



STATE OF TENNESSEE COMPTROLLER OF THE TREASURY

**Department of Commerce and Insurance
Including
Commission on Firefighting Personnel Standards and Education
and
Peace Officers Standards and Training Commission**

Performance Audit Report

September 2014

**Justin P. Wilson
Comptroller of the Treasury**



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September 12, 2014

The Honorable Ron Ramsey
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Speaker of the House of Representatives
The Honorable Mike Bell, Chair
Senate Committee on Government Operations
The Honorable Judd Matheny, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
The Honorable Julie Mix McPeak, Commissioner
Department of Commerce and Insurance
12th Floor, Davy Crockett Tower
500 James Robertson Pkwy
Nashville, Tennessee 37243-0565

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Department of Commerce and Insurance, including the Commission on Firefighting Personnel Standards and Education and the Peace Officers Standards and Training (POST) Commission for the period July 1, 2011, through May 31, 2014. 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 Objectives, Methodologies, and Conclusions sections of this report. Management of the Department of Commerce and Insurance and the POST Commission have responded to the audit findings; we have included their 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 Department of Commerce and Insurance; the Commission on Firefighting Personnel Standards and Education; and the POST Commission should be continued, restructured, or terminated.

Sincerely,

Deborah V. Loveless, CPA
Director

DVL/jw
14/033

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit

Department of Commerce and Insurance

Commission on Firefighting Personnel Standards and Education

Peace Officers Standards and Training Commission

September 2014

AUDIT SCOPE

We have audited the Department of Commerce and Insurance (the department), including the Commission on Firefighting Personnel Standards and Education and the Peace Officers Standards and Training (POST) Commission, for the period July 1, 2011, through May 31, 2014. Our audit scope within the department included a review of internal control and compliance with laws and regulations in the divisions of Fire Prevention, Insurance, and Securities, as well as in the Automobile Race Track and Drag Strips program. Within the Commission on Firefighting Personnel Standards and Education, our scope included conflict of interest of commission members, the Educational Incentive Pay program, and travel claim expenditures. Our scope within the POST Commission included in-service training salary supplements for law enforcement officers, travel claim expenditures, monitoring of law enforcement training academies, and the commission's records management system. Department management and both commissions' managements are responsible for establishing and maintaining effective internal control and for complying with applicable laws and regulations.

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

We conducted our audit in accordance with generally accepted government auditing standards. 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.

CONCLUSIONS

FINDINGS

Department of Commerce and Insurance

As noted in the prior audit, the Manufactured Housing Section still did not meet all statutory requirements set forth in the Tennessee Manufactured Home Installation Act

In our review, the Division of Fire Prevention's Manufactured Housing Section still did not perform inspections within 20 days after receipt of the manufactured home installer's report and did not perform annual inspections on at least one installed home for each installer, as set forth in the Tennessee Manufactured Home Installation Act (page 11).*

As noted in the prior audit, the Division of Securities did not perform supervisory reviews of securities applications

We continued to find instances of supervisors not documenting their review of securities applications. In addition, the Registration Section's recently hired director and assistant director were not aware of the prior audit finding, which we reported in April 2009, until December 2013 (page 23).*

Registration Section management did not require issuers to submit three copies of the prospectus when filing securities applications by coordination, thus violating state statute

We found that the assistant commissioner, director, and assistant director were not aware that the statute required three copies of the prospectus (page 24).

Department staff did not timely deposit \$383,564 in revenue collections for two divisions in accordance with state policy

We found that department management and staff have not ensured that substantial revenue collections are deposited in the timeframe required by the Department of Finance and Administration's Policy 25 (page 26).

The department did not always maintain proper information systems security controls, increasing the risk of fraudulent activity or loss of data

Based on our testwork, department staff did not always maintain proper information systems security in five specific areas, resulting in an increased risk of fraudulent activity or loss of data (page 28).

POST Commission

As noted in the prior audit, the POST Commission's monitoring of law enforcement training academies is still inadequate

We found that the POST Commission did not adequately monitor the academies by obtaining all annual reports from the state's law enforcement training academies by the January 31 deadlines and conducting annual on-site visits at the academies (page 36).*

* This finding is repeated from the prior audit.

OBSERVATIONS

The following topics did not warrant findings but are included in this report because of their effect on the operations of the Department of Commerce and Insurance, the Commission on Firefighting Personnel Standards and Education, and the POST Commission, as well as on the citizens of Tennessee: the Division of Insurance's Agent Licensing Section staff did not ensure that either navigator entities or certified application counselor organization entities complied with all registration requirements outlined in the department's rules (page 16); department management did not promptly notify the Comptroller's Office of an internal investigation relating to documentation provided to our audit team (page 18); the Commission on Firefighting Personnel Standards and Education did not ensure that it developed clear conflict-of-interest procedures and did not ensure that commission members signed the conflict-of-interest forms annually (page 33); and as noted in the prior audit, POST Commission staff did not have a fully implemented system to maintain and monitor data electronically (page 39).

Performance Audit
Department of Commerce and Insurance
Including
Commission on Firefighting Personnel Standards and Education
and
Peace Officers Standards and Training Commission

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Performance Audit
Department of Commerce and Insurance
Including
Commission on Firefighting Personnel Standards and Education
and
Peace Officers Standards and Training Commission

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the Department of Commerce and Insurance, including the Commission on Firefighting Personnel Standards and Education and the Peace Officers Standards and Training (POST) Commission, was conducted pursuant to the Tennessee Governmental Entity Review Law, Title 4, Chapter 29, *Tennessee Code Annotated*. Under Section 4-29-236, these entities are scheduled to terminate June 30, 2015. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the entities and to report to the Joint Government Operations Committee of the General Assembly. This audit is intended to aid the committee in determining whether the Department of Commerce and Insurance, the Commission on Firefighting Personnel Standards and Education, and the POST Commission should be continued, restructured, or terminated.

ORGANIZATION AND STATUTORY RESPONSIBILITIES

The Department of Commerce and Insurance (the department) is a diverse entity charged with protecting the interests of consumers while providing fair, efficient oversight and a level field of competition for a broad array of industries and professionals doing business in Tennessee.

The department is governed by the Office of the Commissioner, which consists of the Office of General Counsel, the Office of Internal Audit, the Communications Office, the Hearing Office, and the Legislative Office. The department's Division of Administration handles the internal operational needs and includes the Fiscal Services, Information Systems, and Human Resources sections.

The department houses six divisions that directly affect its consumers:

- The Division of Consumer Affairs enforces the Tennessee Consumer Protection Act. Additionally, the division registers beauty pageants, credit services businesses, health clubs, and debt-management service providers. It also coordinates the department's statewide consumer education efforts.

- The Division of Insurance regulates insurance companies and insurance producers. It also reviews and approves insurance policy forms and rates for use in the state; mediates and investigates policyholder complaints of misconduct and fraud; and conducts consumer education programs across the state.
- The Division of Securities regulates broker-dealer firms, securities agents, investment adviser firms, investment adviser firm notice filers, and investment adviser representatives. It also registers securities products, investigates investor complaints of misconduct and fraud, and provides investor education programs across the state.
- The Division of TennCare Oversight protects the public health and integrity of the TennCare Program by overseeing, examining, and monitoring the practices of the health maintenance organizations and behavioral health organizations that contract to provide services to TennCare enrollees.
- The Division of Fire Prevention is the State Fire Marshal's Office. The division includes the state's building and safety codes enforcement operations, as well as arson and explosives investigations. It also conducts consumer and children's fire-safety education programs across the state.
- The Division of Regulatory Boards protects the health and safety of citizens through boards and commissions by ensuring that persons meet minimum professional standards, by responsively and timely handling complaints, and by providing consumer education on regulated professions and industries. The boards and commissions under this division are audited separately based on their scheduled termination dates set forth in Title 4, Chapter 29, *Tennessee Code Annotated*. Although the Division of Regulatory Boards is not included in this audit, we did conduct a limited review of the division's Automobile Race Track and Drag Strips program.

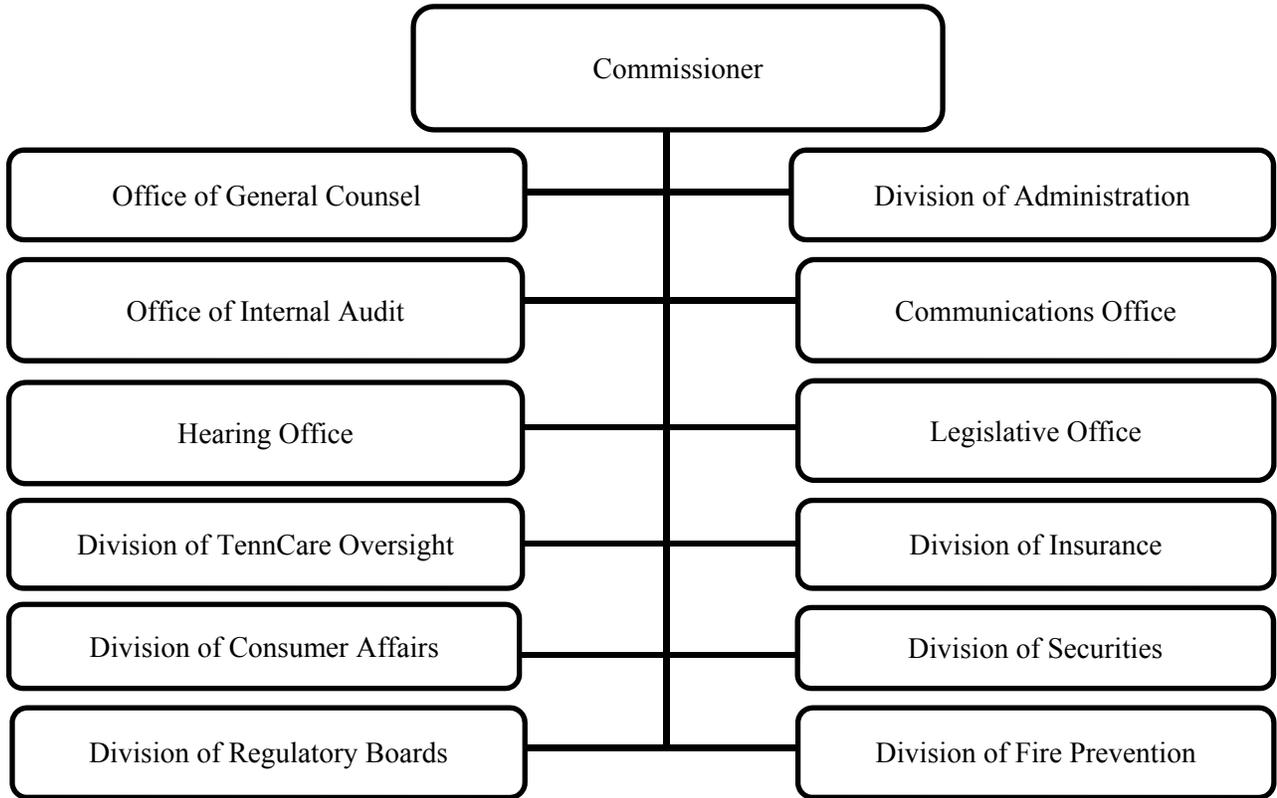
Entities Administratively Attached to the Department

- The Commission on Firefighting Personnel Standards and Education is responsible for the certification of volunteer and paid firefighters in Tennessee. The commission also administers the Educational Incentive Pay program for paid firefighters in the state.
- The Peace Officers Standards and Training (POST) Commission is the primary regulatory body for Tennessee law enforcement officers. The POST Commission develops and enforces educational, physical, and proficiency skills standards for law enforcement agencies and officers statewide. In addition to setting standards, the commission also certifies law enforcement training, instructors, curricula, academies, specialized schools, officers, staff, and agencies. The POST Commission also provides an annual salary supplement to certified full-time officers completing the required 40 hours of in-service training.
- The Tennessee Athletic Commission is responsible for regulating all professional contests and professional-amateur competitions held, conducted, or given within the state, with the exception of amateur or professional wrestling events.

- The Tennessee Corrections Institute is required to establish minimum standards for adult detention facilities and conduct inspections to ensure these facilities are in compliance with those standards.
- The Tennessee Emergency Communications Board protects the public through implementation of statewide enhanced 911 services for land and wireless lines.
- The Tennessee Law Enforcement Training Academy trains state, county, and city law enforcement officers at all levels of responsibility. The academy trains new police recruits as one of 11 law enforcement schools across the state, provides in-service training to current officers, and assists the POST Commission in maintaining records for over 14,000 certified officers in the state.

Organization charts of the department, including the Commission on Firefighting Personnel Standards and Education and the POST Commission, are on the following pages.

