



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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January 30, 2017

Don Stenberg, State Treasurer
Nebraska State Treasurer
State Capitol, Room 2005
Lincoln, Nebraska 68509-4788

Dear Mr. Stenberg:

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State) as of and for the year ended June 30, 2016, in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have issued our report thereon dated December 15, 2016. In planning and performing our audit, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our audit described above, we noted certain internal control or compliance matters related to the activities of the Nebraska State Treasurer (Treasurer) or other operational matters that are presented below for your consideration. The comments and recommendations, which have been discussed with the appropriate members of the Treasurer's management, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control included a review of prior year comments and recommendations. To the extent the situations that prompted the recommendations in the prior year still exist, they have been incorporated in the comments presented for the current year. All other prior year comments and recommendations (if applicable) have been satisfactorily resolved.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations during our audit, we did not identify any deficiencies in the Treasurer's internal control that we consider to be material weaknesses or significant deficiencies. However, material weaknesses or significant deficiencies may exist that were not identified.

Draft copies of this letter were furnished to the Treasurer to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2016.

1. Unauthorized Accounts Utilizing State's Federal Tax Identification Number (FTIN)

During the prior year audit, the Auditor of Public Accounts (APA) identified two bank accounts using the State's FTIN which were not authorized by the Treasurer. The accounts were still using the State's FTIN as of June 30, 2016. Further details on these accounts are presented below.

The Department of Health and Human Services (DHHS) maintained a bank account utilizing the State's FTIN that was not approved by the State Treasurer as of June 30, 2016.

Agency	Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015
DHHS	Pinnacle Bank	DHHS – Bridges Program Residents	XXX252	\$ 377.00

The second bank account does not appear to have any financial ties to the State of Nebraska or its employees. The following bank account utilizing the State's FTIN did not have State Treasurer approval as of June 30, 2016, and it appears that the State's FTIN should not be used on the account.

Agency	Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015
N/A	First State Bank	Panhandle Regional Network Development Group	XXX665	\$ 1,346.76

The APA also noted the Treasurer did not have a written policy in place regarding the process for State agencies to obtain prior approval for opening bank accounts. Such a policy might include a form to be completed by an agency requesting either approval to open a bank account or the Treasurer to open a bank account on the agency's behalf.

Neb. Rev. Stat. § 77-2301(1) (Reissue 2009) requires the following:

The State Treasurer shall deposit, and at all times keep on deposit for safekeeping, in the state or national banks, or some of them doing business in this state and of approved standing and responsibility, the amount of money in his or her hands belonging to the several current funds in the state treasury. Any bank may apply for the privilege of keeping on deposit such funds or some part thereof.

Neb. Rev. Stat. § 77-2309 (Reissue 2009) requires the following:

It is made the duty of the State Treasurer to use all reasonable and proper means to secure to the state the best terms for the depositing of the money belonging to the state, consistent with the safekeeping and prompt payment of the funds of the state when demanded.

Neb. Rev. Stat. § 77-2398(1) (Cum. Supp. 2016) requires public funds in financial institutions to be secured by the appropriate amount of pledged collateral. That statute provides the following, in relevant part:

As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond is at least equal to the amount on deposit which is in excess of the amount so insured or guaranteed or the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred five percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

A good internal control plan requires a periodic review by the Treasurer of those accounts under the State's FTIN to ensure that all such accounts are properly authorized and secured by the appropriate amount of pledged collateral.

Allowing bank accounts to be opened and operated under the State's FTIN without the authorization of the Treasurer may result in loss or misuse of State funds or give rise to concerns regarding insufficient pledged collateral to secure the amount of public funds in excess of FDIC coverage. This finding has also been communicated with DHHS.

We recommend the Treasurer work with State agencies and/or the corresponding banks identified herein to ensure only authorized accounts are using the State's FTIN and to remove any unauthorized accounts. All bank accounts using the State's FTIN should be operated under the control or approval of the Treasurer. The Treasurer should also establish a written policy requiring any agency wishing to open a bank account under the State's FTIN to obtain the approval of the Treasurer prior to doing so.

State Treasurer Response: The DHHS – Bridges Program Residents account is still open. The State Treasurer's office has been working with DHHS to determine the status of this account as it includes both State and Federal funds. This is still pending action from DHHS.

