

STATE OF CONNECTICUT



**AUDITORS' REPORT
HEALTH INFORMATION TECHNOLOGY EXCHANGE OF CONNECTICUT
FOR THE FISCAL YEARS ENDED JUNE 30, 2012 and 2013**

AUDITORS OF PUBLIC ACCOUNTS
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November 12, 2014

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We have audited certain operations of the Health Information Technology Exchange (HITE-CT) 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, 2012 and 2013.

The objectives of our audit were to:

1. Evaluate HITE-CT internal controls over significant management and financial functions;
2. Evaluate the department'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 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, as well as certain external parties¹; 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 the department's management 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 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 HITE-CT.

COMMENTS

FOREWORD

Public Act 10-117, effective June 8, 2010, established the Health Information Technology Exchange of Connecticut as a quasi-public agency for health information technology (HIT) and health information exchange (HIE) in the state. It designates the authority as the lead HIE organization for the state beginning January 1, 2011.

According to the summary of Public Act 10-117, under the act, the authority takes over the Department of Public Health's (DPH) responsibilities for the implementation and periodic review of the HIT plan. This includes the implementation of an integrated statewide electronic health information infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, and patients. The authority, instead of DPH, must also develop standards and protocols for privacy in sharing electronic health information.

Furthermore, the summary states that prior law also established a Health Information Technology and Exchange (HITE) Advisory Committee. The act replaces the HITE advisory committee with an authority board of directors. Board members are appointed by the governor and legislative leaders. The board also includes the lieutenant governor and the DPH commissioner who is the chairperson. Other executive branch officials serve as ex-officio, nonvoting members.

Effective July 1, 2014, Sections 169 through 175 and 259 of Public Act 14-217 – An Act Implementing Provisions of the State Budget for the Fiscal Year Ending June 30, 2015, disestablished the Health Information Technology Exchange as a quasi-public agency and reassigned some of its responsibilities to the Commissioner of the Department of Social Services.

Board of Directors and Administrative Officials

Public Act 10-117 vests the authority of the HITE-CT in a 20 member board of directors. The first meeting of the Board of Directors for the Health Information Technology Exchange of Connecticut occurred on October 18, 2010. As of June 30, 2013, the members of the board of directors by appointee were as follows:

Executive Branch Membership:

Betty Jo Pakulis, Designee for the Lieutenant Governor, State of Connecticut
Elizabeth Keyes, Designee for the Commissioner of the Department of Public Health
Broderick Brembly, Commissioner of the Department of Social Services
John Gadea, Designee for Commissioner of the Department of Consumer Protection
Mark Raymond, Chief Information Officer of the Department of Information Technology

Governor's Appointments:

Daniel Carmody - Insurer or Representative of a Health Plan

Legislative Leader's Appointments:

Dr. Kevin Carr
Angela Mattie, JD
Dr. Steven Thornquist
Mark Masselli
Dr. Ellen Andrews
Brenda Kelley
Dr. Ronald Buckman

Ex-officio Nonvoting Members:

Barbara Parks Wolf – Designee of the Secretary of the Office of Policy and Management
Victoria Veltri, Office of the Health Care Advocate

As of June 30, 2013, there were two board positions unfilled by the Governor and three board positions unfilled by legislative leadership.

HITE-CT contracted with Lori Reed Fourquet beginning July 11, 2011 to serve as the interim chief executive officer. She served in that capacity until November 28, 2011, when David Gilbertson was hired to the position of chief executive officer of the exchange. He served in that capacity until August 31, 2012. The position has remained unfilled through the date of this audit report and the exchange indicates that there is no intention to refill the position.

Public Act 10-117 designated the Commissioner of the Department of Public Health as the chairperson of HITE-CT. However, effective October, 2013, Public Act 13-208 authorized the Governor to appoint the chairperson of the exchange. This change had the ameliorative effect of eliminating any perceived or real conflicts created by having the Commissioner of the Department of Public Health also serve as chairperson of the exchange. Perceived or real conflicts could result from the Department of Public Health's fiduciary role as the conduit for the federal funds that serve as the exchange's primary source of revenue for its operations. As such, proper and appropriate decisions made by the commissioner, as the head of the Department of Public Health could negatively impact on the exchange and her prior role as the chairperson of the exchange.

