TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

Internal Audit Report #2013-2

Governance Audit

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Acronyms and Abbreviations

- CPA Comptroller of Public Accounts, Texas
- DSA Designated State Agency
- ED Executive Director
- GAO Government Accountability Office, US
- IIA Institute of Internal Auditors, International
- OAG Office of Attorney General, TX
- OMB Office of Management & Budget, US
- OP Operating Procedures
- RAR Request for Advance or Reimbursement
- RFP Request for Proposals
- SAO State Auditor's Office, Texas
- TAC Texas Administrative Code
- TCDD Texas Council for Developmental Disabilities
- TEA Texas Education Agency
- TGC Texas Government Code

RUPERT & ASSOCIATES
CERTIFIED PUBLIC ACCOUNTANTS

Audit Report

September 20, 2013

Audit Committee and Council Members
The Texas Council for Developmental Disabilities

The following report provides the results and recommendations noted during the internal audit project on governance conducted in fiscal year 2013. Included in this report are the purpose, scope, and results of the audit. There were no significant findings or recommendations resulting from this audit.

The internal audit was conducted in accordance with the Institute of Internal Auditors' (IIA) *International Standards for the Professional Practice of Internal Auditing,* the Government Accountability Office's (GAO) *Government Auditing Standards,* and the Texas Internal Auditing Act. We believe that our work fully supports our conclusions.

This report is distributed to and intended for the use of the Texas Council for Developmental Disabilities management and Governing Board, and the oversight agencies as identified in the Texas Internal Audit Act.

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Austin, Texas

Executive Summary

Audit Purpose

The Texas Council for Developmental Disabilities' (TCDD) annual internal audit plan is risk-based, with specific audit areas and objectives determined after an annual risk assessment update is conducted by management and the internal auditor. The plan developed for TCDD for fiscal year 2013 included a governance audit. The audit purpose is to verify board member compliance with training and filing requirements. The Report to Staff following this summary provides details on the audit work.

Key Observations

- The Council has policies in place that include procedures for implementation and control steps. The policies cover a range of topics, including complaints, absences, public input, adoption of rule, conflict of interest disclosures, etc. These policies were last reviewed in 2006. The TCDD website has information to guide Council members in conducting efficient meetings.
- Council members were found to be in general compliance with training and filing requirements. Open Meetings Act training records should be maintained and made available for public inspection in accordance with Texas Government Code §551.005(c). Administrative records supporting the completion of training or timely filing of disclosures had a few missing documents. A checklist has been developed and the missing documentation has been addressed.
- Survey responses provide some insight into areas that may need to be emphasized or revisited. The best practices provided are for information purposes only. Many of these best practices can be identified as practices that are already in place at TCDD.

Recommendations - None

The Open Meetings Act requires that board members' open meetings training certificates be available for public inspection. Best practices recommend that required training records and periodic filings be maintained. A checklist for information to be included in a member's file has been developed and an audit of the files has taken place to ensure consistency and completeness.

The cooperation and assistance from staff and the Council members' participation in the survey facilitated an effective audit process. The input provided by staff during the audit fieldwork is always helpful and appreciated.

Report to Staff

BACKGROUND & PURPOSE

The purpose of the audit was to ensure compliance and promote best practices in governance. Good governance is a means to building an effective and performing organization, able and equipped to pursue its mission and serve those individuals and communities it is there to serve.

Some signs of a governing board performing its role well are:

- It keeps out of management issues and decisions and lets the Executive Director manage all operational matters;
- It provides strategic direction and clear policies for the Executive Director to work to;
- It advocates effectively on behalf of the organization and of the communities the organization is there to serve;
- It ensures that the organization is in a financial situation to keep operations running in the long term; and
- It provides leadership to the organization and operates according to agreed ethical standards.

The Board's focus is on the decision making process, planning, and providing resources for goal achievement. The ability of the board to perform these duties effectively is determined by their knowledge and recognition of the separation of their role from that of the Executive Director. The Executive Director serves as the administrative leader responsible for policy implementation and daily operations. The Executive Director supports the council's responsibility as policy maker and helps council members fulfill their duties by providing training opportunities and instituting procedures that facilitate effective board meetings, open communications, and timely transfer of information.

SCOPE, METHODOLOGY, & OBJECTIVES

The scope of the audit was limited to current criteria that relate to Council functions and training requirements. These included timely filing of personal financial disclosures with the Texas Ethics Commission, statement of appointed official and oath of office filed with the Secretary of State's Office, and required training components, including an initial orientation, and training on the Open Meetings Act and Open Records (Texas Public Information Act).

