

North Dakota Highway Patrol
BISMARCK, NORTH DAKOTA

Audit Report

Two-year Period Ended
June 30, 2010

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

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Transmittal Letter

July 14, 2011

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Colonel James Prochniak, Superintendent, North Dakota Highway Patrol

We are pleased to submit this audit of the North Dakota Highway Patrol for the two-year period ended June 30, 2010. 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 in-charge auditor for this audit was Angela Klubberud, MBA. Lindsey Ressler and Crystal Hoggarth 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) 328-2241. We wish to express our appreciation to Colonel James Prochniak, Superintendent 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 Highway Patrol was established to enforce the provisions of the laws of the state of North Dakota relating to the protection and use of the highways in the state and the operation of motor and other vehicles upon such highways. The North Dakota Highway Patrol shall patrol the highways and cooperate with other law enforcement to enforce the laws regulating the operation of vehicles and the use of the state's highways.

Responses to LAFRC Audit Questions

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

Financial statements were not prepared by the Highway Patrol 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 findings addressing "noncompliance with NDCC fee collections" (page 20); "noncompliance with NDCC and administrative code" (page 20); "noncompliance with fixed asset records" (page 21); "noncompliance with NDCC deposit of fees" (page 22); "transfer greater than allowed by session law" (page 23); and "violation of state procurement purchasing procedures" (page 24), the Highway Patrol 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 findings addressing "lack of monitoring by management" (page 13); "duplicate payments" (page 14); "improper coding" (page 15); "lack of controls surrounding correcting entry approval" (page 16); "reconciliation of federal funds" (page 16); and "fraud risk assessment" (page 17), 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?

Three of the prior recommendations have not been implemented, as shown on pages 26-27.

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

Yes, a management letter was issued and is included on page 28 of this report, along with management's response.

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 North Dakota Highway Patrol'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 (PeopleSoft) Finance, Human Resource Management System (HRMS), Fixed Asset Tracking System (Red Beam), and Receipts System are high-risk information technology systems critical to the North Dakota Highway Patrol.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the North Dakota Highway Patrol for the two-year period ended June 30, 2010 were to provide reliable, audited financial statements and to answer the following questions:

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

Audit Scope

This audit of the North Dakota Highway Patrol is for the two-year period ended June 30, 2010. 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 North Dakota Highway Patrol has operations in the following locations. Each location was included in the audit scope:

- The headquarters in the Capitol Building.
- SW Region in Bismarck.
- NE Region in Devils Lake.
- SW Region in Dickinson.
- SE Region in Fargo.
- SE Region in Jamestown.
- NE Region in Grand Forks.
- NW Region in Minot.
- NW Region in Williston.
- Law Enforcement Training Academy in Bismarck.

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 reviewed management's 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 agency personnel.
- Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
- Observed Highway Patrol'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.

Management's Discussion and Analysis

The accompanying financial statements have been prepared to present the North Dakota Highway Patrol'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).

The following management discussion and analysis was prepared by the North Dakota Highway Patrol's 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 two-year period ended June 30, 2010, operations of the North Dakota Highway Patrol were primarily supported by appropriations from the state's General Fund. This funding was supplemented by transfers from the North Dakota Highway Tax Distribution Fund and federal grant funding.

Financial Summary

Revenues consisted primarily of permits and fees, federal funds, and transfers in (both state and federal) from the North Dakota Department of Transportation (NDDOT), the North Dakota Department of Human Services (NDDHS), and the North Dakota Department of Emergency Services (NDDDES). The only other revenues during the audited period were sales and use taxes and other miscellaneous revenues. Total revenues and transfers in were \$13,155,478 for the fiscal year ended June 30, 2010, as compared to \$9,625,893 for the fiscal year ended June 30, 2009, for an increase of 36.7%. Direct federal revenues were \$2,123,845 for fiscal 2010 compared to \$1,490,692 for fiscal 2009 for an increase of 42.5%. This increase appears to be the result of timing of the receiving of direct federal reimbursements. Federal transfers in were \$721,455 for fiscal 2010 compared to \$1,004,207 during fiscal 2009 for a decrease of 28.2%. Transfers in from the ND Highway Tax Distribution Fund amounted to \$3,033,816 in fiscal 2010 compared to \$1,414,094 in fiscal 2009 for an increase of \$1,619,722 or 114.5%. The net difference in total transfers in was an increase of \$1,331,386 or 54.8%. The reasons for the decrease in federal transfers in appear to be decreases in federal equipment grants obtained and also the timing of the receiving of federal reimbursements passed through from other state agencies. The increase in the Tax Distribution Fund transfers occurred because by arrangement with the Office of the State Treasurer the transfers were made for 12 months during fiscal 2010 but were made for only six months during fiscal 2009. All other revenues did not differ materially from the previous fiscal year.

