -        | 80     | 4,572.80    | 1,826.31               | 6,399.11                     |
| 09/12/13   | 80      | -              | -        | 80     | 4,579.10    | 756.50                 | 5,335.60                     |
| 09/26/13   | 80      | -              | -        | 80     | 4,572.80    | 1,826.31               | 6,399.11                     |
| 10/10/13   | 80      | -              | -        | 80     | 4,579.10    | 756.50                 | 5,335.60                     |
| Total paid to/on behalf of Mr. Lamb                        |         |                |          |        |             |                        | 52,248.58                    |
| <u>Allowable according to policy:</u>                      |         |                |          |        |             |                        |                              |
| 06/20/13   | 48      | 32             | -        | 80     | 4,527.20    | 737.34                 | 5,264.54                     |
| 07/04/13   | -       | 72             | -        | 80^    | 4,579.10    | 1,848.74               | 6,427.84                     |
| 07/18/13   | -       | 80             | -        | 80     | 4,572.80    | 756.67                 | 5,329.47                     |
| 08/01/13   | -       | 56             | 24       | 80     | 4,579.10    | 1,848.74               | 6,427.84                     |
| 08/15/13   | -       | -              | 80       | 80     | 4,572.80    | 756.67                 | 5,329.47                     |
| 08/29/13   | -       | -              | 80       | 80     | 4,572.80    | 1,826.31               | 6,399.11                     |
| 09/12/13   | -       | -              | 19.07~   | 27.07^ | 1,547.73    | 256.61                 | 1,804.34                     |
| 09/26/13   | -       | -              | -        | ##     | -           | -                      | -                            |
| 10/10/13   | 32      | -              | -        | 32     | 1,862.78    | 304.91                 | 2,167.69                     |
| Total which should have been paid to/on behalf of Mr. Lamb |         |                |          |        |             |                        | 39,150.30                    |
| Difference   |         |                |          |        |             |                        | \$ 13,098.28                 |

^ - The pay periods ended July 4, 2013 and September 12, 2013 include 8 hours holiday time for the July 4 and Labor Day holidays, respectively.

~ - Includes 8 hours of vacation remaining from the balance Mr. Lamb had accumulated at the time his military leave began and 11.07 hours of vacation he would have earned during the pay periods ended 08/01/13, 08/15/13 and 08/29/13.

## - After vacation leave is exhausted, the remaining time on military leave is unpaid. Vacation leave could have been reduced to use 60 hours per pay period to extend insurance benefits. However, because doing so would not have resulted in Mr. Lamb qualifying for any additional State paid benefits, reduced vacation usage is not shown in the **Table**.

Based on discussions with DAS officials, Mr. Lamb was expected to work for DAS during his military leave under a work arrangement between Mr. Lamb and former DAS Director Mike Carroll. According to Mr. Lamb, he was expected to be the acting Chief Legal Counsel for DAS while at military training.

As illustrated by the **Table**, no military leave or vacation was recorded on any of Mr. Lamb's timesheets during the period of his military leave. In compliance with the State's military leave policy, Mr. Lamb was eligible for 30 work days of paid military leave. In order to continue to be eligible to receive the State's share of his insurance coverage, he would have been required to also use vacation during his military leave. After using 30 work days of paid military leave, he would have used his entire vacation balance of 192 hours, the maximum vacation accrual based on his years of State employment, and 11.07 hours of vacation he would have accrued during the pay periods ended August 1, 2013, August 15, 2013, and August 29, 2013 after he used his accumulated vacation in the pay periods ended August 1, 2013 through August 29, 2013.

The 30 work days of paid military leave should have been recorded for the period June 17, 2013 through July 29, 2013. Allowing for the July 4 and Labor Day paid holidays, Mr. Lamb's vacation would have been exhausted on September 4, 2013, which was before the end of his

military commitment. As a result, Mr. Lamb would have had to take time without pay for 22 full work days and a partial work day.

The **Table** also illustrates Mr. Lamb received \$52,248.58 of salary and the related State cost of benefits for the period he was on military leave. If the State's military leave policy was complied with, Mr. Lamb would have received \$39,150.30 of gross pay and the related State cost of benefits. As a result, Mr. Lamb received \$13,098.28 of gross pay and the State cost of benefits he was not entitled to while on military leave.

