

STATE OF NORTH CAROLINA

SPECIAL REVIEW

**ROBESON COUNTY
DISPUTE RESOLUTION CENTER, INC.**

LUMBERTON, NORTH CAROLINA

MARCH 1999

OFFICE OF THE STATE AUDITOR

RALPH CAMPBELL, JR.

STATE AUDITOR

SPECIAL REVIEW

**ROBESON COUNTY
DISPUTE RESOLUTION CENTER, INC.**

LUMBERTON, NORTH CAROLINA

MARCH 1999

LETTER OF TRANSMITTAL

March 4, 1999

The Honorable James B. Hunt, Jr., Governor
The Honorable Burley B. Mitchell, Jr., Chief Justice
State Supreme Court
Ms. Jeanne M. Bonds, Deputy Director
Administrative Office of the Courts
Mr. Richmond H. Page, Former Board Chair
Robeson County Dispute Resolution Center, Inc.
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to General Statute §147-64.6(c)(16), we have completed our special review into allegations concerning the Robeson County Dispute Resolution Center, Inc. The results of our review are contained in this report.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with that mandate, and our standard operating practice, we are providing copies of this special review to the Governor, the Attorney General and other appropriate officials.

Respectfully submitted,

Ralph Campbell, Jr., CFE
State Auditor

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OVERVIEW

In 1988, Robeson County Dispute Resolution Center, Inc. (RCDRC) incorporated as a non-profit organization in Lumberton, North Carolina to provide dispute resolution services to citizens in Robeson County. Based on records obtained from RCDRC, the center was established following the issuance of the North Carolina Commission of Indian Affairs' 1987 report concerning the treatment of Native Americans. According to this report, Native Americans living in Robeson County "were shown to be under-represented and disparately treated by the criminal justice system." One of the report's recommendations was the establishment of a dispute resolution center in Robeson County.

Our review focused on RCDRC's activities since July 1995. Since that date, the General Assembly has awarded a special State appropriation of \$39,166 to RCDRC for the provision of dispute settlement services in Robeson County for each of the fiscal years 1995-96, 1996-97, and 1997-98. RCDRC received these appropriations through the Administrative Office of the Courts.

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INTRODUCTION

In October 1998, we received a request from the Administrative Office of the Courts (AOC) to review the financial activities of the Robeson County Dispute Resolution Center, Inc. (RCDRC). AOC's written request included the following information:

- During the fiscal year 1997-98, the General Assembly appropriated \$39,166 to RCDRC for the provision of dispute settlement services. RCDRC received these funds through AOC.
- RCDRC requested its 1997-98 State appropriation on February 26, 1998; however, AOC delayed disbursing these funds due to concerns about whether RCDRC was actually providing services. These concerns were based on RCDRC's activity report submitted to AOC for the fiscal year 1996-97. This activity report did not contain information on the RCDRC's settlement activity. Additionally, the newly employed Executive Director had informed AOC he could not locate records related to RCDRC's dispute settlement services provided prior to his employment.
- Prior to disbursing the 1997-98 State funds, AOC contacted several court officials and other individuals involved with RCDRC. The overall assessment received was that while RCDRC had been largely inactive in recent years, they were optimistic that the center could be revived. AOC disbursed the entire State appropriation on March 5, 1998.
- On May 6, 1998, RCDRC's Board Secretary informed AOC the Executive Director had resigned. On June 5, 1998, the Board Secretary informed AOC the Board Chair had resigned. Additionally, the Board Secretary informed AOC she did not believe RCDRC could resume services due to the lack of interest expressed by other board members.
- On July 7, 1998, AOC requested RCDRC to return its 1997-98 State appropriation.
- On October 5, 1998, AOC met with the Board Secretary and learned RCDRC had spent a portion of its 1997-98 State appropriation, may have failed to file tax returns in prior years, and may have failed to withhold employment taxes.

