

AUDIT REPORT

District Public Defenders Conference

July 2014



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit
Division of State Audit



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July 30, 2014

The Honorable Bill Haslam, Governor
Members of the General Assembly
Mr. Tom Marshall, President
Mr. Jeffrey S. Henry, Executive Director

Ladies and Gentlemen:

Transmitted herewith is the audit of the District Public Defenders Conference for the period January 1, 2012, through December 31, 2013.

The review of internal control and compliance with laws and regulations resulted in no audit findings.

Sincerely,

Deborah V. Loveless, CPA
Director

14/041

Audit Report
District Public Defenders Conference
For the Period January 1, 2012, Through December 31, 2013

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State of Tennessee

A u d i t H i g h l i g h t s

Comptroller of the Treasury

Division of State Audit

District Public Defenders Conference

For the Period January 1, 2012, Through December 31, 2013

Audit Scope

We have audited the District Public Defenders Conference for the period January 1, 2012, through December 31, 2013. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of payroll and personnel; cash receipts; expenditures and procurement cards; travel claims; equipment; and district offices. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

Audit Findings

The audit report contains no findings.

Audit Report
District Public Defenders Conference
For the Period January 1, 2012, Through December 31, 2013

INTRODUCTION

Post-Audit Authority

This audit of the District Public Defenders Conference was conducted pursuant to Section 8-4-109, *Tennessee Code Annotated*, which 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 (the conference), created as part of the judicial branch of the state government in 1989 under Title 8, Chapter 14, *Tennessee Code Annotated*, is a statewide system of elected public defenders. The district public defenders and their staff have the duty of fulfilling the state's obligation under the U.S. and Tennessee Constitutions to provide legal counsel and representation for individuals who face possible incarceration as a result of a criminal prosecution. Each of the state's 31 judicial districts is served by an elected or appointed (in the case of Shelby County) district public defender and a combined staff of approximately 500 people.

The Office of the Executive Director of the District Public Defenders Conference was simultaneously created to coordinate the defense efforts of the various district public defenders and to oversee the conference's annual budget of approximately \$43 million, subject to the guidelines established by conference members. The executive director is selected by vote of all 31 conference members. Neither the executive director nor the conference staff of approximately 17 people has any administrative or fiscal control over the 20th or 30th judicial districts (Shelby and Davidson Counties) outside of distributing state appropriations pursuant to Sections 8-14-210 and 8-14-403(a)(6), *Tennessee Code Annotated*. Prior to July 1, 1991, state appropriations to these two districts were dispersed by the Supreme Court.

Members of the Tennessee General Assembly have indicated their intention that laws and policies applicable to the 31 offices of the District Attorneys General Conference are also applicable to the district public defenders. An August 6, 1975, opinion from the Tennessee Office of the Attorney General established the autonomy of individual district attorney offices in establishing policies separate from those promulgated for executive-branch agencies, based on the Tennessee Constitution, Article 2, Sections 1 and 2, the Doctrine of Separation of Powers. Consequently, each district public defender is allowed to establish administrative policy as deemed appropriate. Even though the conference is not required to follow executive-branch

policies set forth by the Department of Finance and Administration, the conference has elected to follow those policies except in cases where the conference has developed its own internal policy.

AUDIT SCOPE

We have audited the District Public Defenders Conference for the period January 1, 2012, through December 31, 2013. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of payroll and personnel; cash receipts; expenditures and procurement cards; travel claims; equipment; and district offices. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

Payroll and Personnel

The objectives of our review of the payroll and personnel controls and procedures in the District Public Defenders Conference were to determine if

- all districts had a written policy concerning attendance and leave;
- accrued leave reported to the Department of Finance and Administration (F&A) for inclusion in the long-term liability schedule reported in the notes to the *State of Tennessee Comprehensive Annual Financial Report (CAFR)* agreed with conference records;
- each district had a designated timekeeper;
- part-time employees did not receive benefits to which they were not entitled;
- no employee was paid more than those who should be the highest paid in the conference: the elected district public defenders and the executive director; and
- all employees had deductions withheld from paychecks.

To gain an understanding of the conference's procedures and controls over payroll and personnel, we interviewed key personnel and reviewed supporting documentation. In addition to obtaining from management copies of individual districts' leave and attendance policies, we studied F&A instructions for reporting year-end accrued leave and compared the conference's

records to amounts included in the documentation supporting the long-term liability schedule reported in the CAFR. We obtained a listing of timekeepers by district. We also grouped and summarized payroll transactions by employee ID to ensure that part-time employees did not receive benefits to which they were not entitled, that no employee was paid more than those who should be the highest paid in the conference, and that all employees had deductions withheld from paychecks.

Based on our interviews, review of supporting documentation, and testwork performed, we concluded that

- all districts had a written policy concerning attendance and leave;
- accrued leave reported to F&A for inclusion in the long-term liability schedule prepared for the CAFR agreed with conference records;
- each district had a designated timekeeper;
- part-time employees did not receive benefits to which they were not entitled;
- no employee was paid more than those who should be the highest paid in the conference: the elected public defenders and the executive director; and
- all employees had deductions withheld from paychecks.

Cash Receipts

The objectives of our review of cash receipts controls were to ascertain whether

- cash receipts were correctly recorded and supported,
- cash receipts were deposited in accordance with F&A Policy 25, “Deposit Practices Policy,” and
- cash receipts were reconciled against recorded revenues.

We interviewed key personnel, reviewed applicable laws and regulations, and reviewed supporting documentation to develop an understanding of the conference’s procedures and controls over cash receipts. We also tested a nonstatistical sample¹ of cash receipts totaling \$19,837 from a population of \$3,758,538 during the period January 1, 2012, through December 31, 2013, to determine whether cash receipts were properly recorded, supported, and deposited in accordance with F&A Policy 25. In addition, we reviewed management’s reconciliation between cash receipts and recorded revenues.

¹ For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient appropriate audit evidence to support the conclusions in our report. This sample was selected in such a manner as to permit the results to be projected to the population from which the sample was drawn.

Based on our reviews, interviews, and testwork performed, we verified that

- cash receipts were correctly recorded and supported,
- cash receipts were deposited in accordance with F&A Policy 25, and
- cash receipts were reconciled against recorded revenues.

Expenditures and Procurement Cards

The objectives of our review of expenditures and procurement cards were to determine if

- expenditures were adequately supported, properly approved, and correctly recorded;
- petty cash funds were appropriately authorized by the Department of Finance and Administration;
- procurement card holders signed cardholder agreements;
- procurement card holders did not exceed the assigned single-purchase limit; and
- the executive director's office sent the approved budgeted amounts to the public defenders' offices in Shelby and Davidson Counties.

We reviewed applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation. To determine whether the expenditures were adequately supported, properly approved, and correctly recorded, we tested a nonstatistical sample² of expenditures totaling \$3,714.00 from a population of \$4,933,554.32 for the period January 1, 2012, through December 31, 2013. We also compared a listing provided by management of petty cash funds held by individual districts in the conference to a listing of approved bank and petty cash fund accounts provided by the Department of Finance and Administration, to ensure all funds were authorized. In addition to obtaining a listing of individuals possessing procurement cards from management and reviewing the cardholder agreements for each, we grouped Edison procurement card transactions by cardholder to determine if the assigned single-purchase limit was exceeded. We examined all of the quarterly appropriations payments to the public defenders' offices in Shelby and Davidson Counties.

Based on our reviews, interviews, and testwork performed, we concluded that

- expenditures were adequately supported, properly approved, and correctly recorded;
- petty cash funds were authorized by the Department of Finance and Administration;
- procurement card holders signed cardholder agreements;
- procurement card holders did not exceed the assigned single-purchase limit; and

² See footnote 1.

- the executive director's office sent the approved budgeted amounts on to the public defenders' offices in Shelby and Davidson Counties.

Travel Claims

The objectives of our review of travel claims were to determine if

- travel claims were made in accordance with the State of Tennessee Comprehensive Travel Regulations, and
- mileage billed by individual employees on a single day could have been traveled in a single day.

We reviewed applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation. To ascertain whether payments were made in accordance with travel regulations and whether the amount billed for mileage could have been traveled each day covered by the travel claim, we tested a nonstatistical sample³ of travel claims totaling \$6,156.13 from a population of \$1,315,682.33 from January 1, 2012, to December 31, 2013.

Based on our reviews, interviews, and testwork performed, we concluded that

- travel payments were made in accordance with travel regulations, and
- mileage billed by individual employees on a single day could have been traveled in a single day.

Equipment

The objectives of our review of the equipment controls and procedures were to ascertain whether

- a physical inventory following processes prescribed by F&A's Assets Management Division completed during the review period, and
- lost or stolen equipment identified during the most recent physical inventory was properly reported to the Comptroller's Office, as required by Section 8-19-501, *Tennessee Code Annotated*.

We discussed the conference's procedures and controls over equipment with key personnel, reviewed Assets Management instructions regarding conducting a physical inventory, and obtained from Edison records of the most recently conducted physical inventory. For every item that was not located or previously approved for surplus by Assets Management during the physical inventory, we reviewed supporting documentation to test if the lost or stolen item had been properly reported to the Comptroller's Office.

³ See footnote 1.

Based on interviews, reviews, and testwork, we verified that

- a physical inventory following processes prescribed by the Assets Management Division was completed during the review period, and
- lost or stolen equipment identified during the most recent physical inventory had been properly reported to the Comptroller's Office, as required by Section 8-19-501, *Tennessee Code Annotated*.

District Offices

As part of our field work, we visited public defenders' offices in Johnson City (Judicial District 1), Blountville (District 2), Harriman (District 9), Jasper (District 12), Cookeville (District 13), and Jackson (District 26). The objectives of our review of the controls and procedures at the district offices we visited were to find out if

- the district had a method to track and document approval of leave taken;
- employees on the district's payroll existed;
- the custodian of the petty cash fund understood conference policy 16 regarding the use of the fund;
- requests for replenishment of petty cash funds included original receipts and signed reimbursement vouchers, as required by conference policy 16;
- petty cash was stored in a secure location;
- the districts did not have any unauthorized bank accounts;
- there were opportunities to submit the same travel costs for reimbursement from other governments as well as the state; and
- equipment assigned to the districts could be located and contained proper tags.

To gain an understanding of the district offices' procedures to track and document approval of leave taken, we interviewed key personnel at each office. For the six districts we visited, we interviewed and verified the identity of a nonstatistical sample⁴ of 25 out of 69 employees that received payroll for the period January 1, 2012, through December 31, 2013, to determine if the employees existed. We interviewed petty cash custodians about procedures over petty cash and compared their responses to conference policy 16. We reviewed all petty cash fund reimbursement requests from the six district offices for the period January 1, 2012, through December 31, 2013, to establish if the requests included original receipts and signed reimbursement vouchers. Also, we observed the location and access of the petty cash fund in each office and obtained certifications from the public defender of each district visited that there were no bank accounts held by the district office. We asked the public defenders to describe situations where travel claims might be submitted to another government. To determine whether

⁴ See footnote 1.

equipment could be located and was properly tagged, we tested a nonstatistical sample⁵ of 25 out of 1,182 pieces of equipment assigned to the six districts.

Based on interviews, reviews, and testwork, we determined that

- the district had a method to track and document approval of leave taken;
- employees on the district's payroll existed;
- the custodian of the petty cash fund understood conference policy 16 regarding the use of the fund;
- requests for replenishment of petty cash funds included original receipts and signed reimbursement vouchers, as required by conference policy 16;
- petty cash was stored in a secure location;
- the districts did not have any unauthorized bank accounts;
- there were no opportunities to submit the same travel costs for reimbursement from other governments as well as the state; and
- equipment assigned to the districts could be located and contained proper tags.

⁵ See footnote 1.

CHARTS AND TABLES

**STATE OF TENNESSEE
DISTRICT PUBLIC DEFENDERS CONFERENCE
PUBLIC DEFENDERS BY DISTRICT
AS OF DECEMBER 31, 2013**

JUDICIAL DISTRICT	PUBLIC DEFENDER
1	Jeffery C. Kelly
2	Steve Wallace
3	Greg W. Eichelman
4	Edward C. Miller
5	Raymond M. Garner
6	Mark E. Stephens
7	Tom Marshall Jr.
8	Mark Eric Blakley
9	Joe H. Walker
10	Charles R. Hughes Jr.
11	Ardena J. Garth
12	Ben J. Harmon
13	David N. Brady
14	B. Campbell Smoot Jr.
15	Comer L. Donnell
16	Gerald L. Melton
17	Donna L. Hargrove
18	David A. Doyle
19	Roger E. Nell
20	Dawn Deaner
21	Vanessa R. Bryan
22	Claudia S. Jack
23	William B. Lockert III
24	Guy T. Wilkinson
25	Gary F. Antrican
26	George M. Googe
27	Joseph P. Atnip
28	Tom W. Crider
29	James E. Lanier
30	Stephen C. Bush
31	Dan T. Bryant

Source: Conference payroll records and District Public Defenders Conference Management.

Map of Districts



Source: District Public Defenders Conference Management.

**STATE OF TENNESSEE
DISTRICT PUBLIC DEFENDERS CONFERENCE
SUMMARY OF OPENED CASES BY JUDICIAL DISTRICT (UNAUDITED)
JANUARY 1, 2012, THROUGH DECEMBER 31, 2013**

JUDICIAL DISTRICT	GENERAL SESSIONS	CIRCUIT	CRIMINAL	JUVENILE	CRIMINAL APPEALS	SUPREME	TOTAL
1	9,608	0	2,107	85	2	0	11,802
2	9,270	0	3,085	0	57	1	12,413
3	10,518	0	3,306	609	2	3	14,438
4	8,624	2,989	0	306	4	0	11,923
5	8,717	1,816	0	352	19	0	10,904
6*	0	0	0	0	0	0	0
7	7,930	0	1,024	108	1	3	9,066
8	5,596	0	1,191	86	0	0	6,873
9	2,795	0	706	97	1	0	3,599
10	6,559	0	4,186	215	2	0	10,962
11*	0	0	0	0	0	0	0
12	8,157	2,795	0	122	14	2	11,090
13	8,702	0	3,310	112	7	6	12,137
14	7,591	506	739	291	0	0	9,127
15	8,215	0	2,968	167	6	1	11,357
16	8,618	0	4,891	970	0	0	14,479
17	8,271	1,502	0	885	44	3	10,705
18	4,590	0	1,976	105	1	0	6,672
19	6,517	3,795	0	0	38	1	10,351
20*	0	0	0	0	0	0	0
21	3,706	2,374	0	107	3	2	6,192
22	9,306	4,634	0	0	6	2	13,948
23	5,803	2,457	0	159	5	2	8,426
24	3,903	1,430	0	152	6	10	5,501
25	6,579	2,990	0	227	6	1	9,803
26	6,029	1,918	0	80	46	0	8,073
27	2,254	781	0	90	4	0	3,129
28	2,632	885	0	148	4	0	3,669
29	1,743	1,143	0	147	14	1	3,048
30*	0	0	0	0	0	0	0
31	1,277	1,207	0	93	0	0	2,577
TOTAL	173,510	33,222	29,489	5,713	292	38	242,264

*Do not have access to servers.

Source: District Public Defenders Conference Management.

