

LEGISLATIVE AUDIT COMMISSION



Review of
Department of Commerce and Economic Opportunity
Two Years Ended June 30, 2008

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REVIEW: 4315
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
TWO YEARS ENDED JUNE 30, 2008

FINDINGS/RECOMMENDATIONS – 10

ACCEPTED - 1
IMPLEMENTED – 9

REPEATED RECOMMENDATIONS - 4
PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 14

This review summarizes the auditors' report of the Illinois Department of Commerce and Economic Opportunity for the two years ended June 30, 2008, filed with the Legislative Audit Commission May 28, 2009. The auditors performed a compliance examination in accordance with State law and *Government Auditing Standards*.

The Department of Commerce and Economic Opportunity (DCEO) is the lead State agency responsible for improving the competitiveness of Illinois in the global economy. Utilizing a regional strategy, the Department provides a range of economic development programs, services and initiatives designed to help build growing, prosperous industries, high quality jobs and world-class communities. The Department provides assistance, advocacy and information to facilitate and advance the economic development process in partnership with communities, businesses and a network of service provider organizations across the State. Regional Field Offices are located in Canton, Carlinville, Champaign, Collinsville, Effingham, Galesburg, Joliet, Kankakee, Libertyville, Macomb, Marion, Olney, Peoria, Quincy, Robinson, Rock Island, Rockford, and Springfield. Additionally, the Department has foreign offices in Brussels, Hong Kong, Jerusalem, Johannesburg, Mexico City, New Delhi, Shanghai, Tokyo, Toronto, and Warsaw.

DCEO is functionally organized into thirteen operating bureaus: Regional Economic Development, Business Development, Community Development, Energy and Recycling, Technology and Industrial Competitiveness, Tourism, Workforce Development, Entrepreneurship and Small Business, Office of Trade and Investment, Office of Coal Development, the Illinois Film Office, Office of Local Government Initiatives, and the Office of Homeland Security Market Development.

Jack Lavin was the Director during the audit period. When Mr. Lavin accepted an appointment to become the State's chief operating officer, Mr. Warren Ribley was appointed Director in March 2009. He still serves in that capacity. Director Ribley had served as Director of Operations at DCEO since 2003.

According to information supplied by DCEO for the report, during FY08, the Department's marketing efforts led to the projected creation and retention of 15,059 jobs and \$3.4 billion in private investment. Over 30,000 individuals were trained at Community Technology Centers. The Illinois Entrepreneurship Network assisted 9,259 customers. Through the assistance of DCEO's Small Business Development Centers, Illinois small businesses

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accessed \$158.7 million of capital. Tourist and traveler inquiries exceeded 3.1 million in FY08. The dollar value of Illinois export sales exceeded \$51 billion.

The average number of employees by division in the years indicated was as follows:

	2008	2007	2006
General Administration	111	110	108
Bureau of Tourism	18	19	21
Bureau of Workforce Development	69	67	68
Bureau of Technology & Industrial Competitiveness	30	30	29
Bureau of Regional Economic Development	25	27	29
Bureau of Business Development	53	58	62
Office of Coal Development	12	12	13
Illinois Film Office	8	9	8
Office of Trade and Investment	18	18	18
Bureau of Community Development	34	33	35
Bureau of Energy & Recycling	42	44	53
TOTAL	420	427	444

Expenditures From Appropriations

The General Assembly appropriated a total of \$873,392,855 from 36 different funds to the Department of Commerce and Economic Opportunity in FY08, a decrease of almost \$596 million, or 40.5%, over FY07. Expenditures were almost \$603.7 million in FY07 and \$439.6 million in FY08, a decrease of \$164 million, or 27%. Appendix A summarizes expenditures by fund, while Appendix B compares expenditures by object for FY08 through FY06. Spending in many funds decreased or remained constant. Since the Department received greatly reduced or no appropriations for the Fund for Illinois' Future, the Coal Development Fund, and the Build Illinois Bond Fund, expenditures from those funds decreased \$26.3 million, \$5 million and \$111.3 million, respectively.

Lapse period expenditures were almost \$88.6 million, or 20.1%. Most of the lapse period spending was due to grants that were obligated late in FY08 causing payments to be made during the lapse period from GRF (\$42.9 million), Federal Workforce Training Fund (\$18.6 million), Solid Waste Management Fund (\$3.3 million), Energy Efficiency Trust Fund (\$1.2 million), and Digital Divide Elimination Fund (\$5 million).