Tennessee Department of Commerce and Insurance
Including Administratively Attached Entities
Organizational Chart
April 2014



Tennessee Athletic Commission

Tennessee
Corrections Institute

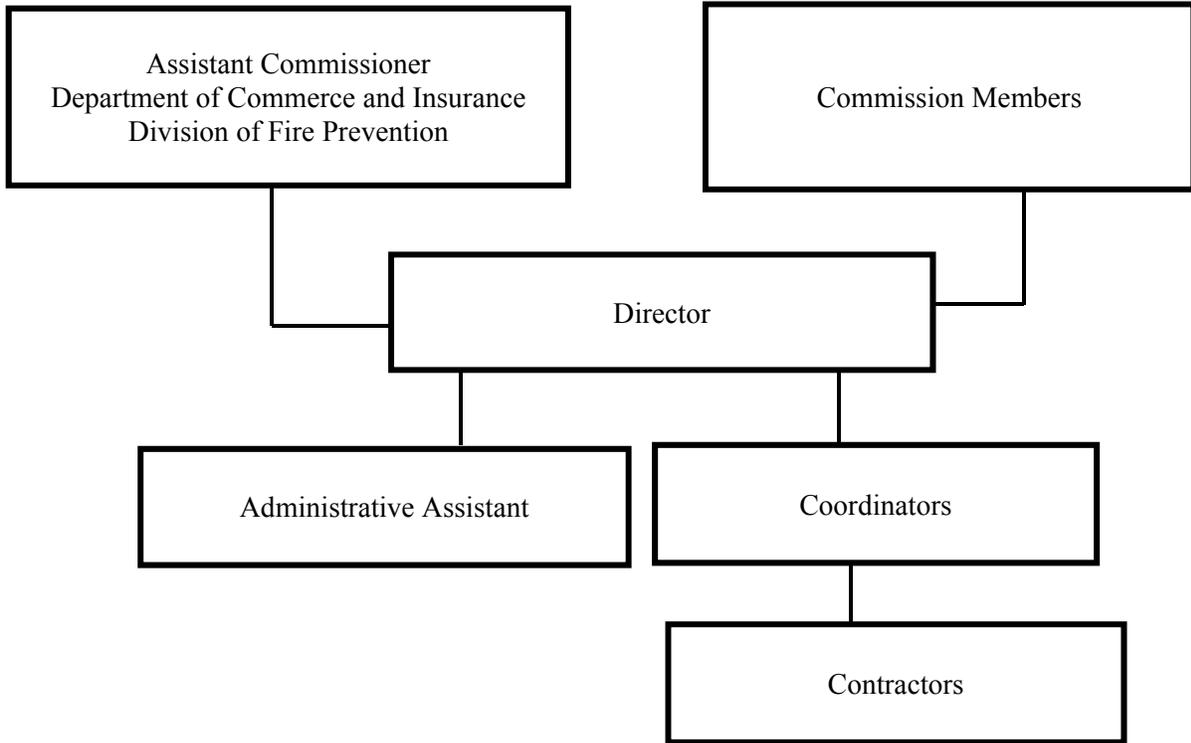
Tennessee Emergency
Communications Board

Commission on Firefighting
Personnel Standards and Education

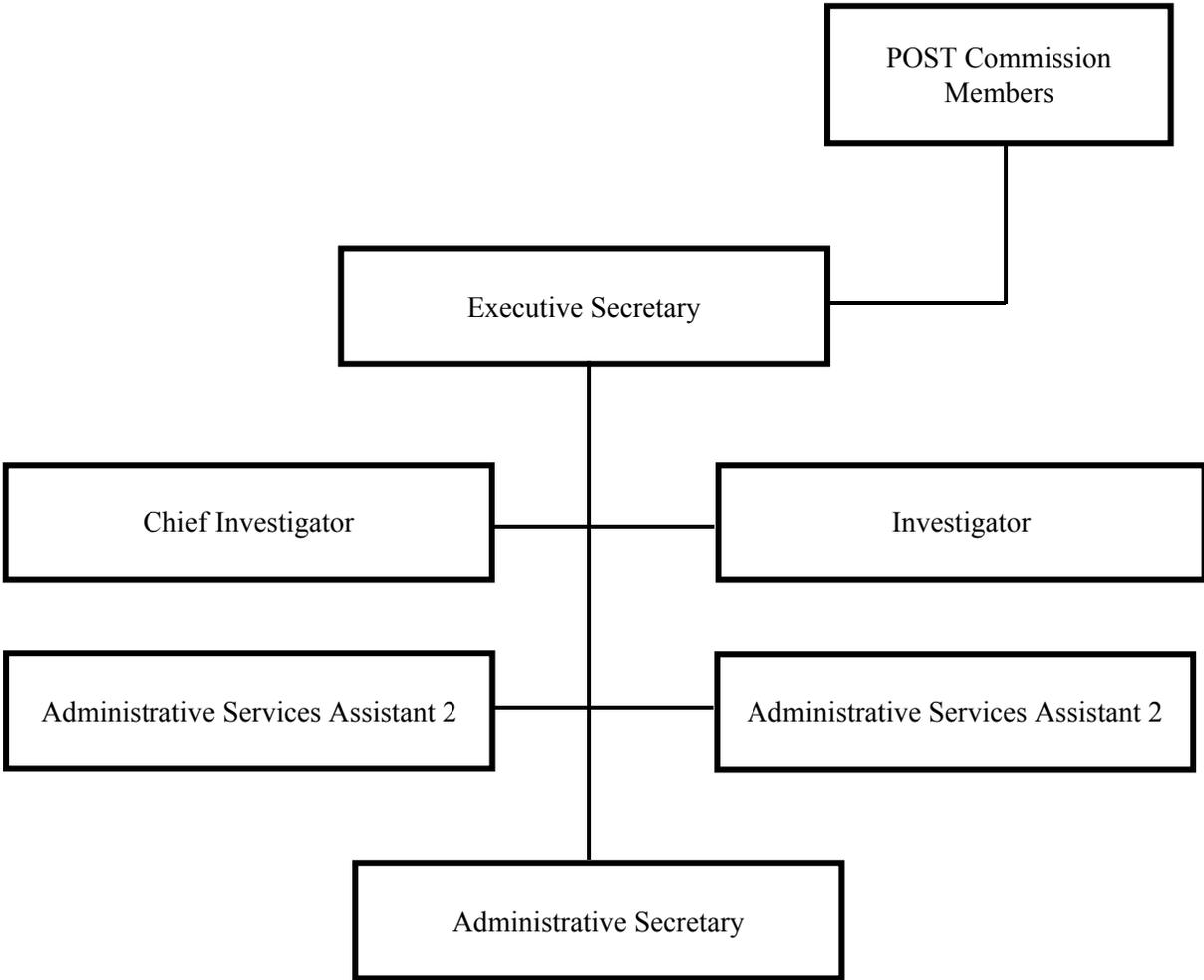
Tennessee Law
Enforcement Training
Academy

Peace Officer Standards and
Training Commission

**Commission on Firefighting Personnel Standards and Education
Organizational Chart
April 2014**



Peace Officers Standards and Training Commission
Organizational Chart
April 2014



AUDIT SCOPE

We have audited the Department of Commerce and Insurance (the department), including the Commission on Firefighting Personnel Standards and Education and the Peace Officers Standards and Training (POST) Commission, for the period July 1, 2011, through May 31, 2014. Our audit scope within the department included a review of internal control and compliance with laws and regulations in the divisions of Fire Prevention, Insurance, and Securities, as well as in the Automobile Race Track and Drag Strips program. Within the Commission on Firefighting Personnel Standards and Education, our scope included conflict of interest of commission members, the Educational Incentive Pay program, and travel claim expenditures. Our scope within the POST Commission included in-service training salary supplements for law enforcement officers, travel claim expenditures, monitoring of law enforcement training academies, and the commission's records management system. Department management and both commissions' managements are responsible for establishing and maintaining effective internal control and for complying with applicable laws and regulations.

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

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

PRIOR AUDIT FINDINGS

Section 8-4-109, *Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. For the Department of Commerce and Insurance (the department), including the Commission on Firefighting Personnel Standards and Education, the prior audit report was dated April 2009. In this report, the department had six findings. We reported no findings for the Commission on Firefighting Personnel Standards and Education. For the POST Commission, the prior audit report was dated September 2008 and had three findings. The department filed its report, which included the POST Commission, with the Department of Audit on October 29, 2009. A follow-up of all prior audit findings was conducted as part of the current audit.

RESOLVED AUDIT FINDINGS

Department of Commerce and Insurance

The current audit disclosed that the Department of Commerce and Insurance has corrected the previous audit findings concerning the Title VI Implementation Plan, Division of Consumer Affairs, and premium tax audits. During a follow-up review released in September 2012, we determined that the previous audit finding involving emergency communication services was resolved.

POST Commission

The current audit disclosed that the POST Commission has corrected the previous audit finding concerning member attendance at commission meetings.

REPEATED AUDIT FINDINGS

Department of Commerce and Insurance

The prior audit report of the Department of Commerce and Insurance, dated April 2009, also contained findings concerning the Manufactured Housing Section's noncompliance with the Tennessee Manufactured Home Installation Act and the Division of Securities' lack of supervisory review of securities applications. These findings have not been resolved and are repeated in the applicable sections of this report.

POST Commission

The prior audit report for the POST Commission, dated September 2008, contained a finding concerning the commission's monitoring of the state's law enforcement training academies. This finding has not been resolved and is repeated in the applicable section of this report. Because management has made some improvement regarding the prior audit finding concerning the POST Commission's capability of maintaining and monitoring data electronically, we have reported an observation, instead of a finding, in the applicable section of this report.

**DEPARTMENT OF COMMERCE AND INSURANCE
OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS**

DIVISION OF FIRE PREVENTION

Electrical Inspection Section

The Electrical Inspection Section performs residential, commercial, and industrial electrical inspections of new and existing structures. This section is also responsible for enforcing the provisions of the 2008 edition of the *National Electric Code* and all state laws and rules concerning the conducting, conveying, consumption, or use of electrical energy in, or in connection with, any building, structure, or premises located in this state.

When performing electrical work, an electrical permit issue agent, who is generally a local utility provider, obtains an electrical permit. The individual or entity pays the permit fee to the issue agent, who in turn remits the payment to the Department of Commerce and Insurance (the department). The electrical installer performs the work, which must then be inspected. As of January 14, 2014, the section contracted with 94 Deputy Electrical Inspectors (DEIs), who perform commercial and residential electrical inspections statewide and are paid either a standard (fixed) rate or a non-standard rate, based on the size of the job.

After completing the inspections, DEIs send copies of the permits and the inspection completion forms (i.e., inspection approval or rejection forms) to the Electrical Inspection Section. The section then pays the DEI the appropriate fee. Section management uses the Electrical Permit System to track electrical permits issued, inspection fees charged, and payments to DEIs.

The objectives of our review were to determine whether

- based on documentation, DEIs performed non-standard electrical inspections in accordance with state statute, charged management-approved fees for those inspections, and recorded the inspection fees in Edison; and
- Electrical Inspection personnel documented their communications with DEIs who had monthly inspection rates exceeding 15% to ensure DEIs' re-inspections were justified and properly documented.¹

To gain an understanding of the electrical inspection process, we interviewed key personnel, conducted a walk-through of procedures, and reviewed state statute. We obtained a population of 3,720 non-standard electrical inspections, totaling \$292,890 in related inspection permit fees, performed from March 1, 2013, through February 28, 2014, and tested a nonstatistical random sample of 60 non-standard permit fees, totaling \$3,985. Then we reviewed the actual permits to

¹ The section's practice is to review, based on its staff's professional judgment, all DEI monthly rejection rates greater than 15% in order to monitor DEIs to ensure re-inspections are appropriate and necessary.

ensure DEIs charged the fees approved by management for each inspection. Also, we verified that the Fiscal Services Section in the Division of Administration recorded the fees in Edison, the state's accounting system. When we obtained monthly Electrical Permit System statistical reports from March 2013 through February 2014, we found a population of 20 DEIs with rejection rates greater than 15%. We requested documentation from Electrical Inspection management to ensure they followed up and documented the concerns of rejection rates with the DEIs.

Based on procedures performed, we determined that

- DEIs performed non-standard electrical inspections in accordance with state statute, charged the approved inspection fees, and properly recorded the fees in Edison; and
- Electrical Inspection management could not provide evidence to support their follow-up communication with 2 DEIs who had exceeded the 15% rejection rate in 3 or more instances within a 12-month period.

Manufactured Housing Section

The Manufactured Housing Section is responsible for overseeing the installation of all manufactured homes in the state² and any inspections performed on installed homes in accordance with the Tennessee Manufactured Home Installation Act, Section 68-126-406(e), *Tennessee Code Annotated*. Specifically, the Act requires the department to ensure that

- (1) installers are licensed;
- (2) installation permits are obtained before electricity is turned on in a manufactured home;
- (3) at least 5% of manufactured homes installed each year in the state are inspected, including at least one inspection performed each year on each installer; and
- (4) inspections are performed within 20 business days after the receipt of the installer's report.

The department's process for issuing permit decals allows management to track the number of manufactured homes installed in the state and the number of inspections performed. To ensure manufactured homes have a permit decal, the department relies on local county clerks' offices to issue permit decals to manufactured home installers. When manufactured home installers install homes, they purchase the permit decals from their local county clerks' offices. Installers submit weekly reports of completed installations to the department's Manufactured Housing Section (the section). The section enters the date the report is received into the Access database, thus starting the 20-day inspection requirement.

² Installation of a manufactured home can consist of (1) the temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing; (2) the placement and erection of a manufactured housing unit or components of a unit on a structural support system; (3) the supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit; (4) the joining or connecting of all sections or components of a manufactured housing unit.

The objective of our review was to determine whether section management is effectively monitoring the installations and inspections of manufactured homes in the state.