The North Dakota Highway Patrol also has an agency fund which is used to collect various taxes and fees for the ND Tax Department and NDDOT. For fiscal 2010, the total collected was \$67,295 for the Tax Department and \$7,205,898 for NDDOT. The total collected for fiscal year 2009 was \$45,285 for the ND Tax Department and \$5,622,870 for NDDOT.

Total expenditures and transfers out for the North Dakota Highway Patrol were \$19,101,718 for the fiscal year ended June 30, 2010, as compared to \$19,623,400 for fiscal year 2009. The 2.7% decrease in total expenditures and transfers out reflects primarily decreases in state fleet

costs, fees for professional services, and miscellaneous supplies purchased during the first year of the 2009-2011 biennium.

Strategic Plan

The North Dakota Highway Patrol updated its strategic plan in 2011. The North Dakota Highway Patrol's (NDHP) primary duty is to keep the motoring public safe as they travel the state's 70,000 square miles. We do this through law enforcement and service. We are the main authority for enforcing laws and regulations relating to commercial vehicle safety and the commercial vehicle industry. The NDHP provides security for the State Capitol and elected government officials. The NDHP also partners with local agencies to provide assistance when situations arise that exceed the limits of local resources.

The NDHP currently has 192 authorized positions: 142 sworn and 50 civilian. The Superintendent is the leader, and ultimately responsible for the Patrol. The NDHP is divided into three divisions: Field Operations, Administrative Services, and Support Services. Each division is led at headquarters by a Division Commander.

Field Operations divides the state into four regions: Northeast, Southeast, Northwest, and Southwest. This allows for high visibility on the state's 7,382 miles of highway. Each region is under the supervision of a Regional Administrative Commander. Field Operations also includes Motor Carrier Operations, which is overseen by a Commander.

The following is an excerpt from the plan.

Vision

Public safety through quality service.

Mission

The mission of the North Dakota Highway Patrol is to make a difference every day by providing high quality law enforcement services to keep North Dakota safe and secure.

Values

- Loyalty – We will show allegiance to ourselves, our department, the state of North Dakota, our community, and to those who came before us and sacrificed so much to ensure the safety of our citizens.
- Integrity – We are honest, responsible, and ethical. Citizens place the highest trust in the NDHP. Each member must recognize that they are held to a higher standard of accountability than the public. We must always be mindful to NEVER violate the public trust. Our conduct, both on and off duty, must be beyond reproach.
- Commitment – To fulfill the vision of the NDHP each employee must deliberately carry out their duties and responsibilities to the best of their abilities.
- Respect – Because we are a diverse culture we value each other and all members of our community regardless of age, race, gender, appearance, individual beliefs or

lifestyles. We will always show understanding, respect, and appreciation for our similarities and differences.

- Professionalism – To be considered professional we must conform to the technical and ethical standards of our profession. Because we are highly trained and dedicated we are capable of handling the daily demands of law enforcement and devoting our full energy and talents to the department's vision.
- Accountability – Employees at all levels and ranks must accept responsibility for their actions both in their personal life and in their professional life.

Goals

Goal 1 – Provide a Secure Environment for All Citizens

While the North Dakota Highway Patrol has grown over the years, our available space has remained the same. Improvements are needed to bolster our compliance with national standards. Adequate space allows the Highway Patrol to operate effectively. Oftentimes regions are required to lease space for training needs and regional meetings. As a result, planning can be difficult since other organizations may require the same space.

With today's heightened awareness, it is vital to provide citizens with avenues to share valuable information

Goal 2 – Public Safety on Highways

Drivers in North Dakota face several dangers while traveling. Impaired, fatigued, or simply preoccupied drivers can cause a serious collision. Consistently in North Dakota, 40 to 50 percent of all fatal crashes involve alcohol. Severe winter weather also poses a significant threat.

While statewide survey results show the number of individuals using seatbelts to be slightly less from years past (81.5%), approximately 59% of those killed in 2010 choose not to use a restraint.