The Panhandle Regional Network Development Group account at First State Bank is no longer using the State's FTIN, but as no employee of Treasurer's Office is a signor on the account and the account no longer has the State's FTIN, the bank will not give us the date this change was made.

The State Treasurer sent letters to all State agencies on November 5, 2015, advising the agencies that the State Treasurer has the exclusive authority to establish bank accounts on behalf of the State of Nebraska and that a state agency is not permitted to contract for its own banking relationships.

The State Treasurer has developed a written policy for State Agencies to request permission to open a bank account. That policy is posted on the State Treasurer's website at: <https://treasurer.nebraska.gov/policies-and-procedures/opening-bank-accounts.aspx>

2. Agency Accounts Not Under Control of State Treasurer

The APA identified State agencies maintaining bank accounts without the prior approval of the Treasurer to do so during our prior year audit. As of June 30, 2016, the Treasurer had still not approved these bank accounts. According to State law, one of the duties of the Treasurer is to establish banking relationships for the State of Nebraska. Below is a summary of the bank accounts identified by the APA as being maintained without the Treasurer's approval, as of June 30, 2016.

a) *DHHS Emergency/Petty Cash Accounts*

Thirteen petty cash bank accounts held by DHHS were still deposited into separate bank accounts without the prior approval of the Treasurer. The lack of prior approval was noted at June 30, 2015, and the following petty cash accounts still did not have Treasurer approval as of June 30, 2016.

Agency	Name	Account Name or Owner	Account Number	Balance at 6/30/2015	APA Notes
1 DHHS	First National Bank of Omaha	DHHS – Eastern Nebraska Veterans' Home	XXX383	\$ 2,528.08	Emergency cash account.
2 DHHS	Pinnacle Bank	DHHS – Accounting Unit	XXX703	\$ 1,283.20	Petty cash for legal fees for legal unit.
3 DHHS	Pinnacle Bank	DHHS – Bureau of Vital Statistics	XXX633	\$ 963.50	Petty cash account.
4 DHHS	Pinnacle Bank	DHHS – Beatrice State Developmental Center – Emergency Cash	XXX260	\$ 1,477.79	Account for resident activities that include staff admissions, behavior management programs, and change funds for Carstens Café.
5 DHHS	Pinnacle Bank	DHHS	XXX038	\$ 1,901.72	Petty cash for legal services.
6 DHHS	York State Bank	DHHS – Youth Rehabilitation and Treatment Center	XXX094	\$ 521.50	Petty cash fund.
7 DHHS	U.S. Bank	DHHS – Child Support Enforcement	XXX348	\$ 2,038.68	Petty cash for legal services.
8 DHHS	U.S. Bank	DHHS – Child Support Enforcement (CSE) – Petty Cash	XXX313	\$ 2,325.98	Petty cash account for payment of sheriff's fees, CSE complaints, contempt's, and modifications.
9 DHHS	U.S. Bank	DHHS – Norfolk Veterans' Home	XXX524	\$ 1,548.34	Emergency cash – cash registers account.
10 DHHS	U.S. Bank	DHHS – Western Nebraska Veterans' Home	XXX479	\$ 1,705.70	Emergency cash fund.
11 DHHS	Wells Fargo	DHHS – Hastings Regional Center	XXX153	\$ 2,239.00	Emergency cash fund.

	Agency	Name	Account Name or Owner	Account Number	Balance at 6/30/2015	APA Notes
12	DHHS	Wells Fargo	DHHS – Veterans’ Home	XXX523	\$ 1,901.50	Emergency cash account.
13	DHHS	Wells Fargo	DHHS – Youth Rehabilitation and Treatment Center	XXX011	\$ 1,465.00	Emergency petty cash fund.
Total Balances at June 30, 2015					\$ 21,899.99	

Neb. Rev. Stat. § 81-104.01 (Reissue 2014) allows an agency to have a petty cash fund with the approval of the Department of Administrative Services and the State Auditor.

However, per the State Accounting Manual (1/2/15), General Policies #24, Petty Cash, “Petty cash funds should NOT be placed in checking accounts without specific approval from State Accounting and State Treasurer.”

