

**EXAMINATION OF
CERTAIN POLICIES, PROCEDURES, CONTROLS,
AND FINANCIAL ACTIVITY OF THE
LYON COUNTY JOINT TOURISM COMMISSION**



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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

February 19, 2007

Mandy Carney, Chairwoman
Lyon County Joint Tourism Commission
82 Days Inn Drive
Kuttawa, Kentucky 42055

RE: Lyon County Joint Tourism Commission Examination

Dear Commission Chairwoman Carney:

We have completed an examination of certain policies, procedures, controls, and transactions of the Lyon County Joint Tourism Commission (Commission). This examination was conducted as a result of concerns received by this office regarding certain practices and activities of Commission employees.

Examination procedures included interviews with current and former Commission Board Members and Commission employees. We also requested and examined documentation from the Commission and mirrored or copied the hard drives of two computers owned by the Commission. Various documents examined include Commission Board meeting minutes, Commission electronic computer file documents, Commission bank statements and check images, Commission employee expense reports, and various vendor invoices submitted to the Commission.

Findings included in this report identify that:

- The Commission had not established written job descriptions or policies and procedures for its employees;
- A former Commission employee used Commission equipment for personal use;
- The Commission did not comply with its existing bylaws;
- Questionable travel and expense reimbursements were made to former Commission employees and to a Commission volunteer.



Commission Chairwoman Carney
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Detailed findings discussing these issues are presented in this report. We also offer recommendations to strengthen the processes, procedures, and controls of the Commission.

Due to a finding resulting from this examination, we have referred this report to the Lyon County Attorney to consider whether further action is warranted.

We wish to thank you, Commission Board Members, and Commission employees for your assistance during this examination.

Very truly yours,

A handwritten signature in black ink, appearing to read "Crit Luallen", written in a cursive style.

Crit Luallen
Auditor of Public Accounts

Background

On October 31, 2001, the Lyon County Joint Tourism Commission (Commission) was formed through a collaborative effort of Lyon County, the City of Eddyville and the City of Kuttawa governments. The Commission replaced the former Lyon County Tourist Commission. The Commission's purpose as defined in the Commission's bylaws is "to direct the promotion of recreational convention, tourist activity, and visitor business to Lyon County service areas."

At the Commission's first meeting held on October 31, 2001, members were sworn in by the former Lyon County Judge/Executive. Commission Board Members were to serve for a term varying from one to three years initially, with subsequent members serving a term of three years.

Commission Board Membership is appointed by the Lyon County Judge Executive and the Mayor of the county's largest City.

The Commission Board membership consists of seven (7) individuals appointed by the Lyon County Judge Executive and the Mayor of the largest city in the county, which is currently the City of Eddyville. Commission Board officers include Chair, Vice-Chair, Secretary, and Treasurer. Commission Board officers are elected by the Commission Board, serve as officers for a term of one year, and may subsequently be re-elected as long as the person does not serve more than three consecutive years.

Monthly Commission Board meetings adhere to open meetings law.

Commission Board meetings are held monthly and are conducted within the provisions of the open meetings law. A majority of the members, four (4), constitutes a quorum. During the monthly meetings, Commission Board Members are presented with a financial report that summarizes the expenditures for the previous month. Commission Board Members acknowledge receipt of these reports, but do not actually approve each expenditure.

Our office received a concern from a citizen regarding the use of Commission property for the benefit of a privately owned business. Later, the complainant provided additional concerns regarding daily business practices of certain Commission employees.

**Findings and
Recommendations**

The Commission did not establish written job descriptions or policies and procedures to govern Commission employee activities.

Interviews with current and former Commission Board Members and Commission employees revealed inconsistencies regarding the services expected to be provided by the Commission, the services actually provided by the Commission, and the job requirements for Commission staff. Five of the Commission Board Members interviewed were Commission Board Members for approximately two years or less.

