

STATE OF CONNECTICUT



*AUDITORS' REPORT
FREEDOM OF INFORMATION COMMISSION
FISCAL YEARS ENDED JUNE 30, 2017, 2018 AND 2019*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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February 2, 2021

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Freedom of Information Commission (FOIC). The objectives of this review were to evaluate the commission’s internal controls; compliance with policies and procedures, as well as certain legal provisions; and management practices and operations for the fiscal years ended June 30, 2017, 2018 and 2019.

The key findings and recommendations are presented below:

Page 5	The Freedom of Information Commission did not comply with the state’s Acceptable Use of State Systems Policy. Over a 2-month period, we found several thousand instances in which employees accessed websites that did not appear work-related. The Freedom of Information Commission should ensure that its employees comply with all personal use of state equipment policies. (Recommendation 1.)
Page 6	FOIC has not updated its employee handbook and policies and procedures manual since 2008. In addition, the commission did not update its timesheet procedures to reflect Core-CT or recent changes in employee benefits. The Freedom of Information Commission should review and update its employee handbook and policies and procedures manual. (Recommendation 2.)

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

JOHN C. GERAGOSIAN

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

ROBERT J. KANE

February 2, 2021

AUDITORS' REPORT

We have audited certain operations of the Freedom of Information Commission (FOIC) in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2017, 2018 and 2019. The objectives of our audit were to:

1. Evaluate the commission's internal controls over significant management and financial functions;
2. Evaluate the commission's compliance with policies and procedures internal to the department or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the effectiveness, economy, and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department, and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the

department's management and the state's information systems, and was not subjected to the procedures applied in our audit of the department. For the areas audited, we identified:

1. Deficiencies in internal controls;
2. Apparent noncompliance with policies and procedures or legal provisions; and
3. Need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from our audit of the Freedom of Information Commission.

COMMENTS

FOREWORD

The Freedom of Information Commission operates under the authority of Section 1-205 of the General Statutes. The commission consists of 9 members, 5 appointed by the Governor to 4-year terms with the advice and consent of either house of the General Assembly, and 4 appointed by the Senate President, House Speaker, and Senate and House Minority Leaders to 2-year terms. As of June 30, 2019, members were as follows:

	<u>Term expires</u>
Appointed by the Governor:	
Owen P. Eagan, Chairman	June 30, 2019
Michael C. Daly	June 30, 2020
Jay A. Shaw	June 30, 2022
Lenny T. Winkler	June 30, 2020
Sean K. McEilligott	June 30, 2019
Appointed by the President Pro Tempore of the Senate:	
Christopher P. Hankins	June 30, 2019
Appointed by the Speaker of the House of Representatives:	
Ryan P. Barry	June 30, 2021
Appointed by the Minority Leader of the Senate:	
Jonathan J. Einhorn	June 30, 2021
Appointed by the Minority Leader of the House of Representatives:	
Matthew E. Streeter	June 30, 2019

Colleen Murphy has served as the executive director and general counsel of the FOIC since February 1, 2006.

Significant Legislative Changes

Public Act 16-3 (May Special Session) effective July 1, 2016, removed the Office of State Ethics, State Elections Enforcement Commission and the Freedom of Information Commission from the Office of Governmental Accountability and reestablished the Freedom of Information Commission as a separate agency.

RÉSUMÉ OF OPERATIONS

The Freedom of Information Commission is an independent agency in the executive branch. The commission is charged with overseeing the public's access to the records and meetings of all public agencies. The commission investigates alleged statutory freedom of information violations and is empowered to hold hearings, subpoena witnesses, require production of records, and issue orders.

