

STATE OF CONNECTICUT



*AUDITORS' REPORT
STATE ELECTIONS ENFORCEMENT COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 2006, 2007, AND 2008*

AUDITORS OF PUBLIC ACCOUNTS

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May 20, 2010

**AUDITORS' REPORT
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We have made an examination of the financial records of the State Elections Enforcement Commission for the fiscal years ended June 30, 2006, 2007, and 2008. This report consists of the Comments, Recommendations and Certification, which follow.

Financial statement presentation and auditing are done on a Statewide Single Audit basis to include all State agencies. This audit examination has been limited to assessing the State Elections Enforcement Commissions' compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating the internal control structure policies and procedures established to insure such compliance.

COMMENTS

FOREWORD:

The State Elections Enforcement Commission operates by the authority of Sections 9-7a and 9-7b of the Connecticut General Statutes.

Commission membership consists of five members appointed with the consent of the General Assembly. Members are appointed by the Minority Leader of the House of Representatives, the Minority Leader of the Senate, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. As of June 30, 2008, the Commissioners were Richard C. Bozzuto, Stephen F. Cashman, Chairman, Michael J. Dolan, Theresa B. Gerratano, and Joan B. Jenkins. Audrey D. Brett, Tracey Green Cleary, and Santa Mendoza also served as Commissioners during the audited period.

Jeffrey B. Garfield served as the Executive Director and General Counsel of the State Elections Enforcement Commission during the audited period.

Significant Legislative Changes:

Legislative changes that took effect during the audited period are presented below:

- Public Act 05-5 of the October 2005 Special Session established the Citizens' Election Program, which provides public grants to qualified candidates for the General Assembly and statewide office. The Act established the Citizens' Election Fund to fund this program, making \$17 million available for the program in the fiscal year ending June 30, 2006, and \$16 million in the fiscal year ending June 30, 2007. The Act also transferred the campaign filing function from the Secretary of the State to the State Elections Enforcement Commission.
- Public Act 05-235 authorized the Commission to levy a civil penalty of \$2,000 for violations of certain election laws; the failure of election or primary officials to discharge certain duties; and improper voting by persons not legally qualified to vote in an election, primary, or referendum.
- Public Act 06-187 increased the rate of compensation for commission members from \$50 to \$200 per day for regular commission meetings or hearings, effective May 26, 2006.
- Public Act 07-1 of the June 2007 Special Session provided \$17,300,000 for the Citizens' Election Fund for the fiscal year ending June 30, 2008, and made provision for calculating the amount to be made available to the Fund in subsequent fiscal years.
- Public Act 08-2, in part, makes changes to campaign filing schedules and to campaign grant payment provisions, effective April 7, 2008.

RÉSUMÉ OF OPERATIONS:

Overview:

The State Elections Enforcement Commission is in the executive branch of government. The Agency's Executive Director and General Counsel is appointed by the Commission and is a "classified" employee and subject to the civil service rules.

A brief overview of the activities of the Agency is presented here. This overview is not intended to be all inclusive of the activities and powers of this Agency; interested readers are advised to consult other authoritative sources for complete descriptions of the Commission.

The State Elections Enforcement Commission is charged with overseeing the State's election laws. The Commission investigates alleged violations of the statutes pertaining to elections, primaries, and referenda, and is empowered to hold hearings, subpoena witnesses, require the production of records and issue orders. The Commission can levy civil penalties against those found

to be in violation of the laws.

Pursuant to Public Act 05-5 of the October 2005 Special Session, the Agency is also responsible for administering the Citizens' Election Program. This program provides public grants to qualified candidates for the General Assembly and statewide office. Also included in the requirements of the Act, the State Elections Enforcement Commission is now the state campaign finance filing repository for all past and present campaign finance records for party committees, political committees and candidate committees organized for state elections. The Agency also developed and now operates an on-line filing system for those who are required to file their reports with the State Elections Enforcement Commission.

