

**TENNESSEE HUMAN RIGHTS COMMISSION**

**FOR THE YEARS ENDED  
JUNE 30, 1995, AND JUNE 30, 1994**

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November 6, 1996

The Honorable Don Sundquist, Governor  
and

Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

and

Dr. Warren N. Moore, Executive Director  
Tennessee Human Rights Commission  
Suite 400, Cornerstone Square Building  
530 Church Street  
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the compliance audit of the Tennessee Human Rights Commission for the years ended June 30, 1995, and June 30, 1994.

Consideration of the internal control structure and tests of compliance disclosed certain deficiencies, which are detailed in the Results of the Audit section of this report. The commission's administration has responded to the audit findings; the responses are included following each finding. The Division of State Audit will follow up the audit to examine the application of the procedures instituted because of the audit findings.

Very truly yours,

W. R. Snodgrass  
Comptroller of the Treasury

WRS/mm  
96/084

State of Tennessee

# Audit Highlights

Comptroller of the Treasury

Division of State Audit

Compliance Audit

**Tennessee Human Rights Commission**

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

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## AUDIT OBJECTIVES

The objectives of the audit were to consider the commission's internal control structure; to test compliance with certain laws, regulations, contracts, or grants; and to recommend appropriate actions to correct any deficiencies.

## COMPLIANCE FINDINGS

### **Noncompliance With Fair Housing Act**

According to a review performed by the Atlanta Fair Housing Enforcement Center, the commission had a high-aged case load, did not investigate thoroughly or timely, and did not support determinations with evidence (page 10).

### **Noncompliance With Policy Statement 20\***

The commission has not complied with the Department of Finance and Administration's Policy Statement 20 in accounting for and reporting on its federal funds (page 9).

\* This finding is repeated from the prior audit.

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"Audit Highlights" is a summary of the audit report. To obtain the complete audit report which contains all findings, recommendations, and management comments, please contact

Comptroller of the Treasury, Division of State Audit  
1500 James K. Polk Building, Nashville, TN 37243-0264  
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AUDIT REPORT  
TENNESSEE HUMAN RIGHTS COMMISSION  
FOR THE YEARS ENDED JUNE 30, 1995, AND JUNE 30, 1994

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TABLE OF CONTENTS

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	<u>Page</u>
<u>INTRODUCTION</u>	1
Post-Audit Authority	1
Objectives of the Audit	1
Scope of the Audit	1
<u>BACKGROUND AND ORGANIZATION</u>	2
Legislative History	2
Organization	2
<u>PRIOR AUDIT FINDINGS</u>	4
Resolved Audit Findings	4
Repeated Audit Finding	4
<u>OBSERVATIONS AND COMMENTS</u>	4
<u>RESULTS OF THE AUDIT</u>	5
Audit Conclusions	5
Report on the Internal Control Structure	7
Findings and Recommendations	9
1. In the last four fiscal years, the commission did not fully utilize STARS to record receipt and expenditure of all federal funds as required by the Department of Finance and Administration's Policy Statement 20	9

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TABLE OF CONTENTS (CONT.)

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	<u>Page</u>
2. The U.S. Department of HUD refused to certify the commission for the processing of housing discrimination complaints for failure to comply with the requirements of the Fair Housing Act	10
Compliance Report	14

TENNESSEE HUMAN RIGHTS COMMISSION  
FOR THE YEARS ENDED JUNE 30, 1995, AND JUNE 30, 1994

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INTRODUCTION

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**POST-AUDIT AUTHORITY**

This is a report on the compliance audit of the Tennessee Human Rights Commission. The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which authorizes 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.

**OBJECTIVES OF THE AUDIT**

The objectives of the audit were

1. to consider the commission’s internal control structure to determine auditing procedures for the purpose of testing compliance with certain laws, regulations, contracts, or grants;
2. to test compliance with certain laws, regulations, contracts, or grants; and
3. to recommend appropriate actions to correct any deficiencies.

**SCOPE OF THE AUDIT**

The audit is limited to the period July 1, 1993, through June 30, 1995, and was conducted in accordance with generally accepted government auditing standards.

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## BACKGROUND AND ORGANIZATION

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### **LEGISLATIVE HISTORY**

The first state agency responsible for the promotion of civil rights in Tennessee was the Tennessee Commission on Human Relations, established by executive order in 1963. The Tennessee Commission for Human Development was subsequently created by the Public Acts of 1967. The mandate given to the commission was to encourage, promote, and develop fair and equal treatment and opportunity for all Tennesseans regardless of race, color, creed, sex, or national origin; to assist local governmental agencies with human relations; to cooperate with other organizations with similar objectives; to research Tennessee race relations; to report yearly to the Governor and the legislature the commission's activities; and to adopt rules and regulations to govern the proceedings of the commission.

