

LEGISLATIVE AUDIT COMMISSION



Review of
Illinois Student Assistance Commission
Year Ended June 30, 2010

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ILLINOIS STUDENT ASSISTANCE COMMISSION
YEAR ENDED JUNE 30, 2010

FINDINGS/RECOMMENDATIONS - 12

ACCEPTED - 3

IMPLEMENTED - 9

REPEATED RECOMMENDATIONS - 3

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 8

This review summarizes the reports on the Illinois Student Assistance Commission for the year ended June 30, 2010, filed with the Legislative Audit Commission June 9, 2011. The auditors performed a financial audit and compliance examination in accordance with State law and *Government Auditing Standards*. The auditors stated that the financial statements were fairly presented.

The Illinois Student Assistance Commission (ISAC) was established through the Higher Education Student Assistance Law in 1957. Ten persons are appointed by the Governor to serve as Commission members without compensation for a term of six years, except for one member who serves for a term of two years. The Commission was created to establish and administer a system of financial assistance through loan guarantees, scholarships, and grant awards and a prepaid tuition program for residents of the State of Illinois to enable them to attend qualified public or private institutions of their choice within Illinois.

ISAC is a part of the executive branch of government. Activities of ISAC are subject to the authority of the Office of the Governor and other departments of the executive branch such as CMS and GOMB, the State Treasurer's Office and the State Comptroller's Office. All funds appropriated to ISAC and all other cash received are under the custody and control of the State Treasurer. The Illinois Designated Account Purchase Program (IDAPP) and the ISAC Certificate of Participation (COP) Debt Service Funds are either under control of the Commission or its trustee.

Andrew Davis was Executive Director of the Commission during the audit period. He had served in that position since January 1, 2007, and was placed on administrative leave on July 8, 2011. Mr. Davis is no longer with the Agency. The Interim Executive Director is John Sinsheimer. Mr. Sinsheimer previously served ISAC as Chief Financial Officer and Managing Director of Financial Products and Services.

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The average number of full-time equivalent employees was:

Division	2010	2009	2008
Executive	39	39	40
Public Service		31	14
Marketing and Communications	17		
College Access and Outreach	17		
Program Services and Compliance	55	63	76
Business and Financial Services			
Claims & Collections	66	67	77
Accounting Services	41	48	53
Management Information Services	41	49	57
Human Resources	6	8	8
Administrative Services	13	15	15
Total Full-time Employees	295	320	340
Full-time equivalent part-time employees	4	3	7
Illinois Designated Account Purchase Employees	62	76	100
Total Employees	361	399	447

Expenditures From Appropriations

Appendix A presents a summary of appropriations and expenditures for FY08 through FY10. The General Assembly appropriated \$803,408,600 to the Illinois Student Assistance Commission in FY10: \$425,031,000 from the General Revenue Fund; \$290,000,000 for the Federal Student Loan Fund; and \$88,377,500 from the Student Loan Operating Fund and other funds. This represents a \$22.1 million, or 2.8%, increase over FY09. The Commission expended a total of \$699,998,059 in FY10, compared to \$690,384,410 in FY09 and \$617,386,909 in FY08. This represents a \$9.6 million increase, or 1.3%, from FY09 to FY10. Significant changes in expenditures from FY09 to FY10 cannot be determined from the audit report due to lump sum appropriations used in FY10; however, according to the FY12 budget book, some of the changes in expenditures were as follows:

- The MAP grants totaled \$386.7 million in FY10 compared to \$380.7 million in FY09, or about \$6 million more for FY10; and
- \$16.7 million increase for guarantees of loans that are uncollectible.

Lapse period spending during FY10 was about \$26.3 million, or 3.7% of total expenditures.

Cash Receipts

Appearing in Appendix B is a summary of cash receipts of the Commission during the period under review. Total cash receipts decreased from \$388.5 million in FY09 to almost \$387.4 million in FY10

Property and Equipment

Appearing in Appendix C is a summary of property and equipment transactions of the Illinois Student Assistance Commission during the period under review. The balance decreased from \$12,999,000 as of July 1, 2009 to \$12,542,000 as of June 30, 2010. Of the June 30, 2010 balance, \$21,011,000 is in ISAC buildings and the underlying land.

