

DEPARTMENT OF LABOR AND INDUSTRY

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2007**

APA

**Auditor of
Public Accounts**

COMMONWEALTH OF VIRGINIA

AUDIT SUMMARY

Our audit of the Department of Labor and Industry for the two-year period ended June 30, 2007, found:

- Proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- one matter involving internal control and its operations necessary to bring to management's attention; and
- one instance of noncompliance with applicable laws and regulations or other matters that are required to be reported.

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AUDIT FINDINGS AND RECOMMENDATIONS

Properly Complete Employment Eligibility Verification Forms

The Department of Labor and Industry is not properly completing Employment Eligibility Verification forms (I-9) in accordance with guidance issued by the US Citizenship and Immigration Services of the US Department of Homeland Security. The guidance requires the employee to complete, sign and date Section 1 of the I-9 form on or before the first day of employment. Additionally, the employer or designated representative must complete, sign, and date Section 2 of the I-9 form within three business days of employment.

During our review of seven employees, we found the following exceptions.

- Five instances where the employees did not either properly complete, sign, or date the I-9 form on or before the first day of employment (Section 1).
- Five instances where the employer did not either properly complete, sign, or date the I-9 form within three business days of the employee's first day of employment (Section 2).

All exceptions are unacceptable according to the US Citizenship and Immigration Services of the US Department of Homeland Security's Handbook for Employers (M-274). In addition, we also found that the Department of Labor and Industry does not have a separate documented policy regarding I-9 compliance. The lack of documented policy and procedures increases the risk of non compliance and the likelihood that errors will occur.

We recommend that the Human Resources Division review the I-9 process in order to develop a written policy for completing I-9 forms. In addition, the human resources staff should receive training on the requirements of completing I-9 forms.

AGENCY HIGHLIGHTS

The Department of Labor and Industry (Department) promotes safe, healthful workplaces, best employment practices, job training opportunities, the protection of children from hazardous employment, and safe operation of boiler and pressure vessel devices through the following programs.

Virginia Occupational Safety and Health (VOSH) Programs

This program seeks to ensure safer workplaces for employees through the following three programs.

- *Occupational Safety and Health Compliance (VOSH Enforcement)* - ensures that employers comply with Virginia's regulations through worksite inspections and citation, compliance assistance, and response to reports of unsafe conditions. Businesses with exemplary safety and health programs can receive an exemption from periodic inspections under the Virginia Voluntary Protection Program. VOSH Enforcement also issues permits for lead and asbestos removal projects and administers laws affecting the discharge of these substances.
- *Occupational Safety and Health Consultation* - helps employers better understand safety and health regulations through walk-through surveys, abatement advice, and safety and health training program development assistance. The program allows employers to make corrections to potential hazards or violations voluntarily and without citations or penalties. Departmental staff also trains employers to identify and correct hazards.
- *Voluntary Protection Program* exempts large businesses that demonstrate exemplary safety and health programs from periodic inspections.

Boiler and Pressure Vessel Safety Program - certifies and oversees private inspections for boilers and pressure vessels in workplaces, apartments, and all other establishments open to the public. They also oversee their installation, operation, and repair.

Labor and Employment Law Program - works with employers to ensure a person's right to work, payment of wages, and compliance with other labor laws, such as minimum wage and child labor laws, through workplace inspections and complaint investigation. The Department also mediates labor disputes and assists in civil or criminal court actions against employers to gain compliance.

Registered Apprenticeship Program - helps employers expand their workforce through a combination of on-the-job training and related classroom instruction. There are approximately 2,000 Virginia businesses participating in this program, which serves over 14,000 apprentices.

FINANCIAL HIGHLIGHTS

The Department receives funding from General Fund appropriations, federal grants, and fines and fees collected through agency programs. Fee revenues come from various fees paid to the Department, which include asbestos project permit fees, lead project permit fees, and registration fees for workshops. The Department also receives federal revenue from the recovery of the indirect costs associated with agency federal grants from the U.S. Department of Labor.

The following table shows the Department's original budget, final budget, and actual expenses for fiscal years 2007 and 2006. The Department received total resources of approximately \$13.7 million in fiscal year 2007 and \$12.9 million in fiscal year 2006. The increase from original to final budget for 2007 relates to an additional non-general fund revenue appropriation to support increased Virginia Information Technology Agency (VITA) costs, a general fund transfer for costs associated with the VITA decentralization services rates, and additional general funds for salary and benefit increases.

Analysis of Budgeted and Actual Expenses

Fiscal Years Ended June 30, 2007 and June 30, 2006

	2007			2006		
	<u>Original</u>	<u>Final</u>	<u>Actual</u>	<u>Original</u>	<u>Final</u>	<u>Actual</u>
General fund	\$ 7,422,611	\$ 7,623,501	\$ 7,623,501	\$ 6,870,186	\$ 7,328,271	\$ 7,328,271
Special revenue fund	1,061,361	1,166,361	978,191	951,690	1,047,202	909,761
Federal trust	4,901,801	4,901,801	4,248,515	4,427,047	4,558,513	4,494,180
Total	<u>\$13,385,773</u>	<u>\$13,691,663</u>	<u>\$12,850,207</u>	<u>\$12,248,923</u>	<u>\$12,933,986</u>	<u>\$12,732,212</u>

The table below summarizes the Department's expenses by major object for fiscal years 2007 and 2006. Personnel expenses account for \$9.76 million, or 76 percent, of fiscal year 2007 expenses. The majority of the remaining expenses are for contractual services (11 percent) and continuous charges (seven percent). Contractual Services are primarily VITA charges and travel expenses. The continuous charges are rent for Headquarters, four field, and four regional offices that administer agency programs.

Analysis of Actual Expenses by Major Object

Fiscal Years Ended June 30, 2007 and June 30, 2006

	Fiscal Year	
	<u>2007</u>	<u>2006</u>
Continuous Charges	\$ 890,042	\$ 857,006
Contractual Services	1,437,096	911,200
Equipment	74,046	76,050
Personal Services	9,767,887	10,155,341
Supplies and Materials	122,890	111,730
Transfer Payments	558,246	620,885
Total	<u>\$12,850,207</u>	<u>\$12,732,212</u>

Source: Commonwealth Accounting and Reporting System

Currently the Department has five programs corresponding to its organizational structure and activities. The programs are Regulation of Individual Safety, Administrative and Support Services, Economic Development Services, Regulation of Business Practices, and Regulation of Structure Safety. Two programs, Regulation of Individual Safety and Administrative and Support Services accounted for approximately 83 percent of the Department's expenses. The majority of the costs related to the Regulation of Individual Safety Program are personnel costs in administering the health and safety programs. The table below details the Department's actual expenses by program.

Analysis of Actual Expenses by Expenditure Program - Fiscal Year 2007

Program	Expenses	Percent of Total Expenditures
Regulation of Individual Safety	\$ 7,418,131	57.73%
Administrative and Support Services	3,292,863	25.62%
Economic Development Services	880,206	6.85%
Regulation of Business Practices	737,418	5.74%
Regulation of Structure Safety	521,589	4.06%
Total	\$12,850,207	100.0%

Source: Commonwealth Accounting and Reporting System



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

March 17, 2008

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited the financial records and operations of the **Department of Labor and Industry** for the year ended June 30, 2007. We conducted this performance audit in accordance with generally accepted Government Auditing Standards, issued by the Comptroller General of the United States. 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.

Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions on the Commonwealth Accounting and Reporting System, review the adequacy of the Department's internal controls, test compliance with applicable laws and regulations.

Audit Scope and Methodology

Our audit procedures included inquiries of appropriate personnel, inspection of documents and records, and observation of the Department's operations. We also tested transactions and performed such other auditing procedures as we considered necessary to achieve our objectives. We reviewed the overall internal accounting controls, including controls for administering compliance with applicable laws and regulations. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances:

Revenues
Expenses, including payroll

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered control risk in determining the nature and extent of our audit procedures. We performed audit tests to determine whether the Department's controls were adequate, had been placed in operation, and were being followed.

Management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

Our audit was more limited than would be necessary to provide assurance on internal control or to provide an opinion on overall compliance with laws, regulations, contracts, and grant agreements. Because of inherent limitations in internal control, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal control to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

Audit Conclusions

We found that the Department of Labor and Industry properly stated, in all material respects, the revenues and expenses recorded in the Commonwealth Accounting and Reporting System. The Department records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted a matter involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. This matter is described in the section entitled "Audit Findings and Recommendations."

Exit Conference and Report Distribution

We discussed this report with management on March 27, 2008. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

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COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

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March 27, 2008

Walter J. Kucharski
Auditor of Public Accounts
P. O. Box 1295
Richmond, Virginia 23218

Dear Mr. Kucharski:

Thank you for the opportunity to review and respond to the Auditor of Public Accounts' audit report for the two-year period ended June 30, 2007 for the Virginia Department of Labor and Industry. Your report and recommendations are given the highest level of importance and consideration at this Department. We are pleased that the audit found proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System.

In response to the audit finding regarding the proper completion of Employment Eligibility Verification Forms, the Agency sought guidance from the Department of Human Resource Management and reviewed the U.S. Department of Homeland Security's Handbook for Employers: Instructions for Completing the Form I-9. Agency procedural guidelines have been revised and training has been provided to the agency Human Resource team. In addition, we are conducting a self review of all required employee I-9 forms on file to ensure compliance with applicable laws and regulations. We recognize the importance of I-9 compliance and are confident our corrective action work plan will ensure full compliance in the future.

Again, we appreciate the opportunity to provide our response as part of your office's audit report on the financial records, internal controls and compliance with applicable laws and regulations of the Virginia Department of Labor and Industry.

Sincerely,

A handwritten signature in cursive script that reads "C. Ray Davenport".

C. Ray Davenport
Commissioner

AGENCY OFFICIALS

DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
Commissioner

Edward A. Hegamyer
Assistant Commissioner

Nancy M. Sanders
Accounting and Finance Director