We reviewed the prior audit finding concerning the section's noncompliance with the Tennessee Manufactured Home Installation Act and discussed it with management to determine whether management corrected the deficiencies noted. To determine if the section ensured the homes were inspected in accordance with state statute, we obtained a copy of the Access database that the section uses to track the inventory of permit decals issued to local county clerks' offices; the issuance of permit decals for installed manufactured homes; and the inspections of those homes. Using the database information, we identified installed manufactured homes from July 1, 2011, through March 31, 2014, that had been randomly inspected,³ and, using Microsoft Excel, analyzed a population of 3,099 manufactured homes to determine if these homes were inspected within 20 business days after receipt of the installers' reports.

We obtained and reviewed the calendar-year reports of all installations performed to determine if the section inspected installers' work each year. According to these reports, a population of 341 installers was responsible for installing manufactured homes in calendar years 2012 and 2013.

Based on procedures performed, we determined that section management still had not corrected the prior deficiency related to the requirement that home inspections occur within 20 business days after receipt of the installers' reports, nor had it ensured that staff performed at least one annual inspection of each installer during the calendar year (see finding 1).

Finding 1 - As noted in the prior audit, the Manufactured Housing Section still did not meet all statutory requirements set forth in the Tennessee Manufactured Home Installation Act

The Division of Fire Prevention's Manufactured Housing Section (the section) still did not meet all statutory requirements set forth in the Tennessee Manufactured Home Installation Act. In the prior audit, we reported that the management and staff

- did not perform inspections within 20 business days after the Commissioner's receipt of the installer's report; and
- did not perform an inspection on at least one installed home for each installer each year.

Management concurred with the finding and stated they would

- add columns to the Microsoft Access database to show the type of inspection performed (i.e., random inspection or required inspection); and

³ Inspectors will arbitrarily select homes from the list provided by the director.

- begin using a calendar-year basis to determine if they performed at least one inspection on each installer.

Current Inspection Process

Based on our current review, we found that the section still uses the Microsoft Access database to track home installation permit decals purchased by manufactured home installers from the local county clerks’ offices. The database contains approximately 76,000 permit decals recorded by decal number and county. Once a permit is issued, other identifying information (homeowner name and address, date of installation, and date of receiving installation report) is entered from both (1) weekly installation reports prepared and submitted by licensed installers and (2) monthly decal sales reports from county clerks’ offices. The section inspectors will arbitrarily select homes to inspect from a list of installations generated from the database by the section’s director. Once an inspection is complete, the section’s administrative staff enters all information into the database, including the date and results of the inspection.

Section 68-126-406(e), *Tennessee Code Annotated*, requires that 5% of all manufactured homes installed in the state be inspected. Based on our review of the database information, the section met the 5% inspection requirement for calendar years 2012 and 2013; however, management still had the following deficiencies.

Inspections Were Not Performed Within 20 Business Days

Based on our analysis performed on all inspections conducted from July 1, 2011, through March 31, 2014, section management did not ensure inspections of installed manufactured homes occurred within 20 days of receiving the installation reports. See Table 1 for results.

**Table 1
Results of Installation Inspections**

Calendar Year for Installation	Number of Inspections	Number of Late Inspections	Percent Late
2014 ⁴	70	4	6%
2013	1,004	127	13%
2012	1,247	105	8%
2011 ⁵	545	37	7%
Unknown*	195	38	19%
Total Population	3,061⁶	311	10%

*Database did not include installation date.

⁴ Only the months of January through March are included.

⁵ Only the months of July through December are included.

⁶ The database does not contain a field to identify if the database entry is an initial inspection or a re-inspection; therefore, both initial inspections and re-inspections have been included. Re-inspections are subject to the same time period requirements as initial inspections.

One Annual Inspection Not Performed on Each Installer

As noted above in Table 1, because 195 of 3,061 installations in our population did not list an installation date in the database, we could not determine if the department should have performed the annual inspection on these installers. We found that the section also did not complete all annual inspections of installers for calendar years 2012 and 2013. See Table 2 below for results.

Table 2
Results of Annual Inspection per Installer

Calendar Year	Installers That Installed Homes During the Calendar Year	Installers That Installed Homes but Did Not Receive an Inspection	Percent of Installers That Did Not Receive an Inspection
2013	164	20	12%
2012	177	12	7%

Based on our review, we found that the director had no effective process to meet statutory requirements.

New Deficiencies Identified with Database Information

While reviewing the information contained in the database, we found the following deficiencies:

- for 38 installations, staff did not include the date the department received the installer's report and thus could not track the timeliness of the inspections;
- for 4 installations, staff did not include an inspection type in order to track the type of inspection warranted;
- for 8,032 of 78,545 permit decals issued, staff did not record installation dates;⁷ and
- section management stated that the database should only have information for permit decals sold from 2004 through March 2014; however, we found many installation dates that were outside of this timeframe, some of which were obvious keying errors.

The director could not explain why the database contained missing or incomplete information. Based on the deficiencies noted in this finding and the prior finding, management failed to demonstrate adequate concern for fulfilling their professional and statutory obligations. Management's failure to properly inspect homes and installers in accordance with Section 68-

⁷ The director explained that if there is no address listed in the "Address" column, the permit decal has not yet been placed on an installed home and, therefore, the installation record should not have an installation date. She stated that there should otherwise be an installation date for each home. Due to the missing installation dates, we could not determine the calendar years in which homes were installed. We excluded those installations from our population and testwork.

126-406, *Tennessee Code Annotated*, increases the risk that citizens of Tennessee could potentially occupy unsafe manufactured homes.

Recommendation

The Commissioner should ensure that the Manufactured Housing Section performs inspections within 20 days after the department receives the installers' weekly reports of installed homes. The Commissioner should also ensure that the section performs an annual inspection on at least one installation for each installer.

In addition, the Commissioner should require appropriate division management and staff to perform periodic reviews of the database information to ensure inspections are performed in accordance with the law and permit decals are properly accounted for. If the current database does not meet the section's needs, the Commissioner and section management should consider alternatives that will enable management to effectively monitor installations and inspections.

Management's Comment

We concur. The division concurs with the audit finding for the Manufactured Housing Section and has implemented an action plan. Management has taken significant steps to improve recordkeeping and the accuracy of information collected by section staff. Immediately, columns were added to the current Microsoft Access database to show the type of inspection performed (i.e., random inspection or required inspection), and the section began using a calendar-year basis to determine if at least one inspection occurred for each installer. A management change with the section's director also occurred because of the repeated failure to meet statutory requirements. The new director is expected to assume the position no later than October 31, 2014. Currently, new policies and procedures are being drafted to ensure all statutory requirements are met for the section. The expected completion date for submission to the Legal Section and Commissioner for approval is September 30, 2014. By October 31, 2014, the Microsoft Access database in which the installations are collected and processed will be augmented and streamlined to ensure that installations and inspections reports are tracked accurately. Updating the Access database will be a short-term solution. Once CORE [Comprehensive Online Regulatory Enforcement] is fully implemented, the section will establish requirements, purchase the mobile inspection module, and link inspections to actual licenses, all of which will allow real-time tracking of the section's status of meeting statutory requirements. This will be completed within 12 months of CORE's full implementation.

DIVISION OF INSURANCE

Agent Licensing Section

The Agent Licensing Section (the section) issues all insurance agent licenses to individuals and entities in Tennessee, including, but not limited to, insurance producers,

adjusters, surplus lines agents,⁸ auto club agents, viatical settlement agents and brokers,⁹ and self-storage facilities. Section management is also responsible for registering navigators and certified application counselors¹⁰ (CAC) who facilitate individual and company enrollments into health plans offered by health insurance exchanges under the federal Patient Protection and Affordable Care Act (Affordable Care Act).

We focused our work on two areas: the process of issuing licenses to resident and non-resident¹¹ insurance producers and the process to register navigators and CACs. The objectives of our review of these two areas were to determine if

- Agent Licensing Technicians properly reviewed applications for insurance producer licenses, ensuring the applicants met all requirements before issuing licenses; and
- section staff properly reviewed applications before registering individuals and entities as navigators and/or CACs, to ensure the applicants were properly trained and knowledgeable of individual and group health insurance plans and insurance coverage as required by the *Rules of the Department of Commerce and Insurance (the Rules)*.

We interviewed key personnel and reviewed state statutes and departmental rules to gain an understanding of the section's processes of issuing insurance producer licenses and registering navigators and CACs. From a population of 69,748 insurance producer licenses approved from July 1, 2011, through February 28, 2014, we tested a nonstatistical random sample of 60 insurance producer licenses and reviewed the applications and supporting documentation. We also tested a nonstatistical random sample of 60 navigator and CAC applications—45 individuals and 15 entities—from a population of 400 registrants.

Based on procedures performed, we determined that

- Agent Licensing Technicians properly reviewed the applications for insurance producer licenses before approving licenses; and
- although section staff properly registered individual navigators and CACs based on knowledge requirements, they did not ensure navigator entities and CAC organization entities properly identified compliance monitors before registering them, as required by the *Rules* (see observation 1).

⁸ Surplus lines agents offer insurance to individuals or companies who cannot find a policy from a licensed insurance carrier.

⁹ Viatical settlements refer to an arrangement where a terminally ill individual sells a life insurance policy to a third party for an amount less than mature value in order to benefit from the proceeds of the policy while alive. Viatical settlement agents solicit or arrange funding for the purchase of a viatical settlement. Viatical settlement brokers work on behalf of individuals to negotiate viatical settlement contracts.

¹⁰ Both individuals and entities must register with the department as navigators or certified application counselors (CAC). The entities are called navigator entities or CAC organization entities. Our audit focused on both types.

¹¹ A non-resident insurance producer is an agent who is not a resident of Tennessee.

Observation 1: The Division of Insurance’s Agent Licensing Section staff did not ensure that either navigator entities or certified application counselor organization entities complied with all registration requirements outlined in the department’s rules

In response to the implementation of the Affordable Care Act, the Department of Commerce and Insurance (the department) filed an emergency rule, Rule 0780-01-55, *Rules of the Tennessee Department of Commerce and Insurance* (the *Rules*), effective September 17, 2013, to regulate individual navigators, certified application counselors (CACs), navigator entities, and CAC organization entities in Tennessee. The *Rules* establish registration requirements that individuals and organizations must meet before they can conduct business in Tennessee.

With respect to navigator entities and CAC organization entities, the *Rules* state they must

- submit an application for registration to the department; and
- designate an individual, registered as either a navigator or a CAC based on the applicable entity type, who will monitor the entity’s compliance with the *Rules*.

Based on testwork performed, we determined that for 5 of 15 entity applications tested (33%), section staff did not ensure the entities properly identified in the applications the individual designated to monitor the entities’ compliance. We found that

- one CAC organization entity did not designate an individual at all;
- one navigator entity and one CAC organization entity designated an individual who was not properly registered as a navigator or a CAC, respectively; and
- two CAC organization entities designated individuals who were not registered as a CAC.

When we discussed this issue with Agent Licensing management, they agreed that they should have required the entities to designate appropriate individuals as the compliance monitors. As of May 30, 2014, the department is working to promulgate permanent rules.

Captive Insurance Section

The Captive Insurance Section is responsible for regulating the captive insurance industry in Tennessee. A captive insurance company (captive) represents an option for many corporations and groups that want to take financial control and manage risks by underwriting their own insurance rather than paying premiums to third-party insurers. The department offers financial assistance through the Division of Insurance’s education fund to those Captive Insurance Section employees who want to earn the Associate in Captive Insurance designation.¹²

¹² Offered by the International Center for Captive Insurance Education.

Our work focused on two areas: the application and licensure process for captive insurance companies and the section's use of the education fund.¹³ The objectives of our review of these two areas were to

- determine that section employees complied with state statutes governing the application, licensure, and capital requirements for new captives before issuing a certificate of authority;¹⁴ and
- ascertain if section management appropriately used the education fund to pay for certifications and continuing education for employees.

To gain an understanding of the captive application and licensure process, including capital requirements, we interviewed key personnel and reviewed state statutes. We also conducted a walk-through of the approval process for new captives with the directors of both Captive Insurance and Insurance Examinations. From a population of 29 companies that were licensed from September 1, 2011, through March 14, 2014, we tested a nonstatistical random sample of 15 captives, and we reviewed the applications and any additional documentation to support the certificates of authority. We reviewed the depository agreement or letter of credit for each captive in the sample.

We discussed the education fund with the chief counsel for Insurance and TennCare Oversight and reviewed the state statute that established the fund. Also, for fiscal years 2012, 2013, and through March 2014, we performed a limited review of the expenditures for the education fund. We performed analytical procedures to compare the number of transactions and total expenditures for the education fund, and we reviewed the fund's ending balance for the previous five fiscal years and the balance as of February 2014.

Based on procedures performed, we determined that

- section staff properly reviewed application requirements for captive insurance companies prior to issuing the certificates of authority; and
- based on our limited review, we did not find any evidence that the section used the education fund inappropriately.

¹³ The Division of Insurance maintains a reserve fund that is used to defray expenses related to liquidation of insurance companies, to promote consumer awareness of insurance, or to provide training or educational opportunities to employees of the Division of Insurance. Penalties collected pursuant to Section 56-2-305(a), *Tennessee Code Annotated*, are the revenue sources for the education fund.