Cash Receipts

Appendix C is a summary of the Department's cash receipts for FY08 – FY06. Total cash receipts decreased from \$259.2 million in FY07 to \$257.5 million in FY08.

Property and Equipment

Appendix D provides a summary of property and equipment for FY08 and FY07. The Department's assets, represented almost entirely by equipment, decreased from \$11,102,923 as of July 1, 2006 to \$10,126,152 as of June 30, 2008.

Loans Receivable

At June 30, 2008 the Department had \$19,410,000 in receivables, of which the majority was outstanding loan receivables. \$2,082,000 is estimated to be uncollectible. Of the \$19.4 million in loans outstanding, the vast majority was current. The Department uses the Office of the Comptroller's offset system and the Attorney General's Office to collect overdue receivable balances.

Accountants' Findings and Recommendations

Condensed below are the ten findings and recommendations presented in the compliance examination report. There were four repeated recommendations. The following recommendations are classified on the basis of updated information provided by Scott Harry, Chief Accountability Officer, and received via electronic mail on September 14, 2009.

Accepted or Implemented

- 1. Strengthen controls of monitoring the activities of grantees by performing the necessary follow-up on delinquent programmatic and financial reports and adequately documenting the dates the reports were received, the follow-up action taken, and the reasons for any delinquencies. Additionally, execute grant agreements with reporting requirements specific to the time period of the funded project. Include the submission of a cumulative expenditure-to-date report documenting expenditures incurred by the grantee from the beginning of the grant term through the date of the execution of the grant agreement. This report should be received by the Department within a reasonable time period following the execution of the grant agreement, but before any grant payments are made.**

Findings: The Department of Commerce and Economic Opportunity did not adequately monitor its grantees.

Accepted or Implemented - continued

The Department expended \$920,917,537, or 88.2%, of its \$1,044,489,739 total expenditures in awards and grants during the examination period. Auditors tested 220 grant agreements totaling \$88,416,646, or 9.6%, of the awards and grants expenditures for the examination period and noted the Department failed to follow-up on the untimely submission of programmatic and financial reports of its grantees, thus hindering its ability to monitor the grantees' activities in a judicious manner. Additionally, the Department's internal procedures permit the execution of grant agreements at dates any time throughout the fiscal year and the establishment of a grant term beginning several months prior to executing the contract. This practice allows the Department to reimburse costs incurred by the grantee retroactively between the beginning of the grant term and the execution date of the agreement. As a result, the Department is unable to monitor the grantee in a contemporaneous manner and the Department becomes vulnerable to reimbursing costs which may not be the most efficient or effective use of the grant funds.

Additionally, auditors noted 36 grant agreements in the sample of 220 were executed five to 363 days after the beginning of the grant term. As a result of the late execution, seventy-three programmatic and financial reports which should have been received in accordance with the terms of the grant agreements were not received by the stated deadline because the Department cannot require a grantee to submit a grant report until after the execution of the grant agreement.

Department management stated they are aware that current processes for Department staff to manually track reports is inefficient and burdensome for staff to follow-up with grantees who have not submitted reports timely. Management stated that in many cases employees communicate and follow-up with grantees regarding their reporting requirements through individual emails or phone calls. Documentation of these efforts were not saved and placed in the file at the time they were initiated and the Department does not have the staff capacity to research individual email files for these records.

Updated Response: Implemented. The Department has implemented new controls and tools to improve our monitoring efforts and communication with grant recipients throughout the life cycle of the grant. The following are some of the improvements we have recently implemented.

In April 2009, we implemented a new standardized grantee "Welcome Package" that includes a grant-specific Report Deliverable Schedule. This is one tool to improve the communication of the Department's reporting requirements, reporting due dates and other important grant award information to grant recipients. We also began providing grant monitoring and reporting information on our Department's website to further assist our grantees. As part of the new Report Deliverable Schedule implementation, DCEO is now tracking the report receipt and review process in eGrants (our new grant management system). The review process also includes documenting program staff approval of the report and any necessary follow-up communication efforts with grantees for resolution of report deficiencies. We also designed and programmed a more robust grantee report

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tracking mechanism in eGrants. Through this improved automation, the report tracking system will improve notifications to the grantees on reporting deadlines and will improve DCEO's follow-up efforts and non-compliance processes. DCEO is currently testing the new report tracking system and plans on implementing it in October 2009.