INTRODUCTION (CONTINUED)

Since its inception, RCDRC has employed three Executive Directors. According to a former Board Chair, RCDRC employed the first Executive Director for only a brief period. RCDRC employed the second Executive Director (Executive Director #2) through November 1996, and the third Executive Director (Executive Director #3) from March 26, 1997 through April 30, 1998. Additionally, the composition of the Board changed with the employment of Executive Director #3. On March 26, 1997, two board members held a meeting with six other individuals. According to the board minutes, all visitors were appointed to the Board, and new officers were elected. Only three of the board members who served prior to 1997 remained on the Board following the March 1997 meeting, and one of those board members resigned during the April 30, 1997 board meeting.

According to the board members we interviewed who served prior to 1997, they could not recall the last board meeting held before 1997. The Board Chair stated the last meeting he attended was prior to May 1995, but he could not remember the date. The Board Treasurer stated she had not attended a board meeting since 1992 or 1993, and thought the Board had ceased its activities during those years. This Board Treasurer attended the March 1997 meeting, but resigned from the Board during the April 30, 1997 meeting. According to a board member who served prior to 1997 and was elected the Board Chair in March 1997, he could not locate minutes of Board meetings held prior to 1997, and his own documentation indicated no Board activity from 1991 through 1996.

INTRODUCTION (CONTINUED)

Following the Board's re-organization in March 1997, the Board continued to hold monthly meetings through February 1998. Based on conversations with several board members, the Board ceased meeting in February 1998 and resignation letters indicate Executive Director #3 resigned in April 1998, and the Board Chair resigned from the Board in May 1998.

Our review of RCDRC included the period July 1995 through October 1998. However, RCDRC could not provide us with board minutes or complete supporting documentation for expenditures from July 1995 through December 1996. According to board members interviewed, Executive Director #2 stated client and financial records were stored in RCDRC's computer. Further, Executive Director #2 claimed the computer sustained water damage in September 1996 during Hurricane Fran, resulting in the destruction of the records stored in the computer.

The Office of the State Auditor began its special review of RCDRC's records on November 2, 1998. We used the following procedures to conduct our review of the available records:

1. Interviews with individuals who served on RCDRC's Board prior to 1997, and individuals who served on RCDRC's Board following March 1997.
2. Interviews with former RCDRC employees. However, we were unsuccessful in our attempts to contact Executive Director #2.
3. Interviews with individuals external to RCDRC.
4. Review of minutes that were available from RCDRC's Board meetings.

INTRODUCTION (CONCLUDED)

5. Examination of supporting documentation for RCDRC's expenditures.
6. Examination of correspondences between RCDRC and AOC.
7. Examination of other records pertaining to RCDRC.

This report presents the results of our Special Review conducted pursuant to G.S. §147-64.6(c)(16), rather than as a financial audit.

FINDINGS AND RECOMMENDATIONS

1. ALTHOUGH RCDRC RECEIVED \$117,498 IN STATE FUNDS DURING A THREE-YEAR PERIOD, WE COULD NOT DETERMINE RCDRC PROVIDED SERVICES.

From July 1995 through June 1998, RCDRC received State funds totaling \$117,498 to provide dispute settlement services in Robeson County. However, we could not confirm RCDRC actually provided any services. During this period, RCDRC employed one executive director (Executive Director #2) from July 1995 through November 1996, and another executive director (Executive Director #3) from April 1997 through April 1998. Additionally, the composition of the Board changed with the employment of Executive Director #3. Only two board members who served on the Board proceeding April 1997 actually served in prior years.

The Board Chair who served during the employment of Executive Director #2 stated he thought the Executive Director had provided mediation services. However, he did not know who received the services, when the services were provided, nor could he recall the last board meeting he attended.

Although the 1995-96 Annual Activity Report submitted by Executive Director #2 to the Administrative Office of the Courts (AOC) indicates 770 clients received services from RCDRC during that year, we could not confirm RCDRC actually provided these services. We spoke with Robeson County officials from the District Attorney's Office, Magistrate's Office, Superior Court Office, and District Court Office.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

According to these officials, they did not refer any cases to RCDRC for mediation services nor were they aware of any dispute settlement services provided by RCDRC during the period of our review. We attempted, but were unable to contact Executive Director #2 during our review, nor were we able to review documentation on the services provided by RCDRC during 1995-96. According to the board members we interviewed, Executive Director #2 informed the Board that financial and client information were stored in RCDRC's computer. However, according to these board members, Executive Director #2 stated the computer sustained water damage during Hurricane Fran, preventing the retrieval of any stored information. Further, according to the Board minutes from April 10, 1997, Executive Director #2 told the Board the computer was antiquated, inoperable, and not worth the cost of repair. The Board members we interviewed stated they did not view the damaged computer.

Although Executive Director #3 was employed from April 1997 through April 1998, the Annual Activity Reports submitted for 1996-97 and 1997-98 listed only one individual as having received dispute settlement services. According to Executive Director #3, he saw his job duties as obtaining grants from other non-governmental sources and getting acquainted with officials serving in the local justice system.

2. RCDRC CHECK WRITING PROCEDURES WERE NOT FOLLOWED.

We reviewed checks that cleared RCDRC's checking accounts from July 1995 through October 1998. Although RCDRC's Corporate Bylaws stipulated the Board Chair and one other authorized Board member or RCDRC's Executive Director's

FINDINGS AND RECOMMENDATIONS (CONTINUED)

signature on each check, checks were often signed by only one individual. From July 1995 through December 1996, only one authorized signature appeared on each check reviewed. The authorized signature belonged to the Board Chair. According to the Board Chair, Executive Director #2 brought the checks to his place of business for his signature. After signing the checks, the Board Chair stated he assumed Executive Director #2 took the checks to the Board Treasurer's place of business for her signature. However, the Board Treasurer stated she had not signed a check since 1992 or 1993, and thought RCDRC had ceased its activities during those years. The Board Chair stated he never reviewed bank statements or canceled checks, nor did he review supporting documentation prior to signing checks. As previously stated, we were unsuccessful in our attempt to contact Executive Director #2 during our review.

From April 1997 through April 1998, during the employment of Executive Director #3, twenty-two checks contained only one authorized signature. Each of these signatures belonged to Executive Director #3. According to Executive Director #3, he was not sure two signatures were required for checks. However, both RCDRC's Corporate Bylaws and the minutes from the March 1997 Board meeting discussed the two-signature requirement.

3. FOLLOWING THE EXECUTIVE DIRECTOR'S RESIGNATION, HIS INSURANCE PREMIUMS CONTINUED TO BE DRAFTED FROM RCDRC'S ACCOUNT.

According to a former Board Chair, Executive Director #2 resigned in late 1996. The review of canceled checks indicates the last monthly salary paid to Executive Director

FINDINGS AND RECOMMENDATIONS (CONTINUED)

#2 was November 1996. However, Executive Director #2's monthly insurance premiums of \$199 continued to be drafted from RCDRC's checking account through April 1997. According to the former Board Treasurer, she contacted the bank and cancelled the drafts in April 1997. The April 1997 draft was returned to RCDRC's account on April 22, 1997. Although the April 10, 1997 board minutes "acknowledged a responsibility to attempt to recover drafts for January, February and March which had occurred after the resignation of the director," the minutes from the proceeding Board meetings did not address the drafts nor any additional action taken by the Board to recover the funds. Further, the Board minutes did not address the draft from December 1997. RCDRC's bank statements did not list a deposit in which the drafts from December 1996 through March 1997 were returned to RCDRC's account.

