



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

Frank J. Mautino, Auditor General

SUMMARY REPORT DIGEST

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

Compliance Examination
 For the Two Years Ended June 30, 2018

Release Date: April 4, 2019

FINDINGS THIS AUDIT: 10				AGING SCHEDULE OF REPEATED FINDINGS			
	<u>New</u>	<u>Repeat</u>	<u>Total</u>	<u>Repeated Since</u>	<u>Category 1</u>	<u>Category 2</u>	<u>Category 3</u>
Category 1:	0	0	0	2016		18-9, 18-10	
Category 2:	1	9	10	2014		18-7	
Category 3:	0	0	0	2012		18-2, 18-4, 18-5	
TOTAL	1	9	10	2010		18-3	
				2008		18-1	
FINDINGS LAST AUDIT: 12				2006		18-8	

SYNOPSIS

- **(18-1)** The Department did not ensure adequate controls were established in the administration of grant programs.
- **(18-2)** The Department's internal auditing program did not fully comply with the Fiscal Control and Internal Auditing Act.
- **(18-3)** The Department did not submit or timely submit required reports in accordance with the mandates set forth in State law.
- **(18-5)** The Department did not comply with various statutory mandates.
- **(18-6)** The Department did not properly administer four tax credit programs.

Category 1: Findings that are **material weaknesses** in internal control and/or a **qualification** on compliance with State laws and regulations (material noncompliance).

Category 2: Findings that are **significant deficiencies** in internal control and **noncompliance** with State laws and regulations.

Category 3: Findings that have **no internal control issues but are in noncompliance** with State laws and regulations.

{Expenditures and Activity Measures are summarized on next page.}

**DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2018**

EXPENDITURE STATISTICS	FY 2018	FY 2017	FY 2016
Total Expenditures (All Funds).....	\$ 497,410,111	\$ 649,299,804	\$ 512,513,234
OPERATIONS TOTAL.....	\$ 80,788,960	\$ 113,565,824	\$ 85,330,798
% of Total Expenditures.....	16.2%	17.5%	16.7%
Personal Services.....	23,495,875	25,669,719	26,583,447
Other Payroll Costs (FICA, Retirement, Group Insurance).....	13,603,580	14,729,367	15,372,028
Contractual Services.....	33,583,801	52,118,403	24,988,656
Purchase of Investments.....	6,674,488	11,910,547	12,640,015
Prompt Payment Interest.....	2,321,209	880	225,268
Transfers.....	250,000	8,214,467	4,497,223
All Other Operating Expenditures.....	860,007	922,441	1,024,161
AWARDS AND GRANTS.....	\$ 416,160,323	\$ 512,298,515	\$ 425,925,246
% of Total Expenditures.....	83.7%	78.9%	83.1%
PERMANENT IMPROVEMENTS.....	\$ -	\$ 10,000,000	\$ -
% of Total Expenditures.....	0.0%	1.5%	0.0%
REFUNDS TOTAL.....	\$ 460,828	\$ 13,435,465	\$ 1,257,190
% of Total Expenditures.....	0.1%	2.1%	0.2%
Average Number of Employees (not examined).....	249	266	293
CASH RECEIPTS	FY 2018	FY 2017	FY 2016
Federal Grants.....	\$ 364,943,711	\$ 368,115,884	\$ 366,834,936
License and Fees.....	135,396,433	136,468,427	134,699,360
Private Donor.....	37,543,879	104,889,556	16,370,463
Sale of Investments and Interest Income.....	13,900,810	12,062,940	7,988,357
Prior Year Refunds.....	3,658,438	10,570,033	9,471,337
Other.....	507,006	1,107,002	369,063
Total.....	<u>\$ 555,950,277</u>	<u>\$ 633,213,842</u>	<u>\$ 535,733,516</u>
SELECTED ACTIVITY MEASURES (not examined)	2018	2017	2016
Business Development projected jobs created.....	748	13,774	3,899
LIHEAP households that received heating assistance.....	307,793	306,956	301,555
Disaster assistance persons served.....	7,426	1,815	300,710
WIOA/ TAA total workers completing training.....	8,499	8,442	8,551
Business Information Center customers assisted.....	10,819	7,607	10,169
Actual jobs created attributable to SBDC assistance.....	2,182	1,507	2,400
Actual jobs retained attributable to SBDC assistance.....	3,140	2,520	3,576
Est. film production expenditures in Illinois (millions)...	\$ 319.4	\$ 552.0	\$ 310.6
Domestic & international travel expenditures (billions).	\$ 39.5	\$ 37.8	\$ 37.3
AGENCY DIRECTOR			
During Examination Period: Sean McCarthy			
Currently: Erin Guthrie (Acting) (effective 1/21/19)			

**FINDINGS, CONCLUSIONS, AND
RECOMMENDATIONS**

**WEAKNESSES IN CONTROLS OVER GRANT
ADMINISTRATION**

The Department of Commerce and Economic Opportunity (Department) did not ensure adequate controls were established in the administration of grant programs.