In July 2009, we implemented new standardized periodic financial and project status reports for our grant programs. All new grantees will be required to submit these reports at minimum on a quarterly basis. These standardized reports will improve efficiencies for DCEO staff while also providing them with clearer policies and agency expectations on what information the Department requires from all grantees. It also improves the communication of the Department's expectations to grant recipients. Report training sessions were conducted for DCEO program staff.

In September 2009, the Department began working on implementing the auditor's recommendation regarding grant payments and reporting requirements for grants with an execution date that is after the beginning of the grant period. The auditors recommended that the submission of a cumulative financial status report documenting the expenditures incurred by the grantee from the beginning of the grant term through the date of execution of the grant agreement be required and the Department should receive this report before any grant payments are made. The Department developed procedures for this new reporting requirement and revised the agency's grant agreement boilerplate. The Department plans on implementing these new procedures and the revised grant agreement in October 2009.

2. Require adequate methodology supporting the allocable portion of shared expenses affecting multiple State agencies. Additionally, ensure the amount allocated for related billings is in accordance with that methodology.

Findings: The Department did not maintain adequate documentation of the methodology for determining the allocation of shared legal services paid by the Department during the examination period.

The Office of the Governor entered into contracts for legal services during the examination period for advice and representation of litigation related to issues involving the video-game lawsuit and other matters for which DCEO paid \$360,089.

Additionally, the Department was instructed by the Office of the Governor to pay \$150,000 as a portion of the plaintiff's attorney fees related to the State's video-game lawsuit. An interagency agreement was not required for this payment as it was a court-determined settlement. However, supporting documentation detailing the methodology used for determining the percent allocated to the Department did not exist.

Department management stated the common practice for interagency agreements for legal services, which are initiated external to the Department, has been not to include the methodology for determining the allocable share to be paid by the agency.

Accepted or Implemented - continued

Updated Response: Implemented. The Department will not enter into any new interagency agreements or shared contracts with other State agencies unless there is adequate cost methodology supporting the allocated DCEO portion of the shared expenses. An exception to this would be an instance in which all agencies are allocated an equal portion of the expenses which would remove the necessity for cost methodology.

- 3. Amend the contractual agreement to comply with the State Officers' and Employees Money Disposition Act or seek legislative remedy that permits the contractual agreement. Also, collect the additional \$3,608 due in accordance with the 2007 contract.**

Findings: The Department violated the State Officers' and Employees' Money Disposition Act and circumvented the appropriation process by not requiring a vendor to submit gross advertising revenues it collected for deposit into the State Treasury.

The Department's Tourism Bureau entered into a contract with a vendor to assist the Department in the ongoing development, production, and advertising sales of the State's 2007 and 2008 Travel Guide. The vendor was responsible for selling advertising and collecting revenue on behalf of the State. The contract obligated the Department to pay the vendor \$200,000 and allowed the vendor to retain the first \$200,000 in advertising sales to offset the overall cost of producing the Travel Guide. The contract also permitted the vendor to retain any sales over \$300,000 minus a percentage of royalties paid to the Department.

Auditors noted \$379,389 and \$463,766 of advertising revenue was not deposited into the State Treasury in fiscal year 2007 and 2008, respectively, due to the provision in the contract permitting the vendor to retain the revenue to offset the costs of producing the Travel Guide. The Department has no statutory authority to allow a vendor to withhold any funds collected on its behalf.

The vendor miscalculated the total 2007 royalty payments that should have been remitted for the Department. An additional \$3,608 should have been remitted to the State in accordance with the contract.

Department management stated that while the Department has a review and approval process for executing contracts, the provision of the contract permitting the vendor to retain a portion of the advertising sales rather than submitting the gross amount of receipts to the Department was not given consideration during the contract review process. The shortfall in royalties collected in fiscal year 2007 was attributed to employee oversight in the review of the vendor's royalty calculation.

Updated Response: Implemented. A legislative remedy was pursued by the Department resulting in Public Act 096-0739 which exempts the tourism travel guide sales revenue from the State Officers and Employees Money Disposition Act.

4. **Adequately document efforts to obtain the lowest rate available as well as justification for selecting accommodations which exceed established maximums or other approved rates. If, due to the passage of time, lodging rates exceed the amounts approved by the Governor's Travel Control Board at the time reservations are made, request an exception from the approved rate in accordance with the Travel Guide.**

Findings: The Department failed to document that out-of-country travel expenses reimbursed to employees were reasonable.

Six of the 25 (24%) travel vouchers tested included reimbursements to employees for out-of-country travel. In those 6 vouchers, auditors noted reimbursement for lodging rates on three vouchers that exceeded the estimated rates submitted to and approved by the Governor's Travel Control Board (GTCB) by \$2,729.03.

Though the Department appears to have been submitting requests for approval of out-of-country travel in a timely manner, due to the significance of some of the discrepancies between the lodging rates approved by the GTCB and the actual rates incurred as well as a lack of documentation, the auditors were unable to determine that sufficient effort was made in obtaining the lowest rate available. Further, the auditors cannot presume whether the actual rates incurred would have been considered "excessive" by the GTCB.

Department management stated its international travelers are required to obtain least costly lodging while also taking into consideration the mission of the trip and safety considerations but they did not adequately document this process. They assumed the detailed documentation was unnecessary as they follow the Travel Guide's "actual reasonable" policy for lodging rates. The international traveler's rates were "reasonable" as they were within the allowable rates published by the General Services Administration (GSA).

Updated Response: Implemented. The Department revised its travel policies to require out-of-state and out-of-country travelers to complete a new Lodging Cost Certification Form to document efforts when obtaining the lowest available hotel rate. The Department also consulted with the Governor's Travel Control Board (GTCB) regarding their Travel Guide guidelines for exception approval procedures when actual lodging rates exceed the estimated amounts approved by the GTCB. The GTCB emphasized that when an employee submits an out-of-country travel request that the rates provided are considered to be "estimates" and there are no travel guidelines in the Travel Guide to suggest that if the actual expenses for a trip exceed the original estimates that an exception would be required by the GTCB.

Accepted or Implemented - continued

- 5. Enforce the directive within the Employee Policy Manual which requires employee evaluations to be performed annually. Furthermore, strengthen controls to ensure evaluations are completed on a timely basis and hold management personnel accountable for completing employee performance evaluations on a timely basis. (Repeated-2006)**

Findings: The Department did not conduct employee performance evaluations on a timely basis. During testing, auditors noted that 14 out of 25 (56%) employees sampled did not have a performance evaluation performed on a timely basis. These untimely evaluations were completed between two to 194 days late.

Department management stated supervisors are instructed to complete performance evaluations in a timely manner. In response to this finding during the previous examination, the Department's Human Resources Office implemented a monitoring report of the status of evaluations, which is forwarded periodically to the Department's Chief of Operations to track compliance with the requirement. However, Department management stated some are completed late due to priorities that are more immediate.

Response: Accepted. The Office of Human Resources will use Microsoft Office's SharePoint software to manage the monitoring and tracking of performance evaluations. The software includes automated email alerts and reminders to supervisors and management as evaluation deadlines approach. The Office will also provide guidance to the Department's supervisors to reiterate the importance of timely evaluations and clarify due dates for employee evaluations.

- 6. Require written approval in advance of employee planned absences as required by the DCEO Employee Policy Manual.**

Findings: The Department failed to enforce its procedures to require the advance approval of employee planned absences. During testing of 50 payroll transactions, 33 (66%) of the employees tested took a planned leave during the pay period tested. Of those 33 employees, auditors noted eight instances where the employee failed to submit a Request for Planned Leave for approval prior to a planned absence.

Department management stated many times employees deemed it sufficient to obtain verbal approval for planned absences and neglected to complete the forms for formal approval prior to the planned leave. However, Department management stated supervisors were aware of the employees' planned absence before they occurred and either the employee or the supervisor completed the written Request for Planned Leave request at a later date.

Updated Response: Implemented. The DCEO Employee Policy Manual was revised to require the employee to complete the Request for Planned Leave form for any time off work but the supervisor's written approval is no longer required in advance of the employee's time off.

7. Enforce compliance with the policy requiring the review and certification of the business purpose of telecommunications/phone usage.

Findings: The Department failed to enforce its procedures requiring employees to review and certify the business purpose of their telecommunications/phone usage.

Auditors selected sixty-six (66) monthly telecommunication allocation detail statements for testing. The Department could only provide 43 (65%) of the worksheets requested. Of these 43 monthly allocation detail statements, five failed to display evidence of employee certification to indicate the charges were all business related or to identify the personal calls made which require reimbursement to the Department.

Department management stated it did not consistently maintain the monthly allocation detail statement due to confusion by staff on who is responsible for maintaining the file for these documents, as the Employee Policy Manual does not address the retention of files. Department management further stated some Department staff were unaware or unclear of the requirements of the Telecommunications/Phone Usage policy.

Updated Response: Implemented. The DCEO Employee Policy Manual was revised to clarify the review and certification procedures for telecommunications and phone usage statements and personal phone logs. The policy was also improved by adding a provision that it is each office's responsibility to retain its employee's certified telecommunications detail statements for at least three years or longer if required by their Secretary of State's Record Retention Schedule.

8. Continue efforts to develop an annual awards program and work with the Department of Agriculture and the Illinois Finance Authority to recognize Illinois-based exporters. (Repeated-2006)

Findings: The Department failed to operate an annual awards program for Illinois-based exporters during the examination period. During FY08, the Department engaged a vendor to assist in developing this program, but efforts were not completed prior to June 30, 2008.

Department management stated the Department was not aware of this statute until the previous compliance examination. Steps were taken to correct the noncompliance during the current examination period, but time did not permit completion of the Department's efforts.

Accepted or Implemented – concluded

Updated Response: Implemented. A legislative remedy was pursued by the Department resulting in Public Act 096-0739 which makes the Exporter Award Program permissive.

9. Continue to work with the University of Illinois, the General Assembly and the Governor's Office to ensure the Board vacancies are filled in a timely manner. (Repeated-2006)

Findings: The Illinois Coal Development Board was not staffed at a total of 17 members as required by the Energy Conservation and Coal Development Act.

At the end of the prior examination period, the Board consisted of seven members. In response to the previous recommendation, the Department sent a letter to the Governor's Office, as well as legislative leaders, on September 21, 2007 and again on April 29, 2008, requesting that the required appointments be made. Department management stated no action was taken by any of the requested parties in response to the Department's correspondence. As a result at June 30, 2008, the total number of Board members remained seven.

Response: Accepted. is seeking legislative changes in the 96th General Assembly to make this mandate permissive.

Updated Response: Implemented. A legislative remedy was pursued by the Department resulting in Public Act 096-0739 which makes the establishment of the Illinois Coal Development Board permissive.

10. Conduct the survey required by State law to determine the level of adoption of the model domestic violence awareness policy by businesses in Illinois. Consider the results of the survey to determine future necessary activities of this program. (Repeated-2006)

Findings: The Department failed to survey businesses to evaluate the adoption of the model domestic violence and sexual assault employee awareness and assistance policy as required by the Civil Administrative Code.

The statute required the Department to convene a task force to develop a model domestic violence and sexual assault employee awareness and assistance policy for business and to survey businesses within 4 years of the effective date of the legislation, which was August 14, 1999.

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As of the previous examination period, the Department had convened a task force and developed a model policy. In response to the finding concerning the failure to conduct the required survey, the Department stated it would conduct the required survey to determine the level of adoption of the model policy by businesses in Illinois and to identify any further actions needed to promote the further adoption of the policy by businesses. If necessary, the Department would seek legislative changes. During the current examination period, the Department developed a draft survey, but did not distribute the questionnaire to any businesses to evaluate the level of model domestic violence and sexual assault employee awareness. Department management attributed the failure to distribute and conduct the survey to competing priorities and lack of resources.

Updated Response: Implemented. A legislative remedy was pursued by the Department resulting in Public Act 096-0739 which makes the survey required by State law to determine the level of adoption of the model policy by businesses in Illinois permissive.

Emergency Purchases

The Illinois Purchasing Act (30 ILCS 505/1) states that “the principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts ...” The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption for emergencies “involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage ... prevent or minimize serious disruption in State services, to insure the integrity of State records, or to avoid lapsing or loss of federal or donated funds. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make ‘quick purchases’, including but not limited to items available at a discount for a limited period of time.”

State agencies are required to file an affidavit with the Auditor General for emergency procurements that are an exception to the competitive bidding requirements per the Illinois Purchasing Act. The affidavit is to set forth the circumstance requiring the emergency purchase. The Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

During FY07 and FY08, the Department filed no affidavits for emergency purchases.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at

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any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Commerce and Economic Opportunity indicated as of July 14, 2008 that 63 employees had headquarters designated at a location other than that at which their duties require them to spend the largest part of their working time.