¹⁴ The Commissioner must issue a signed certificate of authority to a captive before the captive may issue insurance policies.

Financial Analysis Section

The Financial Analysis Section (the section) regulates the financial and operational condition of life; accident and health; property and casualty; and other¹⁵ insurance companies licensed or registered in Tennessee. The section also ensures that insurance companies pay premium taxes based on gross premiums paid by policyholders who reside in or own property in Tennessee. The section uses the Division of Insurance's information system to maintain premium tax revenue records¹⁶ that track the annual premium tax forms submitted by the insurance companies for audit purposes. It is the section's practice to audit annual premium tax forms within three years of receipt.

The objective of our review was to determine if section staff audited annual premium tax forms within the three-year timeframe and corrected its prior audit finding reported in April 2009.

To determine the status of corrective action, we discussed the prior audit finding with management. We also obtained a population¹⁷ of 1,672 insurance companies active during the 2010 calendar year who were required to submit their annual premium tax forms on or by March 1, 2011, and tested a nonstatistical random sample of 25 companies to determine if section staff audited the premium tax forms as required by the section's practices. Based on procedures performed, we determined that section management completed premium tax audits in a timely manner.

At the conclusion of audit fieldwork, management informed us of an internal investigation involving a section employee who had provided us with questionable supporting documentation to conduct our testwork. The details of the internal investigation and our notification of the events that took place are described in observation 2.

Observation 2: Department management did not promptly notify the Comptroller's Office of an internal investigation relating to documentation provided to our audit team

At the completion of our audit fieldwork on May 30, 2014, management informed us that the department had, in the weeks leading up to May 30, conducted an internal investigation related to an allegation that an employee in the Financial Analysis Section (the section) of the Division of Insurance had provided the audit team with falsified documentation during the course of our audit. According to the Director of Internal Audit, section management had reported the allegation to the Deputy Commissioner over the Division of Insurance over a month earlier, on April 23, 2014, and within a week, the Office of Internal Audit had begun its investigation. During the following weeks,

¹⁵ Other insurance companies include title, fraternal, surplus lines companies, health maintenance organizations, governmental entity pools, self-insurance groups, risk retention groups, risk purchasing groups, third-party administrators, charitable gift annuities, professional employer organizations, preferred provider organizations, and prescription drug discount plan operators.

¹⁶ Insurance companies pay quarterly payments on June 1, August 20, and December 1 and an annual payment on March 1. The section only audits the annual premium tax form.

¹⁷ The population excluded insurance companies under contract with the Department of Finance and Administration, Division of Health Care Finance and Administration, to serve TennCare recipients. These companies are required to submit a premium tax form, but they are audited by the Division of TennCare Oversight within the Department of Commerce and Insurance.

the Office of Internal Audit took appropriate steps to thoroughly investigate this allegation and reported the results of the investigation to senior-level management. We, however, were not made aware of this allegation until the last day of audit fieldwork.

Because we were unaware of the allegation or the internal investigation, we were exposed to the risk that our audit results and conclusions were inaccurate based on our possible reliance on the falsified documentation provided to us. To address this risk, we extended our review of the evidence and other documentation to determine the impact on our conclusions.

In our original audit work, we had selected a sample of 60 premium tax revenue transactions to determine if the collections were deposited timely. We had identified that 18 of the 60 revenue transactions were premium tax payments paid by insurance companies related to surplus lines insurance policies, and we submitted a request to section staff for these premium tax forms. While filling our audit request for this documentation, the employee in question backdated the surplus lines premium tax forms to make it appear that she had audited these tax forms upon receipt. According to the internal investigation report, this employee falsely recorded on the premium tax forms that she audited the forms during a prior year. The internal investigation proved that she audited the forms between March 31, 2014, and April 2, 2014, and thus had falsified the documentation provided to the audit team. Table 3 describes the timeline of events surrounding the investigation.

Table 3
Investigation’s Timeline of Events

Date	Action
Wednesday, April 23, 2014	The Financial Analysis Section (section) Director notified the Deputy Commissioner over the Division of Insurance of the allegation.
Tuesday, April 29, 2014	The Commissioner was notified of the allegation.
Wednesday, April 30, 2014	The Office of Internal Audit (OIA) initiated an investigation.
Thursday, May 15, 2014	As part of our routine audit, we asked the director of OIA for copies of any audit or investigation reports issued since January 2014. We also requested information relating to work on any fraud-related matters in progress at that time.
Tuesday, May 20, 2014	The Director of OIA acknowledged our request from May 15.
Thursday, May 22, 2014	OIA obtained evidence to substantiate the allegations.
Thursday, May 29, 2014	We emailed the Director of OIA to follow up on our May 15 request, which was still open. Management released the investigation report.
Friday, May 30, 2014	The section director emailed the staff auditor assigned to review the documentation in question and informed her of a problem with documentation provided by the section employee. Later that day, management provided us with copies of all audit and investigation reports per our request. This investigation report was included.

To determine the impact of false information on our audit conclusions, we were required to

- meet on multiple occasions with our own management team to discuss the effect of the investigation on our audit and determine the extent of additional work needed;
- meet with section management to discuss the investigative process;
- conduct a walk-through of the evidence the department gathered to support the results of its investigation;
- follow up with management to determine the outcome of the employee's actions;
- obtain and review additional documentation relating to the employee's work;
- review prior emails, meeting notes, and other correspondence with section management and staff to determine the timeline of events; and
- thoroughly review our testwork again, to determine the impact, if any, of the falsified documents on our testwork and conclusions.

We ultimately determined that the falsified documentation we received did not affect our audit conclusions.

Although the department took the appropriate steps in response to this employee's actions, management did not promptly notify our office of the allegations involving this employee while we were in the field, especially in light of their knowledge that their employee had provided falsified documents to us. According to the Director of Internal Audit, he did not notify us because the allegation did not involve a misappropriation of state funds or equipment, and he did not adequately consider the effect this allegation could have on our audit conclusions.

In the future, department management should inform us immediately of allegations concerning falsified documentation provided to auditors. We could have considered the impact at that time and, if necessary, could have sought alternative methods to conduct our work. In light of these events, the Office of Internal Audit should consider conducting a review of the former employee's work product and responsibilities to ensure the employee did not also jeopardize the department's mission. The Office of Internal Audit should provide a copy of the report to the Comptroller's Office upon completion.

Financial Examinations Section

The Financial Examinations Section (the section) performs examinations of insurance companies located in Tennessee, including life, property and casualty, and title companies; health maintenance organizations; governmental entity pools; self-insured groups; and risk retention groups. This section reviews company records in order to produce an examination

report that addresses the company's compliance with National Association of Insurance Commissioners (NAIC) regulations,¹⁸ state laws, and rules.

We reviewed the section's procedures concerning the scheduling of financial examinations. The objectives of our review were to

- determine whether section management maintained a complete and current examination schedule;
- ensure section management and staff completed all examinations in accordance with the examination cycle governed by state statute;
- verify that the department posted the issued examination reports on its website; and
- document the section's examination follow-up procedures.

We interviewed section management to gain an understanding of its procedures for monitoring insurance company examination dates and scheduling the examinations of insurance companies. We also reviewed the NAIC regulations for scheduling examinations and contacted Kentucky's chief examiner about the standard practices for maintaining an examination schedule for their insurance companies' examinations. From the NAIC database, we obtained a population of 62 insurance companies that the section is required to schedule for examination. For all 62 companies, we obtained the date of the previous examination, as reported by the insurance company in the NAIC database, and compared it against the most recent examinations posted on the department's website. We also obtained a list of current and upcoming examinations from Tennessee's acting chief examiner and compared it to information on the NAIC database to identify the company's next examination date. For those companies not required to file with the NAIC, we obtained the information from the companies' annual statement filings provided by section staff. In addition, we identified new or recently organized companies incorporated in Tennessee that began issuing policies after 2008¹⁹ and determined these companies' examination dates. Based on the list of examinations conducted since July 1, 2011, we reviewed and discussed the follow-up procedures for examinations with the acting chief examiner.

Based on the procedures performed, we found the following:

- The acting chief examiner did not provide an accurate, centralized examination schedule to ensure examinations were completed timely. After we requested the examination schedule during our fieldwork, the acting chief examiner took immediate corrective action and created a new, complete schedule of examinations, sufficiently reducing the risk of unperformed examinations.
- Although the acting chief examiner did not initially provide us with an accurate, centralized examination schedule, the section conducted all examinations in

¹⁸ The NAIC is the United States' standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and 5 U.S. territories.

¹⁹ Companies are examined based on a four- or five-year cycle, depending on the type of insurance offered. If companies began issuing policies in 2008, they are due for an examination in 2012 or 2013.

accordance with state statute and posted all examination reports to the department's website.

- Section management had procedures in place to follow up on examinations.

DIVISION OF SECURITIES

Registration Section

The Registration Section (the section) regulates securities issuers, who are broker-dealers, investment advisers, and other individuals or entities who sell securities in Tennessee. All issuers intending to sell securities (stock and other investments) in Tennessee must file an application with the section and pay filing fees that vary based on the type of securities they offer.

When issuers file their applications, they can file securities either by coordination,²⁰ qualification,²¹ or exemption.²² Filings by coordination, qualification, and certain types of exemptions are subject to a merit review, which is an in-depth review of documentation supporting the filing application. Merit reviews are required by the *Rules of the Department of Commerce and Insurance* and are performed by securities examiners and section management. Issuer applications for securities that require a merit review also require internal supervisory reviews before the securities can be issued. Supervisory reviews are required by the section's internal procedures.

The objective of our review was to determine whether section management had corrected the prior audit finding from April 2009 and conducted supervisory reviews of securities applications when required by internal policy.

We obtained a population of 684 securities applications subject to merit reviews submitted to the division from July 1, 2011, through December 31, 2013, and tested a nonstatistical random sample of 60 securities applications to determine if section supervisors adequately reviewed securities applications before issuing the securities.

Based on procedures performed, we determined that section management did not always conduct supervisory reviews (see finding 2).

In addition to our work above, while testing whether management conducted appropriate supervisory review of securities applications, we also found that section management did not

²⁰ Coordination means that issuers may simultaneously file securities with the U.S. Securities and Exchange Commission and other states. Section 48-1-105, *Tennessee Code Annotated*, outlines the requirements for filing by coordination.

²¹ Any security may be registered by qualification, which is considered the registration type of last resort. Section 48-1-106, *Tennessee Code Annotated*, outlines the requirements for filing by qualification.

²² Exempt securities do not have to be registered with the federal government but may still require registration with the state. Section 48-1-103, *Tennessee Code Annotated*, outlines which securities are exempt.

ensure that securities issuers submitted the appropriate copies of the prospectus as required by state statute (see finding 3).

Finding 2 – As noted in the prior audit, the Division of Securities did not perform supervisory reviews of securities applications

As noted in the prior audit, management of the Division of Securities' Registration Section (the section) did not perform supervisory reviews of securities registered with the Department of Commerce and Insurance (the department). Management concurred in part with the finding and agreed that the review process should conclude with a final review by the supervisor; management also reported developing additional procedures, including a checklist, to formally document supervisory review.

In our current audit, however, we continued to find instances when supervisors did not review securities applications. In addition, the section's director and assistant director, both of whom assumed their positions in 2012, were not aware of the prior audit finding, which we reported in April 2009, until December 2013. The Assistant Commissioner over the Division of Securities should have informed the director and assistant director of the prior audit finding and management's own identified risks soon after they were hired.

Based on testwork performed, of the 60 applications we tested, we found that the assistant director, director, or assistant commissioner did not perform a supervisory review of 42 of 60 applications (70%). Specifically,

- the assistant director did not conduct a supervisory review of 36 applications tested; and
- 6 applications were initially reviewed by the assistant director, but neither the director nor the assistant commissioner conducted a supervisory review.

According to the department's documented annual risk assessments for fiscal years 2010, 2011, 2012, and 2013, the department noted the risk relating to inadequate reviews of securities offerings. Management's documented internal control to mitigate this risk specifically states that "application review consists of issuer providing sufficient response to comments issued by the securities examiner and approved for clearance by the supervisor." According to section management, they did not conduct supervisory reviews due to staff shortages and miscommunications among section management.

Not conducting supervisory review of securities applications increases the risk of potential conflicts of interest and lack of independence when approving securities applications, thereby exposing the public to unusually high-risk or potentially fraudulent investments. Although we found no evidence that examiners were improperly influenced, not documenting supervisory review increases the risk that securities issuers might influence the examiners.

Recommendation

The Commissioner should ensure that section management is fully aware of their responsibilities to fulfill their duties, which includes knowledge of prior audit findings that affect the section's operations and internal controls. In addition, the Commissioner should ensure that section management complies with the supervisory review procedures implemented in response to the prior audit finding and in response to their own identified risks. If staff shortages prevent management from reviewing securities applications, section management should work with the Division of Administration to fill positions.

Management's Comment

We concur. The protocol for implementing supervisory review applications subject to a merit review was established immediately after the prior Comptroller's report but was not consistently followed. However, management is currently implementing a more stringent way to ensure the supervisory reviews are consistently being conducted. Controls for this new process are being explained to all Registration Section staff members and incorporated into their job plans for review at each interim period before the annual review. Each staff member will participate in the process to ensure the responsibilities do not rest with a single member, whether securities examiner or supervisor.