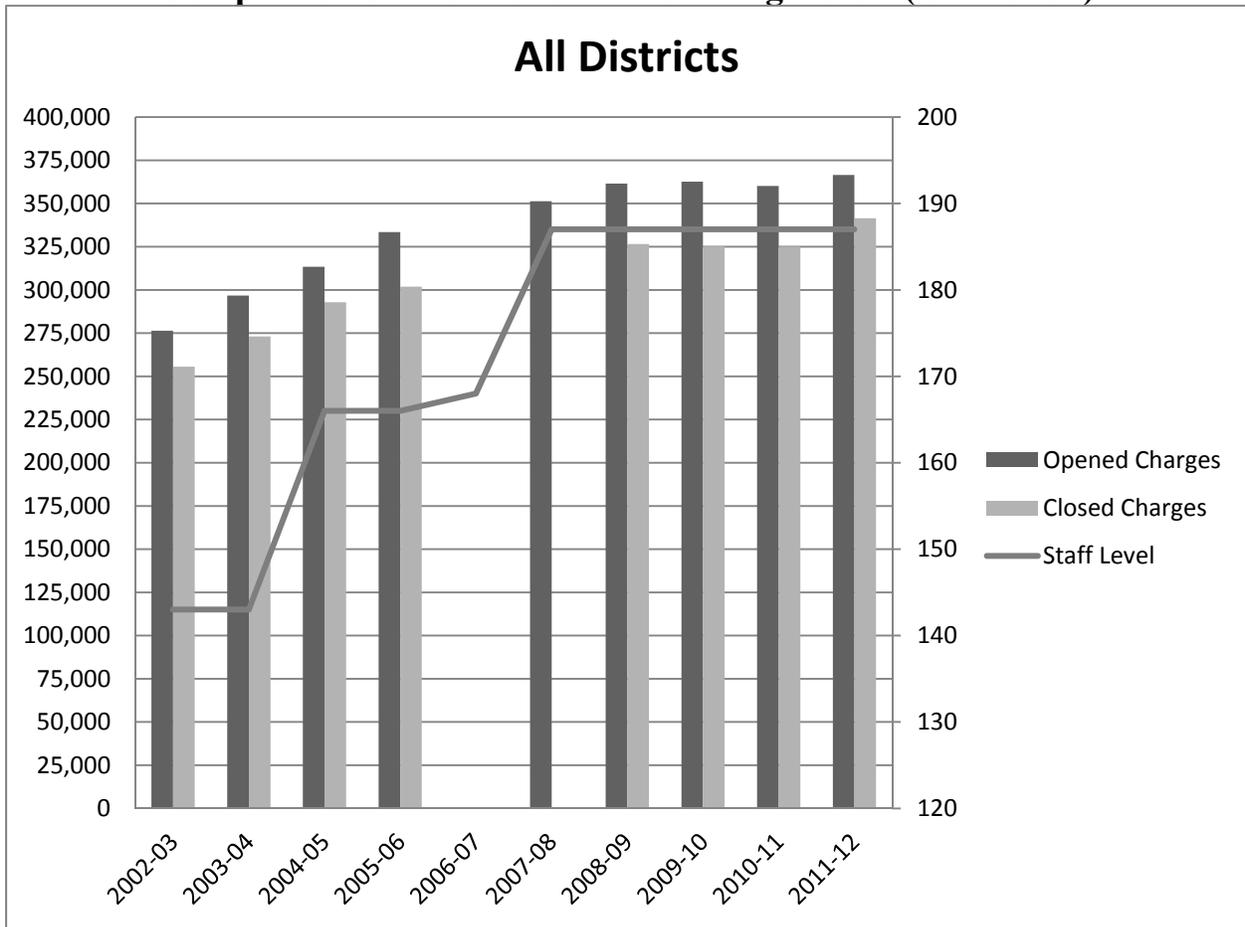
STATE OF TENNESSEE
DISTRICT PUBLIC DEFENDERS CONFERENCE
SUMMARY OF CLOSED CASES REPORT BY JUDICIAL DISTRICT (UNAUDITED)
JANUARY 1, 2012, THROUGH DECEMBER 31, 2013

JUDICIAL DISTRICT	GENERAL SESSIONS	CIRCUIT	CRIMINAL	JUVENILE	CRIMINAL APPEALS	SUPREME	TOTAL
1	9,663	0	2,122	88	5	0	11,878
2	7,791	0	3,038	0	66	1	10,896
3	10,508	0	3,386	611	5	3	14,513
4	8,577	2,859	0	312	4	0	11,752
5	8,796	1,781	0	333	28	0	10,938
6*	0	0	0	0	0	0	0
7	7,605	0	934	103	2	1	8,645
8	5,479	0	1,261	63	1	0	6,804
9	2,750	0	543	108	0	0	3,401
10	6,327	0	4,057	215	4	0	10,603
11*	0	0	0	0	0	0	0
12	7,862	2,814	0	100	23	2	10,801
13	9,186	0	3,319	117	8	6	12,636
14	7,152	568	532	273	0	0	8,525
15	7,869	0	2,876	152	6	0	10,903
16	8,201	0	3,784	1,322	0	0	13,307
17	8,094	1,477	0	850	45	3	10,469
18	4,577	0	1,852	106	1	0	6,536
19	6,549	3,810	0	0	31	0	10,390
20*	0	0	0	0	0	0	0
21	3,643	2,352	3	120	3	3	6,124
22	9,304	4,553	0	0	11	2	13,870
23	5,766	2,506	0	158	9	1	8,440
24	3,753	1,346	0	146	9	10	5,264
25	6,828	3,144	0	230	12	1	10,215
26	5,649	1,913	0	66	36	0	7,664
27	2,081	741	0	83	2	0	2,907
28	2,564	861	0	158	2	0	3,585
29	1,693	1,091	0	150	17	2	2,953
30*	0	0	0	0	0	0	0
31	1,213	1,201	0	88	1	0	2,503
TOTAL	169,480	33,017	27,707	5,952	331	35	236,522

*Do not have access to servers.

Source: District Public Defenders Conference Management.

Comparison of Workloads and Staffing Levels (Unaudited)



Source: District Public Defenders Conference Management.