Goal 3 – Enhance Relationships (Stakeholders, Public, etc.)

The North Dakota Highway Patrol has many stakeholders. Taxpayers, the Governor, Legislators, and the motor carrier industry are only a few of the groups external to the organization that have some influence on or vested interest in the Patrol and its services.

Today's technologies give us a wealth of information at our fingertips. By utilizing this tool to complete citizen surveys, we are ensuring that all of our stakeholders have an opportunity to give us their opinions. It is just one more way to make sure we are always there for the citizens of North Dakota.

Goal 4 – Enhance Employee Welfare

The North Dakota Highway Patrol values its employees and wants to ensure that they are treated fairly. Therefore, we periodically review duties, responsibilities, and compensation packages.

Many of the NDHP's troopers are relatively young in their career. As a result, when our experienced sworn personnel in leadership positions retire, our current officers will have to step up to the challenge. By giving them the tools necessary for them to be successful, we also ensure the wellbeing of the agency.

Achievements

The following are examples of some of the North Dakota Highway Patrol's program areas and projects.

- Redeveloped Homeland Security Coordinator role in the Fusion Center in 2010.
- Completed Phase II of the Capitol Security project in 2010.
- Launched media campaign to impact impaired and distracted driving beginning in 2010.
- Developed and implemented a customer satisfaction survey.
- Secured educational simulator of seatbelt awareness.
- Developed an online request for safety presentations.
- Enhanced the North Dakota Highway Patrol's website.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2010</u>	<u>June 30, 2009</u>
<u>Revenues and Other Sources:</u>		
Permits and Fees	\$ 7,201,305	\$ 5,629,652
Federal Revenue	2,123,845	1,490,692
Sales and Use Tax	67,295	45,285
Miscellaneous Revenue	4,242	32,859
Transfers In	3,758,791	2,427,406
Total Revenues and Other Sources	<u>\$ 13,155,478</u>	<u>\$ 9,625,893</u>
<u>Expenditures:</u>		
Salaries and Benefits	\$ 14,150,323	\$ 13,107,530
Equipment Over \$5,000	14,108	188,457
Other Equipment Under \$5,000	267,198	675,925
IT Equipment Under \$5,000	378,379	37,867
Major Operating Expenditures		
Travel	1,888,740	2,099,042
Professional Services	501,301	1,227,992
IT – Data Processing	375,782	330,633
Operating Fees and Services	129,074	119,479
Repairs	127,251	122,885
Lease/Rent – Buildings	175,922	139,722
Miscellaneous Supplies	196,269	572,295
Food and Clothing	132,585	222,534
IT – Communications	183,157	111,747
Utilities	70,084	76,885
Professional Supplies and Material	91,087	104,088
Professional Development	54,815	63,433
Building, Grounds, Vehicle Misc. Supplies	33,103	31,855
Insurance	28,738	37,197
Other Operating Expenses	200,802	257,831
Grants	103,000	96,003
Total Expenditures	<u>\$ 19,101,718</u>	<u>\$ 19,623,400</u>

Statement of Appropriations

For The Fiscal Year Ended June 30, 2010

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Deferred					
Maintenance	\$ 100,000		\$ 100,000		\$ 100,000
Administration	2,926,419	\$ 54,000	2,980,419	\$ 1,409,172	1,571,247
Field Operations	37,378,354	274,000	37,652,354	16,919,358	20,732,996
Training Academy	1,496,942	22,000	1,518,942	770,966	747,976
Totals	<u>\$ 41,901,715</u>	<u>\$ 350,000</u>	<u>\$ 42,251,715</u>	<u>\$ 19,099,496</u>	<u>\$ 23,152,219</u>
Expenditures by Source:					
General Fund	\$ 31,007,985	\$ 350,000	\$ 31,357,985	\$ 14,401,380	\$ 16,956,605
Other Funds	10,893,730		10,893,730	4,698,116	6,195,614
Totals	<u>\$ 41,901,715</u>	<u>\$ 350,000</u>	<u>\$ 42,251,715</u>	<u>\$ 19,099,496</u>	<u>\$ 23,152,219</u>

Appropriation Adjustments:

The \$350,000 adjustments to the Administration, Field Operations, and Training Academy line items were approved by the 2009 Legislative Assembly for market equity pay adjustments.

