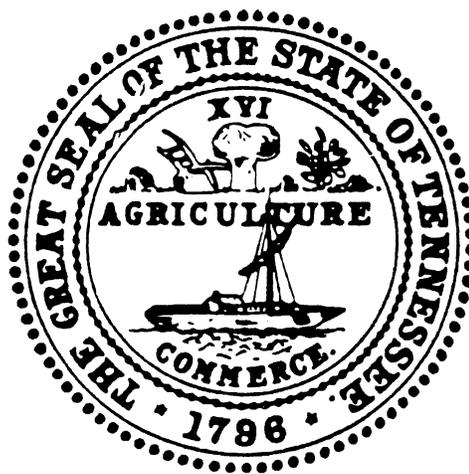


AUDIT REPORT

Office of the Executive Director of the
District Attorneys General Conference

March 2008



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit
Division of State Audit



Arthur A. Hayes, Jr., CPA, JD, CFE
Director

Kandi B. Thomas, CPA, CFE
Assistant Director

Katherine J. Anderson, CPA
Shirley A. Henry, CPA
Audit Managers

Scott Price, CFE
In-Charge Auditor

Crystal Singer
Staff Auditor

Amy Brack
Editor

Comptroller of the Treasury, Division of State Audit
1500 James K. Polk Building, Nashville, TN 37243-0264
(615) 401-7897

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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

State Capitol
Nashville, Tennessee 37243-0260
(615) 741-2501

John G. Morgan
Comptroller

March 25, 2008

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 37219-1407

and

Mr. James W. Kirby, Executive Director
Tennessee District Attorneys General Conference
Suite 800, Capitol Boulevard Building
226 Capitol Boulevard
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the financial and compliance audit of the Office of the Executive Director of the District Attorneys General Conference for the period March 1, 2004, through March 31, 2007.

The review of internal control and compliance with laws, regulations, and provisions of contracts or grant agreements resulted in certain findings which are detailed in the Objectives, Methodologies, and Conclusions section of this report.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/sah
07/071



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF STATE AUDIT
SUITE 1500
JAMES K. POLK STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37243-0264
PHONE (615) 401-7897
FAX (615) 532-2765

July 6, 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 Office of the Executive Director of the District Attorneys General Conference for the period March 1, 2004, through March 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 Office of the Executive Director of the District Attorneys General Conference's compliance with laws, regulations, and provisions of contracts or grant agreements significant to the audit objectives. Management of the conference office 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 conference'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 conference's internal control and instances of noncompliance to the Office of the Executive Director of the District Attorneys General Conference's management in a separate letter.

Sincerely,

Arthur A. Hayes, Jr., CPA
Director

AAH/sah

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit
Office of the Executive Director of the District Attorneys General Conference
March 2008

AUDIT SCOPE

We have audited the Office of the Executive Director of the District Attorneys General Conference for the period March 1, 2004, through March 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 expenditures, child support, equipment, and risk assessment. 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

Management Has Not Assessed and Mitigated the Risks Associated With the Conference Office's Failure to Research Support for Payments to Prevent Overpayments and Duplicate Payments to Vendors, Resulting in Known Overpayments of \$35,000**

The conference office in Nashville does not have a system in place to identify billings that have already been paid, resulting in overpayments and duplicate payments to vendors. During the audit period, there were

54 known overpayments and duplicate payments totaling \$35,346.63 (page 5).

Management Has Not Assessed and Mitigated the Risks Associated With the Failure of the Offices of the District Attorneys General to Maintain Adequate Leave Records and to Ensure That Employees Are Not Paid for Unearned Leave, Resulting in Overpayments to Employees Totaling \$12,287**

Not all offices of the district attorneys

general maintain adequate leave records. Due to the lack of adequate leave records, payments have been made to employees with overdrawn balances. We noted 32 payroll overpayments totaling \$12,286.66 during the audit period, which occurred because the conference office was not notified of the employee's leave without pay until after the payroll had been processed for the applicable period (page 7).

Management of the Office of the Executive Director of the District Attorneys General Conference and the District Attorneys General Have Not Fulfilled Their Responsibility to Formally Assess the Conference's Risks of Errors, Fraud, Waste, and Abuse

Management of the conference and the district attorneys general have not fulfilled their responsibility to formally assess the conference's risks of errors, fraud, waste, and abuse. An ongoing risk assessment is a basic tenet of internal control (page 10).

