

Tobacco Prevention and
Control Executive Committee
BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Period Ended
June 30, 2015

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

**LEGISLATIVE AUDIT AND FISCAL REVIEW
COMMITTEE MEMBERS**

**Senator Jerry Klein – Chairman
Representative Chet Pollert – Vice Chairman**

Representatives

**Patrick Hatlestad
Jerry Kelsh
Keith Kempenich
Lawrence R. Klemin
Gary Kreidt
Andrew G. Maragos
Bob Martinson
Corey Mock
Mike Nathe
Marvin E. Nelson
Robert J. Skarphol**

Senators

**Judy Lee
David O'Connell**

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>Financial Statements</i>	<i>8</i>
<i>Statement of Revenues and Expenditures</i>	<i>8</i>
<i>Statement of Appropriations</i>	<i>9</i>
<i>Internal Control</i>	<i>10</i>
<i>Compliance With Legislative Intent</i>	<i>11</i>
<i>Operations</i>	<i>12</i>
<i>Management Letter (Informal Recommendations)</i>	<i>13</i>



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

Transmittal Letter

March 4, 2016

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Dr. Beth Hughes, Tobacco Prevention and Control Executive Committee Chair
Jeanne Prom, Center for Tobacco Prevention and Control Policy Executive Director

We are pleased to submit this audit of the Tobacco Prevention and Control Executive Committee 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 Andrea Wike. 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 Ms. Prom 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

Voters in North Dakota passed the Statewide Initiated Measure 3 in 2008 which established a comprehensive tobacco use prevention and control program using the Centers for Disease Control and Prevention best practices. A nine-member Tobacco Prevention and Control Advisory Committee is appointed by the Governor pursuant to North Dakota Century Code (NDCC) section 23-42-02. A three-member executive committee is selected by the advisory committee from its membership pursuant to NDCC section 23-42-03. The North Dakota Tobacco Prevention and Control Executive Committee administers the tobacco prevention and control trust fund for the implementation and administration of the comprehensive tobacco use prevention and control program. The tobacco prevention and control trust fund consists of tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Phillip Morris, Inc.

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 Tobacco Prevention and Control Executive Committee 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?

Yes.

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 13 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 Tobacco Prevention and Control Executive Committee's financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

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

None.

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

None.

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

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

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

None.

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

ConnectND Finance, Human Capital Management (HCM) System, and Program Reporting System are high-risk information technology systems critical to the Tobacco Prevention and Control Executive Committee.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Tobacco Prevention and Control Executive Committee 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 Tobacco Prevention and Control Executive Committee'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 Tobacco Prevention and Control Executive Committee and are they in compliance with these laws?
3. Are there areas of the Tobacco Prevention and Control Executive Committee's operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the Tobacco Prevention and Control Executive Committee 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 Tobacco Prevention and Control Executive Committee's sole location is its Bismarck office which was included in the audit scope.

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.
- Observed Tobacco Prevention and Control Executive Committee'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 Tobacco Prevention and Control Executive Committee'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 biennium ended June 30, 2015, operations of the Tobacco Prevention and Control Executive Committee were supported by appropriations from the tobacco prevention and control trust fund.

Financial Summary

Revenues consisted primarily of tobacco settlement funds and interest earnings. Tobacco settlement funds are received pursuant to the tobacco settlement agreement adopted by the east central district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in the State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Total revenues were \$11,210,309 for the year ended June 30, 2015 as compared to \$11,229,709 for the year ended June 30, 2014.

Total expenditures for the Tobacco Prevention and Control Executive Committee were \$8,179,621 for the year ended June 30, 2015 as compared to \$5,573,632 for the prior year. The increase in total expenditures for the audited period reflects primarily grants and professional services. The increase in grants was a result of the agency awarding more contracts in fiscal year 2015 than the previous year. The increase in professional services was due to the agency hiring a firm to conduct an independent review in fiscal year 2015 in accordance with North Dakota Century Code section 23-42-07. The increase was also attributable to the agency purchasing signs in fiscal year 2015 to be distributed in accordance with 2013 Session Laws, House Bill 1253, section 2, as well as purchasing public signage displaying the smoke free laws. All other expenditures remained fairly constant.