Four of the seven Commission Board Members interviewed were certain that a job description existed for the Commission's Executive Director position. Of these four Commission Board Members, two Commission Board Members have been on the Commission Board since its inception in 2001. According to the current Commission Board Chair, the job description was created upon the Commission Board's decision to hire an Executive Director in the fall of 2001. The job description for that position has not changed since that time. A job description for the other full-time Commission employee does not exist.

Specific job duties were not developed for a Commission employee.

The Commission Board Chair stated that the need for an additional full-time Commission staff person was identified soon after hiring the Commission's former Executive Director; however, discussions regarding hiring someone for this position are not documented in the Commission Board meetings' minutes. According to the Commission Board Chair, the purpose of this additional position was initially established to assist the Executive Director to perform the duties of the Commission. Specific job duties for this position were not established and the Commission Board Chair stated that the duties performed by the person who was filling this position evolved over time. The second full-time employee explained that his job was to provide Marketing and Advertising services for the Commission.

The Commission had not developed a formal staff evaluation process.

In addition to the lack of a job description for one former full-time employee and an outdated job description for the other former employee, the Commission had no formal employee evaluation process, although a portion of the Executive Director's job duties includes establishing performance standards and conducting periodic employee performance reviews. Further, according to a Commission Board Member, the Budget committee for the Commission discusses raises for Commission employees during the Commission Board's annual budget process. Given that the Commission has no formal process to evaluate its staff; no formal documentation is routinely prepared to support personnel actions taken by the Commission Board.

Commission employees were not required to maintain timesheets.

According to one of the longstanding Commission Board Members, both former full-time Commission positions are salaried with no established schedule or hours to be worked. Commission Board Members noted that due to tourism events and shows, it was difficult to establish a certain defined schedule of hours to be worked by the two former full-time employees. The Commission Board Chair noted that the former employees may have had to work at an event that lasts until 3 a.m. and then return for an event that starts around lunchtime the next day. The former two full-time Commission employees were paid a salary, not an hourly wage, and, therefore, are not required to submit timesheets documenting the exact days and hours worked. One Commission Board Member stated that the Commission Board is a tight group and they know what one another are doing.

Written policy and procedures regarding the use of Commission facilities and resources did not exist.

The Commission had not developed or implemented personnel policies and procedures including those specifying the approval, accrual, and use of annual, sick, or compensatory time. No written policy exists detailing that the Commission facilities and resources are not to be used for personal activities or gain. We found only a line within the Executive Director job description which states that the Executive Director "insures that all funds, physical assets, and other property of the Commission are appropriately safeguarded and administered."

Written guidelines defining the services performed by the Commission did not exist.

In addition to the actual duties to be performed by each full-time Commission employee, written guidelines do not exist defining the type of services provided by the Commission. The Commission was created in accordance with Kentucky Revised Statute (KRS) 91A.350 in 2001, but this statute provides little guidance in defining the actual services to be rendered by the Commission; however, it directs the Commission to be established for the purpose of “promoting and developing convention and tourist activities and facilities.” It is the Commission’s responsibility to ensure that Commission resources are used for the broadly stated statutory purposes.

Records of services provided by the Commission were not maintained.

One of the services reportedly provided by the former Commission employees was the creation and reproduction of brochures and flyers for local area businesses. According to the former Executive Director, a detailed record of these services was not maintained. However, the former Executive Director stated that larger projects were discussed with the Commission Board and should be reflected in the minutes of the Commission Board’s monthly meetings. In addition to brochures and flyers for local area businesses, the former full-time Marketing and Advertising employee noted that he had also printed business cards for a local realtor who occasionally performed work for the Commission at no charge to the Commission. Due to the realtor’s occasional work performed for the Commission, the former Marketing and Advertising employee stated that the realtor was not charged for printing these business cards. Commission Board meeting minutes do not reflect a discussion and approval of this arrangement between the Commission and this individual.

