



STATE OF TENNESSEE COMPTROLLER OF THE TREASURY

Department of State

Performance Audit Report

February 2013

Justin P. Wilson
Comptroller of the Treasury



Department of Audit
Division of State Audit
Risk-Based Performance Audit Group

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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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DIVISION OF STATE AUDIT

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February 28, 2013

The Honorable Ron Ramsey
Speaker of the Senate
and
The Honorable Beth Harwell
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
The Honorable Tre Hargett
Secretary of State
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Department of State for the period January 1, 2011, through November 30, 2012. Our audit resulted in no audit findings.

We have reported another less significant matter involving an instance of noncompliance to the Department of State's management in a separate letter.

Sincerely,

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

Deborah V. Loveless, CPA
Director

DVL/KBT/mse

13/025

State of Tennessee

A u d i t H i g h l i g h t s

Comptroller of the Treasury

Division of State Audit

Performance Audit
Department of State
February 2013

AUDIT SCOPE

We have audited the Department of State for the period January 1, 2011, through November 30, 2012. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of revenue, the Division of Charitable Solicitations and Gaming, and the Division of Elections.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Management of the Department of State is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

AUDIT FINDINGS

The audit report contains no findings.

Performance Audit Department of State

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Performance Audit Department of State

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the audit of the Department of State. The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which requires 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 Secretary of State is one of the three constitutional officers provided by Tennessee’s constitution. The Secretary of State, according to the constitution, is to maintain a register of the official acts and proceedings of the Governor and is to be prepared to present them before the General Assembly. Additional functions of the Secretary of State are outlined in the state statutes and regulations.

The Secretary of State is the chief officer of the Department of State. The Department of State keeps all acts and resolutions adopted by the General Assembly, proclamations of the Governor, executive orders, and oaths of office. The department is also required by statute to keep other records: the receipt and recording of corporate charters, the receipt of trademarks, the execution of notary commissions, and the receipt of state administrative rules and regulations.

The Department of State is organized into nine major divisions: Fiscal and Administrative Services, Human Resources and Organizational Development, Information Systems, Administrative Procedures, Business Services, Charitable Solicitations and Gaming, Elections, Library and Archives, and Publications.

The Fiscal and Administrative Services Division provides the general administrative services necessary to support the department. These include budgeting, accounting, procurement, and other administrative and financial services.

The Human Resources and Organizational Development Division is responsible for the department's human resources activities. These activities include the management of staffing, benefits, employee relations, policies, and compliance.

The Information Systems Division is responsible for all information technology services necessary to support the Department of State. These responsibilities include information systems and technology planning, project development and implementation, technical support, network and telephone administration, and procurement assistance.

The Administrative Procedures Division provides administrative judges to conduct contested case hearings for state administrative agencies and develops uniform rules of procedure for the conduct of those hearings. This division is also required to assist state agencies in complying with the Uniform Administrative Procedures Act.

The Business Services Division executes the processing and recordkeeping duties of the Secretary of State relating to the following areas: apostilles and authentications, corporations, general partnerships, limited liability companies, limited liability partnerships, limited partnerships, mine foreman certificates, motor vehicle temporary liens, nonresident fiduciary appointments, service of process, state deeds and leases, trademarks, Uniform Commercial Code, and workers' compensation exemption registrations.

The Charitable Solicitations and Gaming Division is responsible for the registration and regulation of charitable organizations, charitable gaming events, professional solicitors, and professional fundraising counsels, who solicit contributions for the benefit of charitable organizations. The division reviews annual gaming event applications, determines qualifying applicants for annual gaming events for approval by the General Assembly, and regulates those annual events. The division also regulates catastrophic illness trusts established in Tennessee.

The Elections Division is responsible for coordinating the activities of county election commissions and the uniformity of election procedures throughout the state. The coordinator interprets questions of the law for the benefit of all election officials, reviews election law legislation, and prepares the election manual and election handbooks for use by election officials.