Expenditures Without Appropriations Of Specific Amounts:

Asset Forfeiture Fund has a continuing appropriation authorized by NDCC section 54-12-14 (\$3,521 of expenditures for fiscal year 2010).

Insurance recoveries has a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$2,221 of expenditures for fiscal year 2010).

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>
Administration	\$ 2,565,841		\$ 2,565,841	\$ 2,472,475	\$ 93,366
Field Operations	35,140,998	\$ 147,028	35,288,026	33,872,512	1,415,514
Training Academy	1,400,689		1,400,689	1,376,487	24,202
Totals	<u>\$ 39,107,528</u>	<u>\$ 147,028</u>	<u>\$ 39,254,556</u>	<u>\$ 37,721,474</u>	<u>\$ 1,533,082</u>
Expenditures by Source:					
General Fund	\$ 27,895,323	\$ 96,599	\$ 27,991,922	\$ 27,608,090	\$ 383,832
Other Funds	11,212,205	50,429	11,262,634	10,113,384	1,149,250
Totals	<u>\$ 39,107,528</u>	<u>\$ 147,028</u>	<u>\$ 39,254,556</u>	<u>\$ 37,721,474</u>	<u>\$ 1,533,082</u>

Appropriation Adjustments:

The \$147,028 adjustment for the Field Operation line item was approved by the 2007 Legislative Assembly for equity pay adjustments.

Expenditures Without Appropriations Of Specific Amounts:

Insurance recoveries fund has a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$2,003 of expenditures for the biennium ended June 30, 2009).

Internal Control

In our audit for the two-year period ended June 30, 2010, we identified the following areas of the North Dakota Highway Patrol'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 Computerized Fixed Asset Tracking System (Red Beam) and Receipts System.
- Controls surrounding the impoundment of property and evidence.

The criteria used to evaluate internal control are 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 certain matters involving internal control and its operation that we consider to be significant deficiencies.

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 deficiencies in internal control. We also noted other matters involving internal control that we have reported to management of North Dakota Highway Patrol in a management letter dated July 14, 2011.

Lack of Monitoring by Management (Finding 10-1)

Condition:

The North Dakota Highway Patrol lacks adequate procedures related to the monitoring of its internal control over financial reporting, including procedures related to the timely evaluation of internal controls to ensure that appropriate personnel regularly obtain evidence that controls are functioning effectively.

Criteria:

Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control – Integrated Framework dictates that in carrying out its regular management activities, operating management should obtain evidence that the system of internal control continues to function.

Cause:

Lack of adequate monitoring.

Effect or Potential Effect:

A large number of errors resulting in an unacceptably high number of recommendations have been given to the North Dakota Highway Patrol.

Recommendation:

We recommend management of the North Dakota Highway Patrol monitor and evaluate its internal controls to ensure that controls are functioning effectively.

North Dakota Highway Patrol Response:

The NDHP agrees and is in the process of examining internal control procedures in all areas in order to fully implement this recommendation. A recent reorganization of the Administration component will dedicate additional resources to fiscal management.

Duplicate Payments (Finding 10-2)

Condition:

The North Dakota Highway Patrol lacks proper controls to detect duplicate payments to vendors and employees. During testing, a duplicate payment for \$512 was discovered. An additional test of unusual, high risk expenditure transactions was pulled to determine if there were other duplicate payments. Of the 24 additional transactions tested, 3 were duplicate payments. These duplicate payments were to a vendor for \$30, a state employee travel reimbursement for \$ 24, and another state employee travel reimbursement for \$5. The North Dakota Highway Patrol did receive credits from the vendors; however the duplicate payments to employees were not detected.

Criteria:

Proper internal control procedures are designed to prevent duplicate payments.

Cause:

Lack of proper controls.

Effect or Potential Effect:

Duplicate payments were made to vendors and employees.

Recommendation:

We recommend the North Dakota Highway Patrol develop proper controls to prevent duplicate payments.

North Dakota Highway Patrol Response:

The NDHP agrees and will review more carefully all invoices and billing statements to ensure that all documentation is given final approval before payment is made. Also, improvements of procedures between the Purchasing and Finance areas have been implemented.

Improper Coding (Finding 10-3)

Condition:

The North Dakota Highway Patrol is not properly coding transactions. The following errors were noted during testing:

- Ten of forty-seven expenditures tested were coded using a ConnectND (PeopleSoft) account code that was not consistent with the nature of the expenditure.
- A revenue account was used when money was received for overpayments or refunds rather than the expenditure account that was used for the payment.
- North Dakota Highway Patrol is issuing refunds for overpayments received using a "miscellaneous refunds" revenue account rather than a revenue account related to the original receipt.