Additionally, in Op. Att’y Gen. No 15-010 (Aug. 10, 2015), the Attorney General stated the following:

The State Treasurer is charged with the duty of establishing the banking relationship for the State of Nebraska and its agencies. This is a statutory duty that cannot be delegated and is one of the “core functions” of the Nebraska State Treasurer.

In that same opinion, the Attorney General concluded as follows:

A state agency is not permitted to contract for its own banking relationship; all such relationships are established through the State Treasurer.

Allowing bank accounts to be opened and operated under the State’s FTIN without the authorization of the Treasurer may result in loss or misuse of State funds or give rise to concerns regarding insufficient pledged collateral to secure the amount of public funds in excess of FDIC coverage.

We recommend the Treasurer work with DHHS to ensure all State bank accounts under that agency’s control are properly authorized. All bank accounts using the State’s FTIN should be operated under the control or approval of the Treasurer.

State Treasurer Response: The Treasurer’s office has been working with DHHS to determine the need for their 13 petty cash accounts. DHHS has submitted petty cash approval requests to State Accounting. However, these forms were not completed correctly and were returned to DHHS by State Accounting for completion. This is pending action from DHHS. If some or all of these petty cash authorization requests are approved by DAS Accounting, the Budget office and the State Auditor, the Treasurer will determine whether to authorize a bank account(s) or to require that the petty cash be held as cash.

b) DHHS Bank Accounts

In addition to the petty cash accounts addressed above, DHHS maintains a number of other bank accounts under the State’s FTIN that do not appear to have been established or approved by the Treasurer.

- DHHS utilizes four bank accounts under the State’s FTIN for the Veterans’ Home member trust funds that do not appear to have been established or approved by the Treasurer, as of June 30, 2015, and were still not approved by the Treasurer as of June 30, 2016.

Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015
Five Points Bank	DHHS – Grand Island Veterans’ Home – Member Trust Fund	XXX963	\$ 327,358.47
First National Bank of Omaha	DHHS – Eastern Nebraska Veterans’ Home	XXX396	\$ 102,082.34
U.S. Bank	DHHS – Department of Public Institutions (Western Nebraska Veterans’ Homes)	XXX695	\$ 21,851.24
U.S. Bank	DHHS – Veterans’ Home	XXX607	\$ 19,545.28
Total Balances at June 30, 2015			\$ 470,837.33

- DHHS maintains two bank accounts for regulation purposes involving complaints against healthcare professionals and welfare fraud; however, these accounts were not reported by DHHS as accounts currently under its control or oversight as of June 30, 2015. These two bank accounts use the State’s FTIN but do not appear to have been established or approved by the Treasurer, as of June 30, 2015, and were still not approved by the Treasurer as of June 30, 2016.

Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015
Nebraska State Employees Credit Union	DHHS – Regulation	XXX374	\$ 174.72
Nebraska State Employees Credit Union	DHHS – Regulation	XXX630	\$ 31.52
Total Balances at June 30, 2015			\$ 206.24

- DHHS maintains a bank account containing excess child support received for State wards that is more than the foster care maintenance amount. This bank account uses the State’s FTIN but does not appear to have been established or approved by the Treasurer, as of June 30, 2015, and was still not approved by the Treasurer as of June 30, 2016.

Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015
West Gate Bank	DHHS – State Ward Child Support	XXX990	\$ 1,359,665.61

- DHHS maintains eight bank accounts for the purposes of maintaining trust funds, and neither their balances nor other account information was reported to the Treasurer. These trust funds included bank accounts at the regional centers and the youth rehabilitation and treatment centers, as well as other State ward accounts. These bank accounts use the State’s FTIN but do not appear to have been established or approved by the Treasurer, as of June 30, 2015, and were still not approved by the Treasurer as of June 30, 2016.

Neb. Rev. Stat. § 43-907 (Reissue 2016) allows for these trust fund assets to be deposited into certain bank accounts for children under the charge of DHHS. Neb. Rev. Stat. § 83-133 (Reissue 2014) allows for the investment of certain inmate trust funds related to institutions under the control of DHHS. However, these funds remain subject to the Treasurer’s authority when it comes to establishing the banking relationships necessary for the creation of the depository accounts through which they must function and to ensure they are properly collateralized under the State’s FTIN. The trust accounts are summarized below.

