

# STATE OF CONNECTICUT



*AUDITORS' REPORT  
FREEDOM OF INFORMATION COMMISSION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2006, 2007, AND 2008*

**AUDITORS OF PUBLIC ACCOUNTS**

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September 24, 2009

**AUDITORS' REPORT  
FREEDOM OF INFORMATION COMMISSION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2006, 2007, AND 2008**

We have made an examination of the financial records of the Freedom of Information 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 Freedom of Information 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 Freedom of Information Commission operates by the authority of Section 1-205 of the Connecticut General Statutes.

Commission membership consists of five members appointed by the Governor with the advice and consent of either House of the General Assembly. As of June 30, 2008, the members were as follows:

	<b>Term Expires</b>
	<b><u>June 30,</u></b>
Andrew J. O'Keefe, Chairperson	2010
Norma E. Riess	2008
Vincent M. Russo	2011
Dennis O'Connor	2011
Sherman D. London	2008

## ***Auditors of Public Accounts***

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Commissioner Vincent M. Russo died suddenly in January 2009. Governor Rell appointed Owen P. Eagan to succeed Mr. Russo as a member of the Commission. Commissioners Reiss and London continue to serve, in accordance with Section 4-1 of the Connecticut General Statutes.

The Freedom of Information Commission is charged with overseeing the public's access to the records and meetings of all public agencies. The Commission investigates alleged violations of the statutes pertaining to freedom of information and is empowered to hold hearings, subpoena witnesses, require production of records and issue orders.

The Freedom of Information Commission is in the executive branch of government. The Executive Director and General Counsel of the Agency is appointed by the Commission and is a "classified" employee and subject to the civil service rules. Mitchell W. Pearlman served as the Executive Director and General Counsel of the Freedom of Information Commission until his retirement on February 1, 2006. The Commission appointed Colleen Murphy as Executive Director and General Counsel to succeed Mr. Pearlman; Ms. Murphy continues to serve in that capacity.

### **RÉSUMÉ OF OPERATIONS:**

#### **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	\$100	\$ 200	\$ 400
Refunds of Current Expenditures	<u>51</u>	<u>2,192</u>	<u>2,783</u>
<b>Total General Fund Receipts</b>	<u>\$151</u>	<u>\$2,392</u>	<u>\$3,183</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	\$1,500,574	\$1,497,650	\$1,647,401
Contractual Services	110,550	144,074	168,067
Commodities	40,711	47,440	32,037
Sundry Charges	4,489	2,691	5,073
Equipment	<u>36,420</u>	<u>13,779</u>	<u>23,210</u>
<b>Total General Fund Expenditures</b>	<u>\$1,692,744</u>	<u>\$1,705,634</u>	<u>\$1,875,788</u>

During the audited period, approximately 88 to 89 percent of expenditures in each fiscal year consisted of personal services costs for the Freedom of Information Commission. Expenditures for contractual services accounted for approximately six, eight, and nine percent of total expenditures

during the audited years, respectively. The majority of these expenditures were for personal property leases, fees for arbitration and mediation services, out-of-state travel, telephone installation, and premises repair.

**Other Special Revenue Funds:**

In addition to the General Fund expenditures outlined above, there were expenditures from the Capital Equipment Purchases Fund in the amount of \$2,982 in fiscal year 2006.

## CONDITION OF RECORDS

Our review of the Freedom of Information Commission's records revealed the following area that requires improvement.

### **Non-Compliance with Personnel Statutes and Guidelines:**

*Criteria:* Section 5-248i, subsection (b), of the Connecticut General Statutes, states that "Any employee of a state agency may be authorized to participate in a telecommuting or work-at-home assignment with the approval of his appointing authority and with the approval of the Commissioner of Administrative Services. Approval of such assignment may be granted only where it is determined to be cost effective. Any assignment shall be on a temporary basis only, for a period not to exceed six months and may be extended as necessary."