The process will now involve administrative and clerical staff who receive the application. Clerical and administrative staff will verify that a completed supervisory review form has been completed and is documented in the file before the security is issued. Management, securities examiners, and clerical staff have documented their review of this policy. The completion of the supervisory reviews has been added to the performance plans for management and securities examiners.

Finding 3 - Registration Section management did not require issuers to submit three copies of the prospectus when filing securities applications by coordination, thus violating state statute

The Registration Section (the section) regulates the sale of all public and private securities offerings under the Tennessee Securities Act of 1980. A securities examiner reviews each securities application, including the prospectus, description of the security, financial statements, and other pertinent information to ensure the issuer submits all required information and that the offering complies with statutory provisions. A prospectus is a formal legal document that provides details about an investment offering for sale to the public and contains facts the investor needs to make an informed decision. If the examiner determines a security offering complies with statutory provisions, the examiner registers the security. According to Section 48-1-105 (b)(1), *Tennessee Code Annotated*, "A registration statement under this section shall contain the following information and be accompanied by the following documents . . . Three (3) copies of the latest form of prospectus or offering circular filed under the Securities Act of 1933"

Based on our discussions with section management, the assistant commissioner, director, and assistant director were not aware that the statute required three copies of the prospectus. Based on testwork performed, on 2 of 60 applications (3%), the securities examiner did not ensure the issuers provided three copies of their most recent prospectus at the time of application for initial applications filed by coordination. The director later stated that this statute is outdated.

Recommendation

The Commissioner should ensure that section management and staff are familiar with all applicable state statutes to perform their duties and that all department statutes are current and relevant. Until such statute changes, securities examiners should obtain three copies of the prospectus from issuers in accordance with Section 48-1-105(b)(1), *Tennessee Code Annotated*. If management determines that three copies are no longer necessary, the Commissioner should seek to amend state statute.

Management's Comment

We concur. Management acknowledges that the statute requires the submission of three prospectuses with securities applications for registration filed by coordination with the Securities and Exchange Commission that are subject to review. Division supervisors and staff will be thoroughly trained as to the requirement of the statute, and management review will be established. Assuring staff compliance with the three prospectuses will be made part of both management and staff's performance plans. Securities applications that do not comply with statutory requirements will no longer be processed by the division. To provide notice that statutory compliance will be required, the Division of Securities will submit an update to the Commerce Clearing House (CCH) to highlight the requirement of three prospectuses in the Blue Sky Law Reporter filing instructions. (CCH is a leading resource for research and compliance for business law areas including securities). Management believes this is the most effective means to communicate the necessity of statutory compliance to the securities industry.

REVENUE COLLECTIONS OF PREMIUM TAXES AND SECURITIES FILING FEES

The Division of Insurance's Financial Analysis Section is responsible for ensuring that insurance companies pay premium taxes. The department's Fiscal Services Section (Fiscal Services) processes premium tax collections. In addition, the Division of Securities requires securities issuers to pay securities filing fees when they apply to the department to sell securities in Tennessee. From July 1, 2011, through December 12, 2013, the clerical staff within the Division of Securities processed securities filing fees. Beginning December 13, 2013, Fiscal Services began processing the securities filing fees.

Fiscal Services collects and processes revenue through different methods. Payers may submit their taxes or fees to the department in person at the cashier's window, by mail, or online. The Accounting Office staff within Fiscal Services use iNovah, the state's cash receipting system, to process the collections submitted by mail to the Division of Insurance and Division of

Securities. The Accounting Office staff verifies revenue collected online with the respective divisions.

The objectives of our review of tax and filing fee collections were to determine whether

- Fiscal Services management adequately segregated responsibilities within the revenue collection process, and that the cashiers' office was properly secured;
- Fiscal Services staff collected the correct premium tax and securities filing fee amount based on the premium tax form and securities application, respectively, and properly recorded the revenue transactions in Edison; and
- Division of Securities' clerical staff and Fiscal Services staff deposited revenue collections in accordance with Department of Finance and Administration's Policy 25, "Deposit Practices."

To gain an understanding of the procedures to secure, record, and deposit premium tax revenue collections and revenue collected from securities filing fees, we interviewed key personnel and conducted walk-through procedures.

We obtained a population of 3,381 premium tax revenue transactions, totaling \$207,058,088, from January 1, 2013, through June 30, 2013, and tested a nonstatistical random sample of 60 premium tax revenue transactions, totaling \$2,754,636. In addition, we obtained a population of 4,345 revenue transactions for securities filing fees the department received from July 1, 2013, through November 30, 2013, totaling \$2,055,215. We tested a nonstatistical random sample of 60 revenue transactions, totaling \$30,000.

Based on testwork performed, we determined that

- Fiscal Services management adequately segregated responsibilities within the revenue collection process, and the cashiers' office was properly secured;
- Fiscal Services staff collected the appropriate premium taxes and securities filing fees and the revenue transactions were properly recorded in Edison, except for two revenue transactions involving premium tax revenue collections that were recorded to the incorrect revenue account; and
- Division of Securities clerical staff and Fiscal Services staff did not deposit premium tax revenue collections or revenue collected from securities filing fees promptly in accordance with Department of Finance and Administration's Policy 25 (see finding 4).

Finding 4 – Department staff did not timely deposit \$383,564 in revenue collections for two divisions in accordance with state policy

Management and staff of the Department of Commerce and Insurance (the department) have not ensured that substantial revenue collections are deposited in the timeframe required by

the Department of Finance and Administration's Policy 25, "Deposit Practices." Failure to deposit funds timely could result in a delayed financial benefit to the state and increases the risk that cash could be misappropriated.

The department's Fiscal Services Section (Fiscal Services) is responsible for ensuring deposits are made in accordance with Section 9-4-301, *Tennessee Code Annotated*, which states that funds received by state agencies must be deposited immediately. Policy 25 further defines immediately as the following: "For departments, institutions, offices and agencies, 'immediately' means within 24 hours after \$500.00 has been accumulated." Our results indicate that in some cases it took the department 48 hours to deposit the funds.

Background and Current Process

The department annually collects approximately \$600 million in premium taxes from insurance companies and approximately \$20 million in securities filing fees from securities issuers in Tennessee. Premium tax payments are due from companies quarterly and annually, and securities filing fees are due upon the securities issuers' applications and filings to the state.

Based on our audit results, we found that

- Fiscal Services could have complied with the state policy had they considered making one additional daily deposit. We found that 11 of 60 premium tax revenue collections received (18%), totaling \$381,064 of the \$2,754,636 receipts tested (14%), were not deposited within 24 hours. Even though staff deposited the receipts the next day, our sample results suggested that potentially millions of dollars in premium tax revenue could be at least one day late and unavailable to the state. According to the Administrative Services Manager over the Accounting Office, the office receives a high volume of mail when these payments are due.
- Similarly, both the Division of Securities clerical staff and Fiscal Services staff did not make one additional daily deposit to ensure that 5 of 60 filing revenue collections received (8%), totaling \$2,500 of \$30,000 receipts tested (8%), were deposited within 24 hours. According to the Administrative Services Manager, as of December 13, 2013, Fiscal Services assumed responsibility for the Division of Securities' revenue collection process in order to centralize the collection process and cross-train employees. She was not able to determine exactly why deposits were late.

Recommendation

The Commissioner should ensure the Accounting Office complies with the Department of Finance and Administration's Policy 25. If management determines that the office cannot comply with policy because of extenuating circumstances, the Commissioner should consider adding one additional daily deposit when the department experiences increased revenue collections.

Management's Comment

We concur in part. The department did not comply with the Department of Finance and Administration (F&A) Policy 25 requirement of depositing all collections within 24 hours during limited instances of peak mail volume.

Management has taken the following steps to ensure the timeliness of deposits for the extreme mail volume collection dates:

1. Management has authorized two shifts for a period of five working days during these peak quarterly periods when mail volume routinely overwhelms the current staffing. This will allow overtime processing of opening, prepping, coding, and validating the mail for 16 hours per day. This will allow next day deposit of mail collections, thus meeting the 24-hour deposit requirement. Since state agencies are under the Treasury Department's 3:00 p.m. deadline, we do not agree that a second deposit would ensure that funds are deposited within 24 hours.
2. Management is consistently tracking payments received and is comfortable with the controls in place to safeguard revenue. The department is exploring options with F&A staff to determine whether the supplemental cost of a second shift during peak mail periods exceeds the benefits of depositing the funds within 24 hours. If so, the department will request an exception to F&A's Policy 25. This exception will extend the 24-hour policy to 48 hours for these time periods only.

Fiscal Services management became aware that securities collections were being deposited late and requested that the Division of Securities transfer the duties of coding securities filings to Fiscal Services staff. The issues noted in this part of the finding occurred in fall 2013. Management had already addressed this issue in December 2013 before the auditors began fieldwork.

INFORMATION SYSTEMS

Finding 5 – The department did not always maintain proper information systems security controls, increasing the risk of fraudulent activity or loss of data

Based on our testwork, the Department of Commerce and Insurance's (the department) staff did not always maintain proper information systems security in five specific areas, resulting in an increased risk of fraudulent activity or loss of data. The wording of this finding does not identify specific vulnerabilities that could allow someone to exploit the department's systems. Disclosing those vulnerabilities could present a potential security risk by providing readers with information that might be confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. We provided department management with detailed information regarding the specific vulnerabilities we identified, as well as our recommendations for improvement.

Recommendation

The Commissioner should ensure that these conditions are remedied through procedures that encompass all aspects of effective information systems controls. Management should ensure that risks associated with this finding are adequately identified and assessed in the department's documented risk assessment. In addition, the Commissioner should implement effective controls to ensure compliance with applicable requirements; assign staff to be responsible for ongoing monitoring of the risks and mitigating controls; and take action if deficiencies occur.

Management's Comment

We concur. Department management has received from the Comptroller's audit staff the specific weaknesses and issue identified.

Management's review of the identified weaknesses shows no evidence that those weaknesses were exploited in any way. The department will ask for a follow-up review with the Comptroller's Office by December 31, 2014, to ensure that all appropriate actions and recommendations from the audit have been implemented or that appropriate compensating controls and procedures have been established.

RACE TRACK LICENSING

The Automobile Race Track and Drag Strips (race track) program, within the Division of Regulatory Boards (DRB), oversees the licensure process for operating or conducting motor vehicle races on race tracks or drag strips across the state. The program began in 1968 to ensure that businesses hosting these races maintained adequate liability insurance to protect race attendees.

Section 55-22-102, *Tennessee Code Annotated*, requires race tracks and drag strips to register with the state and submit a \$100 annual registration fee at least 30 days prior to the first race of the year. Proceeds from the registration fees are intended to cover the cost of administering the program. Both small dirt tracks and large tracks (e.g., Bristol Motor Speedway) are charged the same registration fee. According to management, the program's registration fee has not changed since approximately 1979. In January 2014, the Department of Commerce and Insurance proposed an amendment to delete the registration fee from the statute but retain the requirement that race track operators continue to maintain liability insurance. There was no indication that the department's proposed recommendation was ever introduced during the legislative session.

The Department of Finance and Administration periodically submits to the Government Operations Committee a list of regulatory boards whose fees were not sufficient to cover the operating costs. For fiscal years 2012 and 2013, these lists included the race track program. The Joint Government Operations Committee called a self-sufficiency hearing with the Assistant

Commissioner and the Director of Program and Policy for DRB on February 24, 2014, to discuss the program’s self-sufficiency for fiscal years 2012 and 2013.

During the hearing, the committee members raised two questions:

1. Was the department comfortable with the level of the fee?
2. How does the state know which race tracks and drag strips exist?

The assistant commissioner stated that the low number of race track and drag strip licenses contributed to the revenue shortfall. The program had 22 active licenses as of April 2, 2014. Over the past five years, the program saw a 24% decrease in the number of active licenses issued. See Table 4 below.

Table 4
Number of Active Licenses

Fiscal Year End	Active Licenses Issued
2009	29
2010	20
2011	24
2012	22
2013	24
2014*	22

*As of April 2, 2014.
Source: DRB staff.

In addition, the assistant commissioner explained that the program relies on the public to report unlicensed activity. Members asked if it would be more appropriate for local government law enforcement authorities, who are more aware when a track opens or closes, to regulate race tracks and drag strips within their respective communities. The assistant commissioner stated that this would be feasible because local authorities are required to enforce state statute.

We also reviewed the program’s detailed revenue and expenditure transactions for fiscal years 2012 and 2013, which are exhibited in Table 5.

Table 5
Race Track Program Revenues and Expenditures
Fiscal Years 2012 and 2013

	FY 2012	FY 2013
Revenue	\$2,095.00	\$2,330.00
Less: Expenditures	\$2,463.14	\$2,391.82
Less: Administrative Costs	\$2,336.00	\$1,673.88
Total	(\$2,704.14)	(\$1,735.70)

Source: Chief Financial Officer, Department of Commerce and Insurance.

The General Assembly may wish to consider the following options:

- Option 1 – Consider the benefits and costs of overseeing the race track program at the state level. If the General Assembly chooses to continue overseeing the program, it should consider amending statute to increase the registration fee so that the program is self-sufficient.
- Option 2 – If the program is not cost-beneficial, consider amending statute to enable local governments to function as the primary regulatory authority.

