



PERFORMANCE AUDIT REPORT

Tennessee Commission on Aging and Disability

August 2019

Justin P. Wilson
Comptroller of the Treasury



DIVISION OF STATE AUDIT

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JUSTIN P. WILSON
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August 1, 2019

The Honorable Randy McNally
Speaker of the Senate
The Honorable Glen Casada
Speaker of the House of Representatives
The Honorable Kerry Roberts, Chair
Senate Committee on Government Operations
The Honorable Martin Daniel, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, TN 37243
and

Ms. Leslee Bibb, Commission Chair
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and
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and
Mr. Jim Shulman, Executive Director
Tennessee Commission on Aging and Disability
9th Floor, Andrew Jackson Building
Nashville, TN 37243

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Tennessee Commission on Aging and Disability for the period July 1, 2015, through May 31, 2019. This audit was conducted pursuant to the requirements of the Tennessee Governmental Entity Review Law, Section 4-29-111, *Tennessee Code Annotated*.

Our audit disclosed certain findings, which are detailed in the Audit Conclusions section of this report. Management of the commission has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the commission should be continued, restructured, or terminated.

Sincerely,

A handwritten signature in black ink that reads "Deborah V. Loveless".

Deborah V. Loveless, CPA, Director
Division of State Audit

DVL/jd
19/047



Division of State Audit

Tennessee Commission on Aging and Disability

Performance Audit
August 2019

Our mission is to make government work better.

AUDIT HIGHLIGHTS

Tennessee Commission on Aging and Disability's Mission

To bring together and leverage programs, resources, and organizations to protect and ensure the quality of life and independence of older Tennesseans and adults with disabilities.

We have audited the Tennessee Commission on Aging and Disability for the period July 1, 2015, through May 31, 2019. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, procedures, and provisions of contracts or grant agreements in the following areas:

Scheduled Termination Date:

June 30, 2020

- subrecipient monitoring;
- public records management;
- commission members and conflict-of-interest forms;
- information systems; and
- staff turnover.

KEY CONCLUSIONS

FINDINGS

- Commission management did not require Area Agencies on Aging and Disability to perform sufficient monitoring of senior centers, increasing the risk of errors, noncompliance, fraud, waste, and abuse (page 17).
- Commission management and staff did not adhere to records management standards (page 29).

OBSERVATIONS

The following topics are included in this report because of their effect on the operations of the commission and on the citizens of Tennessee:

- Although the commission's management has improved its subrecipient monitoring procedures, it still has not met all federal and state monitoring requirements (page 23).
- Commission management should ensure that all subrecipients use the current program monitoring tools (page 25).
- Commission management should ensure the Area Agencies on Aging and Disability educate their subcontractors on appropriate gaming activities (page 26).
- The commission has had extended vacancies and should continue to coordinate with the Governor's Office for member appointments in accordance with state statute (page 36).
- The commission should ensure that all members annually complete conflict-of-interest forms (page 37).

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
Audit Authority	1
Background	1
AUDIT SCOPE	8
PRIOR AUDIT FINDINGS	8
Report of Actions Taken on Prior Audit Findings	8
Resolved Audit Findings	9
Partially Resolved Audit Finding	9
Repeated Audit Finding	9
AUDIT CONCLUSIONS	9
Subrecipient Monitoring	9
Finding 1 – Commission management did not require Area Agencies on Aging and Disability to perform sufficient monitoring of senior centers, increasing the risk of errors, noncompliance, fraud, waste, and abuse	17
Observation 1 – Although the commission’s management has improved its subrecipient monitoring procedures, it still has not met all federal and state monitoring requirements	23
Observation 2 – Commission management should ensure that all subrecipients use the current program monitoring tools	25
Observation 3 – Commission management should ensure the Area Agencies on Aging and Disability educate their subcontractors on appropriate gaming activities	26
Public Records Management	27
Finding 2 – Commission management and staff did not adhere to records management standards	29
Commission Members and Conflict-of-Interest Forms	33
Observation 4 – The commission has had extended vacancies and should continue to coordinate with the Governor’s Office for member appointments in accordance with state statute	36
Observation 5 – The commission should ensure that all members annually complete conflict-of-interest forms	37

TABLE OF CONTENTS (CONTINUED)

	<u>Page</u>
Information Systems	37
Staff Turnover	38
APPENDICES	40
Appendix 1 – Letter From the Comptroller of the Treasury to the Commission on Aging and Disability	40
Appendix 2 – Letter From the Commission on Aging and Disability to the Comptroller of the Treasury	41
Appendix 3 – Tennessee Nonprofit Gaming Law Requirements	42
Appendix 4 – Commission Members as of June 12, 2019	43

INTRODUCTION

AUDIT AUTHORITY

This performance audit of the Tennessee Commission on Aging and Disability was conducted pursuant to the Tennessee Governmental Entity Review Law, Title 4, Chapter 29, *Tennessee Code Annotated*. Under Section 4-29-241, the commission is scheduled to terminate June 30, 2020. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agency 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 Tennessee Commission on Aging and Disability should be continued, restructured, or terminated.

BACKGROUND

In 1963, the Tennessee General Assembly created the Tennessee Commission on Aging to be the designated state agency on aging. The commission was mandated to provide leadership on all aging issues on behalf of older persons in this state, through the development of the *Tennessee State Plan on Aging*, policy development, administration, coordination, priority setting, and evaluation. In 2001, the legislature expanded the commission's authority to provide services to adults with physical disabilities under age 60 and changed its name to the Tennessee Commission on Aging and Disability. The federal Older Americans Act of 1965 provides funding to states for a comprehensive array of services designed to help older Americans retain their independence, as well as the administrative infrastructure necessary to deliver these services. In Tennessee, the Commission on Aging and Disability is responsible for administering the federal funds provided by the Older Americans Act, as well as additional state and grant funding. The commission does not provide any services directly to the state's citizens.

The commission is a 22-member policy- and decision-making board, including 13 Governor-appointed members, 2 non-voting representatives from the General Assembly, and 7 ex-officio members who are members by virtue of their positions. To assist in fulfilling its mission, the commission employs an Executive Director and 28 staff members. See the organizational chart on page 6.

The commission contracts to form partnerships with nine area agencies across the state, commonly known as Area Agencies on Aging and Disability (AAADs). The nine agencies function as the commission's subrecipients and are the commission's principal agents for carrying out the mandates of the Older Americans Act. Each AAAD serves as the focal point for all issues relative to the welfare of older persons in its respective planning district. AAADs perform a wide range of activities related to advocacy, planning, coordination, interagency connections, information sharing, brokering, monitoring, and evaluation. These activities help develop and enhance comprehensive and coordinated community-based systems that serve all communities. See **Exhibit 1** on page 7 for a map indicating the AAADs and the counties they serve.

Planning and Programs

To administer the Older Americans Act, the commission develops and submits the *Tennessee State Plan on Aging* to the federal Administration for Community Living for approval. The most recently approved plan covers the period of October 1, 2017, through September 30, 2021. The plan addresses the goals the commission has for providing services, as well as objectives, strategies, and performance measures for each goal; the types of services offered, organized by funding source; and a statewide needs assessment to determine what is working well and to gain a broad understanding of challenges that older adults face.

To better understand challenges facing older adults across the state and to aid in policy development, the commission also compiles various statistics in the annual *State of Aging in Tennessee* report, which organizes the data by county. For each county, data reported includes demographics; the Food Environment Index;¹ and the number of individuals who have difficulty walking, reported falling, received the influenza vaccine, are raising grandchildren, are burdened by housing costs,² or are living in poverty.

Through each AAAD, the commission has undertaken the following projects and initiatives to fulfill its legislatively required duties:

Older Americans Act-Funded Programs

The National Family Caregiver Support Program helps families care for older relatives with chronic illness or disability in their homes. This program provides assistance to adults age 60 and over; adults with Alzheimer’s disease or a related disorder; and grandparents/relative caregivers (not parents) who are 55 years old or older and caring for a minor child. The services include

- counseling and support groups,
- caregiver training,
- respite care,
- personal care,
- homemaker services, and
- adult daycare.

The commission coordinates programs for health promotion and disease prevention that offer proven ways to encourage and support healthy aging among older adults. These programs are based on studies of the effects of specific approaches or model programs. There are established

¹ The Food Environment Index ranges from 0 (worst) to 10 (best) and weighs proximity to a grocery store, income, and food insecurity in determining the score. See <http://www.countyhealthrankings.org/explore-health-rankings/measure-data-sources/county-health-rankings-model/health-factors/health-behaviors/diet-exercise/food-environment-index> for more information.

² The report defines “housing-cost burdened” as spending more than 30% of one’s income on housing.

criteria for determining if programs are evidence-based, and approved programs are eligible for funding through the Older American's Act Title III-D or other discretionary funding.

Home and Community Based Services (HCBS) provides adults age 60 and over and adults with physical disabilities who are at risk of entering long-term care facilities with the option of receiving services in their homes. Clients receive services offered through HCBS based on availability and level of need. The services include homemaker services, personal care, and home-delivered meals.

The Information and Assistance (I&A) program is intended to connect people to health and human services needs in their community, as well as to provide general information. I&A specialists are trained to establish whether callers may be eligible for certain programs, to help in crisis situations, and to provide extra assistance when needed.

The Long-Term Care Ombudsman program provides assistance to elderly Tennesseans residing in nursing homes, homes for the aged, and assisted care living facilities. The ombudsman is available to help residents and their families resolve questions or problems and advocates for solutions to problems for qualified residents of long-term care facilities. Concerns addressed by the ombudsman can include quality of care, financial information, resident rights, admissions, transfers, and discharges. Also included are questions regarding nursing homes, homes for the aged, assisted care living facilities, Medicaid, and Medicare.

The Aging Nutrition program provides meals; socialization; and nutrition education and counseling to adults age 60 and over. These services are provided in over 200 congregate settings (such as senior centers or senior housing), as well as to homebound older adults in all 95 Tennessee counties. The Supplemental Nutritional Assistance Program (SNAP) has special eligibility criteria for older adults. The Aging Nutrition program provides outreach and education on SNAP benefits and healthy eating to seniors to bridge the gap in nutrition needs. Regional coordinators provide SNAP application assistance.

State- and Grant-Funded Programs

OPTIONS for Community Living is a state-funded program created to provide the elderly, as well as adults under age 60 with physical disabilities, home- and community-based service choices. The services are provided to clients based on availability and level of need. They include homemaker services, personal care, and home-delivered meals. To be eligible, an individual must

- be a resident of Tennessee;
- be 18 years old or older; and
- be limited in the ability to perform daily living activities.

The program assists adults with physical and/or cognitive disabilities (excluding individuals with intellectual disabilities, who receive assistance from the Tennessee Department of Intellectual and Developmental Disabilities). There is no income eligibility requirement for this program, but there is a sliding fee scale based on income.

The commission, in conjunction with other agencies, has developed and implemented the Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) program in Tennessee. CREVAA serves all 95 counties in Tennessee and addresses the unmet needs of elder and vulnerable adult victims of crime by providing local advocates to ensure the victims receive direct services. CREVAA works with stakeholders, including Adult Protective Services, law enforcement, district attorneys, and other aging service providers. The program is funded through the Tennessee Office of Criminal Justice Project and with funds from the federal Victims of Crime Act.

The Tennessee Public Guardianship for the Elderly program ensures the health and welfare of some of the state's most vulnerable residents by serving as the court-appointed guardian for individuals age 60 and over who, due to physical or mental limitations, are unable to make personal decisions regarding their health and financial resources. Courts use the program as a public option of last resort for individuals who have no other family member, friend, bank, or corporation willing, able, or suitable to act on their behalf. This program is funded through state appropriations and is administered by the commission.

The State Health Insurance Assistance Program (SHIP) is a national program that provides free and objective one-on-one counseling, information, and help to people with Medicare, people who may need Medicare, and people looking into Medicare for someone else.

