

# AUDIT REPORT

## Commission on Hispanic Affairs: Change of Director Audit



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### Summary

#### PURPOSE

The Secretary of State is required by Oregon Revised Statute 297.210 to audit or review state agencies when the executive head leaves his or her position. The purpose of the audit was to examine Commission on Hispanic Affairs transactions and accounts directly under the control of the executive director for compliance with applicable laws and regulations, as well as follow up on allegations of the director's inappropriate use and management of state resources.

#### RESULTS IN BRIEF

During our review, we found that the commission delegated significant authority to the director without providing adequate review of his activities. As a result, the former director may have abused his authority and did not adequately account for, and safeguard, state assets.

The former director expended commission funds totaling approximately \$3,480 for personal use. We also identified other instances in which the former director misused state resources or violated state rules, including misreported leave that resulted in overpayment of approximately \$1,500 for vacation leave at the time of his separation from state service.

We also noted two occasions when the former director may have used his position as a public employee to gain personal benefit by obtaining state contracts. Those contracts totaled \$14,000.

In addition to the control items noted earlier, we found additional areas of concern that should be addressed by the commissioners.

Furthermore, we found that employees at the Department of Administrative Services' Shared Client Services were aware of and questioned some of the above transactions and did not alert the commissioners of the potential non-compliance.

#### OTHER MATTERS

As of February 9, 2001, the commission was owed approximately \$50,000 from class sponsors and attendees and had approximately \$20,000 in unpaid bills due to a lack of cash.

#### RECOMMENDATIONS

**We recommend** that the Commission on Hispanic Affairs:

- Take necessary actions to recover the \$3,480 in personal expenses incurred by the former director and the \$1,500 in overpaid leave;
- Consult with the Department of Justice and other authorities to determine the proper course of action to resolve identified legal issues;
- Pursue collection of the approximate \$50,000 in outstanding receivables. In addition, the commission should implement a system to ensure timely billing and collection of receivables and other monies owed; and
- Take a more proactive role in managing the director and commission affairs. Specifically, the commissioners should provide policies and procedures to ensure a more appropriate level of internal control. Further, the commissioners should develop a process to exchange information with Shared Client Services to help identify and correct deficiencies in commission, business activities.

**We also recommend** that the Department of Administrative Services establish policies and procedures to ensure that Shared Client Services employees report questionable transactions to oversight bodies as well as the directors.

#### AGENCY RESPONSE

The Commission on Hispanic Affairs and the Department of Administrative Services generally agree with the recommendations.

### Introduction

Due to the challenges a small commission faces in properly segregating duties to maintain an adequate internal control structure, a commission's board of directors must actively fulfill its obligation

and responsibility as the oversight body for commission activities. Another key control point for many smaller state organizations that could aid this process is the Department of Administrative Services Shared Client Services division. This division serves as the

accountant and bookkeeper for many small commissions and agencies, and has the opportunity to alert commission members when the director is processing questionable transactions. Together, commissioners and Shared Client Services are key to successfully

protecting state resources and assuring that commissions' or small agencies' objectives are being met.

## Background

The Commission on Hispanic Affairs was created to work for the implementation and establishment of economic, social, legal and political equality for Hispanics in Oregon. The commission is obligated under ORS 185.330 to monitor commission programs.

Commission funding is comprised of two separate funds, General Fund monies and an Other Funds limitation. The Oregon Legislative Assembly appropriated General Funds totaling \$128,216 for the 2000-2001 biennium. The General Fund appropriation enables the commission to pay the executive director's salary and cover general office expenses.

The commission's Other Funds limitation for the 2000-2001 biennium was \$118,256. Other Funds revenue are generated by the commission through donations, grants and fees from Spanish language classes to state employees. These funds help the commission carry out its mandated functions, such as identifying and researching problem areas and issues affecting the Hispanic community and recommending actions to the Governor and the Legislative Assembly.

## Audit Results

We found that the commission delegated significant authority to the director without providing adequate review of his activities. Further, we found that the Department of Administrative Services' Shared Client Services did not alert the commission when the director was authorizing and processing questionable transactions. Instead, Shared Client Services reported questionable transactions and instances of noncompliance with

state rules back to the former director.

The lack of effective oversight by the commissioners of the former director's activities resulted in the following instances of misuse and mismanagement of state assets. These included:

- Inappropriate expenditures and violations of state rules;
- Apparent conflicts of interest; and
- Other internal controls needing improvement.