Regardless of which option is chosen, the state should continue requiring race tracks to maintain liability insurance to protect the citizens of Tennessee while they attend races at these tracks.

COMMISSION ON FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

The Commission on Firefighting Personnel Standards and Education (the commission) serves in excess of 19,000 fire service personnel in Tennessee from the more than 350 fire departments enrolled in its programs. The commission, which comprises nine voting and two non-voting members, conducts meetings throughout the year to discuss in-service training programs, certifications, and pay supplements. In addition to being responsible for the certification of volunteer and paid firefighters, the commission also administers the Educational Incentive Pay program, which offers \$600 pay supplements to qualifying firefighters. We focused our work on three areas: the Educational Incentive Pay program, the commission's travel claims, and the commission members' conflict-of-interest disclosure practices.

The objectives of our review of these areas were to determine that

- Educational Incentive Pay program payments were made only to firefighters who met the eligibility requirements set forth in *Tennessee Code Annotated* and the *Rules of the Tennessee Commission on Firefighting Personnel Standards and Education*;
- commission members' and staff's travel expenditures were incurred, claimed, and paid in accordance with the Comprehensive State Travel Regulations and the commission's policies and procedures;
- the commission's policies and procedures required commission members to complete annual conflict-of-interest disclosure forms; and
- commission members signed conflict-of-interest disclosure forms on an annual basis.

We interviewed key personnel and reviewed state statutes, policies, and procedures to gain an understanding of the Educational Incentive Pay program, the commission's process to review and approve travel claims, and the commission's practices for conflicts of interest.

From a population of \$3,598,200 in Educational Incentive Pay program payments made to 88 local fire departments on behalf of 5,997 firefighters during calendar year 2013, we tested a nonstatistical sample of 60 firefighter pay supplements, totaling \$36,000. We haphazardly selected 10 firefighters from each of the 4 fire departments that received the largest program payments (Memphis Fire Department, Nashville Fire Department, Chattanooga Fire Department, and Knoxville Fire Department). From the remaining 84 local fire departments, we then randomly selected 20 departments and haphazardly selected 1 firefighter from each one. We reviewed the certifications and training records for the firefighters in our sample to ensure that the commission only paid local fire departments for firefighters who met all applicable eligibility requirements.

We conducted a walk-through of the approval process relating to the commission's travel claims. After obtaining the population of 718 travel claim expenditures, totaling \$35,578.55, that the commission paid to commission members and staff during calendar year 2013, we tested a nonstatistical random sample of 60 travel claim expenditures, totaling \$2,721.17, to determine if commission staff, the assistant commissioner of the Division of Fire Prevention, and Fiscal Services Section staff reviewed the claims for compliance with the Comprehensive State Travel Regulations and to ensure that the travel was incurred and claims were properly documented and approved.

We reviewed the commission's policies and procedures to determine whether it required annual conflict-of-interest disclosure forms. Additionally, we obtained all available conflict-of-interest forms for the audit period to determine whether commission members signed the forms on an annual basis.

Based on procedures performed, we determined that

- Educational Incentive Pay program payments were only made to qualified firefighters, although we found that the commission
 - did not provide local fire departments with a secure process to electronically submit pay supplement requests;
 - did not have a process to identify full-time firefighters also employed as full-time law enforcement officers who requested pay supplements from both the Commission on Firefighting Personnel Standards and Education and the Peace Officer Standards and Training (POST) Commission (see Results of Other Audit Work for the POST Commission on page 40); and
 - did not maintain copies of the Memphis Fire Department's Educational Incentive Pay requests and notarized statements from the fire chief, which are intended to provide management's attestations and support/justification to process the fire department's pay supplement requests.
- the commission ensured travel claim expenditures were incurred, claimed, and paid in accordance with Comprehensive State Travel Regulations and the commission's procedures;

- the commission’s policies and procedures did not adequately address the proper completion of conflict-of-interest disclosure forms (see observation 3); and
- commission members did not complete forms disclosing their conflicts of interest on an annual basis (see observation 3).

Observation 3 – The Commission on Firefighting Personnel Standards and Education did not ensure that it developed clear conflict-of-interest procedures and did not ensure that commission members signed the conflict-of-interest forms annually

The members of the Firefighting Personnel Standards and Education Commission (the commission) are expected to disclose potential conflicts of interest as an essential method to maintain public trust and ensure the proper performance of government. Based on our review, however, the commission’s management did not have procedures to ensure the proper completion of conflict-of-interest disclosure forms. As a result, commission members did not consistently sign the appropriate forms, allowing possible conflicts to remain undisclosed.

No Policies or Procedures for Completing and Collecting Conflict-of-Interest Forms

According to Policy Number 05-3 of the commission’s *Policies and Procedures Manual*,

In order to avoid any appearance of conflict of interest or undue influence, it shall be the operating Policy of the Commission that a Commission Member shall abstain from voting on any issue brought before the Commission by an entity that said Commission Member has received any form of compensation from within the previous twelve (12) months.

The manual, however, does not describe how commission management should implement this policy or how management will ensure that commission members adhere to it. In addition, the manual does not specify whether commission members should sign and submit conflict-of-interest forms; how often to submit the forms (e.g., annually or when conflicts arise); or who is responsible for collecting and maintaining the forms.

Conflict-of-Interest Forms Not Updated Annually

We reviewed all available conflict-of-interest forms for July 1, 2011, through March 31, 2014. Based on our review, none of the commission members signed forms for 2013 or 2014. According to the director, management did not ensure that the commission members submitted the forms due to a change in directorship during March 2013 and ambiguous policies and procedures.

During our review, we found that the previous director did not obtain a signed form from one of the nine commission members in 2011 or from another member in 2012. Based on our review of the dates on the forms, as well as discussion with the current director, the previous director provided commission members with forms at a commission meeting each year. The commission members who did not submit forms were apparently not present at those meetings,

and we found no evidence that the previous director followed up with the members at a later date.

We also found that the conflict-of-interest forms did not provide an area for commission members to disclose potential conflicts of interest. The forms provided a place for them to sign an acknowledgement that they will avoid all known conflicts of interest, but the forms did not allow them to list the entities that were known conflicts and did not provide members with instructions on how to address conflicts that emerged at a later date.

After we brought these issues to the director's attention, he sent the commission members newly designed conflict-of-interest forms that included space to disclose potential conflicts of interest. As of May 23, 2014, the director had received signed copies of these forms from all nine commission members.

We also reviewed the commission's risk assessment related to conflicts of interest. Management did not include any risks associated with conflicts of interest in the annual risk assessment.

The director of the Firefighting Personnel Standards and Education Commission should implement the necessary procedures to obtain conflict-of-interest disclosure forms from all commission members on at least an annual basis. Management should assess all significant risks, including the risks noted in this observation, in management's documented risk assessment.

PEACE OFFICERS STANDARDS AND TRAINING COMMISSION OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

The Peace Officers Standards and Training (POST) Commission is the primary regulatory body for Tennessee law enforcement officers. The POST Commission establishes uniform standards for the employment and training of all local law enforcement officers in Tennessee. The commission also administers an annual salary supplement to certified full-time officers who complete the required 40 hours of in-service training. The commission is composed of 17 members and includes local law enforcement personnel, legislators, and Tennessee citizens who are not connected with law enforcement. The Director of the Tennessee Law Enforcement Training Academy serves as the executive secretary, and the work of the commission is supported by six staff members, four of whom are provided through the academy. We focused our work on four areas: the commission's annual in-service training salary supplement; travel claims; monitoring of law enforcement training academies; and record management and filing system.

The objectives of our review of these areas were to

- determine whether staff paid in-service training salary supplements only to law enforcement officers who met the eligibility requirements set forth in *Tennessee Code Annotated* and the *Rules of the Peace Officer Standards Training Commission*;
- determine whether commission members' travel expenditures were incurred, claimed, and paid in accordance with the Comprehensive State Travel Regulations and the commission's policies and procedures, and had not been paid by any other political subdivision of the state;
- follow up on the prior audit finding from the report released in September 2008 and determine whether the POST Commission's monitoring of law enforcement training academies met the requirements set forth in the *Rules of the Peace Officer Standards Training Commission*; and
- follow up on the prior audit finding from the report released in September 2008 and assess the adequacy of the POST Commission's electronic records management system.

We interviewed key personnel and reviewed state statutes, policies, and procedures to gain an understanding of the POST Commission's in-service training salary supplements; process of reviewing and approving travel claims; law enforcement training academy monitoring, and electronic records management system.

From a population of \$8,170,200 in-service training salary supplement payments made to 362 local law enforcement agencies on behalf of the 13,617 officers during fiscal year 2013, we tested a nonstatistical sample of 60 salary supplements, totaling \$36,000. We haphazardly selected five officers from each of the six law enforcement agencies that received the largest program payments (Memphis Police Department, Shelby County Sheriff's Office, Metropolitan Nashville Police Department, Knoxville Police Department, Knox County Sheriff's Office, and Chattanooga Police Department). From the remaining 356 law enforcement agencies, we then randomly selected 30 departments and haphazardly selected one officer from each one. We reviewed the employment and training records for the officers in our sample to ensure that the commission only paid law enforcement agencies for officers who met all applicable eligibility requirements. In addition, from a population of 71 law enforcement agencies that received salary supplement payments that differed from the amounts that they had requested, we tested a nonstatistical random sample of 25 items to determine the reasons for the differences. We reviewed the applicable training records, employment records, and correspondence with the law enforcement agencies to ensure that the POST Commission paid the agencies for the correct number of officers eligible to receive the salary supplement and properly notified the agencies of the reasons for the differences.

We conducted a walk-through of the approval process relating to the POST Commission's travel claims. We obtained the population of 205 travel claim expenditures, totaling \$24,682.53, that the POST Commission paid to commission members from July 1, 2012, to December 31, 2013. We tested a nonstatistical random sample of 60 travel claims, totaling \$7,624.20, to ensure that they were properly approved and in compliance with the Comprehensive State Travel Regulations and the commission's policies and procedures. To

ensure that the commission members had not been paid by any other political subdivision of the state, we contacted the local governments that employed the members.

For the population of all 11 law enforcement basic training academies in the state, we tested the POST Commission's monitoring activities for calendar years 2012 and 2013. We reviewed the available documentation to ensure that the commission obtained annual reports from all of the academies and conducted the required on-site visits.

While performing our in-service training salary supplement testwork, we reviewed the POST Commission's paper filing system used to maintain employment and training records. We also observed the new electronic records system, the Acadis Readiness Suite, and discussed its use with management and staff.

Based on procedures performed, we determined that

- payments for the in-service training salary supplements were only made to qualified law enforcement officers in all material respects, although we noted several minor errors, which we describe in Results of Other Audit Work for the POST Commission (page 40);
- commission members' travel claim expenditures were incurred, claimed, and paid in accordance with the Comprehensive State Travel Regulations and the commission's policies and procedures, and were not paid by any other political subdivision of the state;
- commission staff did not adequately monitor law enforcement training academies to ensure continued compliance with the commission's minimum standards described in the *Rules of the Peace Officer Standards and Training Commission* 1110-07-.06(2) (see finding 6); and
- the POST Commission's current records management and filing system adequately supports the commission's operations, although the commission would benefit from a fully implemented electronic records system (see observation 4).

Finding 6 – As noted in the prior audit, the POST Commission's monitoring of law enforcement training academies is still inadequate

According to Section 38-8-104(a)(8), *Tennessee Code Annotated*, the Peace Officer Standards and Training (POST) Commission is required to "approve facilities for school operation by or for any municipality, the state or any political subdivision of the state for the specific purpose of training police recruits and police officers." Pursuant to this statute, the POST Commission is responsible for monitoring 11 law enforcement training academies in the state, including the Tennessee Law Enforcement Training Academy. As noted in the prior audit, the commission did not adequately monitor the academies by obtaining all annual reports from the state's law enforcement training academies by the January 31 deadline and conducting annual on-site visits at the law enforcement training academies.

In response to the 2008 finding, management concurred and stated that the POST Commission was adequately staffed as a result of the commission's 2006 transfer to the Department of Commerce and Insurance. Management stated that they would require academies to submit annual reports, that commission investigators would conduct annual on-site visits, and that at least one extensive review would be performed every two to three years. Deficiencies, however, still exist.

The POST Commission must certify each law enforcement training academy in the state to ensure that each graduate is properly trained to perform the duties required of all law enforcement officers. *Rules of the Tennessee Peace Officer Standards and Training Commission*, 1110-07-.06(2), establish the following requirements for all basic training academies certified by the commission:

- (a) Annual Report. Each academy shall submit an annual report to the Commission outlining the continued compliance with minimum standards as set forth in this chapter on or before January 31 of the new year.
- (b) Annual On-site Visit. Upon receipt of the annual report from a Basic Training Academy a POST Commission designee shall conduct an on-site visit to review continued compliance in all major areas of initial approval.
- (c) Status Letter. Upon review of a Basic Training Academy's annual report and the completion of an on-site visit, the Commission shall issue a letter advising the academy of the status of its compliance.

The POST Commission's chief investigator is responsible for receiving the law enforcement training academies' annual reports; adding them to the commission's meeting agendas; and, once the reports have been reviewed by the commission, completing the on-site visits with the commission's other investigator. According to the Basic Training Academy Minimum Standards Inspection Checklist, on-site visits consist of a review of the academies'

- training session dates and class schedules, including test dates;
- instructor and staff qualifications; and
- topics of instruction, which must meet the curriculum requirements established by the commission.

We obtained and reviewed the annual reports submitted during calendar years 2012 and 2013. As a result of our review, we noted the following deficiencies.

The Commission Did Not Obtain All Annual Reports by the Deadline

- The POST Commission obtained the 2011 annual reports for 2 of 11 academies (18%) after the January 31, 2012, deadline and did not date-stamp the reports for 2 other academies (18%). Of the 2 late reports, 1 was received 17 days late and the other was

received 29 days late. Since the other 2 reports were not date-stamped, we could not determine if they were submitted by the deadline.

- The commission did not obtain the 2012 annual report from 1 of 11 law enforcement training academies (9%). Out of the remaining 10 annual reports, the commission obtained 2 reports (20%) after the January 31, 2013, deadline and did not date-stamp 2 other reports (20%). Of the 2 late reports, 1 report was 27 days late and the other was 99 days late. Without a date-stamp of the report receipt date, we could not determine whether the reports were received on time.

According to the chief investigator, the POST Commission does not impose any penalties if annual reports are not received by January 31, nor does he follow up with law enforcement training academies that have not submitted annual reports.

The Commission Did Not Conduct Annual On-Site Visits

According to the chief investigator, the POST Commission conducted no on-site visits during calendar years 2012 or 2013. The executive secretary and the chief investigator both stated that commission staff did not perform on-site visits because of personnel losses and travel restrictions.

We also reviewed management's risk assessment and found that management did not include in its annual risk assessment the potential risks associated with not properly obtaining annual reports from law enforcement training academies or conducting the required on-site reviews.

Without adequate compliance monitoring, the POST Commission is limited in its ability to ensure that law enforcement training academies are appropriately training and graduating qualified officers.

Recommendation

The Executive Secretary should ensure that the POST Commission obtains an annual report from each law enforcement training academy by the January 31 deadline and that a commission designee conducts an annual on-site review of each academy to ensure continued compliance with commission-mandated minimum requirements.

Management should include the risks noted in this finding in management's documented risk assessment. The Executive Secretary should also develop controls to mitigate the identified risks, ensure staff monitors the effectiveness of the controls, and take action if deficiencies occur.

Management's Comment

We concur. The Executive Secretary will devise a method to ensure the timely receipt of academy annual reports by January 31 of each year. Controls for this new process will be explained to all affected staff members and incorporated into their job plans. Also, management will add these recommendations to its annual risk assessment as suggested.

In the interim between the prior audit and this current audit, additional responsibilities have put a strain on existing resources. To address this issue, management will train volunteer assessment personnel whose services will be donated by local agencies to assist in the monitoring of the other academies in much the same way as the Commission for Accreditation in Law Enforcement Agencies conducts its assessments. The Executive Secretary has approached the Tennessee Chiefs and Sheriff's Associations with this proposal and they appear receptive. Management also intends to approach the POST Commission with a proposal to modify the monitoring rule to allow for less frequent on-site visits yet still require an annual report from each entity. This is due in part to the reality that most of the other academies participate with the Tennessee Law Enforcement Training Academy and the POST Commission in the Tennessee Law Enforcement Training Officer's Association and/or the International Association of Directors of Law Enforcement Standards and Training, allowing a constant interaction and dialogue between POST Commission management and the academies.

Observation 4 – As noted in the prior audit, POST Commission staff did not have a fully implemented system to maintain and monitor data electronically

As noted in the prior audit, the POST Commission relies on a paper-based system, which stores thousands of law enforcement personnel files and training materials in hard-copy form or on compact disc. During our prior audit, we were unable to locate records and track data because of issues such as misplaced documents and multiple files for some officers. While the commission's recordkeeping system has improved during the current audit, commission staff still did not monitor or maintain information electronically, and the paper-based system impairs their ability to perform their duties efficiently.

The most time-consuming task for POST Commission staff is processing the annual salary supplement for in-service training. In 2013, the commission approved salary supplements for 13,601 law enforcement officers. To verify that each officer is eligible to receive a salary supplement, staff reviews the personnel files for every officer listed on the law enforcement agencies' salary supplement rosters. In addition, staff also review the files of all ineligible officers to ensure the information reported by the law enforcement agencies for these officers is accurate.

Based on our analysis of 352 law enforcement agencies that submitted a salary supplement request in 2013, we determined that the average number of days the POST Commission took to process and pay a salary supplement request was 68 days. Although the commission took 155 days from the date it received one agency's request to pay one salary supplement, the length of time required to processed salary supplement requests decreased considerably since the prior audit. See Table 6 below.

Table 6
Length of Time Required to Process Salary Supplement Requests

	Year of Salary Supplement Request	
	2013	2005
Number of Law Enforcement Agencies Requesting Salary Supplements	352	357
Average Number of Days for Payment of Salary Supplement	68	156
Largest Delays Between Submission of Requests and Salary Supplement Payments	40 payments after 90 days	45 payments after 200 days

During our review of the POST Commission, we observed minor difficulties with the paper filing system; some of the files that we requested for our salary supplement testwork had been misplaced and required the assistance of commission investigators to locate. Although commission staff were able to locate all of the records that we requested, locating misplaced files often required extensive time and research. We, along with the investigators, found it difficult to move and sort through large boxes of paper records, and we noticed overfilled vertical file carousels.

In response to the 2008 finding, management concurred and stated that they would “seek out a . . . software package . . . to modernize our data management system.” In 2012, the POST Commission acquired the Acadis Readiness Suite (Acadis), a personnel database designed for safety professions, such as law enforcement and firefighting. At the time of our audit, however, the commission had not completed its implementation of Acadis and did not have a schedule for entering all of its data into the system. According to the administrative assistant for the Tennessee Law Enforcement Training Academy, data for 114 of the 366 local law enforcement agencies (31%) and 16 of the 67 other law enforcement organizations (24%) (e.g., state agencies and campus police departments) in the state had been entered into Acadis as of April 14, 2014.

The POST Commission’s Executive Secretary should ensure the full use of an electronic data system. If necessary, the Executive Secretary should develop a formal schedule for transferring all personnel and training data from paper records to Acadis. Until a new system is in place, the Executive Secretary should continue to ensure that the current paper-based system is as efficient as possible.

RESULTS OF OTHER AUDIT WORK

Annual In-Service Training Salary Supplement

The POST Commission’s executive secretary and investigators should consider whether additional procedures should be developed to ensure that payments are only made for officers

who are certified by the commission; have completed 40 hours of commission-approved in-service training; and have met the full-time service requirement (or obtained a waiver from the commission). During our testwork on salary supplement expenditures, we noted that the commission incorrectly approved the \$600 supplement payments for

- three Memphis Police Department officers who did not appear to have completed eight months of full-time service during calendar year 2012 and did not receive waivers from the full-time service requirement from the commission;
- a Shelby County Sheriff's Department officer who, based on the paperwork included in her file at the time of our review, was not a POST-certified law enforcement officer engaged in full-time service during calendar year 2012;
- a Smyrna Police Department officer without documentation of completing the required in-service training;
- the Bledsoe County salary supplement request, which was signed by the sheriff;²³
- a Greeneville Police Department officer who had obtained out-of-state training that the POST Commission had not approved as a substitute for the officer's annual in-service training;
- a Kenton Police Department officer who had not completed the required mental health portion of the in-service training;
- a former Grundy County Sheriff's Department officer who should have been paid the supplement through his new employer, the Sewanee Police Department; and
- a City of East Ridge Police Department officer who had not completed 19 of the 40 in-service training hours required to be eligible for the supplement.

We also noted that, as a result of staff miscounting the number of eligible officers on two agencies' salary supplement requests, the POST Commission overpaid the Gallatin Police Department by \$600 and underpaid the Sequatchie County Sheriff's Department by the same amount.

Supplemental Pay from Both the POST Commission and the Firefighting Personnel Standards and Education Commission

Based on our discussions with the POST Commission's Executive Secretary and the Director of the Firefighting Personnel Standards and Education Commission, neither commission has procedures in place to prevent individuals from receiving both the firefighter and peace officer pay supplements.

Pursuant to statute, peace officers and firefighters who complete 40 hours of in-service training during the calendar year are eligible to receive a \$600 salary supplement. According to

²³ Salary supplement requests are required to be signed by cities' and counties' chief administrative officials in order to prevent sheriffs and police chiefs from submitting salary supplement requests for themselves or for any of their officers who are ineligible to receive the pay supplements.

Section 38-8-101, *Tennessee Code Annotated*, a peace officer is defined as a “person . . . whose primary responsibility is the prevention and detection of crime.” Similarly, Section 4-24-201, *Tennessee Code Annotated*, defines firefighters as persons “trained in firefighting or prevention of fires . . . and whose primary livelihood is derived from such work.” According to Attorney General Opinion 86.29, “a single person cannot have two ‘primary responsibilities or livelihoods’ [and, therefore,] no one person could receive two such supplements in the same calendar year.”

The POST Commission’s Executive Secretary and the Chief Counsel for Fire Prevention and Law Enforcement stated that they were unaware of any prohibition against an individual receiving both salary supplements. The POST Commission’s Executive Secretary and the Firefighting Personnel Standards and Education Commission’s Director also indicated that they considered it unlikely that an individual would be eligible for both salary supplements.

During our testwork on salary supplement expenditures, we identified a Johnson City officer who also received a pay supplement through the Commission on Firefighting Personnel Standards and Education. The local government notified the POST Commission of this error and refunded the individual’s \$600 salary supplement.

In order to administer the salary supplement programs as intended by statute, the POST Commission and the Commission on Firefighting Personnel Standards and Education management should ensure individuals are paid through only one of the pay supplement programs.

APPENDICES

Appendix 1

Business Unit Codes

335.01	Division of Administration
335.02	Division of Insurance
335.03	Division of Fire Prevention
335.04	Division of TennCare Oversight
335.05	Division of Securities
335.06	Division of Consumer Affairs
335.07	Fire Service and Codes Enforcement Academy
335.08	911 Emergency Communications
335.10	Division of Regulatory Boards
335.11	Tennessee Law Enforcement Training Academy
335.12	Peace Officers Standards and Training Commission
335.15	Real Estate Education and Recovery
335.16	Auctioneer Education and Recovery
335.19	Cemetery Consumer Protection Fund
335.20	Pre-Need Funeral Consumer Protection Fund
335.21	Tennessee Athletic Commission
335.22	Tennessee Corrections Institute
335.28	Commission on Firefighting Personnel Standards and Education

Appendix 2

Department of Commerce and Insurance

Staff Positions by Gender and Ethnicity

April 1, 2014

(Source: Department of Commerce and Insurance Human Resources Director)

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
ACCOUNT CLERK	1	3	2	2	0	0	0	0
ACCOUNTANCY BOARD INVESTIGATOR	2	0	2	0	0	0	0	0
ACCOUNTANT 2	1	0	1	0	0	0	0	0
ACCOUNTANT 3	2	0	2	0	0	0	0	0
ACCOUNTING MANAGER	1	0	1	0	0	0	0	0
ACCOUNTING TECHNICIAN 1	1	4	4	0	0	0	0	1
ACCOUNTING TECHNICIAN 2	0	5	5	0	0	0	0	0
ACTUARIAL OFFICER	3	0	3	0	0	0	0	0
ACTUARY 2	3	2	4	0	0	0	0	1
ADMIN ASSISTANT 1	1	5	4	2	0	0	0	0
ADMIN ASSISTANT 2	0	1	0	1	0	0	0	0
ADMIN ASSISTANT 3	0	2	2	0	0	0	0	0
ADMIN SECRETARY	0	16	9	5	1	0	1	0
ADMIN SERVICES ASSISTANT 2	2	14	15	1	0	0	0	0
ADMIN SERVICES ASSISTANT 3	3	20	18	5	0	0	0	0
ADMIN SERVICES ASSISTANT 4	1	11	11	1	0	0	0	0
ADMIN SERVICES ASSISTANT 5	0	1	1	0	0	0	0	0
ADMIN SERVICES MANAGER	1	2	2	0	0	0	1	0
AGENT LICENSING/CE DIRECTOR	0	1	1	0	0	0	0	0
ASSISTANT COMMISSIONER 1	0	1	0	1	0	0	0	0
ASSISTANT COMMISSIONER 2	2	1	2	0	0	0	1	0
ATHLETIC COMMISSION EXEC DIRECTOR	1	0	1	0	0	0	0	0
ATTORNEY 2	0	2	2	0	0	0	0	0
ATTORNEY 3	14	9	22	0	0	1	0	0
ATTORNEY 4	4	2	5	1	0	0	0	0