Commission Board Members concurred that they do discuss larger projects during their meetings, and that such projects should be focused on promoting tourism in Lyon County. While most Commission Board Members were unable to define the scope of the Commission’s services in great detail, the current Commission Board Chair stated that each tourism event occurs to fill a certain need to promote Lyon County.

Recommendations

Create formal written job descriptions for each Commission employee classification and periodically review the job descriptions making modifications as necessary.

The Commission should establish and distribute formal written policies and procedures to Commission employees specifying:

- the number of hours to be worked by each employee,
- the form of documentation to record employee hours worked,
- official hours of the Commission office,
- the approval process to deviate from that schedule,
- the employee's responsibility related to personal business during established Commission work hours,
- the use of Commission facilities and resources,
- the approval, accrual, and use of sick, annual, and compensatory time,
- a formal employee evaluation process, and
- other personnel policies and procedures as deemed necessary.

The Commission should maintain detailed documentation of the services provided to the public and report this information to the Commission Board at each monthly Commission meeting for its review and consideration.

Former Commission employee used Commission owned equipment for personal use violating Section 171 of the Kentucky Constitution.

This office created a mirror image, or copy, of the hard drives on two Commission computers used by certain former employees. A review of the computer files found on one of the two Commission-owned computers identified 18 folders containing webpage images developed for local area businesses. Of the 18 folders found on this Commission computer, 17 folders were for specific businesses listed as clients on a former Commission employee's business webpage. The remaining computer folder contained the webpage images developed for the employee's private web-design business. The computer on which these files were maintained is located in the Commission office of the former employee.

Commission computer apparently contained personal files.

In addition to the webpage images on the Commission computer, we identified a number of other files on the same Commission computer that appear to be personal in nature. These include file images of:

- A campaign flyer for a former Eddyville City Councilmember who ran in the May 2006 primary for a Lyon County office;
- Business cards for a City of Eddyville Realtor;
- A self-addressed envelope from the former employee's private business; and,
- A scanned image of a Purchase Agreement for property in Evansville, Indiana.

During an interview with a former Commission employee on May 30, 2006, the former employee acknowledged receiving calls while at the Commission's office during Commission office hours from clients of the former employee's private web-design business and addressing client-related problems, such as website crashes. The former employee stated that he maintains personal business files on an external hard-drive he owns, so that he can more readily address client problems when they occur. While the former employee did not directly acknowledge using Commission-owned computers for personal business, the former employee stated that he and the Executive Director had used their own personal computers for Commission-related work long before using Commission computers.

The former Commission employee acknowledged using a Commission-owned printer for personal matters. The former employee stated that while he used the Commission-owned printer located in his office, he would at times purchase ink for the printer with personal funds. Regardless of whether the former employee supplemented the ink for the Commission printer, the former employee acknowledged using public resources, a printer purchased with tax revenues, for private purposes.

Section 171 of the Kentucky Constitution prohibits the use of tax revenues for other than public purposes.

Section 171 of the Kentucky Constitution prohibits the use of tax revenues for other than public purposes. The use of public resources, therefore, purchased with the Lyon County Joint Tourism Commission restaurant and hotel room tax receipts by an individual for other than public purpose, is unconstitutional.

Recommendations

The Commission should establish, implement, and distribute to its employees formal written policies and procedures related to the use of Commission facilities and resources. Policies and procedures should include a description of allowable activities and any possible actions to be taken to address noncompliance of the policies and procedures by employees. We are referring this matter to the Lyon County Attorney for further review.

The Commission failed to abide by its existing bylaws.

According to the Commission's bylaws adopted in January 2002, checks written on the Commission's accounts in amounts "less than three hundred (\$300) shall require either the Treasurers or Chairpersons signature." The bylaws further state that checks drawn on the Commission's accounts over "three hundred dollars (\$300) shall require the signature of both the Treasurer and Chairperson." The bylaws were modified on April 12, 2005.

On February 7, 2002, Tourism officials opened the Commission's operating account. Signatures applied to this account included the Commission Board Chair and the Commission Board Treasurer as stipulated in the bylaws; however, a third signature, that of the Executive Director, was also applied to the account at that time, a signatory not authorized by the bylaws.

