



STATE OF ILLINOIS
**OFFICE OF THE
AUDITOR GENERAL**

William G. Holland, Auditor General

SUMMARY REPORT DIGEST

EAST ST. LOUIS FINANCIAL ADVISORY AUTHORITY

FINANCIAL AUDIT

For the Year Ended: June 30, 2010

**COMPLIANCE ATTESTATION
EXAMINATION**

For the Two Years Ended: June 30, 2010

Summary of Findings:

Total this audit:	12
Total last audit:	7
Repeated from last audit:	5

Release Date: February 24, 2011

INTRODUCTION

This digest covers the financial audit for the year ended June 30, 2010 and the compliance examination for the two years ended June 30, 2010.

SYNOPSIS

- The Authority inappropriately expended funds from locally held funds for the expenses of its daily operations.
- The Authority's Board of Directors inappropriately paid the Executive Director for the "breach" of employment contract.
- The Authority did not appropriately reconcile its investment statements to the general ledger.
- The Authority did not ensure financial records used to prepare the year-end financial statements and the Office of the Comptroller Generally Accepted Accounting Principles packages were accurate.

{Expenditures and Activity Measures are summarized on the reverse page.}

**EAST ST. LOUIS FINANCIAL ADVISORY AUTHORITY
FINANCIAL AUDIT AND COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2010**

EXPENDITURE STATISTICS	2010	2009	2008
Total Expenditures.....	\$ 259,749	\$ 231,537	\$ 228,236
Locally Held Funds Total.....	\$ 139,814	\$ 9,853	\$ 11,878
% of Total Expenditures.....	54%	4%	5%
Appropriated Funds Total.....	\$ 119,935	\$ 221,684	\$ 216,358
% of Total Expenditures.....	46%	96%	95%
Personal Services.....	229,807	182,562	158,873
All Other Operating Expenditures.....	29,942	48,975	69,363
Average Number of Employees.....	4	4	3

SUMMARY OF SIGNIFICANT ACCOUNTS	2010	2009	2008
Cash and Cash Equivalents.....	\$287,065	\$180,915	\$ 6,515,886
Investments.....	\$6,436,883	\$6,484,590	\$0
Ending Balance-Locally Held Funds (Accrual Basis).....	\$6,730,966	\$6,676,570	\$6,518,305

AGENCY DIRECTOR
During Examination Period: Ms. Patrice R. Rencher
Currently: Ms. Patrice R. Rencher

**FINDINGS, CONCLUSIONS, AND
RECOMMENDATIONS**

INAPPROPRIATE EXPENDITURE OF FUNDS

The Authority inappropriately expended funds from locally held funds for the expenses of its daily operations.

The Authority exhausted its appropriations from the General Assembly

In March 2010, the Authority exhausted the \$120,000 appropriated to them from the General Assembly. From March until June 30, 2010, the Authority expended \$139,814 from locally held funds for the payment of payroll, legal, and general operating costs.

The Authority was not authorized to expend funds outside those appropriated

In February 2010, House Bill 6299 was introduced to amend the State Finance Act to allow a special trust fund to be established in order for the Authority to continue to expend money for the day to day operations. However, the Bill did not pass; therefore, the Authority was not authorized to expend funds outside of the funds appropriated to them.

The Financially Distressed City Law (65 ILCS 5/8-12-6(c)) states “Money in the revolving fund may be used by the Authority to support activities leading to a restructuring of the distressed city’s debt and may be pledged by the Authority as a security for any new debt incurred by the distressed city with the approval of the Authority.”

We recommended the Authority work with the General Assembly to obtain sufficient appropriations. Additionally, we recommended the Authority implement appropriate controls to ensure the Authority operates within its appropriated budget. (Finding 1, pages 11-13)

Authority disagrees with auditors

The Authority disagreed with our finding and recommendation and stated that the auditors only referenced one provision within the Financially Distressed City Law as an authorized use of locally held funds. The Authority’s legal counsel cited several provisions contained in the Illinois Municipal Code that permits the use of locally held funds. Those provisions are: (1) Section 5/8-12-6(b)(6), as the law provides for the Authority to have the power necessary to meet its responsibility to carry out its powers and purposes, including paying the expenses of its operations. Subsection (b) of Section 5/8-12-6 is an allowable condition for the use of the locally held funds, as well as,

Subsection (c) of Section 5/8-12-6, which provides for the use to support the activities leading to the restructuring of the distressed City's debt.

The Authority also responded the Financially Distressed City Law states that the Authority is not abolished until 30 days after the City's Debt Restructuring Bonds are paid off as referenced in Subsection (c) of Section 5/8-12-22 in the Financially Distressed City Law. According to the City's Debt Restructuring Schedule, the final bond payment is not scheduled until November 2014. Upon verbal and written recommendation of the legal counsel, the Board of Directors on February 26, 2010, unanimously approved, by resolution, the transfer of \$250,000 to pay for the personnel and operating expenses of the agency as applicable within the provisions outlined in the Financially Distressed City Law.