**Vacation Payout – Table 2** also illustrates no vacation was recorded for Mr. Lamb during his military leave. However, if he had used only 30 work days of paid military leave in accordance with the State's military leave policy and he had used vacation during the remainder of his leave, he would have used his entire accumulated vacation.

We reviewed Mr. Lamb's timesheets during his term of employment and identified no vacation hours used were recorded during the 34 months he was employed by DAS, which appears unusual. As a result, Mr. Lamb received the maximum vacation payout possible for his term of service, which was for 192 hours of accrued vacation.

In accordance with section 6.10 of the State of Iowa Managers and Supervisors Manual, employees who separate from State employment must be paid their accrued vacation in a lump sum with their last paycheck. As stated previously, Mr. Lamb resigned from his position at DAS with his last day being February 7, 2014. At the time of his resignation, his biweekly salary was \$4,805.60, or \$60.07 per hour, which was used to calculate his vacation payout. Therefore, Mr. Lamb received a vacation payout totaling \$11,533.44.

As previously stated, had DAS and Mr. Lamb complied with the State's military leave policy, Mr. Lamb would not have accrued any vacation during his paid military leave. However, he would have been able to start earning vacation again if he had used vacation as paid time off after his 30 days of paid military leave was exhausted. If Mr. Lamb's time had been recorded in accordance with the State's military leave policy, he would have had no accrued vacation hours at the time of his return to work on October 7, 2013.

**Table 3** summarizes the amount of vacation Mr. Lamb would have accrued after returning from military leave. The **Table** also includes the calculated vacation payout as of Mr. Lamb's last day of employment on February 7, 2014.

| <b>Pay Period Ended</b>    | <b>Vacation Hours Accrued for the Pay Period</b> | <b>Accumulated Vacation Hours</b> |
|----------------------------|--|-----------------------------------|
| Balance, 10/07/13          |  | -                                 |
| 10/10/13                   | 1.4769 <sup>^</sup>                              | 1.476923                          |
| 10/24/13                   | 3.6923   | 5.169223                          |
| 11/07/13                   | 3.6923   | 8.861537                          |
| 11/21/13                   | 3.6923   | 12.553844                         |
| 12/05/13                   | 3.6923   | 16.246151                         |
| 12/19/13                   | 3.6923   | 19.938458                         |
| 01/02/14                   | 3.6923   | 23.630765                         |
| 01/16/14                   | 3.6923   | 27.323072                         |
| 01/30/14                   | 3.6923   | 31.015379                         |
| 02/13/14                   | 2.2154 <sup>^</sup>                              | 33.230763                         |
| Hourly rate of pay         |  | \$ 60.07                          |
| Calculated vacation payout |  | \$ 1,996.17                       |

<sup>^</sup> - Mr. Lamb was eligible to earn 3.6923 hours of vacation for each 80 hour pay period. Because Mr. Lamb worked less than 80 hours for the pay periods ended 10/10/13 and 02/13/14, the vacation hours accrued was prorated for these pay periods.

As illustrated by the **Table**, Mr. Lamb would have earned 33.230763 hours of vacation during the period between his return to work from military leave and when he left employment with DAS. Because his timesheets indicate he did not use any vacation during this period, he would have received a vacation payout of \$1,996.17. **Table 4** compares the amount Mr. Lamb received as a vacation payout to the amount calculated in **Table 3**. As illustrated by **Table 4**, Mr. Lamb received \$9,537.27 of excess vacation payout.