Other Audit Examinations

An independent certified public accounting firm audited the books and accounts of the HITE-CT for each of the fiscal years ended June 30, 2012, June 30, 2013, and June 2014. The reports on the financial statements each expressed an unmodified opinion. However, the fiscal year ended June 30, 2014 report on the financial statements included an Emphasis of Matter section. That section reported that the General Assembly enacted House Bill No. 5597 which repealed the creation of the Health Information Technology Exchange of Connecticut effective July 1, 2014.

In addition, their federal Single Audit reports for the same fiscal years did not identify any material weaknesses or significant deficiencies in internal control. However, the reports issued by the independent certified public accountant on the HITE-CT federal award (CFDA 93.719 ARRA State Grants to Promote Health Information Technology) each expressed a qualified opinion and reported on noncompliance for the reporting and matching requirements.

Section 1-122 of the Connecticut General Statutes requires that quasi-public agencies such as HITE-CT have a compliance audit performed biennially. Such audits should determine whether these agencies comply with their own regulations concerning affirmative action, personnel practices, the purchase of goods and services, the use of surplus funds, and the distribution of loans, grants and other financial assistance.

In accordance with this statute, we performed a compliance audit of HITE-CT for the fiscal years ended June 30, 2012 and 2013. We noted certain weaknesses in compliance and internal control, which are discussed in the State Auditors' Findings and Recommendations section of this report.

RÉSUMÉ OF OPERATIONS

Background

The American Recovery and Reinvestment Act of 2009 (ARRA), Title XIII, HITECH Act, Section 3013, authorized funding to promote the electronic movement and use of health information using nationally recognized interoperability standards to develop health information exchanges.

In March 2010, the Connecticut Department of Public Health (DPH) received \$7.29 million in federal ARRA funding from the State Grants to Promote Health Information Technology. The DPH signed a four-year agreement with the Office of the National Coordinator for Health Information Technology (ONC) to develop, implement and sustain a statewide capacity for a health information exchange (HIE) and meaningful use of electronic medical records.

In June 2010, Public Act 10-117 created the Health Information Technology Exchange of Connecticut. This non-profit quasi-public entity was established to work with communities in Connecticut to develop and implement a statewide secure system and process for sharing health care information through a health information exchange (HIE). Beginning in January 2011, HITE-CT was designated by law as the lead HIE organization for the state.

The Department of Public Health and the HITE-CT signed a memorandum of understanding in December 2011 for the contract period September 2011 through March 2014. The agreement transferred \$4,341,252 in ARRA funding from the department to HITE-CT to implement a statewide health information exchange infrastructure in order to improve the delivery and coordination of health care.

A request for proposals was issued in April 2011 by the Connecticut Department of Information Technology (subsequently merged with the Department of Administrative Services) on behalf of HITE-CT to solicit proposals from vendors to provide a hosted Cross-Enterprise Documents Sharing XDS (Extended Data Services) Affinity Domain Infrastructure to support NHIN (Nationwide Health Information Network) Direct communications in addition to document sharing. Cross-Enterprise Document Sharing provides a standards-based specification for managing the sharing of documents between healthcare systems ranging from individual physicians to healthcare enterprises with existing health record systems. A XDS Affinity Domain is a group of healthcare enterprises that have agreed to work together using a common set of policies and a common infrastructure. An Affinity Domain supports current and future exchange development by establishing among other functionality: a hosted extended data services registry, repository, patient ID cross-referencing, manager/patient demographic supplier and healthcare provider directory.

In September 2011, HITE-CT entered into a thirty-six month license, support, and services agreement with Axway, Inc. for the provision, licensing, maintenance and support of a health information exchange solution. The total amount of the agreement including the full value of estimated and optional services was \$6,239,193.

Under the agreement, the exchange made \$2,728,155 in payments primarily for license and implementation services performed by Axway. Starting in May 2012, the exchange began renegotiating the contract with Axway to provide additional functionality and greater specificity around milestones, phased implementation, and payment terms. According to HITE-CT officials, changing market conditions and ONC requirements made the renegotiation necessary. In January 2013, Axway filed an action against the exchange in United States District Court, District of Connecticut. In March 2013, the exchange filed a counterclaim against Axway. HITE-CT and Axway entered into an amended and restated license, support and services agreement on December 11, 2013. The primary deliverables from Axway under the amended agreement were a perpetual, enterprise-wide, non-exclusive, transferable, royalty-free and full-paid-up software license for the provider registry and the master patient index. Finally, on December 19, 2013, the two parties signed a stipulation of voluntary dismissal of their claims in the United States District Court.

