



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT AND
RELATED ENTITIES**

Performance Audit Report

October 2014



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October 30, 2014

The Honorable Ron Ramsey
Speaker of the Senate
The Honorable Beth Harwell
Speaker of the House of Representatives
The Honorable Mike Bell, Chair
Senate Committee on Government Operations
The Honorable Judd Matheny, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
The Honorable Burns Phillips, Commissioner
Department of Labor and Workforce Development
220 French Landing Dr.
Nashville, TN 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Department of Labor and Workforce Development and related entities. This audit was conducted pursuant to the requirements of the Tennessee Governmental Entity Review Law, Section 4-29-111, *Tennessee Code Annotated*.

This audit is intended to aid the Joint Government Operations Review Committee in its review to determine whether the department and the related entities should be continued, restructured, or terminated.

Sincerely,

Deborah V. Loveless, CPA
Director

14/027

State of Tennessee

A u d i t H i g h l i g h t s

Comptroller of the Treasury

Division of State Audit

Performance Audit

Department of Labor and Workforce Development and Related Entities

October 2014

We have audited the Department of Labor and Workforce Development for the period July 1, 2009, through June 30, 2014. Our audit objectives were to determine whether there is adequate and appropriate oversight of inspectors and inspections in the Elevator and Boiler divisions, and that inspections are being conducted as required by statute; to determine whether the department is performing its due diligence in enforcing the Illegal Alien Employment Act; to determine whether the method for surveying for and setting the prevailing wage adheres to statutory requirements and appropriate surveying methodologies; to determine whether there are adequate controls and plans in place to ensure that adequately trained mine rescue teams are in place as required by statute; to determine whether the department has made a detailed contingency plan to deal with federal government shutdowns as they relate to the operations of the department; to determine the extent to which the department has an internal audit function; and to determine the transparency of departmental operations and policies to users and clients on its website.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient, appropriate audit evidence to support the conclusions in our report. We present more detailed information about our methodologies in the individual report sections.

We conducted our audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT FINDINGS

Data reliability and reporting weaknesses in the Elevator and Boiler Units' Case Management and Tracking System (eCMATS) hamper effective management

eCMATS' existing reports are limited and contradict each other and the extracted raw data. Also, simple boiler inspection violations resolved while the inspector is onsite cannot be immediately cleared in the system due to system limitations. Instead, boiler inspectors must generate a second inspection report dated the next day as a work-around (falsely indicating an inspection had been done) to clear the violation in the system (page 5).

The Boiler Unit has a heavy caseload and few internal controls to manage and monitor inspectors to ensure they complete inspections in a timely manner

The state's 12 to 13 inspectors perform inspections of 17,901 (27%) of the state's 66,337 active boilers. Outside agencies, such as insurance companies and Shelby County, inspect 71% of the state's active boilers. The remaining 2% of boilers are not assigned in the management and tracking system to the state, an agency, or an individual inspector for inspection. The unit's central office does not have any method to verify the inspector's visit at the inspection site and the data entered into eCMATS. Because the Boiler Unit does not have proper internal controls in place and lacks administrative support to properly implement and manage them, the unit is vulnerable to lapses in quality of work and fraud (e.g., falsified inspection reports and overstated travel claims) (page 7).

The department does not yet have a viable amusement device regulatory unit six years after jurisdiction was transferred from the Department of Commerce and Insurance

In late June 2014, the Amusement Device Unit lost its manager of five years and the only inspector it had after only eight months. Only the manager had been replaced as of July. Though the unit is meant to be self-sufficient, records are not being kept to document the situation, and the program's personnel, training, equipment, travel, and administrative expenses are being paid from other units within the division or department. The unit is also not tracking individual rides to ensure that they all have received their annual inspection prior to being issued their annual permit (page 8).

The Prevailing Wage Commission has incorrectly calculated aspects of the prevailing wage for the last three years

The commission has incorrectly calculated the percentage it can add to or subtract from the survey rate when setting the next year's prevailing wage rates. It should be calculating the percentage using the previous year's prevailing wage rate, not the survey rate (page 12).

The department's Mine Safety Unit is out of compliance with state statute in regard to its mine rescue teams' distance from underground mine operations

State statute requires the department to locate mine rescue teams within two hours' travel time of every underground mine in the state without exception. Five of the state's 15 underground mines were over the 2-hour requirement by 30 to 100 minutes (page 16).

The department has little internal auditing being documented and reported

The Office of Internal Audit performs many functions, including reviewing inventory and telephone usage and following up on external audits. However, in the last five years, outside of one internal audit report on accounts payable and six internal employee investigations reports, the office presented no other documents or reports of internal audit work performed on departmental operations (page 20).

OBSERVATIONS

The audit report also discusses the following issues: elevator inspections (page 11), the Illegal Alien Employment Act (page 15), board issues (page 18), and preplanning in case of federal government shutdowns (page 19).

Performance Audit
Department of Labor and Workforce Development and
Related Entities

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Performance Audit Department of Labor and Workforce Development and Related Entities

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the Department of Labor and Workforce Development and related entities was conducted pursuant to the Tennessee Governmental Entity Review Law, Title 4, Chapter 29, *Tennessee Code Annotated*. The department is scheduled to terminate June 30, 2015. Under Section 4-29-236, the following entities are also scheduled to terminate:

- Board of Boiler Rules (Section 68-122-101);
- Elevator and Amusement Device Safety Board (Section 68-121-102); and
- Prevailing Wage Commission (Section 12-4-404).

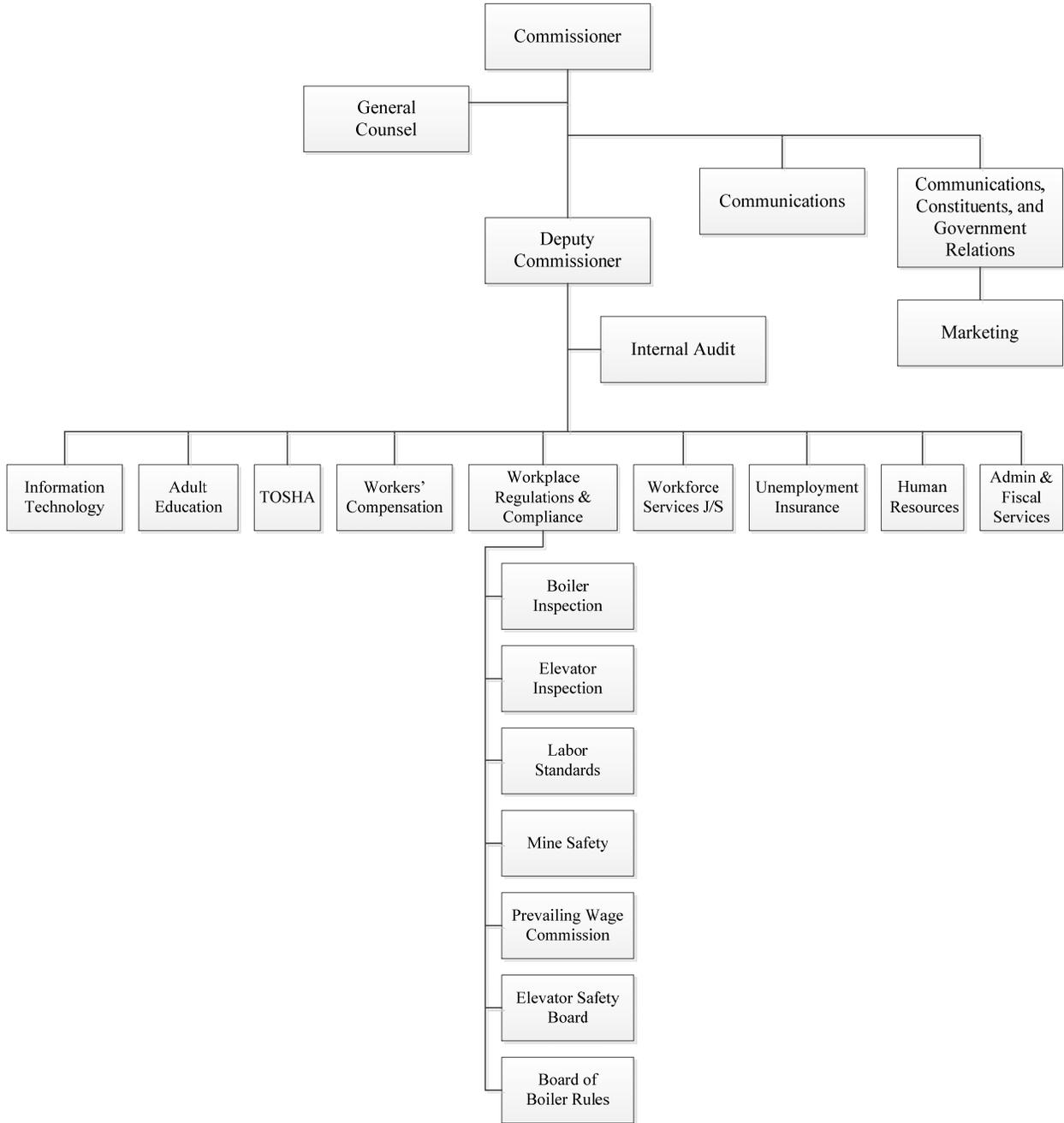
The Comptroller of the Treasury is authorized under Section 4-29-111, *Tennessee Code Annotated*, to conduct a limited program review audit of the department and to report to the Joint Government Operations Committee of the General Assembly. This audit is intended to aid the committee in determining whether the department should be continued, restructured, or terminated.

