

# REPORT DIGEST

## ILLINOIS POWER AGENCY

For the Fiscal Years Ended:  
June 30, 2009 and 2008

### Summary of Findings:

Total this audit	22
Total last audit	N/A*
Repeated from last audit	N/A*

\*This is the first examination of the Agency.

Release Date:  
March 3, 2010



State of Illinois  
Office of the Auditor General  
**WILLIAM G. HOLLAND**  
AUDITOR GENERAL

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## SYNOPSIS

- ◆ The Agency **did not** prepare and submit financial information to the Governor, General Assembly or the Auditors. Agency management **did not** provide any financial statements and related note disclosures to the auditors. As a result, the auditors were not able to perform a financial audit. Additionally, due to incomplete and inaccurate records the auditors determined there was an overall failure to demonstrate any internal controls had been established. As a result of this failure, the auditors were unable to issue an auditor's opinion for the State Compliance Attestation Examination.
- ◆ The Agency **failed** to follow the requirements of the Office of the State Comptroller's Statewide Accounting Management System relating to the receipting, obligating, and expending from State Treasury-held funds and the financial reporting process established by the Office of the State Comptroller.
- ◆ The Agency **did not** provide all requested documentation to the auditors.
- ◆ The Agency **did not** establish adequate accounting procedures and internal controls. The auditors are uncertain how much money may have been expended or bartered with from funds held by third parties. Further, the agency was unable or unwilling to provide an accounting to the auditors.
- ◆ The Agency **did not** have a formal budgeting process.
- ◆ The Agency **did not** adopt rules for the operation, administration, accounting and reporting as specified in the Illinois Power Agency Act.
- ◆ The Agency **did not** establish a Planning and Procurement Bureau or a Resource Development Board as required by State law.
- ◆ The Agency **improperly allowed** State funds to be held in accounts outside the State Treasury without proper statutory authority. State funds **were commingled** with those of the procurement administrators. The exact amount of the funds **processed** and **held** outside of the State Treasury is unknown.
- ◆ The Agency **did not** assess adequate fees to ensure the costs of the procurement process were covered.
- ◆ The Agency **did not** have basic office equipment.
- ◆ The Agency processed vouchers lacking the **required** supporting documentation.
- ◆ The Agency approved for payment invoices totaling amounts **in excess** of the contract obligation document. The Office of the State Comptroller did not make payment. To obtain compensation the procurement administrators withheld public funds.
- ◆ The Agency **did not** include a plan for post-performance review in their solicitation documents.
- ◆ The Agency **was not** a party on contracts for the bidder and supplier fees related to the public energy auctions.
- ◆ The Agency had obligated the entire fiscal year 2009 appropriations for contractual services; thus, **was unable** to make payments for travel expenses.

(Expenditures and Activity Measures are summarized on the next page)

**ILLINOIS POWER AGENCY**  
**For the Fiscal Years Ended June 30, 2009 and 2008**

<b>EXPENDITURE STATISTICS (Not Examined)</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Total Expenditures (All Appropriated Funds) .....</b>	<b><u>\$1,044,272*</u></b>	<b><u>\$0</u></b>
<b>OPERATIONS TOTAL.....</b>	<b>\$1,044,272*</b>	<b>\$0</b>
% of <b>Total</b> Expenditures.....	100%	0
For ordinary, incidental, and contingent expenses.....	\$1,044,272*	\$0
	100%	0
<b>PROPERTY AND EQUIPMENT at June 30,</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>AGENCY DIRECTOR</b>		
During Audit Period: Mark Pruitt		
Currently: Mark Pruitt		

\*Note: Does not include any activity in unauthorized locally held accounts.

## INTRODUCTION

The Illinois Power Agency was created by the Illinois Power Agency Act (095-0481), effective August 2007. The objective of the Agency is to (a) develop procurement plans to ensure adequate, reliable, affordable, efficient and environmentally sustainable electric service at the lowest cost over time, (b) conduct competitive procurement processes to procure the supply resources identified in the procurement plan, (c) develop electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Illinois Finance Authority, and (d) supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

## FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

### **NO FINANCIAL STATEMENTS PREPARED FOR AUDIT**

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**Financial statements not prepared by Agency**

The Agency did not prepare or submit financial information to the Governor, General Assembly, or the auditors.