In support of the December 11, 2013 amended agreement between HITE-CT and Axway, the Department of Public Health and HITE-CT executed an amended memorandum of agreement on December 3, 2013, that reduced the maximum amount of the award to \$4,089,934 and changed the amount and timing of program payments for the period March 14, 2013 through March 14, 2014.

On March 21, 2014, HITE-CT entered into a memorandum of understanding with the Department of Social Services (DSS) for the period March 15, 2014 to June 30, 2014. Under the agreement, the exchange was obligated to provide provider directory services and support, software and hardware in order to obtain DSS funding of \$172,020. When this agreement was entered into, there was significant doubt concerning the exchange's ability to continue as a going concern. Also, at the time of this agreement, it was unknown whether the Connecticut General Assembly would provide additional resources to the exchange. No other stakeholders had stepped forward to either fund the exchange or take over some or all of its operations.

In May 2014, the Connecticut General Assembly passed Public Act 14-217 that repealed the statutes establishing the Health Information Technology Exchange of Connecticut, effective July 1, 2014 and transferred some of its responsibilities to the Department of Social Services.

Other Matters – Discontinued Operations

As noted above, the purpose of HITE-CT was to establish and manage a statewide health information exchange that would be used by health care practitioners and other healthcare enterprises. As part of its early Strategic and Operational Plan on sustainability, the exchange was to identify all viable avenues for financing across all stakeholders and to ensure that all who benefit from its services contribute financially to the support of the exchange. The exchange planned a phased approach that sought to have stakeholders contribute income in the form of assessment fees, subscription fees and/or transaction fees. In the plan, the exchange recognized the need to develop a sustainability model to fund their operations over the long term. However, since inception, the exchange was never able to provide services to stakeholders and thus, never developed a self-sustaining revenue stream.

HITE-CT was unable to meet its strategic and operational schedule primarily due to its inability to adapt quickly to changing market conditions. The exchange's board of directors recognized that the terms in the original contract with its vendor required significant modification to reflect the evolving market place for an integrated statewide electronic health information infrastructure. A lengthy renegotiation period with its primary vendor reduced the exchange's options for achieving sustainability. The resulting amended contract with the vendor had a reduced scope for deliverables. It no longer included the establishment of an operational statewide health information exchange that could provide desired revenue producing services to stakeholders through fees and other assessments.

HITE-CT acknowledged in its February 1, 2013 Annual Report on 2012 activity that, "the role of HITE-CT originally sought to fulfill has not materialized. Market forces, such as the emergence of local health exchanges and negligible adoption of HITE-CT services, have caused us to reevaluate our initial strategy." In its February 1, 2014 Annual Report on 2013 activity, the exchange further disclosed that it had made, "limited progress during 2013, given continued setbacks due to vendor contract issues. With the grant funding ending in the near future, identifying a solution for the sustainability of Health Information Exchange remains a critical priority. HITE-CT was mandated by a state public act, but with no legislative champion and no state funding, the future of the quasi-public is not clear."

HITE-CT received temporary funding from the Department of Social Services for the period March 15, 2014 to June 30, 2014 for the purposes of implementing a provider directory.

During the 2014 Regular Session the Connecticut General Assembly repealed the statutes establishing the Health Information Technology Exchange of Connecticut. Effective July 1, 2014, the exchange ceased to exist as a quasi-public agency. Its mission to establish an operational statewide health information exchange was not met.

Financial Operations

The HITE-CT financial statements were reported using the economic resources measurement focus and the accrual basis of accounting. The financial statements were prepared by exchange management in conformity with accounting principles generally accepted in the United States of America. The independent certified public accounting firm based the conduct of the its audit upon auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Government Auditing Standards issued by the Comptroller General of the United States.

The following are a comparative Statement of Net Position and Statement of Revenues, Expenses and Changes in Net Position. This financial information was obtained from the HITE-CT audited financial statements for the fiscal years ended June 30, 2012, 2013 and 2014.

