



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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**Harmon Releases Audit of Marshall County Sheriff's Office**

**FRANKFORT, Ky.** – State Auditor Mike Harmon today released the audit of the 2015 financial statement of Marshall County Sheriff Kevin Byars. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account, and the other reporting on the audit of the fee account used to operate the office.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements, and excess fees of the Marshall County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 sheriff audits in Kentucky.

As part of the audit process, the auditor must comment on non-compliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments:

**The Marshall County Sheriff's Office violated state statute by contracting with private entities.** The Marshall County Sheriff's Office received funds from two private entities doing business in Marshall County. These companies wanted a security presence at their respective locations. Under the advisement of a third-party agency, the Marshall County Sheriff's Office billed these private entities for services rendered by the sheriff's office.

KRS 64.410(2)(b) prohibits the sheriff or a sheriff's deputy, acting in his or her official capacity, from receiving any fee for his or her services unless the law has authorized and fixed a fee for the services. In addition, KRS 61.310(2) and (4) state, in part, that a peace officer, including a sheriff and his or her deputies, "shall not receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty," except that "[a] peace officer may, while in office, and during hours other than regular or scheduled duty hours, act in any private employment as a guard or watchman or in any other similar or private employment."

By billing and receiving funds from private entities for services provided by the sheriff's office, the sheriff was not in compliance with KRS 64.410(2)(b) or KRS 61.310. As a result, we recommend the sheriff comply with said statutes by not contracting with private entities to provide law enforcement services. If the sheriff chooses to allow deputies to contract directly with private entities to serve as a guard or watchman during off-duty hours, office policies need to be in place to address the use of county equipment and off-duty deputies in uniform.

*Sheriff's response: This has been an ongoing controversy for the last several years. The KSA Director has been talking with the State Auditor's Office for the last couple of years and it was stated at our Sheriff's Conference in 2015 that we can contract with entities that are subcontracted by the KY State Transportation Cabinet as was done in 2015. The Sheriff's Office was following a recommendation from the Department of Local Government on how to compensate our Deputies. Also the KRS 61.310 defines "peace officer" as any sheriff, deputy sheriff, constable, deputy constable, patrol or any other peace officer or deputy peace officer as well as KRS 446.010(31) defines it as sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests. Which means in my opinion that City Police, State Police, KY Fish and Wildlife Officers and anyone who has arrest powers are ineligible as well, but yet all of these entities throughout the State with the exception of Deputy Sheriff's are allowed to do this and are and have been paid through their employer as overtime and the contractor pays the entity. I have been told that myself by several Chiefs of Police throughout the state of KY, I have been told that by Troopers working Interstate details just like we have been doing. Most of the I have talked with Chiefs have universities in their town and special events are very often and Campus Police do not have enough, so they are contracted to help them out, as well as several National Events held in our State where several 100,000 people attend and that event has contracted police officers as well as KSP and they have been compensated as I have been told. I do not care how this is handled, matter of fact we have corrected the issue in 2016 as has been recommended by your office and are in compliance and will continue to do so, but the inconsistency of the use of this statute is very disturbing to me and other Sheriff's across this State as we are being singled out and yet everyone else is allowed to do this. Deputy Sheriff's as a whole are some of the lowest paid Law Enforcement Officers in the State. All I am asking is to be fair across the board, if I am asked to not do this, then as statute defines, all "peace officers" are not to do it, and if there are State entities and municipality entities continuing to operate this way, you audit them the same and make them change as well.*

Auditor's response: It is the role of the Auditor of Public Accounts (APA) to audit for compliance with state statutes, including KRS 64.410 and KRS 61.310. The applicability of the statutes in these circumstances is clear, and the APA strives to provide consistent recommendations on all audits conducted by our staff. If the Kentucky Sheriffs' Association desires a change to these

statutes, such a change can only be effected by legislative action and is outside the purview of the APA.

**The Marshall County Sheriff failed to fulfill payroll obligations on a timely basis.** The Marshall County Sheriff's Office did not disburse payroll amounts to the fiscal court on a timely basis. Under the current system, the county processes and distributes the sheriff's office payroll with the expectation of timely reimbursement. The sheriff did not require the bookkeeper to pay payroll in a timely manner. The sheriff's practice of untimely payments to the county for payroll causes difficulties on the part of the county in maintaining a balanced payroll fund. Proper internal controls over cash and cash balances include the monitoring of financial obligations. Management's failure to properly monitor these activities can result in financial obligations going unpaid. We recommend the sheriff implement monitoring procedures over cash and cash balances and reimburse the fiscal court for payroll on a timely basis.

*Sheriff's response: As all Sheriff's Offices in the State of KY that operate on a fees budget, we were not able to pay the Fiscal Court back in a timely manner because of no income coming in until tax season. This has been addressed by the Marshall County Fiscal Court and voted to fee pool starting January 1, 2016 as recommended by your office.*

Auditor's response: Fee pooling is a management decision and has no bearing on auditing principles. The Auditor of Public Accounts does not make recommendations for or against fee pooling.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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