### Inappropriate Expenditures and Violations of State Rules

The former director used state resources to pay for personal expenses totaling approximately \$3,480. These expenses included:

- Car rental and gasoline while on vacation, totaling approximately \$160;
- Airline tickets for his spouse and another non-employee costing approximately \$320;
- Personal use of the state's cell phone, movie rental, and misreported reimbursement of mileage totaling approximately \$1,200;
- Payment of \$800 for rental of office space in his own home while he was telecommuting; and
- Personal expenses incurred while on a combined business/vacation trip, totaling approximately \$1,000.

We also identified instances in which the former director misused state resources or violated state rules, including the following:

- Not complying with state credit card policies when he used it to purchase a van rental, gasoline, meals and hotel lodging. State credit cards can only be used for authorized purchases that further

the business of the state and cannot be used for travel costs;

- Not recording leave while on vacation, resulting in an overpayment of approximately \$1,500 upon his separation from state service;
- Use of state equipment for his personal business and to manage his personal finances. We further questioned the rental of a truck when there was no apparent business use; and
- Not complying with state contracting rules. We noted that some personal services contracts did not include all required contract elements. For example, one contract in excess of \$5,000 did not include the required open, competitive contracting processes and additional authorizations.

Although employees at Shared Client Services questioned some of the above transactions, they did not alert the commissioners of the potential non-compliance or misuse of state resources. Furthermore, the commissioners were relying solely on the director to ensure that transactions were appropriate.

### Apparent Conflicts of Interest

The former director appears to have used his position as the director to obtain state contracts totaling \$14,000. One contract for \$8,000 was to teach Spanish Language classes for a state agency. It appears that the former director used his influence as director to obtain this contract for his personal business. The other contract for \$6,000 obligated state funds to pay his wife to teach English as a Second Language classes.

Oregon Revised Statute 244.040 prohibits public officials from obtaining financial gain by virtue of their positions as public employees.

## Other Internal Controls Need Improvement

In addition to the control items noted earlier in the report, we found additional areas of concern. For example, we noted:

- Checks were left unattended on desktops and chairs and were not restrictively endorsed when received.
- High-risk assets, such as computers, cell phones, etc., were not tracked or inventoried.
- Sensitive records stored on computers and in file drawers were left unattended and unlocked.

## Separation Controls

Finally, our audit included a review of standard separation controls such as verifying that all assets assigned to the former director had been returned, building access had been terminated, access to use of the state credit card had been discontinued and state computer access had been cancelled. We determined that all of the above activities had been completed at the time of the former director's separation from state service.

## Other Matters

During our review we noted that the commission did not have a system for ensuring that revenues generated from classes are billed and collected. Our review of records indicated that the commission was owed approximately \$50,000 from class sponsors and attendees as of February 9, 2001. Further, as of that same date, the commission had approximately \$20,000 in unpaid bills that could not be paid because the commission lacked cash.

In addition, we noted that the commission overpaid a contractor by approximately \$4,000 subsequent to the former director's departure.

## Recommendations

We recommend that the commission:

- Take necessary actions to recover the \$3,480 in personal expenses incurred by the former director as well as the \$1,500 in overpaid leave;

*Agency's Response:* We agree with your recommendation. We are checking with our AG regarding the issue of payment recovery.

- Consult with the Department of Justice and other authorities to determine the proper course of action to resolve identified legal issues; and

*Agency's Response:* We agree with your recommendation and we are consulting with the Department of Justice to determine the best approach to take in this situation, and our legal responsibilities in taking said action.

- Pursue collection of the approximate \$50,000 in outstanding receivables. In addition, the commission should implement a system to ensure timely billing and collection of receivables and other monies owed.

*Agency's Response:* We generally agree with your findings and have implemented the following for greater accountability:

- Class registration forms were developed for students to register and the instructors were required to present a class roster at the beginning and end of the class session.*
- A data base was created to track the payments received from students and agencies. Each time payment is received the check(s) are kept in secure cabinet files for a few days or they are delivered to DAS Shared Client Services immediately. A copy of the*

*payment report showing the payee's name, date, check number, BT number, etc. is provided to DAS.*

- Letters demanding class rosters from the previous Spanish language instructor were delivered on April 26, 2001 and each student was asked to pay via electronic invoice or through a hard copy mailed through the post office.*
- Agencies who held agency-wide Spanish language classes were invoiced and payment for previous classes was collected.*

*We disagree with your findings of approximately \$50,000 outstanding as of February 9, 2001. We found that one of the principle reasons for the confusion in collecting moneys from students and agencies was related to the Spanish language instructor's recordkeeping and/or a lack of records being maintained by the previous executive director. As a result of not receiving information or receiving undependable information, we were only able to collect \$25,575 for the period before February 9, 2001. In a significant number of cases we feel we have no basis for collecting any additional money because the students rostered never attended classes or they attended classes in previous terms and paid at that time.*

In order to improve oversight of commission activities, we recommend that the commissioners take a more proactive role in managing the director and the commission's affairs. Specifically, the commissioners should provide sufficient policies and procedures to ensure a more appropriate level of internal control. Further, the commissioners should develop a process to exchange information with Shared Client Services to help identify and correct deficiencies in commission business activities.

*Agency's Response:* We agree with your recommendation and have already established policies and

changes for better internal controls and communication.

- (a) Policy requiring the Chair's signature for expenditures over \$500.
- (b) Policy requiring that Commission Meeting Minutes be approved by a majority quorum and signed by both the Executive Director and the Chair.
- (c) Ethics Policy for the Executive Director and Commissioners to sign.
- (d) A Request for Proposal process was initiated for the selection of the Spanish language contractor as required, and a formal contract was negotiated with the assistance of the Department of Administrative Services.
- (e) Commission budget status reports are now presented at every monthly meeting.
- (f) Sensitive records are stored in file cabinets and computers are login and password protected. Our new Commission office is locked and only state employees with card lock keys assigned to this office may enter freely.
- (g) The Commission asset inventory list was updated in November 2001, and a copy was provided to DAS's Risk Management Department. Inventoried items are in the process of being assigned tag numbers and all items are kept out of sight in file cabinets or in the Commission's new, and less expensive, storage facility.

In order to prevent questionable transactions from occurring, an interagency agreement is being developed between the Oregon Commission on Hispanic Affairs and DAS's Shared Client Services requesting that they inform the Commission's Executive Director

and Chair about any questionable expenditures and transactions.

**We also recommend** that the Department of Administrative Services establish policies and procedures to ensure that Shared Client Services employees report questionable transactions to oversight bodies as well as the directors.

**Agency's Response:** We agree with the recommendation.

The State Controller's Division has recently developed comprehensive policies and procedures requiring staff and the Manager of Shared Client Services to make mandatory notification of questionable client agency financial transactions to the State Controller and all oversight bodies. This policy is scheduled to be effective on January 1, 2002. The State Controller has updated the position description of the Shared Client Services manager to reflect appropriate fiscal quality control and reporting responsibilities. The Manager of Shared Client Services has met with staff and reviewed pertinent state statutes and sections of the Oregon Accounting Manual related to processing state financial transactions. The Manager of Shared Client Services will receive additional training on internal control management over the coming year.

In December of 2001, Shared Client Services in conjunction with other Department of Administrative Services Division's provided specific training on policies and procedures to small agency heads and their immediate staff in the areas of personal service contracting, travel reimbursement, purchasing rules, human resource policies, payroll policies and procedures, accounts

receivable management, accounting, and change of director audits. The class is being repeated in January of 2002 and will be repeated semi-annually thereafter.

## Objectives, Scope and Methodology

This review encompassed all transactions of the commission from April 1998 through February 2001. The audit was conducted in accordance with generally accepted government auditing standards. Our audit objectives were to assure that appropriate actions were taken to cancel the previous director's access to state computer systems, that any state assets in his possession were returned, and to assure that recent transactions authorized by the director were reasonable and complied with appropriate laws and regulations. Specifically, we:

- Reviewed relevant statutes and laws;
- Determined if fixed assets assigned to the former director had been returned to the commission;
- Reviewed all travel and payroll transactions payable to or authorized by the former director for the entire time of his employment;
- Reviewed all contracts entered into by the former director for the entire time of his employment;
- Were alert for signs of potential fraud, abuse, and illegal acts regarding all transactions for the audit period.



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*The courtesies and cooperation extended by the officials and staff of the Commission on Hispanic Affairs were commendable and much appreciated.*

***Auditing to Protect the Public Interest and Improve Oregon Government***

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