Statement of Net Position
June 30, 2012, 2013 and 2014

	<u>2014</u>	<u>2013</u>	<u>2012</u>
<u>ASSETS</u>			
Current Assets:			
Cash	\$ 52,997	\$ 401,057	\$ 329,395
Grants receivable	<u>-</u>	<u>-</u>	<u>32,898</u>
Noncurrent Assets:			
Capital Assets:			
Computer equipment	-	2,656	3,379
Total Assets	<u>52,997</u>	<u>403,713</u>	<u>365,672</u>
<u>LIABILITIES</u>			
Current Liabilities:			
Accounts payable	-	335,818	334,874
Accrued payroll and related liabilities	-	11,873	25,688
Compensated absences	-	9,596	1,731
Unearned revenue		43,770	-
Due to funding source	52,997		
Total Liabilities	<u>52,997</u>	<u>401,057</u>	<u>362,293</u>
<u>NET POSITION</u>			
Net investment in capital assets	<u>\$ -</u>	<u>\$ 2,656</u>	<u>\$ 3,379</u>

According to the exchange's audited financial statements, net investment in capital assets consisted of the net book value of its computer equipment.

Statement of Revenues, Expenses and Changes in Net Position
Fiscal Years Ended June 30, 2012, 2013 and 2014

	<u>2014</u>	<u>2013</u>	<u>2012</u>
Operating expenses:			
Salaries	\$ 165,416	\$ 343,053	\$ 188,723
Health information exchange project	110,000	-	2,088,155
Legal and professional	214,090	141,747	399,535
Administrative	25,900	23,032	34,668
Depreciation	<u>698</u>	<u>723</u>	<u>236</u>
 Total operating expenses	 <u>516,104</u>	 <u>508,555</u>	 <u>2,711,317</u>
 Operating loss	 <u>(516,104)</u>	 <u>(508,555)</u>	 <u>(2,711,317)</u>
 Nonoperating revenues:			
Intergovernmental grants	1,045,406	507,832	2,714,696
Transfer of capital assets	(531,958)		
Change in net position	(2,656)	(723)	3,379
 Net position – July 1, 2013	 <u>2,656</u>	 <u>3,379</u>	 <u>-</u>
 Net position – July 1, 2014	 <u>\$ -</u>	 <u>\$ 2,656</u>	 <u>\$ 3,379</u>

According to the HITE-CT audited financial statements, the intergovernmental grant revenue consisted of federal funding received through an agreement with the State of Connecticut Department of Public Health. The health information exchange project expenses were incurred to develop, support and implement the statewide electronic health information exchange. The exchange ceased further development and implementation of the system prior to June 30, 2012 and subsequently renegotiated its vendor contract. Legal and professional expenses represent the costs incurred to establish the organization and the infrastructure for operations. HITE-CT transferred software licenses purchased during fiscal year 2014 with a net book value of \$530,000 to the Department of Social Services. Also during fiscal year 2014, computer equipment with a net value of \$1,958 was transferred to the Department of Public Health.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of the Health Information Technology Exchange of Connecticut found certain matters of concern that may have resulted in the presentation of one or more recommendations. As HITE-CT no longer exists, the following matters are presented only as conclusions for disclosure purposes:

Board of Directors Attendance

Background: Public Act 10-117 vests the authority of the exchange in a 20 member board of directors. Of that number, five members are specifically, designated by statute (Lieutenant Governor, Commissioner of Public Health, Commissioner of Social Services, Commissioner of the Department of Consumer Protection and the Chief Information Officer, Bureau of Enterprise Systems and Technology, Department of Administrative Services). The remaining members are appointed by the Governor or various leaders of the General Assembly.

Criteria: Connecticut General Statute Section 19a-750 subsection (c)(4) states that any member appointed to the board who fails to attend three consecutive meetings or who fails to attend fifty per cent of all meetings held during any calendar year shall be deemed to have resigned from the board.

Board member attendance is a vital ingredient in maintaining cohesive and consistent governance over the strategic and operational objectives of an organization.

Condition: Our review of the Health Information Technology Exchange of Connecticut's board of director's minutes from its first meeting held on October 18, 2010 through the meeting held on November 20, 2013 found the following instances in which board members missed three or more consecutive meetings or failed to attend fifty per cent of all meetings held during any calendar year:

- Three statutorily appointed board members had four instances over the review period in which three consecutive meetings were missed and three instances in which they also failed to attend fifty percent of the meetings held during a calendar year.
- Three appointed board members had four instances over the review period in which three consecutive meetings were missed and two instances in which they also failed to attend fifty percent of the meetings held during a calendar year.

- Effect:* The board's ability to maintain cohesive and consistent governance over the strategic and operational objectives of an organization is reduced by membership absences from meetings. Active board members must bear a greater share of the work load and are at an increased risk of burnout.
- Cause:* Statutory members are exempt from replacement when they are deemed to have resigned by their absences as their positions on the board are designated by law. The appointing authority for replacing board members resides outside of the exchange's control.
- Conclusion:* This matter is presented for disclosure purposes as the Health Information Technology Exchange of Connecticut and its board ceased to exist as of July 1, 2014.

Distribution of the Annual Report

- Criteria:* Connecticut General Statute Section 1-123 subsection (a) states that the board of directors of each quasi-public agency shall annually submit a report to the Governor and the Auditors of Public Accounts and two copies of such report to the Legislative Program Review and Investigations Committee.
- Condition:* Our review of the HITE-CT annual report submitted on February 1, 2014 found that none of the required recipients were on the original distribution list.
- Effect:* The exchange was not in compliance with statutory reporting requirement.
- Cause:* The exclusion of the required recipients on the distribution list was an oversight by the exchange.
- Conclusion:* Upon notification by the auditor, the condition was immediately rectified by the Health Information Technology Exchange of Connecticut by submitting the most recent annual report to the required recipients. Further, the exchange ceased to exist as of July 1, 2014. For these reasons, no recommendation is offered.

Grant Program Matching Requirement

- Criteria:* The OMB A-133 Compliance Supplement for the State Grants to Promote Health Information Technology program requires a match to the federal grant beginning in fiscal year 2011, with an increasing level of match for each year of the program as follows:

2010	None
2011	\$1 for each \$10 federal dollars (begins Oct. 1, 2010)
2012	\$1 for each \$7 federal dollars (begins Oct. 1, 2011)
2013	\$1 for each \$3 federal dollars (begins Oct. 1, 2012)

In addition, the agreement between the Department of Public Health and the Health Information Technology Exchange of Connecticut included a section on the compliance responsibilities of the exchange. The section included the same compliance requirements for matching as described in the preceding paragraph.

Condition: HITE-CT was unable to generate any additional revenue outside of the federal grant funds provided by the agreement with the Department of Public Health. As a result, the exchange could not meet the federal matching requirements required by the OMB A-133 Compliance Supplement and the agreement with the Department of Public Health.

Effect: On December 3, 2013, the memorandum of agreement with the Department of Public Health was amended to reduce the maximum award to account for the unmatched funds that HITE-CT was unable to provide. Going forward, the exchange was required to make best efforts to comply with the matching compliance requirement.

However, the amended agreement does not relieve the HITE-CT from the matching requirement of the OMB A-133 Compliance Supplement. That requirement remains unmet.

Cause: HITE-CT was not able to establish an operational statewide health information exchange providing desired revenue producing services to stakeholders through fees and other assessments. As a result, it had no matching funds to meet the matching requirement.

Conclusion: For matching purposes, HITE-CT is in compliance with the amended agreement with the Department of Public Health. However, it is not in compliance with the requirements of OMB A-133 Compliance Supplement. Those requirements attach to and follow the federal grant funds and are outside the ability of state entities to waive.

We note that HITE-CT had no capacity to generate revenue to meet the matching requirement and had no near term expectation that it could develop that capacity. Further, the exchange ceased to exist as a going-concern as of July 1, 2014. For these reasons, no recommendation is offered.

RECOMMENDATIONS

This was our initial audit of the Health Information Technology Exchange of Connecticut. As such, there were no prior audit recommendations requiring repetition. There are no current audit recommendations for the exchange.

CONCLUSION

We wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Health Information Technology Exchange of Connecticut during the course of our examination.



Michael Adelson
Principal Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts