



Auditor of Public Accounts
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Harmon Releases Audit of Rowan County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statement of Rowan County Sheriff Matt Sparks. 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 Rowan County Sheriff in accordance with accounting principles generally accepted in the United States of America. The clerk's financial statement did not follow this format. However, the clerk'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 clerk audits in Kentucky.

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

The audit contains the following comments:

The sheriff's office has an internal control weakness in disbursements of the KY ASAP local funds account that resulted in \$200 of disallowed disbursements: On April 27, 2016, the sheriff wrote a check for a cash withdrawal of \$1,500 from the Kentucky Agency for Substance Abuse Policy (KY ASAP) Local Funds account for use on joint training exercises with personnel and K-9 units from the Rowan County Sheriff and other sheriff's departments. The sheriff retained receipts signed by the participating individuals dated April 27, 2016, indicating they had each received \$500. Another receipt for \$300 was dated November 29, 2016, and was to one of the same individuals that received \$500 on April 27, 2016. No receipt or invoice was provided for

the remaining \$200. The individual who received a total of \$800 was not issued a Form 1099 for tax reporting.

The sheriff stated he thought the account was not a checking account, and therefore had to make a cash withdrawal in order to pay the individuals. However, the account does appear to be a checking account, but the office did not order checks for the account, which is why a counter check was used to make the cash withdrawal. The sheriff was not aware of Form 1099 reporting requirements for income tax purposes.

As a result, the sheriff is unable to account for \$200 of KY ASAP local funds, which should be repaid by the sheriff to the KY-ASAP Local Funds account. Furthermore, the individual who received \$800 of income did not have to pay any taxes on those funds.

The Department for Local Government's state local finance officer, under the authority of KRS 68.210, requires all disbursements be made by check. This disbursement was by check, but it was for cash. If a check can be written to cash, it stands to reason checks could have been written directly to the individuals, which would have eliminated the issue of the undocumented \$200. Fee officials are required to expend funds on allowable expenses as defined in the case of Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958). In Funk v. Milliken, Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. Without documentation, there is no way to show the expenditure was necessary, beneficial to the public and not a personal expense, and therefore is not allowable. Also, the Internal Revenue Service (IRS) requires the Form 1099 to be issued to individual contractors for services resulting in income of \$600 or more during a calendar year.

We recommend the sheriff do the following:

- reimburse \$200 to the ASAP grant account from his personal funds for the undocumented cash withdrawal;
- write checks only when disbursements have proper supporting documentation; and
- issue IRS Form 1099 to any individual paid more than \$600 by the sheriff's office.

Sheriff's Response: The ASAP account was a new account we opened and we were uncertain as to how to manage it. The \$200 disallowed disbursement was used appropriately and approved by the ASAP board but I failed to document this disbursement properly. The \$200 disbursement has been refunded to the account.

The sheriff's office has an internal control weakness in disbursements of the asset forfeiture account: The sheriff's office made \$14,800 of cash withdrawals from the asset forfeiture account for use in drug enforcement activities. These withdrawals and activities are allowable; however, the method of withdrawal for \$14,300 was by debit card at an ATM, and the remaining \$500 was by counter check with only one signature. The ATM withdrawals and check were not approved by anyone other than the employee who made the withdrawals. There is also no documentation that the monthly reports showing the use of these funds are being reviewed by anyone. Furthermore, any unused cash is not being maintained in a secure place when not in use.

The sheriff has not provided direct supervision of or ensured that he or his designee maintained proper oversight of the asset forfeiture account withdrawals, monthly reporting, and cash on hand.

ATM withdrawals, a lack of dual signatures on checks, and lack of approval of monthly reports allows transactions to occur that may not be authorized by the sheriff. Unsecured cash is susceptible to misappropriation.

The Department for Local Government's state local finance officer, under the authority of KRS 68.210, requires all disbursements be made by check. Good internal control practices include making disbursements by check that includes the sheriff's signature. By ensuring cash withdrawals are authorized and reported properly, both the sheriff and his employees are protected should discrepancies be found. Furthermore, cash should always be maintained in a secure location when not in use.

We recommend cash withdrawals be made by check. The checks should be signed by the sheriff, his designee, or two individuals, with one being the sheriff. We also recommend that if the sheriff is not signing the checks, he approve the monthly reports for the use of these funds. If the sheriff is signing the checks, he or his designee should approve the monthly reports. We further recommend that any unused cash from these transactions be maintained in a secure location, such as a safe in the sheriff's office. This cash should be regularly counted, and any use should be documented and witnessed.

Sheriff's Response: The narcotics detective at the sheriff's office worked for twenty five years in the Drug Investigation Section of the Kentucky State Police. I also worked and retired from the KSP. While at the sheriff's department we have been using the same process the KSP has used for years for asset forfeiture disbursements. The auditor has suggested we use checks instead of ATM withdraws of these funds and we will immediately begin following her recommendations.

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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