The Public Acts of 1978 increased the commission's responsibility for reducing discrimination in employment and public accommodations in the state. Amendments to the commission's mandate in 1979 and 1980 have given the commission the responsibility for protecting handicapped and aged persons from discrimination. In 1984, discrimination in housing was added to the areas of the commission's coverage. In 1990, familial status and disabilities were added as protected classes from discrimination in housing.

On July 1, 1983, the name of the commission was changed to the Tennessee Human Rights Commission.

### **ORGANIZATION**

The Tennessee Human Rights Commission consists of 15 members (five from each of the three grand divisions of the state). Members are appointed by the Governor for six-year terms and may be reappointed.

An executive director and additional professional staff carry out the commission's duties. The commission maintains regional offices in Memphis, Nashville, and Knoxville.

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

The Tennessee Human Rights Commission is part of the general fund of the State of Tennessee and is responsible for allotment code 316.04.



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## PRIOR AUDIT FINDINGS

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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 Tennessee Human Rights Commission filed its report with the Department of Audit on December 9, 1994. A follow-up of all prior audit findings was conducted as part of the current audit.

### **RESOLVED AUDIT FINDINGS**

The current audit disclosed that the commission has corrected previous audit findings concerning noncompliance with the Financial Integrity Act and failure to utilize the Tennessee Online Purchasing System.

### **REPEATED AUDIT FINDING**

The prior audit report also contains a finding concerning noncompliance with Policy Statement 20. This finding has not been resolved and is repeated in this report.

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## OBSERVATIONS AND COMMENTS

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### Title VI

*Tennessee Code Annotated*, Section 4-21-901, 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, 1994, and each June 30 thereafter. The Tennessee Human Rights Commission filed its compliance report and implementation plan due June 30, 1995, on August 4, 1995, and filed the report due June 30, 1994, on December 8, 1994.

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 ground of race, color, or national 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 State Planning Office in the Executive Department was assigned the responsibility of serving as the monitoring agency for the Title VI compliance, and copies of the required reports were filed with the State Planning Office for evaluation and comment. However, the State Planning Office has been abolished. The Office of the Governor is currently evaluating which office in the Executive Branch will be the new monitoring agency.

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.

### Performance Audit

The Division of State Audit issued a Performance Audit on the Human Rights Commission in October 1995. The report contained a number of significant deficiencies in the commission's operations.

### Governmental Entity Review

During the 1996 Legislative Session, the General Assembly voted to continue the commission's operations for four years, as opposed to a standard eight year continuation given to most agencies.

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## RESULTS OF THE AUDIT

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### **AUDIT CONCLUSIONS**

#### Internal Control Structure

We considered the internal control structure to determine auditing procedures for the purpose of testing compliance with certain laws, regulations, contracts, or grants. The report on the internal control structure is on the following pages. Consideration of the internal control structure disclosed no significant deficiencies.

#### Compliance with Laws and Regulations

With respect to the items tested, the Tennessee Human Rights Commission complied with the provisions of certain laws, regulations, contracts, or grants except for certain instances of

noncompliance included in the findings and recommendations. The compliance report follows the findings and recommendations.

## **Report on the Internal Control Structure**

May 9, 1996

The Honorable W. R. Snodgrass  
Comptroller of the Treasury  
State Capitol  
Nashville, Tennessee 37243

Dear Mr. Snodgrass:

We have applied procedures to test the Tennessee Human Rights Commission's compliance with the provisions of certain laws, regulations, contracts, or grants for the years ended June 30, 1995, and June 30, 1994, and have issued our report thereon dated May 9, 1996. We performed the procedures in accordance with generally accepted government auditing standards.

We considered the Tennessee Human Rights Commission's internal control structure in order to determine our procedures for the purpose of testing the commission's compliance with certain laws, regulations, contracts, or grants and not to provide assurance on the internal control structure.

The Tennessee Human Rights Commission's management is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

The Honorable W. R. Snodgrass  
May 9, 1996  
Page Two

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the commission's ability to comply with laws, regulations, contracts, or grants.

We also noted certain matters involving the internal control structure and its operation that we have reported to the Tennessee Human Rights Commission's management in a separate letter.

This report is intended for the information of the General Assembly of the State of Tennessee and management. However, this report is a matter of public record, and its distribution is not limited.