General Fund Receipts and Expenditures

General Fund receipts were \$431, \$0 and \$100 for the fiscal years ended June 30, 2017, 2018 and 2019, respectively, primarily for copying fees. General Fund expenditures were as follows:

	Fiscal Year Ended June 30,		
	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
Personal Services	\$ 1,309,685	\$ 1,394,586	\$ 1,404,539
Other Expenses	103,907	84,204	94,231
Equipment	<u>-</u>	<u>-</u>	<u>19,040</u>
Total General Fund Expenditures	<u>\$ 1,494,592</u>	<u>\$ 1,478,790</u>	<u>\$ 1,517,810</u>

Over 92% percent of expenditures consisted of personal services. The majority of other expenditures included board member fees, software maintenance and support, capital equipment, and postage.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of Freedom of Information Commission disclosed the following 2 findings and recommendations. The previous audit contained no recommendations.

Documentation of Internal Control Self-Assessment

- Criteria:* The Office of the State Comptroller issues an annual memorandum reminding agency heads to conduct an annual internal control self-assessment as required by the Internal Control Guide. Management is responsible for establishing and maintaining effective internal controls in accordance with the guide. Agencies must complete the internal control self-assessment by June 30th and keep it on file. The review of the self-assessment questions should be completed with a report noting weaknesses and recommendations for improvements.
- Condition:* The commission did not complete its annual internal control self-assessment for the fiscal years ended June 30, 2017, 2018, and 2019. However, the commission completed its internal control questionnaire for the 2020 fiscal year.
- Effect:* The commission may not have properly evaluated its internal controls and identified possible deficiencies.
- Cause:* It appears the commission was not aware of this annual requirement and may not have received guidance from the Office of the State Comptroller. This was possibly caused by the commission's return to being a stand-alone agency.
- Prior Audit Finding:* This finding has not been previously reported
- Conclusion:* Since the Freedom of Information Commission completed its internal control questionnaire for the 2020 fiscal year, we are not including a recommendation in this report.
- Agency's Response:* "The FOIC accepts the finding. As noted in the Cause section, the FOIC believes that it did not receive the correspondence from the OSC for FYs 17, 18 and 19. From 2011-2016, the FOIC was part of the Office of Government Accountability ("OGA"); it is believed that following its return to a standalone agency, notifications did not come directly to FOIC personnel. As soon as the FOIC was made aware of the absence of the memoranda regarding the annual internal control self-assessment, it requested the materials, submitted a response for FY20 and sought to ensure that appropriate personnel were listed on the OSC's distribution list for such communications going forward. It is anticipated that the

cause for this finding has been corrected and that this issue will not reoccur in subsequent years.”

Misuse of State Equipment

Criteria: The Acceptable Use of State Systems Policy requires that employees only use state systems to conduct official business. System usage must be in accordance with each user’s job duties and responsibilities. The policy defines unacceptable system usage as any activity not in conformance with the agency’s purpose, goals, and mission.

Condition: The Auditors of Public Accounts received a complaint concerning the misuse of state equipment by FOIC employees. We reviewed two months of internet browsing data for all commission employees. We found that most FOIC employees appeared to misuse the internet to some degree. Although our analysis is not conclusive, it indicates a pattern of site visitation without an expressed work-related purpose. Some activity could be attributed to advertisements and pop-ups or could have been performed by someone other than the person assigned the computer.

Over the 2-month period, we found several thousand instances in which employees accessed websites that did not appear work-related. Categories of websites visited included sports, entertainment, news, health, medical, shopping, and social media.

Effect: Lost time due to personal use of the internet during work hours may impede the commission’s ability to carry out its mission.

Cause: FOIC management did not adequately monitor employee use of state equipment.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Freedom of Information Commission should ensure that its employees comply with all personal use of state equipment policies. (See Recommendation 1.)