During our examination, we requested from the Agency Director the Agency's financial statements and related note disclosures. However, such information was not provided.

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**Noncompliance with State law**

According to the Illinois Power Agency Act, (20 ILCS 3855/1-125) the "Agency shall report annually to the Governor and the General Assembly on the operations and transactions of the Agency. The annual report shall include, but not be limited to, each of the following...(10) Basic financial and operating information specifically detailed for the reporting year and including, but not limited to, income and expense statements, balance sheets, and changes in financial position, all in accordance with generally accepted accounting principles, debt structure, and a summary of funds on a cash basis." (Finding 1, page 11)

We recommended the Agency obtain the expertise in order to complete the financial information as required by the Illinois Power Agency Act.

Agency management agrees with the finding and recommendation.

## **FAILURE TO FOLLOW OFFICE OF THE STATE COMPTROLLER REQUIREMENTS**

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### **Failed to submit financial reports to the Office of the State Comptroller**

The Agency failed to follow the requirements of the Statewide Accounting Management System (SAMS) relating to the receipting, obligating, and expending from State Treasury-held funds and the financial reporting process established by the Office of the State Comptroller.

During our examination, we noted:

- The Agency did not submit certain accounting reports to the Office of the State Comptroller.
- The Agency failed to file contracts and timely obligate funds with the Office of the State Comptroller.

The Office of the State Comptroller's SAMS Manual details the many requirements agencies must follow when processing financial transactions to and from Treasury-held funds. Also, according to the SAMS Manual, Section 27, State agencies are required to submit financial reports for the fund or funds from which they expend monies and/or into which they deposit receipts. (Finding 2, page 12)

We recommended the Agency obtain the required expertise in order to comply with the Statewide Accounting Management System requirements and financial reporting process.

Agency management agrees with the finding and recommendation.

## **FAILURE TO PROVIDE INFORMATION TO AUDITORS**

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### **Financial statements and notes not provided to auditors**

The Agency did not provide all the requested documentation to the auditors.

As is necessary during a compliance examination and financial audit, we made numerous requests of the Agency. For example, we requested from the Agency their financial statements and related notes; however, we were not provided the information. As a result, we were unable to complete a financial audit.

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### **Financial audit could not be performed**

In addition, two letters were issued over a two month period outlining outstanding documentation. The following bullet points identify some of the items which were never provided.

- Information regarding the procurement administrator's authority to hold fees collected on behalf of the Agency.

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### **Documentation not provided to auditors**

- Bank statements, including deposit slips and checks, for the funds containing the fees collected by the procurement administrators.
- Billings, payments and accounts payable.
- Process utilized by the procurement administrators as it relates to the receipting and disbursement of monies related to the Agency.
- A schedule showing amounts paid by other State agencies on behalf of the Agency.

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**State law requires Agencies to cooperate with auditors without delay**

The Illinois State Auditing Act (30 ILCS 5/3-12) states, “At the request of the Auditor General, each agency shall, without delay, make available to the Auditor General or his or her designated representative any record or information requested.....”

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**Failure to provide information negatively impacts the audit process and Agency accountability**

Without being provided support for testing related to Agency records, we were unable to determine if the Agency was performing all of its required duties and responsibilities. (Finding 3, pages 13-14)

We recommended the Agency hire staff to carry out the responsibilities of the Agency.

Agency management agrees with the finding and recommendation.

**LACK OF APPROPRIATE INTERNAL CONTROLS**

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**Accounting procedures and internal controls lacking**

The Agency did not establish adequate accounting procedures and internal controls.