Guaranteed Loan Program

The Illinois Student Assistance Commission guarantees loans for educational expenses made to Illinois residents by banks, savings and loans, and credit unions. The Commission has responsibility for eligibility verification, processing default payments and collection of defaulted loans. Under a reinsurance agreement, the federal government has assumed at least 95% of the cost of defaulted loans provided that default rates do not exceed established limits.

The Commission supplied the information for Appendix D which summarizes the guaranteed loans outstanding at the end of FY09 and FY10. The amounts are overstated by unreported payments made directly to lenders. Accrued interest on loans is not included. Also shown is information on payments to lenders, notes receivable on defaulted loans and collections on defaulted loans.

Notes receivable from defaulted borrowers include all defaulted loans excluding death, bankruptcy and disability claims since the inception of the program. The amount is reduced by total collections on these loans since the inception. There is no provision for doubtful or uncollectible amounts.

Accounts Receivable

Accounts receivable for FY10 were \$1,183,360,000 compared to \$1,310,391,000 in FY09. The chart below details the amounts receivable in each category:

	2010	2009
Inter-governmental	\$ 38,715,000	\$ 36,790,000
Student loans	1,107,530,000	1,200,038,000
Notes	16,520,000	48,553,000
Accrued interest on loans and notes	20,595,000	25,010,000
TOTAL	\$ 1,183,360,000	\$ 1,310,391,000

IDAPP originated/purchased \$73,000 and \$97,000 of student loans in FY10 and FY09, respectively. The current portion of the overall student loan portfolio balance outstanding at year-end was \$177,000 in 2010 and \$217,000 million in 2009. Accrued interest on loans and notes is down for 2010 and 2009 when compared to 2008. The variable interest rates on student loans decreased 1.73% for FFELP loans and 1.91%

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for Plus loans. All new loans after 7/1/2006 carried a life of loan fixed rate of 6.8% for FFLEP loans and 8.5% for Plus loans. The subsidized loan rates for undergraduates were decreased to 6% and 5.6% on 7/1/2008 and 7/1/2009, respectively.

Awards and Grants

The Illinois Student Assistance Commission administers a variety of nonrepayable financial assistance programs. A summary of these scholarships and grants awarded during the audit period appears in Appendix E. The number of awards decreased from 203,296 in FY09 to 199,321 in FY10. The amount of awards and grants decreased from \$431.2 million in FY09 to \$429 million in FY10.

Illinois Designated Account Purchase Program

The Illinois Designated Account Purchase Program (IDAPP) is a self-supporting program whereby the Commission purchases guaranteed student loans from eligible lenders to reduce their lender collection and administrative costs. Generally, IDAPP does not purchase loans which are more than 90 days delinquent.

The Program is accounted for as a proprietary fund. At June 30, 2010, the fund had total assets of \$1.4 billion. The table appearing in Appendix F presents a statement of net assets at June 30, 2010 and 2009.

Appendix G presents a summary of revenues and expenditures for the Designated Account Purchase Program.

College Illinois!

College Illinois! is a prepaid tuition program approved in 1997 to provide Illinois families with an affordable tax-advantaged method to pay for college. The Program is administered by ISAC with advice and counsel from an investment advisory panel consisting of seven members appointed by ISAC. Prepaid tuition contracts will allow participants to prepay the cost of tuition and mandatory fees at Illinois public universities and community colleges at current program prices, which are significantly less than projected future college costs. Benefits of the contracts can also be used at private and out-of-state colleges and universities. Contracts can be purchased in a lump sum payment or in installments. As of June 30, 2010 the Program had 54,900 contracts. The Program stopped accepting new contracts in December 2011.

Total assets in the prepaid tuition program at June 30, 2010 were \$986,290,771. However, the program is operating at a current fund deficit of \$337.9 million. Appendix H provides a summary of the Program for FY09 and FY10. According to an actuarial evaluation report, the present value of the Program's assets together with the present

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value of expected future payments is \$1.350 billion while the actuarial present value of future payments expected to be made is \$1.691 billion, or almost \$340.9 million less than the present value of payments expected to be made by the program.