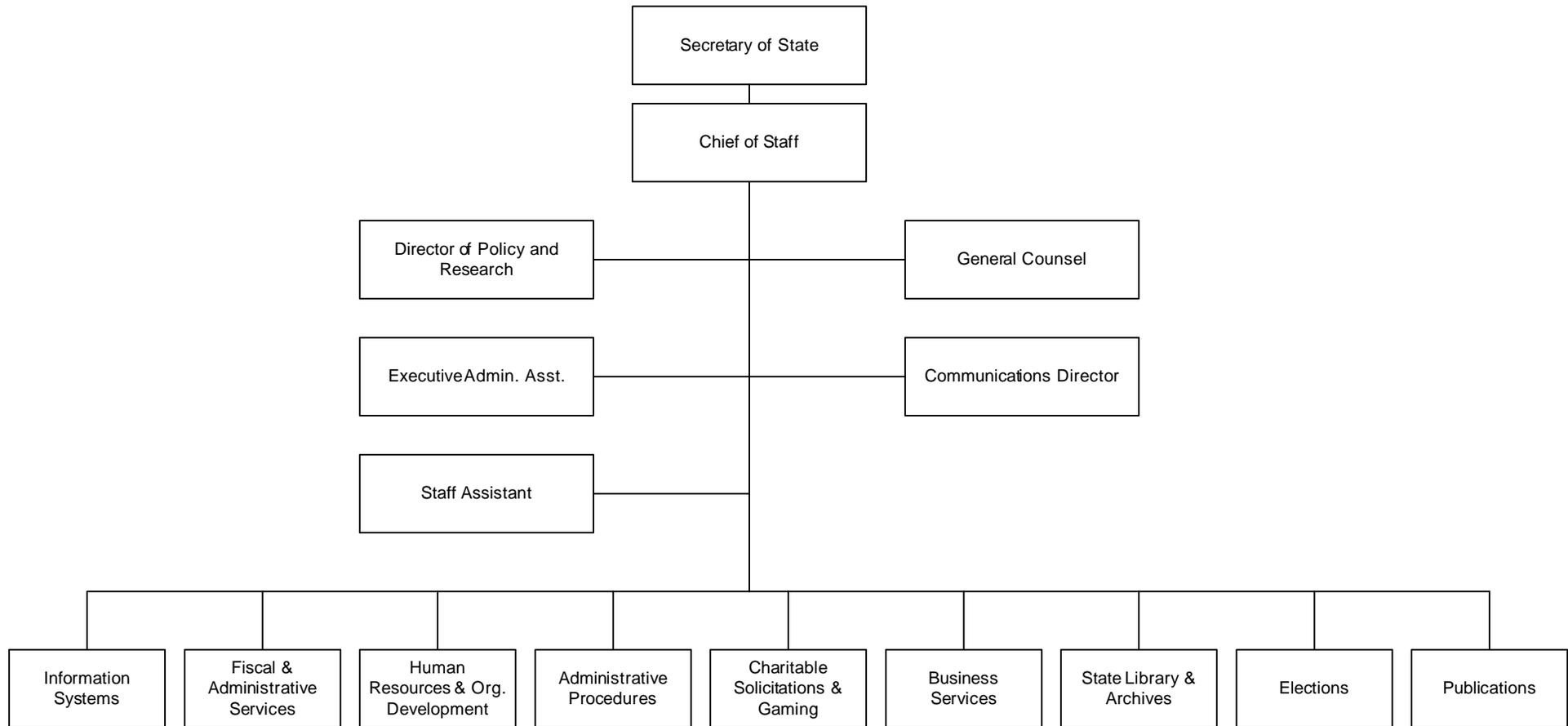
The Library and Archives Division collects and preserves books and records of historical, documentary, and reference value and encourages and promotes library development throughout the state.

The Publications Division publishes the *Tennessee Blue Book*, *Public and Private Acts of the General Assembly*, *Tennessee Administrative Register*, *Tennessee Open Appointments Vacancy Report*, *Rules and Regulations of the State of Tennessee*, and other documents for which the Secretary of State is responsible. This division is also responsible for the creation and maintenance of the department's website.