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**No procedures in place**

During our examination, we noted the Agency did not have a general ledger accounting system. Further, the Agency did not have any procedures in place to record and deposit receipts, pay bills when due, track accounts receivable or accounts payable, or track and monitor complaints related to billings. During fiscal year 2009, the Agency expended \$1,044,272 from the State Treasury held appropriation. The auditors are uncertain how much money may have been expended or bartered with from funds held by third parties.

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**Auditors uncertain about financial activity occurring outside of the Treasury with third parties**

Without the proper procedures in place, the Agency is unable to record and document receipts from several sources. As a result, an estimated \$986,000 or more in receipts, which are due to the Agency, are currently held by third parties. Additionally, the Agency was also unable to pay bills in a timely manner, which resulted in some expenditures not being paid due to insufficient appropriation authorization. Additionally, the Agency is either unable or unwilling

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**\$986,000 or more due to the Agency**

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**Agency unwilling or unable to provide an accounting to auditors**

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to determine the amount of receipts, expenditures, receivables or payables. Complete information has not been provided to the auditors. Further, 50% of the auditor's confirmations sent out to the procurement administrators and suppliers were not returned.

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**Half of the auditors confirmations were not returned**

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The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires that "All State Agencies shall establish and maintain a system, or systems, of internal fiscal and administrative controls, which shall provide assurance that: (3) funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use, and misappropriation". (Finding 4, pages 15 and 16)

We recommend the Agency develop adequate procedures over cash receipts, cash disbursements, accounts receivable and accounts payable to ensure fiscal responsibility.

Agency management agrees with the finding and recommendation.

**NEED OF A FORMAL BUDGETING PROCESS**

The Agency did not have a formal budgeting process.

During our examination, we noted the Agency did not have a formal budget process to effectively utilize its resources. During fiscal years 2009 and 2008, the Agency received appropriations of \$1,318,000 and \$1,250,000, respectively.

According to the Illinois Power Agency Act (20 ILCS 3855/1-65) the appropriations for fiscal years 2008 and 2009 were considered advancements and are to be repaid, without interest, in fiscal years 2010 and 2011.

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**Repayment required in FY10 and FY11**

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Additionally, in fiscal year 2009, the Agency contracted with a procurement administrator for \$490,715 and obligated only \$249,999 for the fiscal year. However, the procurement administrator submitted billings totaling an estimated \$368,201, which was \$121,200 over the obligation amount. The billings had not been paid within the fiscal year by the Agency. Further, according to the Agency Director, the procurement administrator has maintained the bidder fees collected for the Agency as payment for services. All fees collected should be remitted to the Agency and deposited in a State Treasury Fund. (Finding 5, pages 17 and 18)

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**Failure to obligate entire amount of contract**

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**Fees collected on behalf of Agency not deposited into the State Treasury**

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We recommend the Agency develop a formal budgeting process to ensure all funds of the Agency are spent and managed in a fiscally responsible manner. Further, all funds collected on behalf of the

Agency should be remitted to the Agency and deposited in a State Treasury Fund.

Agency management agrees with finding and recommendation.

### **FORMAL AGENCY RULES NOT ADOPTED**

The Agency did not adopt rules for the operation, administration, accounting and reporting as specified in the Illinois Power Agency Act.

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#### **Failure to adopt rules**

During our examination, we noted the Agency had not drafted or adopted formal agency rules, established procedures for monitoring the administration of contracts, established procedures for the recovery of costs incurred in connection with the development and construction of a facility, or implemented accounting rules and a system of accounts.

According to the Illinois Power Agency Act (20 ILCS 3855/1-35), “the Agency shall adopt rules as may be necessary and appropriate for the operation of the Agency. In addition to other rules relevant to the operation of the Agency, the Agency shall adopt rules that accomplish each of the following: (1) establish procedures for monitoring the administration of any contract administered directly or indirectly by the Agency; except that the procedures shall not extend to executed contracts between electric utilities and their suppliers; (2) establish procedures for the recovery of costs incurred in connection with the development and construction of a facility should the Agency cancel a project, provided that no such costs shall be passed on to public utilities or their customers or paid from the Illinois Power Agency Operations Fund; (3) implement accounting rules and a system of accounts, in accordance with State law, permitting all reporting (i) required by the State, (ii) required under this Act, (iii) required by the Authority, or (iv) required under the Public Utilities Act.” (Finding 6, pages 19-20)

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#### **Noncompliance with statutory requirement**

We recommend the Agency draft and adopt formal agency rules, establish procedures for monitoring the administration of contracts, establish procedures for the recovery of costs incurred in connection with the development and construction of a facility, and implement accounting rules and a system of accounts as required by State statute.

