STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Office of the Executive Director of the District Attorneys General Conference

Performance Audit Report

August 2014

Justin P. Wilson
Comptroller of the Treasury

TENNESSEE COMPTROLLER OF THE TREASURY

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August 26, 2014

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
The Honorable Gary R. Wade, Chief Justice
Tennessee Supreme Court
401 Seventh Avenue North
Nashville, Tennessee 37219-1407
and
Mr. James W. Kirby, Executive Director
Office of the Executive Director of the District Attorneys General Conference
Suite 800, Capitol Boulevard Building
226 Capitol Boulevard
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Office of the Executive Director of the District Attorneys General Conference for the period July 1, 2011, through June 30, 2013.

Our audit disclosed certain findings, which are detailed in the Objectives, Methodologies, and Conclusions section of this report. Management of the Office of the Executive Director of the District Attorneys General Conference has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

We have reported other less significant matters involving internal control and instances of noncompliance to the Office of the Executive Director of the District Attorneys General Conference's management in a separate letter.

Sincerely,

Deborah V. Loveless

Deborah V. Loveless, CPA
Director

DVL/mse
14/050

State of Tennessee

Audit Highlights

Comptroller of the Treasury | Division of State Audit

Performance Audit

Office of the Executive Director of the District Attorneys General Conference

August 2014

AUDIT SCOPE

We have audited the Office of the Executive Director of the District Attorneys General Conference (the conference) for the period July 1, 2011, through June 30, 2013. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contracts and grant agreements related to an audit committee, information systems, and expenditures. Management of the conference is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient, appropriate audit evidence to support the conclusions in our report. We present more detailed information about our methodologies in the individual report sections.

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.

AUDIT FINDINGS

The Office of the Executive Director of the District Attorneys General Conference has not created an audit committee

The conference's office in Nashville has not created an audit committee, as required by state law (page 6).

The Office of the Executive Director of the District Attorneys General Conference did not maintain proper information systems security access controls and documentation

Based on our computer access testwork, the office did not follow information systems' industry best practices regarding access controls and documentation (page 9).

Performance Audit
Office of the Executive Director of the District Attorneys General Conference

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Performance Audit
Office of the Executive Director of the
District Attorneys General Conference

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the performance audit of the Office of the Executive Director of the District Attorneys General Conference. 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 Tennessee District Attorneys General Conference was created by the General Assembly in 1961. The Office of the Executive Director, which was created in 1972, serves as the central administrative office for the District Attorneys General Conference. As set forth in Section 8-7-307, *Tennessee Code Annotated*, the purpose of the Office of the Executive Director of the District Attorneys General Conference is "to assist in improving the administration of justice in Tennessee by coordinating the prosecutive efforts of the various district attorneys general and by performing the duties and exercising the powers herein conferred."

The Office of the Executive Director of the District Attorneys General Conference serves as the central administrative office for Tennessee's 31 district attorneys general. The district attorneys general elect an executive director for a term of four years. The district attorneys general are elected for a term of eight years and are responsible for the prosecution of criminal cases on behalf of the state. Although the district attorneys general are elected by voters of their local districts, they are state officials.

The Office of the Executive Director of the District Attorneys General Conference (the conference) is organized into several divisions or coordinators to discharge its statutory duties. The basic functions of the divisions and coordinators are described below:

Training/Education Division

The Training/Education Division provides educational opportunities for prosecutors and other law enforcement agencies. Training is developed to address the professional skill level of each participant.

Human Resources Division

The Human Resources Division is responsible for handling personnel transactions for the conference's employees. In addition, this division assists employees with benefits such as retirement and deferred compensation.

Child Support Coordinator

The main function of the Child Support Coordinator is to act as a liaison between the conference and the Department of Human Services. These duties include, but are not limited to, coordinating such services as the relocation of offices and computer equipment; staffing; and organizing the annual Statewide Title IV-D Administrators and Attorneys Conference and the October Conference for the Title IV-D Attorneys. The coordinator also assists the Fiscal Division with child support contracts and budgets; assists the Payroll and Personnel Division with salaries and new hires; and maintains contact with all Child Support offices within the state regarding everyday problems related to their offices.

Fiscal Services Division

The Fiscal Services Division is responsible for budgeting, accounting, payroll, personnel, and administration of state fiscal and accounting matters pertaining to the district attorneys general and their staffs. The accounting responsibility involves processing the accounts payable and accounts receivable transactions. In addition, this division handles the conference's space and copier leases; equipment purchases; and property management, law book libraries, and telecommunication systems.