The commission maintains lists of transportation resources for older adults throughout Tennessee. One of these resources is the MyRide TN program. MyRide TN is an expanding, sustainable, senior-friendly volunteer transportation service through which volunteer drivers use their personal vehicles to carry older Tennesseans to a variety of destinations, including medical appointments and grocery stores. Rides are provided Monday through Friday, and priority is given to doctor appointments.

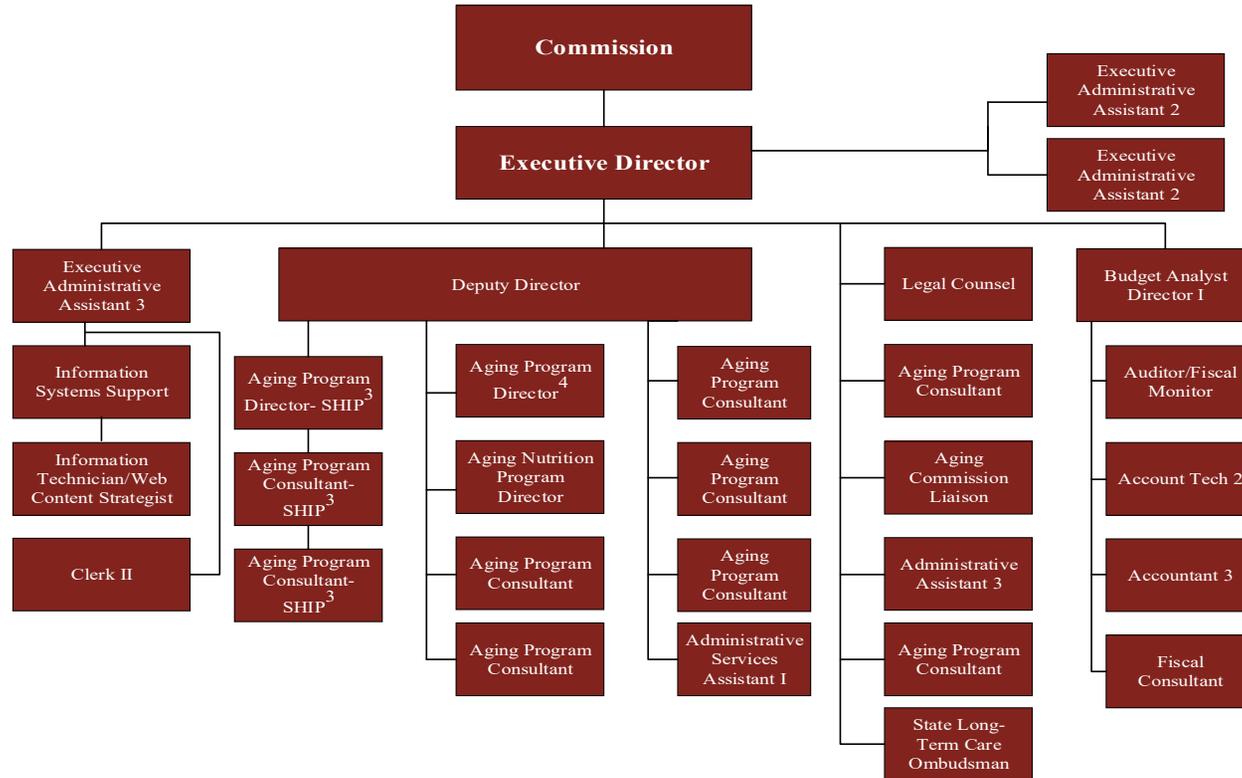
The commission's business unit code in Edison is 31602. See **Table 1** on the following page for a summary of the commission's revenues and expenditures for fiscal years 2015 through 2019.

Table 1
Tennessee Commission on Aging and Disability
Allotment Code 31602
Expenditure and Revenue Information by Fiscal Year
(Unaudited)

Description	Fiscal Year				
	2015	2016	2017	2018	2019†
Regular Salaries	\$ 1,466,514.18	\$ 1,455,360.42	\$ 1,507,345.65	\$ 1,620,024.64	\$ 1,551,344.46
Longevity	36,900.00	41,100.00	56,395.98	63,134.87	55,660.32
Overtime	-	-	-	-	-
Benefits	526,280.43	514,022.68	526,426.54	614,541.81	561,570.00
Subtotal Personnel	2,029,694.61	2,010,483.10	2,090,168.17	2,297,701.32	2,168,574.78
Travel	36,769.23	54,491.72	54,548.67	62,225.65	70,493.95
Printing and Duplicating	47.31	190.39	718.67	157.70	6,768.04
Utilities and Fuel	-	-	10.00	-	-
Communications	6,265.25	5,297.54	9,981.72	8,236.27	8,272.26
Maintenance, Repairs, and Service	-	198.18	150.00	-	-
Professional Services Third Party	250,748.74	497,305.13	466,857.06	217,155.27	76,243.18
Supplies and Materials	10,640.65	12,263.04	17,517.19	8,992.36	45,147.48
Rentals and Insurance	21,129.45	23,785.95	22,836.84	21,806.21	28,584.99
Motor Vehicle Operations	-	20.71	173.90	-	-
Awards and Indemnities	3,251.26	326,891.00	2,000.00	2,992.54	2,281.50
Grants and Subsidies	36,363,879.61	36,166,359.58	35,619,559.24	37,470,283.78	34,707,404.16
Unclassified	-	1,200.00	1,200.00	-	-
Training	16,203.99	29,270.62	18,253.45	16,094.23	18,562.07
Data Processing	30,823.80	30,841.06	36,976.50	197,266.65	68,253.07
Professional Services State Agencies	242,990.35	248,988.69	276,556.88	261,928.88	257,478.50
Subtotal Operations	36,982,749.64	37,397,103.61	36,527,340.12	38,267,139.54	35,289,489.20
Total Expenditures	\$ 39,012,444.25	\$ 39,407,586.71	\$ 38,617,508.29	\$ 40,564,840.86	\$ 37,458,063.98
Reserve - Unencumbered Bal	-	-	-	-	-
Reserve - Capital Outlay	-	-	-	-	-
Reserves	-	-	-	-	-
State Appropriations	13,373,600.00	13,736,400.00	13,781,900.00	15,186,800.00	15,271,400.00
Total Appropriation	13,373,600.00	13,736,400.00	13,781,900.00	15,186,800.00	15,271,400.00
Federal Revenue	25,668,285.62	25,866,447.37	24,904,541.31	25,121,814.76	23,271,507.87
Federal Capital Grants	-	-	-	-	-
Refund Prior Year Federal Expense	-	13.50	259.25	-	350.00
Total Federal	25,668,285.62	25,866,460.87	24,904,800.56	25,121,814.76	23,271,857.87
Counties	-	-	-	-	-
Refund of Prior Year Local Expense	-	-	-	-	-
Cities	-	-	-	-	-
Non-Governmental	-	-	-	-	-
Other State	-	-	-	-	-
Current Services	102.41	-	220.50	1,500.00	8,787.62
Interest Income	-	-	-	-	-
Inter-Departmental	-	-	32,737.34	380,284.43	1,103,574.98
Interdepartmental - CU	2,028.67	1,840.20	-	-	-
Current Services - Licenses	-	-	-	-	-
Current Services - Fines	-	-	-	-	-
Subtotal Other Revenue	2,131.08	1,840.20	32,957.84	381,784.43	1,112,362.60
Total Funding	\$ 39,044,016.70	\$ 39,604,701.07	\$ 38,719,658.40	\$ 40,690,399.19	\$ 39,655,620.47

† - 2019 information is as of July 2, 2019.

Tennessee Commission on Aging and Disability
Organizational Chart
 November 2018

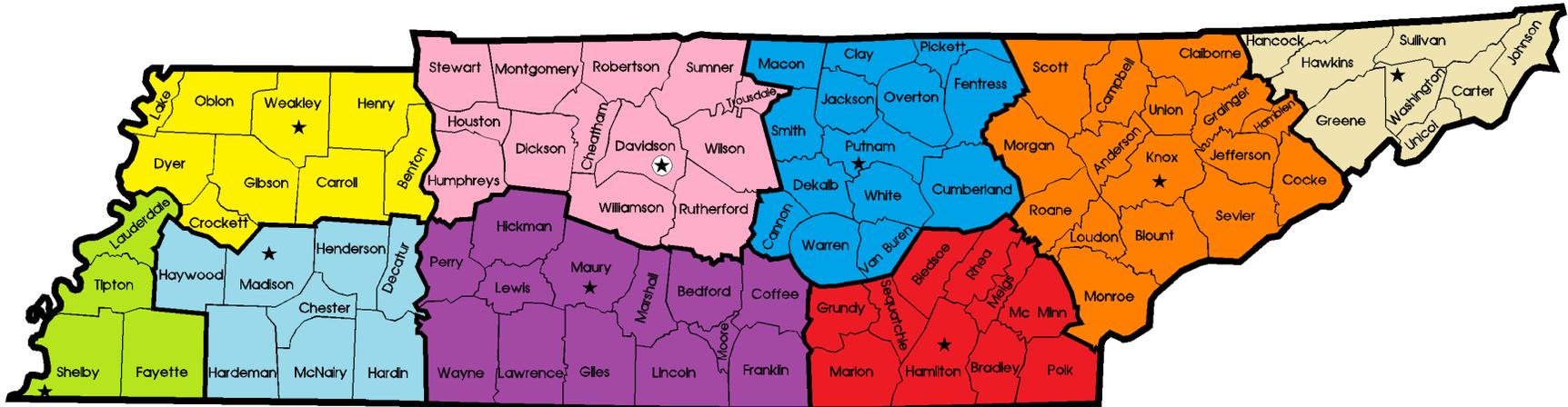


Source: Tennessee Commission on Aging and Disability management.

³ Program staff who assist with SHIP have the program name included in their job titles because individuals who fill these positions must have additional knowledge about Medicare.

⁴ The Aging Program Director’s responsibilities include overseeing the OPTIONS program, which serves both elderly and disabled individuals.

Exhibit 1
Area Agencies on Aging and Disability (AAADs)



01 First Tennessee AAAD First Tennessee Development District Johnson City, TN	04 Upper Cumberland AAAD Upper Cumberland Development District Cookeville, TN	07 Northwest AAAD Northwest Development District Martin, TN
02 East Tennessee AAAD East Tennessee Human Resource Agency Knoxville, TN	05 Greater Nashville AAAD Greater Nashville Regional Council Nashville, TN	08 Southwest AAAD Southwest Tennessee Development District Jackson, TN
03 Southeast Tennessee AAAD Southeast Tennessee Development District Chattanooga, TN	06 South Central Tennessee AAAD South Central Tennessee Development District Columbia, TN	09 Aging Commission of the Mid-South AAAD Aging Commission of the Mid-South Memphis, TN

Source: <https://www.tn.gov/aging/resource-maps/tennessee-area-agencies-on-aging-and-disability.html>.

AUDIT SCOPE

We have audited the Tennessee Commission on Aging and Disability for the period July 1, 2015, through May 31, 2019. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, procedures, and provisions of contracts or grant agreements in the following areas:

- subrecipient monitoring;
- public records management;
- commission members and conflict-of-interest forms;
- information systems; and
- staff turnover.

Commission management is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, policies, procedures, and provisions of contracts and grant agreements.

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. Although our sample results provide reasonable bases for drawing conclusions, the errors identified in these samples cannot be used to make statistically valid projections to the original populations. We present more detailed information about our methodologies in the individual sections of this report.

We conducted our 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

REPORT OF ACTIONS TAKEN ON PRIOR AUDIT FINDINGS

Section 8-4-109(c), *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 Tennessee Commission on Aging and Disability's prior audit report was dated November 2015 and contained five findings. The commission filed

its report with the Comptroller of the Treasury on April 29, 2016. We conducted a follow-up of the prior audit findings as part of the current audit in the applicable sections of the report.

RESOLVED AUDIT FINDINGS

The current audit disclosed that the Tennessee Commission on Aging and Disability resolved three of the previous audit findings concerning 1) subrecipients' monitoring of senior centers' nonprofit status and fiscal policies; 2) the commission's compliance with the Central Procurement Office's contracting requirements regarding advance payments, approving subcontracts, and justifications for sole source procurements; and 3) information systems internal control deficiencies.

PARTIALLY RESOLVED AUDIT FINDING

The prior audit report also contained a finding stating that Tennessee Commission on Aging and Disability management did not develop sufficient procedures over its subrecipient monitoring process to ensure the compliance of its subrecipients, the Area Agencies on Aging and Disability, with federal and state requirements. While the current audit disclosed that commission management has improved many of its monitoring tools and documented its internal monitoring procedures, we found some continued issues related to monitoring tools and the review of independent audit reports. We have reported this continuing issue as an observation in the Subrecipient Monitoring section of this report.

REPEATED AUDIT FINDING

The prior audit report contained a finding stating that a service provider did not have adequate controls over its purchasing, collection, and deposit processes. Although the current audit disclosed that the service provider has corrected five of the six elements noted in the prior audit, the service provider still had significant internal control issues, including its deposit practices. We have reported this continuing issue, along with newly identified deficiencies, as a finding in the Subrecipient Monitoring section of this report.

AUDIT CONCLUSIONS

SUBRECIPIENT MONITORING

The Tennessee Commission on Aging and Disability administers federal, state, and discretionary programs for the elderly and physically disabled, with a total of \$40.6 million expended on these programs for fiscal year 2018. Of the \$40.6 million expended, the commission

contracted \$36.8 million to its subrecipients,⁵ the nine Area Agencies on Aging and Disability (AAADs). The commission also contracted with 18 other contractors to carry out services related to federal and state programs during our audit period. When the commission uses contracts to carry out its mission, commission management is required to follow contract requirements established by the state's Central Procurement Office (CPO). These requirements include the following:

- the commission must reimburse subrecipients and contractors rather than pay them in advance, unless the commission provides a justification for advance payment to CPO and CPO grants a rule exception;
- the commission must give subrecipients and contractors prior approval before they enter into subcontract agreements with service providers; and
- the commission must use the competitive bid process to secure subrecipients and contractors, unless it provides CPO with written justification for non-competitive selections, such as sole source procurements.

Commission's Monitoring of AAADs and Aging Programs

The commission's program staff and its Auditor monitor the AAADs' activities annually to ensure that the AAADs are using federal and state program funds for authorized purposes and that the agencies' activities are in compliance with laws, regulations, and contractual provisions. Specifically, program staff and the commission's Auditor perform annual on-site visits, issue monitoring reports, and request corrective action for any noncompliance or control issues noted. The commission's Auditor also performs fiscal monitoring on the AAADs, which includes testing program-related expenditures and reviewing independent audit reports of the subrecipients.

Monitoring Tools

The commission uses monitoring tools to outline the federal and state requirements that both the program and fiscal monitors must evaluate when reviewing aging programs for compliance, as outlined in Appendix XI, Part 3.2, of Title 2, *Code of Federal Regulations* (CFR), Part 200. In addition to programmatic and fiscal monitoring tools for the AAADs, the commission has developed a unique monitoring tool for each of the following programs:

- Collaborative Response to Elder and Vulnerable Adult Abuse;
- Emergency Management;
- Home and Community Based Services;

⁵ Subrecipients are non-federal entities that receive awards from pass-through entities, such as the commission, to carry out federal or state programs. Unlike other contractors, subrecipients may determine who is eligible to receive state or federal financial assistance; have their performance measured in relation to whether program objectives are met; have responsibility for programmatic decisions; are responsible for adhering to state or federal program requirements specified in the awards; and/or use the financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services.

- Information and Assistance;
- Title III-D Evidence Based Programs;
- Legal Assistance;
- National Family Caregiver Support Program;
- Aging Nutrition;
- Long-Term Care Ombudsman;
- Tennessee Public Guardianship for the Elderly;
- Senior Center;
- State Health Insurance Assistance; and
- Title VI.

Independent Audit Reports

In accordance with 2 CFR 200.331(d), the commission’s Auditor has a responsibility to review independent audit reports obtained by the nine AAADs to determine if there were any applicable findings. If the Auditor determines there are relevant findings, the Auditor sends a management decision letter to the AAAD to communicate that correction action is required, including a corrective action plan, and a deadline to comply. The Auditor also notifies the commission’s Executive Administrative Assistant, who adds the information to the Management Decision Letter Dashboard, a spreadsheet used to track the independent audit review process.

AAADs’ Monitoring of Senior Centers

Because the commission contracts with the nine AAADs to carry out its mission, and those nine agencies in turn contract with service providers (senior centers) to carry out the commission’s programs, the commission requires the AAADs to monitor the senior centers on contract with the AAADs. Tennessee has 120 state-funded senior centers⁶ spread across the nine AAADs (see **Table 2**). Senior centers may be nonprofit organizations, or they may be associated with city or county governments. The Older Americans Act of 1965 defines a senior center as “a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental and behavior health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.”

⁶ According to a list provided by the commission, there are 82 non-state-funded centers, which fall outside the commission’s purview; therefore, we did not conduct any audit work related to the non-state-funded senior centers.

Table 2
Distribution of State-Funded Senior Centers Throughout the State

Area Agency on Aging and Disability	Number of Senior Centers
Aging Commission of the Mid-South	5
East Tennessee	22
First Tennessee	11
Greater Nashville	17
Northwest	14
South Central Tennessee	13
Southeast Tennessee	10
Southwest	10
Upper Cumberland	18
Total	120

Source: Lists provided by the AAADs in February 2019.

Senior centers receive funding not only through federal and state grants, but also through private grants (such as United Way), donations, and other fundraising efforts. Senior centers provide many social and recreational opportunities for center members, including

- quilting circles;
- exercise classes;
- board and card games;
- line dancing;
- holiday parties;
- day trips to museums, zoos, and shopping locations;
- overnight trips to other cities, states, and countries; and
- congregate meals.

While travel opportunities and some classes require an out-of-pocket cost from the senior center member, many other activities are provided to members free of charge. Senior centers also have programs designed to help members maintain their independence, such as volunteer taxi services that transport non-driving members to appointments or to grocery stores.

Through its contracts with the AAADs, the commission requires each AAAD to perform annual on-site monitoring visits of each senior center in its jurisdiction, using the commission's approved monitoring tools, to verify that the senior centers comply with federal and state program requirements. The AAADs then provide the commission with complete results of the monitoring efforts, including reports of any findings or observations, any correspondence sent to the senior center, and all completed monitoring tools used in the site visit.

To receive state and federal funds to operate a senior center, an organization must be chartered in the State of Tennessee as a nonprofit corporation or be a division of a city or county

government. If the senior center is chartered as a nonprofit corporation, it must have a governing entity that is responsible for the overall operation and fiscal integrity of the organization, including the entity's policies and procedures, programs, and services. A senior center that has had its charter administratively dissolved or otherwise revoked is no longer eligible to receive state and federal funds; therefore, AAADs must ensure that all nonprofit senior centers are properly chartered.

Results of Prior Audit

In the commission's November 2015 performance audit report, we reported that the commission had not designed its monitoring process to sufficiently ensure the AAADs' compliance with federal and state regulations. Specifically, we reported that the commission did not document its internal monitoring processes, did not adequately design monitoring tools to ensure all federal requirements were monitored, and did not review subrecipients' independent audit reports. Management concurred with the prior audit finding and stated that it would redesign its fiscal and programmatic monitoring tools; review the AAADs' independent audit reports; develop a procedural guide for subrecipient monitoring; and conduct on-site monitoring visits in accordance with the new guide and with other requirements.

Additionally, we reported that the Southeast Tennessee AAAD (SETAAAD) did not properly monitor Rhea Richland Senior Neighbors, Inc. Specifically, we reported that Rhea Richland did not have adequate controls over its purchasing, collection, and deposit processes. Commission management concurred with the prior audit finding and stated that they would notify SETAAAD; revise the senior center monitoring tool to ensure fiscal policies and procedures were in place; and provide technical assistance to the senior centers.

We also reported a finding that although SETAAAD stated on its May 20, 2014, monitoring report that a senior center had current 501(c)(3) status and fiscal policies to govern its operations, the senior center's charter lapsed in 1991, and it did not have fiscal policies issued by its board of directors. We reported that because the commission had not properly monitored the activities of SETAAAD, the commission was unaware that SETAAAD had not performed the proper monitoring of its senior centers. Management concurred with the prior audit finding and stated that it would conduct training with the AAADs; check that all nonprofit senior centers have an active charter; and revise the senior center monitoring tool so that it specifies the documents a monitor must view and prompts them to verify that charters are still active.

Finally, we also noted in the prior audit's contracts section that the commission did not comply with CPO requirements regarding advance payments, subcontracts, and written justifications for sole source contracts. Management concurred with the prior finding and stated that it would obtain approvals for any advance basis payments, approve proposed subcontracts, and provide CPO with written justifications for sole source contracts.

Audit Results

- 1. Audit Objective:** In response to the prior audit finding, did commission management document its internal monitoring procedures?

Conclusion: With minor exceptions, commission management corrected the prior audit finding by documenting its internal monitoring procedures.

2. **Audit Objective:** In response to the prior audit finding, did commission management design its subrecipient monitoring tools to ensure that program monitors could detect subrecipients' noncompliance with federal and state requirements?

Conclusion: While commission management redesigned many of the subrecipient monitoring tools to ensure program monitors could detect subrecipients' noncompliance with federal and state requirements, we found that the monitoring tools still did not address all applicable compliance requirements. See **Observation 1**.

3. **Audit Objective:** In response to the prior audit finding, did commission staff review subrecipients' independent audit reports?

Conclusion: Although the commission's Auditor began to review subrecipients' independent audit reports in fiscal year 2016, we found that he either did not always document his review or failed to review some reports. See **Observation 1**.

4. **Audit Objective:** In response to the prior audit finding, did commission management ensure that Rhea Richland Senior Neighbors had adequate controls over its purchasing, collection, and deposit processes?

Conclusion: While Rhea Richland Senior Neighbors had implemented controls and resolved five of six elements noted in the prior audit finding, we still found significant internal control issues related to its deposit processes. We also identified new deficiencies at this senior center and at another senior center in a different AAAD's jurisdiction. See **Finding 1**. Additionally, we found that some senior centers conducted gaming events that may not have complied with state and nonprofit gaming laws. See **Observation 3**.

5. **Audit Objective:** In response to the prior audit finding, did commission management ensure that AAADs properly monitored their service providers by verifying that nonprofit senior centers are chartered by the State of Tennessee as 501(c)(3) corporations?

Conclusion: Commission management ensured that the AAADs properly monitored their service providers by verifying that nonprofit senior centers are chartered by the State of Tennessee as 501(c)(3) corporations.

6. **Audit Objective:** In response to the prior audit finding, did commission management ensure the AAADs properly monitored their service providers by verifying that nonprofit senior centers had fiscal policies and procedures to govern their operations?

Conclusion: Commission management ensured that the AAADs properly monitored their service providers by verifying that nonprofit senior centers had fiscal policies and procedures. However, we identified two AAADs that did not always properly monitor their service providers by using the most current monitoring tools. See **Observation 2**.

7. Audit Objective: In response to the prior audit finding, did commission management comply with the CPO requirements regarding advance payments, subcontracts, and sole source procurements?

Conclusion: With minor exceptions, commission management complied with CPO requirements regarding advance payments, subcontracts, and sole source procurements.

Methodology to Achieve Objectives

To achieve our objective related to the commission’s internal monitoring procedures, we obtained and reviewed the commission’s monitoring activity guidelines, which management developed following the prior audit, and discussed these procedures with commission staff. We also obtained and reviewed all pre- and post-site visit meeting minutes for July 1, 2015, through March 29, 2019. We analyzed the minutes to determine if the commission held and documented pre- and post-site visit meetings for each of the nine AAADs to discuss high-risk programs and develop a coordinated approach to monitoring. Additionally, we reviewed the monitoring tools used by the commission’s monitoring staff to determine whether they included all applicable compliance requirements.

