

AUDIT REPORT

Department of Correction

April 2009



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit
Division of State Audit



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April 2, 2009

The Honorable Phil Bredesen, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and
The Honorable George Little, Commissioner
Department of Correction
Fourth Floor, Rachel Jackson Building
320 Sixth Avenue North
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have conducted a financial and compliance audit of selected programs and activities of the Department of Correction for the period July 1, 2005, through April 30, 2007.

We conducted our audit in accordance with generally accepted government auditing standards. 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 Department of Correction's compliance with laws, regulations, and provisions of contracts or grant agreements significant to the audit objectives. Management of the Department of Correction 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 disclosed certain findings which are detailed in the Objectives, Methodologies, and Conclusions section of this report. The department's management has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

We have reported other less significant matters involving the department's internal control and instances of noncompliance to the Department of Correction's management in a separate letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur A. Hayes, Jr." with a stylized flourish at the end.

Arthur A. Hayes, Jr., CPA
Director

AAH/ddm
07/057

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit

Department of Correction

April 2009

AUDIT SCOPE

We have audited the Department of Correction for the period July 1, 2005, through April 30, 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 payroll and personnel, information systems, equipment, contracts, travel, and the Financial Integrity Act. The audit was conducted in accordance with generally accepted government auditing standards.

AUDIT FINDINGS

The Department Is Still Not Processing All Separation Notices in a Timely Manner, Increasing the Risk of Delays or Complications in the Eligibility Determination Process for Former Employees Seeking Unemployment Benefits*

The department was still not generating separation notices for employees in a timely manner as required by the *Rules of the Department of Labor and Workforce Development* (page 5).

Management Has Not Assessed and Mitigated the Risks Associated With Information Systems Security, Which Increases the Risk of Fraudulent Activity

The Department of Correction staff did not always follow the department's *Management Information Services Procedures Manual* in order to maintain proper information systems security. The wording of this finding does not identify the specific vulnerability that could allow someone to exploit the department's systems (page 7).

* This finding is repeated from the prior audit.

Financial and Compliance Audit Department of Correction

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Financial and Compliance Audit Department of Correction

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the Department of Correction. 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

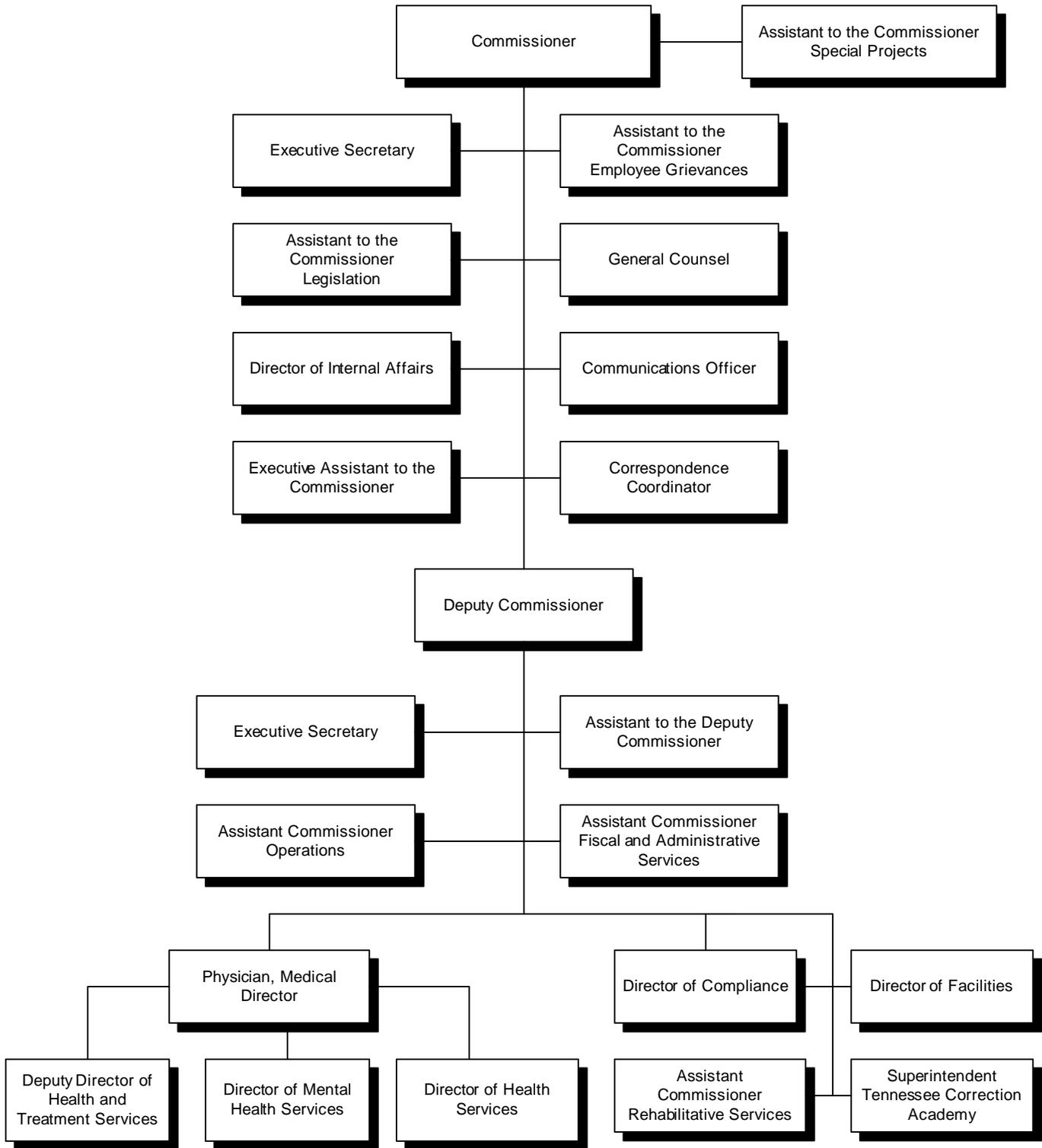
The mission of the Tennessee Department of Correction is to enhance public safety through incarceration of convicted felons; enhance inmate life skills through selected rehabilitative programming; and make implementation of cost-effective measures a clear priority. The department’s vision is to maintain a standard of excellence in security and corrections through the professional development of its employees; the operations of the department are enhanced by technology and best practices and committed to providing opportunities for offenders’ rehabilitation so as to reduce recidivism.