Audits of financial disclosure statements from candidates for elective office are performed by the Commission to check for compliance with campaign financing laws. The Commission performs other duties as statutorily empowered, including rendering legal advice on the requirements of the campaign finance laws.

The Commission also conducts seminars and provides information to various individuals on the requirements of the State's campaign laws.

General Fund Receipts:

A summary of General Fund receipts during the fiscal years ended June 30, 2006, 2007, and 2008, is presented below:

	<u>2005-2006</u>	<u>2006-2007</u>	<u>2007-2008</u>
Civil Penalties	\$52,738	\$54,389	\$46,921
General Forfeitures	7,271	19,524	1,615
Late Filing Fees	0	9,300	19,600
Other	<u>225</u>	<u>1,252</u>	<u>164</u>
Total General Fund Receipts	<u>\$60,234</u>	<u>\$84,465</u>	<u>\$68,300</u>

General Fund Expenditures:

General Fund expenditures during the fiscal years ended June 30, 2006, 2007, and 2008, are presented below:

	<u>2005-2006</u>	<u>2006-2007</u>	<u>2007-2008</u>
Personal Services	\$ 941,098	\$1,073,006	\$1,265,397
Contractual Services	67,218	189,982	211,314
Commodities	25,844	44,961	64,398
Sundry Charges	-	12,490	9,683
Equipment	<u>32,884</u>	<u>15,213</u>	<u>54,997</u>
Total General Fund Expenditures	<u>\$1,067,044</u>	<u>\$1,335,652</u>	<u>\$1,605,789</u>

For State Fiscal Years 2006, 2007, and 2008, expenditures for personal services represented 88

percent, 80 percent, and 79 percent, respectively, of total General Fund expenditures. Contractual services expenditures accounted for approximately six, 14, and 13 percent of total General Fund expenditures. In fiscal year 2006, the largest of these expenditures were for equipment leases, information technology data services, and out-of-state travel. The leading expenditures in fiscal year 2007 were for telephone installation, temporary employment services, legal fees, equipment leases, and printing and binding. Most of fiscal year 2008's expenditures for contractual services were for equipment leases, postage, temporary employment services, automated legal research, and commission member fees.

General Fund expenditures increased approximately 15 percent in fiscal year 2006, 25 percent in fiscal year 2007, and 20 percent in fiscal year 2008. These increases can be largely attributed to the Agency's expansion pursuant to implementation of the Citizens' Election Program.

Special Revenue Funds – Federal and Other Restricted Accounts:

The Citizens' Election Fund is non-lapsing. It is funded primarily from proceeds from the sale of unclaimed property in the State's custody. In compliance with subsection (a) (2) of Section 3-69a of the Connecticut General Statutes, the State Treasurer transfers the required amount to the Citizens' Election Fund, which is restricted for the expenditures of the Citizens' Election Program. The fund balance was \$16,935,491 at June 30, 2006, \$32,832,646 at June 30, 2007, and \$48,427,522 at June 30, 2008. Receipts during the audited period, including the required transfers, are summarized below.

	<u>2005-2006</u>	<u>2006-2007</u>	<u>2007-2008</u>
Transfer from General Fund	\$17,000,000	\$16,000,000	\$17,299,896
Interest	262,077	1,371,842	1,629,794
Contributions to Fund	<u>500</u>	<u>12,873</u>	<u>58,670</u>
Total Citizens' Election Fund Receipts	<u>\$17,262,577</u>	<u>\$17,384,715</u>	<u>\$18,988,360</u>

The increase in interest earnings reflects the growing Fund balance through fiscal year 2008. Contributions to the Fund are the result of increased campaign activity.

A comparison of Special Revenue Fund expenditures for the audited period, as reported by the State Comptroller, is presented below.

