Mike Harmon
Auditor of Public Accounts

April 7, 2021

Michael G. Adams, Secretary of State
Office of the Kentucky Secretary of State
700 Capital Avenue
Suite 152
Frankfort, KY 40601

Dear Secretary Adams,

On August 3, 2020, the Auditor of Public Accounts (APA) initiated a special examination of the Kentucky Office of the Secretary of State (SOS) in response to your request. The examination evaluated the administrative practices and fiscal management of the SOS Office. The purpose of this examination was not to provide an opinion on the financial statements or duplicate work of routine financial statement audits, but to evaluate the operational structure of the SOS Office, including the process followed to share resources, information, and other assets with the State Board of Elections (SBE).

To address the objectives of this examination, the APA interviewed various SOS and SBE personnel, as well as reviewed and analyzed numerous documents, including, but not limited to contracts, emails, grants, state laws affecting the SOS's Office, inventory records, vendor payments, and other information. Unless otherwise specified, examination procedures focused primarily on activity between January 1, 2018, and June 30, 2020, covering a portion of two separate administrations. The former SOS served this office from January 2, 2012 until January 6, 2020, when the current SOS came into office.

Findings

Three findings emerged from the examination and are presented in this letter, along with corresponding recommendations.

Finding 1: Seventy-Six percent of SOS expenditures sampled appear unallowable based on Finance and Administration's Use of Public Funds Policy FAP 120-23-00.

For the period of July 1, 2017, through June 30, 2020, 21 vendor transactions relating to 15 individual vendors were selected for review based on the criteria set forth in Finance and Administration Policy (FAP) 120-23-00. Of the 21 vendor transactions reviewed, 16 expenditures

(76%) were considered unallowable based on this criteria. In addition, the SOS Office did not maintain adequate documentation, such as names of attendees at events sponsored or a detailed invoice, for three of the unallowable transactions identified. A complete list of the 16 vendor transactions considered unallowable appears in Table 1.

Table 1: Unallowable Transactions Identified in Expenditure Review Sample of SOS Spending Between FY 2018 and FY 2020, Along with Issues Noted by Transaction

Fiscal Year	Vendor	Amount	Issue Noted
FY 2018	A Taste of Kentucky	$ 249.50	Unallowable (Donation), Lack of Detailed Support
FY 2018	Alpha Phi Alpha Fraternity INC.	$ 1,000.00	Unallowable (Donation), Lack of Detailed Support
FY 2019	Alpha Phi Alpha Fraternity INC.	$ 50.00	Unallowable (Donation), Lack of Detailed Support
FY 2020	Amy Campbell Photo	$ 746.03	Unallowable (Unnecessary or Unreasonable in Nature)
FY 2018	East Middle School	$ 250.00	Unallowable (Donation)
FY 2018	Eric Sexton	$ 1,000.00	Unallowable (Donation)
FY 2019	Girl Scouts of Kentuckiana	$ 250.00	Unallowable (Donation)
FY 2018	Kentucky Historical Society	$ 200.00	Unallowable (Donation)
FY 2019	Kentucky Historical Society	$ 250.00	Unallowable (Donation)
FY 2020	Kentucky Historical Society	$ 250.00	Unallowable (Donation)
FY 2020	Kentucky Pro Football Hall of Fame	$ 820.80	Unallowable (Donation)
FY 2019	Milam House	$ 329.60	Unallowable (Flowers)
FY 2020	Milam House	$ 53.00	Unallowable (Flowers)
FY 2019	MSU Craft Academy	$ 693.52	Unallowable (Donation)
FY 2018	Salama Limousine INC.	$ 800.00	Unallowable (Unnecessary or Unreasonable in Nature)
FY 2020	South Hill Gallery LTD	$ 225.69	Unallowable (Retirement Gift)
	Total	**$ 7,168.14**	

Source: APA, based on documentation provided by the Office of the Secretary of State.

The Finance and Administration policy for the use of public funds, FAP 120-23-00, states, in part, "[e]xpenditures of public funds shall only be allowed for carrying out the statutory responsibilities of the agency. Expenditures shall be reasonable in amount, beneficial to the public and not personal in nature." Furthermore, FAP 120-23-00 specifically identifies certain types of expenditures as unallowable including employee retirement gifts (excluding inexpensive plaques with no resale value), flowers, and donations (in accordance with Kentucky Constitution Section 177).

As identified in Table 1, unallowable expenditures identified in this review included 11 donations, two expenditures for the procurement of flowers, a single retirement gift, and two expenditures which appear unnecessary or unreasonable based on the nature of the expense.

Regarding the unnecessary or unreasonable expenditures identified in the sample examined, one instance relates to a private photography session for promotional photographs of the current SOS, totaling $746 in June 2020. SOS Office staff confirmed that the vendor was selected without inquiry to others, including state agencies to determine if similar services could be provided as a lower cost option. The other instance relates to travel by the former SOS and the former Assistant SOS in September 2017 while attending a portion of the UN General Assembly Week in New York. Travel cost for an SUV rental totaled $800. Per 200 KAR 2:006, Section 8, an elected constitutional officer is eligible for reimbursement of actual and necessary expenses incurred in connection with official business travel. SOS Office staff indicated there is no documentation as to why the former SOS and former Assistant SOS attended UN General Assembly week. The purpose of attending this event appears unclear in relation to the SOS agency and its official business purpose.

In addition to unallowable expenditures, the SOS Office did not consistently maintain adequate documentation to support all expenditures. Of the 21 expenditures reviewed, one expenditure lacked adequate supporting documentation and two omitted details concerning the individuals participating or attending the events associated with the expense. Maintaining adequate documentation to support expenditures provides greater accountability to the public and ensures agency funds are appropriately used.

We recommend the SOS ensure all expenses incurred with public funds are allowable under FAP 120-23-00, for official business purposes, and provide a public benefit. We also recommend the SOS Office staff maintain adequate documentation to fully support not only the expense itself, but the purpose and use as well.

Finding 2: The SOS Did Not Follow FAC Physical Inventory Procedures.

Inaction of both the current and prior SOS Offices has resulted in inaccurate inventory data recorded in the Commonwealth's accounting system (eMARS). During the prior administration, the SOS Office initially failed to capture in the inventory records SOS property valued at approximately $71,880, which the agency received as a donation. SOS Office staff then failed to fully follow the Finance and Administration Cabinet's (FAC) procedures while conducting the annual physical inventory observation for FY 2020. Required tasks such as observing each item on the report, placing notations on the inventory report as confirmation of the observation of each asset, and removing lost inventory from the eMARS system were not completed by staff. In addition, SOS Office staff failed to remove from the eMARS inventory all state-owned property that had been donated by the agency as of February 23, 2021.

A SOS Office staff member stated that the Kentucky Democratic Party donated 120 Surface Pro 3 Tablets to the SOS Office, possibly as early as 2012, to assist with the registration of voters, but the SOS Office has no documentation confirming the source of the tablets or exact date of the donation. It was not until October 2016 that the SOS Office staff member responsible for inventory states they became aware of the tablets and the tablets were added to the official inventory record. As such, it is not known how long the tablets were in possession of the SOS Office under the former administration before the tablets were properly added to its inventory listing.

The SOS Office staff also failed to physically observe each asset on the inventory listing, including the Surface Pro 3 tablets. According to the staff interviewed, each individual tablet was not verified since a portion of these tablets were to be donated or surplused after June 2020, when the inventory observation was to be completed. This oversight resulted in the SOS Office reporting inaccurate eMARS inventory data for FY 2020, as assets no longer in the possession of the SOS Office remained on their inventory listing. Additionally, the SOS Office's inventory included only 118 of the 120 Surface Pro 3 tablets originally received. Staff believe this discrepancy is due to the use of duplicate asset tag numbers involving two pairs of tablets.

A February 23, 2021 review of the SOS Office's inventory listing in eMARS provided evidence that staff had not removed three of the 53 tablets donated by the SOS between August 2020 and October 2020 from the SOS Office's inventory report. Additionally, 46 of the 47 tablets declared missing remained on the inventory as well, in violation of FAP 120-11-00, which requires that "[s]tate-owned property that has been lost and cannot be established as having been stolen shall be removed from the agency's inventory." It is unclear as to why these tablets are improperly accounted for in eMARS, and no documentation explaining the loss, as required by FAC and FAP 120-11-00, exists.

We recommend assets deemed missing or unaccounted for are appropriately documented as required by FAP 120-11-00. Furthermore, these assets should be removed from eMARS in a timely manner to avoid inventory errors. We also recommend the SOS Office adhere to the FAC's Physical Inventory Procedures, including ensuring each asset listed on the inventory report has been physically observed and all information on the report is complete and accurate. Once complete, the SOS Office should ensure all required documentation as delineated in FAC's Physical Inventory Procedures is submitted.

Finding 3: The SOS Office Did Not Follow State Procedures When Donating State-Owned Property.

SOS Office staff did not follow FAP 220-19-00 and COVID-19 interim practices when donating computer tablets in 2020. SOS Office staff indicated that the Surface Pro 3 Tablets received by the SOS Office early into the former SOS's administration were used for voter registration drives and some had been loaned to entities at different times over the years. The tablets were kept locked in an executive staff office with other unused items. Regarding past practices, current SOS Office staff are unaware if the prior SOS and her staff maintained a record of the loans to entities or to past and present SOS Office staff. The current SOS Office has only loaned the tablets once during their tenure (to the State Board of Elections) and those tablets were since returned.

In 2020, the SOS donated 53 of these Surface Pro 3 Tablets. Of the 53 tablets donated, 50 were donated in August 2020 to a high school, which is an approved recipient of surplus property, and three were donated in October 2020 to a nonprofit organization, both of which are located in Lexington, Kentucky. SOS personnel stated that no money was exchanged for the tablets donated in either instance. FAC requires that a unit of local government such as a school or a nonprofit organization must be approved by the Division of Surplus Properties (Division) in order to receive surplus state-owned personal property. The nonprofit organization that received three tablets from the SOS Office has not been approved by the Division to receive surplus property.

FAP 220-19-00 requires state agencies, that have not been delegated authority to declare and dispose of their own property, to submit a request to dispose of state-owned property to the Division of Surplus Property to be subsequently approved by the FAC Secretary. Additionally, a *State-Owned Personal Property Declared Surplus Form* must be submitted to the Division for property to be disposed of in a method other than surrendering the item or items to the Division's warehouse. It does not appear that the SOS or the SOS Office has been delegated authority by the FAC Secretary, as no documentation confirming that authority has been identified.

The Division ceased accepting items for disposal at their warehouse in March 2020 due to COVID-19 concerns; however, the agency still expected agencies like the SOS Office to submit a *State-Owned Personal Property Declared Surplus Form* when disposing of an item themselves. Submitting the form allows the agency to receive a declared surplus number for their records in order to remove the item from their inventory. According to personnel at the Division, there is no official record of the SOS Office disposing of property between January 1, 2018, and February 23, 2021, as the SOS Office has not submitted a *State-Owned Personal Property Declared Surplus Form* during this time period. However, SOS Office staff did dispose of property by donation on at least two occasions during this period, and one recipient of items had not been preapproved by the Division to receive surplus state-owned personal property, as required by FAP 220-19-00.

We recommend the SOS Office staff follow FAP 220-19-00 when disposing of state-owned personal property. Should the SOS wish to seek delegated authority in this area, the official should consult with the FAC Secretary. We also recommend that if the SOS Office continues to loan the remaining tablets or other equipment to outside entities it be for a public purpose and the SOS maintain a record of the loan noting at a minimum the Serial Number, Fixed Asset Number, date of the loan, purpose of loan, name of receiving party, contact information for recovering the tablet, and expected date for return. This record of the loan should also be signed by the recipient of the loaned equipment and an official of the SOS acknowledging the loan and any expectations or restrictions of use.