The objectives of our audit were to provide an overall assessment of the governance activities and the extent to which controls have been applied, with the intent of providing an opinion on the extent to which risks are managed. During the course of the audit we incorporated a survey tool developed by the Institute of Internal Auditors into the engagement. The survey tool was modified to better address the governance function at TCDD.

The audit methodology included interviews, observations, surveys, a review of best practices and documentary evidence obtained from staff and other Texas State agencies.

RESULTS BY AUDIT OBJECTIVE

Audit Objective A –Compliance: Review the information, identified rules, laws, regulations, and information from other sources to determine specific Council member filing responsibilities. State statutes and internal policies and procedures, were used to test compliance. These included the Open Meetings Act (TGC §551) and the Personal Financial Disclosure, Standards of Conduct and Conflict of Interest (TGC §572).

The Texas Council for Developmental Disabilities is one of 56 state councils. TCDD receives federal funding through the US Department of Health and Human Services on a formula basis, mostly related to the state's population. TCDD is governed by a 27 member Council. Members include individuals with developmental disabilities, parents of individuals with developmental disabilities, and representatives designated by the Executive Director of several state agencies and organizations. Governor appointed members serve six-year staggered terms and may serve no more than two consecutive six-year terms. The Governor also designates a member of the Council to serve as chair.

The full Council and committees meet quarterly, in accordance with state law and Council Policy. Meetings are conducted in accordance with the Open Meetings Act. All members have received training on open meetings and further guidance is available online. Minutes are distributed, reviewed, and approved by the members at each meeting.

The TCDD Council has developed policies and procedures and reviews and updates them as needed. The Council Policies define the powers and responsibilities of the Council and the Executive Director. The Council authorizes and approves the annual budget, the State Plan, grants projects and public policy priorities. Council Policies also address Committees, their authority and duties, conflict of interest disclosures, and other processes. The Council has the following committees:

Audit Committee
Executive Committee
Nominating Committee
Project Development Committee
Public Policy Committee

The Council oversees the financial resources by periodically reviewing budget reports, audit reports, and management reports at their regularly scheduled meetings. In accordance with the Internal Audit Act (§2102.006), Council Policies provide for the Council to approve the Internal Audit Charter (IV (B)(6), and provide for the Audit Committee to recommend the selection of the Internal Auditor to the Council for approval (VIII. (D)(1)(d)). The Internal Audit Charter provides for the Internal Auditor to report directly to the Council through the Audit Committee.

The Open Meetings Act (§551.005(c)) General Provisions states "The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this Section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training". Individual folders have been organized for each member's training items and disclosure preferences for certain information. The files were inspected to test members' compliance with training requirements. Various elements tested on the nineteen members yielded the following compliance rates:

Annual Conflict of Interest Statement (TCDD Policy)	18/19	94%
Open Meetings Training certificate	15/19	78%
Public Information / Open Records Training certificate	15/19	78%
Statement of Officer filed with Secretary of State	19/19	100%
Oath of Office filed with Secretary of State	19/19	100%
Personal Financial Statement filed with Ethics Comm.	19/19	100%

The Executive Director has established an effective communication process with the board members. Email provides an open communication channel that is both efficient and accessible. Emails are provided to the members by the Executive Director as needed to keep Council members abreast of serious or newsworthy events between scheduled board meetings. TCDD staff support the needs of the board.

There were no findings on the compliance portion of the audit, and no recommendations. Some general indicators of strong governance, as well as examples of problem areas for governance are provided below for reference only.

Some indicators of strong governance include:

- A policy framework that provides for policies approved by the board to govern all the organization's major risks and activities.
- Board and committee structure with defined charters and mandates for the chairs.
- An oversight matrix that defines the board's responsibilities and tasks and guides the agenda-setting flow of information to board members.
- A framework for board approval and oversight of significant transactions, new initiatives, and change management.
- Executive Director selection and recruiting criteria and standards.
- Orientation and continuous education program for Council members and Executive staff.
- A board, committee, and Executive Director assessment process.
- An ethics program and activities.
- A whistleblower hotline and a mechanism to handle complaints.

- Organizational strategies approved by the board and management without reliable, current, and useful information.

- Board oversight limited by directors who lack the required business, industry, technical, IT, or other experience.
- Board dynamics that don't include sufficient challenges and skeptical inquiry by independent directors.
- Board-approved strategies that are not linked to the individual goals of operating department managers.