	<u>2005-2006</u>	<u>2006-2007</u>	<u>2007-2008</u>
Personal Services	\$13,213	\$ 633,858	\$1,472,105
Contractual Services	1,798	479,246	997,846
Commodities	13,212	19,977	65,841
Sundry Charges	-	2,295	911,837
Equipment	<u>36,786</u>	<u>168,026</u>	<u>100,421</u>
Total Citizens' Election Fund Expenditures	<u>\$65,009</u>	<u>\$1,303,402</u>	<u>\$3,548,050</u>

Personal services expenditures increased with the growth in staffing required for the Citizens' Election Program. By the end of fiscal year 2008, the Agency had hired 38 employees for the Program. Expenditures for management consulting and software licenses account for 94.1 percent of the contractual services costs in fiscal year 2007. In fiscal year 2008, management and information technology consulting services represent 97.8 percent of the contractual services costs. The increase in sundry charges in fiscal year 2008 is attributable to the grants made to qualifying candidates for the Connecticut General Assembly. These included candidates in three special elections during the fiscal year, and early-qualifying candidates for the November 2008 election.

In addition to the Special Revenue Fund expenditures outlined above, there were expenditures from the Capital Equipment Purchases Fund in the amount of \$2,415 in fiscal year 2006.

Subsequent Events:

The future of the Citizens' Election Program is uncertain. On August 27, 2009, in the United States District Court, District of Connecticut, the State was ordered to cease operating and enforcing the Citizens' Election Program. The judge in this case found that parts of the Citizens' Election Program unconstitutionally burdened minor parties and minor party candidates' Fourteenth Amendment rights to political opportunity and their First Amendment speech rights. This decision is being appealed by the State, with a decision expected in April 2010. The defendants and the plaintiffs in the case filed for a full stay of the order, pending the decision in the Court of Appeals. It is expected that this matter will go all the way to the United States Supreme Court.

The stay allows the Program to operate until the appeal is decided. If the decision of the United States District Court is upheld, funding for the 2010 campaigns for the Connecticut General Assembly and for statewide office will be unavailable.

The Commission has made recommendations to the Connecticut General Assembly to address the judge's decision, as well as appealing the decision.

In addition to the legal challenge to the Program, the Citizens' Election Fund has been subjected to fiscal challenges. A portion of the Fund balance has been or will be transferred to the General Fund in an effort to mitigate the State's General Fund budget deficit. The various transfer measures enacted by the Connecticut General Assembly are outlined below.

<u>Public Act #</u>	<u>Amount</u>	<u>Session</u>	<u>Fiscal Year</u>
08-1	\$ 5,000,000	November 24 (2008) Special Session	2009
09-1	\$ 7,500,000	2009 Regular Session	2009
09-2	\$ 1,000,000	2009 Regular Session	2009
09-3	\$18,000,000	June (2009) Special Session	2010
09-3	\$ 7,000,000	June (2009) Special Session	2011
<i>Total</i>	\$38,500,000		

CONDITION OF RECORDS

Our review of the State Elections Enforcement Commission's records revealed the following areas that require improvement.

Payroll and Personnel - Noncompliance with Statewide Personnel Policies:

- Criteria:* Managerial Personnel Policy 80-02 and the Managers' Guide prohibit managers from working a non-standard schedule, that is, any schedule other than 40 hours a week over five days. Managerial Personnel Policy 06-02 allows managers to earn compensatory time with written authorization, in advance, that includes the reason(s) for the compensatory time. In addition, the latter policy requires that compensatory time earned in a calendar year be used by the end of the succeeding calendar year and cannot be carried forward.
- Condition:* The State Elections Enforcement Commission has allowed managers to work an alternate work schedule that includes one day off in a two-week pay period. We observe that the total regular and paid leave hours within the pay period totals 80 hours.
- The Agency has permitted managers to earn compensatory time without prior written authorization and without documenting the reasons for the compensatory time. Rather, managers earn compensatory time under a blanket oral approval. In addition, the Agency allowed managers to carry forward their unused compensatory time balances beyond the time allowed by Managerial Personnel Policy 06-02. We observe that, for the manager included in our test, the Agency made an adjustment to lapse the unused compensatory time balance in 2009 for adjustments that should have been made by December 31, 2007 and 2008.
- Effect:* The Agency's non-compliance with the requirements of Managerial Personnel Policy 80-01 and with the policies outlined in the State's Manager's Guide circumvents the managerial coverage for the Agency that the State requires. Non-compliance with Managerial Personnel Policy 06-02 weakens control over the accrual and use of compensatory time.
- Cause:* We are unable to identify a cause for these deficiencies.
- Recommendation:* Agency personnel responsible for authorizing and managing compensatory time and managerial work schedules should become familiar with and comply with the State's requirements. (See Recommendation 1.)

Agency Response: “The SEEC will comply with the State standard of 40 hours over 5 days per week for managers. The SEEC is in the process of updating its work rules. Furthermore, the SEEC has developed a form whereby those employees eligible for earned compensatory time must submit their anticipated earned compensatory time to their superior for their approval. All requests must be pre-approved. At the end of the pay period, the employee must re-submit their pre-approved form to their superior, who then corroborates the time earned against the anticipated hours and adjusts accordingly. All changes must be signed and dated by both the employee and their superior.”

Purchasing, Receiving, and Expenditures – Inadequate Receiving Documentation:

Criteria: A good system of internal controls includes verification that goods or services have been received prior to issuing payment to a vendor.

Condition: In two instances, in a test group of 25 expenditures, the State Elections Enforcement Commission issued payment to vendors without adequate receiving documentation. These included payment for electronic data equipment totaling \$4,190, with receiving documents for components worth only \$599 of that amount; and payment of invoices totaling \$192,261 for information technology consulting services without timesheets signed by Agency supervisors attesting that the amount billed represents services rendered and time spent on the Agency’s projects.

Accounting personnel stated that if they have any questions about the purchase and receipt of services and equipment by the Information Technology Services unit, they will not issue payment without first consulting with the manager of that unit.

Effect: The Agency may have paid for equipment that it did not receive. Safeguarding of the State’s resources is weakened by the practice of relying on oral verification of the receipt of goods and services. Such a practice makes it possible that errors or fraud may occur, and not be detected in a timely manner.

Cause: The Agency does not consistently apply sound internal control practices.

Recommendation: The State Elections Enforcement Commission should develop and consistently adhere to sound internal control policies that include documentation of the receipt of goods and services. (See Recommendation 2.)

Agency Response: “The SEEC concurs with the finding and will develop a process to ensure that all expenditures of State funds are processed according to proper State protocols.”

Purchasing, Receiving, and Expenditures – Improper Use of Purchasing Cards:

Criteria: The Purchasing Card Coordinator Manual requires that purchasing cards be used for official State of Connecticut purchases in conjunction with current State contracts.

Condition: Our test of expenditures showed Agency credit card purchases of office equipment and supplies at non-contracted vendors that could have been made with contracted vendors. These expenditures did not appear to be emergencies.

Effect: The Agency is not in compliance with the requirements for using purchasing cards. The amount of such non-compliant expenditures discovered in our audit is small, only \$206. However, these expenditures demonstrate the potential for abuse of the State’s purchasing regulations and policies.

Cause: The Agency has not adequately communicated and enforced the State’s purchasing card policies.

Recommendation: The State Elections Enforcement Commission should become familiar with and enforce the State’s regulations and policies governing the use of purchasing cards. (See Recommendation 3.)

Agency Response: “SEEC accepts the finding of the non-compliant expenditure. Employees have been educated on the uses of the p-card.”

Receipts – Late Deposits:

Criteria: Section 4-32 of the Connecticut General Statutes requires that receipts totaling \$500 be deposited within 24 hours of receipt.

Condition: In our test of 25 Agency receipts, we found that three were not in compliance with the 24-hour deposit rule. There was information on two additional receipt transactions showing conflicting receipt dates. In addition, the State Elections Enforcement Commission does not keep consistent in-house receipts records for all of its receipts, specifically identifying date received.

Effect: The Agency is not in compliance with section 4-32 of the Connecticut General Statutes. This puts the State’s assets at increased risk of loss.

Cause: The Agency's procedures are inadequate to ensure compliance with the State's 24-hour deposit requirement.