For administrative purposes, the State Election Commission, the Tennessee Economic Council on Women and the Bureau of Ethics and Campaign Finance are attached to the Department of State for all matters relating to receipts, disbursements, budgets, audits, and other related items.

An organization chart of the Department of State is on the following page.

Department of State
Organization Chart
October 2012



AUDIT SCOPE

We have audited the Department of State for the period January 1, 2011, through November 30, 2012. Our audit scope included a review of internal control and compliance with laws and regulations in the areas of revenue, the Division of Charitable Solicitations and Gaming, and the Division of Elections.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Management of the Department of State is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

PRIOR AUDIT FINDINGS

There were no audit findings in the prior audit report dated February 2011.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

REVENUE

The primary objectives of our review of revenue were to determine whether

- revenue transactions were properly recorded;
- cash collected was deposited timely in compliance with Department of Finance and Administration Policy 25;
- revenue functions were adequately segregated and physical controls over cash were adequate;
- fees were billed or charged and recorded at the correct amount;

- department-specific risks related to revenues were documented in management's risk assessment; and
- revenue collections from regional libraries for unusual or unexpected transactions were proper.

To accomplish our objectives, we interviewed key department personnel to gain an understanding of the department's procedures, systems, and controls over revenue, and we reviewed supporting documentation for those controls. We selected a random sample of 25 cash receipts totaling \$4,636 from a population of 488,553 receipts from the Tennessee Business Entity and Annual Reporting (TNBEAR) system. In addition, we selected a random sample of 25 cash receipts totaling \$122,275 from a population of 1,425 receipts from the manual processing system at the Bureau of Ethics and Campaign Finance for the period January 1, 2011, through June 30, 2012, to determine whether transactions were properly recorded. We interviewed management and observed accounting reports to determine if the department confirmed that revenue was properly recorded by reconciling its revenue records with the revenue reports issued by the Department of Finance and Administration (F&A). We evaluated the length of time between deposit and cash collection in the above listed samples during the audit period to determine whether cash was deposited timely in compliance with F&A Policy 25.

We interviewed key personnel and made observations to gain an understanding of controls and procedures over revenues to determine whether revenue functions were adequately segregated and if physical controls over cash were adequate. We performed analytical procedures on revenue received at the Bureau of Ethics and Campaign Finance from registration fees paid by employers of lobbyists and by lobbyists to determine if the fees were properly billed or charged and recorded at the correct amount. We reviewed management's risk assessment to determine if department-specific risks related to revenue were documented. We performed analytical procedures on revenue collections from the regional libraries to determine if unusual or unexpected transactions were proper.

Based on our interviews, reviews, and testwork, we determined that

- revenue transactions were properly recorded;
- cash receipts were deposited timely in compliance with F&A Policy 25 with a minor exception;
- revenue functions were adequately segregated and physical controls over cash were operating as described;
- fees were billed or charged and recorded at the correct amount for the divisions selected for review;

- department-specific risks related to revenues were documented in management’s risk assessment; and
- there were no unusual or unexpected transactions in the revenue collections from the regional libraries.

DIVISION OF CHARITABLE SOLICITATIONS AND GAMING

The division assists and protects Tennessee citizens by informing them of charities seeking their contributions. The division does this by ensuring that charitable organizations comply with Section 48-101-504, *Tennessee Code Annotated*, which requires that charities seeking to solicit funds in the state must file a registration statement, must pay an initial registration fee, and must submit quarterly financial reports during its first year of operation and fiscal year-end financial reports thereafter. In addition, the division also oversees Catastrophic Illness Trusts, which are trusts or custodial accounts established to benefit those with a catastrophic illness or a severe illness requiring prolonged hospitalization and/or doctors and medicines. These trusts must comply with department rules requiring each trust to register with the division and to file an annual accounting of the trust.

