

Office of the State Auditor

Division of State Audit

Office of the Adjutant General Bismarck, North Dakota

Audit Report for the
Two-Year Period Ended June 30, 2008
Client Code 540

Robert R. Peterson
State Auditor



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Contents

<i>Transmittal Letter</i>	<i>1</i>
<i>Executive Summary</i>	<i>2</i>
<i>Introduction</i>	<i>2</i>
<i>Responses to LAFRC Audit Questions</i>	<i>2</i>
<i>LAFRC Audit Communications</i>	<i>3</i>
<i>Audit Objectives, Scope, and Methodology</i>	<i>5</i>
<i>Discussion and Analysis</i>	<i>7</i>
<i>Financial Summary</i>	<i>7</i>
<i>Analysis of Significant Changes in Operations</i>	<i>8</i>
<i>Analysis of Significant Variances Between Final Budgeted and Actual Expenditures</i>	<i>8</i>
<i>Financial Statements</i>	<i>9</i>
<i>Statement of Revenues and Expenditures</i>	<i>9</i>
<i>Statement of Appropriations</i>	<i>10</i>
<i>Statement of Appropriations</i>	<i>12</i>
<i>Statement of Appropriations</i>	<i>14</i>
<i>Internal Control</i>	<i>16</i>
<i>Fraud Risk Assessment</i>	<i>16</i>
<i>Compliance With Legislative Intent</i>	<i>18</i>
<i>Noncompliance with North Dakota Century Code for Fees Charged by State Radio Communications</i>	<i>20</i>
<i>Operations</i>	<i>21</i>
<i>Prior Recommendations Not Implemented</i>	<i>22</i>

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Transmittal Letter

May 22, 2009

The Honorable John Hoeven, Governor
Members of the North Dakota Legislative Assembly
Major General David Sprynczynatyk, Office of the Adjutant General

We are pleased to submit this audit of the Office of the Adjutant General for the two-year period ended June 30, 2008. 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. Allison Bader, Angela Klubberud, and Richard Fuher, CPA were the staff auditors. 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) 328-2320. We wish to express our appreciation to Major General David Sprynczynatyk, Adjutant General 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 the Adjutant General is charged with the control of the military department of the state of North Dakota. The Adjutant General is to perform the duties pertaining to the Adjutant General and other Chiefs of Staff Departments under the regulations and customs of the United States Army. The Adjutant General acts upon the desire and the instruction of the Governor, who is commander in chief of the military forces of the state. The mission of the North Dakota Army and Air National Guard is to provide ready units, individuals, and equipment to support our communities, state, and nation. The National Guard is a reserve component of the United States military forces and, as such, is subject to call into the military services of the United States.

The Department of Emergency Services consists of the Division of Homeland Security and the Division of State Radio. The Adjutant General serves as Director and is Chairman of the Department of Emergency Services Advisory Committee charged to provide direction and guidance in policy formation. The Division of Homeland Security consists of the state operations center section, the disaster recovery section, and the homeland security grant section. The Division of State Radio is dedicated to providing professional voice and data communications to federal, state, local, and tribal public safety agencies, as well as service to the general public.

RESPONSES TO LAFRC AUDIT QUESTIONS

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies.

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

Financial statements were not prepared by the Office of the Adjutant General 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?

Other than our finding addressing "noncompliance with North Dakota Century Code for fees charged by State Radio Communications" (page 20), the Office of the Adjutant General was in compliance with significant statutes, laws, rules, and regulations under which it was created and is functioning.

3. *Was internal control adequate and functioning effectively?*

Other than our finding addressing “Fraud Risk Assessment” (page 16), we determined internal control was adequate.

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 the Adjutant General has implemented all recommendations included in the prior audit report except for “noncompliance with North Dakota Century Code for fees charged by State Radio Communications” (page 22).

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

1. *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.

2. *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 the Adjutant General’s financial statements do not include any significant accounting estimates.

3. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

4. *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.

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

None.

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

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

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

None.

8. *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 Great Plains Dynamic Application System are high-risk information technology systems critical to the Office of the Adjutant General.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Office of the Adjutant General for the two-year period ended June 30, 2008 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the Office of the Adjutant General's 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 the Adjutant General and are they in compliance with these laws?
3. Are there areas of the Office of the Adjutant General's operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the Office of the Adjutant General is for the two-year period ended June 30, 2008. 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 the Adjutant General has its central office at Fraine Barracks in Bismarck, North Dakota with several military unit locations located throughout the state of North Dakota. The financial data for these military unit locations is included within the scope of this audit.

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. Nonstatistical sampling was used and the results were projected to the population. Further 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 agency personnel.
- Queried the ConnectND (PeopleSoft) ERP system.
- Observed the Office of the Adjutant General's 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 the Adjutant General's 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).

For the two-year period ended June 30, 2008, operations of the Office of the Adjutant General were primarily supported by appropriations from the federal government. This is supplemented by general funding and fees credited to the agency's operating fund and other various funds under its control.

FINANCIAL SUMMARY

The Office of the Adjutant General had \$155 million in capital assets as of June 30, 2008. The capital assets consist of buildings, infrastructure, equipment, and land throughout the state of North Dakota.

Revenues consisted primarily of federal funds. Other revenues during the audited period include loan proceeds, rental of facilities, sales and services, and licenses and permit fees for hazardous chemicals. Federal revenue decreased by \$5,658,487 in direct relationship to less federal funding for various grants. Loan proceeds decreased for fiscal year 2008 by \$1,377,012. Loan proceeds are used for community disaster loans in accordance with NDCC chapter 37-17.1. Other revenues remained relatively the same. Total revenue was \$44,010,968 for the year ended June 30, 2008 as compared to \$50,856,738 for the year ended June 30, 2007.

Total expenditures for the Adjutant General were \$52,214,700 for the year ended June 30, 2008 as compared to \$65,937,242 for the prior year. The decrease in total expenditures for the audited period reflects primarily decreases in grants which accounts for 33% of total expenditures in both years. The loan repayment of \$4,100,000 was due to a loan principal and interest payment to the Bank of North Dakota made during fiscal year 2007. The increase in land and building expenditures of \$2,917,600 was for building construction being done by the Office of the Adjutant General. All other expenditures remained fairly constant.

ANALYSIS OF SIGNIFICANT CHANGES IN OPERATIONS

Emergency management at the local, state, and federal levels changed significantly with the advent of the homeland security initiative. Since the September 11, 2001 terrorist attacks on the United States, North Dakota has adapted the existing emergency management structure to enhance homeland security through awareness and coordinated preparedness, prevention, and response. The Department of Emergency Services federal grants through the U.S. Department of Homeland Security have remained high, resulting in funding schemes of the Homeland Security Plan to expand emphasis on awareness and prevention through law enforcement entities.

ANALYSIS OF SIGNIFICANT VARIANCES BETWEEN FINAL BUDGETED AND ACTUAL EXPENDITURES

Adjutant General Appropriation (2007-2009)

The unexpended appropriation of \$2,333,753 within the Grants line item is for the Veterans Bonus Program which was carried over into the 2007-2009 biennium.

The Air Guard Contract line item unexpended appropriation amount of \$1,164,102 was the result of a combination of lower utilities and also lower salaries for the Air Guard state employees that were mobilized and therefore paid by the federal government.

The Army Guard Contract unexpended appropriation was due to construction projects that were not completed as of June 30, 2007.

Department of Emergency Services Appropriation (2007-2009)

The Capital Assets and State Radio Migration line unexpended appropriations were related to federal authority to upgrade the state radio system with federal funding, however, the federal funding was never received.

The Grants line unexpended appropriation was primarily due to federal grant authority received during the biennium ended June 30, 2007 and not yet allocated as of fiscal year ended 2007.