An organization chart of the department is on the following page.

AUDIT SCOPE

We have audited the Department of Correction for the period July 1, 2005, through April 30, 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 payroll and personnel, information systems, equipment, contracts, travel, and the Financial Integrity Act. The audit was conducted in accordance with generally accepted government auditing standards.

Department of Correction Organization Chart



PRIOR AUDIT FINDINGS

Section 8-4-109, *Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The Department of Correction filed its report with the Department of Audit on June 27, 2007. A follow-up of all prior audit findings was conducted as part of the current audit.

RESOLVED AUDIT FINDINGS

The current audit disclosed that the Department of Correction has corrected the previous audit findings concerning

- management's failure to comply with policies governing the drawdown of federal funds;
- inadequate documentation to support military leave taken and lack of compliance with a state statute governing military leave;
- inadequate documentation in files of new employees;
- management's noncompliance with the state's policy governing payroll overpayments and the failure to notify the Comptroller of the Treasury of those overpayments;
- management's lack of established controls over the physical inventories of equipment and the failure to report lost or stolen equipment to the Comptroller's office; and
- management's failure to obtain all approvals for contracts before the beginning of the contract period and before expenditures were incurred.

REPEATED AUDIT FINDING

The prior audit report also contained a finding concerning management's inability to process separation notices in a timely manner. This finding has not been resolved and is repeated in the applicable section of this report.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

PAYROLL AND PERSONNEL

Our objectives in reviewing payroll and personnel controls and procedures at the department were to determine whether

- the department staff complied with the requirements of Section 8-33-109, *Tennessee Code Annotated*, and state guidelines to obtain competent orders supporting employees' military leave and limiting military leave to 15 working days in any one calendar year;
- newly hired employees met the qualifications for their positions, and their personnel files contained all required documentation;
- leave taken by employees under the Family Medical Leave Act (FMLA) was in compliance with applicable rules and regulations;
- employees who were required to complete pre-certification training as a requirement of their position with the department had actually completed the training; and
- the department staff generated separation notices within 24 hours after the effective date of the employees' separation.