The Commission did not comply with Commission bylaws regarding account signatures.

Upon review of checks drawn on Commission accounts from January 1, 2003 through April 12, 2005, we found checks for amounts less than \$300 included only the signature of the Executive Director. Although the former Executive Director was an authorized signor on the Commission's account at the bank where the Commission's funds were held, having sole signature on checks less than \$300 on behalf of the Commission was in violation of the established Commission bylaws.

219 checks totaling \$243,276.08 had a single signature.

In addition, checks from Commission accounts for January 1, 2003 through April 12, 2005, identified 222 checks that exceeded \$300 totaling \$283,409.32 that had a sole signature. Of the 222 checks, 219 checks totaling \$243,276.08, had the sole signature of the Executive Director. The remaining three checks totaling \$40,133 were signed solely by the former Commission Board Chair.

Former Commission Board Chair was sole signature on checks totaling over \$215,000 payable to the former Chair's co-incorporator in a local business.

The three checks from the Commission's operating account, totaling \$40,133, signed only by the former Commission Board Chair included a \$34,168.94 payment to a local construction contractor with whom the former Commission Board Chair was a co-incorporator for a local restaurant business. We also identified eight checks written from a Commission Construction Account from November 2002 through February 2003, totaling \$180,961.23 with the payee as the same local construction contractor identified above. These checks were also signed only by the former Commission Board Chair mentioned above. Because of the relationship between the contractor and this Commission Board Member, at the time of the payments, these transactions resulted in related party transactions and created a potential conflict of interests. However, the Commission does not have an ethics code, and its by-laws include no mention of related party transactions. However, strong internal financial controls should prohibit related party transactions.

A review of checks written from a Commission Money Market Account for the period December 2002 through June 2006, identified 44 checks totaling \$572,868.75 written between December 2002 and December 14, 2004 as having only one signature of an authorized Commission Board representative, in apparent violation of the Commission Board's bylaws.

A revision of Commission Board bylaws changed the check amount requiring dual signatures from \$300 to \$500.

According to one current Commission Board Member, the bylaws were modified on April 12, 2005, after the former Commission Board Treasurer discussed the need for dual signatures with the Commission Board. The Commission Board Treasurer at that time, recognized that the Commission's Board was not abiding by its bylaws; therefore, on April 12, 2005, the Commission Board modified the bylaws to read, "[c]hecks drawn on the Commission's operating account less than (*sic*) five hundred dollars (\$500.00), shall require one signature. Checks drawn on the Commission's operating account in excess of five hundred dollars (\$500.00), shall require two (2) signatures with the exception of payroll checks which will be signed by chairman or vice chair. Those authorized to sign checks on the operating account are the Commission's Chairperson, Treasurer and/or Executive Director. Those authorized to sign checks on the money market account are the Commission's Chairperson and/or Treasurer."

While examining checks drawn on Commission accounts from April 12, 2005 through August 11, 2006, we identified nine checks totaling \$6,765.01, drawn in amounts exceeding \$500, which included a sole signature. Eight of these checks, totaling \$6,255.01, were signed by the former Executive Director, while the other check for \$510 was signed by the Commission Board Treasurer who was in office on September 30, 2005 when the check was written.

Recommendations

We recommend the Commission ensure compliance with its established bylaws. Bylaws should be reviewed and updated periodically, as necessary.

We recommend the Commission consider conducting its own review of Commission expenses paid in violation of the Commission bylaws to determine if expenditures were valid and proper.

Finally, we recommend the Commission Treasurer review checks to ensure compliance with the Commission's dual signature policy. Any exceptions of the policy identified should be investigated to ensure expenses are appropriate.

Questionable travel and expense reimbursements made to former Commission Employee, Commission Volunteer and former Commission Executive Director.

The Commission Board Treasurer presents the Commission Board Members with a report of all payments made in the prior month at each monthly Commission Board meeting. The Commission Board Members receive the information at the monthly meeting and have the opportunity to review this report. One Commission Board Member stated that most Commission expenditures are routine but that major payments are discussed in Commission Board meetings. A review of Commission Board meeting minutes identified that the Commission Board voted each month to accept the payment reports, but Commission Board meeting minutes did not indicate that Commission Board members discussed the monthly expenditures. While the minutes did not document any discussion regarding a specific expenditure, the meeting minutes did reflect discussion of many major events hosted by the Commission as stated by the fore mentioned Commission Board Member.

The former Executive Director stated that when individuals incur expenses on behalf of the Commission they are to submit the documentation to her for review. The former Executive Director acknowledged that she completed expense reports on behalf of individuals using the receipts submitted to her to support the request for reimbursement. According to the former Executive Director, she sat down with the individuals and discussed the expenses incurred so that she could categorize the expenses appropriately; however, while reviewing certain travel and expense voucher documentation, we identified payments to individuals that did not agree with the travel dates or the categorization of the expenses.

A receipt to support a meal reimbursement was actually for an item purchased from a home improvement store.

One reimbursement to a Commission volunteer was categorized as a meal reimbursement for a trip this individual made to Cincinnati, Ohio, in February 2004. One of the receipts attached to the expense report to support this reimbursement was a receipt from a home improvement store for a product in the amount of \$42.36. Through researching the product code detailed on the invoice through the vendor's website, we found this item to be a folding hand truck and clearly not a meal. By coding this expense to meal reimbursement rather than an office supply or other expense category, the Commission's budget for this period reflects an overstated amount for meals and an understated amount for office supplies or other category. Further, improperly stating the purpose for this reimbursement misled the Commission Board and deprived the members of the opportunity to discuss the actual purpose for the reimbursement.

Another expense voucher, this one submitted on behalf of the former Commission employee and the former Executive Director to attend a travel show in Cincinnati, Ohio, from January 9, 2004 through January 11, 2004, specified meal reimbursements totaling \$17.75. However, receipts attached to the travel voucher for these meals were dated outside of the travel period. The first receipt dated September 18, 2003 for \$7.75 was applied to a January 9, 2004 breakfast. The second receipt was used to support the cost of a portion of a January 9, 2004 lunch for \$10.00 and was dated November 17, 2000. The dates on the receipts obviously did not remotely correspond to the dates the former employee and former Executive Director traveled to Cincinnati.

One check was payable to the former Executive Director.

We selected and examined 15 expense reports submitted for reimbursement from January 2003 through June 2006. An examination of these 15 expense reports from two employees and a Commission volunteer found that their expense reports were completed, reviewed and approved only by the former Executive Director. A review of the corresponding reimbursement checks for these expense reports found that 12 of the 15 checks also included the sole signature of the former Executive Director; including a \$656.11 reimbursement check made payable to herself and a reimbursement check totaling \$366.49 made payable to a former Commission employee for expenses that, based upon certain supporting invoices, were in part actual expenses of the former Executive Director.

Nine travel and expense reimbursement checks totaling over \$4,000 were signed solely by the former Executive Director.

The Commission bylaws require a dual signature for checks exceeding a specified dollar amount. As stated in a previous finding, checks written prior to April 12, 2005, require dual signature of the Commission Board Chair and Treasurer for checks exceeding \$300. The bylaws were modified on April 12, 2005, allowing the Executive Director to be an authorized signatory and requiring dual signatures to be applied to checks exceeding \$500. The Commission bylaws require a dual signature for checks exceeding \$500. Of the 12 reimbursement checks signed only by the former Executive Director, 9 reimbursement checks totaling \$4339 exceeded the limit set forth in the bylaws at the time the checks were written and therefore were written in violation of the Commission bylaws. Checks signed in violation of the Commission bylaws include the \$656.11 reimbursement check made payable to the former Executive Director and the \$366.49 check made payable to the former Commission employee identified above.

An independent party should initiate, review, or approve Commission employee payments.

Bank statements for the Commission's operating account for the period June 1, 2005 through April 2006, with the exception of August 2005, were provided to this office by the Commission. These statements included images of both sides of the checks written from this account. While reviewing the check images from this account, we identified payments, including payroll and expense reimbursements, made to a former Commission employee that were endorsed on the back of the checks by both the former employee and by the former Executive Director. During a discussion with the former Executive Director held on August 22, 2006, it was explained that she applied co-endorsement to the former employee's checks because she and the former employee share a bank

account. Payments to a former Commission employee should not have been initiated, reviewed, and approved solely by the Commission's former Executive Director who shared a joint bank account with the employee and who co-endorsed the employee's checks. We are referring this matter to the Lyon County Attorney for further review.

Documentation is not provided to support payment for Commission employee cell phone charges.

Finally, according to the former Executive Director in an interview on May 30, 2006, the Commission reimbursed her \$100 each month for cell phone calls received and made on behalf of the Commission. The former Executive Director provided this office with a copy of the Commission Board meeting minutes for July 12, 2002, which documents the Commission Board's discussion and approval "to approve **up to \$100.00** per month for a cell phone for Tourism Director." [Emphasis added] While examining two cell phone payments made by the Commission directly to the cell phone vendor on behalf of the former Executive Director, we noted a cell phone invoice that was paid included the cost of two cell phones on this account. One cell phone was used by the former Executive Director, while the second cell phone was used by the former Commission employee.

The former Executive Director and each Commission Board Member stated that the Commission did not require a review of cell phone records or a detail listing of calls made or received on behalf of the Commission prior to making a payment for the former Executive Director's cell phone charges. A review of bank records and Commission Board Treasurer's reports for January 1, 2001 through August 11, 2006, document the Commission paid \$100 each month, with one exception, to a cell phone vendor on behalf of the former Executive Director. The one exception was made on March 30, 2005, when the Commission paid \$90.08 for the former Executive Director's cell phone. A review of this invoice illustrates that the \$90.08 payment was made because the current charges totaled \$90.08. Based on cell phone invoices, monthly bank records and Treasurer's reports, the Commission may have potentially paid for phone charges unrelated to the former Executive Director's job responsibilities. Further, the Commission may have inadvertently paid for cell phone calls made by the former Commission employee. Without a detailed review of each vendor statement the Commission would not be able to ensure that only Commission-related expenses were incurred.

Recommendations

Although controls were designed to ensure more than one individual approved payments over a certain dollar amount, the Commission failed to ensure these controls functioned as designed. We recommend the Commission ensure controls, including the use of dual signatures, are placed into operation and are consistently applied.

In addition, we recommend travel and expense reimbursements be carefully inspected requiring adequate supporting documentation be attached to the expense report. The documentation should provide the amount, date, and purpose of the expense and agree with the employee's expense report. The reimbursements should be properly categorized to allow for an accurate reporting to and review by the Commission.

Further, we recommend the Commission either:

- modify its existing policy regarding cell phone reimbursement for official use to simply pay a flat monthly rate or;
- retain the existing policy but require an employee to submit documentation to support the amount up to the \$100 monthly maximum the policy states that the Commission will pay.

LYON COUNTY JOINT TOURISM COMMISSION RESPONSE

Lyon County Joint Tourism

82 Days Inn Drive ~ Kuttawa, KY 42055
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www.LakeBarkley.org

The Lyon County Joint Tourism Commission acknowledges receipt of the audit conducted by the Auditor of Public Accounts and received in this office February 2, 2007. Policies and procedures of this organization have been reviewed and corrective measures initiated to provide more complete and comprehensive guidelines for the Commission and its employees.

It is the opinion of this Commission that the burden of blame in operational deficiencies and employee mistakes identified in the audit should lay with the Commission in place during the period in question and not with the Commission's Executive Director or any other employee named in the audit.

Lyon County Joint Tourism Commission