

Department of Commerce
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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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>4</i>
<i>Discussion and Analysis</i>	<i>6</i>
<i>Financial Summary</i>	<i>6</i>
<i>Analysis of Significant Variances - Budgeted and Actual Expenditures</i>	<i>6</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>11</i>
<i>Compliance With Legislative Intent</i>	<i>12</i>
<i>Noncompliance with NDAC for the Manufactured Home Installation Program (Finding 15-1)</i>	<i>14</i>
<i>Noncompliance with Fee Collections for the Manufactured Home Installation Program (Finding 15-2)</i>	<i>15</i>
<i>Operations</i>	<i>16</i>
<i>Inadequate Licensing Process for Manufactured Home Installers and Inspectors (Finding 15-3)</i>	<i>17</i>
<i>Inadequate Inspection Process for Manufactured Homes (Finding 15-4)</i>	<i>18</i>
<i>Inadequate Complaint Handling Process for Manufactured Homes (Finding 15-5)</i>	<i>19</i>
<i>Inadequate Enforcement Process for Manufactured Homes (Finding 15-6)</i>	<i>20</i>
<i>Inadequate Management Oversight for Manufactured Homes (Finding 15-7)</i>	<i>21</i>
<i>Improper Monitoring of the Workforce Development Grant for Tribally Controlled Community Colleges (Finding 15-8)</i>	<i>23</i>
<i>Management Letter (Informal Recommendations)</i>	<i>25</i>

STATE AUDITOR
ROBERT R. PETERSON



PHONE
(701) 328 - 2241
FAX
(701) 328 - 1406

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

Transmittal Letter

April 28, 2016

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Mr. Al Anderson, Commissioner, Department of Commerce

We are pleased to submit this audit of the Department of Commerce 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 Kristi Morlock. Liz Rogers and Holly Robak were the staff auditors. 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 Commissioner Anderson and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in black ink that reads "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

Introduction

The North Dakota Department of Commerce has been in existence from July of 2001 and was charged with the task of strengthening and streamlining the state's economic development efforts. Legislation authorized the merger of three former state agencies: Community Services, Economic Development and Finance, and Tourism. Additionally, the Workforce Development Division was created within the Department of Commerce.

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 Department of Commerce 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?

Other than our findings addressing "noncompliance with NDAC for the manufactured home installation program" (page 14) and "noncompliance with fee collections for the manufactured home installation program" (page 15), the Department of Commerce 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?

Yes.

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

Other than our work addressing the Manufactured Home Installation Program (pages 17-21) and the Workforce Development Grant for Tribally Controlled Community Colleges (page 22), there were no indications of lack of efficiency in financial operations and management of the Department of Commerce.

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

The Department of Commerce has implemented the recommendation included in the prior audit report.

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

Yes, a management letter was issued and is included on page 25 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 Department of Commerce'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 and Human Resource Management System (HRMS) are high-risk information technology systems critical to the Department of Commerce.

Audit Objectives, Scope, and Methodology

Audit Objectives

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

Audit Scope

This audit of the Department of Commerce 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 Department of Commerce'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 Department of Commerce's processes and procedures.
- Performed a detailed review of the Manufactured Home Installation Program operated by the Department of Commerce including:
 - Established policies and procedures;
 - Qualifications of staff;
 - Licensing;
 - Inspections;
 - Complaint handling;
 - Enforcement processes; and
 - Management analysis processes.
- Performed a detailed review of the Workforce Development Grant for Tribally Controlled Community Colleges awarded by the Department of Commerce including:
 - Application review processes;
 - Grant awarding;
 - Performance monitoring; and
 - Management assessment of results.
- Performed a detailed review of the Research ND Grant awarded by the Department of Commerce including:
 - Application review processes;
 - Grant awarding;
 - Performance monitoring; and
 - Management assessment of results.

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 Department of Commerce'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 Department of Commerce were primarily supported by federal funds and appropriations from the state's general fund.

Financial Summary

Revenues and other sources consisted primarily of federal funds and legislatively mandated transfers. Federal funds increased in the second half of the biennium due to flood grants that were received and the timing of receipt of fiscal year 2014 weatherization grant funds. Transfers in decreased in fiscal year 2015 as a majority of the transfers were from the general fund and received in the first half of the biennium. Other revenues during the audited period included community service loan principle and interest, tourism merchandise sales, manufactured home inspection fees, Innovate ND program revenues, and interest and investment earnings. These all remained fairly constant for the Department of Commerce. Total revenues and other sources were \$35,996,195 for the year ended June 30, 2015 as compared to \$42,372,107 for the year ended June 30, 2014.

