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# REPORT DIGEST

## OFFICE OF THE GOVERNOR

### COMPLIANCE EXAMINATION

For the Two Years Ended:  
June 30, 2009

#### Summary of Findings:

Total this report: 5  
Total last report: 6  
Repeated findings: 3

Release Date:  
May 18, 2010



State of Illinois  
Office of the Auditor General  
**WILLIAM G. HOLLAND**  
AUDITOR GENERAL

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### SYNOPSIS

- The Office of the Governor made extensive use of outside legal counsel.
- The Officer of the Governor lacked policies and procedures for monitoring outside legal contracts.
- The Office of the Governor did not make all required appointments to various boards and commissions.

{Expenditures and Selected Account Balances are summarized on the reverse page.}

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**OFFICE OF THE GOVERNOR**  
**COMPLIANCE EXAMINATION**  
**For The Two Years Ended June 30, 2009**

<b>EXPENDITURE STATISTICS</b>	<b>FY 2009</b>	<b>FY 2008</b>	<b>FY 2007</b>
<b>Total Expenditures (All Funds).....</b>	<b>\$ 7,081,017</b>	<b>\$ 6,587,087</b>	<b>\$ 7,149,049</b>
<b>OPERATIONS TOTAL.....</b>	<b>\$ 7,081,017</b>	<b>\$ 6,587,087</b>	<b>\$ 7,149,036</b>
% of <b>Total Expenditures</b> .....	100.0%	100.0%	100.0%
Personal Services.....	\$ 4,319,377	\$ 4,104,487	\$ 4,773,116
% of Operations Expenditures.....	61.0%	62.3%	66.8%
No. of Employees at June 30.....	83	79	89
Average Employee Salary.....	\$ 52,041	\$ 51,956	\$ 53,631
Other Payroll Costs (FICA, Retirement).....	\$ 1,225,429	\$ 974,955	\$ 895,677
% of Operations Expenditures.....	17.3%	14.8%	12.5%
Contractual Services.....	\$ 663,649	\$ 649,598	\$ 580,987
% of Operations Expenditures.....	9.4%	9.9%	8.1%
Celebrations, Receptions & Events.....	\$ 44,739	\$ 62,023	\$ 34,743
% of Operations Expenditures.....	0.6%	0.9%	0.5%
Executive Mansion Trust Fund.....	\$ 49,449	\$ 76,212	\$ 51,622
% of Operations Expenditures.....	0.7%	1.2%	0.7%
All Other Operations Items.....	\$ 778,374	\$ 719,812	\$ 812,891
% of Operations Expenditures.....	11.0%	10.9%	11.4%
<b>GRANTS TOTAL.....</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 13</b>
% of <b>Total Expenditures</b> .....	0.0%	0.0%	0.0%
<b>Cost of Property and Equipment.....</b>	<b>\$8,272,789</b>	<b>\$8,454,198</b>	<b>\$8,352,549</b>

<b>SELECTED ACCOUNT BALANCES</b>	<b>FY 2009</b>	<b>FY 2008</b>	<b>FY 2007</b>
Illinois Executive Mansion Trust Fund:			
Proceeds from Private Event Activities.....	\$41,591	\$114,266	\$94,277
Account Receivable Balances.....	\$0	\$12,591	\$16,191

<b>GOVERNOR</b>
During Examination Period: Honorable Rod R. Blagojevich (until 1/29/09); Honorable Pat Quinn (as of 1/29/09)
Currently: Honorable Pat Quinn

**FINDINGS, CONCLUSIONS, AND  
RECOMMENDATIONS**

**USE OF OUTSIDE LEGAL COUNSEL**

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**Use of legal counsel was extensive**

The Office of the Governor (Office) made extensive use of outside legal counsel during the audit period. These legal services were not competitively procured, the Office had other State agencies pay for the services with no documentation to support payment percentages or benefits to the agencies, and the use of these outside attorneys was not as cost effective as using the Attorney General.

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**62 contracts were executed for over \$7.2 million**

During the engagement period, the Office executed 62 contracts with outside legal counsel for over \$7.2 million. Hourly rates ranged from \$75 to \$425 per hour. Our classification of these contracts showed 29 of the 62 contracts (47%) were for general legal representation while the rest were for legal work as appointed Special Assistant Attorneys General. None of the 29 general legal representation contracts, totaling \$5.2 million, were competitively bid.

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**The Office of the Governor paid \$21,775 of the \$7.2 million while State agencies paid the rest**

Of the \$7.2 million in legal contracts, the Office of the Governor paid a total of \$21,775 over the two years examined. Eighteen other State agencies via interagency agreements paid the rest, ranging from \$1.5 million and \$1.2 million for Central Management Services and Healthcare and Family Services, respectively, to \$3,078 and \$2,164 for State Board of Education and Capital Development Board. There was no documentation to show how payment percentages by agency for individual contracts were determined or what benefits agencies received.

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**The Office executed two contracts after the Attorney General denied the appointments as Special Assistant Attorneys**

Of the 33 contracts executed by the Office for Special Assistant Attorneys General to represent the Governor, 12 (36%) were executed prior to the Office receiving a formal appointment from the Attorney General. In two other contracts, the Attorney General denied appointments of the attorneys as Special Assistants, but the Office still executed the contracts. While Special Assistant Attorneys were compensated at \$200 per hour, the same work potentially could have been performed internally by the Attorney General for less. (Finding 1, pages 9-13)

We recommended that when the Office procures outside counsel, it should document any instances of why competitive procurement is not in the best interest of the State; that the

Office formally document how any agency required to make payments under interagency agreements benefits from the work performed; that the Office not use attorneys to represent the State in court unless approved by the Attorney General; and that the Office document that the use of external legal services versus using the Attorney General is in the best financial interests of the State.