Audit Objective B – Board Survey: Evaluate the Board's perspective of their responsibilities as a board and how their activities satisfy those responsibilities. Identify areas for improvement and provide the Board with feedback.

Guidance from the Institute of Internal Auditing (IIA) defines Governance as "the combination of processes and structures implemented by the board to inform, direct, manage, and monitor the activities of the organization toward the achievement of its objectives". The IIA developed a Governance checklist that was used as a guide to developing our survey instrument. We distributed the survey to all current Council members for completion, including state agency alternate representatives. The request was sent to a total of 35 recipients and we received responses from 13, for a response rate of 37%. Of the thirteen participants, almost half were parent-representatives and about 30% were individuals with developmental disabilities. One agency representative participated. It should be noted that the thirteen respondents did not necessarily respond to every question, so percentages will vary on some answers.

The purpose of the survey was to obtain feedback from Council members about current governance activities and their knowledge of and comfort with the roles and responsibilities of the governance function. The results were received in confidence and communicated to TCDD in this report, without identifying factors.

A discussion of the result, conclusions, and recommendations follows:

The first question asked for some identifying information from the respondents. This allowed us to consider variances in responses that may stem from a lack of experience with the Council or participation on a specific committee.

A) Board knowledge and awareness - The first questions were intended to assess whether individual Council members receive the appropriate information regarding the organization and its area of work. This type of information helps the Council members to be clear about WHAT it is governing.

1. Do you, as a Council member, have a basic understanding of the roles and responsibilities of the Council?

   Yes, we undertake this work / activity 100.0%

2. Do you, as a Council member, have a basic understanding of the responsibilities and activities of the TCDD staff organization and how they operate?

   Yes, we undertake this work / activity 100.0%

Best practices include:

- Providing essential governing documents to new members (strategic plan, Council policies, etc)
- Training updates for existing members
- Inviting outside experts to fill gaps in members' knowledge, and
- Visiting sites where the organization is implementing a program

B) Member integrity and collective responsibility. The next section of the survey was to assess whether the governing board ensures member integrity and collective responsibility. The intent was to assess whether there are guidelines and mechanisms in place to ensure that Council members act for the collective good of the agency and its mission.

3. Are you familiar with the Council's Conflict of Interest policy and disclosure procedures?

   Yes, we undertake this work / activity 100.0%

   Comments indicate regular discussion at Council meetings.

4. Are you, as a Council member, committed to the TCDD's mission and guiding principles and actively involved in promoting and enhancing the public standing of TCDD?

   Yes, we undertake this work / activity 92.3%
   N/R – not relevant to our work 7.7%

   The N/R respondent was a state agency representative, whose role is somewhat different from the public members.

Best practices include:

- Working with the Council to develop a code of conduct
- Reviewing Council members' responsibilities
- Discussing the importance of acting as one and of individual members not showing public disagreement with a decision the Council has taken; and
- Providing advocacy training for Council members and developing an advocacy plan in partnership with the Executive Director and key staff.

C) *Strategic direction and policies. The next section covered the governing body's participation in the agency's strategic direction and policies. These questions were meant to help the Council Members reflect on the extent to which they are involved in setting the strategic direction of the agency and developing policies to guide how the agency operates.*

5. Was there sufficient Council involvement in the development of TCDD's State Plan?

Yes, we undertake this work / activity	100.0%

6. Do you, as a Council member, keep abreast of developments that might affect TCDD's capacity to pursue its mission?

Yes, we undertake this work / activity	100.0%

Comments included praise for the Executive Director and staff for being very good at presenting external and internal potential barriers to achieving outcomes. Executive Director updates are helpful.

7. Has the Council approved a set of policies that provide sufficient guidance for how the Council conducts business?

Yes, we undertake this work / activity	100.0%

8. Are you confident that there is a sufficient mechanism in place to report potential misuse of TCDD funds?

Yes, we undertake this work / activity	83.3%
Insufficient, in preparation, or being considered	8.3%
No, we have not yet tackled this work	8.3%

One commenter stated that although it has not been an issue that has come up, the transparency of the staff/council allows one to be certain that there are sufficient mechanisms in place to report potential misuse of funds.

Best Practices:

- Reviewing the State Plan with members who are not acquainted with it;
- Engaging the members in thinking strategically about TCDD's work and their own role;
- Reviewing existing policies to ensure they are up to date and identify areas where policies are needed; and
- Ensuring that a fraud workplace policy is in place that is in line with best practice and is being enforced.