ORGANIZATION AND STATUTORY RESPONSIBILITIES

The Department of Labor and Workforce Development was created under Section 4-3-1403, *Tennessee Code Annotated*. On July 1, 1999, the Department of Labor and the Department of Employment Security were combined to form the Department of Labor and Workforce Development. The department's purpose is to (1) provide integrated, effective, and efficient delivery of employment-related services and training in compliance with the Workforce Investment Act of 1998; and (2) meet the needs of employees, unemployed persons, and persons making the transition into the workplace through education, training, labor-market information, and an efficient unemployment insurance program. The department is also responsible for the state's workers' compensation law.

An organization chart of the department is on the following page.

**Department of Labor and Workforce Development
Organizational Chart
March 2014**



AUDIT SCOPE

We audited the Department of Labor and Workforce Development for the period July 2009 through June 2014. Our audit scope included all divisions of the department except for Workers' Compensation and Unemployment Insurance and included a review of internal controls and compliance with laws and regulations that are significant within the context of the audit objectives. Department management is responsible for establishing and maintaining effective internal controls and for complying with applicable laws, regulations, and provisions of contracts and grant agreements. The Workers' Compensation Division and the Unemployment Insurance Division were not included within the scope of this sunset performance audit because 1) the former was given its own sunset date of 2018 in the 2013 legislative session when workers' compensation laws were completely revised and 2) the latter was audited for the 2011, 2012, and 2013 Single Audits for the State of Tennessee. These audits took numerous findings on the department's Unemployment Insurance and Workforce Investment Act programs and can be found on the Division of State Audit's website at <http://www.comptroller.tn.gov/sa/>. The scope of the 2014 Single Audit includes Unemployment Insurance, Workforce Investment Act, and Adult Education.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient, appropriate audit evidence to support the conclusions in our report. We present more detailed information about our methodologies in the individual report sections.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the 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 a reasonable basis for our findings and conclusions based on our audit objectives.

PRIOR AUDIT FINDINGS

Section 8-4-109, *Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The last sunset performance audit of the Department of Labor and Workforce Development was in March 2009. The department filed its follow-up implementation report with the Department of Audit on October 9, 2009. This performance audit did not pursue further work on prior audit findings, involving Workers' Compensation and Unemployment Insurance and discussed previously in the scope section, because they fell outside the scope of this audit.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

WORKPLACE REGULATIONS AND COMPLIANCE

This section deals with issues in the Workplace Regulations and Compliance Division dealing with elevators, boilers, amusement devices, the Prevailing Wage Commission, the Illegal Alien Employment Act, mine rescue teams, and three boards and commissions and their membership.

Elevator, Amusement Device, and Boiler Inspection

Section 68-121-103, *Tennessee Code Annotated*, requires the Department of Labor and Workforce Development to inspect and license all elevators, dumbwaiters, escalators, and aerial passenger tramways operating in the state, except for those that are dormant or residential. Beginning in 2008, similar oversight for amusement devices was transferred from the Department of Commerce and Insurance to the department, and rules were promulgated in 2010.

The Elevator and Amusement Device Safety Board, which is attached to the department, is responsible for

- licensing elevator inspectors;
- consulting with engineering authorities and organizations that study and develop safety codes to determine what rules and regulations govern 1) the qualifications, training, and duties of elevator operators; 2) the operation, maintenance, construction, alteration, and installation of elevators, dumbwaiters, escalators, aerial passenger tramways and moving walks, and amusement devices; and 3) the inspection of new and existing installations to ensure adequate, reasonable, and necessary safety of life, limb, and property; and
- prescribing the fees for construction permits, operating permits, acceptance inspections, initial inspections, and periodic inspections for new and existing elevators, dumbwaiters, escalators, aerial passenger tramways and moving walks, and amusement devices.

In addition, specifically regarding amusement devices, the board has the power to

- consult with engineering authorities and organizations that are studying and developing amusement device safety standards;
- adopt rules and regulations governing the owner's duty of reasonable care for the installation, assembly, disassembly, repair, maintenance, use, testing, operation, and inspection of those amusement devices defined in statute; and
- make recommendations to the commissioner concerning the board's findings on safety issues related to amusement devices.

As of July 2014, there were 27 inspectors and approximately 13,186 active elevators requiring inspection. There were no amusement device inspectors and approximately 657 individual rides requiring annual inspections by qualified state or third-party inspectors.

Section 68-122-110, *Tennessee Code Annotated*, states that boilers used or proposed to be used in the state should be inspected as to their construction, installation, condition, and operation. Power boilers must be inspected annually both internally and externally while not under pressure and, if possible, externally under pressure approximately six months after each internal inspection. Low-pressure heating boilers are to be inspected internally and externally every two years, where construction permits.

The Board of Boiler Rules formulates definitions, rules, and regulations for the safe and proper construction, installation, repair, use, and operation of boilers. During our audit period, there were 12 to 13 inspectors and, as of June 2014, 66,337 active boilers requiring inspection by qualified state or third-party inspectors.

Our audit objectives with regard to the inspection programs were to determine

- whether there is adequate and appropriate oversight of inspectors and inspections, and
- whether inspections are being conducted as required by statute.

We reviewed state statute and rules. We interviewed administrators and staff of the Elevator, Boiler, and Amusement Device Units about their operations; observed the use of the eCase Management and Tracking System (eCMATS) by the Elevator and Boiler Units; and obtained documentation from eCMATS' reporting function. We also obtained raw data from eCMATS for validation purposes against eCMATS reports, as well as for planned testwork to determine if inspections were being done.

From our audit work, we determined that both the Elevator and Boiler Units are hampered in their inspection and management oversight responsibilities by the data reliability and reporting weaknesses in eCMATS. The Elevator Unit appears to have effective internal controls in place to ensure that inspections are being conducted. However, the Boiler Unit lacks such controls over its large workload. The Amusement Device Unit is still not a viable regulatory entity six years after jurisdiction was transferred from the Department of Commerce and Insurance.

Finding

1. Data reliability and reporting weaknesses in the Elevator and Boiler Units' Case Management and Tracking System (eCMATS) hamper effective management

During a review of the Elevator and Boiler Units' information system, the eCase Management and Tracking System (eCMATS), we observed weaknesses in key areas that could affect the administrative staff's ability to efficiently and effectively manage the Elevator and Boiler Units. eCMATS, which has been used by several departmental programs and divisions

since at least the 2009 performance audit, does not allow management to run reports such as the number of assigned elevators per inspector, the list of inspectors assigned to specific counties, the number of active elevators per county, the number of active elevators assigned to each inspector per county, or a list of elevator IDs per inspector per assigned county. All of these reports would be useful to administrators in managing personnel and caseloads.

To conduct testwork to determine whether elevator and boiler inspections were being done as required, we attempted to obtain from administrative staff the information listed above. We attempted to verify the eCMATS information and results by performing the same procedures used by the administrative staff in eCMATS. We also obtained the raw data from Information Systems staff and performed an analysis of the database independent of eCMATS.

We found that eCMATS reports contradicted themselves. eCMATS information provided by administrative staff differed from the information we got from eCMATS and from the raw data files. For example, the total number of active elevators, active elevators per county, active elevators assigned to an inspector, and active elevators per county per inspector was different depending on the eCMATS report run and/or the source. In addition, we found 18 active elevators not assigned to current inspectors. Similarly with boilers, one report in eCMATS showed 58,777 active boilers, while the raw data showed 66,337. The raw data also suggested that 658 active boilers with no associated inspector ID may exist that are not being inspected.

Another significant problem we found unique to the Boiler Unit was that the system was requiring the unit to generate false inspection reports. Because simple inspection violations resolved while the inspector is onsite cannot be immediately cleared in the system due to system limitations, inspectors must generate a second inspection report dated the next day as a work-around (falsely indicating an inspection had been done) to clear the violation in the system.

Ultimately, we were unable to perform testwork on the performance of boiler inspections due to data difficulties and our inability to generate a table from the raw data containing all the necessary information needed to pull a sample.