To accomplish our objectives, we interviewed key department personnel and observed internal controls to gain an understanding of the department's procedures and controls over payroll and personnel. We also reviewed written policies and procedures. We visited Brushy Mountain Correctional Complex (BMCC), Morgan County Correctional Complex (MCCC), and the Tennessee Prison for Women (TPFW) to perform testwork. We obtained a listing of all military leave taken during calendar year 2006 for the three visited facilities to determine whether the department staff complied with Section 8-33-109, *Tennessee Code Annotated*, governing military leave and state guidelines in regard to competent orders. We also obtained a listing of all departmental employees who took military leave in excess of the 15 days allowed for calendar year 2006. We tested a nonstatistical sample of employees hired for the period July 1, 2005, through December 31, 2006, at BMCC and MCCC to determine if the employees were qualified for their positions and their personnel files contained all required documentation. We tested a nonstatistical sample for the period July 1, 2005, through December 31, 2006, of employees who took leave under the FMLA at BMCC and MCCC, and tested a listing of employees for the same period at TPFW, to determine whether the employees' leave was in compliance with applicable rules and regulations. We tested a listing of departmental employees for the period July 1, 2005, through January 31, 2007, to determine if the employees received precertification training as required by their job classification. In addition, we tested nonstatistical samples of separated employees for the period July 1, 2005, through December 31, 2006, at BMCC and MCCC, and for the period July 1, 2005, through January 31, 2007, at

TPFW, to determine whether department staff generated separation notices within 24 hours after the effective date of the employees' separation.

Based on our interviews, observations, and testwork performed, we determined that

- the department staff complied with the requirements of Section 8-33-109, *Tennessee Code Annotated*, and state guidelines to obtain competent orders supporting employees' military leave and limiting military leave to 15 working days in any one calendar year, with minor exceptions noted;
- in all material respects, newly hired employees met the qualifications for their positions and their personnel files contained all required documentation;
- leave taken by employees under the Family Medical Leave Act (FMLA) was in compliance with applicable rules and regulations, with minor exceptions noted;
- employees who were required to complete precertification training as a requirement of their position with the department had actually completed the training; and
- the department staff did not generate separation notices within 24 hours after the effective date of the employees' separation (see finding 1).

1. The department is still not processing all separation notices in a timely manner, increasing the risk of delays or complications in the eligibility determination process for former employees seeking unemployment benefits

Finding

As noted in the prior audit, the department did not generate employee separation notices within 24 hours of the effective date of an employee's separation from employment. Chapter 0560-1-1-.02(1)(a) of the *Rules of the Department of Labor and Workforce Development* requires that the Department of Correction must provide the employee with a separation notice within 24 hours after the employee's separation from employment, to facilitate the processing of unemployment insurance claims and help make a more accurate determination of a claimant's eligibility for benefits. Management concurred with the prior finding, stating, "Separation notices will be completed by appropriate staff within 24 hours as required by the *Rules of the Department of Labor and Workforce Development*. The Commissioner will ensure that staff are identified to provide ongoing monitoring of compliance with all documentation requirements pertaining to newly hired or separated employees." However, our testwork at Brushy Mountain Correctional Complex (BMCC), Morgan County Correctional Complex (MCCC), and the Tennessee Prison for Women (TPFW) revealed that the problem still exists.

We selected a sample of separated employees at BMCC and MCCC for the period July 1, 2005, through December 31, 2006, and a sample of separated employees at the TPFW for the period July 1, 2005, through January 31, 2007.

Of the 51 separation notices we reviewed, 27 (53%) were generated more than 24 hours after the effective date of the employees' separation:

- Of 26 employees tested at BMCC and MCCC, staff generated separation notices for 11 employees (42%) from 4 to 23 days late (an average of 11 days late).
- Of 25 employees tested at TPFW, staff generated separation notices for 16 employees (64%) from one to 20 days late (an average of 11 days late).

We visited four different state prisons in the prior audit, and the average days late ranged from 10 to 18 days.

We discussed with state prison staff the reasons why the staff had not processed separation notices in a timely manner and, specifically, discussed the delays in their ability to generate separation notices within 24 hours. According to a Personnel Tech II at TPFW, he was unaware of the 24-hour requirement. In addition, a Human Resource Analyst III at MCCC indicated she was aware of the 24-hour requirement but that compliance was not emphasized and staff did not prepare the separation notices until staff obtained all supporting documentation. The Human Resources Director at the Central Office confirmed that all prisons had not yet been sent a notice regarding the 24-hour requirement. The Commissioner sent this notice in a memo on April 30, 2007, after we had visited the prisons. Apparently management did not promptly send this clarification to staff after their receipt of the prior audit finding on November 27, 2006. Based on our discussion with the Human Resources Director, management will monitor compliance with the 24-hour requirement for separation notices in future compliance monitoring of the prisons. However, Department of Correction staff had not yet begun monitoring of the 24-hour requirement when we performed the follow-up testwork in March 2007. Failure by Department of Correction staff to generate separation notices within the required 24 hours could unnecessarily delay or complicate the Department of Labor and Workforce Development's eligibility determination process for former employees seeking unemployment benefits.