Over \$1 billion expended for awards and grants during the examination period

The Department expended \$1,085,204,865 for awards and grants during the examination period. Expenditures for awards and grants accounted for 95% of the Department's total expenditures of \$1,146,709,915. We tested 60 grant agreements spread across the various bureaus within the Department.

Grantee reports submitted late

During the testing of awards and grants, the following issues were noted: Sixteen awards (27%) tested contained instances of required grantee reports being submitted late. Reports ranged from 4 to 68 business days late. Furthermore, for thirteen of the 16 (81%) grantees that submitted reports late, the Department failed to send the required notifications. \$569,448 was obligated by the Department while these reports had not been submitted and the Department had not sent all required notifications to the grantee. Additionally, \$193,323 of that amount occurred after the date the cash shutoff should have occurred. (Finding 1, pages 12-13) **This finding was first reported in 2008.**

Notifications not sent

\$193 thousand obligated after cash shutoff date

We recommended the Department strengthen its controls over the grant administration process including controls over disbursement of grant funds and grant monitoring.

Department officials accepted auditor's recommendation

Department officials accepted our recommendation and stated they would continue to assess and improve the efficiency and effectiveness of their current controls over the grant administration and monitoring processes. *(For the previous Department response, see Digest Footnote #1.)*

**NONCOMPLIANCE WITH THE FISCAL CONTROL
AND INTERNAL AUDITING ACT**

The Department of Commerce and Economic Opportunity's (Department) internal auditing program did not fully comply with the Fiscal Control and Internal Auditing Act.

No internal audits were completed in the two-year examination period

The Department's Office of Internal Audit (OIA) did not conduct audits of the Department's major systems of internal accounting and administrative control to ensure major systems are reviewed at least once every two years. During fiscal year 2017 and 2018, the OIA did not conduct and complete any audits. In addition, the Department implemented a new electronic data processing system during the examination

A limited system development review was not conducted

period which, according to the risk assessment performed by the Department, required a limited system development review to be performed by OIA. The limited system development review was not conducted during the examination period. The Chief Internal Auditor was hired September 21, 2015 and a staff member was added to the OIA on December 18, 2017. (Finding 2, pages 14-15) **This finding was first reported in 2012.**

We recommended the OIA address its staffing limitations and conduct internal audits of major systems and administrative controls at least once every two years in compliance with the Fiscal Control and Internal Auditing Act. OIA should include review of the Department's internal control over its administration of Federal and State grants and include review of major electronic systems installed or review of major modifications to the existing electronic systems.

Department officials accepted auditor's recommendation

Department officials accepted our recommendation and stated they would continue to establish processes that will help ensure adherence to all requirements of the Fiscal Control and Internal Auditing Act. The Department is pursuing filling internal auditor positions which are essential to operate a fully functioning Office of Internal Audit. *(For the previous Department response, see Digest Footnote #2.)*

FAILURE TO SUBMIT, OR TIMELY SUBMIT, REQUIRED REPORTS

The Department of Commerce and Economic Opportunity (Department) did not submit or timely submit required reports in accordance with the mandates set forth in the State Law.

During testing of statutes applicable to the Department, auditors noted the following:

Report not submitted

- The Department did not submit a report on its evaluation of the effectiveness of the tax credit program to the Governor and the General Assembly as required by the Economic Development for a Growing Economy (EDGE) Tax Credit Act during the examination period.

Reports submitted late

- The Department did not timely submit the reports evaluating the effectiveness of the River Edge Redevelopment Zone Act to the Governor and General Assembly during the examination period. The calendar year reports for 2015 and 2016 were submitted 372 and 34 days late, respectively.

Could not verify whether report was submitted

- The Department could not verify whether the Task Force on Opportunities for At-Risk Women (Task Force) reported back to the Governor and General

Assembly by January 1, 2018.

Survey not completed or submitted

- The Department did not complete or submit a survey on business incentives based upon its contacts of businesses that are located in the State or have been identified as having left the State to the General Assembly by July 1, 2017 and 2018, respectively. (Finding 3, pages 16-17) **This finding was first reported in 2010.**

We recommended the Department ensure necessary information is collected and required reports are timely submitted to the Governor and General Assembly or seek legislative remedy from the statutory requirements.

Department officials accepted auditor's recommendation

Department officials accepted our recommendation and stated they would continue to strive for timely submission of all required reports or, when appropriate, seek statutory changes. (*For the previous Department response, see Digest Footnote #3.*)

NONCOMPLIANCE WITH STATUTORY MANDATES

The Department of Commerce and Economic Opportunity (Department) did not comply with various statutory mandates.

Following are a few items the auditors noted during testing:

Engineering excellence program not developed

- The Department did not develop an engineering excellence program during the examination period. The Department is also mandated to adopt rules for the engineering excellence program.

Renewable fuels development program not administered

- The Department did not administer the Illinois Renewable Fuels Development Program during the examination period when the Illinois Renewable Fuels Development Program was the responsibility of the Department.

Liaison between State, regional and local planning agencies not provided

- The Department did not comply with the Civil Administrative Code of Illinois (20 ILCS 605/605-205) (Code) which states the Department shall provide for liaison between the State and regional and local planning agencies and departments; perform state-wide planning as provided by law; provide assistance, counsel, and advice to local and regional planning agencies when so requested; and conduct research into local government problems as ordered by the Director.

Website for new businesses not properly maintained

- The Department maintained the website to help persons wishing to create new businesses or relocate businesses to Illinois as required by the

Civil Administrative Code of Illinois (20 ILCS 605/605-1007) (Code); however, when we examined the website during fieldwork, we noted the links to the hearing instrument dispenser license and the Illinois Environmental Protection Agency website were broken as of the date of testing. Also, the Department did not send requests to other State agencies to report any applicable application form changes during the examination period. The Code also requires the Department to contact all agencies to obtain business forms and other information for the website. Those agencies were to respond to the Department before July 1, 2016. (Finding 5, pages 22-25) **This finding was first reported in 2012.**

We recommended the Department seek or allocate resources to comply with its statutory requirements or seek a legislative remedy as appropriate.

Department officials accepted auditor’s recommendation

Department officials accepted our recommendation and stated they would continue to take steps to ensure compliance with these requirements or, where appropriate, the Department is seeking statutory changes. *(For the previous Department response, see Digest Footnote #4.)*

WEAKNESSES IN TAX CREDIT PROGRAMS ADMINISTERED BY THE DEPARTMENT

The Department of Commerce and Economic Opportunity (Department) did not properly administer the following tax credit programs.

Angel Investment Credit Program

Department unable to provide documentation or support

The Department was unable to provide documentation of the tax credit certificates for 2 of 40 investors (5%) tested. Additionally, the Department failed to maintain support that the claimant’s investment had been made and remained in the business for three years for 12 of 40 (30%) employees tested.

Film Production Services Tax Credit Act of 2008 and Live Theater Production Tax Credit Act

The following exceptions were noted concerning the Department’s administration of the Film Production Services Tax Act of 2008 and the Live Theater Production Tax Credit Act:

Type of jobs created not reported

- The fiscal year 2017 and 2018 quarterly reports did not indicate whether the jobs created were entry-level, management, talent-related, vendor-related, or production related.

Report did not include all the required vendor information

- The annual report for fiscal year 2016 and 2017 did not include all the required vendor information. It did not contain a statement as to whether the vendor is a minority-owned business or a women-owned business, as defined under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act for each vendor.

Economic Development for a Growing Economy Tax Credit Act

The following exceptions were noted concerning the Department’s administration of the Economic Development for a Growing Economy (EDGE) Tax Credit Act:

New hires and jobs created not included in agreements

- Seven of 10 (70%) EDGE Tax Agreements tested did not contain a detailed description of the number of new employees to be hired and the occupation and payroll of the full-time jobs to be created or retained as a result of the project.

Agreements not posted to website

- The Department was unable to provide support for the date the EDGE Tax Agreement was posted to its website for one of 10 (10%) EDGE Tax Agreements tested.

Agreements and modifications to programs not reported

- The calendar year 2017 EDGE Tax Credit Program Annual Report did not contain any relevant modifications to existing EDGE Tax Agreements and copies of the original EDGE Tax Agreements. (Finding 6, pages 26-31)

We recommended the Department improve its policies and procedures for tax credit programs and include provisions to maintain all documentation required by statute. Additionally, we recommended the Department submit reports to the General Assembly, which includes all the statutorily required information or, when necessary, seek to clarify the statutory language.

Department officials partially accepted auditor’s recommendation

Department officials partially accepted the recommendation and stated they would strengthen internal controls and increase internal resources to ensure compliance with these requirements or, where appropriate, the Department is seeking statutory changes, except as set forth below.

Film Production Services Tax Credit Act of 2008 and Live Theater Production Tax Credit Act

Department disagreed that it did not properly administer the programs

The Department disagreed with the finding that it did not properly administer the Film Production Services Tax Credit Program and the Live Theater Production Tax Credit Program. Auditors tested randomly selected completed film tax credit

claim files and had no findings. The administration of the application for, and issuance of the tax credit claims is the essence of the program.

Department disagreed with reporting of jobs created and retained

The Department disagreed with the finding relating to the quarterly report requiring “an assessment of the economic impact of the program, including the number of jobs created and retained, and whether the job positions are entry level, management, vendor, or production related.” The job categories listed in statute are not germane to the film production services industry. In order to provide more transparency on the quarterly report and accurately reports the jobs impact of the program, the Department chose to classify the jobs created in industry relevant categories.

Department concerned about conflict in statutes

Lastly, the Department did not report whether vendors listed in the annual report were a minority-owned business or a women-owned business as mandated for two separate, but independent, reasons. First, as these businesses are doing business with the State, they are not generally registered with the State as minority- or women-owned businesses. In other words, there is no central repository of such certified businesses for the Department to identify which vendors qualify as such, and there are civil rights concerns with respect to the Department proactively soliciting such information. Second, statute requires this information to be reported on a production-specific basis for each vendor which is in direct conflict with the portion of the Act which stated “any documentary materials or data made available or received by any agency or employee of the Department are confidential and are not public records to the extent that the material or data consist of commercial or financial information regarding the operation of or the production of the applicant or recipient of any tax credit under this Act.” Section 50.

Auditor’s comment on the Department’s response

In an Auditor’s Comment, auditors noted two exceptions in the Department’s administration of both the Film Production Services Tax Credit Act program and the Live Theater Production Tax Credit program. The administration of these programs encompasses not only the processing of the claim file applications for the tax credits, but also encompasses the Department’s reporting responsibilities under the applicable statutes. The quarterly reporting of jobs created by job position for these two tax credits is clearly delineated in statutes. If the Department believes the categories specified in the statutes are not germane to the film production services or live theater production industries, we recommended that the Department seek legislative remedy from the statutory requirement.

OTHER FINDINGS

The remaining findings pertain to boards and commissions not fully staffed, failure to comply with certain provisions of the

Public Utilities Act, employee performance evaluations not completed timely, weaknesses in controls over State property and weaknesses over employee time reporting. We will review the Department's progress towards the implementation of our recommendations in our next compliance examination.

ACCOUNTANT'S OPINION

The accountants conducted a compliance examination of the Department for the two years ended June 30, 2018, as required by the Illinois State Auditing Act. The accountants stated the Department complied, in all material respects, with the requirements described in the report.

This compliance examination was conducted by Sikich LLP.

SIGNED ORIGINAL ON FILE

JANE CLARK
Division Director

This report is transmitted in accordance with Section 3-14 of the Illinois State Auditing Act.

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FRANK J. MAUTINO
Auditor General

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DIGEST FOOTNOTES

#1 – WEAKNESSES IN CONTROLS OVER GRANT ADMINISTRATION

The Department of Commerce and Economic Opportunity accepts the recommendation. The Department continues to assess the efficiency and effectiveness of our current controls over the grant administration process, and have already implemented new controls to ensure payments to grantees are only made after required reports are received and approved by the Department as required in the grant agreement. In addition, the Department's Office of Accountability will ensure that grant monitoring will occur per the conditions of the grant agreements for those programs that lack monitors.

#2 – NONCOMPLIANCE WITH THE FISCAL CONTROL AND INTERNAL AUDITING ACT

The Department of Commerce and Economic Opportunity accepts the recommendation. The Department continues to establish processes that will help ensure adherence to all requirements of the Fiscal Control and Internal Auditing Act. The Department is pursuing filling internal auditor positions which are essential to operate a fully functioning Office of Internal Audit.

**#3 – FAILURE TO SUBMIT, OR TIMELY SUBMIT
REQUIRED REPORTS**

The Department of Commerce and Economic Opportunity accepts the recommendation and will continue to strive for timely submission of all required reports or, when appropriate, seek statutory changes.

#4 – NONCOMPLIANCE WITH STATUTORY MANDATES

The Department of Commerce and Economic Opportunity accepts the recommendation and is taking steps to ensure compliance with these requirements; or, where appropriate, the Department is seeking statutory changes.