Victim/Witness Coordinator

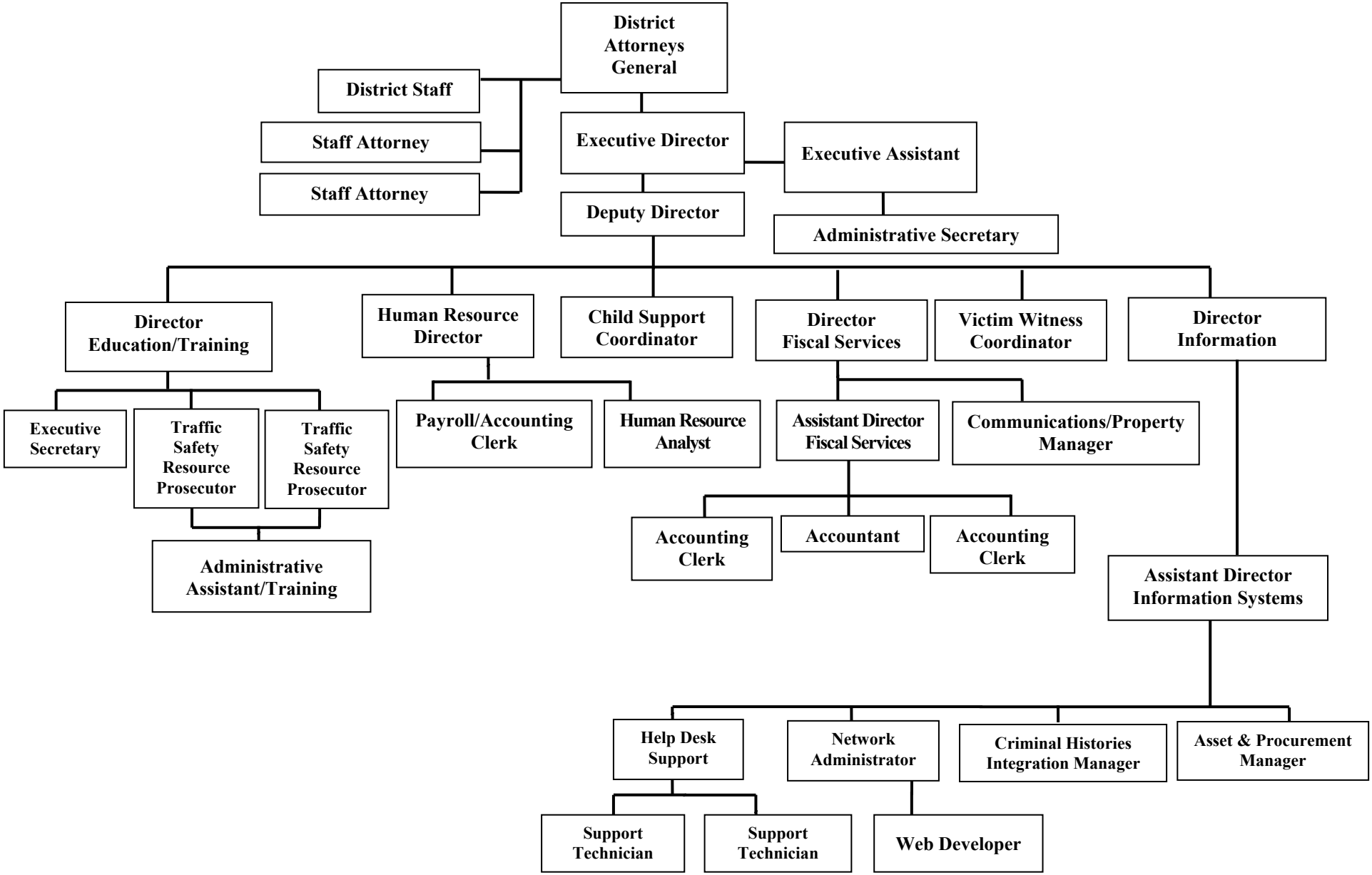
The Statewide Victim Witness Coordinator acts as a liaison between the victim witness coordinators and the Tennessee District Attorneys Conference, working closely with the Board of Parole and the State Attorney General's Office. The coordinator is also responsible for educating the public about the Victim Witness Program.

Information Systems Section

The Information Systems Section was created to support and improve the automation resources available to the district attorneys. The section is responsible for network and computer installation, software support, internet services, and computer training. In addition, this section is coordinating and handling the development and installation of a case management software for the district attorneys' offices to use.

An organizational chart of the Office of the Executive Director of the District Attorneys General Conference is on the following page.

Office of the Executive Director of the District Attorneys General Conference
Organizational Chart
As of June 10, 2014



AUDIT SCOPE

We have audited the Office of the Executive Director of the District Attorneys General Conference (the conference) for the period July 1, 2011, through June 30, 2013. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contracts and grant agreements related to an audit committee, information systems, and expenditures. Management of the conference is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient, appropriate audit evidence to support the conclusions in our report. We present more detailed information about our methodologies in the individual report sections.