To achieve our objective related to monitoring tools, we discussed the commission’s corrective action on the prior audit finding with management. We also reviewed Chapter 5, “Area Agency on Aging and Disability Operations and Provision of Supportive Services,” of the commission’s *Program and Policy Manual*, as well as the commission’s monitoring tool for senior centers.

To achieve our objective related to the commission’s review of subrecipients’ independent audit reports, we reviewed the AAADs’ independent audit reports published for July 1, 2015, through March 29, 2019, as well as the Management Decision Letter Dashboards. We performed testwork to determine if the commission reviewed independent audit reports for all nine AAADs each fiscal year.

To achieve our objective related to the AAADs’ monitoring of senior centers, we obtained a population of 120 state-funded senior centers. We filtered the population to include only nonprofit senior centers, as those run by city and county governments are not chartered as 501(c)(3) organizations. This resulted in a total of 59 nonprofit senior centers. We obtained the most recently completed monitoring tool for each nonprofit senior center⁷ and tested all 59 nonprofit

⁷ Of the 59 monitoring tools, 56 were completed in fiscal year 2018; the remaining 3 were completed in fiscal year 2019. AAADs typically monitor the senior centers in the third or fourth quarters of the fiscal year, and we made our request on February 21, 2019.

senior centers to verify that the commission ensured the AAADs properly monitored their services providers by ensuring that the nonprofit senior centers

- filed a charter with the State of Tennessee; and
- had written policies and procedures to maintain the fiscal integrity of the organization.

We also reviewed the senior center monitoring tools that the AAADs submitted to the commission to ensure that the AAADs were using the most recent version of the monitoring tool.

To achieve our objective related to the commission’s compliance with CPO contract requirements, we reviewed Chapter 0690-03-01 of the *Rules of the Department of General Services Central Procurement Office* and CPO Policy 2013-007, “Grant Management and Subrecipient Monitoring Policy and Procedures,” to gain an understanding of the commission’s responsibilities on contracting requirements. We discussed the commission’s actions to correct the prior audit finding with commission staff. We obtained the population of the commission’s 229 contracts for the period of July 1, 2015, through January 29, 2019, and selected a random, nonstatistical sample of 60 contracts for testwork to determine the commission’s compliance with CPO requirements.

To achieve our objective related to Rhea Richland Senior Neighbor’s internal controls, we reviewed the commission’s technical assistance training for senior center directors during the period July 1, 2015, through March 20, 2019. We also reviewed the results of the commission’s monitoring reviews of Southeast Tennessee AAAD and Rhea Richland Senior Neighbors; the corrective action plan the AAAD submitted to the commission; and Rhea Richland Senior Neighbors’ internal financial controls policy. We interviewed Rhea Richland Senior Neighbors’ Director and reviewed its bank statements from January 2017 through December 2018, its board of directors meeting minutes for January 2018 through March 2019, and its general ledger. Finally, we tested a random, nonstatistical sample of 25 expenditures from the period January 1, 2017, through February 20, 2019, for proper supporting documentation, allowability, and compliance with the senior center’s policy requiring two signatures on all checks. We tested an additional 35 expenditures only for compliance with the senior center’s two-signature policy. We decided not to test the additional 35 expenditures for proper supporting documentation and allowability after we determined that all 25 expenditures in the original sample were properly documented and allowable.

Expanded Testwork

As a result of our follow-up on the prior audit finding for Rhea Richland Senior Neighbors, we discovered that the senior center may have engaged in prohibited gaming activities and that it had internal control issues related to the segregation of duties. To determine the extent of these issues, we performed site visits at one senior center from each of the AAADs.⁸ At each center we

⁸ To determine which sites to visit, we reviewed any websites and Facebook pages available for each of the 120 state-funded senior centers, looking specifically for any evidence that the senior center conducted prohibited gaming activities, such as paid bingo or raffles. For 7 of the 9 AAADs, we identified a senior center conducting prohibited gaming activities and selected those centers for site visits. For the Northwest AAAD and the Southwest AAAD, we did not find evidence online of any senior center conducting prohibited gaming activities; therefore, we selected a center from each of these areas haphazardly.

visited, we conducted interviews and completed internal control questionnaires with the senior center directors and other individuals. We also obtained and reviewed the following documents: general ledgers and/or bank statements; board meeting minutes, or equivalent committee minutes for senior centers with government affiliation; and fiscal policies and procedures. For any unusual transactions or items of interest in the board minutes, we requested more information. At each location, we also asked staff whether the senior center held paid bingo, raffles, or other prohibited gaming activities. For any raffles, we checked on the Secretary of State's website whether the gaming event had been approved. Additionally, for the remaining 111 state-funded senior centers that we did not visit, we contacted the Director of each one via telephone to inquire if the center had held paid bingo games, held unapproved raffles or conducted other prohibited gaming activities.

Finding 1 – Commission management did not require Area Agencies on Aging and Disability to perform sufficient monitoring of senior centers, increasing the risk of errors, noncompliance, fraud, waste, and abuse

During our current audit, we identified new internal control issues at Rhea Richland Senior Neighbors and a second senior center, indicating that the Tennessee Commission on Aging and Disability and the Area Agencies on Aging and Disability (AAADs) did not adequately monitor the centers' fiscal policies, operations, and activities. Additionally, although Rhea Richland Senior Neighbors improved its internal controls by correcting five of the six issues identified in the previous audit, we noted continued issues with the senior center's deposit practices. For the remaining unresolved issue, the board of directors developed a policy that required collections to be deposited within three business days. The senior center's personnel did not always follow this policy, which may have contributed to the loss of funds raised through a nut sale fundraiser.

Lack of Fiscal Monitoring

The AAADs monitor each senior center annually prior to re-contracting, but the commission has only issued a programmatic monitoring tool, not a fiscal tool, for the AAADs to use during their reviews. We asked the commission's Aging Program Consultants if the commission's program or fiscal monitors evaluate the senior centers' fiscal policies to gain an understanding of the effectiveness of the centers' internal controls. In response, the Aging Program Consultants stated that the senior centers' boards of directors are responsible for developing appropriate controls and ensuring they are functioning properly and that it is not the commission's responsibility to evaluate internal controls for effectiveness.

This assertion is a fundamental misconception of the commission's responsibilities. The commission must take reasonable steps to ensure that the AAADs and senior centers across the state are properly spending the state and federal funds distributed to them. It must also ensure that the AAADs' monitoring efforts are sufficient. To further illustrate the risks and effects when adequate fiscal monitoring is not performed, we describe the following conditions below.

Misappropriation of Assets and Failure to Deposit Funds

During our review of the board meeting minutes for Rhea Richland Senior Neighbors, we found that the senior center engaged in a nut sale fundraiser in 2018, and approximately \$3,200⁹ of currency, product, or a combination of the two was lost or stolen. According to the board's Treasurer, the board discovered the funds were missing while performing a reconciliation when they felt the fundraiser should have generated more revenue. Although the missing assets were not federal or state funds, we are reporting this as evidence of the senior center's fiscal risks and lack of sufficient internal controls.

According to the May 10, 2018, board minutes, the former Director¹⁰ stated that she was aware the funds were missing but did not have an explanation for what occurred. The former Director was responsible for managing the inventory, as well as collecting and depositing funds. She also performed the monthly bank reconciliations, despite the senior center's policy requiring the reconciliations to be performed by an individual who did not write checks or make deposits.

At the May 21, 2018, board meeting, the board spoke with the former Director and her husband, who was employed at the senior center in the Meals on Wheels program. The former Director's husband stated that he performed a reconciliation "a month or two" prior and "thought some money was missing." The board members asked the couple why they had not reported the missing funds to the board, but the minutes detailed no response. When we asked the Treasurer what the response was, she stated that she did not recall.

The Treasurer stated that several factors contributed to the missing funds: the former Director did not deposit funds within three days as required by policy; the nut inventory was not kept in a locked area; and the former Director often had friends and family members in the office, where the currency and nut inventory were stored.

According to the Treasurer, she reported this loss to the Quality Assurance Coordinator (QAC) at the Southeast Tennessee AAAD (SETAAAD), under whose jurisdiction Rhea Richland Senior Neighbors falls, and the QAC agreed that he had been informed. The QAC stated that SETAAAD did not report the loss to the commission or take any follow-up action because the loss did not involve state or federal funds.

⁹ The final amount determined to be missing was \$2,821.63, and at the July 5, 2018, board meeting, the board accepted the former Director's offer to repay the full amount. However, after reviewing the bank statements, we noted that the former Director only repaid \$2,559.29. The Treasurer did not have an explanation why the former Director did not repay the remaining \$262.34.

¹⁰ According to the current Director, the previous Director separated from the senior center in November 2018. The Treasurer stated that her separation was not due to the missing funds, and the board did not ask for her resignation.

Lack of Segregation of Duties

As a result of the issues identified above, we expanded our examination to include a review of fiscal policies and procedures for 1 senior center from each of the 9 AAADs. We found that, from a population of 120 state-funded senior centers, 2 of 9 senior centers we reviewed (22%) had significant internal control weaknesses. The directors at both Rhea Richland Senior Neighbors and the Algood Senior Center were responsible for all fiscal functions, including authorizing, processing, and recording expenditures; accepting and recording payments; making deposits; and receiving, recording, and maintaining inventory. Additionally, we found that

- at Rhea Richland Senior Neighbors, although policy specifies that the individual performing the bank reconciliation should be someone who does not write checks or make deposits, the Director performed all of these functions; and
- at the Algood Senior Center, staff did not issue checks in sequential order and issued checks from the fundraiser account with only one signature, although the senior center's policy specifies that a check requires two authorized signatures.

The directors at both senior centers stated that they lack the additional staff necessary to segregate duties. Although both senior centers' boards of directors developed policies intended to compensate for the lack of staff, the policies do not create effective compensating internal controls if the board does not enforce them. Both senior centers had policies requiring two authorized signatures on checks, but the Algood Senior Center did not follow this policy for one of its two bank accounts, as noted above. Additionally, although Rhea Richland Senior Neighbors had policies requiring a board member to reconcile the bank statements each month and requiring collected funds to be deposited within three days, the center did not follow these policies, as detailed in the Misappropriation of Assets and Failure to Deposit Funds subsection above.

Overall Criteria

The commission's contracts with the AAADs state that they "shall contract for services provided by certified local senior centers that meet the administrative, fiscal, and programmatic requirements set forth in the Senior Center Chapter of the Program and Policy Manual." According to the commission's *Program and Policy Manual*, "the AAAD and its subrecipients must establish and maintain effective internal controls over the Federal and state award that provides reasonable assurance that the agency is managing the award in compliance with Federal and state statutes, regulations, and the terms and conditions of the federal and state awards."

Recommendation

The Executive Director should pursue actions afforded to the commission as the pass-through agency to ensure subrecipients, and the commission itself, comply with federal and state requirements. The commission should ensure that the AAADs monitor senior centers both programmatically and fiscally. The commission should ensure its monitoring tools enable AAADs to effectively evaluate senior centers' fiscal policies, procedures, and internal controls.

Management's Comment

We concur.

The Tennessee Commission on Aging and Disability (TCAD) requires that the Area Agencies on Aging and Disability (AAADs) perform monitoring as evidenced by contract terms, policies set forth in TCAD's Program and Policy Chapters [*Program and Policy Manual*], and by Program Instruction. All appropriate senior centers were monitored annually by the AAADs; TCAD staff then re-monitored two senior centers in each region annually. TCAD also required that the senior centers have written fiscal policies and procedures for handling any funds.

After review, TCAD concurs that it should have required a more thorough monitoring, including fiscal review, of the senior centers to ensure that the senior centers were complying with policies and procedures, specifically in the area of internal control.

