

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS

BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Ended
June 30, 2015

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

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STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE - DEPT. 117
BISMARCK, NORTH DAKOTA 58505

Transmittal Letter

February 26, 2016

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Ms. H. Jean Delaney, Executive Director
Commission on Legal Counsel for Indigents

We are pleased to submit this audit of the Commission on Legal Counsel for Indigents for the biennium ended June 30, 2015. 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 Jacqueline Ressler. Krista Lambrecht, CPA was the staff auditor. 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 Executive Director Delaney and her 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 Commission on Legal Counsel for Indigents is an executive branch agency and consists of the statutorily-created board, comprised of seven persons who are appointed from various entities, to serve staggering terms. The agency is responsible for the delivery of constitutionally-adequate services to criminal defendants and respondents in the state who financially qualify for indigent services in accordance with eligibility requirements. The Commission utilizes the seven judicial districts to regulate its programs.

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies. Those items and the Office of the State Auditor's responses are noted below.

Responses to LAFRC Audit Questions

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

Financial statements were not prepared by the Commission on Legal Counsel for Indigents 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 unmodified 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?

There were no recommendations 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.

Yes, a management letter was issued and is included on page 12 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 Commission on Legal Counsel for Indigents' 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 and the Human Resource Management System (HRMS) are high-risk information technology systems critical to the Commission on Legal Counsel for Indigents.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Commission on Legal Counsel of Indigents for the biennium ended June 30, 2015 were to provide reliable, audited financial statements and to answer the following questions:

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

Audit Scope

This audit of the Commission on Legal Counsel of Indigents is for the biennium ended June 30, 2015. 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Commission on Legal Counsel of Indigents' has operations in the following locations. Each location was included in the audit scope:

- Central Office in Valley City.
- Public Defender Offices in Dickinson, Minot, Williston, Grand Forks, Fargo, and 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 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 agency personnel.
 - Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.

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 Commission on Legal Counsel of Indigents' 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 biennium ended June 30, 2015, operations of the Commission on Legal Counsel of Indigents were primarily supported by appropriations from the state's general fund. This is supplemented by fees credited to the agency's operating fund.

Financial Summary

Revenues consisted primarily of court administration fees and indigent defense application fees collected through the county clerk of court offices. Total revenues were \$943,279 for the year ended June 30, 2015 as compared to \$1,078,565 for the year ended June 30, 2014.

Total expenditures for the Commission on Legal Counsel for Indigents were \$8,609,141 for the year ended June 30, 2015 as compared to \$7,664,037 for the prior year. The increase in professional services for the audited period reflects an increase in indigent caseloads within the state and need to contract with other attorneys. All other expenditures remained fairly constant.

Financial Statements

Statement of Revenues and Expenditures

| | <u>June 30, 2015</u> | <u>June 30, 2014</u> |
|---------------------------------------|----------------------|----------------------|
| <u>Revenues:</u> | | |
| Court Administration Fees | \$ 784,104 | \$ 938,396 |
| Indigent Defense Application Fees | 159,175 | 140,169 |
| Total Revenues | <u>\$ 943,279</u> | <u>\$1,078,565</u> |
| <u>Expenditures:</u> | | |
| Professional Services | \$4,466,616 | \$3,894,832 |
| Salaries and Benefits | 3,359,863 | 2,982,180 |
| Rentals/Leases - Buildings | 292,635 | 290,930 |
| Travel | 172,729 | 158,943 |
| Information Technology | 128,514 | 126,310 |
| Operating Fees and Services | 63,922 | 64,167 |
| Professional Supplies | 32,979 | 39,587 |
| Office Supplies | 27,273 | 26,535 |
| Postage | 21,293 | 18,402 |
| Professional Development | 19,062 | 25,291 |
| Equipment and Furniture Under \$5,000 | 8,792 | 25,400 |
| Printing | 8,173 | 5,286 |
| Insurance | 5,933 | 1,097 |
| Other Expenses | 1,357 | 5,077 |
| Total Expenditures | <u>\$8,609,141</u> | <u>\$7,664,037</u> |