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**The Office of the Governor  
agreed with auditor  
recommendations**

Officials in the Office of the Governor agreed with our recommendations and stated that the matters are largely, if not entirely, attributed to the previous administration. The Office has created policies and procedures regarding the retention of outside counsel and, since Governor Quinn took office, has made the use of outside counsel the option of last resort – reserved for only those occasions when the Office of the Attorney General has a conflict, lacks the resources, or lacks the particular expertise to represent the Office in a matter. The Office consults with the Office of the Attorney General regarding the applicability of these exceptions. When at all practicable, the Office will secure Special Assistant Attorneys General approval prior to letting outside counsel represent the Office in court. In those few instances when a time-sensitive matter (e.g. the seeking of a temporary restraining order) does not allow formal approval prior to going to court, the Office will contact the Office of the Attorney General ahead of time and seek short-term, informal approval. On the rare occasions when the Office seeks to use outside counsel, the Office will consider the legal interests, short-term financial interests, and long-term financial interests of the State.

**MONITORING OF OUTSIDE LEGAL COUNSEL WORK**

The Office of the Governor lacked policies and procedures for monitoring outside legal contracts. We identified significant control issues, including payments for legal work performed by individuals that had yet to be licensed to practice law and paying expenses by attorneys when they had not charged work hours on those same days.

The Office is identified in interagency agreements as the “Coordinating Agency responsible for the preparation of the underlying contract and administrative functions in connection with these services.” Billings for these outside legal contracts showed that the Office received them and approved them for payment. After approval, they were sent to the State agencies for payment.

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**Significant control issues  
identified**

We reviewed all billings submitted for outside legal service providers for fiscal years 2008 and 2009. In total, we questioned \$1.1 million (15%) of the total \$7.2 million in expenditures for the 62 contracts. Specifically, we noted:

- In 14 contracts (23%) State agencies paid for services of attorneys that had not been specifically appointed by the Attorney General.
- In 13 contracts (21%) firms billed individuals as attorneys that had not yet been licensed.
- In 16 contracts (26%) State agencies paid for services that occurred prior to the execution of the contract or prior to a specific appointment by the Attorney General.
- In 15 contracts (24%) billing rates were either not specified or higher than contract rates.
- In 9 contracts (15%) firms billed for legal research on days when the individual had either not charged any time to the State contract or the time had been denied by the Office. (Finding 2, pages 14-15)

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**\$1.1 million in billings questioned**

We recommended the Office develop policies and procedures to monitor the work of outside legal contracts, which should include all the areas noted in this finding.

Officials in the Office of the Governor agreed with our recommendation and stated the Office is currently developing Outside Counsel Guidelines for both the Office and agencies that are direct reports to the Governor. With respect to legal research, the Office will ensure that research and attorney work were done on the same day or that there is an adequate explanation why they were not (e.g. attorney time was written off, legal research billing is delayed from the actual date of research). The Office will also ensure that rates billed and paid are equal to or less than those contained in the legal contracts.

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**Office agreed with auditor recommendations**

## **APPOINTMENTS OF MEMBERS TO BOARDS AND COMMISSIONS**

The Office of the Governor did not make all required appointments to the various boards and commissions.

Thirty of 74 (41%) of the boards and commissions tested did not have the required number of appointees and no appointments were made to 7 of 74 (9%) of the boards and commission tested.

Office of the Governor (Office) personnel stated the appointments were not made because the Governor is charged with the task of appointing several thousand individuals to over 300 boards and commissions and often the membership requirements are very specific and difficult to fill. (Finding 3, pages 16-19)

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**Thirty of 74 boards and commissions tested lacked the required number of appointees and no appointments were made to 7**

We recommended the Office continue to pursue appointments to all boards and commissions as mandated by statutes.

Officials in the Office of the Governor agreed with our recommendation and stated the Governor's Office of Executive Appointments (formerly "Boards and Commissions") has taken dramatic steps to revamp the State's 300+ boards and commissions appointment process by increasing transparency and reducing the staggering number of vacancies and expired term inherited from the previous administration. Also, a new public website was created and launched in April of 2009 ([www.appointments.illinois.gov](http://www.appointments.illinois.gov)) that has since generated several million page hits and over 3,287 applications from interested citizens. This progressive step in State government has culminated in over 730 appointments made to various State boards and commissions in one year's time. Further, in relation to the entities randomly tested and found to be non-compliant, the Office has since reduced the deficiency percentage from 41% to 12%. This was done by making appointments, reappointments, or advancing legislation to officially repeal the act creating the entity for those that have been identified as duplicative or to have fulfilled their mission. Lastly, while vacancies currently remain, real progress has been made towards complete compliance.

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**Office agreed with auditor recommendation**

## **OTHER FINDINGS**

The remaining findings are reportedly being given attention by the Office. We will review the Office's progress towards the implementation of all our recommendations during our next engagement.

## **AUDITORS' REPORT**

We conducted a compliance attestation examination of the Office for the two years ending June 30, 2009 as required by the Illinois State Auditing Act. We have not audited any financial statements of the Office for the purposes of expressing an opinion.

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WILLIAM G. HOLLAND, Auditor General

WGH:KMC:drh

## **SPECIAL ASSISTANT AUDITORS**

Doehring, Winders & Co. LLP were our special assistant auditors for this engagement.