Agency’s Response: “The FOIC accepts the finding in part. The FOIC accepts the general finding that its staff may have visited non work-related internet sites using state equipment. However, it objects to the scope and accuracy of the finding. The FOIC was provided with a sampling of sites. Upon review, a large number appeared to be connected to work-related matters, including office supply purchases, accommodations for work-related events and municipal sites accessed to obtain necessary

information for docketing complaints. In addition, the FOIC's IT personnel informed the FOIC that many work-related sites link to (or have embedded within them) numerous and varied pop ups, that were not necessarily accessed by FOIC personnel but were recorded as such. The finding does not take any of this into account and is therefore limited in its accuracy. However, the FOIC takes the finding and its subject matter seriously; therefore, following the Auditor's inquiry, management issued a memo (dated August 22, 2019) to FOIC staff reminding employees of the state's Acceptable Use Policy and informing them that the state has the authority to monitor use of state equipment. A copy of this memo was provided to the Auditor conducting the inquiry. This, coupled with the state's implementation of a stronger internet filtering system in April 2019, should further prevent/discourage any similar activity going forward."

Office Policies and Procedures

- Criteria:* Public Act 16-3 of the May Special Session (Sections 67 thru 72), reestablished the Freedom of Information Commission as an independent agency responsible for personnel, payroll, information technology, administrative, and business office functions. FOIC has an employee handbook and policies and procedures manual that outline commission operations and employee codes of conduct and benefits. Guidance presented for employees should be kept up to date.
- Condition:* FOIC has not updated its employee handbook and policies and procedures manual since 2008. For example, its Statement on Ethics is dated February 2007, but the Office of State Ethics revised the state's Code of Ethics on January 1, 2019. In addition, the commission did not update its timesheet procedures to reflect Core-CT or recent changes in employee benefits.
- Context:* Public Act 11-48 established the Office of Governmental Accountability (OGA), effective July 1, 2011, to consolidate the administrative functions of 9 agencies including FOIC. FOIC was a stand-alone agency prior to this consolidation. The employee handbook and policies and procedures manual originated prior to this consolidation. FOIC separated from OGA on July 1, 2016.
- Effect:* FOIC employees do not have an adequate source for current commission policies.
- Cause:* FOIC management did not prioritize the review and update of its policies and procedures.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Freedom of Information Commission should review and update its employee handbook and policies and procedures manual to reflect policy and procedural changes. (See Recommendation 2.)

Agency's Response: “The FOIC accepts the finding. The FOIC has undergone much reorganization and transition since 2011. As noted in a previous finding, the FOIC was part of the OGA from 2011 until 2016. The Executive Administrator’s office of the OGA was charged with the provision of HR functions to the FOIC; the Executive Administrator's office did not undertake a revision to the Policies and Procedures Manual during that period. In 2016, when the FOIC became a standalone agency, it had to transition again and secure its own HR position, which through an MOU, is shared with the Office of State Ethics and the State Elections Enforcement Commission. The HR employee, who was hired in October 2016, undertook revisions to the FOIC’s manual but was not able to complete it prior to her departure from the FOIC staff late in 2019. The FOIC refilled its HR position in September 2020 and is confident it will issue a new and updated manual by early 2021. Therefore, it is anticipated that this finding will be remedied and not repeated going forward.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Office of Governmental Accountability did not contain any recommendations related to the Freedom of Information Commission.

Current Audit Recommendations:

- 1. The Freedom of Information Commission should ensure that its employees comply with all personal use of state equipment policies.**

Comment:

FOIC did not comply with the state's Acceptable Use of State Systems Policy. Over the 2-month period, we found several thousand instances in which employees accessed websites that did not appear work related.

- 2. The Freedom of Information Commission should review and update its employee handbook and policies and procedures manual.**

Comment:

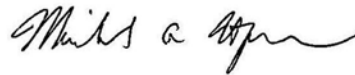
FOIC has not updated its employee handbook and policies and procedures manual since 2008. In addition, the commission did not update its timesheet procedures to reflect Core-CT or recent changes in employee benefits.

ACKNOWLEDGMENTS

The Auditors of Public Accounts wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Freedom of Information Commission during the course of our examination.

The Auditors of Public Accounts also would like to recognize the auditors who contributed to this report:

Michael Haynes
Lena Dang



Michael A. Haynes
Associate Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor