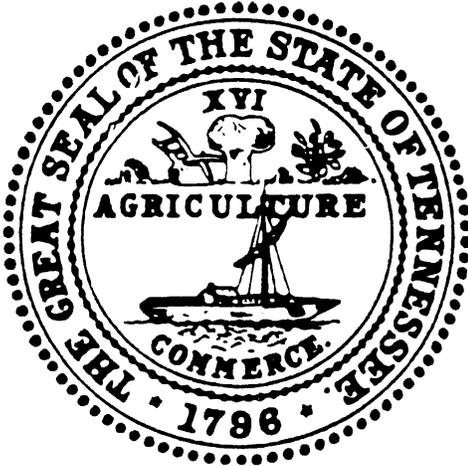


AUDIT REPORT

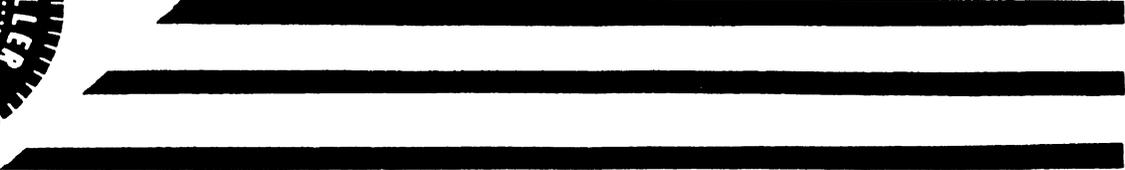
District Public Defenders Conference

April 2007



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit
Division of State Audit



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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
State Capitol
Nashville, Tennessee 37243-0260
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John G. Morgan
Comptroller

April 26, 2007

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and

The Honorable William M. Barker, Chief Justice
Tennessee Supreme Court
401 Seventh Avenue North
Nashville, Tennessee 37219
and

Mr. Jefferey S. Henry, Executive Director
211 Seventh Avenue North, Suite 320
Nashville, Tennessee 37219

Ladies and Gentlemen:

Transmitted herewith is the financial and compliance audit of the District Public Defenders Conference for the period March 1, 2004, through January 31, 2007.

The review of internal control and compliance with laws, regulations, and provisions of contracts or grant agreements resulted in no audit findings.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/cj
07/056



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF STATE AUDIT

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February 22, 2007

The Honorable John G. Morgan
Comptroller of the Treasury
State Capitol
Nashville, Tennessee 37243

Dear Mr. Morgan:

We have conducted a financial and compliance audit of selected programs and activities of the District Public Defenders Conference for the period March 1, 2004, through January 31, 2007.

We conducted our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we obtain an understanding of internal control significant to the audit objectives and that we design the audit to provide reasonable assurance of the District Public Defenders Conference's compliance with laws, regulations, and provisions of contracts or grant agreements significant to the audit objectives. Management of the District Public Defenders Conference is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

Our audit resulted in no audit findings.

Sincerely,

Arthur A. Hayes, Jr., CPA
Director

AAH/cj

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit
District Public Defenders Conference
April 2007

AUDIT SCOPE

We have audited the District Public Defenders Conference for the period March 1, 2004, through January 31, 2007. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contracts or grant agreements in the areas of revenue, expenditures, equipment, payment cards, and district offices. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Tennessee statutes, in addition to audit responsibilities, entrust certain other responsibilities to the Comptroller of the Treasury. Those responsibilities include approving accounting policies of the state as prepared by the state's Department of Finance and Administration; approving certain state contracts; and participating in the negotiation and procurement of services for the state.

AUDIT FINDINGS

The audit report contains no findings.

Financial and Compliance Audit District Public Defenders Conference

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Financial and Compliance Audit District Public Defenders Conference

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the District Public Defenders Conference. The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which requires the Department of Audit to “perform currently a post-audit of all accounts and other financial records of the state government, and of any department, institution, office, or agency thereof in accordance with generally accepted auditing standards and in accordance with such procedures as may be established by the comptroller.”

Section 8-4-109, *Tennessee Code Annotated*, authorizes the Comptroller of the Treasury to audit any books and records of any governmental entity that handles public funds when the Comptroller considers an audit to be necessary or appropriate.