Observation

In addition to the findings of this letter, certain past practices or areas of interest were identified by the current SOS administration to be considered during this examination. Limited procedures were performed in these areas. Information collected in one area reviewed is presented in this report as an observation, along with related recommendations.

Observation 1: Shared Resources between the SOS and the SBE.

The passage of House Bill 114 in 2019 transferred certain responsibilities previously controlled by the SOS and SOS Office to the SBE. However, the two agencies continue to share certain resources, which include the SOS Office's Human Resources (HR) Director and one Information Technology (IT) position at the SBE. As was the case prior to House Bill 114, the agencies failed to develop written policies or an agreement regarding how the resources would be shared, an oversight which could lead to misunderstandings, conflicts of interest, and inaction.

According to interviews with staff from both the SOS Office and the SBE, the two agencies share an HR Director with Kentucky Registry of Election Finance (KREF). The current HR Director has served in this capacity since February 16, 2013. As HR Director at the three agencies, her duties include, but are not limited to, hiring, retirement, termination, insurance and benefits, new employee orientation, payroll processing, KHRIS administrator, registering requests when a vacancy occurs, and assisting with writing position descriptions for each agency. In addition to those HR duties, the current HR Director has served as the Budget Director for SOS since late 2014. Those duties include drafting the biennial budget, forecasting, and recording budget-to-actual information at the end of every month.

The HR Director's salary is the only expense that the SOS bills to SBE and KREF. Her salary, however, is not allocated equally between the three organizations, as SOS pays 75%, and SBE and KREF each pay 12.5%. This division of the HR Director's salary has been in place since at least 2012. However, there is no true record of the time allocation, as the HR Director does not account for each separate agency's duties on a timesheet or otherwise record the share of her work time attributable to SOS, SBE, or KREF.

While not documented in writing, the current HR Director stated that her role, and the guidance provided on approaching her responsibilities and lines of authority, have not been affected due to the change in administration or the passage of House Bill 114. She continues to perform her duties for SOS, SBE, and KREF and reports separately to each of the three agencies' executive directors. Without clear, written documentation of both the expectations and lines of authority related to this position, the three agencies may have inconsistent or unmet expectations. In addition, misunderstandings, conflicts of interest, and inaction may occur when the viewpoints or goals of one or more of the agencies' executive directors differ from another, placing the HR Director in a precarious position.

The second shared resource is an IT position being paid from funds made available through a Federal Voting Assistance Program (FVAP) grant. This federal grant primarily funds opportunities to improve the voting experience of both overseas and military voters. The SOS Office applied for, was awarded, and administered this grant awarded September 30, 2013; however, passage of House Bill 114 on March 19, 2019, transferred from the SOS to the SBE all responsibilities for the Military and Overseas Voting Portal. As the FCAP grant recipient, the SOS Office continued to pay for the IT position assigned to work for SBE on this portal. The current IT position was filled in May 2020 and was provided a clear line of supervision leading up to the SBE Executive Director. As this grant expired on December 31, 2020, no further discussion is warranted.

We recommend the SOS consider developing a written MOU between the SOS, SBE, and KREF to establish an effective set of operational and governing policies related to shared resources. The MOU would serve to provide clear guidance regarding lines of authority, job expectations, and responsibilities to each agency. It may also address concerns of conflict of interest in priorities and work performance, as well as document the agreed financial terms between each agency.

We appreciate your assistance, and the assistance of your staff and members of your administration throughout the examination. If you have any questions regarding this letter, please contact me, or Tiffany Welch, Executive Director, at (502) 564-8541.

Thanks and God Bless,

Mike Harmon
Auditor of Public Accounts

cc: Jennifer Scutchfield, Assistant Secretary of State and General Counsel