According to the audit report, tuition and fee increase assumptions were reevaluated for FY11 and beyond. Contract prices have been recommended at a level that will provide revenue from contract sales sufficient not only to fund future contract obligations and current administrative costs, but also to improve the actuarial soundness of the program. Management believes that this provision of building a stabilization premium into contract prices provides a buffer against uncertainty associated with annual volatility of cost increases and performance of program investments.

Investment performance lagged the assumed return for FY09 due to the extreme market conditions. Additionally, the actuarial deficit has been significantly impacted by the negative investment performance recorded during FY09. The changes to the program's investment policy in June 2009 were designed to reduce the volatility in returns and to enhance performance over time. Significant assumptions include investment rate of return on a gross basis, of 9.25% in 2011, and 8.75% per annum thereafter.

Accountants' Findings and Recommendations

Condensed below are the 12 findings and recommendations, five repeated included in the compliance and financial reports. The following recommendations are classified on the basis of updated responses provided by Shoba Nandhan, CFO, in a memo received via electronic mail on January 11, 2012.

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- 1. Comply with the Procurement Code and Administrative Rule in procuring professional and artistic services. Establish policies whereby RFPs are thoroughly reviewed before issuance to ensure that all aspects of the needed services are thoroughly described in the document. If the Commission determines at a later time that a necessary service was not fully described in the original RFP, issue an addendum if the deadline for submission has not yet expired. If the deadline has expired, issue a new RFP for the omitted service. If one RFP is being issued to solicit vendors for multiple and/or varying services, the pricing portion of the RFP should provide a detailed schedule or table specifying the manner in which pricing should be provided for the different types of services requested. Require bidders to use this standardized template to ensure comparable results are received. Process and approve all contracts in writing before the beginning of the contract period or commencement of any services. Ensure that the provisions of**
- Accepted or Implemented – continued**

contracts are performed and documented before paying vendors for services. Revisit contingent fee based compensation methods when contracting for opinions on investment purchase decisions that may influence the objectivity or the perception of objectivity of the opinion rendered. Consider taking into account other alternate investments choices when making investment decisions.

Finding: The Illinois Prepaid Tuition Program of the Illinois Student Assistance Commission (Commission) did not comply with the competitive procurement requirements of the Illinois Procurement Code and did not follow sound business practices in its selection of a vendor to provide investment due diligence services. Further, the services performed by the vendor did not match the services specified in the contract.

The Commission awarded a contract for investment due diligence services without following established procurement law, administrative rules or sound business practices. Auditors noted the following exceptions discussed further below:

1. The Request for Proposal (RFP) issued to procure the Services was not specific to investment due diligence services, but rather was for financial advisory services pertaining to issuing or restructuring debt;
2. Only one of ten “prequalified vendors” provided pricing for the investment due diligence services and there was no effort to obtain quotes from any of the other successful respondents when it was determined that investment due diligence services were needed;
3. The performance of the work commenced prior to obtaining a signed contract;
4. The Commission could not provide documentation showing the vendor’s “due diligence” services were provided as required by the contract;
5. The fee arrangements with the selected vendor did not ensure objectivity in the performance of the work which was the subject of the contract; and
6. Management focused on only one private equity investment alternative.

Competitive Price Procurement Circumvented in the RFP Process (Exceptions #1 and #2)

On January 4, 2008, the Commission (through Central Management Services) issued an RFP titled “To Provide Financial Advisory Services to the Illinois Student Assistance Commission”. Upon review of the complete RFP, the auditors concluded the RFP was primarily issued to assist the Commission with services pertaining to the issuance/restructuring of debt.

