

**TENNESSEE DISTRICT ATTORNEYS GENERAL
CONFERENCE**

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

January 7, 1997

The Honorable Don Sundquist, Governor
and

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and

Mr. Pat McCutchen, 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 compliance audit of the Tennessee District Attorneys General Conference for the years ended June 30, 1995, and June 30, 1994, and selected transactions subsequent to these dates for matters relating to the problems noted during the audit.

Consideration of the internal control structure and tests of compliance disclosed significant deficiencies in the offices of district attorneys general and in the Office of the Executive Director of the Tennessee District Attorneys General Conference, deficiencies which are detailed in the Results of the Audit section of this report. The findings include numerous problems with travel reimbursements of the former District Attorneys General of the Thirtieth and Sixth Judicial Districts and the former Assistant District Attorney General of the Thirtieth Judicial District.

The former District Attorney General and former Assistant District Attorney General of the Thirtieth Judicial District charged travel expenses on a Shelby County credit card, then submitted a travel claim to the state for these same expenses. The reimbursements from the state should have been paid to Shelby County to cover the credit card charges; however, the funds were improperly retained by the individuals. The former District Attorney General improperly retained \$15,222.63, and the former Assistant District Attorney General improperly retained \$2,520.83. These funds were paid to Shelby County by the individuals after this office inquired about and questioned the practices.

The Honorable Don Sundquist, Governor
Members of the General Assembly
Mr. Pat McCutchen, Executive Director
Tennessee District Attorneys General Conference
January 7, 1997
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The District Attorney General of the Sixth Judicial District improperly retained state payments in the amount of \$649.92 for mileage expenses when he drove a county-assigned vehicle.

The report also contains many other findings concerning weaknesses noted in the operations of the Office of the Executive Director of the Tennessee District Attorneys General Conference.

The Conference's administration, the District Attorneys General involved, and other affected individuals have responded to the audit findings; the responses are included in this report. The Division of State Audit will perform a follow-up of the audit to examine the application of the procedures instituted because of the audit findings.

This report will be referred to the Honorable Charles Burson, Attorney General and Reporter; the Board of Professional Responsibility; the Justices of the Tennessee Supreme Court; the Honorable William Gibbons, District Attorney General, Thirtieth Judicial District; and members of the Executive Committee of the Tennessee District Attorneys General Conference for any action they may deem appropriate. In addition, matters relating to Shelby County will be referred to the Division of County Audit for further review.

Very truly yours,

W. R. Snodgrass
Comptroller of the Treasury

WRS/tp
96/114

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Compliance Audit

Tennessee District Attorneys General Conference

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

(and selected transactions subsequent to these dates for matters relating to the problems noted during the audit)

AUDIT OBJECTIVES

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

INTERNAL CONTROL FINDINGS

The Conference Needs to More Closely Manage the Fiscal Operations of Its Office and Monitor and Oversee the Offices of the District Attorneys General

Management of the Conference did not ensure that the district attorneys general's offices were operated properly. This audit report contains findings regarding serious weaknesses both within the Conference office and the district attorneys general's offices (page 48).

The Conference Office Did Not Provide Adequate Guidance Regarding the Appropriate Use and Accounting of State Office-Expense Funds

The district attorneys general in the four major metropolitan counties (Shelby, Davidson, Knox, and Hamilton) received funds for office expenses as authorized by Section 7, Item 4, of the State Appropriations Bill. Each month the Conference office issued state warrants to these four district attorneys general. The warrants were either negotiated for cash by the district attorneys general or deposited into both personal and governmental bank accounts controlled by the district attorneys general.

Some district attorneys general stated that they had previously asked the Conference office for guidance on the use of the funds and had received no guidance. The Conference office's lack of guidance and oversight allowed the district attorneys general to handle the state-appropriated funds inappropriately (page 52).

The Official Station of the Conference's Deputy Executive Director Was Designated as Memphis

The Deputy Executive Director's official station was designated as Memphis, although the Conference's office is located in Nashville, and the Executive Director, as well as all other administrative staff, work in Nashville. Since the Deputy Executive Director's official station was designated as Memphis, she sought and received state payment for her travel expenses related to her Memphis-Nashville-Memphis round trips. For the 21-month period from October 1994 through June 1996, the state paid the Deputy Executive Director \$15,014.18 for travel expenses she incurred because her official station was Memphis instead of Nashville, the site of the Conference's office (page 55).

Controls Over Property and Equipment and Leased Office Space Were Inadequate

The Conference does not have adequate controls over or accountability for property and equipment and leased office space. Many equipment items were not properly tagged, were not properly recorded on the property listing, and could not be located. Equipment valued at \$27,213.16 was reported lost or stolen to the Comptroller of the Treasury.

The Conference office does not have adequate procedures concerning office space the district attorneys general lease and does not maintain copies of all leases. In some cases, the Conference office and the district attorneys general have not entered into formal lease agreements for the office space currently leased (page 59).

The District Attorneys General's Offices Do Not Maintain Adequate Leave Records

The Conference office does not have sufficient documentation to support payments to employees of the 31 district attorneys general for annual, sick, compensatory, and terminal leave; nor can the Conference accurately report liabilities at fiscal year-end because the districts do not maintain adequate leave records (page 61).

COMPLIANCE FINDINGS

The Former District Attorney General, Thirtieth Judicial District, Submitted Travel Claims to the State and Improperly Retained \$15,222.63 for Expenses That the County Had Paid and That He Had Not Personally Incurred and Was Not Owed

The former District Attorney General's practice was to use a Shelby County credit card for travel expenses. Even though Shelby County paid the credit card charges, the former District Attorney General also submitted these expenses to the state for payment. The former District Attorney General charged \$7,684.28 on the county credit card for expenses associated with his state-paid travel. Although he submitted travel claims to the state for the \$7,684.28 in credit card charges, he did not promptly reimburse the county for the credit card charges when he received the state travel payments. Thus, he improperly retained a substantial portion of the payments that he received from the state for expenses he had not personally incurred.

The former District Attorney General drove a county-owned car and used the county credit card for his automobile expenses. Even though he personally incurred no expenses related to the

operation of the county car, he submitted mileage claims to the state, which the state then paid to him. As a result, he improperly retained \$8,578.12.

Until the issue was raised by the auditors, the former District Attorney General had not reimbursed the county, to any significant extent, the state funds he had collected that were due the county. However, he had regularly submitted personal claims and received payments from the state for his travel since October 1990. The combined amount of his credit card charges associated with his state travel and his state mileage reimbursement was \$16,262.40. Prior to the audit, he had paid the county \$1,039.77. Thus, he owed the county an additional \$15,222.63 (page 12).

A Former Assistant District Attorney General, Thirtieth Judicial District, Submitted Travel Claims to the State and Improperly Retained \$2,520.83 for Expenses That the County Had Paid and That She Had Not Personally Incurred and Was Not Owed

A former Assistant District Attorney General submitted travel claims for the reimbursement of travel expenses that she did not personally incur. The former assistant's practice was to use Shelby County credit cards for travel expenses. Even though Shelby County paid all of her credit card charges, she also submitted these expenses to the state for payment. The former assistant charged the county credit card for expenses associated with her state-paid travel. Although she submitted travel claims to the state, she did not promptly reimburse the county for the credit card charges. Thus, she improperly retained funds that she received from the state for expenses she had not personally incurred.

Until the issue of repayment was raised by the auditors, the former assistant had reimbursed the county only portions of the state funds she had collected that were due the county. However, she had regularly submitted personal claims related to these trips to the state and had received payments from the state for her travel since December 1990. The total amount due the county that was associated with her state travel payments was \$4,533.96. Prior to the audit, she had repaid \$2,013.13. Thus, she owed the county an additional \$2,520.83 (page 36).

The District Attorney General, Sixth Judicial District, Improperly Retained Payments for Mileage Expenses He Did Not Personally Incur

The District Attorney General, Sixth Judicial District, improperly submitted claims and retained payments for mileage when he drove a county-assigned vehicle. The District Attorney General improperly submitted five travel claims totaling \$649.92 for the period August 19, 1992, through June 30, 1996 (page 46).

The Conference Recovered \$326,765.98 of Unallowable Costs From the Child Support Enforcement Program

The Office of the Executive Director to the Tennessee District Attorneys General Conference did not comply with federal regulations concerning allowable costs in the administration of the Child Support Enforcement Program (CFDA 93.563). For the year ended June 30, 1995, the Conference charged \$322,225.34 in excess of actual costs and recovered unallowable costs of \$4,540.64 (page 56).

The Conference Used Child Support Incentive Funds for Non-Child Support Program Purposes, in Violation of State Law

The Conference used the incentive funds to fund a portion of the salaries and other operating expenses of the criminal offices of the district attorneys general. Although the law prohibiting the use of incentive funds for non-child support purposes took effect July 1, 1991, the Conference continued to use these funds for non-child support purposes until June 30, 1995. The current Assistant Executive Director–Fiscal, amended the Conference budget to bring the Conference into compliance with the law, as of July 1, 1995 (page 57).

The Conference Office Did Not Establish a Proper Year-end Cutoff

The Conference did not establish a proper year-end cutoff for financial reporting for the fiscal years ended June 30, 1995, and June 30, 1994. Because the district attorneys general submitted invoices to the Conference after the year-end cutoff deadlines established by the Department of Finance and Administration, the Conference office was unable to meet the Department of Finance and Administration's deadlines (page 63).

The Conference Did Not Process Revenue Journal Vouchers Promptly

As noted in the previous two audits, which covered July 1, 1989, to June 30, 1993, the Conference office has not always initiated revenue journal vouchers promptly. Although steps were taken to correct the problems noted in the prior audit, management failed to implement changes in billing procedures required by Department of Finance and Administration Policy 18, issued in October 1993 (page 64).

ISSUES FOR LEGISLATIVE CONSIDERATION

Numerous Funding Sources of the District Attorneys General

The various sources providing funding to the district attorneys general increase the risk that the same expense item could be submitted for reimbursement to more than one funding source, whether intentionally or as a result of errors. The officials responsible for approving payments at the state and at the county level do not have a mechanism to determine what expenses have also been paid by another funding source. The General Assembly should determine if the various funding sources should continue to be maintained by various governments, with no mechanism to verify that only one source is submitted a claim for reimbursement, or whether the Conference should be fiscal officer for all the district attorneys general's sources of funds (page 5).

Salary Supplements for State Employees and County Funding of District Attorneys General's Offices

Currently, the payment of salary supplements to district attorneys general and their staff is handled differently by the counties providing the supplements. Some counties pay the supplement directly through the county payroll, while others pay the supplement to the Conference office which pays the supplement through the state system. The General Assembly should determine if

it was its legislative intent for Fraud and Economic Crime funds and county appropriations to be used to supplement the salaries of individuals employed by certain district attorneys general's offices. If the salary supplements are considered appropriate, the General Assembly should then consider requiring all salary supplements for the district attorneys general and their staff to be remitted to the state and then paid through the state payroll system.

In addition, some counties subsidize the funding of the district attorneys general's offices by providing county employees to work in the offices, travel expenses of county and state employees, and office space, etc. The General Assembly should consider requiring any county funding of the district attorneys general's offices, except for office space provided in county-owned facilities, to be remitted to the state and then paid through the state system (page 6).

"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
(615) 741-3697

AUDIT REPORT
TENNESSEE DISTRICT ATTORNEYS GENERAL CONFERENCE
FOR THE YEARS ENDED JUNE 30, 1995, AND JUNE 30, 1994

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TENNESSEE DISTRICT ATTORNEYS GENERAL CONFERENCE
FOR THE YEARS ENDED JUNE 30, 1995, AND JUNE 30, 1994

INTRODUCTION

POST-AUDIT AUTHORITY

This is a report on the compliance audit of the Tennessee District Attorneys General Conference. 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 Conference’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.

BACKGROUND AND ORGANIZATION

LEGISLATIVE HISTORY

The Office of the Executive Secretary to the Tennessee District Attorneys General Conference was created in 1972 and became permanent in 1976, as provided in Section 8-7-307, *Tennessee Code Annotated*. The Executive Secretary is elected by the District Attorneys General Conference for a four-year term and is also a member of the Judicial Council. In 1996, the legislature changed the Executive Secretary's title to Executive Director.

ORGANIZATION

The Office of Executive Director of the Tennessee District Attorneys General Conference serves as the central administrative office for Tennessee's 31 district attorneys general. The district attorneys general, although elected by the voters of their local districts, are state officials, and the Office of Executive Director 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 office is also responsible for maintaining liaison between the district attorneys general and other government agencies, including the courts, the General Assembly, the executive branch, and the Office of Attorney General and Reporter. Other duties include coordination of multidistrict prosecution; preparation of forms, manuals, and indexes; and development and implementation of training programs.

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

The Conference is part of the general fund of the State of Tennessee and is responsible for the following divisions and allotment codes:

- 304.05 District Attorneys General Conference—This code provides travel and related expenses associated with the annual Conference, various meetings and committees, and other training the district attorney or his/her staff may attend.
- 304.10 Executive Director—This code provides salaries and operating expenses for the Executive Director's office.
- 304.15 Title IV-D Child Support—This code provides salaries and operating expenses for the 23 districts that have a child support program handled by the district attorney general. These offices are responsible for assisting children and their guardians in locating absent parents and enforcing child support decrees of the court.

IV-D Child Support Funds

Chapter 974, Public Acts of 1990, provides for the Office of the Executive Director of the Tennessee District Attorneys General Conference to serve as the fiscal officer for the receipt and disbursement of child support 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. Chapter 974 further requires all counties having a balance of such funds on hand to forward the funds to the Office of the Executive Director of the Tennessee District Attorneys General Conference.

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 fees in an account with the county trustee in the county of the district attorney general’s residence. These funds are to be disbursed at the direction of the district attorneys general. The district attorneys general are required to submit an annual report of Fraud and Economic Crime expenditures to the Comptroller of the Treasury.

Judicial District Drug Task Force Funds

As part of the Governor’s Alliance for a Drug Free Tennessee, multi-jurisdictional drug task forces under the leadership of district attorneys general were established. These drug task forces were created by contracts (mutual aid agreements) between the participating city and county governments and approved by their legislative bodies. Each judicial district drug task force is to be governed by a board of directors, generally composed of sheriffs and police chiefs of participating law enforcement agencies within each judicial district. Drug task force funds are to be deposited with the county trustee in the county of each district attorney general’s residence or county designated by the district attorney general. The county trustee is to credit these funds to the Judicial District Drug Task Force Fund. All nonconfidential financial operations are to be expended through the Judicial District Drug Task Force Fund under the administration of the county executive or the appropriate county agency. The director of the drug task force is to submit requisitions to the county executive for goods and services which are to be obtained through the county’s purchasing system. Cash transactions for confidential funds are to be requisitioned and disbursed under the supervision of the drug task force director or chairman.

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 Tennessee District Attorneys General Conference filed its report with the Department of Audit on January 31, 1996. 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 Conference has corrected previous audit findings concerning the need to require district attorneys general to submit annual funding reports. The current audit also disclosed that the Conference has corrected previous findings from a special report concerning the excessive salary increase for the agency's former fiscal director, the failure to make appropriate salary adjustments for leave without pay before the former fiscal director retired, unauthorized bank accounts established by the Conference and the Shelby County District Attorney's office, ineffective controls over the Conference's special bank account, the former fiscal director's apparent misappropriation of funds from the Conference's special bank account, improper expense claims submitted by the former director of governmental relations, the need to adequately safeguard assets, and the need to immediately report the apparent misappropriation of state funds and property to the Comptroller of the Treasury. Many of these prior findings were attributable to staff whose employment was terminated, effectively remedying the underlying condition.

REPEATED AUDIT FINDING

The prior audit report also contained a finding concerning the need to initiate journal vouchers in a timely manner. This finding has not been resolved and is repeated in this report.

ISSUES FOR LEGISLATIVE CONSIDERATION

Numerous Funding Sources of the District Attorneys General

As stated in Finding 4, the district attorneys general have various funding sources and receive funds from some or all of the following sources: state appropriations, city and county appropriations, Fraud and Economic Crime funds, Federal Asset Forfeiture funds, Drug Task

Force funds, Victim/Witness Asset Program funds, and cost collection funds. These funds and county appropriations are typically on deposit with the county trustee and are spent and accounted for through the applicable county's accounting system. The Office of the Executive Director of the Conference is the fiscal officer for state appropriations of each district attorney general's office and has been specifically designated as fiscal officer for child support incentive funds pursuant to Section 8-7-602(b), *Tennessee Code Annotated*. In addition, Section 8-7-602(a) provides for individual district attorneys general to designate the Executive Director as fiscal officer for the other federal and local government funds they receive; however, none of the 31 district attorneys general have exercised this option.

These various sources increase the risk that the same expense item could be submitted for reimbursement to more than one funding source, whether intentionally or as a result of errors. The officials responsible for approving payments at the state and at the county level do not have a mechanism to determine what expenses have also been paid by another funding source.

The General Assembly should determine if the various funding sources should continue to be maintained by various governments, with no mechanism to verify that only one source is submitted a claim for reimbursement, or whether the Conference should be fiscal officer for all the district attorneys general's sources of funds.

Salary Supplements for State District Attorney General Employees and County Funding of District Offices

Currently, the payment of salary supplements to district attorneys general and their staff is handled differently by the counties providing the supplements. Some counties pay the supplement directly to the employee through the county payroll, while others pay the supplement to the Conference office which pays the supplement to the employee through the state payroll system.

The General Assembly should determine if it was its legislative intent for Fraud and Economic Crime funds and county appropriations to be used to supplement the salaries of individuals employed by certain district attorneys general's offices. If the salary supplements are considered appropriate, the General Assembly should then consider requiring all salary supplements for the district attorneys general and their staff to be remitted to the state and then paid through the state payroll system.

In addition, some counties subsidize the funding of the district attorneys general's offices by providing county employees to work in the district attorneys general's office, travel expenses of county and state employees, and office space, etc. The General Assembly should consider requiring any county funding of the district attorneys general's offices, except for office space provided in county-owned facilities, to be remitted to the state and then paid through the state system.

OBSERVATIONS AND COMMENTS

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. For the year ended June 30, 1995, the Tennessee District Attorneys General Conference filed its compliance report and implementation plan on July 6, 1995, and in a letter to the Comptroller of the Treasury dated December 21, 1994, indicated that the June 30, 1994, report was pending.

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 annually in the special report, *Submission of Title VI Implementation Plans*, issued annually by the Comptroller of the Treasury.

Review of County-Funded District Attorney General Travel

Because of problems noted with travel reimbursements at the Thirtieth Judicial District, all the districts that received funding from a county for travel expenses were visited during the audit.

At the following districts, all the travel claims submitted by district attorneys general and their staff during the audit period were reviewed to determine if claims for the same travel were submitted for reimbursement to more than one of the district attorneys general's funding sources.

Second Judicial District

Eleventh Judicial District

Sixth Judicial District

Thirteenth Judicial District

Eighth Judicial District

Fifteenth Judicial District

Eighteenth Judicial District
Nineteenth Judicial District
Twentieth Judicial District
Twenty-First Judicial District
Twenty-Third Judicial District
Twenty-Fourth Judicial District

Twenty-Sixth Judicial District
Twenty-Seventh Judicial District
Twenty-Eighth Judicial District
Twenty-Ninth Judicial District
Thirtieth Judicial District

We noted problems in the handling of travel reimbursements at the Sixth and Thirtieth Judicial Districts. (See Findings 1, 2, and 3 in this report.) A minor error noted in the Eighteenth Judicial District has not been included in the findings and recommendations section in this report.

Review of the Special Funds of the District Attorneys General

The special funds of the 31 district attorneys general were reviewed by the Comptroller of the Treasury, Department of Audit, Division of County Audit, for the fiscal years ended June 30, 1995, June 30, 1994, and June 30, 1993. These funds include Fraud and Economic Crimes Prosecution Act funds, Judicial District Drug Task Force funds, and Federal Asset Forfeiture funds. The Division of County Audit noted material findings regarding the administration of the special funds in 11 districts for the year ended June 30, 1995, in 15 districts for the year ended June 30, 1994, and in 16 districts for the year ended June 30, 1993.

Although individual districts have shown improvement, the districts as a whole continue to have similar material findings each year. As noted in Finding 4, an internal audit section could provide some additional control over and accountability for all these funds.