Bank Name	Account Name or Owner	Account Number	Balance at 6/30/2015	Account Location
Security First Bank	DHHS – Beatrice State Developmental Center	XXX240	\$ 104,292.09	Beatrice State Development Center
U.S. Bank	State of Nebraska (DHHS)	XXX122	\$ 65,826.47	Lincoln Regional Center
U.S. Bank	DHHS	XXX704	\$ 60,784.76	Ward Trust Account
U.S. Bank	DHHS	XXX407	\$ 45,317.26	Ward Trust Account
U.S. Bank	DHHS – Norfolk Regional Center	XXX586	\$ 11,036.10	Norfolk Regional Center
Wells Fargo	DHHS – Youth Rehabilitation and Treatment Center	XXX033	\$ 5,542.42	YRTC Kearney
Heartland Bank	DHHS – Youth Development Center Student	XXX041	\$ 3,115.44	YRTC Geneva
Pinnacle Bank	DHHS – Hastings Regional Center – Patient Trust Fund	XXX363	\$ 239.27	Hastings Regional Center
Total Balances at June 30, 2015			\$ 296,153.81	

In addition to the duties of the Treasurer under § 77-2301(1) and § 77-2309, as noted above, the Attorney General has stated in Op. Att’y Gen. No. 15-010 (Aug. 10, 2015), as pointed out already, that a State agency is precluded from contracting for its own banking relationship. This prohibition is based upon the fact that, as the opinion declares, “The State Treasurer is charged with the duty of establishing the banking relationship for the State of Nebraska and its agencies.”

Allowing bank accounts to be opened and operated under the State’s FTIN without the authorization of the Treasurer may result in loss or misuse of State funds or give rise to concerns regarding insufficient pledged collateral to secure the amount of public funds in excess of FDIC coverage.

We recommend the Treasurer work with DHHS to ensure all of its bank accounts are properly authorized. All bank accounts using the State's FTIN should be operated under the control or approval of the Treasurer. The Treasurer's approval should be documented and maintained on file.

State Treasurer Response: Veterans' Home's - Neb. Rev. Stat. § 83-133 contemplates the ability of Veteran Homes to have a bank account. In view of that statute, the Treasurer has sent a letter to DHHS to approve these accounts. The Treasury Management (TM) Director and TM Deputy have been set up to review the balances of the Five Points Bank account to ensure that proper collateral is in place. The Treasurer's Office is waiting for DHHS to provide the same account access to the three other Veterans' Home accounts.

NE State Employees Credit Union – The Treasurer's Office has discussed these accounts with DHHS and DHHS is unsure on how they will handle these accounts. This is pending action by DHHS.

West Gate Bank – DHHS is working to reduce the balance in this account and eventually, close the account. DHHS was able to request a withdrawal of \$1,298,169 from West Gate Bank and received a cashier's check, which was deposited in the State Treasurer's account on June 6, 2016. After the withdrawal, the balance is below \$250,000 and there are not any collateral requirements for this account. This account has been approved by the State Treasurer, but is pending further action by DHHS to move the remaining balance, which is around \$60,000-\$70,000, and then close the account, and to provide TM Director with online access to the account in the interim.

c) Nebraska County Court Accounts

The APA identified other bank accounts that were opened and operated under the State's FTIN without the express prior authorization of the Treasurer, in particular those controlled by the County Courts. In these specific instances, the Nebraska Supreme Court appears to have the authority to administer the separate County Court accounts or funds under the State's FTIN. When establishing the banking relationship necessary to exercise that authority, however, the Treasurer's approval must be obtained.

The County Courts in Nebraska maintained over 120 different bank or investment accounts with a combined balance of over \$11 million at June 30, 2015. Currently, these accounts are not established through the Treasurer but by each County Court, under the administrative supervision of the Nebraska Supreme Court offices.

Neb. Rev. Stat. § 25-2713 (Reissue 2016) allows for the investment of County Court funds, as provided by the rules of the Nebraska Supreme Court. Neb. Rev. Stat. § 24-511 (Reissue 2016) gives the clerk certain powers, including receiving and depositing money received by the County Court. Additionally, § 6-1450(A)(1) of the Nebraska Supreme Court Rules directs such funds to be deposited into bank accounts designated by the county judges.

