



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA

OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

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609 REPORTING

By Rebecca Otto, State Auditor

In Minnesota, unlawful use of public funds is rare. But when evidence is discovered, the public employee or officer making the discovery must promptly report the incident to law enforcement and to the Office of the State Auditor. Minn. Stat. § 609.456, subd. 1 reads, "Whenever a public employee or public officer of a political subdivision . . . discovers evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds, the employee or officer shall promptly report to law enforcement and shall promptly report in writing to the state auditor a detailed description of the alleged incident or incidents."

Under Minn. Stat. § 609.456, a detailed description of the alleged incident(s) must be made "promptly" and in writing. "Prompt" reporting means that the Office of the State Auditor should be contacted when the evidence is first discovered. The report may include information that is classified as not public data.

Information that could reasonably be used to determine the identity of the person making the mandatory report to the Office of the State Auditor is classified as "private" data (Minn. Stat. § 6.715, subd. 2). In this way, Minnesota law protects the identity of the reporter to encourage public employees and officers to come forward with evidence without fear of retribution or retaliation.

To make the reporting obligation easier, a "Report a Concern to the Office of the State Auditor" form is contained on our website at:

http://www.auditor.state.mn.us/other/reportconcern_govtofficial_form.pdf.

Use of the form is not required. However, it provides an outline for making a report. The form asks about the facts, and requests that supporting documentation be provided. The form also asks whether law enforcement has been notified, and whether internal control changes have been put in place in response to the incident. Finally, the Office of the State Auditor

generally does not bill local government for services provided in response to section 609 reports.

Reports should be sent to: Office of the State Auditor, Legal/Special Investigations Division, 525 Park Street, Suite 500, St. Paul, Minnesota 55103.

If you have questions about whether a report should be made, please feel free to contact Nancy Bode, Assistant Legal Counsel, at (651) 297-5853.