Statement of Appropriations

For The Biennium Ended June 30, 2015

| Expenditures by Line Item: | <u>Original Appropriation</u> | <u>Adjustments</u> | <u>Final Appropriation</u> | <u>Expenditures</u> | <u>Unexpended Appropriation</u> |
|---------------------------------------|-----------------------------------|--------------------|--------------------------------|----------------------|-------------------------------------|
| Accrued Leave Payments | \$ 116,872 | \$ (60,428) | \$ 56,444 | \$ 33,215 | \$ 23,229 |
| Legal Counsel for Indigents | 14,304,404 | 968,118 | 15,272,522 | 15,262,112 | 10,410 |
| Totals | <u>\$ 14,421,276</u> | <u>\$ 907,690</u> | <u>\$ 15,328,966</u> | <u>\$ 15,295,327</u> | <u>\$ 33,639</u> |
| Expenditures by Source: | | | | | |
| General Fund | \$ 11,923,410 | \$ 907,690 | \$ 12,831,100 | \$ 12,824,732 | \$ 6,368 |
| Other Funds | 2,497,866 | | 2,497,866 | 2,470,595 | 27,271 |
| Totals | <u>\$ 14,421,276</u> | <u>\$ 907,690</u> | <u>\$ 15,328,966</u> | <u>\$ 15,295,327</u> | <u>\$ 33,639</u> |

Appropriation Adjustments:

The \$60,428 transfer from the Accrued Leave Payments line to the Legal Counsel for Indigents line was in accordance with the House Bill 1015, section 14 of the 2013 Legislative Session.

An increase of \$7,690 in the Legal Counsel for Indigents line was from the Office of Management and Budget's Health Insurance Pool – Temporary Employees line. This transfer was in accordance with House Bill 1015, section 8 of the 2013 Legislative Session.

An increase of \$700,000 to the Legal Counsel for Indigents line was from the general fund in accordance with Senate Bill 2023, section 1 of the 2015 Legislative Session. Section 3 of that bill transferred spending authority of \$200,000 from the Emergency Commission Contingency Fund line to the Commission on Legal Counsel for Indigents line. This bill was declared to be an emergency measure.

Expenditures Without Appropriations Of Specific Amounts:

The Indigent Administration Fund has a continuing appropriation authorized by NDCC section 29-07-1.1 (4) (\$977,851 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, we identified the following areas of the Commission on Legal Counsel for Indigents' internal control as being the highest risk:

Internal Controls Subjected to Testing:

- Controls surrounding the processing of payroll.
- Controls surrounding the processing of expenditures.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) 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 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. However, we noted other matters involving internal control that we have reported to management of the Commission on Legal Counsel for Indigents' in a management letter dated February 26, 2016.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2015, we identified and tested the Commission on Legal Counsel for Indigents' 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 (2013 North Dakota Session Laws chapter 53).
- 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).
- Proper authorization for the Commission's funds.
- Compliance with payroll-related laws including certification of payroll.
- Compliance with fixed asset record-keeping requirements.

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 Commission on Legal Counsel for Indigents' operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

Management Letter (Informal Recommendations)

February 26, 2016

Ms. H. Jean Delaney
Executive Director
Commission on Legal Counsel for Indigents
PO Box 149
Valley City, ND 58702

Dear Ms. Delaney:

We have performed an audit of the Commission on Legal Counsel for Indigents for the biennium ended June 30, 2015, and have issued a report thereon. As part of our audit, we gained an understanding of the Commission on Legal Counsel for Indigents' 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.

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 15-1: We recommend the North Dakota Commission on Legal Counsel for Indigents properly code expenditures on the accounting system to ensure coding is consistent with the nature of the expenditure.


PAYROLL

Informal Recommendation 15-2: We recommend the North Dakota Commission on Legal Counsel for Indigents approve all timesheets for temporary employees.

Management of the Commission on Legal Counsel for Indigents agreed with these recommendations.

I encourage you to call me 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,

A handwritten signature in cursive script that reads "Jacqueline Ressler". The signature is written in black ink and is positioned above the printed name.

Jacqueline Ressler
Auditor in-charge

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Division of State Audit

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