**Table 4**

| Description                | Amount       |
|----------------------------|--------------|
| Actual vacation payout     | \$ 11,533.44 |
| Calculated vacation payout | 1,996.17     |
| Excess vacation payout     | \$ 9,537.27  |

**Duties Performed While on Leave** – According to DAS officials we spoke with, Mr. Lamb performed work for DAS while on military leave. These DAS officials were not sure how many hours were worked or why Mr. Lamb’s hours were not tracked. DAS officials also stated a work agreement had been verbally established between Mr. Lamb and former DAS Director Mike Carroll. According to Mr. Lamb, he did not keep track or log hours worked, but he kept Paul Carlson and Terra Granger, the Director’s secretary, informed of what he was working on. He worked a lot with the AFSCME President on various issues while on military leave. According to Mr. Lamb, he had training early in the morning, checked DAS e-mail, attended class, then worked for DAS in the evenings and on weekends. While in Georgia, he worked weekends in a hotel and evenings at a café. While in Virginia, he stayed in a dorm room on campus at the University of Virginia and worked from his room. We reviewed a file obtained from Paul Carlson which contained e-mails and phone conversations which occurred during Mr. Lamb’s military leave. From the documents in the file, we determined Mr. Lamb was doing some work while on military leave.

When we spoke with Mr. Lamb, he offered to have a colleague provide an affidavit regarding the time he spent working for DAS while on military leave. A copy of the affidavit provided is included in **Appendix 2**. As illustrated by the **Appendix**, Ryan MacGillis stated he roomed with Mr. Lamb while they attended training at Fort Benning in Georgia. While he also stated, in part, he observed Mr. Lamb “performing work during our training, observed him keeping late hours and working weekends,” he did not quantify the number of hours Mr. Lamb worked. In addition, Mr. MacGillis stated in the affidavit he “talked with him [Mr. Lamb] about his civilian work frequently.” As DAS’ Chief Legal Counsel, the items Mr. Lamb worked on for DAS should have been kept confidential and not discussed with acquaintances or individuals not associated with DAS.

The State provides its employees with an opportunity to participate in a telework arrangement when practical and consistent with a department’s mission. Section 18.05 of the Managers and Supervisors Manual describes the telework program, which allows employees to work at a location away from the employee’s regular work site. A telework agreement must be completed and executed by the manager and employee prior to any telework commencing. Mr. Lamb and DAS did not enter into a telework agreement and we do not believe it would be appropriate to enter into a full-time telework agreement because military training would be a full-time obligation.

Mr. Lamb did not record or track the hours he worked for DAS while on military leave. Because there is no documentation supporting the amount of time Mr. Lamb spent working for DAS, we are unable to determine the public benefit served by DAS paying Mr. Lamb his full DAS salary for the entire time he was on military leave. It is not reasonable to assume Mr. Lamb was able to work full time for DAS while performing his required military duties.

**Timesheet Approval** – Because Mr. Lamb’s timesheets did not reflect his military leave, we also reviewed his timesheets for proper approval. The State’s payroll system requires timesheet approval by the employee and the employee’s supervisor. Based on our review of Mr. Lamb’s timesheets, Mr. Lamb provided the employee approval on only 1 timesheet during the period of his employment by DAS. A DAS personnel assistant provided the employee approval for 2 timesheets. For the remaining 72 of Mr. Lamb’s 75 timesheets, employee approval was applied by the assistant to the DAS Director.

The assistant to the DAS Director also provided the supervisor’s approval on behalf of the Director for 74 of the 75 timesheets. A DAS personnel assistant provided the supervisor’s approval for the remaining timesheet.

Because Mr. Lamb personally certified his hours worked for only 1 of his timesheets and none of Mr. Lamb’s timesheets were approved by his supervisor, the DAS Director, DAS did not comply with its rules which were established for all employees on the State’s payroll. By allowing an employee to have 2 logins for the payroll system, controls in place to prevent unauthorized timesheet approvals were circumvented.

**Pay Reclassifications and Pay Increases** – During the 34 months of Mr. Lamb’s employment by DAS, he was reclassified twice. He was hired as a PSE4 and was reclassified to an Attorney 3 after almost 9 months. He was then reclassified to a PSE5 after 2 additional months. His pay grade increased from a 38 to a 41 upon his reclassification from Attorney 3 to PSE 5.

In accordance with Chapter 3 of the Managers and Supervisors Manual, procedures to reclassify a position require a Position Description Questionnaire (PDQ) be prepared and approved by the supervisor. The PDQ is then sent to the Department of Administrative Services – Human Resource Enterprise (DAS-HRE) for approval. A Position Change Request (M-5) is to be initiated by the Department’s personnel assistant and electronically submitted to the Department of Management (DOM) for budget approval. DOM and DAS-HRE are to electronically approve the M-5. A Personnel Action (P-1) is then created and final approval of the reclassification is to be made by the Department and DAS-HRE.