Agency management agrees with the finding and recommendation.

### **FAILURE TO ESTABLISH REQUIRED BUREAUS AND**

## **LACK OF ADEQUATE STAFFING**

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### **Agency Director sole employee**

The Agency did not establish a Planning and Procurement Bureau or a Resource Development Bureau as required by its enabling statute. In addition, various Agency administrative requirements were not completed by the Director, who is the Agency's sole employee.

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### **Planning and Procurement Bureaus not established**

During our examination, we noted the Agency had not established a Planning and Procurement Bureau or a Resource Development Bureau. Additionally, within each bureau there should be a chief appointed. Further, the Agency lacks the adequate staffing in order to carry out the administrative tasks.

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### **Noncompliance with statutory requirement**

The Illinois Power Act (20 ILCS 3855/1-70) states that within the Agency, the Agency shall establish a Planning and Procurement Bureau and a Resource Development Bureau. Each of these bureaus should have a chief with at least 10 years of experience in the related industries and an advanced degree in a related field. Additionally, good business practice dictates that the appropriate staff be hired to carry out the administrative tasks of the Agency. (Finding 7, pages 21 and 22)

We recommended the Agency establish the required bureaus and appoint chiefs to the bureaus. Further, we recommended the Agency hire the staff needed to carry out administrative tasks.

Agency management agrees with the finding and recommendation.

## **STATE FUNDS IMPROPERLY HELD OUTSIDE OF STATE TREASURY**

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### **Funds held outside of State Treasury without proper authority**

The Agency improperly allowed State funds to be held in accounts outside the State Treasury without proper statutory authority.

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### **State funds comingled with procurement administrators funds**

As instructed by the Agency Director, an estimated \$986,000 or more of State funds were held by the two procurement administrators as of June 30, 2009. According to the Agency Director, the State funds were not held in a separate bank account, apparently, they were comingled with the procurement administrators other funds.

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### **Failure to provide requested information to auditors**

During our examination, we requested the bank statements, deposit slips and checks for the accounts in which the State funds were held. However, we were not provided this documentation. As a result, we were unable to determine if the funds were

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**Auditors uncertain as to the dollar amount received, held, or expended by the procurement administrators**

inappropriately expended. Further, we were uncertain as to the exact amount received, held, or expended by the procurement administrators.

According to the Illinois Power Agency Act, (20 ILCS 3855/1-15) “no part of the revenues or assets of the Agency shall inure to the benefit of or be distributable to any of its employees or any other private persons, except as provided by this Act for actual services rendered.”

The State Officers and Employee Money Disposition Act (30 ILCS 230/2a.2) prohibits a State officer or employee from maintaining or participating in a deposit of money received except as provided by law. (Finding 8, pages 23 and 24)

We recommended the Agency implement the appropriate procedures to receive and deposit State revenues and collect interest. Additionally, we recommend the Agency obtain and properly deposit all funds held by the procurement administrators, on behalf of the Agency.

Agency management agrees with finding and recommendation.

**INADEQUATE FEE ASSESSMENT**

The Agency did not assess adequate fees to ensure the costs of the procurement process were covered.

During our examination, we noted the Agency did not assess an adequate fee to each bidder to ensure the cost of the procurement process was covered. Based on information provided by the Director, the Agency had contracted with the procurement administrators for more than the fee assessed.

	Contract Amount	Estimated Fees Collected on Behalf of Agency	Auctions Managed
Procurement Administrator A	\$490,715	\$496,988	3
Procurement Administrator B	\$850,000	\$489,325	2
Total	\$1,340,715	\$986,313	5

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**Fees assessed did not cover costs incurred**

In addition, procurement administrator B did not return the auditor’s confirmation regarding fees collected on behalf of the Agency and amount due to the Agency. (Finding 9, page 25) According to the Illinois Power Act (20 ILCS 3855/1-75 (h)), the

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**Procurement administrator did not return auditor confirmation**

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**Statutory requirement**

“Agency shall assess fees to each bidder to recover the cost incurred in connection with a competitive procurement process.”

We recommended the Agency review the fee assessments to ensure the coverage of expenditures relating to the competitive procurement process.

Agency management agrees with finding and recommendation.

**BASIC OFFICE EQUIPMENT LACKING**

The Agency did not have basic office equipment.

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**Failure to maintain basic office equipment**

During our examination, we noted the Agency did not maintain basic office equipment such as a fax machine, copier, printer or scanner. Although the Agency Director’s Office did have a computer, the Director utilized his personal laptop to conduct the business of the Agency.

The Agency Director stated the Agency does not have the necessary office equipment due to budgetary constraints. However, it should have noted the Agency had unexpended balances of \$273,728 and \$1,250,000 for fiscal years 2009 and 2008, respectively. (Finding 11, page 27)

We recommend the Agency purchase or lease basic equipment. These types of expenditures should be included in the operating budget of the Agency.

Agency management agrees with finding and recommendation.

**LACK OF APPROPRIATE DOCUMENTATION TO SUPPORT VOUCHERS**

The Agency processed vouchers lacking the required supporting documentation.

During our examination, we noted the following:

- One of ten (10%) contractual services vouchers tested, totaling \$793,209, lacked adequate supporting documentation. Specifically, supporting documentation for a voucher indicated an individual worked 132.5 hours in a 4 day period. This equals over 33 hours per day. Additionally, an individual traveled to and from London, improperly charging \$ 14,970 to the Agency.
- Two of two (100%) personal services vouchers tested, totaling

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**Individual billed and paid for 132.5 hours for a 4 day period**

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**Attendance records did not agree with payroll vouchers**

\$22,000, lacked adequate supporting documentation. For each of these vouchers, the attendance records did not agree with the payroll vouchers. Additionally, the contract period for this individual employed under the personal services contract was for services through February 28, 2009. One of the vouchers paid included time worked subsequent to February 28, 2009. (Finding 12, pages 28 and 29)

We recommend the Agency review all invoices for accuracy and reasonableness prior to submitting them for payment. Also, the Director should seek recovery of the excess payments from the vendors.

Agency management agrees with finding and recommendation.

**BILLING IN EXCESS OF APPROVED CONTRACT OBLIGATION DOCUMENT AND LATE FILING OF CONTRACT DOCUMENTS**

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**Agency authorized payment for an amount in excess of contract obligation**

The Agency approved for payment invoices totaling amounts in excess of the contract obligation document. Additionally, contract obligation documents and contracts were filed with the State Office of the Comptroller subsequent to the date of the initiation of the contracts.

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**To obtain compensation procurement administrators withheld public funds**

During our examination, we noted the Agency approved for payment an invoice under contract in the amount of approximately \$368,201. However, the fiscal year 2009 contract obligation amount for this vendor was only \$249,999. Due to an insufficient contract obligation, this amount was approved for payment but was not actually paid. In order to obtain compensation, the procurement administrator withheld fees collected on behalf of the Agency. This offset process is not authorized by State law and is inappropriate. The public funds should have been remitted to the Agency and deposited into the State Treasury. Further, the contract obligation document for fiscal year 2009 with the procurement administrator should have been increased.

Additionally, we noted two of three (66%) contracts tested, were filed with the Office of the Comptroller on August 14, 2009. This ranged from 108 days to 136 days subsequent to the start date of the contracts. (Finding 15, pages 32 and 33)

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**Late filing of contracts**

We recommend the Agency implement the appropriate procedures to ensure that all contract documents are properly and timely filed and paid according to the approved contract amounts.