4. RCDRC FAILED TO ISSUE WAGE AND TAX STATEMENTS TO INDIVIDUALS EMPLOYED IN 1997.

Based on RCDRC's records, a former office assistant employed from May 1997 through September 1997 received a salary of \$1,594, and Executive Director #3 received a salary of \$18,000 in 1997. However, we were unable to locate any documentation indicating RCDRC issued a Form W-2, Wage and Tax Statement, to these employees. According to RCDRC's Executive Director #3, it was his responsibility to complete and submit the Wage and Tax Statements for RCDRC's employees. However, he stated he did not prepare these forms.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

5. RCDRC'S CONTRACTUAL AGREEMENTS WITH BOARD MEMBERS GIVES THE APPEARANCE OF A CONFLICT OF INTEREST.

During our review, we determined that Executive Director #3 employed by RCDRC in March 1997 and the office assistant employed in May 1997 served simultaneously as members on RCDRC's Board. According to Executive Director #3, he made it a condition of his employment to be a board member. The minutes from the March 26, 1997 board meeting indicate Executive Director #3 was first appointed to the Board, and then employed as the Executive Director. The minutes from the April 9, 1997 board meeting indicate the board members present, including Executive Director #3, agreed to pay Executive Director #3 a salary of \$2,000 per month. A second individual, who was appointed the Board Treasurer during the April 30, 1997 board meeting, was employed as a temporary office assistant during May 1997. However, the board minutes did not address the board member's employment, her rate of pay, or the services to be provided.

6. RCDRC FAILED TO OBTAIN THE REQUIRED PERCENTAGE OF MATCHING FUNDS.

According to the Administrative Office of the Courts (AOC), RCDRC was required to obtain fifty percent of its total budget for the fiscal year 1997-98 from sources other than the State appropriation. During 1997-98, RCDRC received a State appropriation of \$39,166. However, based on the 1997-98 Annual Activity Report submitted to AOC, RCDRC only obtained \$741.17 of non-state funding, not the required \$39,166.

FINDINGS AND RECOMMENDATIONS (CONCLUDED)

7. RCDRC COULD NOT PROVIDE DOCUMENTATION TO SUPPORT \$2,565.50 PAID TO EXECUTIVE DIRECTOR #2.

We were unable to obtain supporting documentation for the following seven checks written to Executive Director #2:

<u>Check Number</u>	<u>Date of Check</u>	<u>Date Processed</u>	<u>Amount Of Check</u>	<u>Description On Check</u>
550	09/25/95	09/28/95	\$ 225.75	Mileage
552	09/30/95	10/09/95	434.75	Three months mileage (1739 miles @ 25¢
560	10/30/95	11/03/95	363.75	
565	04/30/96	05/03/96	253.75	Conference and travel
566	11/30/95	12/26/95	367.25	Mileage for November
581	06/30/96	10/03/96	583.50	Travel/working/lodging & meals
1009	11/30/96	04/14/97	336.75	Mileage through July 1996

Although documentation on six of the checks indicated some type of travel reimbursement, we were unable to determine the sites visited by Executive Director #2 or the conferences attended. The former board members we interviewed were unable to provide us with information about these checks. Additionally, we could not locate board minutes taken during this period, nor confirm board meetings were actually held approving the Executive Director's travels. According to the Board Treasurer who served during Executive Director #2's employment, although Executive Director #2 ceased working for RCDRC in late 1996, the checkbook remained in Executive Director #2's possession until April 1997. Two of the checks (checks 581 and 1009) were processed by the bank months after the dates on the checks, giving an appearance that the checks were post dated. Further, check 1009, dated November 30, 1996, was not processed by the bank until April 14, 1997, only a few days following the return of the checkbook to RCDRC's Board.

CONCLUSION

Currently, RCDRC is no longer operating its dispute settlement center. The Board ceased meeting in February 1998, Executive Director #3 resigned in April 1998, and the Board Chair resigned in May 1998. On October 28, 1998, the General Assembly eliminated RCDRC's fiscal year 1998-99 State appropriation, and plans to review the viability of RCDRC prior to restoring funding for the Center in the fiscal year 1999-2000. However, based on our review, it appears very little, if any, services were provided by RCDRC from the appropriations received in fiscal years 1995-96 through 1997-98. In addition, there was such little involvement in the program by the Board that employees continued to expend state funds and not perform any productive services. Therefore, we recommend no additional state funds be provided to this particular organization.

