



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

TENNESSEE ARTS COMMISSION

Financial and Compliance Audit Report

August 2015

Justin P. Wilson, Comptroller



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August 20, 2015

The Honorable Bill Haslam, Governor
Members of the General Assembly
Ms. Anne B. Pope, Executive Director
Tennessee Arts Commission

Ladies and Gentlemen:

Transmitted herewith is the audit of the Tennessee Arts Commission for the period January 1, 2013, through December 31, 2014.

The review of internal control and compliance with laws, regulations, and provisions of contracts or grant agreements resulted in the finding that is detailed in the Objectives, Methodologies, and Conclusions section of this report.

Sincerely,

Deborah V. Loveless, CPA
Director

15/056

Audit Report
Tennessee Arts Commission
For the Period January 1, 2013, Through December 31, 2014

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State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Tennessee Arts Commission

For the Period January 1, 2013, Through December 31, 2014

Audit Scope

We have audited the Tennessee Arts Commission for the period January 1, 2013, through December 31, 2014. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of grant revenues, license plate revenues, expenditures, equipment, payroll and personnel, and commission members. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

Audit Finding

The Tennessee Arts Commission did not enforce all of its eligibility requirements for certain grantees, nor did it ensure that all of its grantees completed Title VI training

The commission did not enforce all of its eligibility requirements when making grant awards from the Student Ticket Subsidy program, the Arts Build Communities program, and the Rural Arts Project Support program (page 6).

Audit Report
Tennessee Arts Commission
For the Period January 1, 2013, Through December 31, 2014

INTRODUCTION

Post-Audit Authority

This audit of the Tennessee Arts 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 Tennessee Arts Commission, with approximately 19 employees and an annual budget of approximately \$8 million, was created in 1967 by the Tennessee General Assembly with the special mandate to stimulate and encourage the presentation of the visual, literary, music, and performing arts and to encourage public interest in the cultural heritage of Tennessee.

The mission of the commission is to cultivate the arts for the benefit of all Tennesseans and their communities. Through a variety of investments, the commission encourages excellence in artistic expression through the state's artists, arts organizations, and arts activities. That commitment has expanded through the years to increase access and opportunities for all citizens to participate in the arts.

The Governor appoints the 15 volunteer members of the commission for five-year terms, selecting from among citizens who have demonstrated a vital interest in the arts. Recommended by the commission to the Governor for appointment, the Executive Director is the lead administrative officer, responsible for engaging a professional staff to carry out the work of the agency. The Tennessee Arts Commission is accounted for in the general fund of the state of Tennessee.

AUDIT SCOPE

We have audited the Tennessee Arts Commission for the period January 1, 2013, through December 31, 2014. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of grant revenues, license plate revenues, expenditures, equipment, payroll and personnel, and commission members. 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.

PRIOR AUDIT FINDINGS

There were no findings in the prior audit report.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

Grant Revenues

The objectives of our review of grant revenues were to determine whether drawdowns were performed in compliance with the requirements of F&A policy and monies drawn down were used for the purposes required by the U.S. Department of Education's Arts in Education grant and the National Endowment of the Arts' Promotion for the Arts Partnership Agreements grant.

We interviewed key personnel; tested a nonstatistical sample¹ of drawdowns totaling \$410,720.76 from a population of \$890,933.81 for the period July 1, 2013, through June 30, 2014; and reviewed supporting documentation to determine whether drawdowns were performed in compliance with the requirements of F&A policy and to determine whether monies drawn down were used for the purposes required by the grantors.

Based on our interviews, testwork, and review of documentation, we determined that drawdowns were performed in compliance with the requirements of F&A policy, and monies drawn down were used for the purposes required by the grantors.

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.

License Plate Revenues

Section 55-4-215, *Tennessee Code Annotated*, designates the Tennessee Arts Commission as a recipient of 40% of the revenues generated from the sale or renewal of new specialty earmarked motor vehicle registration plates. Fifty percent of the revenues allocated may be expended for grants and activities as determined by the commission. Of the remaining 50%, one-third of the funds shall be distributed to qualifying arts organizations or events in urban counties, and two-thirds of the funds shall be distributed to qualifying arts organizations or events in rural counties.

The objective of our review of license plate revenues was to determine whether monies allocated to the commission from the sale of license plates were utilized in accordance with applicable state laws.

We interviewed key personnel, reviewed applicable laws, and reviewed supporting documentation to determine whether monies allocated to the commission from the sale of license plates were utilized in accordance with applicable state laws.

Based on our interviews, review of laws, and review of supporting documentation, we determined that monies allocated to the commission from the sale of license plates were utilized in accordance with applicable state laws.

Expenditures

The objectives of our review of expenditures were to determine whether

- grants were awarded and utilized in compliance with applicable policies and procedures;
- the commission developed and submitted annual subrecipient monitoring plans as required by General Services Policy 2013-007, “Grant Management and Subrecipient Monitoring Policies and Procedures”;
- adequate monitoring was performed, and appropriate documentation was maintained, in accordance with the requirements of General Services Policy 2013-007;
- documentation required by the *State Payment Cardholder/Approver Manual* was maintained;
- procurement card transactions were adequately supported and were allowable expenditures of the commission; and
- overall expenditures recorded in Edison appeared reasonable and were properly supported.

We interviewed key personnel and reviewed policies and procedures to gain an understanding of the commission’s controls and procedures over expenditures. We reviewed supporting

documentation, and tested a nonstatistical sample² of grants awarded in the amount of \$263,502.65 from a population of \$5,299,491.98 for the period July 1, 2013, through June 30, 2014, to determine whether grants were awarded and utilized in compliance with applicable policies and procedures. We reviewed supporting documentation to determine that the commission developed and submitted annual subrecipient monitoring plans as required by General Services Policy 2013-007. We reviewed supporting documentation, and tested a nonstatistical sample of monitored grantees with grants of \$1,750,419.00 from a population of \$3,072,571.00 for the period July 1, 2013, through June 30, 2014, to determine whether monitoring was performed and appropriate documentation was maintained in accordance with the requirements of General Services Policy 2013-007. We reviewed supporting documentation to determine that documentation required by the *State Payment Cardholder/Approver Manual* for cardholders and approvers was maintained. We also obtained a listing of procurement card transactions, and reviewed supporting documentation for transactions that (1) were equal to or greater than \$400 or less than \$0, (2) were transactions of the state museum, and (3) otherwise appeared unusual, to determine that procurement card transactions were adequately supported and were allowable expenditures of the commission. We reviewed supporting documentation to determine that overall expenditures recorded in Edison appeared reasonable and were properly supported.

Based on our interviews, review of policies and procedures, testwork, and review of documentation, we determined that

- grants were awarded and utilized in compliance with applicable policies and procedures except as noted in the finding;
- the commission developed and submitted annual subrecipient monitoring plans as required by General Services Policy 2013-007;
- the monitoring performed and documentation maintained was in compliance with the requirements of General Services Policy 2013-007, with certain exceptions: we noted that the commission did not retain documentation to support transmittal of the monitoring report to the subrecipient, and we noted that the commission did not submit subrecipient monitoring reports to the Division of State Audit;
- documentation required by the *State Payment Cardholder/Approver Manual* for cardholders and approvers was maintained;
- procurement card transactions were adequately supported and were for reasonable and allowable expenditures of the commission with minor exceptions: we found six transactions totaling \$323 for paper goods that should have been purchased from a state-wide contract, and we found two occasions, totaling \$690, when employees other than the procurement cardholder used the card to pay registration fees for continuing education; and
- overall expenditures recorded in Edison appeared reasonable and were properly supported.

² See footnote 1.

The Tennessee Arts Commission did not enforce all of its eligibility requirements for certain grantees, nor did it ensure that all of its grantees completed Title VI training

Condition

The commission did not enforce all of its eligibility requirements when making grant awards from the Student Ticket Subsidy program, the Arts Build Communities program, and the Rural Arts Project Support program. Funding for these programs is provided primarily by state license plate revenues, and a minor portion of the Student Ticket Subsidy program was funded by the U.S. Department of Education’s Arts in Education Model Development and Dissemination grant program. From a sample of 59 applicants awarded funds during the period July 1, 2013, through June 30, 2014, we found that 29 (49%) failed to meet one or more eligibility requirements.

We noted the following discrepancies:

- For nine applicants, the Student Ticket Subsidy application did not contain two separate certifications of assurances as required.
- One applicant did not submit the required Student Ticket Subsidy evaluation for fiscal year 2014 but was awarded funds in fiscal year 2015.
- One applicant used grant funds for items and activities prohibited by the Student Ticket Subsidy program. Funds awarded in the amount of \$154 were used to purchase art supplies, which the program does not allow.
- Three applicants of the Arts Build Communities and the Rural Arts Project Support programs did not provide the necessary documentation to prove that they are 501(c)3 tax-exempt nonprofit organizations.
- The commission could not provide documentation verifying that nineteen grantees completed the required Title VI training.

Criteria

The Student Ticket Subsidy grant guidelines and application require the grant application to include two different assurance certifications: one from the principal/chief authorizing official and one from the contact person/project director. Though these assurances serve other purposes, they chiefly certify that the funds received from the commission will be spent solely for the program described in the application.

Student Ticket Subsidy guidelines state, “No later than thirty (30) days after the completion of the STS activity, the organizing teacher must complete the STS Evaluation . . . **Failure to complete the Evaluation within thirty days will disqualify the school from receiving future STS funding**” [emphasis in original].

Instructions for the fiscal year 2014 Student Ticket Subsidy evaluation state, “Unused funds over \$100 must be returned by check to the Tennessee Arts Commission.”

The Arts Build Communities and the Rural Arts Project Support programs provide funding, either directly or in partnership with regional designated agencies, to eligible federal 501(c)(3) tax-exempt nonprofit organizations and governmental entities. The guidelines for both programs contain identical language regarding applicants' nonprofit status and state that first-time applicants must provide their (1) Tennessee State Charter; (2) Internal Revenue Service 501(c)3 Determination Letter; and (3) most recent copy of the organization's bylaws of the organization by the time of application. The guidelines further state that "[f]ailure to provide all nonprofit status documentation will result in the application being disqualified." In addition, both the Arts Build Communities and the Rural Arts Project Support guidelines require all 501(c)3 applicants receiving awards in subsequent years to verify their tax-exempt status by submitting an "Exempt Organizations Select Check" verification from the IRS with every grant application.

Of the 59 applicants tested during the audit period, 32 were Tennessee public schools, and 27 were nonprofit organizations. In order to comply with Title VI of the *Civil Rights Act of 1964*, Title VI training is required for nonprofit entities not covered by the Tennessee Department of Education's Title VI training system. Title VI Compliance Commission Advisory Memorandum No. 3, released April 14, 2004, states that the state agency's method of administering compliance should include a "training program for sub-recipients regarding Title VI compliance requirements." In order to clarify the training requirement, on May 4, 2011, the Tennessee Human Rights Commission Central Office released Title VI State Policy Guidance #11-01, "Training of Departmental Staff," which states, "All executive branch departments are required to train its staff and subrecipients, to include contractors and grantees on the provisions of Title VI." In addition, Part A.5 of the Delegated Grant Authority Grant Contract, *Required Training*, states that Title VI training is required and must be completed annually.

The commission's Director of Arts Access stated that subrecipients identified as noncompliant with Title VI training are sent a follow-up email noting that failure to submit the required Title VI training may endanger pending or future grant funding.

Cause

The Director of Community Arts Development, the Arts Education Special Projects Coordinator, and the Director of Arts Education did not

- disqualify applications certified twice by the same individual,
- disqualify an application for failure to comply with the fiscal year 2014 evaluation guideline requirements, and
- seek reimbursement of funds used for ineligible activities.

The commission and its regionally designated agencies did not properly review applications for documentation of 501(c)3 tax-exempt status.

The Director of Arts Access, the Grants Analyst, and the Associate Director of Operations did not enforce all subrecipients' completion of the required annual Title VI training and stated that they were not aware of the clarified training requirement for subrecipients not covered under the

Department of Education training. The Director of Arts Access did not maintain documentation of follow-up emails issued to subrecipients identified as noncompliant with Title VI training.

Effect

Not following established grant guidelines increases the risk of state and federal funds being used for other than intended purposes and jeopardizes the receipt of future federal funds. Not verifying an applicant's nonprofit status increases the risk of erroneously awarding funds to ineligible applicants.

Not ensuring Title VI training completion increases the risk of noncompliance with Title VI of the *Civil Rights Act of 1964* and could affect the commission's ability to obtain federal grant awards in the future.

Recommendation

The Executive Director and the Associate Director of Operations should require those responsible for reviewing and approving applications to follow established policies and guidelines to ensure applicants are properly assessed and eligible to receive grant awards. After grants are awarded, the Executive Director and the Associate Director of Operations should implement and monitor controls to ensure Title VI training is completed by all required subrecipients.

Management's Comment

We concur.

- **Requirement for two separate certifications of assurances from Student Ticket Subsidy grant applications.** The Student Ticket Subsidy grant guidelines effective August 4, 2015, for the FY 2016 program have been changed to require only one certification. No significant additional risk is anticipated.
- **Student Ticket Subsidy evaluations and closeouts.** At its regular quarterly meeting on June 10, 2015, the commission board approved a policy change that for FY 2016 "a school awarded a Student Ticket Subsidy grant will be required to submit the grant evaluation before receiving grant funds instead of at closeout." This will prevent issues like the \$154 in unused STS grant funds not returned because only the exact amount of expenditures would be paid. In the case of the \$154, current policy allowed usage of up to \$100 in unused funds for art supplies. The grantee misunderstood and spent the \$154 on art supplies. In agency follow-up, while the elementary school in question offered to reimburse the state for the full \$154 or \$54, management authorized a one-time policy exception given the low dollar amount and the consistency of the expenditure with the overall agency mission.
- **Nonprofit Documentation.** In FY 2014, the agency significantly improved its documentation of current nonprofit status with the first year implementation of a new requirement for an annual IRS SelectCheck report confirming eligibility instead of

the prior system of requesting the original IRS determination letter and relying on the grantee for any updates.

For two of the three agencies in the sample whose files were missing nonprofit status documentation, staff subsequently confirmed eligible status and appropriate payment. The third file showed that the Arts Build Communities (ABC) designated agency had issued a grant to an ineligible nonprofit in error, and that the Tennessee Arts Commission staff had identified the error and followed up to recoup all funds prior to the audit.

New controls for annual grants for FY 2016 include enhanced training for commission staff and an updated file checklist and review process to assure that annual current IRS SelectCheck document is in every file. New controls for ABC grants through designated agencies include a complete review of all FY 2016 grant application SelectCheck documentation by commission staff before award of ABC grants. Commission staff will also provide enhanced training at the next annual designated agencies training meeting in spring 2016.

Looking ahead, the agency will seek a technological solution through an RFQ for a new online grantsmaking system in FY 2017 with a technical requirement for linkage to third party software to automatically verify SelectCheck data for all nonprofit grant applicants.

- **Title VI Training.** For FY 2016 and going forward, the commission changed its policy to require all grantees to submit proof of Title VI training completion with their signed grant contract at the beginning of the grant period instead of throughout the year. Confirming that the proof is in the file is one element of the updated file checklist.

Looking ahead, the agency will seek a technological solution through an RFQ for a new online grantsmaking system in FY 2017 with controls for assuring certification of Title VI training in the grant review process workflow.

Equipment

The objectives of our review of equipment were to determine whether equipment items were adequately safeguarded, and equipment recorded in Edison represented a complete and valid record of the assets physically on hand.

We interviewed key personnel and performed walkthrough procedures to determine that equipment items were physically safeguarded. We tested a nonstatistical³ sample of equipment recorded in Edison with a cost of \$16,871.65 from a population with a cost of \$175,712.74, as of December 31, 2014, to determine that equipment recorded in Edison was on hand. We also

³ See footnote 1.

tested a nonstatistical sample of equipment items physically on hand as of April 10, 2015, to determine that equipment on hand was recorded in Edison. The total historical cost of the items tested in this manner was \$39,547.83.

Based on our interviews, observations, and testwork, we determined that equipment items were adequately safeguarded and equipment recorded in Edison represented a complete and valid record of the assets physically on hand, with minor exceptions. (See Observation and Comment section of this report.)

Payroll and Personnel

The objective of our review of payroll and personnel was to determine whether salaries and benefits were paid to actual employees of the commission.

We interviewed key personnel and reviewed the Edison payroll register for December 31, 2014, and compared it to the organization chart, staff contact listing, and commission meeting minutes.

Based on our interviews and review of documentation, we determined that salaries and benefits were paid to actual employees of the commission.

Commission Members

The objectives of our review of commission members were to determine whether commission members were appointed and served in compliance with applicable legal requirements, such as the members broadly representing all fields of the performing, visual, and literary arts; at least one member was 60 years of age or older; at least one person was a member of a racial minority; and at least one but not more than two members were from each United States congressional district in Tennessee. We sought to determine whether the commission had a process in place to identify and properly address any conflicts of interest related to commission members.

We interviewed key personnel, reviewed applicable laws, and reviewed supporting documentation to determine that commission members were appointed and served in compliance with applicable legal requirements. We interviewed key personnel, reviewed policies and procedures, and reviewed supporting documentation to determine that the commission had a process in place to identify and properly address any conflicts of interest related to commission members.

Based on our interviews and review of documentation, we determined that commission members were appointed and served in compliance with applicable legal requirements and the commission had a process in place to identify and properly address any conflicts of interest related to commission members.

OBSERVATIONS AND COMMENTS

State Museum Transactions

Effective July 1, 2009, State of Tennessee Public Acts, Chapter 497, was enacted, which states, “The duties and functions of the Tennessee Arts Commission relative to the operation of the state museum are transferred to the Douglas Henry State Museum Commission.” Based on our audit procedures, we determined that equipment items belonging to the museum were incorrectly recorded in Edison under the commission’s business unit.

We noted that 21 equipment items belonging to the State Museum, with total historical costs of \$41,662.24, were still on the Arts Commission equipment listing at December 31, 2014. We determined that asset data was entered incorrectly within the Asset Management Module in Edison causing museum equipment to be assigned the Arts Commission business unit. The Asset Management Fiscal Director and other employees at the Department of Finance and Administration were unable to provide an explanation. The Director of Centralized Accounting stated controls will be put in place to review equipment listings on a semi-annual basis, checking for correct business unit and accounting string, to mitigate the risk of inaccurate equipment records in the future.