As the above-referenced statutes and rule make clear, the County Courts are empowered to utilize, under the administrative supervision of the Nebraska Supreme Court, certain statutorily created funds. Doing so necessarily entails opening bank accounts – and, because of the Nebraska Supreme Court’s supervisory role, those accounts utilize the State’s FTIN. Nevertheless, as pointed out previously herein, the Attorney General has stated in Op. Att’y Gen. No 15-010 (Aug. 10, 2015), “A state agency is not permitted to contract for its own banking relationship.” This is because, that opinion declares, “The State Treasurer is charged with the duty of establishing the banking relationship for the State of Nebraska and its agencies.” Previously, in Op. Att’y Gen. No 98006 (Jan. 22, 1998) the Attorney General had stated, “We are unaware, generally, of any other statutes which specifically give other state officials or state agencies the authority to deposit the state's funds in a bank.”

Thus, maintaining County Court bank accounts under the State’s FTIN without the proper authorization intrudes upon the sole authority of the Treasurer to establish banking relationships that utilize that unique identification number. Additionally, allowing accounts to be opened and operated under the State’s FTIN without the approval of the Treasurer may result in loss or misuse of public funds or give rise to concerns regarding insufficient pledged collateral to secure the amount of money in excess of FDIC coverage.

We recommend the Treasurer work with the Nebraska Supreme Court to ensure the proper authorization is obtained prior to opening any County Court bank accounts utilizing the State’s FTIN. The Treasurer’s approval should be documented and maintained on file.

State Treasurer Response: The State Treasurer sent a letter on October 30, 2015 to Corey Steel, State Court Administrator authorizing the use of the 120 different bank account with the following conditions:

- *The State Court Administrator will remain responsible for daily oversight of all these accounts to prevent the loss or mis-use of State Funds.*
- *The State Court Administrator staff will work with TM staff to determine the procedures that will ensure compliance with State Law regarding pledging an appropriate amount of collateral or letter of credit for public funds in financial institutions. These procedures will, at a minimum, require the State Court Administrator to report to the Treasurer’s Office on the last business day of each month, the balance in all of these bank accounts.*
- *The State Court Administrator will have the responsibility to ensure the update of signature card at the various banks when signors need to be added or removed and will notify the State Treasurer whenever there is a change to authorized signors.*

Since that letter was written the two agencies have been working on developing a memo of understanding. Supreme Court has been sending TM the balances of the bank account as per their JUSTICE system.

3. State Bank Account Not Utilizing State's FTIN

The APA identified one County Court bank account during the prior year audit, which was still not recorded under the State's FTIN at June 30, 2016. This bank account, ending in 917, was opened by the Grant County Court, which operates under the administrative supervision of the Nebraska Supreme Court.

Because County Court offices fall under the Nebraska Supreme Court and not under the particular County function, any bank accounts opened by them should bear the State's FTIN. Therefore, like all other County Court bank accounts, the account maintained by the Grant County Court should also be utilizing the State's FTIN.

A good internal control plan requires procedures to ensure that bank accounts held by County Courts, which are subject to the administrative supervision of the Nebraska Supreme Court, are correctly identified under the State's FTIN.

When County Court bank accounts are recorded under the incorrect FTIN, there is an increase risk for the loss or misuse of public funds.

We recommend the Treasurer work with the Nebraska Supreme Court and the Grant County Court to ensure the bank account at issue is utilizing the State's FTIN, as authorized by the Treasurer. The Treasurer's approval should be documented and maintained on file.

State Treasurer Response: The Supreme Court worked with the bank holding funds for Grant County Court and the FTIN has been changed to the State's FTIN as of calendar year 2016.

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Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the State Treasurer's office and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful.

This communication is intended solely for the information and use of the State Treasurer, the Governor and State Legislature, others within the State Treasurer's office, Federal awarding agencies, pass-through entities, and management of the State of Nebraska, and it is not intended to be, and should not be, used by anyone other than the specified parties. However, this communication is a matter of public record, and its distribution is not limited.



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