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
AUDIT DIRECTOR 1	1	0	1	0	0	0	0	0
AUDITOR 2	0	1	1	0	0	0	0	0
AUDITOR 3	4	2	3	5	0	0	0	1
AUDITOR 4	2	0	1	0	0	0	0	1
BOMB & ARSON ASST DIRECTOR	1	0	1	0	0	0	0	0
BOMB & ARSON DIRECTOR	1	0	1	0	0	0	0	0
BOMB & ARSON SAC	2	2	4	0	0	0	0	0
BOMB & ARSON SP AGENT 2	4	0	4	0	0	0	0	0
BOMB & ARSON SP AGENT 3	15	1	15	1	0	0	0	0
BUILDING MAINTENANCE WORKER 2	1	0	1	0	0	0	0	0
BUILDING MAINTENANCE WORKER 3	1	0	1	0	0	0	0	0
CAPTIVE INSURANCE PROGRAM DIR	1	0	1	0	0	0	0	0
CLERK 2	1	0	1	0	0	0	0	0
CLERK 3	0	5	4	1	0	0	0	0
CODES ENFORCEMENT INSTRUCTOR 2	1	0	1	0	0	0	0	0
CODES ENFORCEMENT INSTRUCTOR S	0	1	1	0	0	0	0	0
CODES ENFORCEMENT PROGRAM DIR	1	0	1	0	0	0	0	0
COMMISSIONER 1	0	1	1	0	0	0	0	0
COMPUTER OPERATIONS MANAGER 3	0	1	1	0	0	0	0	0
CONSUMER INSURANCE INV 1	3	2	3	2	0	0	0	0
CONSUMER INSURANCE SVCS MGR	1	0	1	0	0	0	0	0
CONSUMER PROTECTION ASST DIRECTOR	1	0	1	0	0	0	0	0
CONSUMER PROTECTION SPEC 2	1	4	4	1	0	0	0	0
CONTRACTOR INSPECTOR	2	0	2	0	0	0	0	0
COOK 1	1	0	0	1	0	0	0	0
COOK 2	0	1	1	0	0	0	0	0
CORRECTION INST DEPUTY DIR	1	0	1	0	0	0	0	0
CORRECTIONS INSTITUTE DIRECTOR	0	1	1	0	0	0	0	0
DATABASE ADMINISTRATOR 3	1	0	1	0	0	0	0	0

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
DEPUTY COMMISSIONER 1	1	2	2	1	0	0	0	0
DETENTION FACS SPECIALIST	6	3	8	1	0	0	0	0
ELECTRICAL INSPECTOR SUPV 1	2	0	2	0	0	0	0	0
ELECTRICAL INSPECTOR SUPV 2	1	0	1	0	0	0	0	0
EMER COM BOARD EXEC DIRECTOR	0	1	1	0	0	0	0	0
EXECUTIVE ADMIN ASSISTANT 1	0	1	0	1	0	0	0	0
EXECUTIVE ADMIN ASSISTANT 2	2	3	5	0	0	0	0	0
EXECUTIVE ADMIN ASSISTANT 3	0	2	2	0	0	0	0	0
FACILITIES CONSTRUCTION ASST DIR	1	0	1	0	0	0	0	0
FACILITIES CONSTRUCTION DIR	2	0	2	0	0	0	0	0
FACILITIES CONSTRUCTION SPC 3	17	0	16	1	0	0	0	0
FACILITIES SUPERVISOR	1	0	1	0	0	0	0	0
FIRE & CODES ACADEMY EXEC DIR	1	0	1	0	0	0	0	0
FIRE FIGHTING COMMISSION COOR	2	0	2	0	0	0	0	0
FIRE PREV PROG & POLICY DEV DIR	1	0	1	0	0	0	0	0
FIRE SAFETY MANAGER	1	0	1	0	0	0	0	0
FIRE SAFETY SPEC SUPERVISOR	4	0	3	1	0	0	0	0
FIRE SAFETY SPECIALIST 1	28	6	31	1	0	0	1	1
FIRE SAFETY SPECIALIST 2	4	0	4	0	0	0	0	0
FIRE SERVICE INSTRUCTOR 1	1	0	1	0	0	0	0	0
FIRE SERVICE INSTRUCTOR 2	4	0	4	0	0	0	0	0
FIRE SERVICE INSTRUCTOR SUPV	1	0	1	0	0	0	0	0
FIRE SERVICE PROGRAM DIRECTOR	1	0	1	0	0	0	0	0
FISCAL DIRECTOR 1	1	0	1	0	0	0	0	0
FISCAL DIRECTOR 2	1	0	1	0	0	0	0	0
FOOD SERVICE SUPERVISOR 1	1	0	0	1	0	0	0	0
FOOD SERVICE WORKER	0	2	0	2	0	0	0	0
FRAUD INVESTIGATION DIRECTOR	1	0	1	0	0	0	0	0

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
HR ANALYST 1	0	1	0	1	0	0	0	0
HR ANALYST 3	1	1	1	0	1	0	0	0
HR DIRECTOR 2	0	1	1	0	0	0	0	0
HR MANAGER 1	1	1	2	0	0	0	0	0
HR TECHNICIAN 2	0	1	1	0	0	0	0	0
INFO RESOURCE SUPPORT SPEC 2	1	0	1	0	0	0	0	0
INFO RESOURCE SUPPORT SPEC 3	1	0	0	1	0	0	0	0
INFO RESOURCE SUPPORT SPEC 4	1	0	1	0	0	0	0	0
INFO RESOURCE SUPPORT SPEC 5	1	0	0	1	0	0	0	0
INFORMATION SYSTEMS ANA 2*	0	1	1	0	0	0	0	0
INFORMATION SYSTEMS ANA 3	0	1	1	0	0	0	0	0
INFORMATION SYSTEMS ANA 4	0	1	0	1	0	0	0	0
INFORMATION SYSTEMS CONSULT	1	0	1	0	0	0	0	0
INFORMATION SYSTEMS DIRECTOR 2	1	0	1	0	0	0	0	0
INFORMATION SYSTEMS MANAGER 1	1	0	1	0	0	0	0	0
INFORMATION SYSTEMS MANAGER 2	1	0	1	0	0	0	0	0
INFORMATION SYSTEMS MANAGER 3	0	1	1	0	0	0	0	0
INSUR INVESTIGATION DIRECTOR	0	1	0	1	0	0	0	0
INSURANCE ANALYSIS DIRECTOR	1	0	1	0	0	0	0	0
INSURANCE EXAM IN-CHARGE-CFE	4	1	4	1	0	0	0	0
INSURANCE EXAMINATION DIR	1	1	2	0	0	0	0	0
INSURANCE EXAMINER 2	1	1	1	1	0	0	0	0
INSURANCE EXAMINER 3	7	4	8	2	0	1	0	0
INSURANCE EXAMINER-AFE	0	1	0	0	0	1	0	0
INSURANCE EXAMINER-CFE	5	2	4	1	0	2	0	0
INSURANCE EXAMINER-CPA	0	2	2	0	0	0	0	0
INSURANCE FRAUD INV 2	0	1	1	0	0	0	0	0
INSURANCE FRAUD INV MANAGER	1	0	1	0	0	0	0	0

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
LAW ENF TRNG ACADEMY ASST DIR	1	0	1	0	0	0	0	0
LAW ENF TRNG ACADEMY DIR	1	0	1	0	0	0	0	0
LAW ENF TRNG INSTRUCTOR	5	1	5	1	0	0	0	0
LAW ENF TRNG INSTRUCTOR SUPV	1	0	1	0	0	0	0	0
LEGAL SERVICES DIRECTOR	0	1	1	0	0	0	0	0
LEGAL SERVICES DIRECTOR	1	0	1	0	0	0	0	0
LICENSING TECHNICIAN	6	40	32	14	0	0	0	0
MAIL CLERK	0	1	1	0	0	0	0	0
MAIL TECHNICIAN 2	1	0	1	0	0	0	0	0
MFD & MODULAR HOUSING DIRECTOR	0	1	1	0	0	0	0	0
MFD HOME INSPECTOR 2	17	0	16	1	0	0	0	0
MFD HOME INSPECTOR MANAGER	2	0	2	0	0	0	0	0
MFD HOME INSPECTOR SUPERVISOR	1	0	1	0	0	0	0	0
POST INVESTIGATOR	2	0	2	0	0	0	0	0
PROCUREMENT OFFICER 2	0	2	2	0	0	0	0	0
PROGRAMMER/ANALYST 3	0	1	1	0	0	0	0	0
PROGRAMMER/ANALYST 4	2	0	1	0	0	1	0	0
REG BOARD ADMIN ASST 1	4	18	17	5	0	0	0	0
REG BOARD ADMIN ASST 2	1	13	10	3	0	0	0	1
REG BOARD ADMIN ASST 3	3	4	6	1	0	0	0	0
REG BOARD ADMIN DIRECTOR 1	2	1	3	0	0	0	0	0
REG BOARD ADMIN DIRECTOR 2	1	0	1	0	0	0	0	0
REG BOARD ADMIN MANAGER	3	1	3	1	0	0	0	0
REG BOARD EXECUTIVE DIRECTOR	5	6	10	0	1	0	0	0
REG BOARD FIELD REPRESENTATIVE	7	5	9	2	1	0	0	0
REG BOARD INVESTIGATOR	11	5	16	0	0	0	0	0
REG BOARD PROG & POLICY DEV DR	0	1	1	0	0	0	0	0
SECRETARY	3	12	12	1	0	1	0	1
SECURITIES DIRECTOR	0	1	0	1	0	0	0	0

TITLE	GENDER		ETHNICITY					
	MALE	FEMALE	WHITE	BLACK	HISPANIC	ASIAN	AMERICAN INDIAN	OTHER
SECURITIES EXAMINER 2	2	4	4	2	0	0	0	0
SECURITIES EXAMINER 3	2	0	2	0	0	0	0	0
SECURITIES EXAMINER SUPERVISOR	0	2	1	1	0	0	0	0
STATISTICAL ANALYST 3	1	0	1	0	0	0	0	0
STATISTICAL CLERK	1	0	0	1	0	0	0	0
TECB ASST DIR/LEGAL COUNSEL	1	0	1	0	0	0	0	0
TECB E-911 TECHNOLOGY CONS	1	0	1	0	0	0	0	0
TENNCARE EXAMINATION DIRECTOR	1	0	1	0	0	0	0	0
TENNCARE EXAMINATION MANAGER	1	1	1	1	0	0	0	0
TENNCARE EXAMINER	2	4	3	3	0	0	0	0
TRAINING OFFICER 1	2	0	2	0	0	0	0	0
WEBSITE DEVELOPER 2	1	0	1	0	0	0	0	0
TOTALS	300	292	486	87	4	7	4	7

Appendix 3

**Commission on Firefighting Personnel Standards and Education
Members by Gender and Ethnicity
April 1, 2014**

	Gender		Ethnicity					
	<i>Male</i>	<i>Female</i>	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Asian</i>	<i>American Indian</i>	<i>Other</i>
Total	9	0	7	2				

Source: Director, Commission on Firefighting Personnel Standards and Education.

Appendix 4

**POST Commission
Members by Gender and Ethnicity
April 1, 2014**

	Gender		Ethnicity					
	<i>Male</i>	<i>Female</i>	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Asian</i>	<i>American Indian</i>	<i>Other</i>
Total	15	2	16	1	0	0	0	0

Source: Executive Administrative Assistant, Tennessee Law Enforcement Training Academy.

Appendix 5

Performance Measures Information

As stated in the Tennessee Governmental Accountability Act of 2013, “accountability in program performance is vital to effective and efficient delivery of government services, and to maintain public confidence and trust in government.” In accordance with this Act, all executive-branch state agencies are required to submit annually to the Department of Finance and Administration a strategic plan and program performance measures. The Department of Commerce and Insurance’s priority goals, as reported for April 2014 on the Governor’s Customer Focused Government Monthly Results website, are as follows.

Performance Standards and Measures

Performance Standard 1: Establish Tennessee as a leading captive domicile, promoting investment and job creation, by increasing the number of captive companies domiciled in the state by 75% (to reach a total of 35) by June 30, 2014.

Purpose of the Goal: Increasing the number of captive insurance companies domiciled in the state promotes job creation and economic growth. The jobs surrounding a growing captive

industry are specialized, professional positions, including actuaries; attorneys; captive managers; certified public accountants; and banking and financial advisers. Bringing such positions into the state expands the financial knowledge base of the constituency and is expected to bring additional revenue into the state and local economies and into private-sector industries through hotel and meal expenditures and related taxes, among other things.

Measuring the Goal: Number of captive companies licensed in Tennessee.			
	Baseline	Current	Target
Units	20	30	35

Source: Gathered on an ongoing basis as captive insurance companies are licensed by the department. Licensed captives can also be found at <http://www.tn.gov/insurance/captive/companies.shtml>.

Performance Standard 2: Distribute and install smoke alarms to reduce potential fire deaths.

Purpose of the Goal: Tennessee has for far too long held an unsatisfactory national ranking in fire deaths. According to the most recent report available from the U.S. Fire Administration (2010), Tennessee’s fire death rate was 21.7 deaths per million, nearly twice the national rate and the sixth highest in the nation. The Get Alarmed program is the key component in the State Fire Marshal’s Office’s initiative to reduce fire deaths in the state. Equipping homes across the state with these life-saving devices, while also providing fire prevention education to the residents, is vital to achieving this goal.

Measuring the Goal: Number of fire alarms installed per week.			
	Baseline	Current	Target
Units	200	289.4	250

Source: The US Fire Administration via National Fire Incident Reporting System data (<http://www.usfa.fema.gov/statistics/estimates/states.shtml>).