

AUDIT REPORT

Post-Conviction Defender Oversight Commission

March 2014



STATE OF TENNESSEE COMPTROLLER OF THE TREASURY

Department of Audit

Division of State Audit



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March 31, 2014

The Honorable Bill Haslam, Governor
Members of the General Assembly
The Honorable Charles Keith Bower, Jr., Chair
Ms. Justyna Garbaczewska Scalpone, Post-Conviction Defender

Ladies and Gentlemen:

Transmitted herewith is the audit of the Post-Conviction Defender Oversight Commission 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,

A handwritten signature in black ink that reads "Deborah V. Loveless".

Deborah V. Loveless, CPA
Director

14/061

Audit Report
Post-Conviction Defender Oversight Commission
For the Period January 1, 2012, Through December 31, 2013

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State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Post-Conviction Defender Oversight Commission

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

Audit Scope

We have audited the Post-Conviction Defender Oversight Commission 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 travel, payroll and personnel, and payment cards. 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
Post-Conviction Defender Oversight Commission
For the Period January 1, 2012, Through December 31, 2013

INTRODUCTION

Post-Audit Authority

This audit of the Post-Conviction Defender Oversight Commission 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 Post-Conviction Defender Oversight Commission was established under the provisions of Title 40, Chapter 30, *Tennessee Code Annotated*, effective July 1, 2011, and replaced the former Post-Conviction Defender Commission, which was terminated effective June 30, 2011. It is the mission of the Post-Conviction Defender Oversight Commission to ensure that a qualified attorney is appointed to the position of Post-Conviction Defender and to prepare, administer, and oversee the annual budget of approximately \$2 million of the Office of the Post-Conviction Defender.

The Office of the Post-Conviction Defender was created “to provide for the representation of any person convicted and sentenced to death in this state who is unable to secure counsel due to indigence, and that legal proceedings to challenge that conviction and sentence may be commenced in a timely manner and so as to assure the people of this state that the judgments of its courts may be regarded with the finality to which they are entitled in the interests of justice.” The Office of the Post-Conviction Defender includes the Post-Conviction Defender and 18 other employee positions.

The Post-Conviction Defender Oversight Commission consists of nine members. Three members are appointed by the Governor, three by the speaker of the senate, and three by the speaker of the house of representatives.

The Post-Conviction Defender is to guarantee the highest quality of legal representation of all indigent individuals facing execution by the State of Tennessee to ensure that the death penalty is not imposed or carried out in an arbitrary manner and that individuals charged with or convicted of capital crimes are afforded all constitutional protections to which they are entitled.

AUDIT SCOPE

We have audited the Post-Conviction Defender Oversight Commission 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 travel, payroll and personnel, and payment cards. 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

Travel

The objective of our review of the travel controls and procedures in the Post-Conviction Defender Oversight Commission was to determine whether payments to commission members and office employees for travel were made in accordance with the *Comprehensive Travel Regulations* issued by the state's Department of Finance and Administration.

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the commission's procedures and controls over travel. We also tested a nonstatistical sample¹ of travel claims paid totaling \$7,688 from a population of \$97,512 during the period January 1, 2012, through November 30, 2013, to determine whether travel expenditures were adequately supported, properly approved, and complied with regulations. In addition, we performed analytical procedures to determine if amounts recorded as travel expenditures during December 2013 were consistent with amounts recorded during prior months.

Based on our reviews, interviews, and testwork performed, we determined that payments for travel were made in accordance with the *Comprehensive Travel Regulations*, with two minor exceptions. One travel claim included \$13 for a non-travel related expense for membership dues, and another travel claim did not include documentation supporting the hotel conference rate.

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.

Payroll and Personnel

The objectives of our review of the payroll and personnel controls and procedures were to determine whether

- payroll transactions were properly approved, within the guidelines of the Office of the Post-Conviction Defender Commission, and properly supported;
- payroll disbursements were made for work performed by an employee of the commission;
- newly hired employees or employees who changed positions during the audit period were qualified for their positions;
- the initial wage was correct for newly hired employees; and
- terminated employees' final pay was accurate.

We interviewed key personnel and reviewed supporting documentation to gain an understanding of the commission's procedures and controls over payroll and personnel. We tested a nonstatistical sample² of payroll transactions totaling \$109,470 from a population of \$2,933,064 for the period January 1, 2012, through November 30, 2013, to determine whether payroll transactions were adequately supported, were properly approved, and complied with regulations. We also performed analytical procedures to determine if amounts recorded for payroll during December 2013 were consistent with amounts recorded during prior months. For newly hired employees or employees who changed positions from January 1, 2012, through December 31, 2013, we reviewed personnel files to determine if they contained documentation indicating the employees met the job qualifications. For newly hired employees, we also reviewed initial payroll registers to determine the employees' initial wage was correct. For terminated employees, we reviewed personnel files and final payroll registers to determine if the employees' final pay was accurate.

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

- payroll transactions were properly approved, within the guidelines of the Office of the Post-Conviction Defender Commission, and properly supported, except one employee was paid for 11 days of paid time off to prepare for the Tennessee Bar Exam, and the policy only allows for 10 days of paid leave;
- payroll disbursements were made for work performed by employees of the commission;
- documentation indicated newly hired employees and employees who changed positions during the audit period were qualified for their positions;
- initial wage was correct for newly hired employees; and

² See footnote 1.

- terminated employees' final pay was accurate, with one exception: the timesheet for one employee indicated the employee worked 67.5 hours during the payroll period; however, the employee was only paid for 37.5 hours.

Payment Cards

The objectives of our review of the payment card controls and procedures were to determine whether

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

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the controls and procedures over payment cards. We obtained a listing of cardholders and reviewed documentation to determine if the cardholders had received the required approvals to be valid cardholders. We tested a nonstatistical sample³ of payment card purchases totaling \$8,835 from a population of \$135,174 for the period January 1, 2012, through November 30, 2013, for adequate documentation, reconciliation to the transaction log, and compliance with the Department of General Services' purchasing policies and procedures. We also tested for purchases made which exceeded the single-purchase dollar limit and none were noted. We reviewed a sample of transaction logs for proper approvals and reconciled them to the statements and receipts. In addition, we performed analytical procedures to determine if amounts recorded for payment card purchases during December 2013 were consistent with amounts recorded during prior months.

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

³ See footnote 1.