

EXECUTIVE DIGEST

STATE ACTIVITIES RELATED TO NONPROFIT ORGANIZATIONS

INTRODUCTION

This report, issued in May 2002, contains the results of our performance audit* of State Activities Related to Nonprofit* Organizations*, Department of Attorney General and Department of Consumer and Industry Services (CIS).

AUDIT PURPOSE

This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.

BACKGROUND

A nonprofit organization is an entity established to carry out any lawful purpose or purposes not involving pecuniary profit or gain for the directors, officers, shareholders or members.

A charitable organization* is an entity formed for benevolent, educational, philanthropic, scientific, public health, humane, religious, or other purposes or to benefit one or more other organizations that have a charitable purpose or conduct a charitable program. Charitable organizations include both charitable solicitors* and charitable trusts*.

Although charitable organizations are typically nonprofit organizations, not all nonprofit organizations are charitable organizations. Nonprofit organizations can be either incorporated or unincorporated.

CIS is responsible for facilitating the formation of Michigan business entities, including both profit and nonprofit corporations*. These responsibilities have been assigned to the Corporation Division, Bureau of Commercial Services. As part of its responsibilities, the Division provides services to facilitate the formation of corporations, issues certificates of authority to conduct affairs in the State, maintains a record of the filed documents for each corporation, makes this information available to the public, and responds to public inquiries regarding corporations.

The Department of Attorney General is responsible for the State's oversight of charitable organizations. These responsibilities have been assigned to the Charitable Trust Section. The Section licenses* charities soliciting or receiving contributions*, registers charitable organizations that hold assets in the State, approves dissolutions* of charitable purpose organizations incorporated in the State, and responds to public inquiries regarding charitable organizations. The Section serves as a repository of financial and other information about the State's charities. This information is available to the public to assist individuals in making wise choices about what charities to support.

As of December 2000, there were 58,029 nonprofit corporations with certificates of authority to conduct affairs in Michigan. The State also had 7,597 registered charitable organizations and 4,125 licensed charitable solicitors. During 2000, the Department of Attorney

General consented* to the dissolution of 120 nonprofit corporations. During this same period, the Corporation Division dissolved 50 nonprofit corporations that had submitted certificates of dissolution, 24 nonprofit corporations because their period of duration had expired, and 2,638 nonprofit corporations for failure to file their annual reports within the two-year grace period.

As of June 30, 2001, the Corporation Division included 54 employees and the Charitable Trust Section included 7 employees.

AUDIT OBJECTIVES,
CONCLUSIONS, AND
NOTEWORTHY
ACCOMPLISHMENTS

Audit Objective: To assess the effectiveness and efficiency of the Department of Attorney General's registration* and licensing of nonprofit organizations and the effectiveness of CIS's activities to facilitate the formation, existence, and dissolution of nonprofit corporations.

Conclusion: We concluded that the Department of Attorney General was generally effective and efficient in registering and licensing nonprofit organizations and that CIS was generally effective in facilitating the formation, existence, and dissolution of nonprofit corporations.

Noteworthy Accomplishments: The CIS Corporation Division has developed a half-day training seminar offered throughout the year for newly formed nonprofit corporations and persons interested in establishing nonprofit corporations. The seminar covers background information, filing requirements and forms to file, Internal Revenue Service (IRS) issues and tax-exempt designation, directors' and officers' duties and responsibilities, and a directors' guidebook. Department of

Attorney General staff also participate in the seminar, which addresses the requirements for charitable nonprofit corporations. Each participant receives a comprehensive desk reference manual.

Since 1995, the Department of Attorney General has eliminated a five-year backlog of initial filings, which included a review of the filing documentation to determine each charitable organization's need for licensure and/or registration. The Department has also largely eliminated a seven-year backlog of new filings by charitable trusts; processed registration statements, inventories, and financial accountings; and included this seven-year backlog of information in its database.

Audit Objective: To assess the effectiveness of the Department of Attorney General's oversight of charitable nonprofit organizations.

Conclusion: We concluded that the Department of Attorney General was generally effective in overseeing charitable nonprofit organizations. However, we noted reportable conditions* related to oversight enhancements and web site enhancements (Findings 1 and 2).

Noteworthy Accomplishments: The Department of Attorney General's Charitable Trust Section has increased its outreach to and education of the nonprofit community by participating in and presenting information at seminars and conferences, including Statewide nonprofit conferences as well as making presentations to groups and associations. It has also been both a participant and a presenter at the annual meetings of the National Association of State Charity Officials, which is affiliated with the National Association of Attorneys General. The

Section shares information regarding charitable activities and solicitations with other states, the Federal Trade Commission, and the IRS. The Section also works with other organizations to ensure that nonprofit organizations receive complete, timely, and accurate information.

**AUDIT SCOPE AND
METHODOLOGY**

Our audit scope was to examine the State's registration, licensing, and oversight of nonprofit organizations. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit procedures included an examination of records and activities primarily for the period January 1, 1998 through June 30, 2001.

Our methodology included interviewing CIS and Department of Attorney General staff and management. Also, we reviewed applicable State statutes, administrative rules, policies, Internal Revenue Code, and other states' practices to gain an understanding of the State's role regarding nonprofit organizations.

To accomplish our first audit objective, we reviewed the registration and licensing processes developed by the Department of Attorney General to register charitable organizations and to license charitable solicitors. We also reviewed activities developed by CIS to facilitate the formation, existence, and dissolution of nonprofit corporations.

To accomplish our second audit objective, we tested the Department of Attorney General's charitable trust database for accuracy and completeness. We also tested charitable organizations' compliance with statutory requirements. We

reviewed statutory requirements to determine if changes were needed to improve the State's oversight role.

AGENCY RESPONSES

Our audit report includes 2 findings and 4 corresponding recommendations. The Department of Attorney General's preliminary response indicated that it generally concurs with the findings and has initiated action to comply with most of the recommendations.