Auditor's comment

In an auditor's comment, we noted Section 8-12-5 of the Financially Distressed City Law designates the Authority as "an agency of State government." [65 ILCS 5/8 -12-5] As a State agency, the Authority is a creature of statute and its powers emanate from those expressly granted to it by statute. In this case, the Law provides that the Authority may use "amounts appropriated by the General Assembly" to carry out its statutory responsibilities. [65 ILCS 5/8-12-5] Further, the Illinois Constitution of 1970 sets forth the general principle that "[t]he General Assembly by law shall make appropriations for all expenditures of public funds by the State."

The General Assembly appropriated a sum total of \$120,000 for the Authority's FY10 operations. In February, 2010, the Authority's Board authorized the transfer of \$250,000 from an investment account to a locally-held bank account for the purpose of paying "personnel and operating expenses." Also in February 2010, HB6299 was introduced. On April 30, 2010, HB6299 was defeated in the Senate. At its May, 2010 Board meeting, members discussed the failure of HB6299. According to minutes of that meeting, one director inquired whether "the State could come back and say that this is an area where funds should not have been utilized."

In fact, the Authority expended \$139,814 from the locally-held fund in FY10 for agency operations. \$55,976 of that amount was used for a "severance" payment to the Executive Director, as outlined in Finding 10-2. These expenditures were in addition to the

\$120,000 amount appropriated to the Authority by the General Assembly. In total, the Authority spent \$259,749 for its FY10 operations.

At its May 21, 2010 Board meeting, the Executive Director discussed plans to expend further amounts from the locally-held bank account for its FY11 operations. At June 30, 2010, the Authority's investment account balance totaled \$6.4 million. If the Authority continues to believe its expenditures are not limited to amounts appropriated by the General Assembly, we further recommend it obtain a formal written opinion from the Attorney General's Office regarding its authority to expend amounts from its investment account or other locally-held monies for operational and personnel expenses.

INAPPROPRIATE SEVERANCE PAYOUT

Executive Director inappropriately received \$55,976 for “breach” of employment contract

The Authority’s Board of Directors inappropriately paid the Executive Director for “breach” of employment contract.

During the audit period the Authority and Executive Director entered into two employment agreements:

- Agreement one effective June 1, 2009, but not signed until June 2, 2009, and
- Agreement two effective June 1, 2010, but not signed until June 9, 2010.

Severance payment request based on insufficient appropriations

On March 15, 2010 the Executive Director was terminated from the State’s payroll due to the lack of appropriations. As a result, on June 8, 2010, the Executive Director requested payment from the Authority for vacation, retirement contributions, and six months of severance pay, totaling \$55,976, based on the severance payment section of the June 1, 2010 Agreement. The request for severance was based on the Authority’s inability to pay the retirement contributions due to insufficient appropriations.

No formal notification or opportunity to cure the breach

During our review, we noted:

- There was no documentation indicating the Executive Director afforded the Authority formal written notification of the breach and opportunity to cure the breach as required.
- The Authority paid the Executive Director \$6,050 for missed retirement contributions. However, the contract did not provide for such payment.

Payment for retirement contributions

Payment for unearned vacation

- The Authority paid the Executive Director \$12,523.19 for 356.38 hours of accrued and unused vacation time. However, the auditors calculated the correct amount as \$12,207.99 for 347.41 hours of accrued and unused vacation time.
- For purpose of the State’s payroll, the Executive Director was terminated on March 15, 2010. As a result, the Executive Director was paid six months of salary, but was reinstated to the State’s payroll on July 1, 2010. As a result the Executive Director essentially received double salary for six months.
- The Illinois Municipal Code (65 ILCS 5/8-12-12(b)) required affirmative votes of at least three Directors to “adopt any rule or regulation, and for any other actions required by this Division to be taken by resolution, directive, or ordinance.” However, at the June 9, 2010 special meeting of the Board of Directors, the required three affirmative votes were not received.

Resolution by the Board did not receive the required affirmative 3 votes

Some of the conditions noted, which led to the declaration of the breach and the resulting severance payment, were within the Executive Director’s area of responsibility.

We recommended the Authority seek reimbursement from the Executive Director for the improper payments, and implement appropriate controls to ensure the Authority operates within its budget. Additionally, we recommend the Board ensure affirmative votes from three Directors is obtained on matters as required by law. (Finding 2, pages14-18)

Authority disagrees with auditors

The Authority disagreed with our finding and recommendation and stated the Authority did not inappropriately pay the Executive Director.

The Authority’s opinion differs from that of the auditor, in that, the finding states that the request for severance was based on the Authority’s inability to pay the retirement contributions due to insufficient appropriations.

The Executive Director presented the Board of Directors with a proposal on how to cure the breach of contract on June 8, 2010, which was approved on June 9, 2010.

According to the Authority upon discussion with the Board of Directors, the legal counsel drafted the resolution approving the payout to the Executive Director. The resolution approved by the Board of Directors states that the East St. Louis Financial Advisory Authority Board has agreed to make the Executive Director whole by continued payment of vacation time, retirement and severance while ensuring continuity of the agency. The Board also factored into the settlement the costs and savings of avoiding litigation. The Executive Director was paid out of the employment agreement and currently serves without a contract. There were no double payments made to the Executive Director.

Auditor's comment

In an auditor's comment, we noted the Executive Director was terminated from the State's payroll on March 15, 2010. At that time, the Executive Director was under an employment agreement dated June 1, 2009, not the June 1, 2010 employment agreement.

The June 1, 2009 employment agreement stated the "breach of contract declared by either party with a 30 day cure period of either Employee or Employer. Written notice of a breach of contract shall be provided." The Executive Director did not provide the Authority's Board written notification in order to cure the breach. The Executive Director stated that on June 8, 2010 she presented to the Board of Directors a proposal on how to cure the breach of contract. However, the proposal was actually the severance calculation determined by the Executive Director. The proposal did not outline the breach or provide the Board the opportunity to cure the breach.

The June 1, 2009 employment agreement stated the Executive Director was only entitled to two months severance pay and all vacation and holiday pay in the event of termination due to breach of contract. However, the Executive Director received six months severance pay, and vacation and holiday pay per the retroactive June 9, 2010 agreement. In addition, she also received the missed retirement payments, which were not provided as a component of severance pay in either contract.

Further, the Authority stated "there were no double payments made to the Executive Director." However, the Executive Director continued to receive her monthly salary from March 15, 2010 to June 30, 2010, in addition

to the six month severance payment. The monthly salary payments were part of the \$139,814 spent from the Authority's locally-held funds (See Finding 10-1).

Finally, the Law provides that the "affirmative votes of at least 3 Directors shall be necessary for adopting any rule or regulation, and for any other action required by this Division to be taken by resolution, directive or ordinance." In fact, as the Authority states in its response, only 2 Directors voted for the payout at the June 9, 2010, special meeting.

INADEQUATE RECONCILIATION OF INVESTMENT STATEMENTS TO GENERAL LEDGER

Accounting records not updated monthly

The Authority prepares investment analysis on a quarterly basis for reporting purposes and enters the investment data into the general ledger. However, the Authority does not update its accounting records to reflect the monthly changes in fair market value. The investment balances at June 30, 2009 and 2010 were \$6,543,791 and \$6,488,794 respectively.

We recommended the investment accounts be reviewed and reconciled monthly to the general ledger so that the ending balance of the investment statement agree to the ending balance per the general ledger as well as income analysis reports given to the Board on a quarterly basis. (Finding 3, page 19) **This finding was first reported in 2004.**

Authority agrees with auditors

The Authority agreed with our recommendation and stated the investment account will be reviewed and reconciled monthly to the general ledger so that the ending balance of the investment statement agrees to the ending balance per the general ledger as well as income analysis reports given to the Board on a quarterly basis. (For previous Authority responses, see Digest Footnote)

INADEQUATE CONTROLS OVER FINANCIAL REPORTING

Errors noted in Authority's financial records

The Authority did not ensure financial records used to prepare the year-end financial statements and the Office of the Comptroller Generally Accepted Accounting Principles (GAAP) packages were accurate.

Current assets and liabilities overstated by \$37,217

During our review we noted:

- The Authority recorded all cash disbursements from its Locally Held Funds using the date the check was posted to the bank account. As a result current assets and current liabilities were overstated by \$37,217.
- The Authority provided a schedule of pay rates and hourly balances related to Compensated Absences to the firm who prepares the annual submission. However, the firm did not take into consideration the payout of 356.38 accrued and unused vacation hours to the Executive Director. Compensated absences was overstated by \$14,378 at June 30, 2010.

Compensated absences overstated by \$14,378

We recommended the Authority designate an individual with suitable skill, knowledge, or experience to ensure financial information is properly recorded and accounted for to permit the accurate preparation of financial information. (Finding 4, pages 20 -21)

Authority agreed with auditors

The Authority agreed with our finding and recommendation and stated the Authority will designate an individual to gain the skills necessary to accept responsibility for functions related to the financial statements and the related notes. The Authority has submitted a revised GAAP Package to the Comptroller's Office and they will ensure future GAAP Package submissions are materially correct.

OTHER FINDINGS

With regards to the other findings noted in our report, Authority management responded that corrective action has been or will be taken. We will review the Authority's progress towards the implementation of all our recommendations in our next audit.

AUDITOR'S OPINION

Our auditors stated the financial statements of the East St. Louis Financial Advisory Authority as of and for the year ended June 30, 2010 are fairly presented in all material respects.



WILLIAM G. HOLLAND 2
Auditor General ..

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AUDITORS ASSIGNED

Schorb & Schmersahl, LLC were our special assistant auditors for this audit.

Digest Footnote

**INADEQUATE RECONCILIATION OF
INVESTMENT STATEMENTS TO GENERAL
LEDGER-PREVIOUS AUTHORITY'S RESPONSE**

Authority officials agreed with our recommendation, and stated they will review and reconcile monthly statements to the general ledger.