** This finding is repeated from prior audits.

**Financial and Compliance Audit
Office of the Executive Director of the
District Attorneys General Conference**

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Financial and Compliance Audit Office of the Executive Director of the District Attorneys General Conference

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the Office of the Executive Director of the District Attorneys General 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

As set forth in Section 8-7-307, *Tennessee Code Annotated*, the purpose of the Office of the Executive Director of the District Attorneys General Conference is “to assist in improving the administration of justice in Tennessee by coordinating the prosecutive efforts of the various district attorneys general and by performing the duties and exercising the powers herein conferred.”

The Office of the Executive Director of the District Attorneys General Conference serves as the central administrative office for Tennessee’s 31 district attorneys general, who, although elected by voters of their local districts, are state officials. The conference office is responsible for budgeting, payroll, purchasing, personnel, and administration of state fiscal and accounting matters pertaining to the district attorneys general and their staffs.

The conference office is also responsible for maintaining a liaison between the district attorneys general and other government agencies, including the courts, the General Assembly, and the coordination of multidistrict prosecution; preparation of forms, manuals, and indexes; and development and implementation of training programs.

Title IV-D Child Support Funds

Chapter 974, Public Acts of 1990, provides for the conference office to serve as the fiscal office for the receipt and disbursement of child support incentive funds (distributed under provisions of Section 36-5-107, *Tennessee Code Annotated*) if the office of the district attorney general is the agency actually participating in the child support program.

Fraud and Economic Crimes Prosecution Funds

The Fraud and Economic Crimes Prosecution Act of 1984 provides that district attorneys general have “resources necessary to deal effectively with fraud and other economic crimes, and to provide a means of obtaining restitution in bad check cases prior to the institution of formal criminal charges.” Any fees assessed as a result of this law are collected by the court clerk. The clerk in each county is to deposit the fees in an account with the county trustee in the county of the district attorneys general, who are required to submit an annual report of Fraud and Economic Crime expenditures to the Comptroller of the Treasury.

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

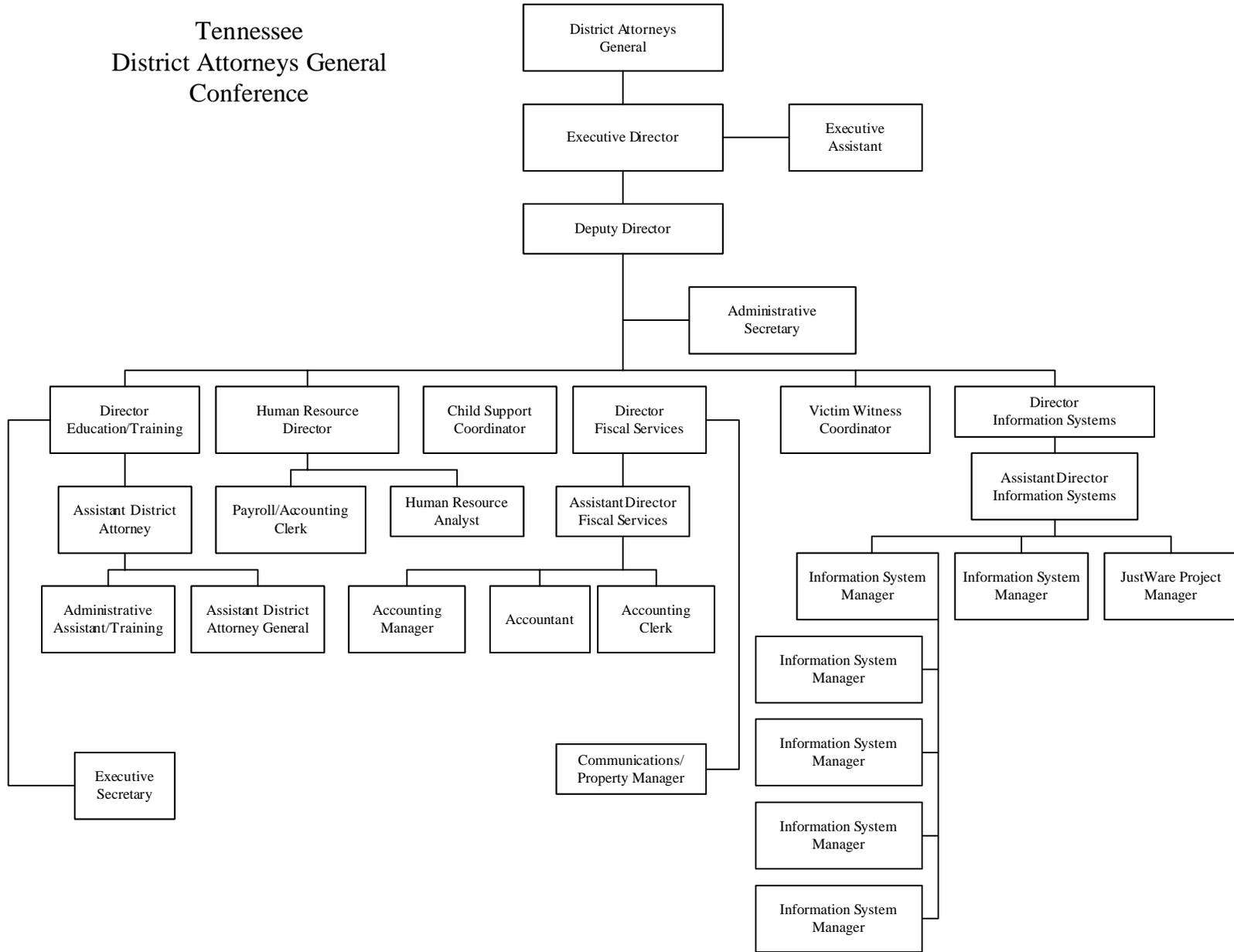
AUDIT SCOPE

We have audited the Office of the Executive Director of the District Attorneys General Conference for the period March 1, 2004, through March 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 expenditures, child support, equipment, and risk assessment. 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.

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 Office of the Executive Director of the District Attorneys General Conference filed its report with the Department of Audit on November 15, 2004. A follow-up of all prior audit findings was conducted as part of the current audit.

Tennessee
District Attorneys General
Conference



RESOLVED AUDIT FINDING

The current audit disclosed that the Office of the Executive Director of the District Attorneys General Conference has corrected the previous audit finding concerning the controls over equipment.

REPEATED AUDIT FINDINGS

The prior audit report also contained findings concerning offices of district attorneys general not maintaining adequate leave records and occurrences of overpayments and duplicate payments to vendors for purchases made by the districts. These findings have not been resolved and are repeated in the applicable sections of this report.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

EXPENDITURES

Our objectives in reviewing the expenditures transactions of the Office of the Executive Director of the District Attorneys General Conference were to determine whether

- expenditures were allowable according to the STOP (Stop Violence Against Women) or DUI grant agreement;
- supporting documentation for the STOP and DUI expenditures was adequate and properly approved;
- expenditures for the STOP and DUI programs were charged to the proper object codes and there was evidence of receipt of goods;
- payroll overpayments to employees were properly reimbursed to the conference; and
- any duplicate payments or overpayments were made.

We discussed the controls for the STOP and DUI expenditures with key personnel to gain an understanding of the conference's procedures over these areas. We reviewed supporting documentation and tested a nonstatistical sample of transactions for the STOP and DUI grants for the period March 1, 2004, through January 31, 2007, to determine whether the expenditures were allowable, adequately supported (including evidence of receipt of goods), properly approved, and recorded correctly. We selected payroll overpayments to employees for the period March 1, 2004, through October 13, 2006, to ensure the conference was properly reimbursed. In addition, we extracted information related to warrant cancellations and credit transactions to search for duplicate payments and overpayments.

As a result of our testwork, we determined that STOP and DUI expenditures were allowable, adequately supported, properly approved, and recorded correctly. However, we found that the conference made many duplicate payments and overpayments as noted in finding 1, and payroll overpayments were not always reimbursed as noted in finding 2.