As of November 30, 1998, RCDRC's checking account balance totaled \$36,058.96. As of the writing of this report, one check for \$15.00 had not cleared the account. The difference in the amount awarded to RCDRC on March 5, 1998 (\$39,166) and the current balance is due to salary payments, utility expenses, office rental payments and other miscellaneous expenses. We recommend the Administrative Office of the Courts (AOC) obtain the remaining funds from the Center.

And finally, we must note that the findings in this report are not isolated. In addition to requesting this special review, AOC requested an earlier review of the Cumberland County Dispute Resolution Center, Inc. This led to a report issued by this office in

CONCLUSION (CONCLUDED)

October of 1998 in which we questioned \$64,342 of expenditures, for many of the same reasons discussed in this report. AOC's concerns regarding a third center were referred to a private certified public accountant for assistance. In our opinion, accountability over these grants would be improved by requiring the centers to undergo financial monitoring, presumably by the agencies disbursing the funds. However, in the past, AOC has not been granted such authority, but has served only as a "pass-through."

We recommend that future appropriations to dispute resolution centers be subject to meaningful monitoring of the recipients, and that funds not be disbursed to agencies that have not delivered services or safeguarded public funds.

Statement of Financial Impact

The following schedule represents a quantification of the items examined during our special review. We cannot completely quantify the tangible benefits or detriment, if any, to the taxpayer resulting from the findings of our review. We are simply noting these areas where the system of internal controls were either circumvented or should be enhanced, or where, in our judgment, questionable activities or practices occurred.

Since Robeson County Dispute Resolution Center, Inc. was unable to provide complete documentation of any dispute settlement services provided, we question the expenditure of the entire State appropriations for fiscal years 1995-96 through 1997-98.

1. State appropriation awarded for the fiscal year 1995-96.	\$ 39,166
2. State appropriation awarded for the fiscal year 1996-97.	39,166
3. State appropriation expended for the fiscal year 1997-98, as of November 30, 1998.	<u>3,107</u>
Total Financial Impact	<u>\$ 81,439</u>

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*Response from the Former Board Chair
Robeson County Dispute Resolution Center*

**ROBESON COUNTY DISPUTE RESOLUTION CENTER
Lumberton, NC 28358**

March 1, 1999

**State of North Carolina
Office of the State Auditor
300 N. Salisbury Street
Raleigh, NC 27603-5903**

Attention: Ray Mozingo Fax 919 733-8443

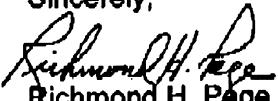
Re: Special Review of the Robeson County Dispute Resolution Center

This will acknowledge receipt of the Special Review. I forwarded it to the Secretary and upon your call have spoken with her.

I can not confirm that all members of the Board have had an opportunity to see and review the report. Since I left the Board due to family reasons I can not speak for the full Board; however, from my conversation with the Secretary, the Center is no longer functioning (or attempting to function) and therefore (1) no additional state funds would be requested or should be provided and (2) the Center should return all funds it holds to the AOC or other appropriate State agency upon directions from you. This is in agreement with the conclusions of your report.

In defense of the Board, I believe it tried to establish a viable center but that the community resources and needs were not adequate to support a center. A regional center of several counties with a satellite office in each county may be a way establishing a viable center.

I assume no response will be made by the full Board.

Sincerely,

Richmond H. Page
Former Board Chair

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DISTRIBUTION OF AUDIT REPORT

In accordance with G.S. §147-64.5 and G.S. §147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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The Honorable Michael F. Easley	Attorney General
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Mr. Thomas L. Covington	Director, Fiscal Research Division

March 4, 1999

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