Financial Statements

STATEMENT OF REVENUES AND EXPENDITURES

	June 30, 2008	June 30, 2007
<u>Revenues and Other Sources:</u>		
Federal Revenue	\$42,081,436	\$47,739,923
Loan Proceeds	619,393	1,996,405
Sales and Services	599,250	606,747
Licenses and Fees	127,225	114,325
Lease/Rental of Building/Land	111,916	75,816
Other Revenue	183,346	268,780
Transfers In	288,402	54,742
	<u>\$44,010,968</u>	<u>\$50,856,738</u>
<u>Expenditures and Other Uses:</u>		
Grants, Benefits, and Claims	\$14,827,476	\$24,411,914
Salaries and Benefits	12,754,978	11,874,707
Land and Buildings	10,062,010	7,144,410
Major Operating Expenses:		
Repairs	3,472,232	4,426,982
Utilities	2,671,703	2,595,372
Professional Services	1,792,655	2,771,926
IT–Data Processing, Equipment, Fees	1,528,759	1,739,159
Equipment	845,172	1,306,561
Extraordinary Repairs	737,432	1,506,120
Professional Development	539,078	930,072
Operating Fees and Services	507,485	779,249
Rentals/Leases – Buildings/Land	480,185	378,990
Travel	419,960	342,090
Other Operating Expenses	724,181	561,762
Loan Repayment		4,100,000
Transfers Out	851,394	1,067,928
Total Expenditures and Other Uses	<u>\$52,214,700</u>	<u>\$65,937,242</u>

STATEMENT OF APPROPRIATIONS

The Office of the Adjutant General for the Fiscal Year Ended June 30, 2008

Expenditures by Line Item:	Original Appropriation	Adjustments	Final Appropriation	Expenditures	Unexpended Appropriation
Salaries and Benefits	\$ 12,232,916	\$ 62,541	\$ 12,295,457	\$ 5,627,272	\$ 6,668,185
Operating Expenses	7,728,228	(45,000)	7,683,228	3,764,775	3,918,453
Capital Assets Construction	2,456,014	45,000	2,501,014	1,052,101	1,448,913
Construction Carryover		12,080,581	12,080,581	9,329,176	2,751,405
Grants	41,244,149	2,333,753	43,577,902	15,667,418	27,910,484
Civil Air Patrol	160,163		160,163	60,710	99,453
Radio Communication	980,000		980,000	29,856	950,144
Tuition Fees	2,407,500		2,407,500	807,343	1,600,157
Air Guard Contract	9,480,731	40,757	9,521,488	3,492,173	6,029,315
Army Guard Contract	66,433,863	13,586	66,447,449	11,833,822	54,613,627
ND Veterans Cemetery	354,922		354,922	193,379	161,543
Totals	<u>\$ 143,478,486</u>	<u>\$ 14,531,218</u>	<u>\$ 158,009,704</u>	<u>\$ 51,858,025</u>	<u>\$ 106,151,680</u>
Expenditures by Source:					
General Fund	\$ 21,802,813	\$ 2,375,247	\$ 24,178,060	\$ 9,855,716	\$ 14,322,344
Other Funds	121,675,673	12,155,971	133,831,644	42,002,309	91,829,335
Totals	<u>\$ 143,478,486</u>	<u>\$ 14,531,218</u>	<u>\$ 158,009,704</u>	<u>\$ 51,858,025</u>	<u>\$ 106,151,680</u>

Appropriation Adjustments:

The \$62,541 increase in the Salaries and Benefits line item, the \$40,757 increase in the Air Guard Contract line item, and the \$13,586 increase in the Army Guard Contract line item were authorized by Senate Bill 2189 of the 2007 Session Laws for market equity increases for classified employees.

The \$45,000 transfer from the Operating Expenses line item to the Capital Assets line item was approved by the Emergency Commission. This transfer was made to fund a software add-on called WebEOC, the Division of Emergency Management's web-based incident management system.