Criteria:

Good internal controls require proper coding of transactions to ensure accuracy of accounting information.

Cause:

North Dakota Highway Patrol does not have proper controls in place to ensure transactions are properly coded.

Effect or Potential Effect:

Failure to descriptively code transactions or use incorrect accounts causes the North Dakota Highway Patrol to over or under-state revenue and expenditures and does not provide an adequate level of information on the financial statements.

Recommendation:

We recommend the North Dakota Highway Patrol use the proper account codes consistent with the nature of the transaction.

North Dakota Highway Patrol Response:

The NDHP agrees and has taken the necessary steps so that the coding of revenue and expenses is consistent with the nature of all transactions.

Lack of Controls Surrounding Correcting Entry Approval (Finding 10-4)

Condition:

North Dakota Highway Patrol entries processed by the Office of Management and Budget or the State Treasurer's Office are not properly approved to ensure accuracy of the data input.

Criteria:

The publication *Internal Control – Integrated Framework from the Committee of Sponsoring Organizations (COSO) of the Treadway Commission* states that proper approval and authorizations of transactions helps ensure management directives are carried out by having reliable financial information.

Cause:

The North Dakota Highway Patrol has not developed procedures to ensure that all ConnectND (PeopleSoft) entries done by other agencies are properly approved.

Effect or Potential Effect:

Potential inaccurate data entry which could materially affect the North Dakota Highway Patrol's financial statements due to a lack of transaction approval.

Recommendation:

We recommend the North Dakota Highway Patrol develop procedures to approve all ConnectND (PeopleSoft) entries done by other agencies for the North Dakota Highway Patrol.

North Dakota Highway Patrol Response:

The NDHP agrees and will contact and work with the other involved party whenever another state agency makes a correcting journal entry to the NDHP financial records.

Reconciliation of Federal Funds (Finding 10-5)

Condition:

The North Dakota Highway Patrol does not reconcile the amount the federal government reports as paid to the North Dakota Highway Patrol and the amount recorded in ConnectND (PeopleSoft) as received.

Criteria:

Proper internal controls dictate that cash received should be reconciled to documentation received from the federal government showing the amount they have remitted to the agency.

Cause:

A prior recommendation was not implemented. The prior audit included an informal recommendation for the North Dakota Highway Patrol to obtain an award profile report from each federal agency that remits funds to the North Dakota Highway Patrol and have someone independent of drawing down federal funds perform a reconciliation of the federal funds shown on the reports to the federal revenue reflected on ConnectND (PeopleSoft), at least annually.

Effect or Potential Effect:

Unauthorized requests for federal funds could potentially be re-routed to a different bank account and go undetected.

Recommendation:

We recommend the North Dakota Highway Patrol have someone independent of drawing down federal funds perform a reconciliation of the federal funds shown on the federal reports to the federal revenue reflected on ConnectND (PeopleSoft), at least annually.

North Dakota Highway Patrol Response:

The NDHP agrees and will work to obtain an award profile report from each federal agency that reimburses the NDHP.

Fraud Risk Assessment (Finding 10-6)

Condition:

The Fraud Risk Assessment for the North Dakota Highway Patrol was completed by one individual without consultation with others who have a broad knowledge of the department to identify all potential fraud risks for the agency. Also, the Fraud Risk Assessment was not dated so we were unable to determine whether it was done using a systematic process.

Criteria:

Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control – Integrated Framework dictates that a Fraud Risk Assessment program be established and practiced to identify and eliminate instances of fraud and fraudulent type activities, including when special circumstances arise, when changing operating environments, and for restructuring. The Fraud Risk Assessment should be conducted using a systematic process and at an agency-wide, significant account level. Additionally, OMB Policy 216 states that “all agencies need to perform a fraud risk assessment for each of their functions and divisions.”

Cause:

The prior audit included a formal recommendation for the North Dakota Highway Patrol to develop a comprehensive and recurring Fraud Risk Assessment which was not implemented.

Effect or Potential Effect:

Fraud could go undetected if management does not identify fraud risk areas.

Recommendation:

We recommend the North Dakota Highway Patrol establish a systematic, recurring process for conducting a fraud risk assessment which includes involving other individuals knowledgeable of the department to ensure that fraud risks are being identified at an agency-wide level.