BACKGROUND

The District Public Defenders Conference is a statewide system of elected public defenders. The District Public Defenders have the duty and responsibility of representing persons who do not possess sufficient means to pay reasonable compensation for the services of a competent attorney in criminal prosecution or juvenile delinquency proceedings involving a possible deprivation of liberty. All 31 judicial districts are served by public defenders. The District Public Defenders Conference serves all but two of these districts, the Twentieth and Thirtieth (Davidson and Shelby Counties). The conference has no administrative or financial control over the Twentieth and Thirtieth districts. However, the conference does distribute state appropriations pursuant to Section 8-14-210, *Tennessee Code Annotated*, which prior to July 1, 1991, were distributed by the Supreme Court.

The Office of the Executive Director is the central administrative support for the District Public Defenders Conference.

AUDIT SCOPE

We have audited the District Public Defenders Conference for the period March 1, 2004, through January 31, 2007. Our audit scope included a review of internal control and compliance

with laws, regulations, and provisions of contracts or grant agreements in the areas of revenue, expenditures, equipment, payment cards, and district offices. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The District Public Defenders Conference is in the judicial branch of state government. The conference has chosen to follow certain executive branch policies and procedures including those prescribed by the Department of Finance and Administration and approved by the Comptroller of the Treasury. Tennessee statutes, in addition to audit responsibilities, entrust certain other responsibilities to the Comptroller of the Treasury. Those responsibilities include approving accounting policies of the state as prepared by the state's Department of Finance and Administration; approving certain state contracts; and participating in the negotiation and procurement of services for the state.

PRIOR AUDIT FINDINGS

There were no findings in the prior audit report.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

REVENUE

The objectives of our review of the revenue controls and procedures in the District Public Defenders Conference were to determine whether

- revenue received was properly deposited in a timely manner and was correctly recorded,
- the petty cash funds were appropriately authorized by the Department of Finance and Administration, and
- revenue records were reconciled with the State of Tennessee Accounting and Reporting System (STARS).

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the conference's procedures and controls over revenue. Testwork on revenue collected during the period March 1, 2004, through January 22, 2007, consisted of a nonstatistical sample of cash receipts. The selected transactions were traced to deposit slips and reviewed for adequate support, timeliness of deposit, and proper coding and recording. We compared the conference's petty cash fund amounts with the Department of Finance and Administration's authorized petty cash amounts. We discussed

reconciliation procedures for revenue records with the auditee, and we reviewed the supporting documentation.

Based on our interviews, reviews of supporting documentation, and testwork, we determined that revenue received was properly and timely deposited and correctly recorded. Petty cash funds were appropriately authorized, and revenue records were reconciled with STARS.

EXPENDITURES

The objectives of our review of expenditure controls and procedures were to determine whether

- recorded expenditures for goods and services were adequately supported, properly approved, and correctly recorded in the state's accounting records,
- payments to vendors were made promptly,
- payments for travel were made in accordance with the Comprehensive Travel Regulations, and
- the conference's records were reconciled with reports from the state's accounting system.

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the conference's procedures and controls over expenditures and to determine whether conference records were reconciled with reports from the state's accounting system. We also tested a nonstatistical sample of expenditures for the period March 1, 2004, through November 30, 2006, to determine whether expenditures were adequately supported, properly approved, and correctly recorded in the state's accounting records; payments to vendors were made promptly; and travel expenditures complied with regulations.

Based on our reviews, interviews, and testwork, we determined that recorded expenditures for goods and services were adequately supported, properly approved, and correctly recorded in the state's accounting records; payments to vendors were made promptly; and payments for travel were made in accordance with the Comprehensive Travel Regulations. Also, conference records were reconciled with reports from the state's accounting system.

EQUIPMENT

The objectives of our review of the equipment controls and procedures in the District Public Defenders Conference were to determine whether

- equipment could be located and was properly accounted for in the Property of the State of Tennessee (POST) system,
- lost or stolen equipment was properly reported to the Office of the Comptroller of the Treasury and deleted from POST, and
- equipment was adequately safeguarded.

We interviewed key personnel and reviewed supporting documentation to gain an understanding of the conference's procedures and controls over equipment. We obtained from the Department of General Services a listing of all equipment assigned to the District Public Defenders Conference as of January 4, 2007. We selected a nonstatistical sample of the equipment to determine if the equipment could be located and if the information in POST was correct. Lost or stolen equipment was tested to determine if the equipment was reported to the Comptroller's Office and removed from POST. We observed and discussed the safeguarding of equipment with conference personnel.

