

STATE OF CONNECTICUT

**AUDITORS' REPORT
JUDICIAL SELECTION COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 1999 AND 2000**

**AUDITORS OF PUBLIC ACCOUNTS
KEVIN P. JOHNSTON ♦ ROBERT G. JAEKLE**

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September 10, 2001

**AUDITORS' REPORT
JUDICIAL SELECTION COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 1999 AND 2000**

We have made an examination of the financial records of the Judicial Selection Commission for the fiscal years ended June 30, 1999 and 2000. This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification that follow.

Financial statements pertaining to the operations and activities of the Judicial Selection Commission are presented on a Statewide Single Audit basis to include all State Agencies. This audit has been limited to assessing the Judicial Selection Commission's compliance with certain provisions of financial related laws and regulations and evaluating the Commission's internal control policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Judicial Selection Commission (hereafter, the “Commission”) was established under the authority of Article XXV of the Amendments to the Constitution of the State of Connecticut. Additional authority is provided in Section 51-44a of the General Statutes. Section 51-44a provides that the Commission shall seek, evaluate and recommend qualified candidates to the Governor for consideration in nominating new judges. This Section also provides that the Commission evaluate incumbent judges seeking re-nomination to the same court or nomination to a different court. Except for elected judgeships, the judges nominated by the Governor for all State courts are made exclusively from the Commission's approved list.

The Commission maintains a limited staff. The Department of Administrative Services has performed many of the fiscal and administrative duties for the Commission since July 1996.

Commission Members:

Section 51-44a of the General Statutes provides for a Commission of 12 members, two from each congressional district. From each district, one member shall be an attorney and one a non-attorney. No more than six members can be affiliated with the same political party. The Governor is charged with appointing the six attorneys, while the others are appointed by six legislators holding specified leadership positions. The Commission members serve staggered three-year terms, and successive terms are prohibited.

As of June 30, 2000, the members of the Commission were as follows:

Joseph A. Mengacci, Chair
Shelley M. Rubino, Vice Chairman
Sheila B. Amdur
James Griffin
Raymond J. Kelly
Joaquina B. King
Jo F. Luscombe
Jay F. Malcynsky
Mark P. McGuire
Michael J. Morand
Walter C. Shannon
William L. Stevens

During the audited period, Diane S. Yannetta served as Executive Director of the Commission.

RÉSUMÉ OF OPERATIONS:

A comparative summary of Commission expenditures from General Fund appropriations during the audited period and the fiscal year ended June 30, 1998, is presented below:

	<u>1999-2000</u>	<u>1998-1999</u>	<u>1997-1998</u>
Personal services	\$57,354	\$54,560	\$51,295
Contractual services	21,714	9,878	16,975
Commodities	10,675	10,369	2,975
	<hr/>		
Total Expenditures	<u>\$89,743</u>	<u>\$74,807</u>	<u>\$71,245</u>

Personal services costs accounted for 73 and 64 percent of expenditures during the two fiscal years under review, respectively.

CONDITION OF RECORDS

The financial records of the Judicial Selection Commission were maintained in good order during the audited period. We did note the following area that we believe warrants the attention of the Commission.

Proper Use of Personal Service Agreements:

- Criteria:* Under Connecticut General Statutes Sections 4-212 to 4-219, the Office of Policy and Management established standards to be followed by executive branch agencies in entering into personal service agreements. Specifically, Section 4-213 states that, “no state agency may hire a personal service contractor without executing a personal service agreement with such contractor.” The Comptroller’s State Accounting Manual details the completion requirements for the Personal Service Agreement Contract (i.e. CO-802A). The last of those requirements for completion is the approval of the contract as to form by the Attorney General.
- Condition:* Services were initiated by a contractor nine days prior to the signing of a Personal Service Contract by the contractor and Commission and approximately three months prior to the approval as to form by the Attorney General. It should be noted that the payment for services rendered did not occur until after the Personal Service Agreement was fully executed by the approval of the Attorney General.
- Effect:* The Commission incurred an unrecorded and unapproved obligation from the start of contractor services to the date of the Attorney General’s approval as to form of the Personal Service Agreement.
- Cause:* The Commission needed immediate, outside professional services to address a judicial reappointment matter for a candidate whose term was nearing expiration. The need for such immediate, confidential service, while infrequent, is of paramount importance to the Commission’s mission. The Commission’s administrative functions are performed by the Department of Administrative Services under a Memorandum of Understanding. No clear procedures had been established in advance to ensure that this type of professional service could be obtained in an expeditious manner.

Recommendation: The Judicial Selection Commission should take the necessary steps to ensure that services obtained under Personal Service Agreements are in compliance with statutory requirements. (See Recommendation 1).

Agency Response: “The Judicial Selection Commission sometimes needs immediate, outside professional services to address a judicial reappointment matter for a candidate whose term is nearing expiration. The need for such immediate, confidential service, while infrequent, is of paramount importance to the Commission’s mission.

The Commission’s administrative functions are performed by the Department of Administrative Services under a memorandum of Understanding. Every effort will be made to ensure that services obtained under Personal Service Agreements are in compliance with statutory requirements and the Commission will try to establish procedures in advance to ensure that this type of professional service can be obtained in an expeditious manner.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

- The Judicial Selection Commission should seek clarification of its placement within State government. The Judicial Selection Commission has twice requested an opinion from the Attorney General concerning a determination of its placement within State Government. Therefore, this recommendation is not being repeated.
- The Commission should consider documenting oral representations that support the conclusion that all of the criteria specified in the Regulations are considered for each candidate. This recommendation has been satisfied.

Current Audit Recommendation:

1. **The Judicial Selection Commission should take the necessary steps to ensure that services obtained under Personal Service Agreements are in compliance with statutory requirements.**

Comment:

Professional services were performed by a contractor for the Commission prior to the completion of a Personal Service Agreement.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Judicial Selection Commission for the fiscal years ended June 30, 1999 and 2000. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations and contracts, and to understanding and evaluating the effectiveness of the Agency's internal control structure policies and procedures for ensuring that (1) the provisions of certain laws, regulations and contracts applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Judicial Selection Commission for the fiscal years ended June 30, 1999 and 2000, 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 generally accepted auditing standards and the standards applicable to financial-related 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 Judicial Selection Commission complied in all material or significant respects with the provisions of certain laws, regulations and contracts and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations and contracts applicable to the Judicial Selection Commission is the responsibility of the management of the Judicial Selection Commission.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, and contracts, 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 for the fiscal years ended June 30, 1999 and 2000, we performed tests of its compliance with certain provisions of laws, regulations and contracts. However, providing an opinion on compliance with these 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 that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

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

The management of the Judicial Selection Commission is responsible for establishing and maintaining effective internal control over the Agency's financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations and contracts applicable to the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Judicial Selection Commission's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations and contracts, and not to provide assurance on the internal control over those control objectives.

Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be material or significant weaknesses. A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations and contracts or failure to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving internal control that we consider to be material or significant weaknesses.

However, we noted certain matters involving internal control over the Agency's financial operations, safeguarding of assets, and/or compliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

This report is intended for the information of 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 cooperation and courtesies extended to our representatives by the personnel of the Judicial Selection Commission and the Department of Administrative Services during the course of our examination.

Michael R. Adelson
Principal Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts

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