Sincerely,

Arthur A. Hayes, Jr., CPA, Director  
Division of State Audit

AAH/mm

## FINDINGS AND RECOMMENDATIONS

IN THE LAST FOUR FISCAL YEARS, THE COMMISSION DID NOT FULLY  
UTILIZE STARS TO RECORD RECEIPT AND EXPENDITURE OF ALL FEDERAL  
FUNDS AS REQUIRED BY THE DEPARTMENT OF FINANCE AND  
ADMINISTRATION'S POLICY STATEMENT 20

1. FINDING:

As noted in the prior audit, The Tennessee Human Rights Commission did not comply with the Department of Finance and Administration's Policy Statement 20, "Recording of Federal Grant Expenditures and Revenues." Management concurred with the prior audit finding, but the commission is still not in compliance with the policy.

The Department of Finance and Administration issued Policy 20 in response to the Cash Management Improvement Act of 1990. The policy is designed to establish uniform procedures to "track the exchange of funds between the State and Federal government." However, the commission has not implemented any of the procedures established by the policy. The following weaknesses were noted:

- a. All federal funds were not recorded on the State of Tennessee Accounting and Reporting System (STARS) grant control table when awarded. Policy 20, Section 20-02-201, states, "Agencies receiving Federal funds must load their grants onto the STARS Grant Control Table." The policy further states in Section 20-02-202, "All grant awards must be recorded at the time that grant award notification is received from the Federal government."
- b. Federal drawdowns were not made utilizing the STARS grant control module (report 832). According to Section 20-02-204, "Federal drawdowns must be made utilizing the STARS grant module (available on STARS report Number 832)."
- c. The STARS Grant Activity Report (report 830) was not used as the basis for preparing the Schedule of Federal Financial Assistance. According to Section 20-02-206, "Agencies must utilize the STARS Grant Activity Schedule (Report No. 830) as the basis for preparing the Schedule of Federal [Financial] Assistance required by the Single Audit Act of 1984."
- d. Financial reports submitted to the federal government were not prepared using the STARS grant module. According to Section 20-02-207, "Status reports to the Federal government must be prepared utilizing the STARS grants module."

- e. The internal accounting system used to account for federal grant expenditures and revenues was not reconciled with the STARS grant module.

RECOMMENDATION:

The commission should fully utilize STARS to record receipt and expenditure of all federal funds. The executive director should assign specific responsibility for compliance with the Department of Finance and Administration's Policy Statement 20. The executive director should establish a means to follow up on the progress of staff responsible for this activity and should periodically assess the degree of compliance, taking appropriate steps to remedy noncompliance.

MANAGEMENT'S COMMENT:

We concur. The Commission did not comply with Finance and Administration's Policy 20, which tracks federal revenues. Information pertaining to the Commission's contract with EEOC has been given to the Division of Accounts in order to get this set up in the STARS Grant Control Table. Once this has been completed, the Commission will be able to enter the receipt of federal money into the STARS Grant Table, which will, in turn, enable the Commission to correct the other weaknesses that were noted pertaining to Policy 20.

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THE U.S. DEPARTMENT OF HUD REFUSED TO CERTIFY THE COMMISSION  
FOR THE PROCESSING OF HOUSING DISCRIMINATION COMPLAINTS  
FOR FAILURE TO COMPLY WITH THE REQUIREMENTS  
OF THE FAIR HOUSING ACT

2. FINDING:

The Atlanta Fair Housing Enforcement Center (FHEC), part of the Department of Housing and Urban Development (HUD), reviewed the Tennessee Human Rights Commission in December 1994. According to FHEC's review, the Human Rights Commission had not complied with the standards described in the 24 Code of Federal Regulations, Part 115.4(b). The FHEC review noted the following instances of noncompliance:

- The commission had a high-aged case load.
- Administrative closures were inappropriate.

- Investigations were not complete, thorough, or timely.
- Determinations were not supported by the evidence.
- Conciliation agreements did not contain provisions to protect the interests of the aggrieved person or other protected class members similarly situated, or the public interest.
- There was no evidence the agency had conducted compliance reviews or had any procedures for doing so.
- The agency did not obtain relief designed to prevent recurrences of discriminatory housing practices.

The review was to determine if the commission had met federal requirements and was eligible to receive substantial equivalency certification under the Fair Housing Act. Because the commission had not met the requirements, HUD, in a letter dated March 4, 1996, denied the commission certification. According to HUD, the commission's operations did not demonstrate that complainants were provided rights, procedures, remedies, and the availability of judicial review.

HUD had previously deferred certification in March 1993 because of the insufficient time the Tennessee Human Rights Act had been in effect. However, HUD did enter into an Interim Agreement for up to two years with the commission. Since the commission did not receive the certification, HUD notified the commission on April 8, 1996, that it must immediately send all active cases to the Atlanta HUD office. In addition, the commission's contract for the federal fiscal year 1996 with HUD for the processing of housing discrimination complaints had not been awarded as of May 1996.