The auditors reviewed the proposal provided by the vendor awarded investment due diligence services under this RFP. The proposal was complete and clearly demonstrated the vendor’s capabilities and experience in assisting governmental entities with debt issuance related matters, however the vendor did not present qualifications in the proposal pertaining to investment advisory services or investment

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due diligence services. The price proposal, however, did contain the following additional unsolicited fee quote that was not included in the RFP fee proposal form:

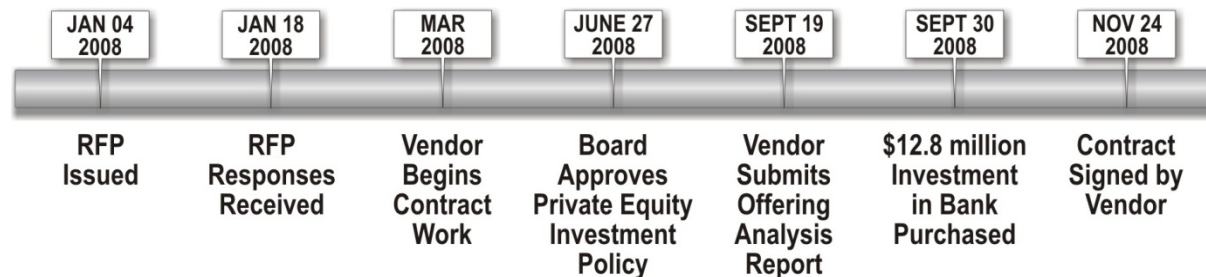
“Other Services: Financial Advisor, investment banking and analysis services related to investment of 529 prepaid tuition plan assets in liquid assets and/or private placement in new asset categories charges: 1.25 to 2% of invested assets.”

Based on the RFP issued, there was no clear basis for awarding a contract for investment due diligence services in a fair and competitive manner that allowed all interested parties the opportunity to participate in the procurement opportunity. There is no evidence that any of the nine respondents were asked to provide pricing for due diligence services after the proposals were received and scored.

According to Commission management, the Commission believed the RFP process complied with the Illinois Procurement Code and permitted selection of a vendor from the qualified list of financial advisors to perform the services requested.

Contract Not Reduced to Writing and Performance of Contract Requirements not Adequately Documented (Exceptions #3 and #4)

The Vendor’s investment due diligence services were limited to one recommended transaction – a private equity investment in a specific bank. According to Commission management, the Vendor began performing its due diligence work on the viability of the recommended private equity investment in the Bank around March 2008. This was prior to the Board approving changes to the investment policy on June 27, 2008 that would allow for direct private equity investments. The Vendor issued its final Offering Analysis report on September 19, 2008. The investment in the Bank was actually made on September 30, 2008. The terms of the contract with the vendor provided for services to be performed between November 24, 2008 and March 31, 2009. The contract was not signed until November 24, 2008. Thus all the work required by the contract was completed and the private equity investment was purchased prior to the date and terms of the contract beginning November 24, 2008.



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The Commission lacked documentation showing that the vendor performed the same services as specified by the contract. The contract called for the vendor to "Conduct thorough due diligence of the proposed investment". Due diligence generally requires the independent verification of material facts, and in this case, Bank management representations. In the Offering Analysis, provided as the final work product of the Vendor, it states "All information concerning the Bank was provided by (Bank) management. All information received has been accepted by (the Vendor) to be accurate with no further investigation". The auditors requested but were not provided any evidence that the Vendor independently verified management's representations.

According to Commission management, the contract was not executed prior to the commencement of work because of unclear communication and an incorrect assumption that contracts were entered into with all vendors prequalified to provide financial advisory services. Commission management stated the vendor, in conjunction with the Commission's outside attorneys, reviewed financial records and reports, conducted site visits and interviews, reviewed reports of federal regulators and other corporate records and documents prior to preparing their report.

Vendor Fee Arrangement Not Objective and Alternative Investments Not Considered (Exceptions #5 and #6)

The terms of the agreement with the Vendor performing the due diligence services stated the Vendor would receive as payment for services, 1.25% to 2% of the invested amount. The fee paid was 2% of the amount invested, or \$255,600. The vendor was asked to provide due diligence services leading to a conclusion as to the viability of one specific private equity investment. Management did not solicit from this vendor or any other vendor information on the viability of other alternate investment choices.

By paying the vendor on a commission or a contingent fee basis, the Commission may have created an incentive for the vendor to recommend the private equity investment. Specifically, there was no contractual means for the vendor to be paid under the signed contract if the investment was not made.