The special funds of the district attorneys general are often used to provide salary supplements to certain staff members. The transmittal letters in the June 30, 1995, and June 30, 1994, Division of County Audit reports *Review of Fraud and Economic Crime Funds, Judicial District Drug Task Force Funds, and Other Funds Administered by the District Attorneys General, First Judicial District Through Thirty-First Judicial District* state that the propriety of the use of Fraud and Economic Crime funds and county appropriations for the payment of salary supplements to individuals employed by certain district attorneys general's offices was not addressed in these County Audit reports. The transmittal letters also state that these salary supplements raised public policy concerns which should be examined by the General Assembly.

RESULTS OF THE AUDIT

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. Significant deficiencies, which adversely affected the Conference's ability to comply with laws, regulations, contracts, and grants, along with recommendations and auditee responses, are detailed in the findings and recommendations, which follow the report on the internal control structure.

Compliance with Laws and Regulations

With respect to the items tested, the Conference complied with the provisions of certain laws, regulations, contracts, or grants except for significant instances of noncompliance included in the findings and recommendations. The compliance report follows the findings and recommendations.

Report on the Internal Control Structure

October 1, 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 Conference'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 October 1, 1996. We performed the procedures in accordance with generally accepted government auditing standards.

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

The management of the Tennessee District Attorneys General Conference 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
October 1, 1996
Page Two

Our consideration of the internal control structure would not necessarily disclose all matters that might be deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the Conference's ability to comply with laws, regulations, contracts, or grants. However, we did note the following deficiencies which adversely affected the Conference's ability to comply with laws, regulations, contracts and grants:

- The Conference needs to more closely manage the fiscal operations of its office and monitor and oversee the offices of the district attorneys general.
- The Conference office did not provide adequate guidance regarding the appropriate use and accounting of state office-expense funds.
- The official station of the Conference's deputy executive director was designated as Memphis.
- Controls over property and equipment and leased office space were inadequate.
- The district attorneys general's offices do not maintain adequate leave records.

These deficiencies are described in the findings and recommendations in this report.

We also noted certain matters involving the internal control structure and its operation that we have reported to the Conference'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/tp

FINDINGS AND RECOMMENDATIONS

THIRTIETH JUDICIAL DISTRICT (SHELBY COUNTY)

Several problems were noted in the District Attorney General's Office in the Thirtieth Judicial District. The following problems are discussed in Findings 1 and 2.

1. The former District Attorney General submitted travel claims to the state and improperly retained \$15,222.63 for expenses that the county had paid and that he had not personally incurred and was not owed. (See Finding 1.)
2. A former Assistant District Attorney General submitted travel claims to the state and improperly retained \$2,520.83 for expenses that the county had paid and that she had not personally incurred and was not owed. (See Finding 2.)

1. FINDING:

The Former District Attorney General Submitted Travel Claims to the State and Improperly Retained \$15,222.63 for Expenses That the County Had Paid and That He Had Not Personally Incurred and Was Not Owed

INTRODUCTION

State travel claims and associated Shelby County credit card charges for Mr. John Pierotti, former District Attorney General, Thirtieth Judicial District, for the period September 1, 1990, through April 11, 1996, were reviewed. (He began his eight-year term as District Attorney General on September 1, 1990. He retired from his position effective October 31, 1996.) The review was initiated when auditors noted that a hotel receipt submitted as support for a state travel claim by a former Assistant District Attorney General in the Thirtieth Judicial District had been paid with a Shelby County credit card. (See Finding 2.)

The following problems are discussed further in this finding:

- a. State Travel Claims and Shelby County Credit Cards—the former District Attorney General's practice was to use the county credit card for travel expenses. Even though Shelby County paid all the former District Attorney General's credit card charges, the former District Attorney General also submitted these expenses to the state for payment. The former District Attorney General charged \$7,684.28 on the county credit card for expenses associated with his state-paid travel. Although he submitted travel claims to the state for the \$7,684.28 in credit card charges, he did not promptly reimburse the county for the credit card charges when he received the state

travel payments. Thus, he improperly retained a substantial portion of the payments that he received from the state for expenses he had not personally incurred. His total travel charges on the county credit card were \$11,084.64.

- b. State Mileage Reimbursement for County-Owned Car—the former District Attorney General drove a county-owned car and used the county credit card for his automobile expenses. Even though he personally incurred no expenses related to the operation of the county car, he submitted mileage claims to the state, which the state then paid to him. As a result, he improperly retained \$8,578.12.

With regard to items “a” and “b” above, until the issue of repayment was raised by the auditors, the former District Attorney General had not reimbursed the county, to any significant extent, the state funds he had collected that were due the county. However, he had regularly submitted personal claims and received payments from the state for his travel since October 1990. The combined amount of his (a) credit card expenses associated with his state travel and (b) his state mileage reimbursement was \$16,262.40. Prior to the audit, he had paid the county \$1,039.77. Thus, he owed the county an additional \$15,222.63.

- c. Additional Credit Card Charges—additional credit card charges were made on the county credit card used by the former District Attorney General for office supplies, automobile expenses, travel expenses of a former Assistant District Attorney General, and other charges. The former District Attorney General was asked to review these charges and to identify their purposes. Based on information provided by his office, he agreed that he owed the county \$276.21 for four Nashville restaurant charges.
- d. Credit Union Account Activity—the former District Attorney General retained state funds in a credit union account not approved by the state.

Detailed discussion of each problem is presented below.

- a. State Travel Claims and Shelby County Credit Cards

According to staff of the District Attorney General’s Office and the Shelby County Finance Department, when the former District Attorney General took office in 1990, he was provided three county credit cards for travel and small office-related expenses.

The former District Attorney General’s practice was to submit state travel claims to obtain state payments for expenses that were paid by the county and not personally incurred. It is unacceptable for state employees to certify that their state travel claims are correct when the expenses

submitted have not been personally incurred. To do so violates the integrity of the state's travel reimbursement process, which is designed to reimburse employees for their personal out-of-pocket expenses.

The former District Attorney General charged \$11,084.64 on his county credit card for expenses associated with his state-paid travel for the period September 1, 1990, through April 11, 1996, based on hotel receipts attached as supporting documentation to his state travel claims. The state travel payments made to him that related to these credit card charges totaled \$7,684.28. Prior to the audit, he repaid the county \$1,039.77 for some of his state-related travel expenses. These repayments all occurred prior to October 1992. On May 20, 1996, during the audit, he repaid the county an additional \$8,338.31 by personal check drawn on his joint account with his wife. This amount was based on his gross credit card charges. Therefore, as of September 30, 1996, his combined repayments totaled \$9,378.08. Since the state travel payments totaled \$7,684.28 and he had repaid \$9,378.08, he had apparently overpaid the county \$1,693.80. (See Exhibits 1-3.) However, because the county paid the difference between the actual credit card charges and the state reimbursements, which were less than the charges, and because some of the charges paid by the county included telephone calls and hotel executive lounge expenses, appropriate county officials may need to review the county-paid portion of his travel to ensure that the county did not pay for any of his personal expenses.

Regarding his failure to reimburse the county, prior to the audit, the former District Attorney General stated that he had been "negligent" in that he knew he needed to make payments to the county, but "things came up" and he never did.

b. State Mileage Reimbursement for County-Owned Car

The former District Attorney General drove a county-owned car and used the county credit card for his automobile expenses. (It should be noted that this car was confiscated as part of the Federal Asset Forfeiture Program and awarded to the District Attorney General's Office.) Even though he personally incurred no expenses related to the operation of the county car, he submitted mileage claims to the state, which the state then paid to him. When questioned about this practice, the former District Attorney General acknowledged that he always drove his county-assigned vehicle during his in-state travel as District Attorney General. However, he indicated that he intentionally retained these amounts to offset other travel-related expenses which could not be claimed. Because his vehicle was owned and maintained by the county and the county paid for his gasoline, and because he did not remit to the county the state mileage payments he

received, he retained payments from the state for expenses he had not personally incurred.

The state paid him a total of \$8,578.12 for mileage from September 1, 1990, through April 11, 1996. Because he drove a county car for those trips, he owed the county the entire amount. On August 22, 1996, he submitted a check to Shelby County in the amount of \$8,578.12 drawn on his joint account with his wife.

The former District Attorney General's justification for claiming mileage for a county-owned and -maintained car was that he had used the mileage to defray other expenses that "the state would not reimburse." He stated that these expenses were the result of his official responsibilities related to his Conference positions. He described his other expenses as additional lodging costs and meals with legislators.

He stated that, at the time, he believed the county would have reimbursed him for his other expenses if he had requested the county to do so. He acknowledged that he did not have documentation of these other expenses and that he could not say whether the mileage amounts reimbursed by the state to him were less than, equal to, or greater than these additional expenses, although he said that he thought the mileage expense (about \$100 per trip) approximated what he had spent out-of-pocket.

It should be pointed out that he did not incur any out-of-pocket lodging costs since the county paid his lodging costs in full. Because he had not repaid the county to any significant extent prior to the audit, he had not actually incurred any additional out-of-pocket personal expenses for his lodging.

c. Additional Credit Card Charges

All available credit card statements for the Shelby County credit card that the former District Attorney General used were examined for the period under review. The total charges on the credit card were \$23,836.56; \$11,084.64 was for charges associated with his state-paid travel previously addressed in this finding. The additional \$12,751.92 was for the following:

| | |
|---------------------------------------|--------------------|
| Office supply expenses | \$ 787.93 |
| Car expenses | 3,474.92 |
| Travel expenses of a former assistant | 3,902.03 |
| Other charges | <u>4,587.04</u> |
| | <u>\$12,751.92</u> |

When the former District Attorney General was asked to explain the nature of these expenses, he and his staff provided the auditors explanations to the effect that the office supply expenses, the car expenses, and other travel expenses were legitimate expenses of the office, except for \$276.21 in Nashville restaurant charges, which the former District Attorney General agreed he owed the county. The travel expenses of the former Assistant District Attorney General are discussed in Finding 2.

Since, as discussed previously under item “a,” the former District Attorney General apparently overpaid the county \$1,693.80, but also owes \$276.21, the net overpayment is \$1,417.59.

d. Credit Union Account Activity

All state payments to the former District Attorney General were made electronically to his personal bank account. The former District Attorney General indicated that he later transferred the state payments from his personal bank account, which he had with his wife, to a second account, which he had with his executive secretary. His personal bank account, in the name of “John W. Pierotti or Barbara Anne Pierotti,” was with Boatman’s Bank of Tennessee. His other account, in the name of “John W. Pierotti or Betty Krupicka,” which he also described as a personal account, was with the Shelby County Employees Federal Credit Union, although the State of Tennessee’s federal tax-identification number was used. Even though he described the account as personal, he did not report the small amount of interest as taxable income. In addition to the former District Attorney General’s state travel payments, the credit union account was also used to receive state appropriations in the amount of \$150 per month for office expenses totaling \$9,300.00. (See Finding 5.)

The state paid the former District Attorney General \$20,878.40 for 89 state travel claims. The funds associated with 79 of the 89 paid state travel claims, which had been deposited electronically into his joint account with his wife, were transferred by him in whole or in part to his credit union account. These 79 paid state travel claims totaled \$19,017.07. However, only \$15,854.50 of this amount was actually deposited into the credit union account because portions of the deposits were withdrawn in cash at the time of deposit. These cash withdrawals amounted to \$3,162.57. The \$1,861.33 from the remaining 10 state travel claims was not transferred from his account with his wife to his credit union account. (See Exhibit 4.)

Based on the listing provided by his executive secretary and the credit union statements, \$29,012.43 was expended from the credit union account for the period November 9, 1990, through May 20, 1996:

- \$21,285.00 was for cash withdrawals (73%) which included the \$3,162.57 of cash withdrawals at the time of deposit.
- \$3,303.03 was for payments to the former District Attorney General himself (11%).
- \$3,695.75 was for payments to third parties (13%).
- \$728.65 was for payments to Shelby County (3%).

Since payments to Shelby County constituted such a small amount of all payments from the credit union account, and since most of the transactions were cash withdrawals and payments to the former District Attorney General, the credit union account functioned as a personal account, not as an office account or as an account to hold his state reimbursements pending his repaying the county. (See Exhibit 5.)

The credit union account was closed on August 30, 1996. At the time, the account had a remaining balance of \$165.31. The credit union records indicate that the remaining funds were paid to the former District Attorney General.

RECOMMENDATION:

1. Appropriate officials should review the circumstances under which the former District Attorney General received, retained, and used state moneys for travel expenses which he never personally incurred and which he failed to repay the county until the situation was detected by the auditors.
2. Appropriate officials should also review the use of the county credit cards by the District Attorney General's Office to determine whether the county intended to pay, or could legally pay, the former District Attorney General's travel expenses that (a) were above state rates, (b) were not reimbursable by the state, or (c) were for state travel he failed to submit to the state for payment. Some of the former District Attorney General's credit card charges may have been personal in nature. These charges were not claimed on his state travel claims. However, since the county paid these expenses, a review of these charges would appear to be appropriate.
3. The District Attorney General's Office should immediately review the use of the county credit cards for travel expenses. For state-paid travel, all state employees should be directed to use personal credit cards, personal checks, or cash for their travel expenses and to submit travel claims as appropriate.

4. State travel claims, state travel payments, and county credit card charges for all staff of the District Attorney General's Office, Thirtieth Judicial District, should be reviewed further. The review should be promptly conducted by the District Attorney General's Office with the assistance of the Conference office. The results should be reported to the Office of the Comptroller of the Treasury.
5. The Conference should ensure that all state travel reimbursement is in accordance with the state's Comprehensive Travel Regulations. Further, the Conference's Executive Director should establish clear written guidelines and the proper procedures for obtaining payments from the state when the district attorneys general and their staff travel on state business and/or drive county vehicles on state business.

MANAGEMENT'S COMMENTS:

Former District Attorney General, Thirtieth Judicial District:

The former District Attorney General's comments were not considered responsive to the fundamental issue of his improper retention of funds. Mr. Pierotti's response, along with our rebuttal, has been printed in its entirety in the Appendix to this report.

District Attorney General, Thirtieth Judicial District:

Response to item 3 of the recommendation:

The Office will adhere to all applicable state travel regulations and procedures. The Shelby County Board of Commissioners has appropriated certain funds to cover travel expenses incurred by the District Attorney General's Office. Any county legislative body has the option of appropriating funds to a local District Attorney General's Office to help cover travel expenses. I understand that the Knox and Hamilton County Boards of Commissioners have done that, as has the Metro Council in Nashville/Davidson County. I expect that there are other counties that also provide such funding.

There have obviously been administrative difficulties in properly coordinating travel reimbursement from two different sources to employees in the District Attorney General's Office. A streamlined, simplified procedure needs to be instituted and adhered to, and I have proposed such a procedure.

My goal is to develop a procedure that is fair and that meets the needs and interests of the District Attorney General's Office, the Comptroller, and Shelby County.

Response to item 4 of the recommendation:

The office will promptly conduct such a review. Absent further clarification, I assume the time period to be covered by the review is the fiscal years ending June 30, 1994 and June 30, 1995.

AUDITOR'S COMMENT: This office will continue to work with the Conference, the District Attorney General, and county officials to review the process and internal controls relating to travel claims.

Executive Director:

1. We concur. The Executive Director will review the circumstances.
2. We concur. As to a determination as to whether the county intended to pay the former district attorney's travel expenses, we conclude that based upon the letter appended to General Pierotti's response over the signature Henry Marmon, Director of Administration and Finance, Shelby County, Tennessee, that Shelby County did in fact intend to pay such expenses that are legitimate and reasonable business travel expenses.

To the extent that any expenses placed on the credit card are determined to be personal in nature, we will recommend that the former district attorney general reimburse Shelby County for such expenses.

3. We concur. We have directed the District Attorney General of the 30th Judicial District that all travel expenses submitted to the District Attorneys General Conference should be personally incurred.
4. We concur. We will review any documents that have not been previously reviewed in the course of this audit.
5. We concur. The fiscal staff of the Conference monitor all travel reimbursement requests to insure compliance. In addition, all districts have been provided with written policies and procedures to cover the issue of the use of county provided vehicles.

2. FINDING:

A Former Assistant District Attorney General Submitted Travel Claims to the State and Improperly Retained \$2,520.83 for Expenses That the County Had Paid and That She Had Not Personally Incurred and Was Not Owed

During a review of state travel claims, the auditors determined that a hotel receipt of Ms. Phyllis Gardner, a former Assistant District Attorney General, Thirtieth Judicial District (Shelby County), had been paid with a Shelby County credit card. As a result, all of her state travel claims and associated Shelby County credit card charges for the period September 1, 1990, through September 30, 1994, were reviewed. The former assistant's practice was to use county credit cards for travel expenses. Even though Shelby County paid all her credit card charges, she also submitted these expenses to the state for payment. The former assistant charged \$4,078.12 on the county credit card for expenses associated with her state-paid travel. Although she submitted travel claims to the state for the \$4,078.12, she did not promptly reimburse the county for the credit card charges. Furthermore, she improperly retained funds that she received from the state for expenses she had not personally incurred. Her total travel charges on the credit cards were \$5,815.66.

Until the issue of repayment was raised by the auditors, the former assistant had reimbursed the county for portions of the state funds she had collected that were due the county. However, she had regularly submitted personal claims related to these trips to the state and had received payments from the state for her travel since December 1990.

a. State Travel Claims and Shelby County Credit Cards

The former assistant's practice was to submit state travel claims to obtain state payments for expenses that were paid by the county and not personally incurred. It is unacceptable for state employees to certify that their state travel claims are correct when the expenses submitted have not been personally incurred. To do so violates the integrity of the state's travel reimbursement process, which is designed to reimburse employees for their personal out-of-pocket expenses.

The former assistant charged \$5,815.66 on three county credit cards for expenses associated with her state-paid travel for the period September 1, 1990, through September 30, 1994. The state payments made to her that related to these credit card charges totaled \$4,078.12. She also claimed \$387.36 in state mileage for trips during which she drove a county vehicle. Moreover, during four trips, the former assistant charged \$68.48 for gasoline on a county credit card, then later claimed and received payment from the state for mileage for the same trips, but did not subsequently reimburse the county for these charges. She agreed she owed the \$68.48 in question. Thus, the total amount associated with her state travel claims

that was due the county was \$4,533.96. Prior to the audit, she repaid the county \$2,013.13, which resulted in an unpaid balance of \$2,520.83. These payments were made in August and December 1994.

On May 6, 1996, during the audit, she repaid the county an additional \$1,140.62. Therefore, as of September 30, 1996, her combined repayments totaled \$3,153.75. Since the total amount due the county that was associated with her state travel payments was \$4,533.96 and she had repaid \$3,153.75, a balance of \$1,380.21 remained unpaid and due the county for her expenses. (See Exhibits 6-8.)

b. Duplicate State Claim for Mileage and Gasoline

The former assistant claimed mileage on a state travel claim and also requested reimbursement for the same trip from the Conference office for personal gasoline charges. She agreed that she owed the state the \$34.49 in question. On September 3, 1996, she repaid the Conference.

c. Two Duplicate Travel Claims

Two instances of duplicate state travel claims totaling \$161.80 were found during the review. The former assistant stated that the submission of duplicate state travel claims was clearly wrong and also that she was not the one who had submitted them. She agreed that since she had been paid twice for the same trip, she should and did repay the state \$161.80 on September 3, 1996.

Since the procedures in place were insufficient to prevent or detect duplicate travel claims, the possibility exists that other duplicate travel claims have been submitted to, and processed by, the Conference's office.

d. Two Travel Claims Not Submitted

During a review of the former assistant's travel claims on file at the District Attorney General's office and the Conference's office, two claims were noted that had not been paid. The total amount claimed was \$947.42, most of which would be owed to the county for credit card charges. The former assistant stated that both trips had occurred and were for official state business and that she had not realized she had not received payment.

RECOMMENDATION:

1. The former Assistant District Attorney General should promptly repay the county the remaining \$1,380.21 for her state travel-related credit card charges, mileage, and gasoline expenses.
2. The Conference's Executive Director should review the former assistant's two unpaid travel claims to determine whether she or the county should be reimbursed any part of these claims.
3. Appropriate officials should review the circumstances under which the former assistant received, retained, and used state moneys for travel expenses which she never personally incurred and which she failed to repay the county until the situation was detected by the auditors.
4. Appropriate officials should also review the use of the county credit cards by the former assistant to determine whether the county intended to pay, or could legally pay, her travel expenses that were above state rates or were not reimbursable by the state. Some of her credit card charges may be personal in nature. These charges were not claimed on her state travel claims. However, since the county paid these expenses, a review of these charges would appear to be appropriate.

MANAGEMENT'S COMMENTS:

Former Assistant District Attorney General, Thirtieth Judicial District:

The former Assistant District Attorney General's comments were not considered responsive to the fundamental issue of her improper retention of funds. Ms. Gardner's response, along with our rebuttal, has been printed in its entirety in the Appendix to this report.

District Attorney General, Thirtieth Judicial District:

Response to item 4 of the recommendation:

The office will promptly conduct such a review. Absent further clarification, I assume the time period to be covered by the review is the fiscal years ending June 30, 1994 and June 30, 1995. [This is District Attorney General's response to the same issue in Finding 1.]

Executive Director:

1. We concur. Payment was tendered by check December 10, 1996 in the corrected amount of \$1,224.65. This amount reflects a credit of \$155.56 that was reimbursable

by the County for expenses the former Assistant District Attorney General did not submit to the State.

2. We concur. We have reviewed the two unpaid travel claims and have determined that the former Assistant and the County have incurred these expenses. However, to reimburse either would conflict with our policies.
3. We concur. The Executive Director will review the circumstances.
4. We concur. As to a determination as to whether the county intended to pay the former assistant district attorney's travel expenses, we conclude that based upon the letter appended to General Pierotti's response over the signature Henry Marmon, Director of Administration and Finance, Shelby County, Tennessee, that Shelby County did in fact intend to pay such expenses that are legitimate and reasonable business travel expenses.

SIXTH JUDICIAL DISTRICT (KNOX COUNTY)

3. FINDING:

The District Attorney General Improperly Submitted State Travel Claims and Retained Payments for Mileage Expenses He Did Not Personally Incur

A review of state travel of the District Attorney General's Office, Sixth Judicial District (Knox County), disclosed that the District Attorney General, Mr. Randall Nichols, who was assigned a county vehicle, submitted several state travel claims for mileage and retained the mileage reimbursement. It is improper to submit claims for miles driven in a vehicle furnished by the county and to retain the reimbursement.

From August 19, 1992, when he became the District Attorney General, through June 30, 1996, Mr. Nichols submitted 16 state travel claims and received payment from the state for those claims. For six of those trips, he sought and received state payments for mileage. For the other ten trips, he did not claim state mileage.

He acknowledged that he had apparently driven a county vehicle on five of the six trips and that he had submitted travel claims to the state for his expenses, which included mileage. The state paid him a total of \$649.92 for mileage for those five trips. The trips were to Clarksville, Memphis, and Nashville. Two trips occurred in 1994, in March and June; and three trips occurred in 1995, in February, June, and October. He said that he drove his personal vehicle on the remaining trip, which was to Chattanooga in June 1993, for which he was properly reimbursed.

RECOMMENDATION:

The District Attorney General should promptly repay the state the \$649.92 he had improperly claimed and received in state mileage payments.

MANAGEMENT'S COMMENT:

District Attorney General, Sixth Judicial District:

Upon being shown the travel claim forms by the field auditor, I readily admitted that mileage reimbursement was improper on the trips to Clarksville, Nashville, and Memphis.

Other than pure oversight and my failure to adequately review the claim forms before signing, there is no explanation. I apologize for these mistakes and accept full responsibility. I would point out that although I filled my tank before departing Knoxville, I did have to pay for gas for the return trip in that I cannot drive round trip on one tank of

fuel. I do not have gas receipts but whatever is determined to be fair for these expenses that I did incur on state business I would expect to be deducted from the \$649.92 overpayment.

I will accept any figure your department deems appropriate. When that figure has been determined, please advise and I will remit immediately.

AUDITOR'S COMMENT: The Conference office should review the travel claims in question and determine the amount, if any, to be deducted from the amount the District Attorney General owes.

CONFERENCE OFFICE

There have been numerous problems noted in the Conference office. The following problems are discussed in Findings 4 through 12.

1. The Conference needs to more closely manage and oversee the fiscal operations of its office and monitor and oversee the offices of the District Attorneys General. (See Finding 4.)
2. The Conference office did not provide adequate guidance regarding the appropriate use and accounting of state office-expense funds. (See Finding 5.)
3. The official station of the Conference's Deputy Executive Director was designated as Memphis. (See Finding 6.)
4. The Conference office recovered \$326,765.98 of unallowable costs from the Child Support Enforcement Program. (See Finding 7.)
5. The Conference office used Child Support Incentive funds for non-child-support program purposes, in violation of state law. (See Finding 8.)
6. Controls over property and equipment and leased office space were inadequate. (See Finding 9.)
7. The District Attorneys General's offices do not maintain adequate leave records. (See Finding 10.)
8. The Conference office did not establish a proper year-end cutoff for financial reporting. (See Finding 11.)
9. The Conference did not process revenue journal vouchers promptly. (See Finding 12.)

4. FINDING:

The Conference Needs to More Closely Manage the Fiscal Operations of Its Office and Monitor and Oversee the Offices of the District Attorneys General

Management of the Conference did not ensure that the district attorneys general's offices were operated properly. This audit report contains findings regarding serious weaknesses within both the Conference office and the district attorneys general's offices.

The number and the severity of the issues discussed in this report clearly indicate that the Conference needs to more closely manage and oversee the fiscal operations of its office and the offices of the district attorneys general. Many of these issues stem from the relationship between the Conference and the other funding sources of the district attorneys general. In addition to the funds received from the Conference, these offices typically receive other funds such as Fraud and Economic Crime funds and Federal Asset Forfeiture funds which are on deposit with the county trustee. Some of the larger districts also receive county appropriations that are spent and accounted for through the county's accounting system. Some district attorneys general also maintain, spend, and account for Judicial District Drug Task Force funds. The officials responsible for approving payments at the state and the county level do not have a mechanism to determine what expenses have been submitted to and paid by another funding source. Thus, these various sources increase the risk of errors and irregularities, such as submitting the same expense item for reimbursement to more than one funding source, whether intentionally or as a result of errors.

The prior management of the Conference office believed and maintained the attitude that it had no authority or responsibility over the operations of the individual district attorneys general. However, the present Executive Director stated that he is aware of the Conference office's critical role in, authority over, and responsibility for the fiscal operations of the district attorneys general's offices and is committed to taking all necessary actions to exercise that authority and assume that responsibility. The Conference office has resolved most of the findings in the prior audit report and has also made improvements in the operation of the Conference office and district attorneys general's offices. However, there are other problems in the Conference office and district attorneys general's offices that need to be addressed. These problems are noted in the other findings in this report.

The Executive Committee of the Conference should have taken a leadership role in managing the fiscal affairs of the district attorneys general. The Office of the Executive Director of the Conference is the fiscal officer for state appropriations of each district attorney general's office and has been specifically designated as fiscal officer for child support incentive funds pursuant to Section 8-7-602(b), *Tennessee Code Annotated*. In addition, Section 8-7-602(a) provides for individual district attorneys general to designate the Executive Director as fiscal officer for the other federal and local government funds they receive. Although the language of this statute appears to be permissive, the General

Assembly has clearly provided a mechanism for greater control over, coordination of, and accountability for the various funds of the district attorneys general by empowering the district attorneys general to designate the Executive Director as the fiscal officer of all their funds.

The district attorneys general have not designated the Conference to serve as the fiscal officer over all their funding sources. However, because of the various funding sources received by the district attorneys and the districts' varying fiscal relationships with the counties in their districts, it is difficult for the Conference office to have full knowledge of all the financial transactions of the district attorneys general. Findings 1, 2, and 3 indicate what kind of problems can occur when the various funding sources are not coordinated.

Section 8-7-309(f), *Tennessee Code Annotated*, gives the Executive Director the statutory authority and responsibility to require the district attorneys general to carry out the financial affairs of their offices in accordance with applicable laws and regulations. Section 8-7-309(f), *Tennessee Code Annotated*, states:

The executive director shall draw and approve all requisitions for the payment of public moneys appropriated for the maintenance and operation of the state judicial branch of government which relate to the offices of the district attorneys general, and shall audit such claims and prepare vouchers for presentation to the department of finance and administration, including payroll warrants, expense warrants, and warrants covering the necessary costs of supplies, materials, and other obligations by the various offices **with respect to which the executive director shall exercise fiscal responsibility** [emphasis added].

If the district attorneys general exercised the discretion provided in Section 8-7-602, *Tennessee Code Annotated*, and given the Conference Office's authority granted in Section 8-7-309(f), the Executive Director would then have the authority and responsibility to oversee the financial operations of the district attorneys general's offices and to require the district attorneys general to comply with applicable state and federal laws and regulations in all financial matters, as any other state agency would in regard to its district offices. Regardless of the Conference's specific statutory duties, it is incumbent on the Executive Director to obtain an understanding of each district office's funding sources, to have an adequate knowledge of how each district office conducts its affairs, and to provide the individual district attorneys general with appropriate guidance through intervention and technical assistance. The Conference must have this knowledge and understanding to fulfill its responsibilities under Section 8-7-309(f), *Tennessee Code Annotated*.

Furthermore, if the Conference office obtains knowledge of any shortage of moneys or misappropriation of state funds or state property, it should immediately notify the Comptroller of the Treasury.

Section 8-19-501, *Tennessee Code Annotated*, states:

It is the duty of any official of any agency of the state having knowledge of shortages of moneys of the state, or unauthorized removal of state property, occasioned either by malfeasance or misfeasance in office of any state employee, to report the same immediately to the comptroller of the treasury.

Management of the Conference is responsible for establishing and maintaining an internal control structure. The fiscal management function and an internal audit function are key management resources for helping to ensure that the financial affairs of the Conference are handled properly.

RECOMMENDATION:

Management of the Conference should fulfill their statutory responsibility pursuant to Sections 8-7-602 and 8-7-309(f), *Tennessee Code Annotated*, and ensure that the fiscal operations of the Conference office and the district attorneys general's offices are handled properly. The Conference's management should manage and oversee the financial operations of the district attorneys general's offices and the 720 district employees.

The Executive Director, in conjunction with the Executive Committee of the Conference, should take immediate action to implement the audit recommendations included in this report.

The Conference should obtain an understanding of each district office's funding sources and have an adequate knowledge of how each district office conducts its affairs. To obtain this knowledge and understanding, the Conference should require the district attorneys general to report all sources and amounts of funding or other support or assistance that they receive in addition to state appropriations. The district attorneys general should also inform the Conference of the procedures used to spend these other funds.

The Executive Director and the Executive Committee of the Conference, in consultation with the Department of Finance and Administration, should consider additional fiscal management staff at the Conference office in light of the additional workload when the Conference office assumes the responsibility for the district attorneys general's fiscal operations, as required by law. In addition to the fiscal management staff, the Conference should consider establishing an internal audit unit to continually review the

internal control structure of the Conference office and the 31 district attorneys general's offices.

The Executive Committee should strongly encourage all district attorneys general to exercise their statutory authority to designate the Conference as their fiscal officer for all their funds. Any district attorney general who declines to designate the Conference as fiscal officer is knowingly assuming full, direct responsibility for the appropriate use and accounting of these funds, whether or not the district attorney general has taken steps to seek adequate fiscal advice.

MANAGEMENT'S COMMENT:

We concur. During the last few years, the fiscal management and the overall management of the Conference office have undertaken the tremendous task of basically rebuilding an administrative office. As evident by this and the previous audit, the lack of administrative efforts by this office in the past resulted in numerous problems. We are continuing to work towards improving this office and have made every effort to correct these problems, some of which were even corrected before the audit and/or brought to the attention of the audit staff. Despite the problems, we feel that the management within the Conference office has the organization headed in the right direction.

As noted in the audit, several of the problems come from the relationship between the Conference and the other funding sources of the district attorneys general. At this point, the number of staff within the fiscal office is insufficient to adequately handle the current responsibilities of the Conference, much less the other funding sources. The issue of additional staff is one that we have little control over, but we will continue to pursue with the Department of Finance and Administration. Considering that there were only a few findings that pertained to the other funding sources, it appears that the best course of action would be to put procedures in place so that these problems do not continue. For the Conference office to handle all fiscal matters pertaining to the district attorneys general would require the expenditure of additional state funds and/or reduction of other funds to pay for additional fiscal staff within the Conference. In most cases, this would be a duplication of funds that are already being expended by local sources. Taking into account that Finance and Administration is currently projecting a budget shortfall, it doesn't appear they would be eager to spend the additional funds. Nonetheless, we will handle the fiscal matters for any district attorney general who wishes to designate us as the fiscal officer for other funding sources.

5. FINDING:

The Conference Office Did Not Provide Adequate Guidance Regarding the Appropriate Use and Accounting of State Office-Expense Funds

The district attorneys general in the four major metropolitan counties (Shelby, Davidson, Knox, and Hamilton) received funds for office expenses as authorized by Section 7, Item 4, of the State Appropriations Bill. The provision is as follows:

From the appropriation in Section 1, Title III-1, Items 2.1, District Attorneys General, there shall be paid the expenses of the District Attorney General's office in Shelby County, Davidson County, Hamilton County, and Knox County, as now provided by law, such combined expense not to exceed six thousand four hundred fifty dollars (\$6,450) in any fiscal year.

Although the Conference office issued state warrants to these four district attorneys general each month, it failed to adequately guide and oversee the district attorneys general in their use and handling of the funds. The warrants were made payable to the State of Tennessee, District Attorney General, of the respective judicial district, and mailed to the office of each district attorney general. The remittance advices and supporting documentation indicated that the funds were for office expenses as provided for in the Appropriations Bill. Each district attorney general handled the warrants in a different manner.

In the Thirtieth Judicial District (Shelby County), the district attorney general received a \$150 state warrant each month for office expenses. The office-expense warrants were endorsed personally by the district attorney general and deposited into a joint credit union account in the names of the district attorney general and his executive secretary but with the State of Tennessee's tax-identification number. (For more discussion on this account, see Finding 1.)

In the Twentieth Judicial District (Davidson County), the district attorney general received a \$125 state warrant each month for office expenses. The office-expense warrants were personally endorsed for deposit only by the district attorney general and deposited into a bank account in the name of the "District Attorney General Office Fund, Metro Government."

In the Eleventh Judicial District (Hamilton County), the district attorney general received a \$125 state warrant each month for office expenses. The office-expense warrants were endorsed personally by the district attorney general and negotiated for cash.

In the Sixth Judicial District (Knox County), the district attorney general received a \$125 state warrant each month for office expenses. The office-expense warrants were

endorsed personally by the district attorney general, were deposited into a personal bank account of the district attorney general, and were commingled with his personal funds.

Lack of Conference Guidance

Some district attorneys general stated that they had previously asked the Conference office for guidance on the use of the funds and had received no guidance. The Conference office did not appreciate or consider the significance of these transactions because the proper uses and manner of accounting for the funds were never developed into a formal policy. Although the Conference apparently did not provide adequate guidance to the district attorneys general on the proper use and accounting of the funds, it was incumbent on the district attorneys general to establish and maintain appropriate records for all state funds and to use the funds for the intended public purposes only.

The Conference office's lack of guidance and oversight allowed the district attorneys general to handle the state-appropriated funds inappropriately. The deposit of the state office-expense warrants into personal or nongovernmental bank and credit union accounts and the negotiation of these warrants for cash are contrary to Section 9-4-301(a), *Tennessee Code Annotated*, which states:

It is the duty of every department institution, office and agency of the state and every officer and employee of state government, including the state treasurer, collecting or receiving state funds, to deposit them immediately into the treasury or to the account of the state treasurer in a bank designated as a state depository or to the appropriate departmental account if authorized by [Section] 9-4-302.

Section 9-4-301(c), *Tennessee Code Annotated*, states, "Such deposit shall be made without any deduction on account of salaries, fees, costs, charges, refunds, claims, or demands of any description whatsoever."

The bank and credit union accounts established by the district attorneys general were not authorized pursuant to Section 9-4-302, *Tennessee Code Annotated*.

Since these issues related to the office-expense appropriation have been raised, the Assistant Executive Director–Fiscal has issued letters to each district attorney general stating that a warrant would no longer be issued to them. Instead, the appropriated funds would be available to their offices through the Conference office, using the normal state disbursement process. The Assistant Executive Director–Fiscal has stated that disbursements for coffee, flowers, and other such items the district attorneys general previously purchased will not be approved for payment. However, the appropriate uses of the funds have not been formally communicated to the district attorneys general.

RECOMMENDATION:

The Executive Director should ensure that the four district attorneys general's offices spend the funds appropriated by Section 7, Item 4, of the Appropriations Bill for appropriate office expenses. The Executive Director should seek guidance from the Department of Finance and Administration regarding what expenses are appropriate and should then inform the district attorneys general, in writing, how the funds can be used. Although the Conference office has indicated that these funds would no longer be sent directly to the district attorneys general, the Executive Director should inform the district attorneys general of their fiduciary duties with regard to funds on deposit with all governments. The Executive Director should require the district attorneys general to notify him of any other unauthorized bank accounts in any of the districts. If other accounts are identified, the Executive Director should notify the Comptroller of the Treasury and then take the appropriate steps as necessary.

The Conference's Executive Director and Assistant Executive Director-Fiscal should review any available supporting documentation related to each district attorney general's use of these appropriated funds and determine what actions should be taken based on how the funds were used.

MANAGEMENT'S COMMENT:

We concur. As noted in the audit, the funds appropriated for the four major metropolitan counties have been consolidated into the normal operating budget for the respective districts and are no longer being automatically sent to each office. Any invoice or disbursement of these funds will be channeled through the normal payment procedures, which will include auditing by fiscal staff at the Conference and the Division of Accounts. This should insure that the funds are expended for appropriate office expenses.

Owing to the fact that these funds have been appropriated for some 80 years and that the current district attorneys general in these districts have only held such positions (at the longest 9 years in the 20th Judicial District and at the least 2 years in the 11th Judicial District) and under the assumption that any available supporting documentation was scrutinized by the audit team, and further that documentation prior to the four current district attorneys general is sparse at best and non-existent at worst, further review is possibly fruitless and a better use of time would be to ensure that future use of these funds is appropriate.

6. FINDING:

**The Official Station of the Conference's Deputy Executive Director
Was Designated as Memphis**

On October 1, 1994, Ms. Phyllis Gardner resigned from the District Attorney General's Office, Thirtieth Judicial District (Shelby County), and assumed the position of Deputy Executive Secretary (now titled Deputy Executive Director) for the District Attorneys General Conference. After appointment, she made a number of Memphis-Nashville-Memphis round trips from October 1, 1994, through June 30, 1996. Although the Conference's office is located in Nashville, and the Executive Director, as well as all other administrative staff, work in Nashville, her official station was indicated as Memphis on her state travel claims.

Since the Executive Director designated her official station as Memphis, she sought and received state payment for her travel expenses related to her Memphis-Nashville-Memphis round trips, including lodging, meals, baggage, parking, taxis, telephone calls, and mileage. For the 21-month period from October 1994 through June 1996, the state paid Ms. Gardner \$15,014.18 for travel expenses she incurred because her official station was Memphis instead of Nashville, the site of the Conference's office.

The Executive Director stated that he personally decided to designate Memphis as the Deputy Executive Director's official station to accommodate her because of her personal circumstances. He acknowledged that the nature of her work did not require her to be located in Memphis because her work primarily involved correspondence and telephone calls. He further stated that his preference would be for her to be located in Nashville. The Deputy Executive Director confirmed that the Executive Director had designated her official station as Memphis in recognition of her personal circumstances. She also acknowledged that no government function or need required her to be located in Memphis.

State travel regulations allow an appointing department head to designate an employee's official station. Such designation should be directly related to legitimate agency functions and needs and should not be primarily related to the accommodation of an employee's personal circumstances. Certainly, any such accommodation should be short term.

RECOMMENDATION:

The Executive Director should designate the official station of all Conference office employees consistent with the Conference's needs.

MANAGEMENT'S COMMENT:

We concur. The Executive Director decided to designate Memphis as the Deputy Executive Director's official station because of her personal circumstances, but acknowledges that she could perform the portion of her work that involved correspondence and phone calls from her Memphis office which allowed her to remain there without traveling to Nashville and would accommodate her personal circumstances in the short term. As explained to members of the audit team, it was intended that this situation would last no longer than eight months, but because of additional circumstances arising, stretched into approximately 24 months. The Deputy Executive Director resigned her position effective August 31, 1996. The official station decision was made by the Executive Director in an effort to benefit the agency and when the actual benefits derived by the agency and the State as a whole are balanced with the \$15,014.18 in travel expenses it was a good management decision.

7. FINDING:

The Conference Office Recovered \$326,765.98 of Unallowable Costs From the Child Support Enforcement Program

The Conference office did not comply with federal regulations concerning allowable costs in the administration of the Child Support Enforcement Program (CFDA 93.563). According to the contract with the Department of Human Services, the Conference is eligible to receive reimbursement at the federal financial participation rate for allowable costs associated with the Child Support Enforcement Program. Allowable costs are limited to the actual costs incurred: costs directly associated with the program and an equitable share of the Conference's indirect costs. However, for the year ended June 30, 1995, the Conference charged \$322,225.34 in excess of actual costs and recovered unallowable costs of \$4,540.64. The excess and unallowable costs were included on the Schedule of Noncompliance and Questioned Costs in the 1995 *Single Audit Report*.

The Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State and Local Governments," provides for indirect costs to be recovered either through an approved cost allocation plan or an alternative method which allows 10% of the program's direct labor costs to be charged. Although the Conference did not have an approved cost allocation plan, it allocated its indirect costs and charged them as direct charges to the grant. In addition to recovering all these indirect costs through direct charges to the grant, the Conference also charged 10% of its direct labor costs as indirect costs; thus, the Conference was reimbursed for the same costs twice. As a result, the Conference charged the grant amounts far in excess of actual allowable costs.

Furthermore, the portion of the Deputy Executive Director's salary charged directly to the grant does not appear to be an allowable cost. OMB Circular A-87, "Cost Principles for State and Local Governments," Section G.1., states, "The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs . . . and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations." The Deputy Executive Director did not oversee the day-to-day operation of the Child Support Enforcement program; therefore, her salary should not have been charged to the grant. These costs totaled \$4,540.64.

The practice of charging excessive and unallowable costs to the Child Support Enforcement Program violated federal cost principles and allowed the Conference to effectively reduce the matching percentage required by the grant regulations.

RECOMMENDATION:

The Executive Director should ensure that only actual allowable costs are charged to the Child Support Enforcement Program. An acceptable method of assigning the Child Support Enforcement Program's pro rata share of indirect costs to the grant, such as an approved indirect cost allocation plan, should be developed to ensure that grant charges are limited to allowable costs.

MANAGEMENT'S COMMENT:

We concur. We have discontinued the indirect cost billing of 10% of the programs direct labor costs, and we are no longer billing a portion the Deputy Executive Director's salary. In reference to an indirect cost allocation plan, we are looking at the necessity of having a plan due to possible funding changes for the Child Support Enforcement Program.

8. FINDING:

The Conference Office Used Child Support Incentive Funds for Non-Child Support Program Purposes, in Violation of State Law

For four years beginning July 1, 1991, the Conference office used Child Support Incentive funds for non-child support purposes, in violation of state law. Prior to July 1, 1991, the Conference office could use incentive funds to fund a portion of the district attorneys general's criminal office operations. As a result, several non-child support

positions and other operating costs of the district attorneys general's offices were either partially or fully funded by child support incentive funds.

However, a change in state law concerning the use of incentive funds became effective July 1, 1991. Section 36-5-107, *Tennessee Code Annotated*, states that "non child support uses of incentive funds shall be limited to those existing rent and payroll obligations until July 1, 1991, at which time one hundred percent (100%) of the federal incentive funds shall be utilized to encourage and improve the cost-effectiveness of child support enforcement efforts."

The current Assistant Executive Director–Fiscal stated that the practice of the former fiscal director was to continue funding the non-child support salaries with incentive funds until the affected employees resigned or retired, at which time the incentive funding would no longer be applied to that position.

However, the current Assistant Executive Director–Fiscal requested changes to the Conference budget to properly fund criminal offices with state appropriations. Our review noted that as of July 1, 1995, the Conference was in compliance with state law concerning incentive funds.

RECOMMENDATION:

The Executive Director and the Assistant Executive Director–Fiscal should ensure that child support incentive funds continue to be spent in compliance with Section 36-5-107, *Tennessee Code Annotated*.

MANAGEMENT'S COMMENT:

We concur. As noted in the audit, the Assistant Executive Director–Fiscal made a change in the Conference budget in the first budget request after his employment. While this change did bring the Conference into compliance with state law, we would like to note that the practice of the former fiscal director was an agreed upon arrangement with the Department of Finance and Administration.

9. FINDING:

Controls Over Property and Equipment and Leased Office Space Were Inadequate

The Conference office does not have adequate controls over property and equipment and leased office space.

Property and Equipment

Property and equipment records were reviewed at the Conference office and the offices of 13 district attorneys general. Sixty-two of the 322 applicable items tested (19%) were not tagged or had tag numbers that did not agree to the property listing. In the Twenty-Third Judicial District, several property tags were kept in an envelope in an employee's desk instead of being affixed to the property. Also, several of the incorrect tag numbers occurred because the Conference's property officer entered the wrong acquisition code into the POST (Property of the State of Tennessee) system. As a result, several property tag numbers had to be retired and replacement tags issued. Although the changes were made to the POST system, the property officer failed to ensure that all the new tags were distributed to the districts and that the districts affixed the tags to the equipment items. Furthermore, several tagged items were not included on the Conference's POST property listing.

In addition, the location of equipment items did not agree with the location recorded on the property listing for 38 of 320 applicable items tested (12%), and 12 items could not be located or confirmed at all.

The review of controls over property and equipment also revealed that the Conference's property officer had not entered much of the 1995 physical inventory of equipment into the POST system. In addition, surplus property reported on March 10, 1995, by one district had not been removed from the property listing as of June 1996 because the property officer had not entered the information into POST.

Throughout the audit period, 38 items valued at \$27,213.16 were reported to the Comptroller as lost or stolen. This amount does not include the \$11,115.96 of equipment items apparently misappropriated by the former Child Support Coordinator in 1994, as reported in the prior audit report.

These weaknesses indicate a lack of control over and accountability for equipment. In addition, it appears that the property records were not updated to reflect changes noted in the physical inventories and surplus or unusable equipment.

Failure to update the property records weakens the reliability of inventory records, weakens the controls over equipment, and lessens the likelihood that the loss of equipment will be detected. Accurate property records are necessary to maintain control over assets. The Conference office, as the designated fiscal officer for state funds of the district

attorneys general, has a duty to ensure that property and equipment are properly accounted for in the state's property listing.

Leased Office Space

The Conference office does not have adequate procedures concerning leased office space of the district attorneys general. The Conference has allowed district attorneys general to arrange and negotiate for their own office space. In some cases, the Conference office and the district attorneys general have not entered into formal lease agreements for the office space that is currently leased. In addition, the Conference office does not maintain copies of all office leases, but pays invoices for the lease of office space.

RECOMMENDATION:

Property and Equipment

The Executive Director and the property officer should improve accountability for the equipment used by the Conference office and the 31 district attorneys general. Each district attorney general should be held accountable for the state equipment assigned to his or her office and should report inventory changes to the Conference office immediately. The property officer should update the inventory records in a timely manner. As noted in Finding 4, the internal auditor (when the position is established) should perform reviews and audits of the property and equipment in the district offices.

Leased Office Space

The Executive Director should assign a Conference office employee the responsibility of ensuring that all rental and lease arrangements are appropriate legal documents, such as a contract or lease agreement. The documents should clearly specify the exact legal relationship, if any, between the Conference and the property owners.

The Executive Director should seriously consider participating in the long-established lease and rental agreement process executive branch departments are required to abide by. This process consists, in part, of review by staff of the Department of Finance and Administration and approval by the State Building Commission.

The Executive Director should maintain a listing of office space provided at no charge to district attorneys general by county governments. Appropriate legal documents should also be entered into for office space provided at no charge.

MANAGEMENT'S COMMENT:

We concur. In an effort to improve the Conference's management of property and space leases, we are reviewing the possibility of establishing a full-time property officer position that will be responsible for overseeing these areas. In addition, all rental and lease agreements are being negotiated on a standard lease. This lease was provided to the Conference office by the Department of Finance and Administration and will provide an appropriate legal document for these agreements. As for office space provided at no charge, the Conference will maintain a listing of all such space and will enter into leases in situations where it will not cause a potential problem.

10. FINDING:

The District Attorneys General's Offices Do Not Maintain Adequate Leave Records

The Conference office does not have sufficient documentation to support payments to employees of the 31 district attorneys general for annual, sick, compensatory, and terminal leave and cannot accurately report liabilities at fiscal year-end because the districts do not maintain adequate leave records.

As established by an Attorney General Opinion issued August 6, 1975, each district attorney general is empowered to formulate a reasonable leave policy. As a result, leave policies vary substantially from district to district; some offices have no written policy while others have fashioned their policies after the Department of Personnel's. The following illustrates some of the differences:

- The amounts of leave earned and the methods of accumulating leave vary widely from one office to another.
- Some offices have elected to pay employees for accrued annual leave upon termination while others have not.
- The types of records varied.
- Several offices kept no leave records.

None of the districts report leave activity or balances to the Conference office. Without proper supporting documentation of the leave earned and used each month, the Conference office has no assurance that employees are eligible to receive payment for leave used during the month or for terminal leave upon resignation and, thus, cannot fulfill its fiscal responsibility under Section 8-7-309(f), *Tennessee Code Annotated*.

Because the Conference does not have leave balances for the almost 720 district office employees, it cannot accurately report state liabilities at fiscal year-end. In

accordance with generally accepted accounting principles, the Department of Finance and Administration reports a liability in the state's *Comprehensive Annual Financial Report* for the value of accrued annual leave as of the end of the fiscal year. The annual leave liability amount the Conference reported to the Department of Finance and Administration as of June 30, 1995, only covered the 11 Conference employees. The liability associated with the district offices' employees went unreported.

RECOMMENDATION:

The Executive Director should require the district offices to maintain leave records and report employee leave activity so that the Conference office can ensure the accuracy of claims submitted for payment. The Assistant Executive Director-Personnel and Payroll should monitor leave activity in accordance with each district attorney general's policy. The Executive Director and the Assistant Executive Director-Fiscal should report an accurate annual leave liability to the Department of Finance and Administration.

Each district attorney general, in conjunction with the Executive Director and the Assistant Executive Director-Personnel and Payroll, should develop an appropriate recordkeeping system. The Executive Committee of the Conference should consider establishing a standard leave policy that would apply to all district attorneys general's employees.

MANAGEMENT'S COMMENT:

We concur. We will require the district offices to maintain leave records and will suggest an 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 office 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 the issue and has concluded that the district attorneys have the option to formulate their own policy.

11. FINDING:

The Conference Office Did Not Establish a Proper Year-End Cutoff for Financial Reporting

The Conference office did not establish a proper year-end cutoff for financial reporting for the fiscal years ended June 30, 1995, and June 30, 1994. In addition, the district attorneys general submitted invoices to the Conference office after the year-end cutoff deadlines established by the Department of Finance and Administration.

The Commissioner of the Department of Finance and Administration and the Comptroller of the Treasury establish procedures each fiscal year to facilitate a proper financial year-end cutoff. These procedures establish deadlines for the processing of invoices and other transactions and are distributed to all departments of state government. However, because the district attorneys general submitted invoices after the year-end cutoff, the Conference office was unable to meet the Department of Finance and Administration's deadlines.

To determine if the Conference office had improved its year-end cutoff procedures, the auditors reviewed the Conference office's procedures used for the fiscal year ended June 30, 1996. In June 1996, the current Assistant Executive Director–Fiscal sent letters to all 31 district attorneys general informing them of the year-end cutoff deadlines. However, 21 of the districts did not comply with the year-end cutoff instructions. The Assistant Executive Director–Fiscal refused to process several invoices from these district attorneys general and instructed the offices to pay the invoices from their locally controlled funds, such as Fraud and Economic Crime funds.

RECOMMENDATION:

The Executive Director and the Assistant Executive Director–Fiscal should continue to stress to the district attorneys general the importance of achieving an accurate year-end cutoff. The Assistant Executive Director–Fiscal should distribute detailed instructions to the district attorneys general to help them understand the importance of and the procedures necessary to achieve a proper year-end cutoff. They should also continue to take measures to encourage compliance with those procedures.

The individual district attorneys general should specifically assign someone in their office the responsibility for complying with the policies and procedures, and they should monitor their efforts to ensure compliance.

MANAGEMENT'S COMMENT:

We concur. We will continue to stress the importance of an accurate year end cutoff and we will provide each district with detailed year end cutoff procedures.

12. FINDING:

The Conference Office Did Not Process Revenue Journal Vouchers Promptly

As noted in the previous two audits, which covered July 1, 1989, to June 30, 1993, the Conference office has not always initiated revenue journal vouchers promptly. Although steps were taken to correct the problems noted in the prior audit, management failed to implement changes in billing procedures required by Department of Finance and Administration Policy 18, issued in October 1993.

The office prepares journal vouchers to record revenue and to bill other state departments for grants administered by the district attorneys general. Seven of the 15 revenue journal vouchers examined (47%) were not initiated in accordance with Department of Finance and Administration Policy 18. This policy, issued to standardize the journal voucher process across the state and to facilitate the state's compliance with the federal Cash Management Improvement Act of 1990, requires that amounts greater than \$2,500 be billed at least monthly. The Conference office, however, often billed quarterly or yearly agencies that should have been billed monthly. For example, the Conference office billed other state agencies for its administrative costs for the Child Support program quarterly and for the Victims of Crime Assistance and the West Tennessee Regional Drug Prosecution Unit grants annually.

If the processing of revenue journal vouchers is delayed, revenue could be understated in one accounting and reporting period and overstated in the following period. Also, failure to request funds in compliance with Policy 18 could affect the state's compliance with the federal Cash Management Improvement Act of 1990.

RECOMMENDATION:

The Executive Director and the Assistant Executive Director–Fiscal should ensure that revenue journal vouchers are promptly initiated in accordance with Policy Statement 18.

MANAGEMENT'S COMMENT:

We concur. The Conference office is now initiating all federal revenue journal vouchers in accordance with Policy Statement 18.

Compliance Report

October 1, 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 Conference'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 District Attorneys General Conference is the responsibility of the Conference'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 District Attorneys General Conference complied with the provisions referred to in the preceding paragraph, except for significant 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 Conference'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/tp

APPENDIX

REBUTTAL

What Mr. Pierotti's policy was or was not is irrelevant to the fundamental issue. The fact remains that Mr. Pierotti improperly retained funds derived from the improper submission of travel claims to the State of Tennessee for expenses he did not personally incur and was not owed. The funds were never due to Mr. Pierotti; they were due exclusively to Shelby County.

Mr. Pierotti's statements and actions during the initial stages of our inquiry clearly indicated that his original policy was to repay Shelby County dollar-for-dollar for credit card charges. Mr. Pierotti's May 20, 1996, repayment of \$8,338.31, as calculated by his staff, was based on his total credit card charges and was done without any input from the auditors concerning how the repayment should be calculated. It is interesting to note that Mr. Pierotti's \$8,338.31 payment to Shelby County was made on the same day the auditors called and made an appointment to interview him concerning his travel practices. It is also interesting to note that, in light of the office workload Mr. Pierotti discussed at great length, he and his staff were able to calculate and process, in the matter of an afternoon, the repayment of over three years of credit card charges.

Concerning Mr. Pierotti's statement that he had overpaid the county: this situation only exists because the amounts owed, as calculated by Mr. Pierotti's staff, were originally computed based on his stated and executed policy of full repayment of total travel-related credit card charges, which often included amounts for lodging in excess of the state's reimbursement rates.

In his response, Mr. Pierotti completely failed to address the issue of the \$8,578.12 in mileage payments he improperly retained. Initially during the audit, he took the position that he was justified in claiming this mileage. Although he personally incurred no vehicle expense because he drove a county vehicle, he believed he was not adequately compensated for all the expenses he incurred in his official trips to Nashville.

It is difficult to reconcile Mr. Pierotti's statements concerning his "office" bank account and the lack of time to process repayments. Mr. Pierotti had the time to complete a state travel claim and to write a check from his joint account with his wife to his "office" account after receiving payment from the state—clearly indicating that Mr. Pierotti was aware of receiving travel payments from the State of Tennessee. Mr. Pierotti was then able to make over \$20,000 in cash withdrawals from this alleged "business" account. He has, however, failed to account for how he used the cash. Although Mr. Pierotti or his secretary had the time to redeposit the travel funds, he only had time to repay Shelby County on 4 of 89 occasions prior to our inquiry.

Mr. Pierotti's statements concerning his retirement and workload and his inclusion of the November 6, 1996, letter from Henry Marmon, Shelby County Director of Administration and Finance, do not explain or justify why he improperly claimed mileage he was not entitled to and why he failed to promptly reimburse the taxpayers of Shelby County for his use of their credit card.

Regarding Mr. Pierotti's statements concerning Shelby County's intention to pay his credit card expenses: the Shelby County officials we interviewed during the audit stated that the Shelby County Finance Department took a "hands-off" approach concerning the expenditures of the district attorney's office. The officials stated that the District Attorney General's expenses were paid as long as supporting receipts were submitted and the yearly budget was not exceeded. The officials further stated that they did not attempt to make value judgments as to the expenditures the district attorney should or should not incur. The county apparently inappropriately assumed no responsibility for the fiscal actions of the Office of the District Attorney General.

Note: After we received Mr. Pierotti's comments, we changed the finding to say he retired (not resigned) from his position as District Attorney General.

REBUTTAL

Ms. Gardner's statements concerning the Comprehensive Travel Regulations and corporate charge cards are correct in that state policy clearly allows employees who travel on state business to receive a personal corporate charge card. However, the policy states that the charges incurred on the cards are the responsibility of the employee and that under no circumstances does the state pay the individual's credit card bills. The issue is not so much Ms. Gardner's use of the credit card, but more so her submission of travel claims and her receipt and retention of funds due to Shelby County. The existence of corporate charge cards in state government and the district attorney general's office's use of Shelby County credit cards are a separate issue from Ms. Gardner's retention of funds due to Shelby County.

Ms. Gardner states that various secretarial personnel were responsible for preparing and filing her claims. This is the standard situation found in most offices, whether in government or the private sector. The tendency to hold staff responsible for resulting problems is also not uncommon. But in this case, it was apparently one of those clerical staff who instituted a process to attempt to recoup such payments from Ms. Gardner and others. The fact remains that Ms. Gardner's signature appeared on each travel claim and that regardless of who actually prepared the claim, Ms. Gardner bears the ultimate responsibility for accurate and truthful representation of the information presented.

Furthermore, concerning Ms. Gardner's statement that the reimbursement process was confusing, it should be noted that state employees all across the state are able to accurately prepare and submit travel claims for the travel expenses they incur in the performance of their job duties. Certainly any employees confused about the proper procedures to use should immediately consult their supervisors or appropriate fiscal staff. Regardless of the level of confusion Ms. Gardner experienced, the confusion did not prompt her to seek a better understanding of the process or to insist on more timely processing of the claims, which totaled thousands of dollars. This behavior sharply contrasts with her reaction to a \$34.49 charge. Of course, she was not personally "out of pocket" for the thousands of dollars representing the travel claims because she had incurred no expenses. The payments she received as a result of the claims were, in effect, "extra money" to Ms. Gardner. However, this extra money was due to the county, not Ms. Gardner. Hence, her interest in removing any confusion in her mind or improving the timeliness of the process was apparently minimal and did not motivate her to take any steps to resolve the matter to her satisfaction.

Concerning Ms. Gardner's statement that she immediately paid any amounts she was invoiced: it should be noted that Ms. Gardner neglected to repay any of the credit card charges she incurred from 1990 to March 1994. Once an invoicing system was established (not by Ms. Gardner, but by a concerned staff person), Ms. Gardner still did not pay all the invoices prepared until the auditors raised the issue, nearly two years after the charges were incurred. Furthermore, with regard to Ms. Gardner's statement that a portion of her \$1,140.62 payment to Shelby County may have been an overpayment: this repayment was based on the internal invoices prepared by the staff of the district attorney general (one of the clerical staff who initiated a

process to attempt to recoup payments from Ms. Gardner and others) and not by the auditors. The method of calculation would appear to be based on that office's policy.

Regarding Ms. Gardner's \$34.49 of improper gasoline charges: Ms. Gardner's response indicated that she did indeed claim mileage and, at the same time, submit receipts to receive reimbursement for gasoline. In effect, she acknowledged that she sought to knowingly circumvent the appropriate procedures and controls over travel reimbursement. The issue of Ms. Gardner's disputes with her husband is irrelevant to the question of the propriety of her travel claim and other expense submissions. The calculations of the amounts Ms. Gardner owed, as presented, already reflect the proper adjustment.