Tobacco settlement funds received pursuant to the tobacco settlement agreement exceed expenditures by \$3,002,734 for the year ended June 30, 2015 as compared to \$5,632,244 for the year ended June 30, 2014. Payments under this agreement will end in April 2017. Thereafter, future expenditures will reduce the remaining tobacco settlement fund balance.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2015</u>	<u>June 30, 2014</u>
<u>Revenues:</u>		
Tobacco Settlement Funds	\$ 11,182,355	\$ 11,205,876
Interest Income	22,804	20,379
Conference Registration Fees	5,100	3,225
Miscellaneous Revenue	50	229
Total Revenues	<u>\$ 11,210,309</u>	<u>\$ 11,229,709</u>
<u>Expenditures:</u>		
Grants	\$ 5,170,861	\$ 3,801,663
Professional Services	2,002,413	1,003,072
Salaries and Benefits	750,171	594,423
IT Services	87,691	60,640
Operating Fees and Services	49,779	36,733
Rent of Building Space	38,032	36,732
Travel	32,160	21,318
Equipment	24,866	4,182
Supplies	13,488	7,884
Conference/Training Expenses	10,160	6,985
Total Expenditures	<u>\$ 8,179,621</u>	<u>\$ 5,573,632</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	\$ 8,391	\$ 0	\$ 8,391	\$ 0	\$ 8,391
Comprehensive Tobacco Control	15,807,437	0	15,807,437	13,744,928	2,062,509
Totals	<u>\$ 15,815,828</u>	<u>\$ 0</u>	<u>\$ 15,815,828</u>	<u>\$ 13,744,928</u>	<u>\$ 2,070,900</u>
Expenditures by Source:					
Special Funds	\$ 15,815,828	\$ 0	\$ 15,815,828	\$ 13,744,928	\$ 2,070,900
Totals	<u>\$ 15,815,828</u>	<u>\$ 0</u>	<u>\$ 15,815,828</u>	<u>\$ 13,744,928</u>	<u>\$ 2,070,900</u>

Expenditures Without Appropriations Of Specific Amounts:

That Statewide Conference Fund is non-appropriated in accordance with OMB Policy 211 (\$8,325 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, we identified the following areas of the Tobacco Prevention and Control Executive Committee's internal control as being the highest risk:

Internal Controls Subjected to Testing:

- Controls surrounding the processing of payroll.
- Controls surrounding the processing of expenditures surrounding the purchase of services.
- Controls relating to compliance with legislative intent
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the local tobacco prevention programming grants to local public health units.

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 a certain matter involving internal control that we have reported to management of the Tobacco Prevention and Control Executive Committee in a management letter dated March 4, 2016.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2015, we identified and tested Tobacco Prevention and Control Executive Committee's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Advisory and executive committee compensation does not exceed the amount allowed by the legislature (NDCC 23-42-02(5)).
- Ensuring the comprehensive plan is funded at a level equal to or greater than the centers for disease control and prevention recommended funding levels. (NDCC 23-42-05)
- Compliance with OMB's Purchasing Procedures Manual.
- Compliance with appropriations (2013 North Dakota Session Laws, chapter 55).
- Authorization of funds without appropriations.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Deposit of interest of investments into the proper fund.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record-keeping, annual inventory, and surplus property.

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 Tobacco Prevention and Control Executive Committee's operations where we determined it was practical at this time to help to improve efficiency or effectiveness.

Management Letter (Informal Recommendations)

March 4, 2016

Dr. Beth Hughes
Tobacco Prevention and Control Executive Committee Chair
4023 State Street, Suite 65
Bismarck, ND 58503-0638

Dear Dr. Hughes:

We have performed an audit of the Tobacco Prevention and Control Executive Committee for the biennium ended June 30, 2015, and have issued a report thereon. As part of our audit, we gained an understanding of the Tobacco Prevention and Control Executive Committee'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 a certain condition we did not consider reportable within the context of your audit report. This condition relates 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 recommendation to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if this recommendation has been implemented, and if not, we will reconsider its status. That recommendation is:

Informal Recommendation 15-1: We recommend the Center for Tobacco Prevention and Control Advisory Committee establish policies to clarify the duties that constitute official work of the Advisory and Executive Committees and to quantify the number of hours committee members must work to be reimbursed for a full day.

Management of the Tobacco Prevention and Control Executive Committee agreed with this recommendation.

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,



Andrea Wike
Auditor in-charge

You may obtain audit reports on the internet at:

www.nd.gov/auditor/

or by contacting the
Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
Bismarck, ND 58505-0060

(701) 328-2241