State and federal funds are used to partially support the operation of 120 senior centers across Tennessee. Approximately half of them are governed by local city or county governments, and the other half are nonprofit entities. AAADs sub-contract for senior center services. Typically, state funding represents 10% of the senior center's total budget, and federal funding represents 16% of the senior center's total budget. That means that 74% of their budgets come from other sources such as local governments, United Way, foundations, and fundraisers. Over 80% of the senior centers across the state receive less than \$15,000 in state funding. Nine percent (9%) of TCAD's overall budget is allocated to services provided by senior centers.

Because state and federal funds are so limited, in January 2018, TCAD issued a revised Program and Policy Chapter to have the senior centers focus on providing recreation and socialization opportunities with the state and federal funds. Multipurpose senior centers provide education and physical activities, as well as opportunities for socialization. Most senior centers also house a nutrition site that provides a nutritious meal; however, nutrition services are provided through another funding source (Title III-C) and are managed by a partnership entity.

The January 2018 program and policy revision reflected requirements based upon the limited funding provided; the revisions also were directed at ensuring that the senior centers were meeting the minimum requirements of being registered with the Secretary of State's Office and having written fiscal policies and procedures. A new monitoring tool was also issued that covers the program and fiscal requirements outlined in the Program and Policy Chapter. Both of these documents were issued by the Executive Director via Program Instruction on December 28, 2017, to be effective on January 15, 2018.

In section A.7 of the contracts with the AAADs, titled *Monitoring Services*, TCAD requires the grantee to

ensure that the AAAD develops and implements a review schedule for monitoring all services associated with this contract. The AAAD shall monitor all service providers at least annually using monitoring tools approved by the State that are based on the *Program and Policy Manual*. If deficiencies are found during the

monitoring process, the AAAD shall require the service provider to submit a Plan of Correction and conduct follow-up monitoring until all findings are resolved. If findings are not resolved to the satisfaction of the AAAD, the AAAD may take any type of corrective action, including but not limited to, termination of the contract.

All senior centers were monitored annually by the AAADs during the review period of the audit. In addition to the TCAD-issued Senior Center Monitoring Tool, 7 out of 9 AAADs also used the standard Internal Control Fiscal Monitoring Tool. In addition, TCAD staff re-monitored 2 senior centers in each region (18 per year) during TCAD's site visit monitoring of each AAAD. TCAD concurs that, out of the 120 senior centers monitored, 15 were mistakenly monitored by the AAADs using a previously issued monitoring tool.

The monitoring tool that was issued by Program Instruction effective in January 2018 contained, in addition to other operational standards and program requirements, the following fiscal review requirements:

1. The Senior Center must be chartered by the State of TN and provide charter and tax exemption.
 - a. Copy of the State of TN Charter
 - b. Copy of Tax Exemption Status
 - c. Copy of current registration from Secretary of State's website
2. The Senior Center must have a governing entity and written set of by-laws.
 - a. Copy of the by-laws that defines the governing entity and establishes its organizational structure.
 - b. Proof of governing entity meeting with attached sign in sheets.
3. Fiscal requirements. The written fiscal policies and procedures must include procedures for:
 - a. Developing and approving the budget
 - b. Handling cash and providing receipts
 - c. Check writing disbursements
 - d. Purchasing
 - e. Petty case disbursements and replenishment
 - f. Bank reconciliation
 - g. Program income
 - h. Voluntary contributions

Plan of Correction for Finding 1:

What has been done to correct:

1. On February 27, 2019, the Quality Assurance Monitor with Southeast AAAD conducted New Director Technical Assistance and Training with the new Rhea Richland Senior Neighbors senior center. The training included a variety of topics specifically related to Program and Policy Chapter, internal control, invoicing, and required reporting.
2. On July 8, 2019, TCAD staff sent an e-mail to the AAADs with the new 2019 Nonprofit Guidebook issued by the Secretary of State's Office attached and asked them to send it to all senior centers in their region.

What will be done to correct the finding regarding senior center monitoring:

1. By September 30, 2019, the Executive Director will issue a Program Instruction regarding the revision of the Senior Center Program and Policy Chapter and the revision of the Senior Center Monitoring Tool that will go into effect at the beginning of the new monitoring cycle starting on October 1, 2019.
 - a. The revision to the Program and Policy Chapter will include the following statement: "No senior center shall hold a bingo game that requires, or suggests, an entrance fee of cash or some other item of value, such as toiletries or baked and canned goods; by allowing such activity, the senior center is engaging in illicit gaming activity. This includes payments labeled as 'donations,' 'contributions,' or other similar language. However, bingo games that do not require an entrance fee or donation of any kind do not fall under the state definition of gambling and may occur at a senior center" (regarding Observation 3).
 - b. The revision to the Senior Center Monitoring Tool will include:
 - i. Clearly separate sections for program requirements, administrative requirements, and fiscal requirements/internal control.
 - ii. Review of any previous audits or reviews (examples: independent audits, section of city/county government audit regarding senior centers, audits or reviews conducted by other funding sources). If there are findings, then documentation that the findings have been addressed.
 - iii. Verification that senior center written policies and procedures adequately address the required internal controls.
 - iv. Verification that the senior center director and other responsible parties are following their own fiscal policies and procedures regarding internal controls.
 - v. Verification that, if any bingo games or other games of chance are being conducted, they are being conducted in compliance with state law.

- vi. Verification that the written results of the monitoring visit are provided to the senior center director, board president, and governing entity and that they are made aware of their responsibilities in addressing any corrections that must be made.
2. By October 15, 2019, the TCAD monitoring staff will hold a conference call with the AAAD monitoring staff to review the changes in the Senior Center Program and Policy Chapter and the Senior Center Monitoring Tool and give examples of ways in which the AAAD can give clearer communication to the senior center and the governing body regarding the monitoring review process.
3. By October 15, 2019, the TCAD monitoring staff will revise the monitoring tools TCAD uses to monitor the AAADs to include verification that the AAAD is using the most current monitoring tools for all programs.
4. By September 1, 2019, the General Counsel will issue an e-mail to all AAAD directors, monitoring staff, and senior center directors regarding written guidance to ensure compliance with state laws regarding gaming and bingo.

What will be done to correct monitoring issues related to monitoring other programs:

1. By October 1, 2019, the Public Guardian Monitoring Tool will be revised to include verification that the District Public Guardian meets the minimum education and training standards outlined in the Program and Policy Chapter. (Once pointed out by the auditors, this was verified during the AAAD site visits.)
2. By October 15, 2019, TCAD management and staff will review all the monitoring tools to ensure that the tools include the applicable compliance requirements for each program.
3. During December 1 through March 31 annually, the TCAD Auditor will complete reviews of the independent audit reports for all nine grantee agencies of the AAADs and document the reviews and responses of each to ensure that any plans of correction have been implemented.

Observation 1 – Although the commission’s management has improved its subrecipient monitoring procedures, it still has not met all federal and state monitoring requirements

Since the prior audit, the Tennessee Commission on Aging and Disability has improved many of its monitoring tools and documented its internal monitoring procedures. However, some issues related to monitoring tools and independent audit reports persist. Specifically, we found that

- for 2 of 11 monitoring tools tested (18%), commission staff did not design monitoring tools to address all applicable compliance requirements; and
- for 4 of 36 independent audit reports for the Area Agencies on Aging and Disability (AAAD) (11%), the Auditor either did not review the independent audit report or did not document his review.

The Aging Program Consultant for the Public Guardian program stated that the commission's former Legal Counsel revised the monitoring tool. The former Legal Counsel separated from the commission on February 15, 2019, and was unavailable to provide the reason for removing the eligibility portion from a previous version of the monitoring tool or on what date she made this change. According to the Aging Program Consultant, the former Legal Counsel may have revised the form based only on state statute requirements and may not have considered the federal compliance audit requirements.

The Aging Program Consultant over the Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) program stated that she did not conduct fiscal monitoring prior to February 2019. However, following an audit by the Department of Finance and Administration's Office of Criminal Justice Programs in February 2019, she began conducting fiscal monitoring that includes procurement reviews. She provided us with an updated CREVAA monitoring tool, which includes all applicable compliance requirements.

The commission's Auditor stated that when he reviewed independent audit reports for the Southeast Tennessee AAAD and the Southwest AAAD, he emailed the Executive Administrative Assistant to update the Management Decision Letter Dashboard. However, he was unable to locate a copy of either email, and the dashboard did not include a date of review for either report. The Auditor stated that he did not review an audit report for the Aging Commission of the Mid-South (ACMS) in fiscal year 2016 or 2017 because he misinterpreted the Department of Finance and Administration's Policy 3, "Uniform Report Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies," which states that Policy 3 is not applicable to "cities [or] counties (and subdivisions thereof)." The Auditor stated he believed this meant that ACMS was not required to submit an audit report for him to review because it is part of the Shelby County government. However, Policy 3 relates specifically to the development of a cost allocation plan, not to annual audit reports. After we brought this to his attention, the Auditor obtained and reviewed the fiscal year 2018 *Comprehensive Annual Financial Report of Shelby County*, which contained no findings related to ACMS.

When internal controls are absent, management cannot ensure it achieves compliance in all areas of monitoring. In order to correct the deficiencies in the commission's monitoring, management should ensure that the monitoring tools include the applicable compliance requirements for each program and should ensure that the Auditor completes documented reviews of the independent audit reports for all nine AAADs.

Observation 2 – Commission management should ensure that all subrecipients use the current program monitoring tools

For 15 of 59 senior centers tested (25%), the Area Agencies on Aging and Disability (AAADs) did not use the most recent program monitoring tool. Specifically, we found the following:

- Between February 2, 2018, and June 1, 2018, the South Central Tennessee AAAD monitored 13 senior centers using the monitoring tool approved in January 2016 instead of the newer version that the Tennessee Commission on Aging and Disability approved in December 2017.
- Between November 8, 2017, and December 13, 2017, the Aging Commission of the Mid-South (ACMS) monitored 2 senior centers using the monitoring tool approved in January 2014, even though the commission approved newer versions in both January 2016 and July 2017.

Chapter 5, “Area Agency on Aging and Disability Operations and Provision of Supportive Services,” of the commission’s *Program and Policy Manual* states, “the AAAD shall use the approved TCAD [commission] monitoring tools when conducting the annual review.” According to Title 2, *Code of Federal Regulations*, Part 200, Section 331(d), pass-through entities, such as the commission, must

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

According to the Aging Program Consultant, the commission’s staff make changes to their respective program monitoring tools as necessary for changes to regulations and issues that may arise. The Aging Program Consultant is responsible for distributing the updated monitoring tool to the AAADs. The Aging Program Consultant stated that the AAADs likely used such significantly out-of-date monitoring tools because the AAADs kept copies of the old monitoring tools and could have accidentally copied that version instead of the most recent version.

Because ACMS monitored two of its senior centers using an out-of-date monitoring tool, the ACMS monitors did not fulfill their obligation to ensure that proper written procedures existed as required by Section 6-5-01 in Chapter 6, “Senior Centers,” of the commission’s *Program and Policy Manual*, which states that senior centers must have written fiscal policies and procedures. The July 2017 and December 2017 versions of the monitoring tool required monitors to verify that the senior center has written procedures as listed in Chapter 6. The January 2014 version of the monitoring tool did not require monitors to verify that senior centers had any fiscal policies or procedures, while the January 2016 version required monitors to look for fiscal policies and procedures but did not specify what the procedures must include. If the commission’s program monitors do not ensure that AAADs use the most up-to-date monitoring tool, they may overlook noncompliance with state and federal regulations when reviewing the AAADs’ monitoring activities.

During the commission’s monitoring of AAADs, each program consultant should ensure the AAADs are using the most up-to-date versions of the monitoring tools. Program consultants should also encourage the AAADs to dispose of unused, out-of-date monitoring tools to ensure the AAADs do not copy and use them for future monitoring.

