



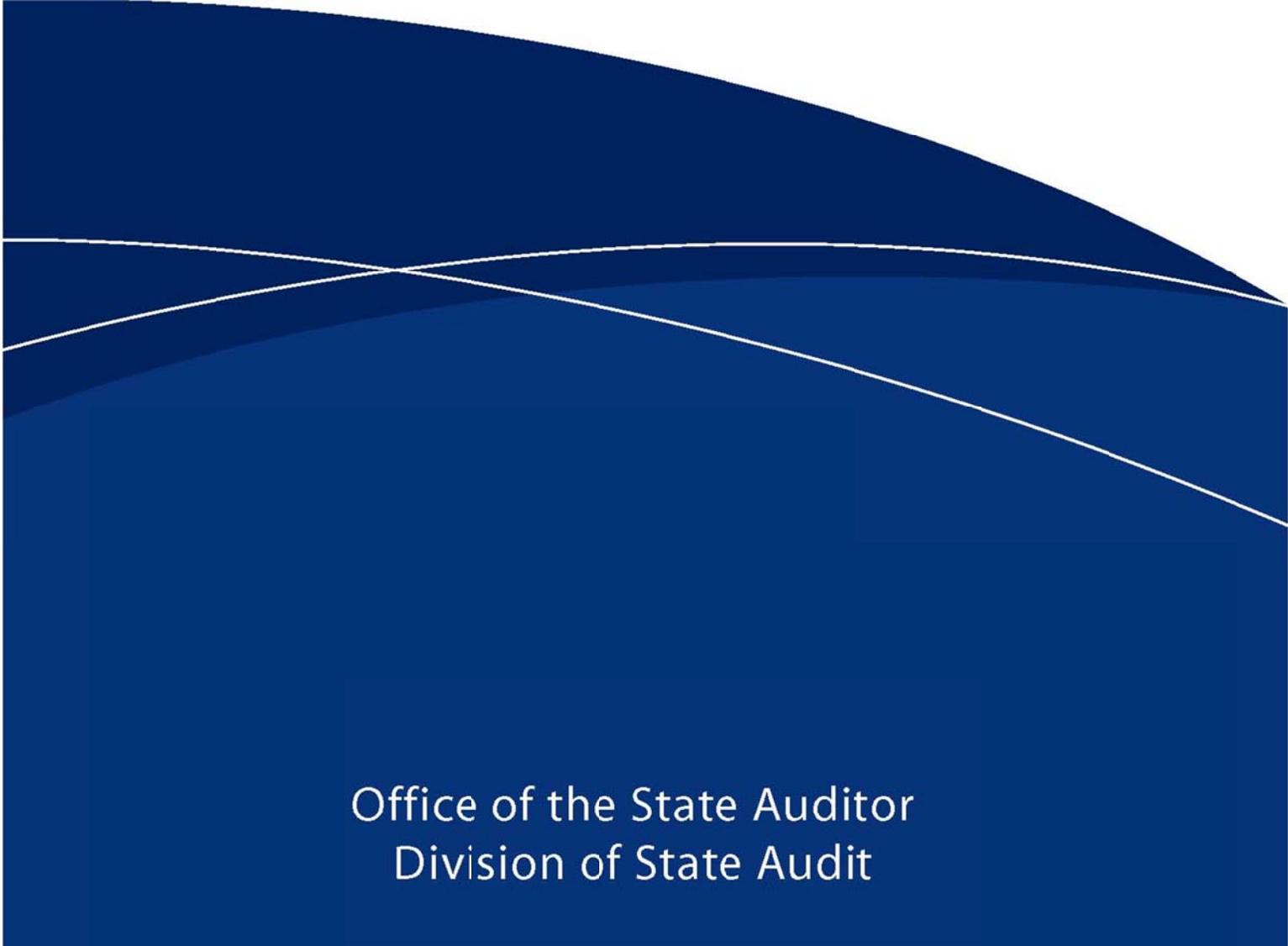
OFFICE OF ADMISTRATIVE
HEARINGS

BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Ended
June 30, 2009

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

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Transmittal Letter

April 30, 2010

The Honorable John Hoeven, Governor
Members of the North Dakota Legislative Assembly
Allen Hoberg, Director, Office of Administrative Hearings

We are pleased to submit this audit of the Office of Administrative Hearings for the biennium ended June 30, 2009. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The senior auditor for this audit was Orlin Bensen, LPA. Fred Ehrhardt, CPA was the audit supervisor and Paul Welk, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Director Hoberg and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

Introduction

The North Dakota Office of Administrative Hearings is an executive branch agency that provides independent administrative law judges to preside at administrative hearings and related proceedings. The agency is authorized to provide administrative law judges to preside at state agency, local government, tribal government, judicial branch hearings, and related proceedings.

Responses to LAFRC Audit Questions

1. What type of opinion was issued on the financial statements?

Financial statements were not prepared by the Office of Administrative Hearings in accordance with generally accepted accounting principles so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unqualified opinion was issued.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

Yes.

3. Was internal control adequate and functioning effectively?

Yes.

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

No.

5. Has action been taken on findings and recommendations included in prior audit reports?

The Office of Administrative Hearings has implemented the recommendation included in the prior audit report.

6. Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.

No, a management letter was not issued.

LAFRC Audit Communications

7. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

8. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The Office of Administrative Hearing's financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

10. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

11. *Identify any serious difficulties encountered in performing the audit.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

13. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

14. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance, Human Resource Management System (HRMS), and the Billing System (the system used by the Office of Administrative Hearings to track their accounts receivable), are high-risk information technology systems critical to the Office of Administrative Hearings.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Office of Administrative Hearings for the biennium ended June 30, 2009 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the Office of Administrative Hearings' operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the Office of Administrative Hearings and are they in compliance with these laws?
3. Are there areas of the Office of Administrative Hearings' operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the Office of Administrative Hearings is for the biennium ended June 30, 2009. We conducted this performance 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.

The Office of Administrative Hearings has operations in the following locations. Each location was included in the audit scope:

- The main office is located in Bismarck.
- A field office is located in West Fargo.

Audit Methodology

To meet the objectives outlined above, we:

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and developed a discussion and analysis of the financial statements.
- Performed detailed analytical procedures including computer-assisted auditing techniques. These procedures were used to identify high-risk transactions and potential problem areas for additional testing.
- Tested internal control and compliance with laws and regulations which included selecting representative samples to determine if controls were operating effectively and to determine if laws were being followed consistently. Non-statistical sampling was used and the results were projected to the population. Where applicable, populations were stratified to ensure that particular groups within a population were adequately

- represented in the sample, and to improve efficiency by gaining greater control on the composition of the sample.
- Interviewed appropriate Office of Administrative Hearings personnel.
 - Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
 - Observed Office of Administrative Hearings' processes and procedures.

In aggregate there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of audit evidence.

Discussion and Analysis

The accompanying financial statements have been prepared to present the Office of Administrative Hearings' revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

The following management discussion and analysis was prepared by the Office of Administrative Hearings' management. We have applied certain limited procedures, which consisted primarily of inquiries of management regarding the methods of measurement and presentation of this supplementary information to ensure it does not conflict with the knowledge we gained as part of our audit.

For the biennium ended June 30, 2009, operations of the Office of Administrative Hearings were entirely supported by appropriations of special funds. These funds are obtained by the Office of Administrative Hearings through billings of all user agencies for services rendered by administrative law judges in the conduct of administrative hearings.

Financial Summary

The Office of Administrative Hearings' total revenues were \$554,149 for the fiscal year ended June 30, 2009, as compared to \$686,846 for the fiscal year ended June 30, 2008. The Office of Administrative Hearings received no general fund appropriation for the 2007-2009 biennium.

Total expenditures for the Office of Administrative Hearings were \$761,581 for the fiscal year ended June 30, 2009 as compared to \$799,847 for the fiscal year ended June 30, 2008. Expenditures remained fairly constant for the period under audit except for a reduction in salaries and benefits and an increase in fees for professional services. Salaries and benefits decreased due to a reduction of two Administrative Law Judges and one staff person. Fees for professional services increased due to an agreement being reached between the Office of Administrative Hearings and Workforce Safety and Insurance to restart using Administrative Law Judges to provide services for the majority of the hearings. All other expenditures remained fairly constant.

Payments for professional services accounted for approximately 23% of the total expenditures during the period under audit. Such services related primarily to contracts with temporary administrative law judges to conduct Workforce Safety and Insurance hearings.

Analysis of Significant Changes in Operations

The North Dakota Office of Administrative Hearings provides independent administrative law judges to preside at administrative hearings and related proceedings. During our audit period, Workforce Safety and Insurance stopped using the Office of Administrative Hearings full-time administrative law judges and temporary administrative law judges. The Office of Administrative Hearings reduced its administrative law judges from five to three as well as one staff person. However, an agreement was reached during August 2008 to restart the use of the Office of Administrative Hearings to provide administrative hearings services for Workforce Safety and Insurance.

Analysis of Significant Variances Between Final Budgeted and Actual Expenditures

The excess of salary and wages appropriations over actual expenditures was due to the reduction of the two administrative law judges and one staff person.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2009</u>	<u>June 30, 2008</u>
<u>Revenues:</u>		
Charges for Services	\$553,553	\$686,379
Miscellaneous Revenue	596	467
Total Revenues	<u>\$554,149</u>	<u>\$686,846</u>
<u>Expenditures:</u>		
Salaries and Benefits	\$405,617	\$640,332
Major Operating Expenditures:		
Professional Services	283,413	81,263
Rent - Building	24,260	24,260
Data Processing	14,253	15,361
Travel	8,259	13,798
Professional Development	5,415	5,060
Other Operating Expenditures	20,364	19,773
Total Expenditures	<u>\$761,581</u>	<u>\$799,847</u>

Statement of Appropriations

For The Biennium Ended June 30, 2009

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Salaries and Benefits	\$ 1,268,446	\$ 3,836	\$ 1,272,282	\$ 1,044,510	\$ 227,772
Operating Expenses	374,417	200,000	574,417	516,918	57,499
Totals	<u>\$ 1,642,863</u>	<u>\$ 203,836</u>	<u>\$ 1,846,699</u>	<u>\$ 1,561,428</u>	<u>\$ 285,271</u>
Expenditures by Source:					
Other Funds	\$ 1,642,863	\$ 203,836	\$ 1,846,699	\$ 1,561,428	\$ 285,271
Totals	<u>\$ 1,642,863</u>	<u>\$ 203,836</u>	<u>\$ 1,846,699</u>	<u>\$ 1,561,428</u>	<u>\$ 285,271</u>

Appropriation Adjustments:

The increase in the Salaries and Benefits (\$3,836) line includes increased appropriation allocated by the Office of Management and Budget from the statewide salary equity pool appropriated pursuant to Senate Bill 2189 of the 60th Legislative Assembly for market equity compensation adjustments for classified state employees.

NDCC 54-57-07(3) states that money in the administrative hearings fund is continually appropriated as necessary for numerous uses by the Office of Administrative Hearings, including payment to temporary administrative law judges. The adjustment (\$200,000) was made on October 8, 2008 to increase the spending authority of the Operating Expenses line for this purpose.

Internal Control

In our audit for the biennium June 30, 2009, we identified the following areas of the Office of Administrative Hearings' internal control as being the highest risk:

Internal Controls Subjected to Testing:

- Controls surrounding the processing of revenues.
- Controls surrounding the processing of expenditures.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the billing information system.

The criterion used to evaluate internal control is published in the publication *Internal Control – Integrated Framework* from the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.

We gained an understanding of internal control surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered necessary based on our assessment of audit risk. We concluded internal control was adequate.

Auditors are required to report deficiencies in internal control that are significant within the context of the objectives of the audit. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect (1) misstatements in financial or performance information; (2) violations of laws and regulations; or (3) impairments of effectiveness or efficiency of operations, on a timely basis. Considering both qualitative and quantitative factors, we did not identify any significant deficiencies in internal control.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2009, we identified and tested Office of Administrative Hearings' compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2007 North Dakota Session Laws chapter 17).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Proper use of petty-cash funds.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record keeping, surplus property, lease and financing arrangements in budget requests, and lease analysis requirements.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.

The criteria used to evaluate legislative intent are the laws as published in the *North Dakota Century Code* and the *North Dakota Session Laws*.

Government Auditing Standards require auditors to report all instances of fraud and illegal acts unless they are inconsequential within the context of the audit objectives. Further, auditors are required to report significant violations of provisions of contracts or grant agreements, and significant abuse that has occurred or is likely to have occurred.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the legislative intent identified above.

Operations

This audit did not identify areas of the Office of Administrative Hearings' operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

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www.nd.gov/auditor/

or by contacting the
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