Total expenditures and other uses for the Department of Commerce were \$63,762,139 for the year ended June 30, 2015 as compared to \$68,598,652 for the prior year. The decrease in total expenditures and other uses for the audited period reflects primarily a decrease in transfers out to the Internship Fund, Research ND Fund, and the Workforce Enhancement Fund, as these transfers were done in the first half of the biennium. Grant expenditures increased due to additional funds received for Community Development Block Grants, Innovation and Entrepreneurship grants, and Research ND grants. All other expenditures remained fairly constant.

Analysis of Significant Variances - Budgeted and Actual Expenditures

The excess appropriation in the Grants line was the result of the Department of Commerce not receiving anticipated federal funds. Commerce also carried \$3.4 million of the Grants line over to the 2015-2017 biennium.

Unexpended appropriations in the Discretionary Grants and APUC lines were committed but not expended. The Department has carryover authority for these funds.

The excess appropriation in the Flood Impact – Loans/Grants line item was the result of not paying out the anticipated grant awards prior to the end of the biennium due to the timing of grantee reimbursement requests for federal funds.

The excess appropriation in the Visual North Dakota line was due to the Department determining that the project was not feasible and not moving forward.

The excess appropriation in the Federal Stimulus Funds – 2009 line were due to the timing of preparing the budget for 2013-2015 and not knowing the amount of funds that would be paid out prior to the start of the biennium.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2015</u>	<u>June 30, 2014</u>
<u>Revenues and Other Sources:</u>		
Federal Revenue	\$ 22,618,565	\$ 13,095,201
Loan Principle and Interest	1,836,472	1,171,920
Tourism Merchandise Sales	333,981	254,747
Manufactured Home Inspection Fees	114,229	107,999
Miscellaneous Revenue	86,345	100,496
Innovate ND Program	53,646	25,750
Interest on Investment	20,402	21,151
Transfers In	10,932,555	27,594,843
Total Revenues and Other Sources	<u>\$ 35,996,195</u>	<u>\$ 42,372,107</u>
<u>Expenditures and Other Uses:</u>		
Grants	\$ 45,737,538	\$ 35,347,544
Operating Fees and Services	8,766,220	8,740,123
Salaries and Benefits	6,024,629	5,784,112
Professional Fees and Services	580,395	531,275
Printing	392,364	394,760
Information Technology	375,357	404,814
Rentals/Leases	364,081	357,327
Travel	352,717	366,728
Professional Development	284,612	236,546
Supplies	223,617	159,833
Equipment	111,147	50,134
Postage	107,532	114,838
Miscellaneous Expenditures	8,014	168,027
Transfers Out	433,916	15,942,591
Total Expenditures and Other Uses	<u>\$ 63,762,139</u>	<u>\$ 68,598,652</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>
Salaries and Benefits	\$ 12,361,114		\$ 12,361,114	\$ 11,307,241	\$ 1,053,873
Accrued Leave Payments	243,767		243,767	65,701	178,066
Operating Expenses	16,435,749		16,435,749	15,621,437	814,312
Capital Assets	10,000		10,000		10,000
Grants	68,372,950	\$ 1,436,216	69,809,166	58,791,938	11,017,228
Discretionary Grants	928,082	677,658	1,605,740	956,061	649,679
Workforce Enhancement Fund	2,000,000		2,000,000	2,000,000	
Economic Development Initiatives	186,846		186,846	86,679	100,167
Flood Impact – Loans/Grants	18,358,866		18,358,866	9,605,647	8,753,219
APUC	3,240,494	2,266,474	5,506,968	2,706,099	2,800,869
Research North Dakota	12,000,000		12,000,000	12,000,000	
ND Trade Office	2,613,400		2,613,400	2,605,924	7,476
Partner Programs	2,022,044		2,022,044	1,918,716	103,328
Visual North Dakota	250,000		250,000	26,063	223,937
Federal Stimulus Funds - 2009	796,770		796,770	4	796,766
Totals	<u>\$139,820,082</u>	<u>\$ 4,380,348</u>	<u>\$144,200,430</u>	<u>\$117,691,510</u>	<u>\$ 26,508,920</u>
Expenditures by Source:					
General Fund	\$ 64,457,060	\$ 2,755,429	\$ 67,212,489	\$ 62,145,042	\$ 5,067,447
Other Funds	75,363,022	1,624,919	76,987,941	55,546,468	21,441,473
Totals	<u>\$139,820,082</u>	<u>\$ 4,380,348</u>	<u>\$144,200,430</u>	<u>\$117,691,510</u>	<u>\$ 26,508,920</u>

Appropriation Adjustments:

The increase of \$1,436,216 in the Grants line item is unexpended grant funds appropriated in the 2011 Legislative Session which were approved as carry-over funds in the 2013-2015 biennium pursuant to Senate Bill 2018, sections 25 and 27 of the 2013 Session Laws.

The increase of \$677,658 in the Discretionary Grants line item is unexpended discretionary funds appropriated in the 2011 Legislative Session which were approved as carry-over funds in the 2013-2015 biennium pursuant to Senate Bill 2018, section 24 of the 2013 Session Laws.

The increase of \$2,266,474 in the APUC line item is unexpended Agricultural Products Utilization Commission grant funds appropriated in the 2011 Legislative Session which were approved as carry-over funds in the 2013-2015 biennium pursuant to Senate Bill 2018, section 23 of the 2013 Session Laws.

Expenditures Without Appropriations Of Specific Amounts:

The Statewide Conference Fund has a continuing appropriation in accordance with OMB Policy 211 (\$17,080 of expenditures for this biennium).

The Centers of Research Excellence Fund has a continuing appropriation authorized by NDCC 54-65-05 (\$1,028,182 of expenditures for this biennium).

The Internship Fund has a continuing appropriation authorized by NDCC 54-60-17.1 (\$1,427,729 of expenditures for this biennium).

The Workforce Enhancement Fund has a continuing appropriation authorized by NDCC 54-60-23 (\$1,145,417 of expenditures for this biennium).

The Energy Conservation Grant Fund has a continuing appropriation authorized by NDCC 54-44.5-05.1 (\$685,006 of expenditures for this biennium).

The Centers of Excellence Fund has a continuing appropriation authorized by NDCC 15-69-06 (\$2,539,354 of expenditures for this biennium).

The Research North Dakota Fund has a continuing appropriation authorized by NDCC 54-65-08 (\$3,061,549 of expenditures for this biennium).

The Ethanol Production Incentive Fund has a continuing appropriation authorized by NDCC 17-02-05 (\$4,764,965 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, we identified the following areas of the Department of Commerce'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 relating to compliance with legislative intent.
- Controls related to inventory.
- Controls related to investments.
- Controls related to payroll.
- 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 Department of Commerce in a management letter dated April 28, 2016.

Compliance With Legislative Intent

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

- Compliance with appropriations (2013 North Dakota Session Laws chapter 49).
- Compliance with unmanned aircraft systems program requirements (Senate Bill 2018, sections 13 and 14 of the 2013 North Dakota Session Laws).
- Compliance with the research North Dakota grants program requirements (Senate Bill 2018, section 15 of the 2013 North Dakota Session Laws).
- Compliance with the research North Dakota venture grants program requirements (Senate Bill 2018, section 16 of the 2013 North Dakota Session Laws).
- Compliance with the trade office requirements (Senate Bill 2018, section 31 of the 2013 North Dakota Session Laws).
- Compliance with the base retention grant program requirements (Senate Bill 2018, section 32 of the 2013 North Dakota Session Laws).
- Compliance with the unmanned aircraft systems program requirements (Senate Bill 2018, section 33 of the 2013 North Dakota Session Laws).
- Compliance with the innovation grant program requirements (Senate Bill 2018, section 34 of the 2013 North Dakota Session Laws).
- Compliance with the enhanced use lease grant program requirements (Senate Bill 2018, section 35 of the 2013 North Dakota Session Laws).
- Proper issuance of workforce development grants for tribally controlled community colleges (Senate Bill 2218, section 6 of the 2013 North Dakota Session Laws).
- Completeness of Angel Fund applications (Senate Bill 2325, section 9 and House Bill 1106, section 21 of the 2013 North Dakota Session Laws).
- Proper issuance of grant awards for the recruitment, distribution, supply, quality, and efficiency of personnel providing health services in rural areas (House Bill 1211, section 1 of the 2013 North Dakota Session Laws).
- Proper issuance of grant awards to nursing homes, basic care facilities, and providers that serve individuals with developmental disabilities that are located in oil-producing counties (House Bill 1358, section 8 of the 2013 North Dakota Session Laws).
- Compliance with elements contained in the agritourism applications (North Dakota Century Code 53-13-02).
- Compliance with the requirements of the value-added market opportunities for renewable energy resources and oil and gas study appropriation (Senate Bill 2014, section 12 of the 2013 North Dakota Session Laws).
- Proper issuance of homeless shelters grants (Senate Bill 2014, section 13 of the 2013 North Dakota Session Laws).
- Compliance with the child care facilities grant program requirements (Senate Bill 2014, section 14 of the 2013 North Dakota Session Laws).
- Compliance with manufactured home installation program requirements (NDCC section 54-21.3-08 and NDAC 108-03-01).

- Proper use of the following legally restricted funds:
 - Agricultural Products Utilization Fund (NDCC section 04-14.1-02)
 - Centers of Excellence Fund (NDCC section 15-69-06)
 - Ethanol Production Incentive Fund (NDCC section 17-02-05)
 - Internship Fund (NDCC section 54-60-17)
 - Workforce Enhancement Fund (NDCC section 54-60-23)
 - Community Service Fund (NDCC section 54-44.5-05)
 - Energy Conservation Grant Fund (NDCC section 54-44.5-05.1)
 - Centers of Research Excellence Fund (NDCC section 54-65-05)
 - Research North Dakota Fund (NDCC section 54-65-08)
- Proper authorization for the Department's funds.
- 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 authority for investments and investment interest.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with credit card processing.
- Compliance with fixed asset requirements including record-keeping, annual inventory, surplus property, lease and financing arrangements in budget requests, and lease analysis requirements.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.

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

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

The results of our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards*. The findings are described on the following pages. Other than these findings, we concluded there was compliance with the legislative intent identified above. We also noted a certain inconsequential instance of noncompliance that we have reported to management of the Department of Commerce in a management letter dated April 28, 2016.

Noncompliance with NDAC for the Manufactured Home Installation Program (Finding 15-1)

Condition:

The Department of Commerce, Manufactured Home Installation Program did not follow North Dakota Administrative Code (NDAC). We noted the following areas that contained violations:

- The Department is not ensuring monthly reporting requirements are being followed by installers and inspectors.
- The Department does not review checklists or any other documentation from the certified installer or certified inspector to determine what oversight inspections are required.

Criteria:

North Dakota Administrative Code chapter 108-03-01 outlines the policies and procedures for the Manufactured Home Installation Program.

Cause:

The Department of Commerce was not following North Dakota Administrative Code. Parts of the NDAC include policies and procedures that were not done by the agency.

Effect or Potential Effect:

The Department of Commerce may not receive all reports from installers and inspectors, may not receive proper reimbursement for costs incurred, and required sanctions may not be used.

Recommendation:

We recommend the Department of Commerce follow North Dakota Administrative Code chapter 108-03-01 relating to reporting requirements and determination of oversight inspection for the Manufactured Home Installation Program.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department will follow the North Dakota Administrative Code chapter 108-03-01 relating to reporting requirements and determination of oversight inspection for the Manufactured Home Installation Program. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01 to reflect changes in reporting procedures. The Department is also developing policies and procedures that will provide guidance in the reporting requirements and determination of oversight inspection procedures.

Noncompliance with Fee Collections for the Manufactured Home Installation Program (Finding 15-2)

Condition:

The Department of Commerce Manufactured Home Installation Program did not follow North Dakota Administrative Code (NDAC) related to fees being collected from installers and inspectors. We noted the following areas that contained violations:

- At times the oversight inspection fee was being charged to both the installer and inspector. There were other times where no fee was charged to either the installer or inspector. During the 2013-2015 biennium, we noted that 12 of 37 oversight inspections were paid by both the installer and inspector. Sixteen of the 37 oversight inspections did not get a bill sent for the oversight inspection fee of \$225. We also noted two oversight inspections that were billed in October 2014, but the oversight inspection does not show on the State Inspection Report that an oversight inspection has been completed.
- Lack of verification that an installer reimburses the division for costs incurred investigating a complaint and any re-inspection fees that are necessary, as required by NDAC.

Criteria:

North Dakota Administrative Code sections 108-03-01-13 and 108-03-01-19 outline the fees that the Department of Commerce can collect for the Manufactured Home Installation Program.

Cause:

The Department of Commerce lacks reconciliations of revenue collected for registration and training fees, oversight inspection fees, and insignia fees. Complaints and re-inspections are not tracked.

Effect or Potential Effect:

The Department of Commerce may not collect the correct amount of fee revenue from the Manufactured Home Installation Program.

Recommendation:

We recommend the Department of Commerce collect the proper fees from installers and inspectors, including complaint and re-inspection fees for the Manufactured Home Installation Program in accordance with North Dakota Administrative Code sections 108-03-01-13 and 108-03-01-19.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department will follow the North Dakota Administrative Code chapter sections 108-03-01-13 and 108-03-01-19 regarding fees. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01 to reflect changes in fee collection. The Department is also developing policies and procedures relating to fee collections from installers and inspectors.

Operations

Our audit of the Department of Commerce included reviewing operations surrounding the Manufactured Home Inspection Program, Tribal Colleges Grant Program, and the Research ND Grant Program.

Manufactured Home Installation Program

Background

North Dakota Century Code chapter 54-21.3-08 authorizes rules for the establishment of a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280. These rules must establish minimum installation standards. The rules may include standards, fees, and requirements for certification and training of installers, inspections of installers, dispute resolution, penalties for noncompliance, and costs of processing complaints. The rules must include provisions for the enforcement of these standards.

The Department of Commerce implemented the above chapter of North Dakota Century Code through the creation of North Dakota Administrative Code chapter 108-03-01 (Manufactured Home Installation Program).

Our audit of the Department of Commerce's Manufactured Home Installation Program was designed and conducted to meet the following objectives:

- Was professional competence upheld through the hiring, training, and evaluating processes so as to ensure effective compliance with rules and regulations by all staff?
- Are regulated individuals required to get and maintain a license to certify that certain standards are met for operation within the manufactured home industry?
- Has a systematic process been developed to monitor the activities of regulated individuals to ensure applicable requirements are being followed so as to adequately protect the public?
- Were complaints handled to ensure the individuals operating within the manufactured home industry are in compliance with all applicable requirements and standards?
- Are regulations properly and effectively enforced in order to achieve the goals intended by the government such as safeguarding health and safety?
- Is there a systematic process for analyzing program-related information, making appropriate adjustments to improve the effectiveness and efficiency of the program and reporting relevant summary information to the public and policy-makers about the results of the manufactured home inspection program?

We identified instances of ineffective operations. These instances are identified in the following findings. In addition, we noted certain inconsequential instances that we have reported to the management of the Department of Commerce in a management letter dated April 28, 2016.

Inadequate Licensing Process for Manufactured Home Installers and Inspectors (Finding 15-3)

Condition:

The Department of Commerce does not have an adequate licensing process for the Manufactured Home Installation Program. We noted the following areas of concern:

- Inadequate documented policies and procedures for licensing installers and inspectors including guidelines for online training and the required pass score for the initial exam, as well as the 3-year refresher exam.
- Inadequate tracking of the licensing process.

Criteria:

Best practices are used for this regulatory program as documented in the following publications: Good Practices for Regulatory Inspections: Guidelines for Reformers from international consultants in regulatory reform as prepared by Jacobs & Associates for the World Bank, Carrying Out a State Regulatory Program from the National State Auditors Association, and Best Practice Principles for Regulatory Policy from the Council on Regulatory Policy and Governance. In addition, guidelines from the US Food & Drug Administration (FDA), the US Centers for Disease Control (CDC), and the US Occupational Safety & Health Administration (OSHA) were used.

Cause:

The Department of Commerce was not aware of all necessary procedures for the licensing process when the Manufactured Home Installation Program was developed. Also, North Dakota Administrative Code chapter 108-03-01 regarding the Manufactured Home Installation Program has not been updated since January 1, 2006.

Effect or Potential Effect:

The public could be at risk if the licensing process for installers and inspectors is not adequate. The installers and inspectors may be operating without a license.

Operational Improvement:

We recommend the Department of Commerce implement an adequate licensing process for the Manufactured Home Installation Program. Specifically, the agency should ensure:

- Adequate policies and procedures are in place for licensing installers and inspectors.
- Adequate tracking of the licensing application process.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01. The Department is also developing policies and procedures to provide guidance in the licensing procedures and tracking of the licensing application process.

Inadequate Inspection Process for Manufactured Homes (Finding 15-4)

Condition:

The Department of Commerce does not have an adequate inspection process for the Manufactured Home Installation Program. We noted the following areas of concern:

- Inadequate documented policies and procedures for inspections, including a selection process for choosing which inspection will receive an oversight inspection and guidance for oversight inspections that includes what documentation needs to be submitted to the Department of Commerce, how serious non-compliance is, and types of violations considered to be non-compliance.
- Lack of tracking for all inspections.

Criteria:

North Dakota Administrative Code section 108-03-01-02 states “This administrative chapter pertains to the first-time installation of each manufactured home installed in North Dakota in a temporary or permanent location and which is designed and commonly used for occupancy by persons for residential purposes beginning July 1, 2006. Each installed manufactured home must display an insignia issued by the Department of Commerce Division of Community Services, certifying that the home is installed in compliance with this chapter.”

Cause:

Management is unaware of the steps required to be completed prior, during, and after an inspection for the Manufactured Home Installation Program. Also, North Dakota Administrative Code chapter 108-03-01 regarding the Manufactured Home Installation Program has not been updated since January 1, 2006.

Effect or Potential Effect:

The public could be at risk since the agency does not properly monitor the certified installers, certified inspectors, and oversight inspector.

Operational Improvement:

We recommend the Department of Commerce ensure there is an adequate inspection process for the Manufactured Home Installation Program. Specifically, the Department of Commerce should ensure:

- Adequate documented policies and procedures are in place for all inspections.
- A tracking system is implemented for the inspection process.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01. The Department is also developing policies and procedures to provide guidance in the inspection procedures and the tracking of the inspection process.

Inadequate Complaint Handling Process for Manufactured Homes (Finding 15-5)

Condition:

The Department of Commerce does not have an adequate complaint handling process for the Manufactured Home Installation Program. We noted the following areas of concern:

- Inadequate documented process for handling complaints including: how complaints will be handled once received, which complaints need action, how quickly complaints should be handled, and who needs notification that a complaint has been filed.
- Lack of tracking of complaints.

Criteria:

Best practices for regulatory programs as documented in the following publications: Good Practices for Regulatory Inspections: Guidelines for Reformers from international consultants in regulatory reform as prepared by Jacobs & Associates for the World Bank, Carrying Out a State Regulatory Program from the National State Auditors Association, and Best Practice Principles for Regulatory Policy from the Council on Regulatory Policy & Governance. In addition, guidelines from the US Food & Drug Administration (FDA), the US Centers for Disease Control (CDC), and the US Occupational Safety & Health Administration (OSHA) were used.

Cause:

The Department of Commerce management was not aware of all necessary procedures for the complaint handling process when the Manufactured Home Installation Program was developed. Also, North Dakota Administrative Code chapter 108-03-01 regarding the Manufactured Home Installation Program has not been updated since January 1, 2006.

Effect or Potential Effect:

The public could be at risk if complaints are not handled properly and addressed in a timely manner.

Operational Improvement:

We recommend the Department of Commerce implement an adequate complaint handling process for the Manufactured Home Installation Program. Specifically, the Department of Commerce should ensure:

- Documented policies and procedures are in place for the complaint handling process.
- A tracking system is implemented for the complaint handling process.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01. The Department is also developing policies and procedures to provide guidance in the complaint handling process and the tracking of the complaint handling process.

Inadequate Enforcement Process for Manufactured Homes (Finding 15-6)

Condition:

The Department of Commerce does not have an adequate enforcement process for the Manufactured Home Installation Program. We noted the following areas of concern:

- Inadequate documented policies and procedures for the enforcement process including: when a license would be permanently revoked versus temporarily suspended, and how to use the sanctions provided.
- Lack of tracking for oversight inspection enforcement actions and follow-up of actions taken.
- Lack of notification to the appropriate parties after an oversight inspection has been completed.

Criteria:

North Dakota Administrative Code section 108-03-01-14 states when a license can be permanently revoked, temporarily suspended, or not renewed.

Cause:

Management of the Department of Commerce was not aware of proper enforcement procedures for the Manufactured Home Installation Program once a violation occurs. Also, North Dakota Administrative Code chapter 108-03-01 regarding the Manufactured Home Installation Program has not been updated since January 1, 2006.

Effect or Potential Effect:

The public could be at risk if the manufactured home violations are allowed to go unenforced. The lack of adequate policies and procedures for enforcing violations increases the risk of abuse within the enforcement process.

Operational Improvement:

We recommend the Department of Commerce implement an adequate enforcement process for the Manufactured Home Installation Program. Specifically, the agency should ensure:

- Adequate documented policies and procedures are in place for the enforcement process.
- A tracking system is implemented for the enforcement process.
- Notification is made to the appropriate parties after an oversight inspection has been completed.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01. The Department is also developing policies and procedures to provide guidance in the enforcement process and the tracking of the enforcement process including notification being made to the appropriate parties after an oversight inspection has been completed.

Inadequate Management Oversight for Manufactured Homes (Finding 15-7)

Condition:

The Department of Commerce does not have adequate management oversight of the Manufactured Home Installation Program. During our review, we noted the following areas of concern:

- Lack of documented policies and procedures for quality assurance and oversight of the program.
- The Manufactured Home Installation Program software is not used to compile, track, and analyze data to the extent possible.
- There is no verification that all new manufactured homes set in North Dakota were installed and inspected by individuals licensed by the state of North Dakota.

Criteria:

North Dakota Administrative Code section 108-03-01-02 states “This administrative chapter pertains to the first-time installation of each manufactured home installed in North Dakota in a temporary or permanent location and which is designed and commonly used for occupancy by persons for residential purposes beginning July 1, 2006. Each installed manufactured home must display an insignia issued by the Department of Commerce Division of Community Services, certifying that the home is installed in compliance with this chapter.

Cause:

Management of the Department of Commerce was not aware of what oversight needed to be completed on the Manufactured Home Installation Program. Also, North Dakota Administrative Code chapter 108-03-01 regarding the Manufactured Home Installation Program has not been updated since January 1, 2006.

Effect or Potential Effect:

The public could be at risk since management is not periodically reviewing the Manufactured Home Installation Program.

Operational Improvement:

We recommend the Department of Commerce ensure adequate management oversight of the Manufactured Home Installation Program. Specifically, the Department of Commerce should ensure:

- Documented policies and procedures for quality assurance and oversight of the program are developed.
- The Manufactured Home Installation Program software or some other means of tracking is used to compile, track, and analyze data.
- All new manufactured homes set in North Dakota were installed and inspected by individuals licensed by the state of North Dakota.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department is in the process of updating North Dakota Administrative Code chapter 108-03-01. The Department is also developing policies and procedures to provide guidance in the quality assurance and oversight of the program. The Manufactured Home Installation Program software will be evaluated for compliance with the policies and procedures and updated as the budget allows. The Department will continue to use other methods of tracking and evaluating data such as updated spreadsheets that will contain information required by the policies and procedures. The Department will work to ensure that every new manufactured home set in North Dakota known to the Department are installed and inspected by individuals licensed by the state of North Dakota.

Workforce Development Grant for Tribally Controlled Community Colleges

Background

The Workforce Development Grant for Tribally Controlled Community Colleges was created pursuant to North Dakota Century Code section 54-60.2-01. The purpose of the Workforce Development Grant for Tribally Controlled Community Colleges is:

- For development or enhancement of programs that assist in providing certificates or degrees to North Dakota students attending the college that qualify the student to obtain jobs for which applicants are being sought within the state, as identified by the Department of Commerce, Job Service North Dakota, or any of the federally recognized Indian tribes within North Dakota; or
- To assist any North Dakota student attending the college to establish, or to assist in establishing, a new business operating within North Dakota that will employ North Dakota citizens.

Our audit of the Department of Commerce's Workforce Development Grant for Tribally Controlled Community Colleges was designed and conducted to meet the following objectives:

- Were grants awarded using an adequate selection process?
- Are grantees required to submit status updates on their progress toward the established goal of the award?
- Do grant agreements include all important information, such as necessary reports grantees must submit, conflict of interest, expected results, and any potential consequences?
- Are there established performance measures to identify whether funds received by grantees are being used to achieve objectives or require additional action due to noncompliance?
- Were the results of the grant reviewed to establish whether identified goals were achieved?

We identified an instance of inefficient operations. This instance is identified in the following finding. In addition, we noted certain inconsequential instances that we have reported to the management of the Department of Commerce in a management letter dated April 28, 2016.

Improper Monitoring of the Workforce Development Grant for Tribally Controlled Community Colleges (Finding 15-8)

Condition:

The Department of Commerce is not properly monitoring the Workforce Development Grant for Tribally Controlled Community Colleges. We noted the following areas of concern:

- Lack of standard site visit monitoring tools.
- Lack of standards for frequency and consistency of monitoring during site visits.
- Feedback from site visits are not provided to the grantee or the Division Director as stated in the Tribal College Grant Manual.
- Lack of tracking to verify that issues arising from site visits were resolved.
- Lack of tracking of all required reports from the grantee.
- Lack of tracking of administrative actions taken against colleges for failure to submit required reports.
- Lack of formal assessment to ensure grant monies accomplished the goals of the grantee's application.

Criteria:

The Tribal College Grant Manual states "The Division will monitor all grants within the biennium. Monitoring includes a review of all report submittals and an onsite visit to review the grant programs and their progress. A monitoring report will be prepared and presented to the Division Director within 60 days of the monitoring event. The Division Director will provide grantees with a letter of monitoring results within 90 days of the monitoring event.

The Tribal College Grant Manual states "Each calendar quarter of the grant, by the last day of the month following the quarter end, grantees must submit a quarterly expenditure report. Reports must be provided even when no expenditures have occurred."

North Dakota Century Code section 54-60.2-05 states an annual report needs to be received by the Department of Commerce within 60 days of the end of each fiscal year.

Cause:

Management of the Department of Commerce was not aware of all necessary procedures for managing performance when the Workforce Development Grant for Tribally Controlled Community Colleges was developed. Also, the Department of Commerce was not ensuring compliance with the Tribal College Grant Manual.

Effect or Potential Effect:

The Department of Commerce is unable to verify the grantees are using the Workforce Development Grant for Tribally Controlled Community Colleges funds as intended.

Operational Improvement:

We recommend the Department of Commerce properly monitor the Workforce Development Grant for Tribally Controlled Community Colleges to ensure grantees are using the funds as intended.

Department of Commerce Response:

The Department of Commerce agrees with this recommendation. The Department will work to properly monitor the Workforce Development grants to ensure all grantee funds for Tribally Controlled Community Colleges are used as intended.

Research ND Grant**Background**

The Research ND grant program was created pursuant to North Dakota Century Code section 54-65-06. The purpose of the Research ND grant program is to provide grants to a Research University for research, development, and commercialization activities related to a Private Sector Partner.

Our audit of the Department of Commerce's Research ND Grant was designed and conducted to meet the following objectives:

- Were grants awarded using an adequate selection process?
- Are grantees required to submit status updates on their progress toward the established goal of the award?
- Do grant agreements include all important information, such as the necessary reports grantees must submit, conflict of interest, expected results, and any potential consequences?
- Are there established performance measures to identify whether funds received by grantees are being used to achieve objectives or require additional action due to noncompliance?
- Were the results of the grant reviewed to establish whether identified goals were achieved?

We noted certain inconsequential instances that we have reported to the management of the Department of Commerce in a management letter dated April 28, 2016.

Management Letter (Informal Recommendations)

April 28, 2016

Mr. Al Anderson, Commissioner
Department of Commerce
1600 E. Century Avenue – Suite 2
Bismarck, ND 58503

Dear Commissioner Anderson:

We have performed an audit of the Department of Commerce for the biennium ended June 30, 2015, and have issued a report thereon. As part of our audit, we gained an understanding of the Department of Commerce'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.

LEGISLATIVE INTENT

Informal Recommendation 15-1: We recommend the Department of Commerce increase their blanket bond coverage to an adequate level in accordance with the Insurance Commission's blanket bond application as well as review the Declaration Limits of Liability from the Insurance Commission to ensure it agrees to the amount requested on the application.

FIXED ASSETS

Informal Recommendation 15-2: We recommend the Department of Commerce maintain accurate and current fixed asset records.

OPERATIONAL IMPROVEMENTS

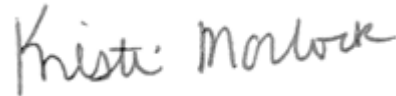
Informal Recommendation 15-3: We recommend the Department of Commerce monitor the oversight inspector of the Manufactured Home Installation Program to ensure oversight reports are submitted for all oversight inspections completed.

Informal Recommendation 15-4: We recommend the Department of Commerce improve the application review process for the Workforce Development Grant for Tribally Controlled Community Colleges by creating documented guidance on which applications should receive funding when more funding is requested than what is available.

Informal Recommendation 15-5: We recommend the Department of Commerce ensure the requirements of the grantee interim project reports are met as stated in the Research ND Policies and Procedures Manual.

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 "Kristi Morlock".

Kristi Morlock
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