

Department of Labor

**For the Year Ended
June 30, 1997**

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April 1, 1998

The Honorable Don Sundquist, Governor
and

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and

The Honorable Alphonso R. Bodie, Commissioner
Department of Labor
710 James Robertson Parkway, Andrew Johnson Tower
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have conducted a financial and compliance audit of selected programs and activities of the Department of Labor for the year ended June 30, 1997.

We conducted our audit in accordance with generally accepted auditing standards and the standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we obtain an understanding of management controls relevant to the audit and that we design the audit to provide reasonable assurance of the Department of Labor's compliance with the provisions of laws, regulations, contracts, and grants significant to the audit. Management of the Department of Labor is responsible for establishing and maintaining internal control and for complying with applicable laws and regulations.

Our audit disclosed a finding which is detailed in the Objectives, Methodologies, and Conclusions section of this report. The department's administration has responded to the audit finding; we have included the response following the finding. We will follow up the audit to examine the application of the procedures instituted because of the audit finding.

We have reported other less significant matters involving the department's internal control and/or instances of noncompliance to the Department of Labor's management in a separate letter.

Very truly yours,

W. R. Snodgrass
Comptroller of the Treasury

WRS/th
97/114

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit
Department of Labor
For the Year Ended June 30, 1997

AUDIT SCOPE

We have audited the Department of Labor for the period July 1, 1996, through June 30, 1997. Our audit scope included those areas material to the Tennessee Comprehensive Annual Financial Report for the year ended June 30, 1997, and the Tennessee Single Audit Report for the same period. In addition to those areas, our primary focus was on management's controls and compliance with policies, procedures, laws, and regulations in the areas of federal compliance with the Job Training Partnership Act, accounts receivable in the TOSHA division, and utilization of the Department of Finance and Administration's STARS grant module to record the receipt and expenditure of federal funds. The audit was conducted in accordance with generally accepted auditing standards and the standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

AUDIT FINDING

Penalties and Interest Have Not Been Added to TOSHA Fines

Management in Tennessee Occupational Safety and Health Act Division did not update the computer system to include calculations for interest and penalties on its past-due inspection fines. As a result, interest and fines have not been calculated or collected on past-due accounts. In addition, proper write-off procedures were not followed in closing case files (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

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Audit Report
Department of Labor
For the Year Ended June 30, 1997

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Department of Labor For the Year Ended June 30, 1997

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the Department of Labor. 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.

BACKGROUND

The General Assembly created the Department of Labor in 1919 to supervise workshops and factories and enforce the laws regulating them. Since 1972, the department’s scope has expanded to include seven divisions.

1. The Division of Administration coordinates the activities of the other divisions; prepares financial budgets and work programs; and provides for the department’s legal, fiscal, personnel, and procurement needs.
2. The Division of Occupational Safety and Health (more commonly known as the Tennessee Occupational Safety and Health Act [TOSHA] Division) is responsible for ensuring safe and healthful on-the-job conditions for every worker in the State of Tennessee. The division has three primary functions: to train and educate employers and employees in occupational health and safety, to perform inspections throughout the state to ensure that Tennessee’s occupational safety and health standards are followed, and to administer and enforce the Hazardous Chemical Right-to-Know Law.
3. The court-administered Tennessee Workers’ Compensation Law operates under the Division of Workers’ Compensation. This division’s primary duties are to inform, advise, and assist workers regarding their rights under the law and to administer the Workers’ Compensation Second Injury Fund. The division is also responsible for the administration of the Workers’ Compensation Reform Act.

4. The Division of Mines trains miners and mine owners and operates and coordinates state rescue efforts in the event of a mine disaster. The division maintains two mine rescue teams and also licenses underground and strip mines.
5. The Division of Boilers and Elevators is responsible for the administration and the enforcement of the Tennessee Boiler and Pressure Vessel Inspection Law and the Tennessee Elevator Inspection Law.
6. The Division of Labor Standards is charged with enforcing the Tennessee Child Labor Act, the Prevailing Wage Act, the Equal Pay Act, and the Wage Earners' Protection Act. The Research and Statistics Office, which compiles data on work-related injuries, operates under this division but reports directly to the assistant commissioner. The division's Employee Assistance Professionals (EAP) unit certifies and issues licenses to persons who practice employee assistance counseling at worksites. The EAP also enforces rules and regulations established by the unit.
7. The Division of Employment and Training is responsible for the administration of the Job Training Partnership Act of 1982 as amended. This division coordinates programs to prepare youth and unskilled adults for entry into the labor force and to provide job training for economically disadvantaged individuals facing serious barriers to employment. This division also administers grants under the Job Opportunities and Basic Skills (JOBS) program. The Department of Human Services, the grantee, has subcontracted with the Department of Labor to administer the program, which is available to persons receiving Aid to Families with Dependent Children (AFDC) payments. The program provides support services and job training.