Based on the reviews, interviews, and testwork, we determined that equipment could be located and was properly accounted for on POST, lost or stolen equipment was properly reported to the Comptroller's Office and was removed from POST, and equipment was adequately safeguarded.

PAYMENT CARDS

The objectives of our review of the payment card controls and procedures in the District Public Defenders Conference were to determine whether

- cardholders were properly approved,
- purchases made using payment cards were adequately supported and recorded on the transaction log,
- payment card purchases appeared reasonable and necessary for the conduct of state business and did not exceed the single-purchase dollar limit,
- payment card purchases complied with the Department of General Services' purchasing policies and procedures, and
- payment card transaction logs were properly approved and reconciled to the statements and receipts.

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the controls and procedures over payment cards. We obtained a listing of active cardholders and reviewed documentation to determine if the cardholders had received the required approvals to be valid cardholders. We tested a nonstatistical sample of payment card purchases made during the period April 21, 2006, through December 29, 2006, for adequate documentation, reconciliation to the transaction log,

and compliance with the Department of General Services' purchasing policies and procedures. We also tested for purchases which exceeded the single-purchase dollar limit and to determine if the purchases appeared reasonable and necessary for the conduct of state business. We reviewed all transaction logs for proper approvals and reconciled them to the statements and receipts.

Based on our interviews, review of supporting documentation, and testwork, we determined that cardholders were properly approved; purchases were adequately supported and recorded on the transaction logs; purchases appeared reasonable and necessary to conduct state business and did not exceed the single-purchase dollar limit; purchases complied with the Department of General Services' purchasing policies and procedures; and payment card transaction logs were properly approved and reconciled to the statements and receipts.

DISTRICT OFFICES

During each audit, we select various district offices to visit. We selected the following five district offices to visit during this audit: Lebanon, Gallatin, Camden, Somerville, and Trenton. The objectives of our review of the controls and procedures at the district offices we visited were to determine whether

- controls over leave and attendance were adequate and in accordance with conference policy,
- employees paid with grant funds actually performed work for the grant program,
- controls over purchasing at district offices were adequate and in place,
- controls over travel expenses claimed for reimbursement were adequate and travel claims were properly approved and accurate, and
- controls over petty cash were adequate and in place.

We interviewed district office personnel and reviewed leave and attendance policies and procedures for each district office visited to determine whether controls over leave and attendance were adequate and in compliance with conference policy. For employees in each district office visited who were paid with grant funds during the audit period, we obtained the grant from the conference and interviewed key personnel in the district office to determine if the work for the grant program was actually performed.

To determine whether controls over purchasing at the district offices were adequate and in place, we discussed controls and procedures with conference personnel, reviewed the conference's purchasing guidelines, and reviewed invoices and other supporting documentation. To determine whether controls over travel expenses were adequate and travel claims were properly approved and accurate, we discussed controls and procedures with conference personnel and tested a nonstatistical selection of travel claims. We discussed controls and procedures over petty cash with conference personnel, counted the petty cash funds, and reviewed supporting documentation to determine whether controls over petty cash were adequate and in place.

Based on our interviews, reviews, and testwork, we determined that controls over leave and attendance were adequate and in accordance with conference policy; employees paid with grant funds actually performed work for the grant program; controls over purchasing at the district offices were adequate and in place; controls over travel expenses were adequate; travel claims were properly approved and accurate; and controls over petty cash were adequate and in place.

OBSERVATIONS AND COMMENTS

MANAGEMENT'S RESPONSIBILITY FOR RISK ASSESSMENT

Auditors and management are required to assess the risk of fraud in the operations of the entity. The risk assessment is based on a critical review of operations considering what frauds could be perpetrated in the absence of adequate controls. The auditors' risk assessment is limited to the period during which the audit is conducted and is limited to the transactions that the auditors are able to test during that period. The risk assessment by management is the primary method by which the entity is protected from fraud, waste, and abuse. Since new programs may be established at any time by management or older programs may be discontinued, that assessment is ongoing as part of the daily operations of the entity.