**Table 5** summarizes the wage increases received by Mr. Lamb during his employment by DAS. The **Table** does not include other pay adjustments which are discussed in subsequent paragraphs.

| Date                           | P-1 Description                                   | Amount      | \$ Change | % Change |
|--------------------------------|---|-------------|-----------|----------|
| <b>Base Pay Increases:</b>     |   |             |           |          |
| 04/05/11                       | Full-time appointment - New Hire                  | \$ 3,904.00 | -         | -        |
| 06/24/11                       | 2% Cost of Living (COLA) increase                 | 3,982.40    | 78.40     | 2.01%    |
| 12/23/11                       | 1% COLA increase                                  | 4,022.40    | 40.00     | 1.00%    |
| 12/23/11                       | Reclassified from PSE4 to Attorney 3              | 4,022.40    | -         | 0.00%    |
| 03/02/12                       | Reclassified from Attorney 3 to PSE5              | 4,215.20    | 192.80    | 4.79%    |
| 06/22/12                       | 2% COLA increase                                  | 4,299.20    | 84.00     | 1.99%    |
| 12/21/12                       | 1% COLA increase                                  | 4,342.40    | 43.20     | 1.00%    |
| 02/01/13                       | Pay increase per Director Carroll                 | 4,527.20    | 184.80    | 4.26%    |
| 10/25/13                       | Pay increase per Director Carroll                 | 4,805.60    | 278.40    | 6.15%    |
| <b>Non-Base Pay Increases:</b> |   |             |           |          |
| 06/21/13                       | Executive Branch Non-Contract 1% pay increase     | 45.60       |           |          |
| 11/08/13                       | Adjusted 1% pay due to pay correction on 10/25/13 | 48.00       |           |          |
| 12/20/13                       | Executive Branch Non-Contract 1% pay increase     | 48.00       |           |          |

As illustrated by the **Table**, Mr. Lamb received COLA increases in June 2011, December 2011, June 2012, and December 2012. He also received 1% non-base pay increases in June 2013 and December 2013. These increases were across-the-board increases provided to all eligible employees. The June and December 2013 increases are included in the **Table** as non-base pay increases because they were not permanent pay increases. The temporary increases were related to health insurance premiums and were removed from all employees' payroll in July 2014, after Mr. Lamb was no longer employed by DAS.

The **Table** also illustrates Mr. Lamb did not receive a pay increase when he was reclassified from a PSE4 to an Attorney 3 in December 2011. Per the PDQ created when Mr. Lamb was reclassified to an Attorney 3, "This position will no longer be supervising and will strictly act as the Chief Legal Counsel for DAS." Because a PDQ was not available for Mr. Lamb's position as a PSE4, we are unable to determine which of his duties changed when his position was reclassified. However, the job description for an Attorney 3 includes the following education, experience, and special requirements:

- Graduation from an accredited law school and the equivalent of 5 years of full-time successful and responsible experience in the practice of law, or
- The equivalent of 3 years of full-time experience in the practice of law in the employing agency shall be considered as qualifying experience.

Because Mr. Lamb became licensed in Iowa in April 2008 and was hired as DAS' Chief Legal Counsel in April 2011, he did not meet either requirement when he was reclassified to the Attorney 3 position in December 2011.

Section 11-52.2(8A) of the Iowa Administrative Code states, "Changes to the minimum qualifications in a classification description shall have no effect on the status of employees in positions in that class, except where licensure, registration, or certification is changed or newly required." This section does not allow hiring individuals who do not meet the education, experience, and special requirements for individual classifications.

Mr. Lamb's next pay increase was effective March 2, 2012 when he was reclassified from an Attorney 3 to a PSE5. The related P-1 stated "RECLASS PAY PER MIKE CARROLL." When we compared the PDQ for the PSE5 position approved March 13, 2012 to the PDQ for the Attorney 3 position approved December 20, 2011, we determined the duties were essentially the same; however, the PDQ for the PSE5 position specified, "In addition to Attorney 3 duties, the position is now responsible for labor relations on a statewide basis." According to DAS officials we spoke with, Mr. Lamb became responsible for supervising the labor relations team. The PDQ also identified a knowledge of labor relations management was as an essential function of the position.

The minimum qualification requirements for PSE positions require various years of experience of full-time management-level work within certain disciplines, depending on the candidate's educational background. Because Mr. Lamb's personnel file did not contain a résumé, we are unable to determine if he met the minimum educational and/or work experience requirements for the PSE positions he held.

A pay increase was recorded in the payroll system for Mr. Lamb on February 1, 2013. However, based on the notations on the P-1 and a subsequent retroactive payment, the pay increase was effective for the pay period ended January 3, 2013. Notations on the P-1 also specified the retroactive application was in accordance with instructions from former Director Mike Carroll, as follows:

"INCREASE & RETRO PER DIR. MIKE CARROLL"

"PER DIRECTOR MIKE CARROLL INCREASE GRANTED RETRO TO THE FIRST PAY PERIOD ON OR AFTER 1/1/2013 WHICH WOULD BE THE 12/21-1/3/2013 PAY PERIOD"

There was no documentation in Mr. Lamb’s personnel file detailing why the pay increase was retroactive to December 21, 2012.

In order to retroactively adjust Mr. Lamb’s pay, a one-time payment of \$554.40 was made on February 1, 2013 for the increase for the 3 pay periods between December 21, 2012 and January 31, 2013.

The P-1 for the February 1, 2013 pay increase also specified the next date Mr. Lamb would be eligible for a step increase was December 20, 2013. This is because that would be 1 year from the effective date of the retroactive pay increase.

However, the next increase to Mr. Lamb’s base pay was in October 2013. Notations on the related P-1 document it was former Director Carroll’s intent to provide Mr. Lamb the maximum salary allowed for a PSE5 with the raise provided to Mr. Lamb in February 2013, which was retroactively effective to the pay period beginning December 21, 2012. However, Mr. Lamb’s salary had not been increased to the maximum level. Specifically, the related P-1 documents:

“CORRECTION PER DIRECTOR CARROLL”

“DIRECTOR CARROLL REQUESTED EE [employee] TO BE MOVED TO MAX AFTER LAST REVIEW. EE [employee] WAS GIVEN A 4.5% INCREASE INSTEAD. CORRECTING PAY AND WILL GIVE BACK PAY TO START OF THE FISCAL YEAR.”

As illustrated by **Table 5**, the February 2013 increase was for \$184.80 per pay period. The adjustment made in October 2013 to increase Mr. Lamb’s salary to the maximum level for a PSE5 was an additional \$278.40 per pay period. Because the amount of the adjustment in October 2013 was 150% of the increase processed in February 2013, it is unclear how an error of this magnitude was not identified in a more timely manner. As stated previously, the P-1 for the February 1, 2013 pay increase also specified the next date Mr. Lamb would be eligible for a step increase was December 20, 2013. This is because that would be 1 year from the effective date of the retroactive pay increase. Section 11-53.7(1) of the Iowa Administrative Code states, in part, “The minimum pay increase eligibility period for employees shall be 52 weeks....” We are unable to determine if the retroactive pay increase was made in October 2013 in lieu of waiting until Mr. Lamb was eligible for a merit increase in December 2013.

In order to retroactively correct the incorrect increase which was reportedly overlooked, a one-time payment of \$2,505.60 was made for the period July 1, 2013 to October 25, 2013. A one-time payment of \$21.60 was also made in November 2013 to correct the 1% non-base pay increase awarded in June 2013. In addition, a one-time payment of \$3,619.20 was made through the State Appeal Board for the retroactive pay increase from December 21, 2012 through June 30, 2013.

The one-time payments for the retroactive adjustments made to Mr. Lamb’s salary are summarized in **Table 6**.

**Table 6**

| <b>Date</b>                   | <b>P-1 Description or Notations on P-1</b>    | <b>Amount</b>      |
|-------------------------------|---|--------------------|
| <b>Other Pay Adjustments:</b> |   |                    |
| 02/01/13                      | Retroactive pay from 12/21/12 - 01/31/13      | \$ 554.40          |
| 10/25/13                      | Corrected pay back to start of fiscal year    | 2,505.60           |
| 11/08/13                      | Corrected 1% pay back to start of fiscal year | 21.60              |
| 01/17/14                      | State Appeal Board claim for backpay          | 3,619.20           |
| Total                         |   | <u>\$ 6,700.80</u> |

As illustrated by **Table 5**, Mr. Lamb's base pay increased approximately 23% between the time he began employment with DAS and October 25, 2013. However, since the October 25, 2013 pay increase was retroactive to December 12, 2012, the entire base pay increase was essentially granted over a period of less than 21 months through a position reclassification, pay increases awarded by former Director Carroll, and cost of living increases. Except as previously discussed, the increases were awarded in accordance with State policies and Administrative Rules.

**Florida Bar Examination** – According to Mr. Lamb, he went to Florida to take the bar examination during his employment by DAS. As previously stated, we reviewed Mr. Lamb's timesheets during his term of employment and identified no vacation hours used were recorded during the 34 months he was employed by DAS. This includes when the bar examination was administered in Florida. Vacation leave or time without pay should have been used when Mr. Lamb took the bar examination while employed by DAS. We also reviewed Mr. Lamb's travel reimbursements and did not identify any reimbursements for a trip to Florida. Because we are unable to determine when Mr. Lamb was away from DAS to take the bar exam in Florida or the number of work days he was away, we were unable to determine the value of the vacation which should have been taken.

### **Recommended Control Procedures**

We reviewed the procedures used by DAS to process payroll. An important aspect of internal control is to establish procedures which provide accountability for assets susceptible to loss from error and irregularities. These procedures provide the actions of one individual will act as a check on those of another and provide a level of assurance errors or irregularities will be noted within a reasonable time during the course of normal operations. Based on our findings and observations detailed below, the following recommendations are made to strengthen DAS' internal controls.

- A. Military Leave – DAS did not comply with the State's military leave policy. This resulted in Mr. Lamb receiving \$22,635.55 more gross pay and benefits than allowed, which includes \$13,098.28 of gross pay and benefits received during military leave and \$9,537.27 of excess vacation payout.

While Mr. Lamb was on military leave, his timesheets indicated he worked eight hours a day for DAS, Monday through Friday. However, according to Mr. Lamb, he worked nights and weekends for DAS in addition to his military responsibilities during the day. His timesheets did not accurately reflect his time worked for DAS or his military leave.

Recommendation – DAS should comply with the State's military leave policy and implement procedures to ensure employees document the hours worked while on leave to support the payroll records.

In addition, DAS should consult legal counsel to determine if reimbursement of the overpayment of gross pay and benefits and excess vacation payout should be sought.

- B. Timesheet Approval – DAS did not comply with its payroll procedures. The assistant to the DAS Director has 2 logins for the payroll system and she can apply both the employee's approval and, on behalf of the DAS Director, the supervisor's approval of timesheets.

Recommendation – DAS should review access rights in the payroll system and a single employee should not have access to apply both an employee's and their supervisor's approvals to the same timesheet. The person applying the supervisor's approval should have authority over the employee.

C. Compliance with Position Requirements – Mr. Lamb was hired as a PSE4 in April 2011 and was reclassified to an Attorney 3 after almost 9 months. The job description for an Attorney 3 includes the following education, experience, and special requirements:

- Graduation from an accredited law school and the equivalent of 5 years of full-time successful and responsible experience in the practice of law, or

The equivalent of 3 years of full-time experience in the practice of law in the employing agency shall be considered as qualifying experience. Because Mr. Lamb became licensed in Iowa in April 2008 and was hired as DAS' Chief Legal Counsel in April 2011, he did not meet either requirement when he was reclassified to the Attorney 3 position in December 2011. Section 11-52.2(8A) of the Iowa Administrative Code states, "Changes to the minimum qualifications in a classification description shall have no effect on the status of employees in positions in that class, except where licensure, registration, or certification is changed or newly required." This section does not allow hiring individuals who do not meet the education, experience, and special requirements for individual classifications.

After serving as an Attorney 3 for 2 months, Mr. Lamb was reclassified to a PSE5 and his pay grade was increased from a 38 to a 41. The minimum qualification requirements for PSE positions require various years of experience of full-time management-level work within certain disciplines, depending on the candidate's educational background. Because Mr. Lamb's personnel file did not contain a résumé, we are unable to determine if he met the minimum educational and/or work experience requirements for the PSE4 and PSE5 positions he held.

Recommendation – DAS officials should ensure all employees comply with the minimum education, experience, and special requirements established for each position they hold. In addition, DAS officials should ensure employee personnel files are complete and include support which document compliance with the minimum position requirements.

Report on a Review of the  
Iowa Department of Administrative Services

Staff

This review was performed by:

Annette K. Campbell, CPA, Director  
Brian R. Brustkern, CPA, Manager  
Jennifer L. Wall, CPA, Senior Auditor II

  
Tamera S. Kusian, CPA  
Deputy Auditor of State

## **Appendices**

Report on a Review of the  
Iowa Department of Administrative Services  
Copy of Letter to the Office of Ombudsman

Office of Ombudsman  
Ola Babcock Miller Building  
1112 East Grand  
Des Moines, IA 50319

Dear Ms. Cooperrider:

I would like to file a complaint involving the Department of Administrative Services. I am filing the complaint anonymously because I fear retaliation.

Department of Administrative Services General Counsel Ryan Lamb was on military leave from July to October and continued to receive his state of Iowa salary while on leave. Department of Administrative Services-Human Resources Enterprise State of Iowa Employee Handbook reads: "If you are called for military duty as a member of the National Guard, organized reserve, or any component of the military of the State of Iowa or the United States, you will be paid your regular salary for time spent on military leave for up to 30 calendar days per year. You must provide proper notice to the personnel assistant in your department." Mr. Lamb's military leave was longer than 30 calendar days and the decision to provide him with his regular salary beyond 30 calendar days violated state of Iowa policy.

Mr. Lamb has not been required to take vacation for days away from work including a trip to Florida to take the bar examination.

These actions are a violation of policies that apply to all state of Iowa employees. Why were exceptions made for Mr. Lamb? Who made the exceptions for Mr. Lamb? Why was Mr. Lamb allowed to maintain his salary and health insurance while other state employees on military leave lost theirs after 30 calendar days? Why was Mr. Lamb allowed to work another job on state time and receive compensation for both?

Copies to:  
Senator Tom Courtney  
Senator Jack Hatch  
Senator Wally Horn  
Senator Pam Jochum  
Senator Matt McCoy  
Senator Janet Peterson  
Representative Lisa Heddens  
Representative Rick Olson

Report on a Review of the  
Iowa Department of Administrative Services

Copy of Affidavit

To whom it may concern:

1. I am at least 18 years of age, and am otherwise competent to give this affidavit.
2. I have personal knowledge of the matters set forth herein.
3. I am an attorney practicing law in Wisconsin.
4. I am a Judge Advocate General in the U.S. Army Reserves. My rank is Captain.
5. I attended military lawyer training with Thomas Ryan Lamb ("Ryan") in the Summer and Fall of 2013. We received training at Fort Benning in Georgia and at the The Judge Advocate General Legal School and Center in Virginia.
6. Ryan and I roomed together during the Fort Benning portion of the training.
7. Ryan continued to work for his civilian employer during our training. I observed him performing work during our training, observed him keeping late hours and working weekends to keep up with his civilian work, and talked with him about his civilian work frequently.
8. The time Ryan put in to his civilian job during our military lawyer training was observed and frequently discussed by many of the persons in attendance at our training.

FURTHER AFFIANT SAYETH NOT.

OATH/VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated therein are true.

By: Ryan MacGillis  
Ryan MacGillis

STATE OF: Wisconsin

COUNTY OF: Milwaukee

Sworn to (or affirmed) and subscribed before me this 12 day of August, 2015.

[Signature]  
(Signature of Notary Public)

(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known  or Produced Identification   
Type of Identification Produced: \_\_\_\_\_