The telecommuting guidelines developed by the Commissioner of Administrative Services indicate that telecommuting is to be conducted on a part-time basis. Among other minimum requirements, the agency and the employee must sign a formal arrangement document that clearly states the telecommuting relationship. The guidelines include a copy of the required telecommuting program arrangement form, which outlines the willingness of the employee to abide by all agency policies and procedures, including those unique to telecommuting; the hours the employee works; the alternate work site location; a description of the work activities involved; communication procedures (i.e., delegation of assignments, staff meetings, office visits); utilization and maintenance of equipment and supplies (telephone, fax, computer); security and confidentiality procedures; effective dates to begin and terminate the program; and mileage reduction data for single occupancy commuting. This document must be signed by the employee and his/her manager, the agency head, and the Commissioner of Administrative Services or her designee. The maximum term of a telecommuting arrangement is six months, but can be extended, if necessary, by execution of another arrangement.

*Condition:* The Agency allowed one employee to work from home, full-time, for 16 to 18 months, from late in calendar year 2007, through March 31, 2009. This telecommuting arrangement was not approved by the Commissioner of Administrative Services, and there is no evidence that the Agency evaluated the cost-effectiveness of the arrangement. Although Agency files contain correspondence about this employee working at home, there is no formal, signed, document addressing the arrangement. Furthermore, there is conflicting documentation concerning the start date of the work-at-home arrangement. It was revisited one time only, after

the first four or six months, as documented by correspondence kept on file by the Agency.

*Effect:* The Freedom of Information Commission is not in compliance with Section 5-248i, subsection (b), of the Connecticut General Statutes. As a result, the State does not have the assurance that this telecommuting arrangement was cost-effective. Because the Agency failed to periodically evaluate the arrangement, there is no assurance that it consistently met the needs of the Agency.

*Cause:* Agency personnel perceived this work-at-home arrangement to be a reasonable accommodation under the Americans with Disabilities Act, and were unaware that such an accommodation should be reviewed and approved in accordance with telecommuting statutes and guidelines.

*Recommendation:* The Freedom of Information Commission should take steps to ensure familiarity and compliance with all of the State's personnel statutes, regulations, and policies.

*Agency Response:* "Although the Freedom of Information Commission was not in compliance with Section 5-248i, subsection (b), of the Connecticut General Statutes, this arrangement was cost-effective for the Commission at the time. This arrangement was deemed cost-effective because it enabled the Commission to maintain its segregation of financial responsibilities without having to employ temporary assistance or incurring overtime expenses during this period.

In addition, as noted, the Commission formally revisited the arrangement one time after the first six months. However, the Commission regularly evaluated this arrangement with respect to the needs of the agency and adjusted the employee's workload accordingly.

The Commission routinely complies with all of the State's personnel statutes, regulations, and policies. In the future, requests to the Commission for reasonable accommodations will be reviewed and approved in accordance with telecommuting statutes and guidelines."

## RECOMMENDATIONS

*Status of Prior Audit Recommendations:*

No recommendations were made in the prior report for the Freedom of Information Commission.

*Current Audit Recommendations:*

- 1. The Freedom of Information Commission should take steps to ensure familiarity and compliance with all of the State's personnel statutes, regulations, and policies.**

Comment:

The Freedom of Information Commission did not seek the approval of the Commissioner of Administrative Services, as required, for a telecommuting arrangement. There was no formal agreement outlining the terms of the arrangement, and as the arrangement was not reviewed and evaluated in accordance with the telecommuting guidelines, there was no assurance that the arrangement consistently met the Agency's needs.



## INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Freedom of Information 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 Freedom of Information 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 Agency) 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 Freedom of Information 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 deficiency, described in detail in the accompanying "Condition of Records" and "Recommendations" sections of this report, to be a significant deficiency in internal control over financial operations, safeguarding of assets and compliance with requirements: Recommendation 1 – Non-Compliance with Personnel Statutes and Guidelines.

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 deficiency described above is not a material weakness.

### **Compliance and Other Matters:**

As part of obtaining reasonable assurance about whether the Freedom of Information 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 Freedom of Information Commission's response to the finding identified in our audit is described in the accompanying "Condition of Records" section of this report. We did not audit the Freedom of Information Commission's response and, accordingly, we express no opinion on it.

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 Freedom of Information 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