The \$12,080,581 increase in the Construction Carryover line item was authorized by section 54-44.1-11 of the NDCC that allows for unexpended capital construction budgets to be carried forward to

the next biennium. The adjustment was properly approved by the Carryover Committee.

The \$2,333,753 increase in the Grants line item was authorized by section 6 of House Bill 1017 of the 2005 Session Laws that allows for unexpended payments of adjusted compensation to veterans to be carried forward to the next biennium. The adjustment was properly approved by the Carryover Committee

Expenditures Without Appropriations Of Specific Amounts:

Veterans' Cemetery Fund has a continuing appropriation authorized by NDCC section 37-03-14 (\$70,271 of expenditures for this year).

National Guard Military Grounds Fund has a continuing appropriation authorized by NDCC section 37-03-13 (\$43,573 of expenditures for this year).

National Guard Emergency Fund has a continuing appropriation authorized by NDCC section 37-01-04.1 (\$242,432 of expenditures for this year).

Insurance Recoveries Fund has a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$400 of expenditures for this year).

STATEMENT OF APPROPRIATIONS

The Office of the Adjutant General for The Biennium Ended June 30, 2007

Expenditures by Line Item:	Original Appropriation	Adjustments	Final Appropriation	Expenditures	Unexpended Appropriation
Salaries and Benefits	\$ 3,859,417		\$ 3,859,417	\$ 3,650,678	\$ 208,739
Operating Expenses	3,213,528	\$ 4,330,000	7,543,528	7,520,348	23,180
Capital Assets	870,000		870,000	848,066	21,944
Grants	5,329,514		5,329,514	2,995,761	2,333,753
Civil Air Patrol	156,258		156,258	149,187	7,071
Tuition Fees	2,007,500	(230,000)	1,777,500	1,765,716	11,784
Air Guard Contract	7,170,777	1,150,000	8,320,777	7,156,675	1,164,102
Army Guard Contract	24,981,462	24,200,000	49,181,462	36,477,152	12,704,310
ND Veterans Cemetery	290,571		290,571	246,211	44,360
Totals	<u>\$ 47,879,027</u>	<u>\$ 29,450,000</u>	<u>\$ 77,329,027</u>	<u>\$ 60,809,794</u>	<u>\$ 16,519,233</u>
Expenditures by Source:					
General Fund	\$ 16,445,229	\$ 4,100,000	\$ 20,545,229	\$ 18,180,897	\$ 2,364,332
Other Funds	31,433,798	25,350,000	56,783,798	42,628,897	14,154,901
Totals	<u>\$ 47,879,027</u>	<u>\$ 29,450,000</u>	<u>\$ 77,329,027</u>	<u>\$ 60,809,794</u>	<u>\$ 16,519,233</u>

Appropriation Adjustments:

The \$4,330,000 increase in the Operating Expenses line item was the result of two adjustments. Section 5 of House Bill 1017 of the 2005 Session Laws authorized the \$230,000 transfer from the Tuition Fees line item to provide for the maintenance and repair of state-owned armories. Senate Bill 2023 of the 2007 Session Laws provided a deficiency appropriation in the amount of \$4,100,000 for the purpose of defraying operating expenses for the period beginning January 1, 2007, and ending June 30, 2007.

The \$1,150,000 increase in the Air Guard Contract line item was approved by the Emergency Commission. \$290,000 was for authority to expend previously received federal funds from the National Guard Bureau for projects uncompleted at the end of the 2003-2005 biennium. \$860,000 was to accept federal funds from the National Guard Bureau for the North Dakota Air National Guard to add 30 security personnel at Hector Field in Fargo, for the period January 2006 through September 2006.

The \$24,200,000 increase in the Army Guard Contract line item was approved by the Emergency Commission. \$1,600,000 was for 28 new FTEs to the already existing Army Guard security forces at Fraine Barracks in Bismarck, and Camp Grafton in Devils Lake. \$16,600,000 was for the construction of a Field Maintenance Shop in Minot and a Civil Support Team facility at Fraine Barracks. \$6,000,000 was to expend previously received federal funds from the National Guard Bureau for projects uncompleted at the end of the 2003-2005 biennium.

Expenditures Without Appropriations Of Specific Amounts:

Veterans' Cemetery Fund has a continuing appropriation authorized by NDCC section 37-03-14 (\$3,166,969 of expenditures for this biennium).

Veterans' Cemetery Maintenance Fund has a continuing appropriation authorized by NDCC section 39-04-10.10 (\$5,000 of expenditures for this biennium).

National Guard Military Grounds Fund has a continuing appropriation authorized by NDCC section 37-03-13 (\$27,624 of expenditures for this biennium).

National Guard Emergency Fund has a continuing appropriation authorized by NDCC section 37-01-04.1 (\$294,433 of expenditures for this biennium).

Insurance Recoveries Fund has a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$95,443 of expenditures for this biennium).

STATEMENT OF APPROPRIATIONS

The Department of Emergency Services for The Biennium Ended June 30, 2007

Expenditures by Line Item:	Original Appropriation	Adjustments	Final Appropriation	Expenditures	Unexpended Appropriation
Salaries and Benefits	\$ 6,626,638	\$ 537,675	\$ 7,164,313	\$ 6,378,002	\$ 786,311
Salaries and Wage Pool	213,493		213,493		213,493
Operating Expenses	3,325,844	1,574,888	4,900,732	4,454,289	446,443
Capital Assets	4,957,923		4,957,923	1,686,486	3,271,437
Grants	46,962,054	27,913,064	74,875,118	65,732,792	9,142,326
State Radio Migration	900,000		900,000		900,000
Totals	<u>\$ 62,985,952</u>	<u>\$ 30,025,627</u>	<u>\$ 93,011,579</u>	<u>\$ 78,251,569</u>	<u>\$ 14,760,010</u>
Expenditures by Source:					
General Fund	\$ 5,115,672	\$ 276,238	\$ 5,391,910	\$ 5,384,331	\$ 7,579
Other Funds	57,870,280	29,749,389	87,619,669	72,867,238	14,752,431
Totals	<u>\$ 62,985,952</u>	<u>\$ 30,025,627</u>	<u>\$ 93,011,579</u>	<u>\$ 78,251,569</u>	<u>\$ 14,760,010</u>

Appropriation Adjustments:

Chapter 24, House Bill 1024 approved April 8, 2005 indicated that the appropriation contained in subdivision 3 (Department of Emergency Services) of section 1 of this act is not subject to the provisions of North Dakota Century Code section 54-44.1-11 and any unexpended funds from this appropriation are available during the biennium beginning July 1, 2005, and ending June 30, 2007, for the purpose of state matching funds for public assistance and disaster hazard mitigation. The amounts of \$207,178 and \$69,060 for operating expenses were carried over.

The Emergency Commission approved two competitive grants through the Pre-Disaster mitigation grant program. The two awardees were the City of Fargo and Barnes County for grants totaling \$13,685,750. In addition, operating expenses were approved for severe storms and flooding occurring in the state during June and July of 2005 in the amount of \$433,650.

Increased spending authority was granted to accept federal funds for salaries and benefits in the amount of \$249,825 for the pre-disaster mitigation program. Also, \$80,000 was approved for salaries and benefits, \$420,000 for operating expenses, and \$2,500,000 for grants to accept and expend federal funds for the destruction caused by hurricanes Katrina and Rita. \$1,203,217

was approved in grants from the Bank of North Dakota for the purpose of paying the state's share of the disaster expenses for the city of Grand Forks. \$75,000 in salaries and benefits, \$150,000 in operating expenses, and \$2,013,971 in grants were approved to spend the federal dollars that the state will receive for the President's Disaster Fund. The adjustments were approved by the Emergency Commission.

The Emergency Commission approved \$15,000 in grants for a disaster mitigation grant program awarded to Pembina County.

Increased spending authority was approved for \$25,000 in operating expenses and \$1,632,850 in grants for the authority to spend the federal dollars that the state will receive for the President's Disaster Fund and to approve a disaster loan for the state's portion of the loan related to the 2005 ice storm. The Emergency Commission approved the request.

Increased spending authority was approved for competitive grants through the pre-disaster mitigation grant program for \$32,850 in salary and benefits and \$328,496 in grants for the demolition of property in Cass County. In addition, \$100,000 in salaries and wages, \$270,000 in operating expenses, and \$6,533,780 in grants were approved to spend federal dollars the state will receive for the flooding that occurred in the Red River Valley in 2006.

Internal Control

In our audit for the two-year period ended June 30, 2008, we identified the following areas of the Office of the Adjutant General's 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 effecting the safeguarding of assets.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the computer-based Great Plains Dynamic system.

The criteria 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 that internal control was not adequate noting a certain matter involving internal control and its operation that we consider to be a significant deficiency.

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 identified the following significant deficiency in internal control.

Finding 08-1

FRAUD RISK ASSESSMENT

The Office of the Adjutant General does not have a system in place to identify possible instances of fraud or fraudulent activities in their financial and operational areas.

The most important guidance relating to internal control is contained in *Internal Control – Integrated Framework* published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). This guidance dictates that a Fraud Risk

Assessment program be established and practiced to identify risks of fraudulent type activities, including when special circumstances arise, when changing environments arise, and for restructuring. In addition, the Office of the Adjutant General does not have the necessary control activities designed/documentated to ensure significant fraud exposures are identified and mitigated. Management must design the necessary internal controls to ensure significant fraud exposures identified during the risk assessment process are adequately mitigated and that the system of control activities addressing each of the identified fraud risks has been adequately tested by management.

Audit Recommendation and
Agency Response

Recommendation:

We recommend the Office of the Adjutant General:

- Establish and perform a fraud risk assessment on a comprehensive and recurring basis.
- Design and document the necessary control activities to ensure that each significant fraud exposure identified during the risk assessment process has been adequately mitigated.

Office of the Adjutant General Response:

The Office of Adjutant General concurs with this finding. Significant progress has been made in implementing a fraud risk assessment program. Anticipate completion by October 31, 2009.

Compliance With Legislative Intent

In our audit for the two-year period ended June 30, 2008, we identified and tested the Office of the Adjutant General's compliance with legislative intent for the following areas that we determined to be significant and of higher risk of noncompliance:

Legislative Intent Included In Our Audit Scope

- Proper deposit and use of funds for the maintenance and operations of the National Guard (NDCC section 37-01-38).
- Proper deposit and use of Unit Funds for each Unit of the National Guard (NDCC section 37-01-39.1).
- Determined that the expenses of the Adjutant General's Office are paid for by the general fund (NDCC section 37-03-04).
- Determined that military property found unsuitable was disposed of and revenues deposited into the National Guard Improvement Fund (NDCC section 37-03-08).
- Proper deposit of interest earned on the Tuition Fund was deposited to the Fund (NDCC section 37-07.1-06.1).
- Proper collection of fees related to mobile data terminal services and enforcement telecommunications and the proper deposits of revenue and proper funds expended related to mobile data terminal services (NDCC sections 54-23.2-08, 54-23.2-09, 57-40.6-04, and 57-40.6-05).
- Proper use of the National Guard Emergency fund for statutory purposes (NDCC section 37-01-04.1).
- Proper use of the Hazardous Chemicals fund for statutory purposes (NDCC section 37-17.1-07.1).
- Proper use of the Military Grounds fund for statutory purposes. (NDCC section 37-03-13).
- Proper use of the Veterans' Cemetery Maintenance fund for statutory purposes (NDCC section 37-03-14).
- Proper deposit and allocation of interest from the Veterans' Cemetery Trust Fund (NDCC section 39-04-10.10).
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (North Dakota 2007 Session Laws Chapter 42 and North Dakota 2005 Session Laws Chapters 16 and 17).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- 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 requires 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 have occurred or are likely to have occurred.

The results of our tests disclosed one instance of noncompliance that is required to be reported under *Government Auditing Standards*. The finding is described on the following page. Other than this finding, we concluded there was compliance with the legislative intent identified above.

Finding 08-2

NONCOMPLIANCE WITH NORTH DAKOTA CENTURY CODE FOR FEES CHARGED BY STATE RADIO COMMUNICATIONS

The Office of the Adjutant General is not charging fees sufficient to cover the costs of providing 911 services, Law Enforcement Telecommunications Systems (LETS), and Mobile Data Terminal (MDT) services. The Office of the Adjutant General has developed an analysis of actual costs associated with 911, LETS and MDT services; however, fee adjustments were not implemented within the audited two-year period ended June 30, 2008.

North Dakota Century Code (NDCC) section 54-23.2-08 states the State Radio Communications Division must base its fees for LETS on actual costs. NDCC section 54-23.2-09 states State Radio must base its fees for MDTs on actual costs and 911 fees of at least \$.20 are to be charged per telephone access line and wireless access line for 911 services.

Audit Recommendation
and Agency Response

Recommendation:

We recommend the Office of the Adjutant General comply with North Dakota Century Code Sections 54-23.2-08 and 54-23.2-09 to ensure fees charged for 911 services, Law Enforcement Telecommunications System (LETS), and Mobile Data Terminal (MDT) services cover applicable costs of these services.

Office of the Adjutant General Response:

The Office of Adjutant General concurs with this finding. As stated in the Audit Report, the Department did adjust fees. Because of the impacts to local government budgets and overlapping fiscal years, the fees were not effective until July 1, 2009. As of this date the Department is in compliance with NDCC and has a defined process to ensure compliancy.

Operations

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

Prior Recommendations Not Implemented

Finding 06-2

Prior recommendations have been implemented with the exception of the following:

NONCOMPLIANCE WITH NORTH DAKOTA CENTURY CODE FOR FEES CHARGED BY STATE RADIO

The Division of State Radio Communications has not reviewed the actual costs for fees for law enforcement telecommunications systems (LETS), mobile data terminals (MDT), and 911 fees. It appears costs for LETS have not been reviewed since the early 1990's and for MDT since at least 1999. In addition, the State Radio Communications Division has not determined if \$.20 is adequate to cover the cost of providing 911 services nor have they updated the number of access lines reported by the counties for 911 fees since July 1, 2003.

North Dakota Century Code (NDCC) section 54-23.2-08 states the State Radio Communications Division must base its fees for LETS on actual costs. NDCC section 54-23.2-09 states State Radio must base its fees for MDTs on actual costs and 911 fees of at least \$.20 are to be charged per telephone access line and wireless access line for 911 services.

Recommendation

We recommend the Department of Emergency Services:

- a) Establish a method to ensure fees charged by State Radio Communications for services provided are based on actual costs;
- b) Ensure political subdivisions are being charged for the correct number of access lines for 911 fees; and
- c) Establish a reasonable time frame for reviewing costs of services and updating the number of systems, devices, or access lines for which the fees are being charged.

Status

Partially implemented. The Office of the Adjutant General has developed an analysis of actual costs associated with 911, MDT and LETS services. The Adjutant General is performing quarterly reviews to ensure political subdivisions are charged for the correct number of 911 access lines. In addition, the Adjutant General has established the intent to analyze costs and adjust fees as appropriate on a biennial basis. However, the implementation of these processes occurred outside of our audit period and was not subsequently reviewed by the Office of the State Auditor. See page 20 for current audit finding.