1. Management has not assessed and mitigated the risks associated with the conference office's failure to research support for payments to prevent overpayments and duplicate payments to vendors, resulting in known overpayments of \$35,000

Finding

As noted in three prior audits, the conference office in Nashville does not have a system in place to identify billings that have already been paid, resulting in overpayments and duplicate payments to vendors. Management concurred with the prior findings but stated, in response to the most recent prior finding, that in order to confirm whether or not an invoice has been previously paid, someone would have to go into STARS [the State of Tennessee Accounting and Reporting System] and verify each payment, and this was not considered reasonable or time efficient because of the large number of invoices processed. Management's response to this finding from the earlier audits is exhibited in the appendix titled "Management's Comments From Prior Audits."

The overpayments and duplicate payments were only discovered because some vendors reported them to management. Expenditure transactions involving warrant cancellations included 23 overpayments totaling \$29,047.96 and 10 duplicate payments totaling \$2,981.40. Revenue transactions involving warrant cancellations included 4 duplicate payments totaling \$334.90. In addition, transactions involving cash payments from vendors included 10 refunds of overpayments totaling \$2,067.09 and 7 duplicate payments totaling \$915.28. In summary, there were 54 known overpayments and duplicate payments totaling \$35,346.63. The actual amount of overpayments and duplicate payments that were not returned by vendors is unknown and would require additional research by the conference office.

The conference pays the bills for each district attorney general's office in the state's 31 judicial districts. Based on our discussion with conference staff, part of the problem with overpayments and duplicate payments may be the result of the staff in the district offices not reviewing invoices and statements as thoroughly as they should before sending them to the conference to be paid. Since each district's staff would be more knowledgeable about which bills may have already been processed, a more thorough review by them could help reduce overpayments and duplicate payments.

Effective management and the proper control environment would require that controls are in place and operating in such a manner that overpayments and duplicate payments would be kept to a minimum. Without a mechanism in place to determine if a vendor's bill has already been paid, there is an increased risk of overpayments and duplicate payments to authorized vendors as well as increased risks for fraud, waste, and abuse associated with payments to unauthorized vendors.

Recommendation

The Director of Fiscal Services should take appropriate measures to establish internal control that will minimize duplicate payments to vendors. Before the vendor invoices are approved for payment, the accounting staff should research information in the accounting system to determine if the vendor has already been paid based on districts and service dates and then maintain the cancelled invoices for management's evidence of payments to vendors. The Director of Fiscal Services should also discuss this problem with responsible staff in each district office and encourage them to ensure invoices and statements have not been previously submitted to the conference for payment.

Management should ensure that risks such as these noted in this finding are adequately identified and assessed in their documented risk assessment activities. Management should identify specific staff to be responsible for the design and implementation of internal controls to adequately mitigate those risks and to prevent and detect exceptions timely. Management should also identify staff to be responsible for ongoing monitoring for compliance with all requirements and taking prompt action should exceptions occur. All controls and control activities, including monitoring, should be adequately documented.

Management's Comment

We do not concur. The conference makes every effort to prevent overpayments and duplicate payments. To say that vendors reported overpayments is a very broad statement. As stated in previous audit responses, many overpayments were due to account closures and copier buyouts quoted to us that actually exceeded the remaining balance. With a total operational budget of \$9,014,500, the \$35,000 noted represents 0.0039% of the total. A significant factor should be noted that the audit staff did not discover these overpayments and duplicate payments. The corrections had already been made. The audit staff simply looked at deposit slips and items that were previously resolved by our staff. We are now approaching 50,000 invoices yearly. The 54 items noted represent 0.0001% of total transactions. The conference tries very hard to ascertain that the invoice is an original and processed only once. The conference is encouraged that EDISON, the state's replacement for STARS, will have mechanisms to detect and flag duplicates before they are processed.

Auditor's Rebuttal

As noted in the finding, we specifically reviewed warrant cancellations and the related justification for each cancellation. We found that the District Attorneys General Conference had received refunds or credits from vendors who claimed they were overpaid by the conference. Neither the conference nor the auditors can know how many vendors may have been overpaid and did not report the overpayment or duplicate payment to the conference. We specifically reviewed these transactions to follow up on the previous finding. We also excluded any amounts related to copier buyouts since that item had been an issue in the previous audit.

Although the conference does not feel the number of transactions or total amount is significant, we did note in the finding that the actual amount of overpayments and duplicate payments that were not returned by vendors is unknown. The point of the finding is that the conference does not have a mechanism in place to prevent overpayments and duplicate payments.

2. **Management has not assessed and mitigated the risks associated with the failure of the offices of the district attorneys general to maintain adequate leave records and to ensure that employees are not paid for unearned leave, resulting in overpayments to employees totaling \$12,287**

Finding

As noted in five prior audits, not all offices of district attorneys general maintain adequate leave records. As established by an Attorney General Opinion issued August 6, 1975, each district attorney general is empowered to institute a reasonable leave policy for his or her own district. However, leave policies vary from district to district, and adequate control does not exist to ensure accurate payroll liabilities are reported timely.

Management concurred with the prior audit findings and in response to the most recent prior finding, stated that the Office of the Executive Director of the District Attorneys General Conference has developed leave and attendance policies and procedures for the districts to follow and continues to strongly urge all districts to adopt these policies. Management also stated that while many of the districts have elected to follow these policies, some have chosen not to do so. Management's response to this finding from the earlier audits is exhibited in the appendix titled "Management's Comments From Prior Audits."

Although many of the districts adopted policies, leave and attendance records are still deficient. Also, those districts with leave policies in place did not always report leave without pay timely for payroll processing. We noted 32 payroll overpayments totaling \$12,286.66 during the audit period. Based on the correspondence reviewed, the overpayments occurred because the conference office was not notified of the employee's leave without pay until after the payroll had been processed for the applicable period. Two of the 32 overpayments totaling \$321.41 have never been collected. Adequate leave records and timely reporting of time and attendance would have prevented overpayments from occurring.

Without accurate district office leave records, there is an increased risk that the conference office will be unable to ensure the accuracy of claims for payment of leave at termination. Accurate and timely leave records allow the Director of Fiscal Services to avoid payroll overpayments and to report an accurate leave liability to the Department of Finance and Administration for inclusion in the state's *Comprehensive Annual Financial Report* as well as ensuring that employees are not being paid for unearned leave.

Recommendation

The Director of Personnel should monitor leave activity. As recurring overpayments and inaccuracies with leave records are discovered for particular districts, those districts should again be encouraged to adopt a formal leave request policy to reduce the administrative cost to the state. The time frames for reporting leave without pay should be reviewed, and districts that consistently report leave without pay should be encouraged to report more timely. All districts that accrue leave should ensure accurate information related to that liability is reported to the state at year-end. The Director of Personnel should review the liabilities reported for reasonableness based on each district's reported policy.

Management should ensure that risks such as these noted in this finding are adequately identified and assessed in their documented risk assessment activities. Management should identify specific staff to be responsible for the design and implementation of internal controls to adequately mitigate those risks and to prevent and detect exceptions timely. Management should also identify staff to be responsible for ongoing monitoring for compliance with all requirements and taking prompt action should exceptions occur. All controls and control activities, including monitoring, should be adequately documented.

Management's Comment

We concur. As stated in previous Management's Comments, the Office of the Executive Director of the District Attorneys General Conference has developed leave and attendance policies and procedures for the districts to follow. The conference office continues to strongly urge all districts to adopt these policies, including the timely reporting of leave without pay. Of the \$12,387 paid to employees without leave, all but \$321 was collected.

CHILD SUPPORT

Under Title IV-D of the Social Security Act, the Department of Human Services (DHS) is the state's designated Child Support Title IV-D agency. Through a contract with the Department of Human Services, the District Attorneys General Conference provides child support enforcement in the applicable districts. The process begins when either a referral is received from DHS or when an application is received from the custodial parent.

The objectives in reviewing child support cases of the Office of the Executive Director of the District Attorneys General Conference were to determine whether

- the application for child support was provided to the individual within an adequate time frame;
- an assessment of the case was performed within the applicable time frame of receiving a referral or application;
- all appropriate location services were used;

- if location efforts were unsuccessful, an effort was made quarterly or when new location information was received, whichever came first;
- if the noncustodial parent was located, a service of process was issued within the applicable time frame;
- if the noncustodial parent was located, service was completed within the applicable time frame;
- if service was unsuccessful, attempts to serve were documented;
- if the noncustodial parent was located, a support order was established within the applicable time frame; and
- enforcement action was initiated within the required time frame.

We discussed child support controls and procedures with key personnel to gain an understanding of the conference's procedures over this area. We reviewed supporting documentation and tested a nonstatistical sample of cases from March 1, 2004, through February 1, 2007, to determine whether an application was provided to the individual within an adequate time frame and the case was assessed within the applicable time frame of receiving a referral or application. Also, we tested the nonstatistical sample to determine that if efforts to locate the noncustodial parent (NCP) were unsuccessful, all appropriate location services were used and efforts were made quarterly or when new information regarding the NCP was received. We tested the nonstatistical sample to determine that if the NCP was located, a service of process was issued within 15 days, the services were completed within 90 days, and a support order was established within 90 days of locating the NCP. Finally, we tested to determine if enforcement actions on the NCP were initiated within the 60-day time frame and if attempts to serve the NCP were documented.

As a result of our testwork, we determined that an application was provided within an adequate time frame; cases were assessed within the applicable time frame; all appropriate location services were used; if location efforts were unsuccessful, appropriate follow-up efforts were made; if the noncustodial parent was located, the service of process was issued and completed within the applicable time frame; if the service of process was unsuccessful, attempts to serve were documented; if the noncustodial parent was located, a support order was established within the applicable time frame; and enforcement action was initiated within the required time frame.

EQUIPMENT

The objectives in reviewing equipment controls of the Office of the Executive Director of the District Attorneys General Conference were to determine whether

- equipment information was properly recorded in the Property of the State of Tennessee (POST) listing;
- equipment could be physically located or confirmed; and

- lost or stolen equipment was promptly reported to the Comptroller's Office and removed from POST timely.

We interviewed key conference personnel to gain an understanding of procedures and controls for safeguarding and accounting for equipment and reviewed these controls and procedures. In addition, we tested a nonstatistical sample of equipment recorded on the conference's inventory listing as of February 2, 2007, and a nonstatistical sample of equipment recorded on POST as of December 1, 2006, to determine actual items agreed by tag number, serial number, description, and location with the POST equipment listing. We also located various equipment items at the field office and determined items were included in POST. Finally, we reviewed documentation reported to the Comptroller's Office related to lost or stolen equipment.

As a result of our testwork, we determined that equipment items were properly located and listed on POST correctly, and we determined that equipment which was lost or stolen was properly reported to the Comptroller's Office and removed from POST timely.

RISK ASSESSMENT

Our objective was to determine whether the Office of the Executive Director of the District Attorneys General Conference and the district attorneys general had assessed the conference's risks of errors, fraud, waste, and abuse. We interviewed key personnel to determine the status of the risk assessment process. As noted in finding 3, we determined that management of the conference and the district attorneys general had not fulfilled their responsibility to formally assess the conference's risks of errors, fraud, waste, and abuse.

3. Management of the Office of the Executive Director of the District Attorneys General Conference and the district attorneys general have not fulfilled their responsibility to formally assess the conference's risks of errors, fraud, waste, and abuse

Finding

The Office of the Executive Director serves as the central administrative office for the District Attorneys General Conference. The office is responsible for budgeting, accounting, payroll, personnel, property management, and the administration of all fiscal matters pertaining to the district attorneys general in the state's 31 judicial districts and their staff. Management of the Office of the Executive Director of the District Attorneys General Conference and the district attorneys general have not fulfilled their responsibility to formally assess the conference's risks of errors, fraud, waste, and abuse. An ongoing risk assessment process is a basic tenet of internal control.

The 2005 edition of *Governmental Accounting, Auditing, and Financial Reporting* (GAAFR) issued by the Government Finance Officers Association summarizes management's basic responsibilities as follows:

All managers share certain basic responsibilities, which include: 1) achieving the entity's purpose (effectiveness); 2) making optimal use of scarce resources (efficiency); 3) observing restrictions on the use of resources (compliance); and 4) periodically demonstrating accountability for the stewardship of resources placed in their care (reporting). Internal control comprises the tools management uses to ensure that it fulfills these important responsibilities.

A comprehensive framework of internal control must possess five essential elements. It must: 1) provide a favorable *control environment*; 2) provide for the *continuing assessment of risk*; 3) provide for the design, implementation, and maintenance of effective *control-related policies and procedures*; 4) provide for the effective *communication* of information; and 5) provide for the ongoing *monitoring* of the effectiveness of control-related policies and procedures, as well as the resolution of potential problems identified by controls.

The above elements are also mentioned in Statement on Auditing Standards Number 55, as amended, promulgated in April 1988.

The GAAFR explains why this must be a continuous process by stating:

Changes in a government's circumstances can render once satisfactory control-related policies and procedures inadequate or obsolete. Also, controls have a natural tendency to deteriorate over time unless management properly maintains them. Accordingly, governments must periodically evaluate control-related policies and procedures to determine whether they have been properly designed and implemented and are still adequate and functioning.

Our discussions with management of the Office of the Executive Director of the District Attorneys General Conference disclosed that they have not fulfilled their responsibility to formally assess the division's risks of errors, fraud, waste, and abuse and to document the risk assessment as of the end of our audit, July 6, 2007. We also found that the district attorneys general offices did not have formal risk assessments. This responsibility is of paramount importance. The other findings noted in this audit, which have now been repeated four and six times, suggest deficiencies with the control environment. Under these circumstances, it is even more imperative that management take affirmative steps to not only correct these findings but to perform an overall risk assessment.

Risks of fraud, waste, and abuse are mitigated by effective internal controls. It is management's responsibility, in addition to performing and documenting a risk assessment, to design, implement, and monitor effective controls in the entity. This too should be an ongoing process.

Recommendation

The Executive Director should take steps to assure that regular periodic risk assessments are conducted. Each assessment should be well documented, complete, and clear. The risk assessment process should involve the active participation of staff; however, management is ultimately responsible for the results of the assessment. The Executive Director should assign specific responsibility to certain staff to see that the assessments are properly conducted and hold staff accountable for performing this critical function. The Executive Director should also assign specific responsibility to certain staff to work with the district attorneys general to establish a risk assessment process for each of the district offices.

The risk assessment should include consideration of the risks of errors, fraud, waste, and abuse related to the District Attorneys General Conference. Management should begin with prior audit findings, ensuring that corrective actions recommended by us have been fully implemented. Management should also think about the general types of problems that can occur, such as conflicts of interest in the procurement processes, overbillings, and theft of funds. The relative materiality of the risks should be considered as well. Qualitative as well as quantitative materiality should be considered. The results of the risk assessment should be used by management to design appropriate internal controls to mitigate identified risks. As such, the risks should be prioritized, so that management can focus their initial attention on the greatest risks. Risks and related controls should be clearly linked.

During the next audit, we will review the risk assessment documentation prepared by management. The results of this review will be part of the basis of our conclusions about the control environment of the entity.

Management's Comment

We do not concur. The Office of the Executive Director has established Fiscal and Administrative policies and procedures to prevent errors, fraud, waste, and abuse. The conference does have a formal Fiscal Manual that lays out, in detail, the expected procedures for procurement, waste prevention, and abuse. These procedures are monitored to evaluate their effectiveness and compliance. The Fiscal Director periodically sends letters to the districts, which identify deficiencies discovered by the accounting staff. These letters address monitoring needs. The District Attorneys General are elected officials and have autonomous control, for their respective offices. It would be unreasonable to expect the Executive Director to be aware of every improper procedural performance. Non-compliance, of these procedures, often falls back on the districts to be resolved with Fraud and Economic Crime Funds. The conference does take errors, fraud, waste, and abuse very seriously. The conference sponsors a Training Seminar to update Fiscal and Administrative policies, as well as reiterate where the districts are failing in compliance with these policies.

Auditor's Rebuttal

As noted in the quote above from the GAAFR, control-related policies and procedures and ongoing monitoring of the effectiveness of those policies and procedures are only two of the essential elements of a comprehensive framework of internal control. Other essential elements include a favorable control environment and the continuing assessment of risk. The repeat findings suggest deficiencies with the control environment, and management has not formally assessed the conference's risks of errors, fraud, waste, and abuse.

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, *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.

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.

In the previous audit report, we recommended that the Office of the Executive Director of the District Attorneys General Conference establish an audit committee. In August 2006, the conference requested an exception to the Audit Committee Act. Shortly before the end of our audit fieldwork, the Comptroller of the Treasury denied the conference's request for an exception to the act. The conference is in preliminary discussions to establish an audit committee.

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 Office of the Executive Director of the District Attorneys General Conference filed its compliance reports and implementation plans on June 29, 2004; June 30, 2005; and June 29, 2006.

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. A summary of the dates state agencies filed their annual Title VI compliance reports and implementation plans is presented in the special report *Submission of Title VI Implementation Plans*, issued annually by the Comptroller of the Treasury.

APPENDICES

MANAGEMENT'S COMMENTS FROM PRIOR AUDITS

Current Finding

Management has not assessed and mitigated the risks associated with the conference office's failure to research support for payments to prevent overpayments and duplicate payments to vendors, resulting in known overpayments of \$35,000

Management's Comments

For the Years Ended June 30, 2001, and June 30, 2000

We concur. Many overpayments result because of utility bills that are refunded due to disconnections, etc. Checking each invoice individually is totally impractical, from a volume stance as well a timing position. We feel that the state's accounting system could better serve the departments, if when an invoice is keyed into the system it would be prompted to show the invoice number has been entered, the warrant number issued and the date of redemption of the warrant.

For the Years Ended June 30, 1999, and June 30, 1998

We concur. We have requested that documentation be sent to this office when goods or services are received in the district offices. This should help minimize any overpayments. The other alternative would be to contact the district offices by phone upon receipt of an invoice which would possibly be more than a full time job for one person. We will monitor the situation in an attempt to comply with the audit finding.

Current Finding

Management has not assessed and mitigated the risks associated with the failure of the offices of the district attorneys general to maintain adequate leave records and to ensure that employees are not paid for unearned leave, resulting in overpayments totaling \$12,287

Management's Comments

For the Years Ended June 30, 2001, and June 30, 2000

We concur. The office has highly recommended that each office adopt a formal leave policy, either the state policy or their own. At least two (2) offices have submitted formal policies to the Department of Personnel for their approval several months ago and have received

no response. This office continues to recommend that each individual District Attorney establish a formal policy. Some have accomplished this.

For the Years Ended June 30, 1999, and June 30, 1998

We concur. We have advised each office that they should either adopt the State of Tennessee leave policy or implement their own leave policy and reduce it to writing. We have further requested that a copy of the leave policy be forwarded to this office. Most have agreed to do so and have already done so. Also, we encourage these offices to use formal leave requests for their employees in order to maintain accurate records. It must be noted that each District Attorney General is an elected official and his or her office remains autonomous. This office can request and encourage that they comply with the leave policy finding, but we cannot require that they do so.

For the Years Ended June 30, 1997, and June 30, 1996

We concur. The Conference office has requested that the 31 districts establish a written leave and attendance policy for their individual offices and submit same to the Conference office and all but four have agreed to comply. In addition, the districts were encouraged to use leave requests for their employees in order to reflect accurate leave records. It should be noted that since the District Attorney General is an elected official, his or her office is autonomous. The Conference office cannot require compliance, but only make a request.

For the Years Ended June 30, 1995, and June 30, 1994

We concur. We will require the district offices to maintain leave records and will suggest and appropriate record-keeping system. Each district will be required to submit a year end report for each state employee that details balances of annual, sick and compensatory time. This report will allow the Assistant Executive Director - Personnel to monitor leave in accordance with each district attorney's policy on an annual basis. For any situations concerning leave that occur during the interim period, district records will be utilized to determine the appropriate action. Monthly monitoring by the Conference will be done when adequate staff is provided to perform this task. In addition, the annual employee leave report submitted to the Conference will allow the Assistant Executive Director - Fiscal to report an accurate annual leave liability to the Department of Finance and Administration. As for establishing a standard leave policy, the Executive Committee has previously reviewed this issue and has concluded that the district attorneys have the option to formulate their own policy.

ALLOTMENT CODES

Office of the Executive Director of the District Attorneys General Conference allotment codes:

- 304.01- District Attorneys General
- 304.05- District Attorneys General Conference
- 304.10- Executive Director
- 304.15- Title IV-D Child Support