The Commission did not consider other private equity investment choices for this asset allocation category. Auditors noted that in each category of the analysis report there were potential red flags as to the soundness of the investment.

Despite the red flags noted the vendor recommended the investment in the Bank and the Commission purchased the \$12.78 million investment on September 30, 2008. By the end of fiscal year 2010, the Commission determined the entire \$12.78 million value of the investment was worthless when the Bank was taken over by the FDIC.

According to Commission management, the Commission believed the fee arrangement was appropriate and consistent with the vendor's price proposal and contingent fee proposals from other qualified vendors in response to the RFP that were based upon

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the principal amount of securities offered. Commission management stated the decision to consider only the one Bank investment was a business decision.

Updated Response: Accepted, partially implemented. ISAC's future RFPs will have more precise descriptions of services to be solicited with clearer pricing requirements. Moreover, we have changed our procedures for RFPs that result in a large number of qualified bidders in order to ensure that services begin only after the contract is signed. We have reinforced our procedures that require review and sign-off of contract deliverables before vendor payments are processed. We will not use contingency-fee based compensation methods. Note that the agency uses performance based compensation methods exclusively for fees paid to collection agencies based on industry practices and standards.

In addition, a new procurement process has been instituted that includes review, approval, and monitoring by both the Agency Procurement Officer and the externally appointed State Procurement Officer.

It should also be noted that beginning July, 2011 there have been significant changes made to the management and administration of the Agency. The changes include:

- Appointment of new members to the Commission and a new Chairperson.
- Appointment of a new Interim Executive Director
- Appointment of a new General Counsel with a reporting line to the Commission
- Hiring of a new Chief Investment Officer with a reporting line to the Commission.

We believe that these changes will ensure our procurement process is sound going forward.

2. Improve controls over financial reporting to ensure accurate presentation and disclosure of IDAPP's annual financial statements. The Commission should take a comprehensive look at the entire financial reporting process and make changes needed to timely release financial reports to users and to auditors. (Repeated-2008)

Finding: The Illinois Student Assistance Commission (Illinois Designated Account Purchase Program) did not provide the auditors with complete and accurate financial statements on a timely basis. Also, the Illinois Designated Account Purchase Program (IDAPP) does not have sufficient control over financial reporting.

During the audit entrance conference on May 11, 2010, a deadline for submission of IDAPP's draft financial statements was determined and agreed to by the auditors and IDAPP management. The deadline for delivery of the complete draft financial statements to the auditors for FY10 was October 1, 2010. An initial draft was provided to the auditors on September 30, 2010, which was incomplete and had not been fully reviewed by the Commission and all parties involved with the preparation and approval

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of the financial statements. Changes and adjustments to the initial draft occurred as late as November 15, 2010.

Several errors and omissions were identified and corrected during the audit of the draft financial statements for IDAPP. Some of the more significant items were as follows:

- Transfers in and out were out of balance, requiring an adjusting entry in the amount of \$750,000 to the general ledger.
- Severance accruals relating to benefits for terminated employees were not recorded in the draft financial statements. An adjusting journal entry in the amount of \$137,000 was needed to properly record severance accrual at the end of the fiscal year.
- Student loan premiums recorded in the general ledger did not agree to individual supporting schedules provided to the auditors, resulting in an adjusting entry of \$265,000 to the general ledger accounts.
- An adjustment to write-off uncollectible amounts relating to notes receivable from an external service provider, in the amount of \$683,000 was not made timely and required an adjustment at year-end. (See finding 10-5)
- Weighted average maturities (WAM) of investments were calculated incorrectly. As a result, the related interest rate risk disclosure schedule was inaccurate for three of the four types of securities reported.
- Pledged revenue disclosures were not reported for the 2009 series debt issuances in the draft financial statements.

According to IDAPP management, changes subsequent to the initial delivery of the draft financial statements were the result of the ongoing review of the financials by the Commission and the Illinois Office of the Comptroller. The Commission made all efforts and was in constant communication with the Illinois Office of the Comptroller and the auditors prior to the end of the fiscal year to ensure that the year-end process was timely and accurate.

Updated Response: Implemented. IDAPP has reviewed and updated policies and procedures regarding the close process and the preparation of the financial statements. Quality control checks have been put in place to ensure the submission of accurate financial statements in the future.

- 3. Closely monitor each service organization used to manage the student loan portfolio. Periodically perform reviews of the service organization's processes**

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and controls. Include a review of the service organization’s “Report on controls placed in operation and tests of operating effectiveness,” prepared and issued by independent auditors, in accordance with the Statement on Auditing Standards No. 70. Investigate and correct any noted variances in application of borrower repayments in a timely manner.

Finding: ISAC’s Illinois Designated Account Purchase Program did not properly apply student loan payments to principal and interest.

The Illinois Designated Account Purchase Program (IDAPP) utilizes several external service organizations to manage and monitor its student loan portfolio. During testing of student loan payments, auditors noted that for four out of twelve payments sampled for one of the service organizations, there were errors in the application of the payments between principal and interest.

IDAPP management acknowledged it was aware of a system problem relating to the processing of payments at this service provider. Subsequent to IDAPP’s fiscal year ended June 30, 2010, the service provider performed a retrospective calculation for each loan possibly affected by this situation. In addition, IDAPP has hired an independent third party entity to review this retrospective calculation for propriety. Based on the review performed by the service provider, misapplied payments as of June 30, 2010 totaled approximately \$291,000, resulting in an understatement of IDAPP’s student loan receivable balance by the same amount. This amount was deemed immaterial and was not recorded at year end.

According to IDAPP management, this situation occurred due to the way the computer program used by the service organization handled forbearances, deferments and the related capitalized interest.

The service provider in question manages approximately \$312 million of IDAPP’s student loan portfolio, which represents 28% of the student loan receivable balance of \$1,107 million at fiscal year end 2010. Although individual payments misapplied during the year appear to be insignificant, these amounts can accumulate throughout the years to a more significant amount.

Updated Response: Partially Implemented. As stated in our initial response, IDAPP has a process in place to review SAS 70 reports of all the outside service providers and to follow up on any findings that are deemed material weaknesses. The service provider’s report for the period of July 1, 2009 through August 15, 2010, as well as the report dated June 30, 2011, was reviewed by IDAPP and IT management with no material weaknesses noted. The Commission believes that the adjustments to borrower balances that were required were immaterial and the Commission has a systematic solution that will resolve the issue and correct the balances. In addition the

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Commission has issued a new RFP to select a vendor with the required skills to service the alternative loan portfolio. Responses to the RFP are due January 25th 2012.

- 4. Improve controls over investments to ensure compliance with investment policies. Further, reinvest the money invested in the money market fund, which is in violation of its investment policy, to an allowable investment vehicle.**

Finding: ISAC's Illinois Designated Account Purchase Program invested in a money market mutual fund with holdings in securities not permitted by its investment policy.

As of June 30, 2010, the Illinois Designated Account Purchase Program (IDAPP) had invested \$13.4 million in a fund, which invests in corporate debt securities that were not guaranteed by the full faith and credit of the United States of America as required by the investment policy. This investment was approximately 5% of IDAPP's total investment balance as of the fiscal year end 2010.

According to IDAPP management, the Series 2002, 2003, 2004 and 2005 Bond Indenture which guides permitted investments of the related Bond Indenture Trust allow that investments may be made in money market funds with certain ratings. IDAPP management was following the guidelines of allowable investments specified in the bond documents, but not the current IDAPP investment policy.

Response: Accepted. The non-compliant investment was sold and the funds moved into a compliant investment on December 16, 2010. The investment was first purchased in March 2009 and was compliant with the investment policy. Over the course of the year, the fund shifted its investments to some non-governmental securities. The investments held by the various trusts will be reviewed by the investment committee on a quarterly basis to assure compliance with the investment policy. Investments not in compliance will be sold and the funds moved into other investments.

- 5. Improve controls to ensure that IDAPP accounting staff complies with current policy and procedures in place regarding the authorization and timing of the write-offs of student loan receivables.**

Finding: IDAPP was not in compliance with its non-cash write-off policy regarding the student loan receivable balances.

During the analysis of the Program's student loan receivable balance, auditors noted that IDAPP's current write-off policy requires the Operations Director and the Director of Accounting and Operations to review and approve write-offs on IDAPP owned

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alternative student loan balances. One out of the six selections reviewed did not contain proper approval. In addition. Four out of the six selections were not written-off within three business days, as required by the policy. They were written off in timeframes ranging from 10 and 45 days.

According to IDAPP management, the write-offs processed without approval were an error. Timeliness of the write-offs was the result of reductions in the workforce occurring within IDAPP and changes in IDAPP's management structure.

Updated Response: Implemented. IDAPP has reviewed and updated all of its policies and procedures regarding write-off of student loans. The agency's credit agreement with Citi Bank does not allow us to write off loans. IDAPP recognizes an allowance for uncollectible loans in its balance sheet instead of writing off student loans. As a result, this specific finding has been resolved and will not be an issue going forward.

6. Continue to monitor loan covenant violations and continue seeking remedies from the lenders involved. (Repeated-2009)

Finding: IDAPP was not in compliance with one of the covenants relating to the agency's revolving line of credit agreement.

During the audit of the FY09 financial statements, the IDAPP management brought to the attention of the auditors that they had violated one of the covenants relating to the agency's revolving credit line (loan) agreement with a bank. The non-compliance pertained to the "Coverage condition ratio" covenant. Once the error was discovered and the Coverage condition ratio was recalculated, it resulted in a lack of compliance with the Coverage condition ratio by IDAPP.

During the audit of the agency's FY10 financial statements, auditors noted that IDAPP continued to be in violation of the same covenant. However, IDAPP had improved internal controls related to reporting requirements of the various indentures. IDAPP has a master checklist that incorporates all reporting requirements of the various indentures. The checklist is monitored and maintained on a monthly basis. All of the reporting requirements are reviewed and signed-off by management.

As a result of the violation, the bank has certain remedies available to it under the terms of the loan agreement, principal of which would be rights to call the loan and take possession of the collateral (the underlying student loan portfolio). The bank has been made aware of the event of default and has not communicated to IDAPP any intent to exercise the remedies available to it. Management believes the bank would have little incentive to call the line of credit and begin servicing the student loans itself, particularly

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because IDAPP has made all of its required payments in a timely fashion. The balance of the line of credit with the bank was \$355,456,827 at June 30, 2010. According to ISAC management, the bank has agreed to refrain from exercising their rights under the Agreement until July 27, 2011.

The debt covenant violation with the bank also triggered a default in one of the covenants in the loan agreement with another bank. This bank granted IDAPP a deferment from exercising its rights in connection with such default until July 31, 2010. Shortly thereafter, the bank was taken over by the FDIC. Since that time, IDAPP has been pursuing an agreement with the new institution for an extension on the July 31, 2010 deferment date. This issue has not yet been resolved. The balance in the line of credit with this bank was \$4,717,675 at June 30, 2010.

According to IDAPP management, the cause of the Coverage Condition breach was due to the level of forbearances exceeding the limit. This was due to the policy of treating student borrowers who had both loans guaranteed by the Federal Family Education Loan Program (FFELP) and other loans not guaranteed by FFELP as if all its loans were guaranteed by FFELP.

Response: Implemented. IDAPP will continue to monitor these loan covenants. Commission management has been in constant communication with both parties and is working with them to resolve the violations and to refinance the facilities.

7. Comply with SAMS requirements and file all executed contracts within the required timeframe. In those situations when a contract cannot be filed timely, include a properly completed Late Filing Affidavit. (Repeated-2008)

Finding: The Commission did not include the required explanations on all contract late filing affidavits for contracts filed late with the Illinois Office of the Comptroller.

During an examination of contracts paid from non-appropriated funds, three of 20 contracts were submitted to the Comptroller late, and required Late Filing Affidavits to be submitted. Although the Late Filing Affidavits were submitted to the Comptroller, they did not contain an explanation as to why the contract was not filed timely. The contracts were late by a range of 25 to 58 days, amounting to \$410,000.

According to Commission management, the late filings were due to human error.