Recommendation

As noted in our prior recommendation, the Commissioner should ensure that employees complete separation notices within the required 24 hours. The Human Resources Director needs to follow through with the department's plan for the ongoing monitoring for compliance at the prisons with the 24-hour separation notice requirement for separated employees. Management had an initial risk assessment prepared at the time of our fieldwork, but it did not include the 24-hour separation notice requirement for separated employees. Management should include the risks noted in this finding in management's documented risk assessment.

The Commissioner should continue to ensure that other risks of improper accountability, noncompliance, fraud, waste, or abuse are adequately identified and assessed in management's documented risk assessment. Management should implement effective controls to ensure

compliance with applicable requirements, should assign staff to be responsible for ongoing monitoring of the risks and mitigating controls, and should take action if deficiencies occur.

The risk assessment and the mitigating controls should be adequately documented and approved by the Commissioner.

Management's Comment

We concur. The Human Resources Director will continue to work with the Human Resources staff at the institutions to monitor compliance at the prisons. The Director of Compliance has incorporated an assessment of the completion of the separation notices for separated employees into the inspection instrument utilized to evaluate the Human Resources section at each institution during their annual inspection. Steps have been taken to impact compliance with this requirement over the past ten months, and the department has already seen improvement. The annual monitoring will help identify which institutions need to focus more attention on compliance of this issue.

INFORMATION SYSTEMS

Our objective in reviewing information systems controls and procedures at the department was to determine whether staff followed a section of the department's *Management Information Services Procedures Manual* (MIS Manual) in order to maintain proper information systems security. As discussed in finding 2 below, the specific section of the department's MIS Manual reviewed is not disclosed to avoid identifying the specific vulnerability that could allow someone to exploit the department's systems.

To accomplish our objective, we interviewed department staff and reviewed the MIS Manual to gain an understanding of the department's procedures and controls in order to maintain proper information systems security. We performed testwork to determine if department staff followed a section of the MIS Manual.

As a result of our interviews, MIS Manual review, and testwork performed, we determined that department staff did not always follow the MIS Manual (see finding 2).

2. Management has not assessed and mitigated the risks associated with information systems security, which increases the risk of fraudulent activity

Finding

The Department of Correction staff did not always follow the department's *Management Information Services Procedures Manual* in order to maintain proper information systems security. The department's various information systems contain extensive inmate and employee

data. Our testwork revealed that the department's staff did not always follow the *Management Information Services Procedures Manual*, resulting in an increased risk of fraudulent activity.

The wording of this finding does not identify the specific vulnerability that could allow someone to exploit the department's systems. Disclosing this vulnerability could present a potential security risk by providing readers with information that might be confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. We provided the department with detailed information regarding the specific vulnerability we identified as well as our recommendations for improvement.

Recommendation

The Commissioner should ensure that department staff are informed of the requirements of the department's *Management Information Services Procedures Manual*. The Commissioner also needs to identify staff to be responsible for ongoing monitoring for compliance with the *Management Information Services Procedures Manual* to ensure the manual is followed by department staff. Management should include the risks noted in this finding in management's documented risk assessment.

The Commissioner should also continue to ensure that other risks of improper accountability, noncompliance, fraud, waste, or abuse are adequately identified and assessed in management's documented risk assessment. Management should implement effective controls to ensure compliance with applicable requirements, should assign staff to be responsible for ongoing monitoring of the risks and mitigating controls, and should take action if deficiencies occur.

The risk assessment and the mitigating controls should be adequately documented and approved by the Commissioner.

Management's Comment

We concur. The Director of Compliance has incorporated items associated with the security requirements for the information systems into the annual inspection instruments. A risk analysis was performed, and we agree there was the potential for fraudulent activity. We have been closely monitoring these issues during our department's annual inspection process for over two years. We continue to show significant improvement since the implementation of our monitoring mechanism over the past 18 months. We will persist in those efforts and re-evaluate our approach, if necessary, to make additional improvements.

EQUIPMENT

Our objectives in reviewing equipment procedures and controls at the department were to determine whether

- equipment was adequately safeguarded, and
- information for equipment located in the department's administrative offices in the Rachel Jackson Building was properly recorded in the Property of the State of Tennessee system (POST).