North Dakota Highway Patrol Response:

The NDHP agrees and is currently involving employees in all areas of internal control in the process of updating and improving the existing fraud risk assessment procedures.

Compliance With Legislative Intent

In our audit for the two-year period ended June 30, 2010, we identified and tested North Dakota Highway Patrol's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Application of proper statutory fees and penalties relating to revenue (NDCC sections 39-04-18(2)(h), 39-04-19, 39-12-02, 39-12-14.1, 39-25-05, and 57-43.2-39; and NDAC section 38-06-03-01).
- Payments made to patrol officers (2009 Session Laws, Senate Bill 2011, section 5 and 2007 Session Laws, House Bill 1011).
- Transfer made from State Highway Tax Distribution Fund (2009 Session Laws, Senate Bill 2011, section 4 and 2007 Session Laws, House Bill 1011).
- Proper use of North Dakota Highway Patrol Assets Forfeiture Fund (NDCC 39-03-18).
- Compliance with appropriations (2007 Session Laws, House Bill 1011, Section 7 and 2009 Session Laws, Senate Bill 2011, section 2).
- Compliance with transfers from the Deferred Maintenance line (2009 Session Laws, Senate Bill 2011, section 3).
- Compliance with Commercial Vehicle Information Exchange (2009 Session Laws, Senate Bill 2011, section 7).
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Proper use of outside bank accounts and 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 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 has occurred or is likely to have occurred.

The results of our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards*. These findings are described below. Other than those findings, we concluded there was compliance with the legislative intent identified above. We also noted certain inconsequential instances of noncompliance that we have reported to management of the North Dakota Highway Patrol in a management letter dated July 14, 2011.

Noncompliance with NDCC Fee Collections (Finding 10-7)

Condition:

The North Dakota Highway Patrol does not have procedures to properly monitor compliance with fee collections. Consequently, of the 40 fees reviewed, 11 were collected for the wrong amount and 7 fees were coded incorrectly in the North Dakota Highway Patrol Receipt System.

Criteria:

North Dakota Century Code and North Dakota Administrative Code establish the fee amounts the North Dakota Highway Patrol is to collect for the various fees.

Cause:

The North Dakota Highway Patrol has not taken the necessary measures to ensure the proper amounts are collected and the fees are properly coded into the Highway Patrol Receipt System. This was a prior recommendation made in the two previous audits.

Effect or Potential Effect:

The North Dakota Highway Patrol is not in compliance with North Dakota Century Code and North Dakota Administrative Code. Also, transfers made to the Department of Transportation and the Motor Vehicle Department are potentially incorrect due to miscoding and collection of improper amounts for fees.

Recommendation:

We recommend that the North Dakota Highway Patrol:

1. Ensure that the proper fee amounts are collected in accordance with North Dakota Century Code and North Dakota Administrative Code; and
2. Ensure fees are properly coded into the Receipt System.

North Dakota Highway Patrol Response:

The NDHP agrees and is examining all permit fee procedures. The online permit system is also being updated. Periodic spot-checking of transactions will be done to monitor the status of improvement efforts.

Noncompliance with NDCC and Administrative Code (Finding 10-8)

Condition:

The North Dakota Highway Patrol is not following North Dakota Century Code (NDCC) or Administrative Rule when collecting ton mile fees. Fee amounts are set in NDCC and Administrative Rule but are collected based on an internal policy.

Criteria:

NDCC chapter 39-12 and Administration Rule section 39-06-03-01 address size, width, height

restrictions, and applicable fees. However, the North Dakota Highway Patrol is not following their Administrative Rule. Instead, they follow their own internal policy for rates charged for different fees collected.

Cause:

Client error. The North Dakota Highway Patrol has not updated their Administrative Code to reflect the internal policies used for determining fees charged.

Effect or Potential Effect:

Improper fees are being charged by the North Dakota Highway Patrol.

Recommendation:

We recommend the North Dakota Highway Patrol collect the proper ton mile fee amounts in accordance with North Dakota Century Code and Administrative Rule.

North Dakota Highway Patrol Response:

The NDHP agrees and is currently working with general counsel to update NDHP policies and Administrative Rules to bring them into agreement with NDCC. Also, the electronic permit system is being updated and an automated routing system is in the process of being purchased.

Noncompliance with Fixed Asset Records (Finding 10-9)

Condition:

North Dakota Highway Patrol does not have controls in place to ensure that assets are properly recorded when deleted. Additionally, per review of the North Dakota Highway Patrol's fixed asset records for assets deleted during the audit period it was determined that:

- The North Dakota Highway Patrol was unable to provide proper support for assets deleted on ConnectND (PeopleSoft's) Asset Management Module. It was undeterminable why assets were deleted from the those records, if the deleted assets were still property of the North Dakota Highway Patrol, or if Surplus Property Division of the Office of Management and Budget had been utilized.
- There were timing delays ranging from five to nine months from when assets were deleted from the ConnectND (PeopleSoft) Asset Management Records and when the surplus property forms were completed.
- Variances ranging from \$430 to \$62,500 were also noted in the dollar amount recorded on the ConnectND (PeopleSoft) records to what was reported on the Surplus Property forms.

Criteria:

- NDCC section 54-27-21 requires all agencies and institutions to include all fixed assets under their control in their financial statements, except those having a value of \$5,000 or less.

- NDCC 54-44-04.06 requires surplus property to be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended.

Cause:

The North Dakota Highway Patrol did not implement controls to maintain proper fixed asset records which was a recommendation made in the previous two audits.

Effect or Potential Effect:

Noncompliance with North Dakota Century Code.

Recommendation:

We recommend that the North Dakota Highway Patrol:

- Ensure that all asset deletions are properly supported and done in a timely manner
- Properly utilize the Surplus Property Division of the Office of Management and Budget for equipment no longer needed

North Dakota Highway Patrol Response:

The NDHP agrees and has established procedures to maintain proper fixed asset records including closer monitoring of deletions to make sure that all deletions are supported by proper documentation.

Noncompliance with NDCC Deposit of Fees (Finding 10-10)

Condition:

The North Dakota Highway Patrol is not depositing fees collected in the proper fund as required by North Dakota Century Code. During testing the following was noted:

- Escort fees were deposited in the General Fund rather than the State Highway Fund.
- Commercial driver's license fees were deposited in both the General Fund and the State Highway fund instead of depositing all of the fees into the State Highway Fund.

Criteria:

Escort Fees: NDAC 38-06-03-01, subsection 06, and NDCC 39-12-02, subsection 3, required the collections of escort fees to be deposited in the State Highway Fund.

Commercial Driver's License Fees: NDCC 39-25-05 requires that commercial driver's license fees be deposited in the State Highway Fund.

Cause:

Lack of proper controls to ensure compliance with NDCC.

Effect or Potential Effect:

Revenue is not deposited into the proper fund in accordance with North Dakota Century Code.

Recommendation:

We recommend the North Dakota Highway Patrol ensure that all fees are deposited in the proper fund in accordance with North Dakota Century Code.

North Dakota Highway Patrol Response:

The NDHP agrees and has implemented this recommendation to make sure that all revenues received are deposited into the correct fund.

Transfer Greater than Allowed by Session Law (Finding 10-11)

Condition:

The North Dakota Highway Patrol transferred an amount to the Highway Patrol Special Fund greater than was allowed by session law. The North Dakota Highway Patrol was authorized to transfer \$4,200,000 from the Highway Tax Distribution Fund to the Highway Patrol Special Fund. However, it was noted that the actual amount transferred was \$4,234,214, which is \$34,214 more than allowed by law.

Criteria:

House Bill 1011, Chapter 11, section 4 of the 2007 Session Laws allows the superintendent of the highway patrol to transfer \$4,200,000, or so much of the sum as may be necessary, from the state highway tax distribution fund for the purpose of defraying the expenses of the highway patrol during the 2007-2009 biennium.

Cause:

The North Dakota Highway Patrol was given an increase in their salaries and wages appropriation line and a portion of the increase was for increased special fund authority. Due to the increased special fund authority, the North Dakota Highway Patrol transferred \$34,214 more than the allowed \$4,200,000 from the Highway Tax Distribution Fund to the Highway Patrol Special Fund.

Effect or Potential Effect:

The North Dakota Highway Patrol is not in compliance with the 2007 session laws.

Recommendation:

We recommend the North Dakota Highway Patrol ensure transfers are made in accordance with session laws.

North Dakota Highway Patrol Response:

The NDHP agrees and has implemented this recommendation. New procedures will ensure that this oversight does not occur again.

Violation of State Procurement Purchasing Procedures (Finding 10-12)

Condition:

The North Dakota Highway Patrol did not follow state procurement guidelines:

- Bid requirements as outlined in Administrative Code and State Procurement guidelines were not followed for 6 of the 34 purchases tested.
- The State Procurement Office noted that the Highway Patrol had one violation of procurement procedures during the audit period. On June 30, 2009, the State Procurement Office rejected an Alternate Procurement Request for a Traffic Advisory System. On July 2, 2009, the State Procurement Office was informed that the North Dakota Highway Patrol had already purchased the Traffic Advisory System.

Criteria:

NDCC 54-44.4 (State Purchasing Practices) and Administrative Code Article 4-12 (State Procurement Practices).

Cause:

Lack of proper controls to ensure compliance with purchasing laws.

Effect or Potential Effect:

Possible misuse of state funds if the lowest cost was not achieved.

Recommendation:

We recommend the North Dakota Highway Patrol follow state procurement's purchasing procedures.

North Dakota Highway Patrol Response:

The NDHP agrees and has implemented this recommendation by training an additional person so that a short-staffed situation will not occur in the future.

Operations

This audit did not identify areas of the North Dakota Highway Patrol's operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

Prior Recommendations Not Implemented

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

Fraud Risk Assessment (Finding 08-2)

Recommendation:

We recommend the North Dakota Highway Patrol:

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

Status:

Not implemented. Recommendation is re-addressed on page 17.

Noncompliance With Fee Collections (Finding 08-3)

Recommendation:

We recommend the North Dakota Highway Patrol ensure:

- Proper fee amounts are collected in accordance with NDCC and NDAC;
- Fees are properly coded into the Receipts System; and
- Fees for the various fee categories are printed on the receipt.

Status:

Not implemented. This was a prior recommendation not implemented from the two-year period ended June 30, 2006 and the two-year period ended June 30, 2008. Recommendation is re-addressed on page 20.

Noncompliance With Fixed Asset Records (Finding 08-4)

Recommendation:

We recommend the North Dakota Highway Patrol maintain fixed asset records on PeopleSoft for fixed assets having a value greater than \$5,000 in accordance with NDCC 54-27-21 and Appendix A of OMB's Fiscal and Administrative Policy, and ensure these records are properly supported.

Status:

Not implemented. This was a prior recommendation not implemented from the two-year period ended June 30, 2006 and the two-year period ended June 30, 2008. Recommendation is re-addressed on page 21.

Management Letter (Informal Recommendations)

July 14, 2011

Colonel James Prochniak, Superintendent
North Dakota Highway Patrol
State Capitol
600 E. Boulevard Avenue
Bismarck, ND 58505

Dear Colonel James Prochniak:

We have performed an audit of the North Dakota Highway Patrol for the two-year period ending June 30, 2010, and have issued a report thereon. As part of our audit, we gained an understanding of the North Dakota Highway Patrol's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following present our informal recommendations.

CASH

Informal Recommendation 10-1: We recommend the North Dakota Highway Patrol implement procedures to ensure all receipts issued are entered into the Highway Patrol Receipt System.

Informal Recommendation 10-2: We recommend the North Dakota Highway Patrol implement procedures to ensure that all deposits are being properly coded.

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 10-3: We recommend the North Dakota Highway Patrol establish procedures to ensure the person responsible for reconciling the individual purchase card holder statements to the agency-wide purchase card statement is signing off on the statement to validate that the statements were reconciled.

Informal Recommendation 10-4: We recommend the North Dakota Highway Patrol maintain adequate support for expenditures and correcting entries.

Informal Recommendation 10-5: We recommend the North Dakota Highway Patrol use their purchase card as a form of payment to all vendors accepting purchase cards.

PAYROLL

Informal Recommendation 10-6: We recommend the North Dakota Highway Patrol restrict ConnectND (PeopleSoft) access privileges to ensure that the individual that distributes paychecks does not have the ability to process payroll.

PERVASIVE

Informal Recommendation 10-7: We recommend the North Dakota Highway Patrol confirm their receipt and reading of the code of conduct on an annual basis.

Management of the North Dakota Highway Patrol agreed with these recommendations.

I encourage you to call myself or an audit manager at 328-2241 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,



Angela Klubberud
Auditor in-charge

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or by contacting the
Division of State Audit

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