Recommendation

The Elevator and Boiler Units need accurate reports from the data management system to manage the inspectors and their caseloads. The system does not provide reliable reports, nor does the system identify unassigned active elevators and boilers. The division needs a system that will allow it to periodically check active elevator and boiler assignments and to ensure active elevators and boilers are assigned and inspected. This may require developing a new data system or working with information technology staff to improve reporting capabilities of the existing system.

Management's Comment

We concur. The Workplace Regulations and Compliance Division will acquire a new computer system to assist the Boiler and Elevator Units to work more efficiently and effectively.

This new computer system will assist supervisors to manage inspectors and caseloads by enabling supervisors to identify unassigned active elevators and boilers, to check active assignments, and to ensure boilers and elevators have been inspected timely. Reliable information and accurate program reports will be included in the new computer system and are essential to the success of the program.

Finding

2. The Boiler Unit has a heavy caseload and few internal controls to manage and monitor inspectors to ensure they complete inspections in a timely manner

We reviewed the policies and operations of the Boiler Unit, which is responsible for permitting and inspecting boilers across the state. We found a long-term vacant chief inspector position and an assistant chief inspector, acting as chief, trying to fulfill administrative duties while carrying the heaviest inspection caseload of all the inspectors. We also found a lack of internal control policies, procedures, and documentation that would ensure that inspections are performed as required and in a timely manner.

The Boiler Unit has been without a full-time administrative chief inspector since November 2013. The assistant chief has been performing the roles of both interim chief and assistant chief, as well as that of a full-time inspector. In fact, the assistant chief is assigned the most boilers to inspect (2,346) out of all the inspectors. During audit fieldwork, staffing consisted of 12 to 13 inspectors, 4 administrative support staff, and the assistant chief. According to the assistant chief, a full-time chief and more staff is needed to effectively manage and handle the work. By examining the raw data outside of the eCMATS system (see Finding 1 regarding data problems), we determined that 17,901 of the state's 66,337 active boilers (27%) are assigned to the state and to a state inspector for inspection. Outside agencies, such as insurance companies and Shelby County, perform inspections on 71% of active boilers. The remaining 2% of boilers are not assigned in the system to the state, an agency, or an individual inspector for inspection.

We then determined that the unit's central office does not have any method to verify the inspector's visit at the inspection site and data entered into eCMATS. Inspectors do not submit a copy (electronic or paper) of their inspection report to the central office once they enter the information into eCMATS. Unit administrative staff cannot check inspector-entered data in eCMATS as they do not have the original inspection reports. However, inspectors do submit weekly summary reports detailing basic information about the location of sites visited, miles traveled, and types of boilers inspected. Part of the unit's controls include the assistant chief reviewing the weekly reports and checking them against eCMATS and mileage tables, but completing a thorough review could be difficult considering that the assistant chief is performing the heaviest workload of a full-time inspector due to limited staff.

For inspection verification, the administrative staff could not provide documentation that the unit conducted check-ups or call-backs at inspection sites or that the assistant chief on occasion randomly selected an inspection report and called the point of contact. There are no

specific written procedures in place detailing how reports are chosen, how many are sampled, and how often the verification process is performed.

Because the Boiler Unit does not have proper internal controls in place and lacks administrative support to properly implement and manage them, the unit is vulnerable to lapses in quality of work and fraud (e.g., falsified inspection reports and overstated travel claims). Proper internal controls and strong administrative support is needed to ensure quality of work.

Recommendation

The commissioner and division administrator should fill the chief boiler inspector position and assess the unit's workload in light of current staffing. Boiler inspection assignments per inspector should better balance the workload between inspectors and reduce the number of inspections the assistant chief performs. The unit's administrative staff should implement internal controls and verify that inspectors perform inspections and visit boiler locations. Management should also verify information entered into the information system by inspectors, and they may wish to perform random site visits and audits of inspection reports.

Management's Comment

We concur. This issue is being addressed through the creation of a new computer system. Going forth, boiler inspectors will prepare investigation reports while working in the field. Reports will be signed by customers and submitted to the central office for review and processing. Supervisors will use internal controls to ensure inspection reports comply with specific guidelines. In addition, internal controls will be developed to ensure inspections are performed and inspection reports are true and accurate. Territories have been reviewed and all inspectors will be monitored to ensure that boilers and pressure vessels in Tennessee are inspected timely. A new employee has been hired to assist with administrative duties and the entire administrative staff has been cross-trained. The assistant chief inspector has been relieved from many inspection duties and spends 80% of the time in the central office supervising. Field inspectors have been assigned cases previously handled by the assistant chief. The chief boiler inspector's position has been announced several times, but to date no qualified applicants have been willing to accept the duties and responsibilities of the position. Currently, the division is using a state recruiting agency to assist with filling the position with a qualified applicant.

Finding

- 3. The department does not yet have a viable amusement device regulatory unit six years after jurisdiction was transferred from the Department of Commerce and Insurance**

Beginning January 1, 2009, the General Assembly transferred jurisdiction over and regulation of amusement devices to the Department of Labor and Workforce Development's reconfigured Elevator and Amusement Device Safety Board. (The law was signed in 2008.) Owners of amusement devices must obtain an annual permit for their ride devices, either

individually or as a whole. To get this permit, the owners must provide proof of an annual inspection of each device by a state inspector or a qualified third-party inspector and provide proof of insurance coverage. We found problems related to inspections of amusement devices in the areas of staffing, funding, and operations.

Staffing

Following the departures in late June 2014 of the only manager (hired in early 2009) and inspector (hired in late 2013) to have ever worked in the unit, the department has a newly hired manager as of July 16, 2014, and no inspectors.

Funding

The program does not receive state appropriations but was intended to be self-sufficient, with the costs of one new inspector; the costs of additional training and certification of existing elevator inspectors; and administrative costs to be covered by permit and inspection fees. We found that personnel, training, equipment, travel, and administrative costs were paid from other units within the division or department. Additionally, the department is not monitoring the unit for self-sufficiency, as staff could not provide detailed expenditure information and could only provide that a total revenue of \$58,525 (with no detailed breakdown) was collected in fiscal year 2014.

Operations

According to the administrator of the Workplace Regulations and Compliance Division, there are 92 companies with amusement device permits in the state. However, for fiscal year 2014, the administrator provided information that they issued only 54 permits. To determine how many individual rides require annual inspection, staff had to manually add up the number of rides listed on each permit because staff did not track individual rides. They calculated “approximately” 678 individual rides were permitted. The administrator stated that third-party qualified inspectors did not have to file copies of their inspections with the unit, but ride owners’ insurance companies forwarded certificates of insurance for the unit’s files. This is in contradiction to Section 68-121-120, *Tennessee Code Annotated*, and rules that require owners to provide both proof of an annual inspection and insurance to receive an annual permit.

Also, Section 68-121-119, *Tennessee Code Annotated*, requires the department to compile and post on its website a list of individuals it considers qualified inspectors, which would be those certified by one or both of the following organizations—Amusement Industry Manufacturers and Supplies (AIMS) or National Association of Amusement Rides Safety Officials (NAARSO). However, the department has not compiled a list of qualified inspectors on its webpage, but simply included AIMS and NAARSO in a list of external links without also explaining that persons should use the AIMS and NAARSO links to access lists of inspectors certified by each organization.

Recommendation

With the lack of inspectors, discrepancy in permits, and the uncertainty of the number of individual rides, we have serious concerns about whether the unit is able to ensure that all amusement devices in the state are appropriately permitted and inspected both annually and following accidents and fatalities. The commissioner and the Elevator and Amusement Device Safety Board should ensure that the program has the staff and resources to comply with statutory requirements. They should monitor the program's self-sufficiency and ensure that accurate management information is compiled on program activities to ensure the program is fulfilling its responsibilities.

Management's Comment

We concur in part. The division hired its first amusement device inspector/manager (East Tennessee) in January 2009 and hired a second inspector (Middle Tennessee) in August 2013. Both inspectors resigned in May 2014. After their departure, the administrator determined that a new direction was needed. There were several opportunities/needs for the program: (1) hiring at least one inspector in each grand division in Tennessee; (2) hiring a manager to work in the central office to oversee the day-to-day operations; (3) having an employee assist with administrative duties, review and process inspection reports, and timely process payments; and (4) developing internal controls to ensure inspections are timely and properly performed. An acting manager was hired on July 16, 2014, and a Middle Tennessee inspector was hired on August 16, 2014, to fill the vacancies. Although separate funding was not provided with the original legislation, funding was provided from the legislative appropriation for the Boiler and Elevator Units. Because the Boiler and Elevator Units are in dire need of a new computer system (see management's comments to Findings 1 and 2), excess funding from the Boiler and Elevator Units must be applied to that endeavor. In order for the Amusement Device Unit to become viable and self-sufficient, separate funding is necessary to hire inspectors to perform the work, to educate the public as to new laws, and to administer the program.

We concur that the law requires us to add language to our website to direct customers to the certifying agencies' websites. The division is currently working with the proper unit within the department to ensure this change is made. This will provide customers with the most updated list of certified inspectors.

We concur that Section 68-121-117(b), *Tennessee Code Annotated*, requires owners to provide both proof of inspection and proof of insurance to receive an annual permit to operate in Tennessee. However, if a third-party qualified inspector performs the inspection, we currently require the owner, not the *third party qualified inspector*, to provide both a copy of the inspection report along with proof of insurance, as a requirement for the issuance of an annual permit. If a state inspector performs the inspection, the state inspector provides the inspection report and the owner provides proof of insurance. Permits are not issued until all documents are received by the Amusement Device Unit and all fees are paid by the owner or the owner's representative. Therefore, the Amusement Device Unit is currently in compliance with state law.

Observation

1. Elevator inspectors are performing inspections as required, but there is room for improvement

We selected 24 elevators for testwork and, because they were located at the same site as our sample, an additional 14 elevators were available to be included in the testwork. Our sample was from 4 (Shelby, Davidson, Hamilton, and Knox) of the 10 counties that contain 77% of the state's 13,186 active elevators. We then randomly selected inspectors in each county and elevators assigned to each selected inspector.

Our testwork showed that 74% of inspections were being performed and could be confirmed (with the exception of Shelby County) through newly implemented internal control mechanisms that require (1) the inspector to apply a sticker in the elevator control room that the inspector then initials and dates on the day of the inspection, and (2) an onsite contact person to sign and date the inspection forms. Of those tested, 18% had no sticker (four in Shelby County, three in Davidson County), and three were inaccessible to us due to site safety issues. Administrators rolled out the new internal control procedures with the Shelby County inspector last; thus, we were unable to confirm the use of the internal control mechanisms there.

While these controls are good, improvements can be made. Many of the onsite contact persons' signatures were illegible and their job title was not provided on the inspection form; about half of the onsite contacts who signed the inspections were not the property/facility manager or similar position; and sometimes property/facility managers or persons with similar responsibilities were not provided a copy of the inspection results. Inspectors should have onsite contacts print and sign their name on the inspection forms, along with their job title and phone number. This will allow Elevator Unit administrators to perform inspection spot checks more easily. Inspectors should also make their onsite contact a person who has responsibility for the operation and maintenance of the elevators and should provide this contact person with copies of the inspection report. The contact person thus has assurance that their elevators are inspected as required and can voice questions or concerns at the time of inspection. This can also benefit the Elevator Unit, as managers who are more aware of the inspections may identify problems with the inspector or quality of the inspections.

Prevailing Wage Commission

In 1975, the General Assembly declared state policy that the prevailing wage rate would be determined by defined standards and that workers on all state construction projects would be paid such rate. Any contractor entering into a state contract for work on state construction projects had to pay at least the prevailing wage rate for all types and classifications of such work, as determined by the Prevailing Wage Act, Title 12, Chapter 4, Part 4, *Tennessee Code Annotated*.

The five-member Prevailing Wage Commission, created by Section 12-4-404, *Tennessee Code Annotated*, is composed of the commissioner of the Department of Labor and Workforce

Development, who serves as chair; the state architect; the commissioner of the Department of Transportation or a designee; and two members appointed by the Governor, who serve terms of two years. Until January 1, 2014, the commission determined the prevailing wage for state highway construction projects every year and for state building construction projects every two years. Beginning on January 1, 2014, the commission was no longer responsible for determining the prevailing wages for state building construction projects as those, henceforth, would be taken from the “Tennessee Occupational Wages Report” published by the department’s Employment Security Division.

The commission’s process for determining the prevailing wage consists of

- staff surveying construction companies for wage data during the third quarter of each year,
- staff compiling wage data for presentation to the commission,
- the commission meeting one to three times in late fall to discuss the survey results and make adjustments, and
- the commission determining the next year’s prevailing wage for each craft classification by the statutory deadline of December 1.

Our audit objective was to determine whether the setting of prevailing wages adheres to statutory requirements.

We reviewed state statute and rules and interviewed program staff. We reviewed reports from the Access database, which holds the results of the annual wage survey conducted in preparation for establishing prevailing wages for each job classification. We also performed validation testwork on the calculations shown on the reports to determine if the prevailing wage was being calculated correctly.

We determined that staff had no knowledge of the formulas in the Access database and whether or not the formulas were accurately calculating prevailing wages. Our review of the last three years’ prevailing wage calculations found that the department has been incorrectly calculating aspects of the prevailing wage since the previous commissioner changed the approach three years ago.

Finding

4. The Prevailing Wage Commission has incorrectly calculated aspects of the prevailing wage for the last three years

In the fall of 2011, the then-commissioner of the Department of Labor and Workforce Development changed the way the Prevailing Wage Commission calculated the percentage that could be added to or subtracted from the annually determined survey average wage rates per craft classification to establish the next year’s prevailing wage rates. Since then, instead of calculating the percentage using the previous year’s prevailing wage rate, the commission

calculated the percentage using the latest survey wage rate. The commission then correctly added or subtracted that percentage from the survey rate to establish the new prevailing wage. Section 12-4-404(4), *Tennessee Code Annotated*, states

The commission, if it ascertains that current economic conditions warrant, can adjust the final wage determination as developed by the documentation certified to the commission by adding to or subtracting from the determination a percentage factor of not more than six percent (6%), based on the previous year's prevailing wage rates.

Auditors reviewed documentation of highway and bridge rate calculations for the last three years, the area of rate setting the commission still retains jurisdiction over after January 1, 2014. (However, the same situation would probably have affected state building construction rate calculations.) According to documents obtained from commission staff, in the last three years, the commission has chosen to operate under the following four guidelines in determining the next year's prevailing wage:

1. If the survey rate shows an increase of more than 15% over the previous year's prevailing wage rate, the new prevailing wage rate will be set at survey rate minus 6%.
2. If the survey rate shows an increase/decrease of less than 10% of the previous year's prevailing wage rate, the new prevailing wage rate will be set at the survey rate.
3. If there are insufficient survey responses (less than 5), the new prevailing wage rate will be set at the previous year's prevailing wage rate plus (+) or minus (-) the state average percentage change from current to survey rate.
4. If the survey rate shows an increase/decrease of between 10-15% of the previous year's prevailing wage rate, the new prevailing wage rate will be set at plus (+) or minus (-) 3% of the survey rate.

The majority of craft classifications' prevailing wage rates fall under the second guideline. However, a few craft classifications fall under the first and fourth guidelines and are affected by the erroneous calculations. For example, in 2013, the prevailing wage rate for bricklayers was \$18.32 and the survey wage rate was \$23.29. When setting the 2014 prevailing wage for bricklayers, the commission followed the first guideline as the survey rate was over 15% higher than the previous (current) year's prevailing rate. Therefore, the commission set the new prevailing wage rate at the survey rate minus 6%. However, the commission calculated 6% of \$23.39 (survey rate) instead of \$18.32 (prevailing rate). The commission set the new prevailing wage rate for this classification at \$21.99, but should have set the rate at only \$22.29, a difference of \$0.30/hr.

	Survey Rate	Current 2013 Rate	Incorrect 6% Calculation	Correct 6% Calculation
Bricklayer	\$23.29	\$18.32	\$1.40	\$1.10

The errors in calculated percentages based on the first and fourth guidelines resulted in prevailing wage rates set that were anywhere from \$0.06 to \$3.32/hr. different from what the rate should have been.

**Craft Classifications Affected in 2012-2014 by
Erroneous Calculations of Prevailing Wage Rate Based on
Guidelines One and Four
And Amount of Error**

2012	2013	2014
Bricklayer (\$0.40)	Ironworkers Reinforcing (\$1.57)	Bricklayer (\$0.30)
Drill Operator (Cassion) (\$0.30)	Mechanic (Class II) Light Duty (\$3.32)	Electrician (\$2.98)
Survey Instrument Operator (\$0.38)	Powder Person Blaster (\$0.06)	Painter/Sandblaster (\$0.24)
	Truck Driver (2 axles) (\$0.38)	Survey Instrument Operator (\$1.74)

In addition, we could not replicate how the percentage rate was determined for the third guideline, which is used when there are insufficient survey responses (less than 5). Staff also had no knowledge of how this state average is calculated by the Access database from which reports are being printed.

**Craft Classifications Potentially Affected in 2012-2014 by
Unsubstantiated Calculations of Prevailing Wage Rates
Based on Guideline Three**

2012	2013	2014
Ironworkers (Structural)	Drill Operator (Cassion)	Drill Operator (Cassion)
Painter/Sandblaster	Ironworkers (Structural)	Ironworkers (Structural)
Sweeping Machine (Vacuum) Operator	Painter/Sandblaster	Sweeping Machine (Vacuum) Operator
	Sweeping Machine (Vacuum) Operator	

Recommendation

The commissioner of the Department of Labor and Workforce Development, who serves as chair of the Prevailing Wage Commission, and the commission's staff should review statute, manual operations, and the database in which commission data is housed to ensure data reliability and that both electronic and manual computations are being performed properly.

Management's Comment

We concur. The calculations for the prevailing wage in calendar year 2015 and going forward both by manual operations and by the computer database in which the commission data is housed have been adjusted in order to ensure data reliability and that both electronic and manual computations are being performed properly, in accordance with the requirements of Section 12-4-405(4), *Tennessee Code Annotated*.

Illegal Alien Employment Act Enforcement

The Illegal Alien Employment Act, Section 50-1-103, *Tennessee Code Annotated*, states that if a person(s) knowingly employs, recruits, or refers for a fee for employment an illegal alien, the commissioner of the Department of Labor and Workforce Development can conduct a contested case hearing. If the hearing finds that there is clear and convincing evidence that a person violated the Act while acting within the scope of practice of a license issued by the state or pursuant to Title 67, Chapter 4, the commissioner will request an order requiring the appropriate regulatory board (or local government, with respect to business licensure pursuant to Title 67, Chapter 4) to revoke, suspend, or deny the person's license. The commissioner will also state whether there have been previous violations of the Act.

Our objective was to determine whether the department is performing its due diligence in enforcing the Illegal Alien Employment Act.

We reviewed state statute and rules and interviewed program staff. We reviewed all complaints received (and their investigative files), which are now all closed, save one since the Act went into effect in 2008. Based on our review, the department appears to be performing its due diligence in enforcing the Illegal Alien Employment Act.

Observation

2. The department appears to be performing its due diligence in enforcing the Illegal Alien Employment Act

The Illegal Alien Employment Act is codified as Section 50-1-103(e)(f)(g), *Tennessee Code Annotated*. There have been 27 complaints against 35 businesses. All cases have been closed except one; the latest case, received in November 2013, is still open and under investigation by the U.S. Immigration and Customs Enforcement as of June 2014. The department has only held hearings on 2 of the 27 complaints, both in 2008. Only three other complaint investigations have found violations, but the department's general counsel recommended the cases be closed and not pursued further because the owners could probably successfully defend themselves under the law's safe haven provision. These owners had shown a good faith effort to obtain valid documentation, were not aware documentation presented was false, cooperated fully with the investigation, and took corrective actions immediately. Most of the businesses' owners did not hold any licenses that could be revoked under statute.

Investigative files were very detailed, from the dated log of actions and communications to the narratives of site visits and copies of documentation obtained from various state agencies as well as the businesses under investigation. Investigators almost always requested the assistance of local agents of the U.S. Immigration and Customs Enforcement agency. Investigators also made multiple attempts to communicate with complainants to obtain additional details, if the submitted complaint form lacked needed information, before closing a case for insufficient evidence. The department is enforcing the Illegal Alien Employment Act to the extent possible.

Mine Rescue Teams

The Mine Safety Unit of the Department of Labor and Workforce Development is responsible for mine rescue operations in Tennessee for underground mines as required by state law and the U.S. Mine Safety and Health Administration. Our audit objective was to determine whether there are adequate controls and plans in place to ensure that adequately trained mine rescue teams are in place as required by statute and regulations.

We reviewed state and federal statute, rules, and regulations regarding mine rescue teams. We reviewed and analyzed program records from the Mine Safety office and compared them with state and federal regulations.

We determined that state and federal regulations regarding the responsibility for and distance from mines to the location of mine rescue teams differ slightly. While the Mine Safety Unit may be in compliance with federal regulations, it is not in compliance with state law regarding some aspects of mine rescue operations.

Finding

5. The department's Mine Safety Unit is out of compliance with state statute in regard to its mine rescue teams' distance from underground mine operations

In regard to mine rescue operations, while the regulations of the U.S. Mine Safety and Health Administration (MSHA) are more detailed and pervasive, Tennessee state law also has some requirements that are slightly different from MSHA's. Because of this, the department's Mine Safety Unit is out of compliance with state statute in regard to its mine rescue operations.

Team Composition and Substitution

Section 59-12-101 et al., *Tennessee Code Annotated*, requires the commissioner of the Department of Labor and Workforce Development, based on required manpower studies to be conducted from time to time, to appoint qualified members to the mine rescue corps. The corps should be composed of eight-member teams, plus one trained substitute corps member from each mine operating within the state. However, the department's Mine Safety Unit currently operates, without the guidance of any manpower study, two 8-member teams made up of 15 private miners from 4 of the 9 private mining companies (operating 15 mines) and 1 employee of the Mine

Safety Unit. These team members are paid by the state during their monthly training and when called out on an emergency. There are no formal substitute corps members.

Distance to the Mine

State statute requires the department to locate rescue teams within two hours' travel time of every underground mine in the state without exception. Federal MSHA regulations are slightly different and require underground mine owners to make arrangements to have a rescue team at a designated rescue station within two hours of the mine. MSHA grants waivers from the federal two-hour requirement to some small mine owners that meet certain staffing criteria.

The Mine Safety Unit and its rescue corps are located in East Tennessee's Campbell County, in the city of Caryville. We analyzed the distances between the rescue station in Caryville to the 15 underground mines in the state and found 5 that were over the 2-hour requirement by 30 to 100 minutes. According to the Mine Safety Unit director, all five mines had been granted a waiver by MSHA. Following discussions, first with us and then with the Mine Safety Unit director, MSHA discovered that two of the five mines did not meet the criteria for waivers and is working with the mines to bring them into compliance with federal regulations regarding the two-hour requirement.

As pointed out, federal regulations place the responsibility of the rescue station's distance from the mine on the mine owner, whereas Tennessee statute places that responsibility on the department. A MSHA waiver does not exempt the department from its responsibilities under Tennessee statute to locate teams within two hours of every underground mine in the state. Therefore, the department is not in compliance with the two-hour requirement regarding these five mines.

Recommendation

The department may wish to discuss with the General Assembly the background of state statute regarding mine rescue and the possibility of combining resources with MSHA. The General Assembly may wish to consider, following discussions with the department and MSHA, revising statute to make it the responsibility of mine owners, rather than the department, to either be within two hours of a designated rescue station or to qualify for a waiver from MSHA. The General Assembly may wish to eliminate the requirement for manpower studies, eliminate the requirement for substitute rescue team members at each mine, and make other statutory changes necessary to align state statute with federal mine safety regulations.

Management's Comment

We concur in part. Pursuant to Section 59-12-102(c), *Tennessee Code Annotated*, teams shall be geographically located so that every underground mine in the state can be reached in two hours by a team. The state mine safety rescue team is located in Caryville, Tennessee, and there are underground mining companies that are more than two hours away from Caryville. The Mine Safety Unit would note that these underground mining companies maintain their own mine rescue stations and teams. Currently, the state mine rescue teams only provide additional

assistance to private rescue teams if needed. Therefore, there is either a state or private rescue team within two hours of each underground mine. If the statute requires a state rescue team to be located within two hours of each underground mine, the division would concur that legislative authority is needed to assist with this matter.

Boards and Commissions

As part of this performance audit, we reviewed the membership of the Board of Boiler Rules, the Elevator and Amusement Device Safety Board, and the Prevailing Wage Commission from 2010 through November 2013 based on board and commission minutes available on their websites and as listed on the Secretary of State's website to determine if statutory requirements were met and if there were attendance or quorum problems. We also reviewed documentation from staff to determine if members filed annual conflict-of-interest forms.

While the boards and commissions were in compliance on most requirements, we found issues with each board or commission that require either the attention of the department, the General Assembly, or the Governor.

Observation

3. The Board of Boiler Rules, the Elevator and Amusement Device Safety Board, and the Prevailing Wage Commission have issues that require either the attention of the department, the General Assembly, or the Governor

Board of Boiler Rules

We found no evidence in department or Secretary of State documentation that the Boiler Board had at least one member age 60 years or older as required by statute. The department needs to determine if any of the board's current members meet this requirement and document it. If no member meets the requirement, the department should notify the Governor's office immediately and recommend an appointment that satisfies the statutory requirement.

Elevator and Amusement Device Safety Board

Three board members did not sign and file conflict-of-interest forms for 2013. We also found attendance problems for three members over the course of the audit period, during which the board has only met three times based on the minutes available on the board's website. Another meeting had to be cancelled due to lack of a quorum. One of the members not attending has, according to staff, verbally resigned some time ago but, until he submits his resignation in writing, the Governor's office will not view the position as vacant. However, the member is not communicating with board staff.

These attendance issues and the lack of a statutory requirement that this board meet a certain number of times each year is problematic in light of Finding 3, which states that the

Amusement Device Unit has no inspectors and is hardly functioning six years after establishment. The General Assembly should consider revising Section 68-121-102, *Tennessee Code Annotated*, to require the board to meet regularly to provide the proper guidance needed by its struggling programs.

Prevailing Wage Commission

The members of the Prevailing Wage Commission are the commissioner of the Department of Labor and Workforce Development; the commissioner of the Department of Transportation or a designee; the state architect; and two appointees by the Governor. Statute allows only the Transportation commissioner to send a designee; however, the state architect sent a designee in his place twice during the audit period. The department should reiterate to the commission members the requirements of membership, and the commissioner of the Department of Labor and Workforce Development (the commission chair) should ensure that only properly authorized members participate in discussions and decisions.

ADMINISTRATION

This section deals with issues such as continuity of operations planning and internal auditing, which are not under the oversight of a particular division but fall under the responsibilities of the department's general administration.

Contingency for Loss of Federal Funding Within Continuity of Operations Plan or Business Resumption Plans

From October 1 through 16, 2013, the federal government entered a shutdown and curtailed most routine operations after Congress failed to enact legislation appropriating funds for fiscal year 2014, or a continuing resolution for the interim authorization of appropriations for fiscal year 2014. Regular government operations resumed October 17 after an interim appropriations bill was signed into law.

Our objective was to determine whether the department has a detailed contingency plan to deal with federal government shutdowns as they relate to the operations of the department. We reviewed the department's *Continuity of Operations Plan* and divisional business resumption plans. We determined that most plans had no provision for government shutdowns.

Observation

4. The department has only minimal guidance to address actions in case of a federal government shutdown

With an anticipated 77% of the department's fiscal year 2015 revenues coming from federal sources, the department is particularly vulnerable to fluctuations in federal funding. The

department's *Continuity of Operations Plan* only vaguely addresses the loss of federal and state funding, stating the details will be left to the divisional business resumption plans.

We obtained 13 divisional business resumption plans from the persons charged with collecting and overseeing these plans, the department's liaisons to the Tennessee Emergency Management Agency. We reviewed these plans, which are updated every fall, to see if they included provisions for the loss of federal funding. All but one dated to the fall of 2013, and only 5 of the 13 plans (Adult Education, Human Resources, Information Technology, TOSHA, and Workforce Development) addressed the loss of federal funding, all at a very high level. Generally, the plans stated that in the event of a federal shutdown, management would remain and staff would be furloughed. Based on discussion with the persons charged with overseeing these plans, nothing in the plans has been tested for reasonableness and adequacy, and no post-event assessment occurred after the October 2013 federal government shutdown even though 361 staff members from 12 areas of operation were furloughed at that time.

The commissioner may wish to formalize additional planning and guidance for the department through the *Continuity of Operations Plan*. The divisional business resumption plans should form naturally from the planning and guidance provided by the *Continuity of Operations Plan*. Provisions made for operating programs with reduced staff or temporarily shuttering a program can be similar to and exercised at the same time as those arrangements made for handling operations during a natural disaster.

Internal Audit

The department's Office of Internal Audit is composed of a director and three staff (two auditors and a clerk). Our objective was to determine the extent to which the department has an internal audit function. After reviewing the office's audit plans, audit reports, and investigations submitted to the Division of State Audit, as well as any other released audit reports and investigations since 2009 that we requested from the internal audit director, we determined that little had been reported.

Finding

6. The department has little internal auditing being documented and reported

Despite filing an annual audit plan with the Division of State Audit, as of June 16, 2014, the four-person Office of Internal Audit has issued only one internal audit report on an aspect of the operations of the Department of Labor and Workforce Development since July 2009—a report on accounts payable that was issued in March 2010. The office issued two internal employee investigations in both fiscal years 2011 and 2012 and one each in fiscal years 2013 and 2014. The office also filed with State Audit the annual statutorily required Financial Integrity Act report. While some subjects on the office's annual plans (e.g., telephone usage, inventory review, external audit follow-up, and investigations) are common activities of internal auditors (e.g., internal controls detecting unemployment insurance claims from state employees/deceased

persons or the Workers' Compensation Uninsured Employer Fund and Penalty Program), they have not resulted in a documented audit report.

Internal auditors can help an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluating and improving the effectiveness of risk management, internal controls, and governance processes. Internal auditing activity is primarily directed at evaluating internal control, which is broadly defined as a process effected by an entity's board of directors, management, and other personnel and designed to provide reasonable assurance regarding the achievement of the following core objectives:

- effectiveness and efficiency of operations,
- reliability of financial and management reporting,
- compliance with laws and regulations, and
- safeguarding of assets.

The work performed by the internal auditors should be issued via reports that summarize their findings, recommendations, and responses or action plans from management. The department's budget is in excess of \$200 million, and it manages millions more in programs such as unemployment insurance and workers' compensation. However, the Office of Internal Audit lists in its business resumption plan only administering computer access codes and issuing receipt books and check cancellation forms as its critical business functions. If a natural or man-made disaster affects the operations of the department, the internal auditors should be involved in safeguarding assets and ensuring internal controls continue to operate. Unfortunately, during the federal government shutdown in October 2013, the Office of Internal Audit's director was on a pre-planned vacation and the rest of the employees were among those furloughed for the last week of the shutdown.

Recommendation

The commissioner should ensure that the director and staff of Internal Audit provide the audit function to improve internal controls through documented reports of analyses and assessments of data and business processes. If the Office of Internal Audit cannot complete the annual audit plan as submitted to the Division of State Audit, the office should file an amended plan with State Audit. If the office must carry forward audit items to the following year, those items should be so identified in the following year's audit plan. The commissioner and the director of Internal Audit should also revise the office's business resumption plan to require the office to make sure internal controls are in place and working in the event of natural or man-made disasters.

Management's Comment

We concur in part. We concur with the auditor's assertion that little internal auditing has been performed or reported. Internal Audit staff will make a more diligent effort to perform, complete, and report internal audits.

The Office of Internal Audit has been given responsibilities, including but not limited to the following: conduct internal audits; conduct internal investigations (e.g., possible misuse of state resources; fraud; and Comptroller's Fraud, Waste, and Abuse Hotline call responses); monitor some unemployment insurance functions; assist with audits performed by the Division of State Audit within the Comptroller of the Treasury; and be a central repository for the department's annual Financial Integrity Act report. Also, the Office of Internal Audit and the Division of Information Technology jointly perform some of the department's computer security functions. Lastly, the office is facilitating a department-wide taskforce, composed of mission-critical staff who meet periodically to discuss internal controls to ensure the integrity of programs.

All of these functions assist the department's management in evaluating the core objectives of the effectiveness of operations, compliance with laws and regulations, and safeguarding of assets. One example would include an internal control finding in an internal employee investigation report, while another example is a decentralized operation discussion by the department-wide taskforce encouraged the Workplace, Regulation, and Compliance Division to change the official workstation for some inspectors. However, only internal audits and reported investigations would result in a report being submitted to the Comptroller of the Treasury. Documentation of the other functions was available for the auditors' review while they were on-site performing the audit.

Also, every allegation must be initially pursued to determine whether a full investigation is warranted and will be performed. When a full investigation is going to be performed, the Division of Investigation within the Comptroller of the Treasury is informed. In addition to the investigations mentioned in the finding, the office performed initial inquiries and reviewed documentation for five allegations in fiscal year 2014, three allegations in 2013, and one allegation in 2012.

Lastly, the unemployment insurance monitoring functions takes approximately 75% to 80% of one of the auditor's work hours to accomplish.

In the event of a natural or man-made disaster, the department's *Continuity of Operations Plan* includes the director of Internal Audit as a part of the operations team, which would be responsible for notifying and relocating employees and ensuring employees have adequate resources.

APPENDICES

APPENDIX 1 Title VI and Other Information

The Tennessee Human Rights Commission (THRC) issues a report, *Tennessee Title VI Compliance Program* (available on its website), that details agencies' federal dollars received, Title VI complaints received, whether each agency's Title VI implementation plan was filed in a timely manner, and any THRC findings taken on an agency.

According to THRC's fiscal year 2013 report, the Department of Labor and Workforce Development's Title VI implementation plan was received by the October 1, 2012, due date. THRC took no findings on the department's implementation plan. During the plan's reporting period, THRC received and referred two Title VI complaints to the department. The department reported receiving one complaint directly. All complaints were closed.

The department estimates it will receive \$173,177,000 in federal funding for fiscal year 2015.

See below for a breakdown of department staff and boards.

Department of Labor and Workforce Development Staff by Job Title, Gender, and Ethnicity As of March 28, 2014

TITLE	MALE	FEMALE	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	WHITE	OTHER
ACCOUNT CLERK	0	5	0	2	0	0	3	0
ACCOUNTANT 2	1	0	0	0	0	0	1	0
ACCOUNTANT 3	0	1	0	0	0	0	1	0
ACCOUNTING MANAGER	0	1	0	0	0	0	1	0
ACCOUNTING TECHNICIAN 1	1	0	0	0	0	0	1	0
ACCOUNTING TECHNICIAN 2	0	2	0	0	0	0	2	0
ADMIN ASSISTANT 1	1	13	0	6	0	0	8	0
ADMIN ASSISTANT 2	0	3	0	0	0	0	3	0
ADMIN ASSISTANT 3	0	8	0	0	0	0	8	0
ADMIN SECRETARY	0	23	0	4	0	0	19	0
ADMIN SERVICES ASSISTANT 1	0	1	0	0	0	0	1	0
ADMIN SERVICES ASSISTANT 2	4	39	0	17	0	0	26	0
ADMIN SERVICES ASSISTANT 3	0	9	0	1	0	0	8	0
ADMIN SERVICES ASSISTANT 4	0	6	0	2	0	0	4	0
ADMIN SERVICES ASSISTANT 5	4	6	0	4	0	0	6	0

TITLE	MALE	FEMALE	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	WHITE	OTHER
ADMIN SERVICES MANAGER	0	1	0	0	0	0	1	0
AFFIRMATIVE ACTION OFFICER 2	0	1	0	1	0	0	0	0
AMUSEMENT DEVICE INSP MGR	1	0	0	0	0	0	1	0
AMUSEMENT DEVICE INSPECTOR	1	0	0	0	0	0	1	0
ATTORNEY 3	7	4	0	2	0	0	9	0
ATTORNEY 4	1	2	0	0	0	0	3	0
AUDIT DIRECTOR 1	1	0	0	0	0	0	1	0
AUDITOR 2	1	0	0	0	0	0	1	0
AUDITOR 4	1	2	0	0	0	0	3	0
BOARD MEMBER	2	1	0	0	0	0	3	0
BOILER INSPECTOR 2	13	0	0	0	0	0	13	0
BOILER INSPECTOR 3	1	0	0	1	0	0	0	0
CAREER SPECIALIST	40	115	0	46	1	0	108	0
CHEMIST 3	0	1	0	0	0	0	1	0
CHEMIST 4	0	1	0	0	0	0	1	0
CLERK 1	1	1	0	0	0	0	2	0
CLERK 2	1	5	0	2	0	0	4	0
CLERK 3	1	8	0	2	0	0	7	0
COMMISSIONER 1	1	0	0	0	0	0	1	0
COMPUTER OPERATIONS MANAGER 1	0	1	0	0	0	0	1	0
DATA ENTRY OPERATOR	2	5	0	1	0	0	6	0
DATA ENTRY OPS SUPERVISOR 2	0	1	0	1	0	0	0	0
DATABASE ADMINISTRATOR 2	1	0	0	0	0	0	1	0
DATABASE ADMINISTRATOR 3	2	0	1	0	0	0	1	0
DEPUTY COMMISSIONER 2	1	0	0	0	0	0	1	0
EDUC CONSULTANT 2	0	1	0	0	0	0	1	0
EDUC CONSULTANT 3	1	3	0	0	0	0	4	0
ELEVATOR INSPECTOR 1	10	0	0	0	1	0	9	0
ELEVATOR INSPECTOR 2	16	0	0	0	1	0	15	0
ELEVATOR INSPECTOR 3	1	0	0	0	0	0	1	0
ELEVATOR INSPECTOR 4	1	0	0	0	0	0	1	0
EMP COUNSELOR 2	2	2	0	1	0	0	3	0
EMP PROGRAM SPECIALIST 1	5	6	0	3	0	0	8	0
EMP PROGRAM SPECIALIST 3	1	1	0	1	0	0	1	0
EMP PROGRAM SPECIALIST 4	2	1	0	0	0	0	3	0
EMP SECURITY DIV ASST DIR 1	2	2	0	0	0	0	4	0
EMP SECURITY DIV ASST DIR 2	0	2	0	0	0	0	2	0
EMP SECURITY DIV DIRECTOR 1	3	1	0	1	0	0	3	0
EMP SECURITY DIV DIRECTOR 2	5	1	0	0	0	0	6	0
EMP SECURITY INTERVIEWER 2	0	1	0	0	0	0	1	0

TITLE	MALE	FEMALE	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	WHITE	OTHER
EMP SECURITY INTERVIEWER SUPV	4	7	0	3	0	0	8	0
EMP SECURITY MANAGER 1	3	2	0	1	0	0	4	0
EMP SECURITY MANAGER 2	5	5	0	1	1	0	8	0
EMP SECURITY MANAGER 3	5	8	0	3	0	0	10	0
EXECUTIVE ADMIN ASSISTANT 1	0	1	0	1	0	0	0	0
EXECUTIVE ADMIN ASSISTANT 2	0	3	0	2	0	0	1	0
EXECUTIVE ADMIN ASSISTANT 3	1	2	0	2	0	0	1	0
EXECUTIVE SECRETARY 1	0	4	0	0	0	0	4	0
EXECUTIVE SECRETARY 2	0	1	0	0	0	0	1	0
FACILITIES MANAGER 3	1	0	0	0	0	0	1	0
GENERAL COUNSEL 3	0	1	0	1	0	0	0	0
GRANTS ANALYST 3	1	5	0	0	0	0	6	0
GRANTS PROGRAM MANAGER	4	1	0	3	0	0	2	0
GRAPHICS DESIGNER 1	0	1	0	0	0	0	1	0
HR ANALYST 1	0	1	0	1	0	0	0	0
HR ANALYST 2	0	4	0	3	0	0	1	0
HR ANALYST 3	0	1	0	0	0	0	1	0
HR MANAGER 1	0	2	0	0	0	0	2	0
INDUSTRIAL HYGIENIST 1	2	5	0	1	0	0	6	0
INDUSTRIAL HYGIENIST 3	7	2	0	1	0	0	8	0
INDUSTRIAL HYGIENIST MANAGER	2	0	0	0	0	0	2	0
INDUSTRIAL HYGIENIST SUPV	8	3	0	1	0	0	10	0
INFO RESOURCE SUPPORT SPEC 2	1	0	0	0	0	0	1	0
INFO RESOURCE SUPPORT SPEC 3	4	1	0	0	0	0	5	0
INFO RESOURCE SUPPORT SPEC 4	4	0	0	1	0	0	3	0
INFORMATION OFFICER	0	1	0	0	0	0	1	0
INFORMATION SYSTEMS ANA 3	1	1	0	0	0	0	2	0
INFORMATION SYSTEMS ANA 4	0	2	0	1	0	0	1	0
INFORMATION SYSTEMS CONSULT	0	3	0	0	0	0	3	0
INFORMATION SYSTEMS DIR-ES	0	1	0	0	0	0	1	0
INFORMATION SYSTEMS DIRECTOR 2	1	0	0	0	0	0	1	0
INFORMATION SYSTEMS MANAGER 2	2	0	0	0	0	0	2	0
INFORMATION SYSTEMS MANAGER 3	0	1	0	0	0	0	1	0
LABOR STANDARDS INSPECTOR	5	5	0	1	1	0	8	0
LEAD DATA ENTRY OPERATOR	0	2	0	1	0	0	1	0
LEGAL ASSISTANT	1	2	0	0	0	0	3	0
LEGAL SERVICES DIRECTOR	1	0	0	0	0	0	1	0
LWFD ADMINISTRATOR 1	2	4	0	1	0	0	5	0
LWFD ADMINISTRATOR 2	2	2	0	1	0	0	3	0
LWFD ASSISTANT ADMINISTRATOR 1	3	2	0	0	0	0	5	0

TITLE	MALE	FEMALE	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	WHITE	OTHER
LWFD ASSISTANT ADMINISTRATOR 2	3	0	0	0	0	0	3	0
LWFD WIA DIRECTOR	1	0	0	1	0	0	0	0
LWFD WIA TECHNICAL EDUC SPEC	0	1	0	1	0	0	0	0
MAINFRAME COMPUTER OPER 2	1	0	0	0	0	0	1	0
MAINFRAME COMPUTER OPER 3	0	1	0	1	0	0	0	0
MINE RESCUE WORKER	10	0	0	0	0	0	10	0
MINE SAFETY DIRECTOR	1	0	0	0	0	0	1	0
MINE SAFETY INSTRUCTOR	2	0	0	0	0	0	2	0
OCC SAF SPECIALIST 1	2	1	0	1	0	0	2	0
OCC SAF SPECIALIST 2	1	0	0	0	0	0	1	0
OCC SAF SPECIALIST 3	10	5	1	2	0	0	12	0
OCC SAF SPECIALIST MANAGER	3	1	0	0	1	0	3	0
OCC SAF SPECIALIST SUPERVISOR	8	1	0	1	0	0	8	0
OFFICE SUPERVISOR 3	0	1	0	0	0	0	1	0
PHYSICIAN	3	0	0	0	0	0	3	0
PROCUREMENT OFFICER 2	0	1	0	1	0	0	0	0
PROGRAM MONITOR DIRECTOR	1	0	0	1	0	0	0	0
PROGRAMMER/ANALYST 2	0	1	0	0	0	0	0	1
PROGRAMMER/ANALYST 3	7	2	1	0	0	0	8	0
PROGRAMMER/ANALYST 4	3	1	0	1	0	0	3	0
PROGRAMMER/ANALYST SUPERVISOR	3	1	1	0	0	0	3	0
PUBLICATIONS EDITOR 2	0	1	0	0	0	0	1	0
SECRETARY	1	16	0	9	0	0	8	0
STATISTICAL ANALYST 2	2	6	0	2	0	0	6	0
STATISTICAL ANALYST 3	3	2	1	1	0	0	3	0
STATISTICAL ANALYST 4	3	1	0	0	0	0	4	0
STATISTICAL ANALYST SUPERVISOR	1	1	0	0	0	0	2	0
STATISTICIAN 2	1	0	0	0	0	0	1	0
STATISTICIAN 3	1	0	1	0	0	0	0	0
STATISTICS DIRECTOR	0	1	0	1	0	0	0	0
STORES CLERK	0	1	0	1	0	0	0	0
UNEMP ACCOUNTS AIDE 1	2	2	0	2	0	0	2	0
UNEMP ACCOUNTS AIDE 2	3	4	1	3	0	0	3	0
UNEMP ACCOUNTS AUD 2	18	15	4	6	0	1	22	0
UNEMP ACCOUNTS AUD 3	6	5	0	1	0	0	10	0
UNEMP ACCOUNTS AUDITOR SUPV 1	3	2	0	0	0	0	5	0
UNEMP ACCOUNTS AUDITOR SUPV 2	1	0	0	0	0	0	1	0
UNEMP ACCOUNTS SUPERVISOR	0	3	0	1	0	0	2	0
UNEMP BENEFIT AIDE 1	0	7	0	2	1	0	4	0
UNEMP BENEFIT AIDE 2	2	5	0	3	0	0	4	0

TITLE	MALE	FEMALE	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	WHITE	OTHER
UNEMP BENEFIT SUPERVISOR	0	1	0	0	0	0	1	0
UNEMP BENEFITS AUDITOR	3	8	0	4	0	0	7	0
UNEMP CLAIMS ADJUDICATOR	7	28	0	10	1	1	23	0
UNEMP CLAIMS INVESTIGATOR	2	8	0	4	0	0	6	0
UNEMP HEARING OFFICER 2	10	9	0	9	0	0	10	0
UNEMP HEARING OFFICER 3	2	0	0	0	0	0	2	0
UNEMP PROGRAM SPECIALIST 1	0	3	0	1	0	0	2	0
UNEMP PROGRAM SPECIALIST 2	0	2	0	0	0	0	2	0
UNEMP PROGRAM SPECIALIST 3	3	12	0	5	0	0	10	0
UNEMP PROGRAM SPECIALIST 4	4	2	0	1	1	0	4	0
UNEMPLOYMENT CLAIMS AGENT	40	92	0	57	4	0	71	0
VETERANS' EMPLOYMENT REP 1	1	0	0	0	1	0	0	0
VETERANS' EMPLOYMENT REP 2	14	5	0	3	0	0	16	0
VETERANS' OUTREACH SPEC 1	10	2	0	1	1	0	10	0
VETERANS' OUTREACH SPEC 2	9	5	0	3	0	0	11	0
WC NURSE CONSULTANT	0	1	0	0	0	0	1	0
WEBSITE DEVELOPER 1	0	1	0	0	0	0	1	0
WORD PROCESSING OPERATOR 1	1	2	0	1	0	0	2	0
WORKERS' COMP COMPLIANCE SPEC 1	4	3	0	0	1	0	6	0
WORKERS' COMP COMPLIANCE SPEC 2	1	1	0	0	0	0	2	0
WORKERS' COMP DIRECTOR	1	0	0	0	0	0	1	0
WORKERS' COMP MEDIATION SPEC	13	12	0	4	0	0	21	0
WORKERS' COMP PROG COORDINATOR	4	9	0	2	0	0	11	0
WORKERS' COMP REP SUPV	0	1	0	0	0	0	1	0
WORKERS' COMP SPECIALIST 1	4	3	0	2	0	0	5	0
WORKERS' COMP SPECIALIST 2	0	1	0	0	0	0	1	0
WORKERS' COMP SPECIALIST 3	0	1	0	0	0	0	1	0
WORKERS' COMP SPECIALIST 4	8	10	0	1	0	0	17	0
WORKERS' COMP SPECIALIST 5	3	0	0	0	0	0	3	0
WORKERS' COMP SPECIALIST 6	2	0	0	0	0	0	2	0
WORKFORCE DEV PROGRAM COOR	0	1	0	0	0	0	1	0
WORKFORCE DEV PROGRAM DIR	2	2	0	1	0	0	3	0
TOTAL	463	687	11	279	16	2	841	1

**Board of Boiler Rules
Gender and Ethnicity
March 2010 – August 2013**

	White	Black
Male	6	1
Female	0	0

**Elevator and Amusement Device Safety Board
Gender and Ethnicity
December 2011 – June 2013**

	White	Black
Male	8	0
Female	1	1

**Prevailing Wage Commission
Gender and Ethnicity*
August 2010 – September 2013**

	White	Black
Male	2	0
Female	0	0

*Three additional members are *ex officio* and not included above: the commissioner of the Department of Labor and Workforce Development, the commissioner of the Department of Transportation (or designee), and the state architect.

APPENDIX 2 Performance Measures Information

In April 2013, the General Assembly passed the Tennessee Governmental Accountability Act of 2013. This changed the state’s requirements for department performance measures. The department reported two measures in the Governor’s new customer-focused program.

As stated in the Tennessee Governmental Accountability Act, “accountability in program performance is vital to effective and efficient delivery of government services, and to maintain public confidence and trust in government.” In accordance with this act, all executive-branch state agencies are required to submit annually to the Department of Finance and Administration a strategic plan and program performance measures. The Department of Labor and Workforce Development’s priority goals, as reported for the second quarter (March 2014) on the Governor’s Customer Focused Government Monthly Results website, are included below. The department provided neither a purpose for its goals nor a source for the web report.

Priority Goals and Measures

Priority Goal 1: Adult Education: Increase the number of high school equivalency diplomas issued in 2014 by 20 percent over program year 2013.

Purpose of the Goal: [Department left blank.]

Measuring the Goal:

	Baseline	Current	Target
# of program diplomas issued in program year	2,541	3,850	3,048
Source: [Department left blank.]			

Priority Goal 2: Workforce Services: Assist 45,000 job seekers per quarter to enter employment.

Purpose of the Goal: [Department left blank.]

Measuring the Goal:

	Baseline	Current	Target
# of individuals who have entered employment per quarter	45,000	48,733	50,000
Source: [Department left blank.]			

We did not audit, sample, or test this information, the procedures used to determine the information, or the controls over the validity of the information.

**APPENDIX 3
Budget Information**

**Estimated Budget
For the Fiscal Year Ending June 30, 2014**

<i>Source</i>	<i>Amount</i>	<i>Percent of Total</i>
State	\$ 50,058,000.00	21.65%
Federal	\$173,177,000.00	74.90%
Other	\$ 7,970,700.00	3.45%
Total	\$231,205,700.00	100.00%

<i>Account</i>	<i>State</i>	<i>Federal</i>	<i>Other</i>	<i>Total</i>
Administration	\$ 3,588,200	\$ 13,189,100	\$ 34,000	\$ 16,811,300
TN Occupational Safety and Health Administration	5,219,000	4,328,800	34,600	9,582,400
Mines	387,400	123,000	71,100	581,500
Boilers and Elevators	5,069,400	0	64,800	5,134,200
Workers' Compensation	14,513,300	0	183,900	14,697,200
Workers' Compensation Employee Misclassification	734,200	0	0	734,200
Second Injury Fund	9,872,400	0	275,000	10,147,400
Labor Standards	1,239,300	100	0	1,239,400
Workforce Development	0	70,211,900	179,700	70,391,600
Adult Basic Education	4,765,100	11,179,500	0	15,944,600
Job Services	0	37,171,000	103,400	37,274,400
Unemployment Insurance	4,669,700	36,973,600	7,024,200	48,667,500
Total	\$50,058,000	\$173,177,000	\$7,970,700	\$231,205,700

Source: State budget for fiscal year 2015.