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

AUDIT SCOPE

We have audited the Department of Labor for the period July 1, 1996, through June 30, 1997. Our audit scope included those areas material to the Tennessee Comprehensive Annual Financial Report for the year ended June 30, 1997, and to the Tennessee Single Audit Report for the same period. In addition to those areas, our primary focus was on management's controls and compliance with policies, procedures, laws, and regulations in the areas of accounts receivable in the Tennessee Occupational Safety and Health Act Division, and utilization of the Department of Finance and Administration's STARS grant module to record the receipt and expenditure of federal funds. The audit was conducted in accordance with generally accepted auditing standards and the standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

AREAS RELATED TO TENNESSEE'S COMPREHENSIVE ANNUAL FINANCIAL REPORT AND SINGLE AUDIT REPORT

Our audit of the Department of Labor is an integral part of our annual audit of the Comprehensive Annual Financial Report (CAFR). The objective of the audit of the CAFR is to render an opinion on the State of Tennessee's general-purpose financial statements. As part of our audit of the CAFR, we are required to gain an understanding of the state's internal control and determine whether the state complied with laws and regulations that have a material effect on the state's general-purpose financial statements.

Our audit of the Department of Labor is also an integral part of the Tennessee Single Audit which is conducted in accordance with the Single Audit Act, as amended by the Single Audit Act Amendments of 1996. The Single Audit Act, as amended, requires us to determine whether

- the state complied with rules and regulations that may have a material effect on each major federal financial assistance program, and
- the state has internal control to provide reasonable assurance that it is managing its major federal award programs in compliance with applicable laws and regulations.

We determined the Job Training Partnership Act (JTPA) within the Department of Labor was material to the CAFR and to the Single Audit Report.

To address the objectives of the audit of the CAFR and the Single Audit Report, as they pertain to this major federal award program, we interviewed key department employees, reviewed applicable policies and procedures, and tested representative samples of transactions. In addition, we performed analytical procedures to determine if the department has sufficient controls to ensure the federal program is administered in accordance with the basic laws and regulations governing it.

We have issued an unqualified opinion on the general-purpose financial statements of the State of Tennessee in our Independent Auditor's Report dated December 17, 1997, which is included in the CAFR for the year ended June 30, 1997. The Tennessee Single Audit Report for the year ended June 30, 1997, will include our reports on the schedule of expenditures of federal awards and on internal control and compliance with laws and regulations.

We had no findings related to JTPA.

TOSHA ACCOUNTS RECEIVABLE

Our objectives in the review of the controls over accounts receivable for the Division of Occupational Safety and Health Act (TOSHA) were to determine whether

- accounts receivable duties were adequately segregated;
- reconciliation procedures were in place between the cash-receipting functions done by the TOSHA Division and the cash-deposit functions performed by the fiscal office;
- the division ensured proper reconciliation among the card files, the computer records, and the inspection files for penalties assessed by inspectors;
- the division's computer system could generate a proper accounts receivable listing with appropriate aging criteria required by Department of Finance and Administration policies;
- the division's computer system could properly compute the interest and penalties due on fines over 30 days old; and
- proper collection procedures were followed, and if accounts deemed uncollectible were written off according to the *Tennessee Code Annotated* and to Department of Finance and Administration policies.

We interviewed key departmental personnel to gain an understanding of the division's accounts receivable procedures. We also reviewed supporting documentation and tested nonstatistical samples of accounts receivable transactions.

We found that controls were in place in the division, duties were adequately segregated, and receipting and reconciliation functions were operating properly. However, we found that the computer system did not compute penalties and interest owed the division and that proper write-off procedures were not followed. These problems are discussed in the following finding.

FINDING AND RECOMMENDATION

The TOSHA Division has not added penalties and interest to overdue fines and improperly closed files and waived penalties

Finding

Testwork on Tennessee Occupational Safety and Health Act (TOSHA) unpaid penalty files revealed that 11 files were improperly closed during the fiscal year. These files were not properly authorized to have the penalty waived by the Attorney General and Reporter, the Comptroller of the Treasury, and the Governor of the State of Tennessee as required by state law. Furthermore, the department has not added interest and penalties to fines that are outstanding.

Pursuant to legislation effective July 1, 1996, *Tennessee Code Annotated*, Section 50-3-108, states that

The commissioner of labor shall require the full amount of any penalty assessed by a final order of the department to be paid unless the commissioner receives approval to compromise and settle the amount to be paid pursuant to Section 20-13-103.

Tennessee Code Annotated, Section 20-13-103, "Compromise of Litigation," states that the Attorney General and Reporter may compromise and settle a penalty, provided that the Governor and the Comptroller of the Treasury provide written approval to do so. *Tennessee Code Annotated*, Section 50-3-108, was enacted to create a formal policy for waiving TOSHA fines.