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.

PRIOR AUDIT FINDINGS

Section 8-4-109*, Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Office of the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The prior audit report of the Office of the Executive Director of the District Attorneys General Conference (the conference) was dated March 2008. The conference filed its report with the Department of Audit on August 15, 2008. 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 the previous audit findings concerning overpayments and duplicate payments to vendors; overpayments for unearned leave to employees; and the failure to perform a formal risk assessment.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

AUDIT COMMITTEE

The Audit Committee Act of 2005 (the Act), as described in Section 4-35-102, *Tennessee Code Annotated*, requires state governing boards; councils; commissions; or entities that either prepare financial statements or have the authority to hire and terminate employees to create an audit committee. The Act does allow an entity to seek an exemption from the Comptroller of the Treasury.

Our objective was to determine if the conference complied with the Act of 2005. Based upon discussions with the executive director and upon review of a request for an exemption from the requirements set forth in the Act, we found that the conference had not established the required audit committee after its request for exemption was denied (see finding 1).

Finding 1 - The Office of the Executive Director of the District Attorneys General Conference has not created an audit committee

In the previous two audit reports, we recommended that the Office of the Executive Director of the District Attorneys General Conference establish an audit committee in order to comply with Section 4-35-102, *Tennessee Code Annotated,* which states,

> (a) A state governing board, council, commission, or equivalent body that has the authority to hire and terminate its employees shall create an audit committee, subject to subsection (c).
>
> (b) A state governing board, council, commission, or equivalent body that is responsible for the preparation of financial statements, whether included in the financial statements of other entities or free standing, shall create an audit committee, subject to subsection (c).
>
> (c) A state governing board, council, commission, or equivalent body subject to subsections (a) and (b) may be excepted from the requirement to form an audit committee only upon the approval of the comptroller of the treasury.

In response to our July 2004 recommendation to establish an audit committee, the executive director requested an exemption to the Audit Committee Act in a letter to the Comptroller of the Treasury dated July 31, 2006. The director's basis for an exemption was that in his view, the conference did not meet the criteria set forth in Section 4-35-102(b) which related to financial statement preparation. In response to the exemption request, the Comptroller of the Treasury denied the conference's request in a letter dated March 1, 2007. The Comptroller's letter clarified that Section 4-35-102, *Tennessee Code Annotated,* applies to

governing bodies that have the "authority to hire and terminate employees" and that because the conference had the authority to hire and terminate employees, there was not adequate justification to exempt the conference from the requirements of the Audit Committee Act. In March 2008, we again reviewed the office's efforts to establish the audit committee and found that conference management was in preliminary discussions to establish the committee.

Based on discussions with the Executive Director during the current audit, the Office of the Executive Director of the District Attorneys General Conference still has not established an audit committee as required by the Audit Committee Act of 2005.

Based on our review of state law and discussions with management, we determined that, according to Section 8-7-311, the Executive Director is hired by the elected district attorneys within the conference and also has the authority to hire and terminate conference staff. Section 8-7-311, *Tennessee Code Annotated,* states,

> (a) The executive director of the district attorneys general conference shall, subject to the approval of the duly elected officers of the district attorneys general conference, appoint a budget officer and a director and such other assistants and clerical personnel as are necessary to enable the executive director to perform the duties of the executive director's office.

We confirmed with the conference's Human Resources director that the conference currently employs 28 staff members who were hired and can be terminated by the executive director.

Recommendation

The Office of the Executive Director of the District Attorneys General Conference should establish an audit committee, as required by law, to assist the conference in the following ways:

- evaluating management's assessment of risk and the agency's system of internal control;
- formally reiterating, on a regular basis, to the board, agency management, and staff their responsibility for preventing, detecting, and reporting fraud, waste, and abuse;
- serving as a facilitator of any audits or investigations of the agency, including advising auditors and investigators of any information the committee may receive that is pertinent to audit or investigative matters;
- informing the Comptroller of the Treasury of the results of the risk assessment and internal controls to reduce the risk of fraud; and
- promptly notifying the Comptroller of the Treasury of any indications of fraud.

Management's Comment

We do not totally agree and do not see the need for an audit committee; however, we will formally establish same. The committee will be comprised of the directors of the various divisions within the office as well as the deputy director of the Conference. We will see that this committee is active beginning July 1, 2014.

INFORMATION SYSTEMS

The Information Technology Section within the Office of the Executive Director of the District Attorneys General Conference (the conference) provides services for the conference and applicable districts, which include technical planning and research; network access; electronic data protection; storage and retention; technical hardware and software usage; and communication devices and software support. The section is responsible for both establishing and discontinuing access to the TN-DAGC network, which allows access to various computer programs such as JustWare, a case management system.

Our objectives of our review of information systems were to determine if

- the conference has a current disaster recovery plan and if the plan met information systems' industry guidelines;
- the conference followed information systems' industry best practices regarding information systems security controls; and
- documentation related to management's control activities was retained for at least two years.

We reviewed applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the conference's information systems necessary to achieving the audit objectives. We obtained and reviewed the conference's current disaster recovery plan to assess whether the plan adhered to information systems' industry guidelines. To determine whether conference management followed industry best practices, we compared management's internal control activities to the industry's best practices. We tested the availability of documentation related to management's control activities.

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

- the conference's disaster recovery plan was current and in accordance with information systems' industry guidelines, with a minor exception related to data backups not being stored at an outside location; and

- information systems management did not follow information systems' industry best practices and did not always maintain essential documentation to support management's control activities (see finding 2).

Finding 2 - The Office of the Executive Director of the District Attorneys General Conference did not maintain proper information systems security controls and documentation

Based on our testwork, the District Attorneys General Conference did not maintain proper information systems security controls, resulting in increased risk of unauthorized access. Documentation concerning the information security controls was not always retained. The wording of this finding does not identify specific vulnerabilities that could allow someone to exploit the conference's systems. Disclosing those vulnerabilities could present a potential security risk by providing readers with information that might be confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. We provided the conference's management with detailed information regarding the specific vulnerabilities we identified as well as our recommendations for improvement.

Recommendation

The executive director should ensure that these conditions are remedied through procedures that encompass all aspects of effective systems security controls. Management should include the risks noted in this finding in management's documented risk assessment. The executive director should also develop controls to mitigate the identified risks, ensure staff monitors the effectiveness of the controls, and take action if deficiencies occur.

Management's Comment

The Conference recognizes the importance of strong information systems controls. The Conference will continue to maintain strong information systems controls.

EXPENDITURES

The Fiscal Services Division of the Office of the Executive Director of District Attorneys General Conference (the conference) coordinates and oversees the financial transaction processing of the conference's office and the 31 district attorneys' offices. Transactions processed include expenditures, travel reimbursement, and payroll.

Our objectives in our review of expenditures were to determine whether

- expenditures were adequately supported, properly approved, mathematically accurate, and properly classified in the accounting records;

- grant expenditures were in compliance with the grant agreement;

- contract expenditures were in compliance with contract terms;

- travel expenditures were in accordance with the Department of Finance and Administration's Policy 8, *Comprehensive State Travel Regulations*;

- the conference was properly reimbursed for duplicate payments and overpayments; and

- the conference entered the proper code into the Edison accounting system for employees in a "leave without pay" status to ensure that employees did not receive compensation to which they were not entitled.

We reviewed applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding of the conference's controls over expenditures necessary to achieving the audit objectives. From a population of 47,670 expenditures, we selected a nonstatistical sample of 40 expenditures totaling $23,358.66 for the period July 1, 2011, through June 30, 2013, and examined supporting documentation to determine whether expenditure transactions had been adequately supported, were properly approved, mathematically accurate, and correctly recorded in the accounting system. For grant- and contract-related expenditures, we tested compliance with applicable requirements. In addition, from a population of 89,182 travel expenditures totaling $2,324,811.30 for the same period, we selected a nonstatistical sample of 25 expenditures totaling $685.01 and tested to determine if travel expenditures were properly approved and complied with the *Comprehensive State Travel Regulations*. Also, from a list of cancelled warrants for the period noted above, we identified 5 payments totaling $2,487 as apparent duplicate payments. We tested the 5 duplicate payments to determine if the conference was refunded the amount of the duplicate payment. We obtained a listing of 60 deposit transactions for the same period, to determine if funds received by the conference were for transactions related to overpayments for goods or services. Finally, from a listing of 88 employees who received payroll-related payments while on "leave without pay" status, we tested all 16 executive-level staff and a sample of 16 employees from the remaining 72 non-executive-level staff to determine if the conference entered the proper code into the Edison accounting system for employees in a Leave Without Pay status, which ensured that the employees did not receive employment compensation to which they were not entitled.

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

- expenditure transactions were adequately supported, properly approved, mathematically accurate, and correctly recorded in the accounting system;

- grant- and contract-related expenditures complied with applicable requirements;

- travel expenditures were properly approved and complied with the *Comprehensive State Travel Regulations*;

- duplicate payments were refunded to the conference;

- none of the deposit transactions that the conference received were related to overpayments; and

- conference staff properly coded employees on "leave without pay" status in the Edison system, and employees did not receive compensation to which they were not entitled.

APPENDIX

BUSINESS UNIT CODES

The Office of the Executive Director of the District Attorneys General Conference's business unit codes:

304.05 – District Attorneys General Conference
304.10 – Executive Director
304.15 – Title IV-D Child Support