D) *Council members relationship with the Executive Director. This section is intended for the board to review how it appoints and supports the Executive Director and their relationship to the operational side of TCDD. A good working relationship between the governing body and the Executive Director is essential to all agencies and is one worthy of careful and continuous cultivation.*

9. Who has primary responsibility for the development of a job description for the position of Executive Director, defining its powers and duties?

Council	30.8%
Executive Committee	61.5%
TEA	0.0%
Council Chair	23.1%
None of the above	0.0%

Comments show members believe TEA and the Council Chair work together to do this, and in conjunction with guidelines from TEA.

10. Has the Council established a recruitment procedure for the position of the Executive Director, should the position become vacant?

Yes, we undertake this work / activity	30.8%
Insufficient, in preparation, or being considered	23.1%
No, we have not yet tackled this work	7.7%
N/R – not relevant to our work	0.0%
DK – Don't know	30.8%

Comments included one that this was recently reviewed and approved during an Executive Committee meeting, and that staff and council have done extensive work on succession planning. One of the 'don't know' responses came from an agency representative and was not included.

11. Is there a process for evaluating the Executive Director annually and in writing?

Yes, we undertake this work / activity	84.6%
Insufficient, in preparation, or being considered	7.7%
No, we have not yet tackled this work	0.0%
N/R – not relevant to our work	0.0%
DK – Don't know	7.7%

Comments include some who have not experienced this, or may know of the process, but was not an active participant.

Best practices:

- Reviewing the Executive Director's job description to make sure it is up to date and gives sufficient powers for the Executive Director to effectively manage the organization;
- Reviewing the reward package to ensure it is competitive for the sector;
- Establishing an appraisal system for the Executive Director;
- Reviewing or developing policies defining the Council's relationships with the Executive Director and the agency's staff, and limitation to executive powers; and
- Reviewing whether and how well those policies are followed in practice.

E) *How Council members monitor and review the agency's performance. This section relates to how well the Council members know where the organization is in relation to its strategic plan and annual program.*

12. Are you, as a Council member, satisfied that the timeliness, quality and clarity of the periodic reports received enables the Council to make informed decisions regarding TCDD's performance?

Yes, we undertake this work / activity	92.3%
Insufficient, in preparation, or being considered	7.7%

Comments include one who is very impressed with the efficiency of the staff and Executive Director in reporting to Council. Another noted that "staff is always asking for suggestions on report content and presentation methodology to ensure members are getting and understanding information that is important to them. Staff is also open to questions and requests for more detail or clarification."

13. Do Council and Committee meeting minutes reflect discussion and decisions made?

Yes, we undertake this work / activity	100.0%

14. Does the Council review at least annually the progress of activities in relation to the State Plan?

Yes, we undertake this work / activity	100.0%

Best Practices:

- Reviewing whether reports to the Council give sufficient and succinct information regarding the implementation of TCDD's program and budget;
- Ensuring that reports are sent to Council members in advance of meetings and that these are read and understood by them;
- Developing a calendar that makes it clear which matters will be discussed at future meetings; and which reports members can expect to receive and when; and
- Setting aside time during at least one meeting per year to review how well the agency's performance measures up to its agreed strategic objectives

F) Effective oversight of the agency's financial health. This section is concerned with the finances of TCDD and the Council's capacity to monitor them. It must satisfy itself that the internal control systems in place are adequate to protect the agency from loss and waste; and that it has taken the steps necessary for operations to continue in the future.

15. Do meeting minutes reflect approval of the annual budget and review of subsequent spending?

Yes, we undertake this work / activity	100.0%

16. Do the Council meeting minutes reflect the appointment of internal auditors and review of the audit reports and recommendations?

Yes, we undertake this work / activity	100.0%

20. Has TCDD identified and recorded the risks of various acts and functions and taken appropriate action to manage those risks?

Yes, we undertake this work / activity	90.9%
N/R – not relevant to our work	9.1%

Comments indicate that some respondents did not fully understand the question, or were not sure if TCDD does this. One commenter states that TCDD has done a great job at this within the organization and with the grantees. "Their system is clear, easy to understand, and well documented. It is also shared regularly with council members."

Best practice:

- Setting aside adequate time to review organizational and audit reports and agree on actions to address any recommendations made;
- Developing a resource mobilization plan in partnership with the agency's staff;
- Establishing a risk register, regularly reviewing it for accuracy, completeness and the monitoring of identified high risk activities;
- Reviewing the internal control framework of the agency and identify any areas that need strengthening; and
- Asking the auditor to review specific areas of the agency's internal controls

G) The Governing Body ensures its own review and renewal. These last questions focus on the performance of the board itself. It is generally accepted than an effective board is one where the individual members come from diverse backgrounds and possess a wide range of skills. Board work needs to be rewarding for each member; to achieve that the members need supporting as they learn more about TCDD and how best they can contribute to its work.

21. Does the Council make effective use of the time and skills of its members and ensure that their capabilities are enhanced through development and training?

Yes, we undertake this work / activity	83.3%
Insufficient, in preparation, or being considered	8.3%
No, we have not yet tackled this work	8.3%

Three comments:

"As members we are continuously given the opportunity to participate in conferences and such that enhance our understanding."

"Yes. Continued training is, however, important. It is too easy to stagnate without development!"

"No ongoing training after orientation; some meetings are not well managed (time wise); missing a key opportunity to conduct more business when they have us all in Austin and dismiss early."

22. Does the Council encourage individuals with DD and/or family members to consider applying for appointment to serve in a governance role?

Yes, we undertake this work / activity	84.6%
Insufficient, in preparation, or being considered	7.7%
No, we have not yet tackled this work	7.7%

23. Does the Council formally assess its own performance annually?

Yes, we undertake this work / activity	75.0%
Insufficient, in preparation, or being considered	8.3%
No, we have not yet tackled this work	16.7%

Comments include one who is unsure, and another who does not believe the Council has adequately reviewed its own performance with regard to activities.

Best practice:

- Conducting a board profile review to identify skills and background currently missing on the board
- Developing a board calendar that clearly identifies what topics each meeting will address
- Ensuring that meetings are held at times and locations suitable for members.

The objective of the survey was to promote thought and conversation among Board members, and to present some ideas for consideration. Strong agreement on a question indicates areas of strength, and the areas with a broad difference in responses indicate areas that could be looked at for future training or further discussion.

There are no recommendations resulting from this audit objective.

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Report # - Date	High-Level Audit Objective(s)		Observations/Findings and Recommendations	Current Status	Impact
#2012-1 -- 8/31/12	**Advisory Project: Federal Funds Monitoring**				
	Objective A	To identify current monitoring activities at TCDD. Evaluate processes for tracking the money from planning to awards to liquidation, including processes for monitoring the status of obligations and projects. Identify any trends analysis, various reporting capabilities, and other tools used for monitoring spending.	**Recommendation #2012-1-01**– Written Guidance: Review and update the existing Policies and Procedures for the funds monitoring process. Policies should define principles, rules, and guidelines formulated to achieve TCDD's goals and objectives. Develop written procedures to ensure funds monitoring processes and control activities are understood and consistently completed. All aspects of monitoring should be included, with roles and responsibilities defined. Functional job descriptions should include position responsibilities for monitoring of funds that coincide with the procedure.	**Implemented:** TCDD procedures have been reviewed; designations of roles and responsibilities have been made; better communication activities are in place; and more frequent reviews of financial status have been implemented.	Effectiveness and efficiency of processes
	Objective B	Information and Communication – determine the roles and responsibilities for the flow of communications on funds monitoring. Identify timelines for staff communication to ensure funds are appropriately monitored and new projects are ready to move forward when and as needed.	Establish a team of staff who each play a part in the monitoring of grant funds. They should share current information and monitoring reports on a regular basis. They should communicate at least monthly after activity updates to more closely monitor, evaluate, and be prepared to make budget adjustments as needed to ensure complete liquidation of federal grant funds prior to the end of the period. Team meetings at least quarterly are also recommended.	**Implemented:** The management team of staff who play an important role in the process include the Budget Support Specialist, Grants Director, Operations Director, Planning Coordinator and Executive Director. Communications between management staff regarding current expenditures, and strategies to fully obligate funds have strengthened and occur more frequent. Roles and responsibilities as clarified have been updated in job descriptions of the Grants Director and Operations Director.	Improved fiscal monitoring process.
			Develop a 'toolbox' of alternatives for fast-tracking final obligation and re-obligation of funds as needed. Options could include a streamlined continuance process for established, successful grantees; a queue of potential projects at a variety of funding levels on stand-by; and initiating larger, longer term projects with successful grantees.	**Implemented:** TCDD staff developed a "toolbox" of strategies that could allow funds to be obligated more quickly. Staff will further develop those ideas that were supported by Council members so that the "tool box" has more options in the future that can be used if needed. Current monitoring reports suggest that we likely will not need these options in the near future, thus other projects have taken a priority.	Improved fiscal monitoring process.

REPORT DISTRIBUTION PAGE

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