Response: Implemented. The Commission will comply with SAMS requirements and file all executed contracts within the required timeframe. The Commission will also ensure that any late filing affidavits that need to be submitted are properly completed.

8. Adopt procedures to ensure that the creation and execution of all contracts comply with SAMS requirements.

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Finding: The Commission did not comply with certain requirements for the creation and execution of State contracts. Auditors noted that none of the nine contracts for legal services sampled totaling \$1,039,201 contained the required disclosure that the contracts are not subject to the Illinois Indemnification Act.

According to Commission management, the Accounting Liaison was not aware of this requirement for all contracts filed with the Comptroller, not subject to the State Indemnification Act.

Response: Implemented. The Commission has reviewed its process, and will ensure that the creation and execution of all contracts will comply with SAMS requirements.

9. Ensure that required semi-annual performance evaluations of employees are completed and submitted to the Human Resource Department in a timely manner.

Finding: The Commission did not complete performance evaluations for some employees and some evaluations were not completed timely.

- The performance evaluations of 21 of 30 employees sampled were submitted late two to 91 days to the Human Resource Department (HRD).
- One employee did not receive a performance evaluation.

According to Commission management, there were three layoffs during the periods in question, in September 2009, February 2010 and June 2010. The Commission determined that performance reviews would not be conducted during the layoff periods.

Updated Response: Implemented. Annual performance reviews are completed and submitted on a timely basis.

10. Adopt procedures to ensure that the annual Agency Workforce Report contains complete and accurate information for each defined reporting period.

Finding: The Commission did not include complete and accurate information on its Agency Workforce Report for FY09.

- Required statistical percentages were not disclosed; and
- Demographic information in the AWR was as of December 28, 2009 instead as of June 30, 2009.

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According to Commission management, following the departure of the individual charged with completion of this report, and through an oversight, this report was not submitted in the format required. An amended form was completed and submitted in November 2010, and sent to the Secretary of State and the Officer of the Governor.

Response: Implemented. Procedures have been put into place to ensure that the annual Agency Workforce Report is completed and submitted to the Office of the Secretary of State.

11. Establish a college saving program in accordance with the statute or continue to seek legislation to remedy the statutory requirement.

Finding: The Commission has not established a program of college savings instruments for Illinois citizens in accordance with the Higher Education Student Assistance Act.

According to Commission officials, a college savings program known as the ICAN program was established by the Commission, in accordance with the Act. However, the program was discontinued in 2002 due to lack of activity. Commission officials stated that they submitted a proposal to the General Assembly, but the bill failed to pass.

Updated Response: Accepted. The Commission is planning to seek repeal of this Act.

12. Comply with requirements for the use of public funds for the purpose for which such funds have been appropriated or otherwise authorized by law.

Finding: The Commission did not expend appropriated funds in accordance with the purpose for which the funds were appropriated by the State. ISAC was appropriated \$3,500,000 to the Student Loan Operating Fund (SLOF) in both fiscal years 2009 and 2010 for costs associated with the development and maintenance of ISAC's federal loan system (Odyssey). In reviewing the expenditures in the SLOF, auditors noted that in FY10, \$18,000 was expended on awards and grants to students. In FY09, \$756,000 was loaned to the Illinois Designated Account Purchase Program (IDAPP) for operational purposes.

According to Commission management, the Student Loan Operating Fund appropriation language gave the Commission the authority and flexibility to make payments from the fund for any distributions necessary for the administration of the Federal Family Education Loan program. For this particular line the language in the appropriation report from the Illinois Office of the Comptroller indicated that it was for Lump Sum and Other purposes. There was a discrepancy in the language between the Comptroller's appropriation report and the language in the Public Act itself. As a result certain payments were processed from the incorrect line.

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Response: Implemented. The Commission will comply with requirements for the use of public funds of the State in accordance with the purpose for which such funds have been appropriated.

Emergency Purchases

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts...." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

During FY10, ISAC filed no affidavits for emergency purchases.

Headquarters Designations

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The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all its officers and employees for whom official headquarters have been designated at any location other than that at which official duties require them to spend the largest part of their working time.

The Agency indicated as of July 2010 that no employees were assigned to locations other than official headquarters.