Tennessee Code Annotated, Section 50-3-107(b), states that interest is to be added when a fine is not paid on or before the due date. The interest rate is established in accordance with *Tennessee Code Annotated*, Section 67-1-801(a)(1), which references the *Tennessee Administrative Register's* Formula Rate of Interest. In addition to the interest added to fines, there is also to be a penalty of 10% added for each 30 days overdue, to a maximum of 30% of the unpaid amount. The penalty is established in *Tennessee Code Annotated*, Section 50-3-107(c). The department has added neither penalties nor interest to any of the overdue fines since the enacting of this legislation on July 1, 1996. Penalties and interest are required to be added to all cases which are not in contested case status with the TOSHA Review Commission and have progressed beyond the due date. Past-due penalties are estimated to be more than \$130,000 since July 1, 1996. Interest is estimated at over \$51,000 for cases turned over to the Attorney General and Reporter for collection as of June 30, 1997.

In the prior three audits, there were discrepancies noted between the inspection file and the computer file that tracks violations and fines. One of the discrepancies was that files had been administratively closed and penalties waived.

During the audit period, 11 cases in the computer and in the inspection files had been closed and the penalty waived. The 11 cases' fines totaled \$16,880. Two of the files were not found in the file room, and departmental personnel did not have an explanation as to their location. The amount of these fines was listed as \$1,730. Four of the 11 files did not have a memo stating why they were closed or there was not a signature on the memo closing the file. The amount of these fines was \$2,450. The remaining five cases had memos that were signed by personnel ranging from the director of TOSHA to the managers of the Safety Standards Enforcement Branch and the Health Standards Enforcement Branch and to the supervisor of an area office. These employees did not have the proper authority to close files and waive fines after July 1, 1996. The amount of these five fines was \$12,700.

Recommendation

Department directors and managers should ensure that all employees are aware of any new legislation that affects case files. Interest and penalties should be added to all fines when the due date passes. These amounts should also be shown on all invoices and correspondence when they are sent to the offending companies. When files are sent to the Attorney General and Reporter, the interest and penalties are used to offset any private collection agency fees. Therefore, accurate and current calculations are essential to pay collection costs. TOSHA's computer records and files should reflect all interest and penalties that are due and properly include them in receivables at period-end.

Management's Comment

We concur. We have issued new policies and procedures and submitted these to all employees who are affected by the new legislation. Several meetings have also been held on this issue. We have developed documentation on the process of maintaining a system on fines and penalties and issued this to section managers and staff members.

A separate computerized system has been implemented to process all interest and penalties with schedule due dates built in the system. This system is reconciled monthly with the federal system generated computer printouts. The amount of penalties and interest are listed on all invoices and correspondence sent to the offending companies. The interest and penalties that are due are included in the receivables at period-end. This is a part of the new computer system indicated above.

DEPARTMENT OF FINANCE AND ADMINISTRATION POLICY 20, “RECORDING OF FEDERAL GRANT EXPENDITURES AND REVENUES”

Department of Finance and Administration Policy 20 requires that state departments whose financial records are maintained on the State of Tennessee Accounting and Reporting System (STARS) fully utilize the STARS Grant Module to record the receipt and expenditure of all federal funds. Our testwork focused on whether

- appropriate grant information was entered into the STARS Grant Control Table upon notification of the grant award, and related revenue and expenditure transactions were coded with the proper grant codes;
- appropriate payroll costs were reallocated to federal award programs within 30 days of each month-end using an authorized redistribution method;
- the department made drawdowns at least weekly using the applicable STARS reports;
- the department had negotiated an appropriate indirect cost recovery plan, and indirect costs were included in drawdowns; and
- the department utilized the appropriate STARS reports as bases for preparing the schedule of expenditures of federal awards and reports submitted to the federal government.

We interviewed key personnel to gain an understanding of the department’s procedures and controls concerning Policy 20. No material discrepancies were noted.

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. 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 Department of Labor has corrected previous audit findings concerning accounts receivable in the Boilers and Elevators Division and the TOSHA

Division. The finding concerning excess cash at service delivery areas (SDAs) has been corrected, as well as the fiscal section's finding concerning untimely contract revisions with SDAs.

OBSERVATIONS AND COMMENTS

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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 ending June 30, 1997, the Department of Labor filed its compliance report and implementation plan on July 1, 1997.

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

A summary of the dates state agencies filed their annual Title VI compliance reports and implementation plans is presented in the special report, *Submission of Title VI Implementation Plans*, issued annually by the Comptroller of the Treasury.

APPENDIX

DIVISIONS AND ALLOTMENT CODES

Department of Labor divisions and allotment codes:

337.01	Division of Administration
337.02	Division of Occupational Safety and Health
337.03	Division of Workers' Compensation
337.04	Division of Mines

337.05 Division of Boilers and Elevators
337.06 Division of Labor Standards
337.07 Division of Employment and Training
337.08 Second Injury Compensation Fund