When an agency receives a substantial equivalency certification, it processes housing discrimination complaints with occasional monitoring by HUD. However, if an agency is not certified, HUD has to review each housing complaint case to ensure that the case was properly handled in accordance with the Fair Housing Act. Under such circumstances, the agency is not eligible for federal participation in the functions they are performing for housing discrimination complaints. Depending upon other funding sources and the agency's staffing levels, discontinuation of the federal Fair Housing funding could result in budgetary shortfalls.

#### RECOMMENDATION:

The executive director should take action to ensure that the Tennessee Human Rights Commission provides rights, procedures, remedies, and the availability of judicial review for housing discrimination complainants.

## MANAGEMENT'S COMMENT:

The Human Rights Commission has been investigating housing complaints since 1984. Part of that time has been during reimbursement arrangements with the U.S. Department of Housing and Urban Development. It is ironic that within a 12 month period, the Regional office of HUD found that every aspect of this Commission's work was inadequate. The most recent critique of our work was done in 1994. A cursory reading of that document would provide one with an indication of its bias and misrepresentation of facts. This has been refuted on several occasions, in writing and personal conferences with HUD officials in Washington. HUD has stood by its Regional office's appraisal. However, the Washington office takes the position that it no longer wants to discuss the Atlanta performance review, but rather insists upon conducting its own. That review is scheduled for September 9-11, 1996. The Atlanta office will not be involved. We are confident that the Commission will be vindicated after that review. The performance of this Commission has always been a model. There are HUD awards to attest to that fact. Ironically, the three parties in the Atlanta office who participated in the assault upon this Commission have all been transferred or disciplined for unprofessional conduct.

One way of overcoming the problems cited in the HUD review would be to completely adopt an automated tracking system. It will not only provide instant updates and status of cases, but would greatly assist in managing the caseload at both the distribution end as well as during investigation. This effort would be greatly enhanced by the cooperation of Finance and Administration, who has been very slow to approve the purchase of vital computer equipment to complete our system. Without this, there can be no access to any data base.

Ultimately, the resolution to the problem of timeliness is not a function of management at the Commission level. It takes adequate and appropriate staff and equipment. Both of these requirements have been thwarted by State policies restricting employment, development of positions and the acquisition of equipment.

## **REBUTTAL:**

**Contrary to management's comments, the U.S. Department of Housing and Urban Development (HUD) continues to deny certification to the Tennessee Human Rights Commission. There is no evidence that the statements made in the original review have been refuted. In fact, subsequent correspondence from HUD further substantiates the decision to deny certification to the commission. The letter to the commission dated June 18, 1996 from the Assistant Secretary of HUD in Washington, D.C. states:**

**We have carefully reviewed the information and documentation you provided to the Department of Housing and Urban Development. Although we are pleased to learn of**

**changes that have occurred in the THRC's Housing Unit, this does not change the nature and duration of your agency's performance problems.**

**The information does not provide an adequate basis on which to determine that the past deficiencies have been corrected fully, at this time. In accordance with federal regulations at 24 CFR Parts 111 and 115, this letter is the final determination to deny certification to the THRC. In that connection, the Atlanta Fair Housing Enforcement Center (FHEC) will not execute a Fair Housing Assistance Program (FHAP) cooperative agreement nor dual-file complaints with the THRC as of the date of this letter.**

**It is our understanding that another review of the agency by HUD was conducted in September, 1996. The results of this review have not been received by the commission as of October 30, 1996. It is hoped, however, that the commission has taken appropriate action to ensure that the results of this review will be favorable.**

## **Compliance Report**

May 9, 1996

The Honorable W. R. Snodgrass  
Comptroller of the Treasury  
State Capitol  
Nashville, Tennessee 37243

Dear Mr. Snodgrass:

We have applied procedures to test the Tennessee Human Rights Commission's compliance with the provisions of certain laws, regulations, contracts, or grants for the years ended June 30, 1995, and June 30, 1994. We performed the procedures in accordance with generally accepted government auditing standards.

Compliance with laws, regulations, contracts, or grants applicable to the Tennessee Human Rights Commission is the responsibility of the commission's management. Our objective was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests indicate that the Tennessee Human Rights Commission complied with the provisions referred to in the preceding paragraph, except for certain instances of noncompliance included in the Findings and Recommendations section of this report. We also noted other less significant instances of noncompliance that we have reported to the commission's management in a separate letter.

This report is intended for the information of the General Assembly of the State of Tennessee and management. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Arthur A. Hayes, Jr., CPA, Director  
Division of State Audit

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