Recommendation: The State Elections Enforcement Commission should formalize and enforce its internal control procedures relating to receipts to ensure compliance with the State's 24-hour deposit requirement. (See Recommendation 4.)

Agency Response: "The SEEC will comply with CGS 4-32. The SEEC will develop a system to ensure that it fulfills its statutory responsibilities."

RECOMMENDATIONS

Status of Prior Audit Recommendation:

Management of the State Elections Enforcement Commission should ensure that State personnel policies are implemented, particularly as they relate to earning compensatory time and to obtaining the approval of the Commissioner of Administrative Services for certain personnel activities. We did not find instances of improper accrual of compensatory time in this audit period. However, we found that managers' unused compensatory time was not lapsed as required and that the earning of compensatory time was not appropriately approved. We also observed that the Agency allowed managers to work alternate schedules that were not in compliance with State personnel policies. The recommendation will be modified and repeated. (See Recommendation 1)

Current Audit Recommendations:

- 1. Agency personnel responsible for authorizing and managing compensatory time and managerial work schedules should become familiar with and comply with the State's requirements.**

Comment:

Managers were allowed to earn compensatory time under an oral blanket approval, which is contrary to the State's policy of requiring written authorization in advance. In addition, the Agency did not lapse a manager's unused compensatory time balance as required. We also found that managers have been allowed to work an alternate schedule consisting of less than 40 hours a week. We observe that the hours worked averaged 40 hours per week and totaled 80 hours for the two-week pay period. However, such a schedule is in violation of the State's policy.

- 2. The State Elections Enforcement Commission should develop and consistently adhere to sound internal control policies that include documentation of the receipt of goods and services.**

Comment:

The Agency paid for goods and services without adequate receiving documentation for two out of 25 expenditures tested. In some cases, it is likely that accounting personnel obtained oral verification that the goods and services were received before issuing payment. However, basing payment on oral verification of receipt of goods and services is not an adequate control procedure for ensuring that the State's resources are safeguarded.

- 3. The State Elections Enforcement Commission should become familiar with and enforce the State's regulations and policies governing the use of purchasing cards.**

Comment:

We found that the Agency allowed purchases via its credit cards for office supplies and furnishings that could have been made through State contracts. Although the amount was not material, only \$206, such noncompliance indicates a weakness in purchasing controls.

- 4. The State Elections Enforcement Commission should formalize and enforce its internal control procedures relating to receipts to ensure compliance with the State's 24-hour deposit requirement.**

Comment:

We found that three out of 25 receipt transactions tested were not in compliance with the statutory requirement that receipts totaling \$500 be deposited within 24 hours of being received. Such non-compliance increases the opportunity for loss of State resources.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the State Elections Enforcement Commission for the fiscal years ended June 30, 2006, 2007, and 2008. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the State Elections Enforcement Commission for the fiscal years ended June 30, 2006, 2007, and 2008, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the State Elections Enforcement Commission complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

In planning and performing our audit, we considered the State Elections Enforcement Commission's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Agency's internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A *control deficiency* 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 on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control

deficiencies, that adversely affects the Agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the Agency's internal control. We consider the following deficiencies, described in detail in the accompanying "Condition of Records" and "Recommendations" sections of this report, to be significant deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements: Recommendation 1 – Non-Compliance with State-wide Personnel Policies; Recommendation 2 – Inadequate Receiving Documentation; and Recommendation 4 – Late Deposits.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiencies described above are not material weaknesses.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the State Elections Enforcement Commission complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to Agency management in the accompanying "Condition of Records" and "Recommendations" sections of this report.

The State Elections Enforcement Commission's responses to the findings identified in our audit are described in the accompanying "Condition of Records" section of this report. We did not audit the State Elections Enforcement Commission's responses and, accordingly, we express no opinion on them.

This report is intended for the information and use of Agency management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation shown to our representatives by the personnel of the State Elections Enforcement Commission during the course of our examination.

Laura Rogers
Associate Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts