



**TENNESSEE HUMAN RIGHTS COMMISSION
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December 4, 2017

Julie Maguire Vallejo
Legislative Liaison
Division of State Audit
Office of the Comptroller
Suite 1500 James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

Re: 2016 Performance Audit Status Report

Ms. Vallejo,

This letter is in response to the request for an update on the progress the Tennessee Human Rights Commission (the "THRC") has made towards implementation of the recommendations from the September 8, 2016 Performance Audit. This status report covers the time period from July 1, 2017 through November 30, 2017.

1. Finding 1: The Tennessee Human Rights Commission did not always meet either timing milestones required by state law or internal procedures when investigating employment complaints.

- In October 2016, the employment Standard Operating Procedures (the "SOP") were updated to address the following:
 - A combined Respondent's Acknowledgement/Contact Letter can be sent when additional information is required. Investigative supervisors were notified of this during the October 2016 regional coordinators' meeting.
 - The 40 day internal goal for complaint assignment was revised to include an average measurement; this goal will be affected when parties have requested extensions to submit documentation, mediation is attempted, or when Respondents fail to meet the agreed upon deadline.

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The THRC reviewed all employment complaints processed from July 1, 2017 through November 30, 2017, for a total of 161 assigned complaints and 151 closed complaints. Our review showed improvement in all areas as noted below.

- Staff met the timeliness goal for complaints being assigned within an average of 40 days. For this time period, 154 complaints were prepared for assignment with an average of 32 days from acceptance to receipt of the position statement. There were 36 complaints that were over the 40 days due to mediation, request for extension, and/or Respondent delay in providing the information on the agreed upon date; 1 to 85 days.
- Staff met the timeliness goal for submitting investigative plans within 10 working days of receipt. Of the 161 complaints assigned during this time frame, staff timely submitted the investigation plan in all complaints (100%). Emails were sent thanking staff for their efforts in reaching and maintaining this standard.
- Staff met the timeliness goal for reconsideration. There were 6 employment reconsiderations during this timeframe; all 6 were closed within the statutory timeframe. Completion of reconsiderations in 30 calendar days continues to be a challenge for staff due to the necessity of further investigation, and in complaints involving numerous or complex issues and evidence.

2. Finding 2: When investigating housing complaints, the Tennessee Human Rights Commission did not always meet either timing milestones required by state law or its memorandum of understanding with the U.S. Department of Housing and Urban Development.

In June 2016, the housing Standard Operating Procedures (the "SOP") were updated to include the reconsideration policy and an email was sent to staff reminding them of the 10 day standard for sending acceptance and notification letters.

The Intake function in the housing unit is performed by the housing investigators on a weekly rotation. The THRC has ongoing discussions on how to improve the intake procedures. After the assessment of the temporary new procedures implemented in September 2016 indicated improvement, the THRC fully implemented the process in February 2017. The new procedure includes having the Housing Coordinator send an email notification to the investigator that the complaint has been assigned; the investigator then sends the acceptance and notification letters using the information in the system instead of waiting to receive the complaint. Since the implementation of this new procedure, letters have been timely sent. The THRC will codify this procedure in its SOP during its next review cycle.

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The THRC reviewed all closed housing complaints processed from July 1, 2017 through November 30, 2017, for a total of 44 housing complaints. Our review showed improvement in all areas as noted below:

- In 1 instance, staff did not meet the timeliness standard for sending the acceptance letter to Complainant within 10 days of accepting the inquiry as a complaint. During this timeframe, 33 complaints were accepted for investigation. Staff timely sent the acceptance letters in 32 of 33 instances (97%); in one instance, the letter was sent 1 day late (August 2017). The implemented new procedures and ongoing training continue to show strong results.
- In 1 instance, staff did not meet the timeliness standard for sending the notification letter to Respondents within 10 days of accepting the inquiry as a complaint. The review of sending notification letters followed the same process as the acceptance letters above. From the same timeframe, 33 complaints were accepted for investigation. Staff timely sent the notification letter in 32 of 33 instances (97%); in one instance, the letter was sent 1 day late (August 2017).
- Staff met the timeliness goal for reconsideration. There were 3 housing reconsiderations during this timeframe. In all 3 reconsiderations (100%), THRC made a decision within the statutory timeframe; however, the complaints remain open. All 3 complaints were complex involving partial findings of reasonable cause to believe a violation of the law occurred. After legal analysis and review, in the first complaint it was determined further investigation was needed. In the second complaint, THRC was ready to close the complaint but granted the Complainant's Representative request for extension to provided additional information. In the third complaint, reasonable cause was found and the complaint is pending further administrative processing.

The housing unit continues to experience limited staff resources. As of July 1, 2016, the THRC operated with two seasoned investigators and one investigator with less than twelve months of experience. Two new investigators were hired in September 2016. A seasoned investigator resigned in October 2016 and was replaced four months later. As of February 1, 2017, THRC had one seasoned investigator, one investigator with two years of experience, and three investigators with less than four months' experience, in addition to three cross-trained investigators working part-time in housing during the fiscal year. At the end of July and beginning of August, the recent new hires resigned. These positions were filled in October 2017.

Because of the limited experienced staff, THRC developed a three-day in-person comprehensive training with all housing staff, attorneys, and managers. We further developed a plan for quarterly training, one-on-one training and triaging of aged complaints. All of these efforts resulted in the agency closing 117 complaints; 80 of those complaints (or 68%) were older than one hundred days, and 54 (or 45%) of those complaints were older than 300 days. As of October 31, 2017 THRC closed 42 complaints, and caused 2 substantially aged complaints identified in

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the December 2016 Aged Complaint Reduction Plan. Six complaints remain in investigation with the anticipated closure date of January 2018.

To assess the turnover issue, the agency conducted exit interviews where staff shared that they found higher salaried positions both inside and outside state government. In response, THRC continues to make budget requests to increase investigators' salaries (Human Rights Representative) and/or provide additional positions which are subject to approval by Finance and Administration, the Governor, and the Legislature. Currently, the state performance management system includes pay-for-performance and flexible work schedules, which are good recruiting and retention tools.

The THRC will continue to monitor the issues on a monthly basis to ensure staff meets the timing milestones. We are reporting these issues on a monthly basis and have tied standards to staff's performance management reviews for compliance. The results of our review showed once staff was reminded and/or provided additional guidance, we saw improvement. All of these requested actions were included in the Commission's risk assessment.

3. Finding 3: The Tennessee Human Rights Commission did not provide adequate internal controls in two specific areas.

The details of this finding are confidential pursuant to Tennessee Code Annotated Section 10-7-504(i). However, THRC has implemented effective internal controls to ensure compliance with applicable requirements, and we are monitoring to ensure the risks are mitigated. All requested actions were included in the Commission's annual risk assessment.

If you need additional information please let me know.

Sincerely,



Beverly L. Watts
Executive Director