Risks of fraud, waste, and abuse are mitigated by effective internal controls. It is management's responsibility to design, implement, and monitor effective controls in the entity. Although internal and external auditors may include testing of controls as part of their audit procedures, these procedures are not a substitute for the ongoing monitoring required of management. After all, the auditor testing is limited and is usually targeted to test the effectiveness of particular controls. Even if controls appear to be operating effectively during the time of the auditor testing, they may be rendered ineffective the next day by management override or by other circumventions that, if left up to the auditor to detect, will not be noted until the next audit engagement and then only if the auditor tests the same transactions and controls. Furthermore, since staff may be seeking to avoid auditor criticisms, they may comply with the controls during the period that the auditors are on site and revert to ignoring or disregarding the control after the auditors have left the field.

The risk assessments and the actions of management in designing, implementing, and monitoring the controls should be adequately documented to provide an audit trail both for auditors and for management, in the event that there is a change in management or staff, and to maintain a record of areas that are particularly problematic. The assessment and the controls should be reviewed and approved by the head of the entity.

FRAUD CONSIDERATIONS

Statement on Auditing Standards No. 99 promulgated by the American Institute of Certified Public Accountants requires auditors to specifically assess the risk of material misstatement of an audited entity's financial statements due to fraud. The standard also restates the obvious premise that management, not the auditors, is primarily responsible for preventing and detecting fraud in its own entity. Management's responsibility is fulfilled in part when it takes appropriate steps to assess the risk of fraud within the entity and to implement adequate internal controls to address the results of those risk assessments.

During our audit, we discussed these responsibilities with management and how management might approach meeting them. We also increased the breadth and depth of our inquiries of management and others in the entity as we deemed appropriate. We obtained formal assurances from top management that management had reviewed the entity's policies and procedures to ensure that they are properly designed to prevent and detect fraud and that management had made changes to the policies and procedures where appropriate. Top management further assured us that all staff had been advised to promptly alert management of all allegations of fraud, suspected fraud, or detected fraud and to be totally candid in all communications with the auditors. All levels of management assured us there were no known instances or allegations of fraud that were not disclosed to us.

AUDIT COMMITTEE

On May 19, 2005, the Tennessee General Assembly enacted legislation known as the "State of Tennessee Audit Committee Act of 2005." This legislation requires the creation of audit committees for those entities that have governing boards, councils, commissions, or equivalent bodies that can hire and terminate employees and/or are responsible for the preparation of financial statements. Entities, pursuant to the act, are required to appoint the audit committee and develop an audit committee charter in accordance with the legislation. The ongoing responsibilities of an audit committee include, but are not limited to:

1. overseeing the financial reporting and related disclosures, especially when financial statements are issued;
2. evaluating management's assessment of risk and the agency's system of internal controls;
3. formally reiterating, on a regular basis, to the board, agency management, and staff their responsibility for preventing, detecting, and reporting fraud, waste, and abuse;
4. serving as a facilitator of any audits or investigations of the agency, including advising auditors and investigators of any information it may receive pertinent to audit or investigative matters;
5. informing the Comptroller of the Treasury of the results of assessment and controls to reduce the risk of fraud; and

6. promptly notifying the Comptroller of the Treasury of any indications of fraud.

The President of the conference has appointed a three-member audit committee, and the audit committee first met on September 20, 2006. The audit committee charter was approved by the Comptroller of the Treasury on October 31, 2006. Additionally, the audit committee has reviewed the conference's conflict-of-interest policies and code of conduct. At the end of audit fieldwork on February 22, 2007, management's risk assessments were ongoing, and once completed, the audit committee will evaluate the agency's corresponding system of internal controls related to those risks.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Section 4-21-901, *Tennessee Code Annotated*, requires each state governmental entity subject to the requirements of Title VI of the Civil Rights Act of 1964 to submit an annual Title VI compliance report and implementation plan to the Department of Audit by June 30 each year. The District Public Defenders Conference filed its compliance reports and implementation plans on June 28, 2006; June 30, 2005; and June 30, 2004.

Title VI of the Civil Rights Act of 1964 is a federal law. The act requires all state agencies receiving federal money to develop and implement plans to ensure that no person shall, on the grounds of race, color, or origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal funds. The Tennessee Title VI Compliance Commission is responsible for monitoring and enforcement of Title VI.

APPENDIX

ALLOTMENT CODES

306.01	District Public Defenders
306.03	Executive Director of the Public Defenders Conference
306.10	Shelby County Public Defender
306.12	Davidson County Public Defender