To accomplish our objectives, we interviewed key department staff, observed equipment safeguards, and reviewed supporting documentation to gain an understanding of the department's procedures and controls over equipment and to determine whether equipment was adequately safeguarded. We selected a nonstatistical sample of equipment in the Rachel Jackson Building to determine whether the equipment information was properly recorded in POST. Equipment information included state tag number, description, location, and serial number.

As a result of our interviews, observations, reviews of supporting documentation, and testwork performed, we determined that

- equipment was adequately safeguarded, and
- in all material respects, information for equipment located in the department's administrative offices in the Rachel Jackson Building was properly recorded in POST.

CONTRACTS

Our objective in reviewing the department's contracting function was to determine whether department staff did not make payments on contracts before the contracts were fully approved. We interviewed department staff and reviewed supporting documentation to gain an understanding of the department's procedures and controls over contracts. We tested the five most recently executed contracts from a December 2006 listing of non-competitive contracts to determine whether department staff appropriately made payments on contracts after the contracts were fully approved. Based on our interviews, review of supporting documentation, and testwork, we determined that department staff did make payments on contracts after the contracts were fully approved.

TRAVEL

The department follows the Comprehensive Travel Regulations issued by the state's Department of Finance and Administration. Our objective was to determine if department staff made travel reimbursements in accordance with the Comprehensive Travel Regulations for the

Commissioner, for certain key employees reporting to the Commissioner, and for selected employees at the two prisons we visited.

We interviewed Department of Correction staff and reviewed supporting documentation to gain an understanding of the department's controls and procedures over travel. We tested a listing of all travel expenditures from July 1, 2005, to December 31, 2006, for the Commissioner and six other employees who report to the Commissioner. In addition, we tested travel expenditures at both Brushy Mountain Correctional Complex and Morgan County Correctional Complex for the period July 1, 2005, through December 31, 2006. We tested all travel expenditures for both wardens at these two prisons during this period. In addition, we tested all travel expenditures for every employee paid more than \$1,500 in travel reimbursements at these prisons during this period.

As a result of our interviews, reviews, and testwork performed, we determined that travel reimbursements were made in accordance with the Comprehensive Travel Regulations for the Commissioner, for certain key employees reporting to the Commissioner, and for selected employees at the two prisons we visited.

FINANCIAL INTEGRITY ACT

Section 9-18-104, *Tennessee Code Annotated*, requires the head of each executive agency to submit a letter acknowledging responsibility for maintaining the internal control system of the agency to the Commissioner of Finance and Administration and the Comptroller of the Treasury by June 30 each year. In addition, the head of each executive agency is required to conduct an evaluation of the agency's internal accounting and administrative control and submit a report by December 31, 1999, and December 31 of every fourth year thereafter.

Our objective was to determine whether the department's June 30, 2006, and June 30, 2005, responsibility letters were filed in compliance with Section 9-18-104, *Tennessee Code Annotated*. We reviewed the June 30, 2006, and June 30, 2005, responsibility letters submitted to the Comptroller of the Treasury and to the Department of Finance and Administration to determine adherence to the submission deadline. We determined that the 2006 Financial Integrity Act responsibility letter was submitted late on October 4, 2006, and the 2005 letter was submitted on time.

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. Management's responsibility is 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 entity 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, *Consideration of Fraud in a Financial Statement Audit*, 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.

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 October 1 each year beginning with the Title VI compliance report and implementation plan due in 2007. Prior to 2007, the Title VI compliance report and implementation plan were due by June 30 each year. The Department of Correction filed its compliance reports and implementation plans on June 30, 2006, and on July 1, 2005.

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

Department of Correction allotment codes:

- 329.01 Division of Administration
- 329.04 State Prosecutions
- 329.06 Tennessee Correction Academy
- 329.08 Wayne County Boot Camp
- 329.11 Brushy Mountain Correctional Complex
- 329.13 Tennessee Prison for Women
- 329.14 Turney Center Industrial Prison
- 329.16 Mark H. Luttrell Correctional Center
- 329.17 Charles B. Bass Correctional Complex
- 329.18 Southeastern Tennessee State Regional Correctional Facility
- 329.21 Hardeman County Correctional Facility
- 329.22 Whiteville Correctional Facility
- 329.32 Major Maintenance
- 329.41 West Tennessee State Penitentiary
- 329.42 Riverbend Maximum Security Institution
- 329.43 Northeast Correctional Complex
- 329.44 South Central Correctional Facility
- 329.45 Northwest Correctional Complex
- 329.46 Lois M. DeBerry Special Needs Facility
- 329.50 Sex Offender Treatment Program
- 329.98 Federal Construction Grants
- 329.99 1985 Sentencing Act