Agency management agrees with finding and recommendation.

### **NEED PLAN FOR POST-PERFORMANCE REVIEW**

The Agency did not include a plan for post-performance review in their solicitation documents.

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**Plan not included in solicitation documents**

During our examination, we noted the Agency did not include a plan for post-performance review in the uniform documents developed for the solicitation, review, and acceptance of all professional and artistic services.

According to the Illinois Procurement Code (30 ILCS 500/35-20), the forms used by the Agency to solicit professional and artistic services shall include “a plan for post-performance review.” (Finding 17, page 35)

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**Noncompliance with statutory requirement**

We recommend the Agency include the required plan for post-performance review in all future solicitation documents.

Agency management agrees with finding and recommendation.

### **AGENCY NOT PARTY TO CONTRACTS FOR BIDDER AND SUPPLIER FEES**

The Agency was not a party on contracts for the bidder and supplier fees related to the public energy auctions.

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**Agency not party to contracts**

During our examination, we noted contracts for the supply of energy existed between the two electrical companies, the bidding wholesale power companies and the successful wholesale power companies. As part of the auction process, bidder and supplier fees were due to the Agency. However, the Agency was not included as a party in these contracts and the amounts due were contracted to be paid to either a procurement administrator or the electrical company and not the Agency. The revenue due to the Agency was an estimated \$986,000.

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**Amounts due have been paid to procurement administrator and electric company**

The Director stated he was not aware of how to receive and deposit funds into the State Treasury. As such, he allowed the contracts between the other parties as a means of collecting the funds at that point in time with the intention to collect the funds due to the Agency at a later date. (Finding 18, pages 36 and 37)

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**Director stated he is unaware how to receive and deposit funds into the State Treasury**

We recommended the Agency implement procedures to ensure the Agency is included in any contract involving revenues earned and payable to the Agency.

Agency management agrees with finding and recommendation.

### **FAILURE TO PAY TRAVEL VOUCHERS**

The Agency had obligated the entire fiscal year 2009 appropriations, totaling \$1,318,000, for the payment of contractual services; thus the Agency was unable to make payment for the Director's travel expenses.

On August 21, 2009, the Director submitted \$6,363 of travel vouchers to the Office of the State Comptroller for payment. However, the Comptroller denied payment due to the Agency having obligated all funds for the payment of contractual services.

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**\$6,363 for the Director's travel were not paid**

The Agency Director stated vouchers were not filed timely because he was unaware of how to make the payments and how the budget process works. (Finding 22, page 41)

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**Director stated he did not know how to make payments**

We recommend the Agency establish policies and procedures which will ensure vouchers are paid timely.

Agency management agrees with finding and recommendation.

### **OTHER FINDINGS**

The Agency Director accepted the remaining findings and recommendations pertaining to:

- Failure to make procurement plans public,
- Untimely submission of vouchers,
- Excessive phone charges,
- No rules for development of prequalified supplier lists,
- Failure to submit reports,
- Untimely filing of statement of economic interests, and
- Improper timekeeping practices.

We will review the Agency's progress towards implementing our recommendations during the next audit period.

### **AUDITORS' OPINION**

The Illinois Power Agency did not provide financial statements and note disclosures to the auditors. Consequently, our auditors were unable to perform a financial audit and issue an opinion

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**Financial Audit could not be performed**

thereon. Further, we were unable to issue a “Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards” since a financial audit could not be performed.

Additionally, the Independent Accounts’ Report on State Compliance, on Internal Control Over Compliance, and on Supplementary Information for State Compliance Purposes contains a disclaimer. The pervasive issues were so significant that an Auditors opinion could not be issued.

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**Auditors could not issue an opinion on State Compliance Attestation Examination due to pervasive issues**

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WILLIAM G. HOLLAND, Auditor General

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**SPECIAL ASSISTANT AUDITORS**

Kerber, Eck & Braeckel, LLP were our special assistant auditors for the engagement.