The primary objectives of our review of the Division of Charitable Solicitations and Gaming were to determine whether

- charitable organizations were in compliance with Section 48-101-504, *Tennessee Code Annotated*, and *Rules of Secretary of State, Charitable Solicitations Division*, Chapter 1360-03-01, “Regulation of the Solicitation of Funds for Charitable Purposes”; and
- Catastrophic Illness Trusts were in compliance with *Rules of Secretary of State, Charitable Solicitations Division*, Chapter 1360-3-4, “Catastrophic Illness Trusts.”

To accomplish our objectives, we interviewed key department personnel and made observations to gain an understanding of the department’s procedures and controls over the Division of Charitable Solicitations and Gaming. We obtained listings of charitable organizations and Catastrophic Illness Trusts registered with the department for the period January 1, 2011, through June 30, 2012. We selected a random sample of 60 charitable organizations from a population of 9,443 organizations to test for compliance with state law and rules of the department. We tested to ensure that each organization filed a registration statement, paid an initial registration fee, submitted quarterly financial reports, and submitted a financial report after its most recently completed fiscal year. We tested all 27 Catastrophic Illness Trusts to determine that the department obtained an accounting of each trust on the yearly anniversary of the establishment of the trust.

Based on our interviews, walkthroughs, and testwork performed, we determined that the charitable organizations and Catastrophic Illness Trusts tested were in compliance with the applicable state law and department rules noted above.

DIVISION OF ELECTIONS

The Division of Elections is headed by the Coordinator of Elections, who oversees the election process in the State of Tennessee. The Coordinator of Elections works directly with the 95 local county election commissions, candidates, and the public on election related issues including the implementation of the Help America Vote Act (HAVA) requirements. HAVA requires the preparation and submission of a State Plan by the coordinator to the federal government and the resolution of the various types of Title III complaints filed under HAVA. The State Plan includes how payments will be used to meet Title III requirements, how payments will be distributed and monitored to local governments, and how the state will provide for programs for voter education and training. Title III complaints include the following types: Voting Machine System(s), Provisional Voting or Voter Information, Computerized Statewide Voter Registration List, and Accessibility for Individuals with Disabilities. The Coordinator of Elections also works on implementing and resolving issues with the Voter Identification Law and general complaints filed. General complaints include any complaints not governed by Title III complaints.

The primary objectives of our review of the Division of Elections were to determine whether

- the department submitted a State Plan and whether the procedures over and resolution of Title III complaints were adequate;
- the department's procedures for general complaints and compliance with those procedures were adequate;
- the Voter Identification Law implementation was adequately implemented and to determine if complaints related to the law were adequately resolved; and
- the department resolved problems noted as a result of the November 2012 election.

We interviewed key department personnel and performed walkthroughs to gain an understanding of the department's procedures and controls over the Division of Elections. We reviewed the Help America Vote Act (HAVA) and tested to ensure submission of a State Plan. We obtained and tested all Title III complaints for compliance with HAVA procedures for the period January 1, 2011, through November 30, 2012. We tested all general complaints submitted to the department for the period January 1, 2011, through November 30, 2012, for compliance with department procedures. We reviewed the implementation of the Voter Identification Law and inquired as to complaints associated with the implementation of the law.

We discussed with management all Election Day problems noted and searched online for any problems reported in conjunction with the election of 2012.

Based on interviews, walkthroughs, and testwork performed, we determined that the Division of Elections submitted the required State Plan. We determined that all Title III complaints were submitted and resolved as required by HAVA and that all general complaints filed with the department were resolved in compliance with the department's procedures. We determined that the department's implementation of the Voter Identification Law was adequate and that there were no complaints filed. We also determined that Election Day problems did occur in some areas within the state; however, those problems were properly resolved.

APPENDIX

BUSINESS UNIT CODES

- 305.01 Secretary of State
- 305.02 State Election Commission
- 305.03 Public Documents
- 305.04 State Library and Archives
- 305.05 Regional Libraries
- 305.06 Library Construction
- 305.07 Bureau of Ethics and Campaign Finance
- 305.08 Economic Council on Women
- 305.09 Charitable Solicitations and Gaming
- 305.10 Help America Vote Act
- 305.12 Community Enhancement Grants