Observation 3 – Commission management should ensure the Area Agencies on Aging and Disability educate their subcontractors on appropriate gaming activities

Based on our expanded testwork, we found evidence that 6 of the 9 senior centers we visited (67%) conducted gaming activities that may have been prohibited by state statute, including paid bingo¹¹ and unapproved raffles. Additionally, when we contacted the directors of the remaining 111 state-funded senior centers via telephone, 18 of those senior centers (16%) indicated that they also conducted or planned to conduct gaming activities, including paid bingo, unapproved raffles, and casino nights.

On May 6, 2019, we brought this issue to the attention of the Tennessee Commission on Aging and Disability’s Executive Director. In our letter (presented in **Appendix 1**), we requested that the commission and the Area Agencies on Aging and Disability (AAADs) coordinate to ensure that all senior centers familiarize themselves with the Tennessee Nonprofit Gaming Law and inform the senior centers of the prohibitions on other forms of gambling. On May 8, 2019, the Executive Director responded via letter that the commission would immediately begin the review and education processes. The Executive Director also indicated that the commission does not have regulatory control over the senior centers’ operations because there are no direct contractual relationships between the commission and the senior centers. (See **Appendix 2** for the commission’s response.) However, we noted that contracts between the commission and the AAADs stipulate that the AAAD must annually provide a list of all subcontractors (including senior centers) to the commission for approval; therefore, the commission is able to approve or deny senior centers that do not adhere to all federal and state laws.

Section 39-17-501, *Tennessee Code Annotated*, defines gambling as “risking anything of value for a profit whose return is to any degree contingent on chance.” All paid gaming activities are considered illegal forms of gambling in Tennessee, with few exceptions. According to Section 39-17-502, *Tennessee Code Annotated*, individuals who knowingly engage in gambling commit a Class C misdemeanor, which is punishable by up to 30 days in prison and/or a fine not to exceed \$50. Gambling promotion occurs when an individual knowingly induces or aids another person to engage in gambling and derives, or intends to derive, an economic benefit beyond personal winnings. According to Section 39-17-503, *Tennessee Code Annotated*, this is a Class B misdemeanor, which is punishable by up to six months in prison and/or a fine not to exceed \$500.

We do not know if the senior centers’ management conducted gaming activities with full knowledge of the state’s gambling laws. When we spoke with the senior centers’ directors, we

¹¹ For the purposes of our audit work and in consultation with the Secretary of State’s Division of Charitable Solicitations and Gaming, we considered a paid bingo game as one requiring or suggesting an entrance fee of cash or some other item of value, such as toiletries, baked goods, or canned goods. This included payments described with language such as “donations” or “contributions.”

were given various explanations as to why they conducted gaming activities that may have conflicted with state statutes, including ignorance of the law and the belief that other organizations (including other senior centers, churches, and schools) do not follow these laws.

Senior centers that engage in prohibited gaming activities as either fundraisers or daily activities are violating state statute and risk losing federal and state funding that the commission administers through the AAADs. Additionally, senior center management could be held accountable for criminal violations and face jail time, fines, or both.

Monitors at both the commission and AAAD levels should review senior centers' records for evidence of prohibited gaming activities, as well as the senior centers' websites and social media pages for gambling event advertisements. Additionally, when approving AAADs' lists of subcontractors, the commission should consider whether senior centers have an ongoing pattern of pervasive noncompliance with state gaming laws. The commission should ensure that the AAADs educate senior center staff on appropriate fundraising activities and how to legally conduct gaming events. Finally, the management for these entities should ensure that any bingo games held at or by the senior center are entirely free to participants and that any gaming activities conducted as fundraisers comply with all aspects of the Tennessee Nonprofit Gaming Law. (See **Appendix 3** for more information on the requirements for hosting a legal gaming event and the types of events allowed.)

PUBLIC RECORDS MANAGEMENT

General Background

The state's Public Records Commission was created pursuant to Section 10-7-302, *Tennessee Code Annotated*, and is authorized to direct the Tennessee Department of State's Records Management Division to initiate any action it may consider necessary to accomplish more efficient control and regulation of records holding and management in any agency, including the Tennessee Commission on Aging and Disability. According to Section 10-7-301, *Tennessee Code Annotated*, public records include

All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

Public officials are legally responsible for creating and maintaining records that document government business transactions. These records provide evidence of government operations and accountability to citizens.

Each state entity designates a Public Records Officer to coordinate with the Public Records Commission and the Records Management Division. In order to achieve efficient control and regulation of public records, the division uses Records Disposition Authorizations (RDAs) to

instruct public officials how to maintain public records. RDAs are the Public Records Commission-approved retention schedules, which list records grouped by a common function; how long those records must be kept; and how they may be destroyed or otherwise disposed of when their retention period has ended. RDAs reflect the length of time that records have historical, administrative, legal, and/or fiscal value. When records are destroyed, an agency's Public Records Officer must complete and submit a Certificate of Records Destruction to the Records Management Division.

Statewide RDAs are general retention schedules that apply to state agencies' records, such as personnel, fiscal, and administrative records. When a record is not covered by a statewide RDA, the Public Records Officer must create an agency-specific RDA for that record series and submit it to the Public Records Commission for approval. RDAs may be retired if the records series it refers to is no longer in use, has been merged with a newly revised RDA, or is covered by a statewide RDA. An RDA submitted to be retired will also go through the approval process. Once it has been retired, the RDA will be archived and viewable only by Records Management Division staff.

In March 2013, the Records Management Division developed an online application to catalog and maintain RDAs, and the Public Records Commission asked all state agencies to amend or retire RDAs that existed at that time and create new ones for public records currently in use. The Tennessee Commission on Aging and Disability retired all 10 RDAs that it had in March 2013 and created 2 new RDAs to cover program and legal files.

Commission's Records Management Process

The Commission on Aging and Disability staff perform many functions aside from their main responsibilities. The Public Records Officer duties are assigned to the commission's Legal Counsel; during the scope of our audit, the commission has had two Legal Counsels who performed Public Records Officer duties. The Public Records Officer must attend records management training and ensure the commission adheres to proper records management.

The Records Management Division conducted a records assessment at the commission's office on December 21, 2016. The purpose of the assessment was to

- measure the commission's records management process;
- identify the RDAs used and if new ones were needed; and
- assess the volume of records for each RDA.

The division's assessment noted three recommendations about organization/security; RDAs governing area and state plans; and training.

Audit Results

1. Audit Objective: Did commission management ensure that the commission’s RDAs existing as of March 2013 were revised or retired?

Conclusion: Commission management ensured that the existing RDAs were revised or retired.

2. Audit Objective: Did commission management adhere to proper records management standards?

Conclusion: No, commission management did not adhere to records management standards regarding Certificates of Records Destruction, records management reviews, records holding reports, or records retention for the commission’s State Health Insurance Assistance Program. See **Finding 2**.

3. Audit Objective: Did commission management implement the Records Management Division’s assessment recommendations?

Conclusion: Commission management did not implement any of the Records Management Division’s assessment recommendations. See **Finding 2**.

Methodology to Achieve Objectives

To achieve our objectives, we interviewed the commission’s Public Records Officer. We reviewed the Secretary of State’s *Records Management Best Practices and Procedures* and *Tennessee Code Annotated* to assess the commission’s records management processes. We identified the commission’s two active RDAs on the Secretary of State’s online RDA database and obtained a current list of the commission’s active and retired RDAs from the Records Management Division to determine if the commission complied with the 2013 request to review all RDAs. We obtained all Certificate of Records Destruction forms submitted since July 1, 2015, and all records holding reports submitted by Legal Counsel to determine if the commission met annual reporting requirements and if any records had been destroyed since August 1, 2015, the date of the only available Certificate of Records Destruction. To determine if the commission implemented the Records Management Division’s recommendations, we reviewed the division’s assessment and discussed its recommendations with the Public Records Officer.

Finding 2 – Commission management and staff did not adhere to records management standards

The Tennessee Commission on Aging and Disability has a basic responsibility to protect the state’s public records and follow state statute and guidance provided by the Department of State’s Records Management Division.

Based on our review, we found that the commission’s Public Records Officer did not

1. complete any Certificates of Records Destruction during her tenure from August 2016 to February 2019;
2. document any annual records management reviews;
3. report the correct number of records for at least two of the three years she submitted annual records holding reports;¹² or
4. follow up on recommendations the Records Management Division made during its December 2016 records assessment.

Section 10-7-509(a), *Tennessee Code Annotated*, states that “the disposition of all state records shall occur only through the process of an approved records disposition authorization.” Furthermore, according to the Department of State’s *Records Management Best Practices and Procedures*,

Retention schedules are not merely suggestions. Records cannot be destroyed before the stated period, nor can they be retained longer than the stated period unless they are involved in an investigation, litigation, audit, or request pursuant to the Freedom of Information Act.

The following specific guidance applies to the conditions noted above:

1. According to the *Records Management Best Practices and Procedures*, “when records have reached the end of the retention period and the records are subsequently destroyed, a Certificate of Destruction Form must be submitted documenting the destruction.”
2. The *Records Management Best Practices and Procedures* specifies that “retention schedules should be reviewed annually to ensure they remain complete and accurate.”
3. According to the Section 1210-01-.06(2)(c) of the *Rules of the Tennessee Public Records Commission*, each agency must annually complete a records holding report. The *Records Management Best Practices and Procedures* instructs agencies to report the Starting Records on Hand by “indicat[ing] the number from the previous year’s report.”

According to the commission’s former Legal Counsel,¹³ who served as the commission’s Public Records Officer, her responsibility for records management made up approximately 5% of her workload and was not a priority. During our meetings with her, we received inaccurate, incomplete, and conflicting answers about the commission’s records management process. In our initial meeting with the Public Records Officer on January 28, 2019, she stated that the commission

¹² The employee who served as the Public Records Officer in 2015 did not submit a records holding report. Since the ending number of records from the preceding year’s report should serve as the starting number for the current year’s report, we were unable to determine whether the 2016 records holding report was accurate. Based on our review of the reports for 2016 through 2018, however, we noted that the Public Records Officer did not report the correct starting number of records on the 2017 and 2018 reports. These misstatements also resulted in inaccurate ending numbers of records.

¹³ The former Legal Counsel separated from the commission on February 15, 2019, and management designated the commission’s Attorney to serve as the new Public Records Officer.

had no agency-specific RDAs and that it followed statewide RDAs. When we later asked her about the two agency-specific RDAs identified in the list provided by the Records Management Division, the Public Records Officer stated that they had been retired. At a subsequent meeting, she claimed that she had forgotten about them in the last discussion. The Public Records Officer also reported to us that the Records Management Division had not identified any problems with the commission's records system in its assessment, even though we have the results of that assessment, which indicates otherwise. In one of our other discussions with her, she stated that she performed the annual records review but did not document this process.

Based on our audit work, the commission's staff only retained paper records for the State Health Insurance Assistance Program (SHIP)¹⁴ for three years, and only for clients that they thought they may need to refer to in the future. According to the Aging Program Director, the commission relied on the information system¹⁵ to maintain these records since the original records for the SHIP program are created exclusively in the information system. However, the U.S. Administration for Community Living (ACL), the federal grantor, transitioned to a new information system on September 1, 2018, and the commission lost access to data stored in SHIPtalk on December 31, 2018. On June 3, 2019, the Aging Program Director received notice from ACL that it had completed the migration of legacy data from the prior information system. Although the commission's access to legacy data has been restored, from December 31, 2018, through June 3, 2019, the commission was unable to access any data entered before September 1, 2018.

Public records ensure a state agency's official business is fair and transparent. Without retaining records in accordance with established RDAs, there is increased risk that the commission cannot effectively conduct business and assure stakeholders about program decisions. Additionally, failure to accurately report on records holding and disposals adversely impacts management's ability to preserve and protect the commission's public records, as well as the Records Management Division's awareness about the commission's available records. Without performing annual records management reviews and implementing the recommendations identified in the public records assessment, commission management risks noncompliance with required records management policies. Finally, if the commission does not plan for unexpected losses of service with third-party systems, there is an increased risk of losing records potentially needed for daily operations.

Recommendation

The Executive Director and the new Public Records Officer should ensure that the commission

- maintains records in accordance with up-to-date RDAs;

¹⁴ The SHIP program provides free and objective information, counseling, and other assistance to consumers, their adult children, caregivers, health care providers, and other advocates regarding Medicare and other related health insurance programs.

¹⁵ The commission kept its electronic data indefinitely in SHIPtalk, the information system required by the U.S. Administration for Community Living, which provides funding for the SHIP program.

- performs and documents the results of annual retention schedule reviews; and
- implements the recommendations that the Records Management Division made in its December 2016 assessment.

Additionally, the Public Records Officer should submit Certificates of Records Destruction and annual records holding reports to the Records Management Division as required by the *Records Management Best Practices and Procedures*. Finally, for any data stored on a third-party information system, management should create an RDA that governs the relevant commission records needed to administer the federal program.

Management's Comment

We concur.

We concur with the Comptroller's Finding 2 identified in the sunset performance audit. TCAD [the commission] agrees with the Comptroller's assessment of the necessity of proper record management not only for compliance with state law, but also for efficient operation of government. TCAD is committed to compliance with the proper retention and destruction of documents created in the course of business.

Plan of Correction for Finding 2:

What has been done to correct:

1. As stated in the audit finding, TCAD hired a new General Counsel [Legal Counsel] on March 4, 2019, with the understanding that records management is a key requirement for any state agency and that the General Counsel is to operate as the Public Records Officer as well. TCAD also hired an Executive Assistant who will, in part, be operating in a support role for the public records management requirements for the commission and will also ensure that there are no missed action dates for records management.
2. The new General Counsel has already submitted the calculation for the annual retention schedule review. This annual review represented a more accurate accounting of the documents on hand and created during fiscal year 2019. The annual review is believed to better tabulate the documents on hand and was submitted on July 19, 2019, well in advance of the August 1, 2019, deadline; that assessment will then continue on a yearly basis as is required by the Secretary of State's office.
3. Additionally, the General Counsel, on June 3, 2019, and July 1, 2019, covered a brief training on the requirements of record retention with the commission staff, and is developing training on specific document retention requirements during the next staff meeting on August 5, 2019.

What will be done to correct:

1. The General Counsel, along with the new Executive Assistant, will be submitting a

- records disposition request according to the currently approved RDAs for this fiscal year.
2. The General Counsel and the Executive Assistant will also review the approved RDAs yearly with the Secretary of State to ensure that the documents created are adequately accounted for by approved RDAs.
 3. Both the General Counsel and the Executive Assistant will attend all mandatory trainings by the Secretary of State.
 4. The Executive Director will meet with the General Counsel, at minimum, biannually to ensure that records are being retained and disposed of appropriately.

COMMISSION MEMBERS AND CONFLICT-OF-INTEREST FORMS

Pursuant to Section 71-2-104, *Tennessee Code Annotated*, the Tennessee Commission on Aging and Disability is comprised of 22 members:

- 13 Governor-appointed positions;
- 7 ex-officio members who are members by virtue of their positions; and
- 2 legislators who serve “as ex officio members without voting power . . . and sit with the commission in open meetings, in order to report back to the general assembly on actions being taken or considered by the commission.”

Since appointed members are tasked with providing leadership in programs for the elderly and disabled Tennesseans, members may come from diverse areas such housing, recreation, employment, medicine, nursing, social service, business, adult education, long-term care, religion, research, and advocacy. Appointees serve six-year terms, except for members of the Governor’s personal staff and cabinet, whose terms match the Governor’s, and the legislators, whose terms are dependent on their terms of office in the General Assembly. For the Governor-appointed positions, the Area Agencies on Aging and Disability and chartered organizations that advocate for older and disabled persons submit nominees for consideration by the Governor. See **Appendix 4** for appointments as of June 12, 2019. As vacancies occur, appointments should be filled for the remainder of the unexpired term. A commission member may be reappointed only after a two-year absence from the commission.

Commission Meetings

The commission’s bylaws state that it shall “conduct all its business meetings in public and shall meet at least quarterly” and that a majority of the voting members in attendance at a meeting constitute a quorum.¹⁶ Commission meetings occur in February, May, August, and November, unless otherwise specified. The commission posts the quarterly meeting notices on its website so

¹⁶ The commission can achieve a majority with 11 out of 20 voting members.

that any member of the public can attend. Chapter 2, “Commission Organization and Conduct of Business,” of the commission’s *Program and Policy Manual* states that any member who is absent from three consecutive meetings may be referred to the Governor for replacement. Commission staff take minutes of commission and committee meetings and mail the minutes to all commission members either electronically or by postal delivery.

Committees

The commission has the following committees:

- The Executive Committee acts for the commission between regular meetings, in emergencies, or as empowered to act by the commission. This committee periodically evaluates the Executive Director's performance.
- The Audit Committee provides input on fiscal issues and provides oversight for the commission’s management. This committee is also responsible for reviewing conflict-of-interest forms for both commission members and staff.
- The Legislative Committee reviews all legislative matters that concern aging and disability issues, including legislation pending or proposed before the Tennessee General Assembly, and provides input to the full commission on such matters.
- The Strategic Planning Committee is responsible for initiating, implementing, and updating a strategic plan for the commission. This committee monitors the agency regularly to ensure that the programs and overall direction of the commission are consistent with the strategic plan.
- The Community Living Committee is responsible for monitoring, studying, and making recommendations to the commission regarding programs, educational efforts, and commission direction in all quality aging-related matters.

The committees meet quarterly, either in person or via telephone, before the full commission meets. The Audit Committee meets the morning of the full commission meeting, prior to the full session beginning.

Conflict-of-Interest Disclosures for Commission Members

Section 71-2-108, *Tennessee Code Annotated*, requires members to report any potential conflicts of interest that may arise during their tenure and to recuse themselves from any proceedings or votes involving those conflicts.

According to Chapter 2 of the commission’s *Program and Policy Manual*, commission members must complete conflict-of-interest forms at the start of their appointments and annually thereafter. The Executive Administrative Assistant mails and emails commission members the conflict-of-interest forms that they need to sign each year. The commission’s Audit Committee reviews members’ completed forms each year at the May quarterly meeting in accordance with Chapter 2, “Commission Organization and Conduct of Business, ” of the *Program and Policy Manual*.

Audit Results

1. Audit Objective: Did the commission provide adequate public notice for its meetings, meet quorum requirements, and keep meeting minutes?

Conclusion: Yes, the commission provided adequate public notice for its meetings, met quorum requirements, and kept meeting minutes.

2. Audit Objective: Did the commission meet the requirements for member composition as defined in Section 71-2-104, *Tennessee Code Annotated*?

Conclusion: Although appointed members met the requirements to serve in their positions, the commission had seven extended vacancies. See **Observation 4**.

3. Audit Objective: Did the commission refer members who missed three or more consecutive meetings to the Governor for replacement, as required by policy?

Conclusion: Aside from vacancies noted in the previous objective, no commission members were absent from three or more consecutive meetings.

4. Audit Objective: Did management ensure that all commission members completed conflict-of-interest forms and abstained from discussions and voting when conflicts of interest were present?

Conclusion: Based on our review, not all commission members completed conflict-of-interest forms. See **Observation 5**. We did not identify any situations that required members to recuse themselves from commission meetings based on a review of the commission's meeting minutes.

Methodology to Achieve Objectives

To achieve our objectives, we reviewed state laws and the commission's bylaws and policies to obtain an understanding of the commission's membership appointments, member qualifications, and meeting requirements. We interviewed the Executive Director, the Deputy Director, and the Executive Administrative Assistant to obtain an understanding of the commission's procedures for collecting commission member's conflict-of-interest forms. We obtained and reviewed the commission members' conflict-of-interest forms for calendar years 2015, 2016, 2017, and 2018.¹⁷ We also reviewed meeting minutes from July 1, 2015, to December 31, 2018, to determine if any members missed three or more meetings; if any members recused themselves from discussion and voting; or if the commission had any vacancies.

¹⁷ Since the Audit Committee reviews members' conflict-of-interest forms in May of each year, the calendar year 2019 forms had not been submitted and reviewed when we were performing our audit work.

Observation 4 – The commission has had extended vacancies and should continue to coordinate with the Governor’s Office for member appointments in accordance with state statute

From July 1, 2015, to December 31, 2018, the Tennessee Commission on Aging and Disability had 7 extended vacancies that ranged from 254 to 1,227 days. Three of these vacancies remained unfilled as of June 12, 2019. Additionally, the Governor filled two vacancies by reappointing existing commission members serving partial terms, without the required two-year absence from the commission. See **Table 3** for specific details regarding the vacancies during our audit period.

**Table 3
Commission Member Vacancies
July 1, 2015, Through December 31, 2018**

Member Qualification	Vacancy Reason	Vacant Start Date	Vacant End Date	Days Vacant
Southwest Tennessee representative	Term ended	10/1/2014	4/24/2016	573
Northwest Tennessee representative	Member resigned	5/21/2015	4/27/2016†	342
Advocate for disabled adults	Member resigned	2/1/2016	6/12/2019*	1,227
Advocate for older persons	Member resigned	2/19/2016	8/8/2018†	901
Delta District representative	Term ended	10/1/2016	10/23/2017	387
Governor’s personal staff	Member resigned	1/30/2018	6/12/2019*	498
South Central Tennessee representative	Term ended	10/1/2018	6/12/2019*	254

*As of June 12, 2019, a new member had not been appointed to the vacant position.

†The Governor reappointed this individual to a second term on October 1, 2018.

Although the commission meetings have all resulted in a quorum, Section 71-2-104, *Tennessee Code Annotated*, states that the commission shall consist of 22 members. With vacancies lasting almost a year or longer, there is increased risk that some groups, such as disabled adults, may not have had adequate representation during commission meetings. Section 71-2-104, *Tennessee Code Annotated*, also states that mid-term vacancies shall be filled for the unexpired term and that commission members are eligible for reappointment only after a two-year absence from the commission. When the commission recommends reappointing currently serving members, there is an increased risk of stagnation in the ideas and opinions of the commission as a whole. The commission must follow statute to ensure that it is responsive to the needs of the state’s aging population.

In our discussion with the Executive Director regarding these vacancies, he stated that the Governor was responsible for appointing members to the commission and that he did not maintain copies of any letters or emails sent to the Governor’s Office requesting that the vacancies be filled. The Executive Director stated that the commission recommended the appointment of the two members to consecutive terms because it needed the members to fill vacant positions immediately; although management was aware of the statutorily mandated absence for reappointments, the commission accepted the nominations early and did not wait for the appointees to be eligible to serve full six-year terms. In order to ensure that all interested parties are properly represented on the commission, management should develop a documented process for notifying the Governor’s Office

of any vacancies; requesting that the appropriate agency send prompt nominations that meet all statutory requirements; and following up at regular intervals on any vacancies that remain unfilled.

Observation 5 – The commission should ensure that all members annually complete conflict-of-interest forms

During the period July 1, 2015, through December 31, 2018, we found 4 Tennessee Commission on Aging and Disability members who did not complete conflict-of-interest forms. We identified 3 of 18¹⁸ voting members (17%) in 2017 and 2 of 18¹⁹ voting members (11%) in 2018 who did not complete their conflict-of-interest forms; one of these commission members did not complete it for both years.

Pursuant to Section 71-2-108, *Tennessee Code Annotated*,

If any matter before the commission involves a project, transaction, or relationship in which a member or a member's associated institution, business or agency has a direct or a conflicting interest, the member shall make known to the commission that interest and shall be excused from the proceedings.

The commission's policies require commission members to complete conflict-of-interest forms annually, and disclosure of potential conflicts of interest is essential to prevent members' actual or apparent bias from affecting their decision making. Completing annual conflict-of-interest forms also assures citizens of Tennessee that decision makers are upholding the highest ethical standards.

Although the Executive Administrative Assistant notified the commission members to complete conflict-of-interest forms, neither commission staff nor the members of the Audit Committee took follow-up action when the four commission members did not submit their forms. Neither the commission's bylaws nor policies nor the Audit Committee's charter prescribe any follow-up action. Commission management should, therefore, develop a process to ensure that all members submit completed conflict-of-interest forms annually as required; the process should include specific follow-up actions to be completed when a member does not timely submit his or her form.

INFORMATION SYSTEMS

The Tennessee Commission on Aging and Disability relies on Edison, the state's enterprise resource planning system, to capture and collect pertinent information relating to the programs it administers. Additionally, the commission uses Active Directory for email and network account access. The commission's computer systems include WellSky Aging & Disability, a third-party vendor's web application that has various subsystems for tracking program data and case management. The Department of Finance and Administration's Division of Strategic Technology

¹⁸ In 2017, there were two vacancies: an advocate for disabled adults and an advocate for older persons.

¹⁹ In 2018, there were two vacancies: an advocate for disabled adults and the Governor's personal staff.

Solutions (STS) manages the commission's network access and administers Edison. The commission's Information Systems Division is responsible for providing information technology and desktop support to commission staff.

Results of Prior Audit

In the commission's November 2015 performance audit report, we reported that the commission did not design and monitor internal controls in two specific areas. The details of this finding are confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. Management concurred with the prior audit finding, stating that it had revised its internal control procedures and would make sure that these procedures were followed.

Audit Results

Audit Objective: In response to the prior audit finding, did management follow information systems security policies and industry best practices regarding information systems controls?

Conclusion: With minor exceptions, management followed information systems security policies and industry best practices regarding information systems controls.

Methodology to Achieve Objective

To achieve our objective, we reviewed STS' *Enterprise Information Security Policies*, which applies to all computing platforms and software in any way related to the state's enterprise computing or telecommunications network. Through testwork, we compared management's internal control activities to assess adherence to state information systems security policies and information systems industry best practices.

STAFF TURNOVER

According to the U.S. Bureau of Labor Statistics, employees have separated from non-education jobs within state and local government at a rate of approximately 20% for the past three calendar years. From July 1, 2015, through June 30, 2018, the Tennessee Commission on Aging and Disability had an average of three separations per year and an average turnover rate of 9%.

Audit Results

Audit Objective: Did the commission experience any turnover that affected its ability to meet its mission?

Conclusion: Based upon our analysis of staffing levels for July 1, 2015, through June 30, 2018, the commission's employee turnover rates were below national averages, and employee separations did not affect the commission's ability to meet its mission.

Methodology to Achieve Objective

To achieve our objective, we obtained separation data for the commission; calculated its turnover rates for fiscal years 2016, 2017, and 2018; and compared these figures to national rates obtained from the U.S. Bureau of Labor Statistics.

APPENDICES

APPENDIX 1

Letter From the Comptroller of the Treasury to the Commission on Aging and Disability



JUSTIN P. WILSON
Comptroller

JASON E. MUMPOWER
Deputy Comptroller

May 6, 2019

Mr. Jim Shulman, Executive Director
Tennessee Commission on Aging and Disability
9th Floor, Andrew Jackson Building
502 Deaderick Street
Nashville, Tennessee 37243-0860

Dear Mr. Shulman:

During our audit fieldwork of the commission, we identified multiple senior centers which appear to routinely operate gambling events, such as raffles and bingo games, which are or may be prohibited by state law. Although the Tennessee Nonprofit Gaming Law, codified in Sections 3-17-101 et seq., *Tennessee Code Annotated*, allows a nonprofit organization to conduct an annual event with “a single type of lottery game,” the law requires the organization to submit and obtain approval from the Tennessee Secretary of State in the fiscal year before the planned event. Tenn. Code Ann. § 3-17-103(a)(1)(A)(i). Except as noted, the Tennessee Nonprofit Gaming Law prohibits gambling in general and expressly prohibits bingo.

Considering our observations, we request that you and the commission coordinate with all area agencies on aging and disability to notify the senior centers immediately of the prohibitions on gambling, ensure that they familiarize themselves with the Tennessee Nonprofit Gaming Law, cease operation of any forms of gambling that are expressly prohibited, and follow guidance available through the Department of State’s Division of Charitable Solicitations and Gaming for any allowable gaming events. Forms, FAQs, contact information, and other resources can be found on the website for the division: <https://www.sos.tn.gov/charitable/gaming>.

We were informed of bingo games and unapproved raffles during our site visits at Rhea Richland Senior Neighbors, Dickson Senior Center, and the Tipton County Commission on Aging. Other information that we have obtained through our audit work indicates that other senior centers also operate gambling events. To ensure all concerned parties are fully aware of the restrictions on gambling, we have copied the directors of the three centers, as well as the directors of all nine area agencies on aging and disability.

Thank you for your cooperation and prompt attention in this matter. If you have any questions regarding the content of this letter, please contact John Dunne, the manager in charge of the audit, at (615) 747-5286 or John.Dunne@cot.tn.gov.

Sincerely,

A handwritten signature in black ink that reads "Deborah V. Loveless".

Deborah V. Loveless, CPA, Director
Division of State Audit

cc: Lesleec Bibb, Commission Chair
Amy McRorie, Director- Rhea Richland Senior Neighbors
Joan Rial, Director- Dickson Senior Center
Kerry Overton, Director- Tipton County Commission on Aging
Area Agency on Aging and Disability Directors

CORDELL HULL BUILDING | 425 Fifth Avenue North | Nashville, Tennessee 37243

APPENDIX 2

Letter From the Commission on Aging and Disability to the Comptroller of the Treasury



STATE OF TENNESSEE
COMMISSION ON AGING AND DISABILITY

Andrew Jackson State Office Building
502 Deaderick Street, 9th Floor
Nashville, Tennessee 37243

Jim Shulman
Executive Director

Phone (615) 741-2056
Fax (615) 741-3309

May 8, 2019

Deborah V. Loveless, CPA, Director
Division of State Audit
Tennessee Comptroller of the Treasury
Cordell Hull Building
425 Fifth Avenue North
Nashville, Tennessee 37243

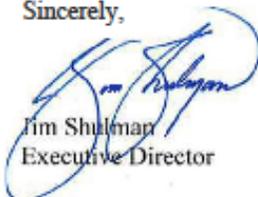
Dear Ms. Loveless:

Thank you for your letter dated May 6, 2019 concerning some of the activities being conducted by various senior centers in Tennessee. We take such concerns very seriously and will immediately begin the process of review and education.

As you know, the Tennessee Commission on Aging and Disability provides funding to senior centers across the State through appropriations provided by the Tennessee General Assembly. These senior centers do not report directly to our agency nor do we have any regulatory control over their operation; there is also no contractual relationship with any of them. The funds to the senior centers are initially distributed as part of TCAD's contracts with the Area Agencies on Aging and Disability. TCAD does have policies regarding senior centers; those policies, however, are exclusively designed to deal with the fact that TCAD indirectly provides state funds to them.

Thank you for allowing us to clarify. In the past, TCAD has been able to inform senior centers that they are prohibited from conducting certain practices, which are in violation of the law. We will take actions to make sure that senior centers across Tennessee understand the prohibitions and follow the guidelines of non-profit gaming as set forth by the Tennessee Secretary of State's Office.

Sincerely,



Jim Shulman
Executive Director

C: Leslee Bibb, Commission Chair
Amy McRorie, Director, Rhea Richland Senior Neighbors
Joan Rial, Director, Dickson Senior Center
Kerry Overton, Director, Tipton County Commission on Aging
Area Agency on Aging and Disability Directors

APPENDIX 3 Tennessee Nonprofit Gaming Law Requirements

The Tennessee Nonprofit Gaming Law, Title 3, Chapter 17, *Tennessee Code Annotated*, allows nonprofit organizations to host one paid gaming event per year as a fundraising activity, provided the organization meets all required criteria, including the following:

- is recognized as 501(c)(3) nonprofit organization;
- has been in continuous and active existence in the State of Tennessee for the five years immediately preceding the event date;
- submits an application to the Secretary of State by January 31 each year²⁰ for the annual event period beginning July 1 of that calendar year and ending June 30 of the subsequent calendar year; the application must include the event's name, date, and location; a description of the type of game to be conducted, including the estimated number of tickets or similar records to be offered and the actual dollar amount for which they will be sold; and a description of how the proceeds from the event will be used;
- holds the proposed event at a single location within or contiguous to a county in which the nonprofit organization has a physical presence;
- conducts only one licit game type at the event; and
- returns all the gross proceeds to the organization for the purposes described on the application.

If the organization meets all applicable criteria (including others mentioned in the law but not in this report), the Secretary of State includes the event on an omnibus list to be approved by the Tennessee General Assembly. For events on the omnibus list to legally take place, the list must be approved by two-thirds of each of the houses of the General Assembly.

Gaming activities that may take place as a fundraiser include raffles, reverse raffles, cakewalks, and cake wheels. However, the law specifically prohibits, among other gaming activities, bingo and games of chance associated with casinos, which is defined in Chapter 1360-03-03-.01(6), *Rules of the Tennessee Department of State Division of Charitable Solicitations Charitable Gaming Section*, as including “casino nights parties (also known as ‘Vegas Nights’, ‘Las Vegas Nights’, [and] ‘Monte Carlo Nights’.” These activities **may not** be used as a fundraising activity.

When a senior center holds bingo games that have a required, or suggested, entrance fee of cash or some other item of value, such as toiletries or baked and canned goods, it is engaging in illicit gaming activity. This includes payments labeled as “donations,” “contributions,” or other similar language. However, bingo games that do not require an entrance fee or donation of any kind do not fall under the state definition of gambling and **may occur** at a senior center.

²⁰ The Secretary of State accepts applications from July 1 through January 31 each fiscal year.

APPENDIX 4
Tennessee Commission on Aging and Disability Commission Members
As of June 12, 2019

Name	Appointed By	Representing	Term End Date
Leslee Bibb, Chair	Governor	Southwest Tennessee Region*	9/30/2020
Kim Brannon	Governor	Northwest Tennessee Region*	9/30/2024
Mike Callahan	Governor	Upper Cumberland Region*	9/30/2020
Ed Cole	Governor	Greater Nashville Region*	9/30/2022
Cele Curtis	Governor	Southeast Tennessee Region*	9/30/2020
Del Holley	Governor	East Tennessee Region*	9/30/2022
Dora Ivey	Governor	Delta District Region*	9/30/2022
Jerry Lukach, Vice-Chair	Governor	First Tennessee Development District*	9/30/2020
Kraig Smith	Governor	Federal Organization Advocate for the Elderly	9/30/2024
Janice Wade-Whitehead	Governor	Statewide Organization Advocate for the Elderly	9/30/2024
Commissioner Danielle Barnes	Ex-officio	Department of Human Services	-
Commissioner Lisa Piercey	Ex-officio	Department of Health	-
Deputy Commissioner Gabe Roberts	Ex-officio	Division of TennCare	-
Commissioner Courtney Rogers	Ex-officio	Department of Veterans Services	-
Commissioner Brad Turner	Ex-officio	Department of Intellectual and Developmental Disabilities	-
Commissioner Marie Williams	Ex-officio	Department of Mental Health and Substance Abuse Services	-
Executive Director Wanda Willis	Ex-officio	Executive Director of the Council on Developmental Disabilities	-
Senator Ken Yager	Senate Speaker	Senate Representative	-
Representative Sabi Kumar	House Speaker	House Representative	-
<i>Vacant</i>	Governor	Statewide Organization Advocate for Disabled Adults	-
<i>Vacant</i>	Governor	Governor's Staff	-
<i>Vacant</i>	Governor	South Central Tennessee Representative*	-

* Pursuant to Section 71-2-104, *Tennessee Code Annotated*, the Governor appointed, or is responsible for appointing, this individual from one of the state's nine planning and service areas, in consultation with the advisory council to the Area Agency on Aging and Disability.

Source: <https://www.tn.gov/aging/our-commission/commission-members.html>.